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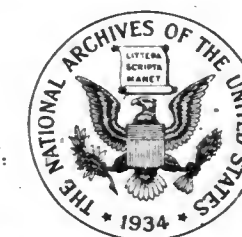
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# Register Federal

TUESDAY, JANUARY 17, 1978



## highlights

### "THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for February are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100 L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
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	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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# presidential documents

[3195-01]

## Title 3—The President

PROCLAMATION 4545

# Death of Hubert H. Humphrey

*By the President of the United States of America*

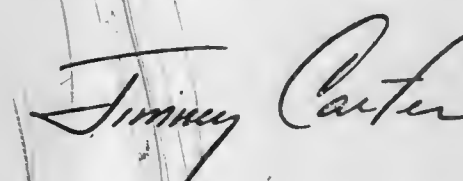
## A Proclamation

As a special mark of respect to the memory of the Honorable Hubert H. Humphrey, former Vice President of the United States of America and Senator from the State of Minnesota, I, Jimmy Carter, President of the United States of America do hereby proclaim, by virtue of the authority vested in me by a Joint Resolution of the Congress (36 U.S.C. 178), that the period of public tribute and appreciation shall be extended and the flag of the United States shall be flown at half-staff on all buildings, grounds, and naval vessels of the Federal government in the District of Columbia, and throughout the United States and its Territories and possessions until, and including January 19, 1978, the day the 95th Congress of the United States reconvenes.

I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

May this period, as Senator Humphrey wished, "be a time to celebrate life and the future" even though we cannot escape the pain and sorrow of his leaving.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of January, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.



[FR Doc. 78 1477 Filed 1-16-78; 1:35 pm]

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FEDERAL REGISTER, VOL. 43, NO. 11—TUESDAY, JANUARY 17, 1978



# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## [6325-01]

Title 5—Administrative Personnel  
CHAPTER 1—CIVIL SERVICE COMMISSION  
PART 213—EXCEPTED SERVICE

### Correction

AGENCY: Civil Service Commission.

ACTION: Correction to final rule.

SUMMARY: In 42 FR 64636-64638, December 27, 1977, the following positions were revoked in error: one Personal Security Assistant to the Secretary of Defense; one Secretary of American Samoa, one Chief Justice of American Samoa, and one Special Assistant to the Director (American Samoa) in the Department of Interior; one Special Assistant to the Secretary of Labor; one Confidential Assistant to the Executive Assistant to the Administrator and one Confidential Assistant to the Deputy Administrator, Veterans Administration; and three Confidential Assistants to the Assistant Administrator, General Services Administration.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(37), 213.3312(1), 213.3315(a)(1), 213.3327(a)(7) and (a)(10), and 213.3337(a)(4) are amended to read as follows:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* \* \* \*  
(37) One Personal Security Assistant to the Secretary.

§ 213.3312 Department of the Interior.

(1) *Office of the Director of Territorial Affairs.*

(1) [Reserved].

(2) One Secretary of American Samoa.

(3) One Chief Justice of American Samoa.

(4) One Special Assistant to the Director (American Samoa).

(5)-(10) [Reserved]

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.*

(1) One Private Secretary, two Special Assistants, one Confidential Assistant, and two Staff Assistants to the Secretary.

§ 213.3327 Veterans Administration.

(a) *Office of the Administrator.* \* \* \*  
(7) Two Confidential Assistants to the Executive Assistant to the Administrator.

(10) One Confidential Assistant to the Deputy Administrator.

§ 213.3337 General Services Administration.

(a) *Office of the Administrator.* \* \* \*  
(4) Three Confidential Assistants to the Assistant Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp. p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1310 Filed 1-16-78; 8:45 am]

## [6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Assistant to the Secretary is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(a)(6) is added as set out below:

§ 213.3331 Department of Energy.

(a) *Office of the Secretary.* \* \* \*

(6) One Assistant to the Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1302 Filed 1-16-78; 8:45 am]

## [6325-01]

PART 213—EXCEPTED SERVICE

Executive Office of the President

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Secretary to the Director, Office of Telecommunications Policy, is reestablished under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3303(i)(6) is added as set out below:

§ 213.3303 Executive Office of the President.

(i) *Office of Telecommunications Policy.* \* \* \*

(6) One Confidential Secretary to the Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1304 Filed 1-16-78; 8:45 am]

## [6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary (Stenography) to the Executive Secretary of the Department and Special Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 17, 1978.







## RULES AND REGULATIONS

## CLOSING DATES

CANNING AND PROCESSING TOMATOES		
California.....	Feb. 20.	
Ohio.....	May 10.	

ing Tomato Endorsement, which now only applies to Ohio, to permit the offer of tomato crop insurance to be extended to California.

**EFFECTIVE DATE:** December 1, 1977.

## FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Canning and Processing Tomato Endorsement, as found in 7 CFR 401.137 (33 FR 12665, September 6, 1968) in three instances. The current endorsement applies only to Ohio. By making the following three changes, such provisions will then be applicable to California:

1. Provide in section 4 the date of October 20 as the end of the insurance period in California which conforms to the normal harvest season in that state.

2. Exclude from section 6(c), with respect to California, the provisions regarding inspection of the vines. Since all tomatoes in California are machine harvested, as contrasted with mostly hand harvested in Ohio, inspection of the vines in California would not be necessary.

3. Provide in section 8 the date of February 20 as the termination for indebtedness date for California which conforms to the start of the planting season in that State.

In addition to the above, 7 CFR 401.103(a), as amended (32 FR 15911, November 21, 1967) would be amended in the table of closing dates at the end thereof to provide a closing date for California for the accepting of applications for tomato crop insurance.

Since California producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, such amendments are issued without compliance to such procedure.

## FINAL RULE

1. The tomato item in 7 CFR 401.103(a) is amended to read as set forth below:

§ 401.103 Application for insurance.  
(a) . . .

2. Section 4, paragraph 6(c), and the schedule in section 8 of 7 CFR 401.137 The Canning and Processing Tomato Endorsement is amended to read as set forth below effective with the 1978 and succeeding crop years:

§ 401.137 The canning and processing tomato endorsement.

4. *Insurance period.* Insurance on any insured acreage shall attach at the time the tomatoes are planted. Insurance shall cease upon removal of the insured crop from the field, harvest, final adjustment of loss, or when the crop is deemed destroyed, and it is not practical to replant by the date shown on the actuarial table, whichever occurs first, but in no event shall insurance remain in effect later than October 10 in Ohio and October 20 in California of the calendar year in which the insured crop is normally harvested.

6. *Claims for loss.* . . .  
(c) Except in California, the tomato vines on any insured acreage with respect to which a loss is claimed shall not be destroyed until the Corporation makes an inspection. The Corporation reserves the right to reject a claim for loss if the insured disregards this provision as to any acreage involved thereunder.

8. *Cancellation and termination for indebtedness dates.*

State	Cancellation date	Termination date for indebtedness
California.....	Dec. 31.....	Feb. 20
Ohio.....	do.....	May 10

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

**NOTE.**—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**NOTE.**—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective date: December 1, 1977.

PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved by:

BOB BERGLAND,  
Secretary.

(FR Doc. 78-1179 Filed 1-16-78; 8:45 am)

[3410-08]

[Amdt. No. 90]

## PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and  
Succeeding Crop Years

## RICE ENDORSEMENT

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** This rule changes the provisions of the Rice Endorsement, which now only applies to Arkansas, Mississippi, Louisiana, and Texas, to permit the offer of rice crop insurance to be made in California, and changes the rice milling yield provisions to more nearly conform with the actual milling yields of various varieties of rice in all States.

**EFFECTIVE DATE:** December 1, 1977.

## FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Rice Endorsement, as found in 7 CFR 401.132 (33 FR 8263, June 4, 1968, as amended by Amendment No. 57, 39 FR 32127, September 5, 1974), in two instances. The current regulations apply to rice grown only in Arkansas, Mississippi, Louisiana, and Texas. By making the following change, such provisions will then be applicable to California where the Corporation intends to offer rice crop insurance effective with the 1978 crop year: By excluding the seeding provisions of Section 2(c) of the Rice Endorsement, with respect to California. Seeding restrictions of Section 2(c) are not necessary in California since rice can be grown continuously on the same acreage with no decrease in yield in that State.

In addition, the milling yield provisions of Section 5(f) of the Rice Endorsement are amended as indicated below to more nearly conform to the actual milling yields for various varieties

ties of rice grown in all rice crop insurance States. Since producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop, the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, the amendment will be issued without compliance with such procedure.

## FINAL RULE

Item 2(c) and paragraph 5(f) of 7 CFR 401.132 The Rice Endorsement, are amended to read as set forth below effective with the 1978 crop year:

§ 401.132 The rice endorsement.

2. *Insured crop.* . . .  
(c) Except in California, seeded on acreage which was seeded to rice for the two preceding years, or

5. *Claims for loss.* . . .  
(f) Notwithstanding any other provision of this section for determining production to be counted, in any case where the quality of any production of threshed rough rice is reduced solely by insured causes occurring within the insurance period to the extent that the value per pound, as determined by the Corporation, is less than the market price at the nearest mill center, at the time the loss is adjusted, for the same variety of rough rice grading U.S. No. 3 (determined in accordance with Official Grain Standards of the United States) with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for the long grain varieties (whole kernels) and 68 pounds total milling yield (heads, second heads, screenings and brewers) and such rice, if properly handled, would not have a value equal to or greater than such market price, the number of pounds of such rice to be counted shall be adjusted by (1) dividing the value per pound of the damaged rice, as determined by the Corporation, by the market price per pound at the nearest mill center, at the time the loss is adjusted for the same variety of rough rice grading U.S. No. 3 with a milling yield per cwt. of 55 pounds of heads for the short and medium grain varieties and 48 pounds of heads for the long grain varieties, and 68 pounds total milling yield (heads, second heads, screenings and brewers), and (2) multiplying the result thus obtained by the number of pounds of production of such damaged rice. Production to be counted for any threshed rice with a moisture content of 15 percent or more not qualifying for the adjustment provided above shall be reduced 1.2 percent for each full one percent of moisture above 14 percent.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

**NOTE.**—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**NOTE.**—The Federal Crop Insurance Corporation has determined that this document

## RULES AND REGULATIONS

does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective: December 1, 1977.

PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved by:

BOB BERGLAND,  
Secretary.

(FR Doc. 78-1178 Filed 1-16-78; 8:45 am)

[3410-08]

[Amdt. No. 1]

## PART 404—WESTERN UNITED STATES APPLE CROP INSURANCE

Subpart—Regulations for the 1977 and  
Succeeding Crop Years

## DATE CHANGES

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

**SUMMARY:** This rule changes the Western United States Apple Crop Insurance Regulations to provide proper insurance dates to permit such crop insurance to be offered in Yakima County, Wash.

**EFFECTIVE DATE:** December 1, 1977.

## FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending 7 CFR Part 404 (41 FR 52289, Nov. 29, 1976) in four instances. The present Western United States Apple Crop Insurance Regulations name selected counties where such insurance is offered with differing insurance dates and provide for a final date of December 31 for an insured to change the amount of insurance. The changes indicated below will provide the proper insurance dates for the insuring of apples in Yakima County, Wash., such county already approved for such insurance by the Board of Directors, and establish the date for changing the amount of insurance to coincide with the closing date for accepting applications.

Since producers need to be notified of these changes immediately in order that they can determine whether to carry crop insurance on the 1978 crop,

the Corporation has found and determined that compliance with the procedure for notice and public participation would be impracticable and contrary to the public interest. Therefore, the changes set forth below are issued without compliance with such procedure.

## FINAL RULE

Accordingly, 7 CFR Part 404, is amended as set forth below, effective with the 1978 and succeeding crop years:

1. The second sentence of § 404.22 is amended to read as follows:

§ 404.22 Application for insurance.

. . . The closing date for the taking of applications shall be the February 28 (Mar. 15 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) immediately preceding the beginning of the crop year. . . .

2. Subsections 4 (c) and (g) and section 6 of the Western United States Apple Insurance Policy contained in § 404.25 are amended to read as follows:

§ 404.25 The apple insurance policy.

(c) The contract shall terminate if the premium for any crop year is not paid by February 28 (March 15 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) following the calendar year in which insurance attached; *Provided*, That the date for payment for a premium (1) deducted from a loss claim shall be the date the insured signs such claim; or (2) deducted from payment under another program administered by the U.S. Department of Agriculture, shall be the date such payment was approved.

(g) For any crop year, the insured with the consent of the Corporation, may change the amount of insurance per acre which was in effect for any prior crop year by so notifying the office for the county in writing at any time before the closing date for filing applications for the year.

6. *Insurance period.* Insurance attaches each crop year on March 1 (March 16 in Chelan, Douglas, Okanogan, and Yakima Counties, Wash.) and ceases upon the earlier of harvest or October 31 of the crop year.  
(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

**NOTE.**—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the provisions of the Federal Reports Act of 1942.

**NOTE.**—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Adopted by the Board of Directors on January 10, 1978.



Effective date: December 1, 1977.

PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved by:  
BOB BERGLAND,  
Secretary.

[FR Doc. 78-1180 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 86]

#### PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and  
Succeeding Crop Years.

TOBACCO CROP INSURANCE ENDORSE-  
MENT (DOLLAR AMOUNT OF INSUR-  
ANCE)

AGENCY: Federal Crop Insurance  
Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the tobacco crop insurance endorsement (dollar amount of insurance) as found in 7 CFR 401.141 (33 FR 12669), published in the FEDERAL REGISTER on September 6, 1968, as Amendment No. 17 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent, and by changing the date for the end of the insurance period from September 30 to October 31 to reflect more accurately the date when a determination of the value of the tobacco is made on the warehouse floor. These changes are being made to reflect a more accurate proportionate cost of production prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred by the insured to cover these costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Peter F. Cole, Secretary, Federal  
Crop Insurance Corporation, U.S.  
Department of Agriculture, Wash-  
ington, D.C., 20250, 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Tobacco Crop Insurance Endorsement (Dollar Amount of Insurance), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent to

reflect more accurately the proportionate cost of production prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred by the insured to cover more fully these costs. In addition, the date for the end of the insurance period for Type 14 Tobacco is changed from September 30 to October 31 to reflect more accurately the date for determination of the value of the tobacco on the warehouse floor at the time of sale. Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rulemaking and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 86 is issued without compliance with such procedure.

#### FINAL RULE

Accordingly, 7 CFR 401.141, the Tobacco Crop Insurance Endorsement (Dollar Amount of Insurance) is amended as set forth below, effective with the 1978 crop year, until amended or superseded. The provisions of 7 CFR 401.141, (33 FR 12669), published in the FEDERAL REGISTER on September 6, 1968, effective for the 1977 crop year, shall remain in effect for the 1977 crop year.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), 7 CFR 401.141 is amended, effective with the 1978 crop year by amending sections 3(a) and 3(b), and the second paragraph of section 5(c) to read as follows:

§ 401.141 Tobacco crop insurance endorsement (dollar amount of insurance).

3. Insurance period. . . .

(a) For the following types later than the applicable date set forth below immediately following the normal harvest period:

Type of tobacco:	Date
11	Jan. 31.
12	Dec. 31.
13	Nov. 30.
14	Oct. 31.
21, 22, 23, 41, 54, and 55	Mar. 31.
31, 35, and 39	Feb. 28.

and (b) for type 32 tobacco, the August 31 of the next succeeding calendar year follow-

ing the calendar year in which the crop was planted.

#### 5. Claims for loss. . . .

(c) . . . The value of the total production to be counted for a unit shall be determined by the Corporation, and subject to the provisions herein-after, shall include the value of all harvested production and the value of any appraisals made by the Corporation for unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided*, That the value of the total production to be counted on any acreage of tobacco: (1) Not harvested nor considered as harvested within the meaning of the term "harvested" shall be not less than 35 percent of the amount of insurance for such acreage, except as to the acreage referred to in the following items (2) and (3); (2) which is abandoned or put to another use without prior written consent of the Corporation shall be the amount of insurance provided for such acreage; and (3) which is damaged solely by an uninsured cause shall be not less than the amount of insurance provided for such acreage.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

**NOTE.**—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**NOTE.**—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective: October 31, 1977.

PETER F. COLE,  
Secretary, Federal Crop  
Insurance Corporation.

Approved by:

BOB BERGLAND,  
Secretary.

[FR Doc. 78-1192 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 87]

#### PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and  
Succeeding Crop Years

BURLEY TOBACCO POUNDAGE QUOTA  
ENDORSEMENT

AGENCY: Federal Crop Insurance  
Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the Burley Tobacco Pounding Quota Endorsement as found in 7 CFR 401.148, published in the FEDERAL REGISTER on December 10, 1976 (41 FR 53971), as Amendment No. 79 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent. This increase will more accurately reflect the proportionate cost of production incurred by the insured prior to harvesting, and will increase the amount of insurance when such harvesting costs are incurred to cover those costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Peter F. Cole, Secretary, Federal  
Crop Insurance Corporation, U.S.  
Department of Agriculture, Wash-  
ington, D.C., 20250, 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Burley Tobacco Pounding Quota Endorsement (41 FR 53971), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted from 20 percent to 35 percent. It is felt that this increase will reflect more accurately the proportionate cost of production incurred by an insured prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred to cover more fully these costs. Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rule-making and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 87 is issued without compliance with such procedure.

#### FINAL RULE

Accordingly, 7 CFR 401.148 The Burley Tobacco Pounding Quota Endorsement is amended to read as set forth below, effective with the 1978 crop year, until amended or superseded. The provi-

sions of 7 CFR 401.148, published in the FEDERAL REGISTER on December 10, 1976, (41 FR 53971), effective for the 1977 crop year, shall remain in effect for the 1977 crop year.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the second paragraph, first proviso of section 7(c) of the Burley Tobacco Pounding Quota Endorsement as found in 7 CFR 401.148, is hereby amended to read as follows:

§ 401.148 The Burley Tobacco Pounding  
Quota Endorsement.

#### 7. Claims for loss. . . .

(c) . . . *Provided*, That the value of total production to be counted for any tobacco acreage not harvested nor considered as harvested within the meaning of the term "harvested" shall never be less than 35 percent of the average amount of insurance per insured acre for the unit, except that for acreage abandoned or put to another use without prior written release by the Corporation and acreage damaged solely by uninsured causes, such value shall be at least the average amount of insurance per insured acre for the unit.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1506, 1516).)

**NOTE.**—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

**NOTE.**—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective October 31, 1977.

PETER F. COLE,  
Secretary,  
Federal Crop Insurance Corp.

Approved by:

BOB BERGLAND,  
Secretary.

[FR Doc. 78-1191 Filed 1-16-78; 8:45 am]

[3410-08]

[Amdt. No. 88]

#### PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and  
Succeeding Crop Years

FLUE-CURED TOBACCO POUNDAGE QUOTA  
ENDORSEMENT

AGENCY: Federal Crop Insurance  
Corporation.

ACTION: Final rule.

**SUMMARY:** This rule amends the Flue-Cured Tobacco Pounding Quota

Endorsement as found in 7 CFR 401.150 (41 FR 53969), published in the FEDERAL REGISTER on December 10, 1976, as Amendment No. 80 to the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years, by increasing the minimum value of the total production to be counted for unharvested tobacco from 20 percent to 35 percent. This increase will more accurately reflect the proportionate cost of production incurred prior to harvesting, and will increase the amount of insurance when such harvesting costs are incurred to cover the costs more fully.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Peter F. Cole, Secretary, Federal  
Crop Insurance Corporation, U.S.  
Department of Agriculture, Wash-  
ington, D.C. 20250; 202-447-3325.

**SUPPLEMENTARY INFORMATION:** Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation is amending the Flue-Cured Tobacco Pounding Quota Endorsement (41 FR 53969), effective with the 1978 and succeeding crop years by increasing the minimum value of the total production to be counted from 20 percent to 35 percent. It is felt that this increase will reflect more accurately the proportionate cost of production incurred by an insured prior to harvest, and will increase the amount of insurance when such harvesting costs are incurred to cover more fully these costs.

Notice of any changes must be given to insureds by not later than January 15, 1978, in order to be effective for the 1978 crop year. It is estimated, however, that about 30 days will be required to print new program documents and make other necessary changes in the program, after this amendment becomes effective. Accordingly, there would not be sufficient time to put the amendment into effect if it were to be delayed until after issuance of a notice of proposed rulemaking and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest. Therefore, Amendment No. 88 is issued without compliance with such procedure.

#### FINAL RULE

Accordingly, 7 CFR 401.150 the Flue-Cured Tobacco Pounding Quota Endorsement, is amended as set forth below, effective with the 1978 crop year, until amended or superseded.

The provisions of 7 CFR 401.150, published in the FEDERAL REGISTER on December 10, 1976 (41 FR 53969), ef-



fective for the 1977 crop year, shall remain in effect for the 1977 crop year. Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the second paragraph, first proviso of section 7(c) of the Flue-Cured Tobacco Pounding Quota Endorsement as found in 7 CFR 401.150, is hereby amended to read as follows:

**§ 401.150 The Flue-Cured Tobacco Pounding Quota Endorsement.**

**7. Claims for loss.**  
(c) \*

Provided, That the value of the total production to be counted for any tobacco acreage not harvested nor considered as harvested within the meaning of the term "harvested" shall never be less than 35 percent of the average amount of insurance per insured acre for the unit, except that for acreage abandoned or put to another use without prior written consent by the Corporation and acreage damaged solely by uninsured causes, such values shall be at least the average amount of insurance per insured acre for the unit.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation has determined that this document does not contain a major proposal requiring the preparation of an Inflation Impact statement under Executive Order 11821 and OMB Circular A-107.

Approved by the Board of Directors on January 10, 1978.

Effective October 31, 1977.

PETER F. COLE,  
Secretary, Federal  
Crop Insurance Corporation.

Approved by:

BOB BERGLAND,  
Secretary.

(FR Doc. 78-1190 Filed 1-16-78; 8:45 am)

**[3410-05]**

**CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS**

**PART 722—COTTON**

Subpart—1978 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

**ACTION: Final rule.**

**SUMMARY:** The purpose of this rule is to proclaim the result of the national marketing quota referendum with respect to the 1978 crop of extra long staple cotton held during the period December 12-15, 1977, each inclusive. The Agricultural Adjustment Act of 1938, as amended, requires that the result of the referendum be proclaimed within thirty days after the referendum. This rule is needed to satisfy this statutory requirement.

**EFFECTIVE DATE:** January 12, 1978.

**ADDRESSES:** Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:**

Charles V. Cunningham (ASCS), 202-447-7873.

**SUPPLEMENTARY INFORMATION:** It is essential that this rule be made effective as soon as possible since the proclamation of the result of the referendum is required by statute to be made not later than thirty days after the referendum. Accordingly, it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR § 722.564 shall be effective upon filing this document with the Director, Office of the Federal Register. The material previously appearing in this section remains in full force and effect as to the crop to which it was applicable.

Accordingly, 7 CFR § 722.564 and the title of the subpart preceding 7 CFR § 722.564 are amended to read as follows:

Subpart—1978 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas.

§ 722.564 Result of the national marketing quota referendum for the 1978 crop of extra long staple cotton.

(a) *Referendum period.* The national marketing quota referendum for the 1978 crop of extra long staple cotton was held by mail ballot during the period December 12 to 15, 1977, each inclusive, in accordance with § 722.561 (42 FR 55597) and Part 717 of this chapter.

(b) *Farmers voting.* A total of 890 farmers engaged in the production of the 1977 crop of extra long staple cotton voted in the referendum. Of those voting, 799 farmers, or 89.8 percent, favored the 1978 national marketing quota, and 91 farmers, or 10.2 percent, opposed the 1978 national marketing quota.

(c) *1978 National marketing quota continues in effect.* The national marketing quota for the 1978 crop of extra long staple cotton of 97,000 bales proclaimed in § 722.558 (42 FR 55597) shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343).)

NOTE.—An Economic Impact Statement as required under Executive Order 11821 and OMB Circular A-107 has been filed.

Signed at Washington, D.C. on January 11, 1978.

STEWART N. SMITH,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

(FR Doc. 78-1177 Filed 1-12-78; 9:08 am)

**[3410-02]**

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

**PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA**

**Expenses and Rate of Assessment**

AGENCY: Agricultural Marketing Service, USDA.

**ACTION: Final rule.**

**SUMMARY:** This regulation authorizes expenses and a rate of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the Citrus Administrative Committee which locally administers the Federal marketing order covering the specified varieties of Florida citrus fruit.

**DATES:** Effective August 1, 1977, through July 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, 202-447-6393.

**SUPPLEMENTARY INFORMATION:** On November 4, 1977, notice was published in the FEDERAL REGISTER (42 FR 57694) inviting written comments not later than November 28, 1977, on proposed expenses and rate of assessment, under Marketing Order No. 905, as amended (7 CFR Part 905, 42 FR 59367, 61853), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. None was received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposals in the notice, it is found that:

**§ 905.216 Expenses and rate of assessment.**

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Citrus Administrative Committee during the period August 1, 1977, through July 31, 1978, will amount to \$221,225.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 905.41, is fixed at \$0.00275 per four-fifths bushel of fruit, whether in bulk or in any container.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable oranges, grapefruit, tangerines and tangelos handled from the beginning of the period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 12, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-1234 Filed 1-16-78; 8:45 am)

**[3410-02]**

**PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA**

**PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA**

**Expenses and Rates of Assessment for the 1977-78 Fiscal Period**

AGENCY: Agricultural Marketing Service, USDA.

**ACTION: Final rules.**

**SUMMARY:** These regulations authorize expenses and rates of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering Florida grapefruit.

**DATES:** Effective August 1, 1977, through July 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, 202-447-6393.

**SUPPLEMENTARY INFORMATION:** On December 16, 1977, notice was published in the FEDERAL REGISTER (42 FR 63426) inviting written comments not later than December 30, 1977, on proposed expenses and rates of assessment under Marketing Order Nos. 912 and 913, both as amended (7 CFR Part 912; 42 FR 4811, and Part 913) regulating the handling of grapefruit grown in Florida. None were received. These programs are effective under the Agri-

cultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

**MARKETING ORDER 912**

**§ 912.217 Expenses and rate of assessment.**

(a) Expenses that are reasonable and likely to be incurred by the Indian River Grapefruit Committee during fiscal period August 1, 1977, through July 31, 1978, will amount to \$26,500.

(b) The rate of assessment for said period payable by each handler in accordance with § 912.41 is fixed at \$0.001 per carton (¼ bushel) of grapefruit.

**MARKETING ORDER 913**

**§ 913.213 Expenses and rate of assessment.**

(a) Expenses that are reasonable and likely to be incurred by the Interior Grapefruit Marketing Committee during fiscal period August 1, 1977, through July 31, 1978, will amount to \$30,675.

(b) The rate of assessment for said period payable by each handler in accordance with § 913.31 is fixed at \$0.0045 per standard packed box (1½ bushel) of grapefruit.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as the orders require that the rates of assessment for a fiscal period shall apply to all assessable grapefruit handled from the beginning of the period.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 11, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-1236 Filed 1-16-78; 8:45 am)

**[3410-02]**

**PART 916—NECTARINES GROWN IN CALIFORNIA**

**PART 917—PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA**

**Increases in Expenses**

AGENCY: Agricultural Marketing Service, USDA.

**ACTION: Final rules.**

**SUMMARY:** These regulations authorize increases in expenses for the 1977-78 fiscal year, to be collected from handlers to support activities of the committees which locally administer the Federal marketing orders covering California nectarines, pears, plums, and peaches.

**DATES:** Effective March 1, 1977, through February 28, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, 202-447-6393.

**SUPPLEMENTARY INFORMATION:** On December 19, 1977, notice was published in the FEDERAL REGISTER (42 FR 63646) inviting written comments not later than January 3, 1978, on proposed increases in expenses, under Marketing Order Nos. 916 and 917, both as amended (7 CFR Parts 916 and 917), respectively, regulating the handling of fresh nectarines, pears, plums, and peaches grown in California. None were received. These programs are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that the provisions of § 916.216 (42 FR 34499); § 917.217 (42 FR 37793); § 917.218 (42 FR 37794); and § 917.219 (42 FR 35827) are amended to read as follows:

**MARKETING ORDER 916**

§ 916.216 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during the fiscal year March 1, 1977, through February 28, 1978, will amount to \$969,166.

**MARKETING ORDER 917**

§ 917.217 Pear Commodity Committee expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Pear Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to \$590,771.

§ 917.218 Plum Commodity Committee expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Plum Commodity Committee during the fiscal period March 1, 1977, through February 28, 1978, will amount to \$1,063,546.

§ 917.219 Peach Commodity Committee expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Peach Commodity Committee during the fiscal period March 1, 1977,



through February 28, 1978, will amount to \$911,000.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as (1) notice of these proposed rules were published in the FEDERAL REGISTER and no comments were received; (2) the committees need to promptly meet certain financial obligations incurred under the provisions of these marketing orders which are in excess of currently authorized expenditures; and (3) no increase in the assessment rate is necessary as income will be adequate to cover the increased expenditures.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 11, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-1238 Filed 1-16-78; 8:45 am]

#### [3410-02]

#### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Amtd. 1]

#### PART 971—LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

##### Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relieves on January 15 and 22, 1978, the Sunday packaging prohibition. Recent rains in California production areas have reduced winter lettuce harvests. This will promote orderly marketing by allowing the south Texas industry additional operating time to satisfy larger lettuce orders.

EFFECTIVE DATE: January 15, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement

#### RULES AND REGULATIONS

Act of 1937, as amended (7 U.S.C. 601-674).

The amendment is based upon recommendations made January 11, 1978, by the South Texas Lettuce Committee, which was established under the order and is responsible for its local administration. It is hereby found that the amendment which follows will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This amendment must become effective immediately if producers are to derive any benefits from it, (2) compliance with this amendment will not require any special preparation on the part of handlers, and (3) this amendment relieves restrictions on the handling of lettuce grown in the production area.

Regulation, as amended.  
In §971.318 (42 FR 59373) the introductory paragraph is hereby amended by adding the following to it:

§971.318 Handling regulation.

\*\*\*, except that the prohibition against the packing of lettuce on Sundays shall not apply on January 15 and 22, 1978.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Effective date: Dated January 12, 1978, to become effective January 15, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-1290 Filed 1-16-78; 8:45 am]

#### [7590-01]

##### Title 10—Energy

#### CHAPTER I—NUCLEAR REGULATORY COMMISSION

#### PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

##### Exemption of Persons Using Spark Gap Irradiators Containing Cobalt-60

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is exempting from licensing and regulatory requirements persons using nuclear material near the spark gap of oil furnaces to prevent ignition problems. The exemption, re-

quested by Ray Burner Co., does not apply to the manufacture or import of the spark gap irradiators. The exemption covers the use of the spark gap irradiators in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

EFFECTIVE DATE: February 16, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Jim Henry, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6910.

SUPPLEMENTARY INFORMATION: By letter dated May 18, 1973, the Ray Burner Co. of San Francisco, Calif., filed a petition for rule making (PRM 30-54) with the Atomic Energy Commission requesting an exemption from licensing requirements for spark gap irradiators containing not more than 1 microcurie of cobalt-60 in plated or alloy form. This notice of rule making responds to the request of Ray Burner Co.

#### BACKGROUND

On October 24, 1975, the Nuclear Regulatory Commission published in the FEDERAL REGISTER (40 FR 49801) a proposed amendment of its regulation 10 CFR Part 30 which would exempt from licensing and regulatory requirements the receipt, possession, use, transfer, export, ownership, and acquisition of spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendment and a draft environmental impact statement by December 8, 1975. After consideration of the comments and other factors involved, the Commission has adopted the amendment. The text of the amendment set out below differs from the text of the proposed amendment published October 24, 1975, by excluding from the exemption the use of spark gap irradiators in oil burners having a firing rate of not more than 3 gallons per hour (11.4 liters per hour).

#### DISCUSSION OF COMMENTS

Two commentators observed that the exemption as proposed did not specifically prohibit use of the spark gap irradiators in domestic oil burners and therefore the potential market is quite large. In the notice published October 24, 1975, the Commission stated (40 FR 49801) that in typical applications, the spark gap irradiators are used in boilers, power plants, and

other heavy duty equipment, but not in private home furnaces or internal combustion engines.

The Commission's statement was based on the engineering characteristics of small oil burners (3 gallons per hour maximum main flame input) and their associated safety control timing (90 seconds maximum flame establishing period). A spark delay of more than 90 seconds would be indicative of permanent arc failure (or other malfunction) rather than temporary arc failure attributable to the statistical time lag between impressment of voltage and formation of a spark in an igniter. Because the time lag is statistical, there is a possibility that the delay may be several seconds, but the probability of the delay being 90 seconds or longer is extremely remote.

Based on these factors, there is neither a need nor a market for spark gap irradiators in small automatically fired warm-air furnaces, small floor mounted unit heaters, and similar appliances used in private homes and commercial and industrial establishments. This conclusion is recognized by changing the text of §30.15(a)(10) to exclude from the exemption the use of spark gap irradiators in oil burners having a firing rate of not more than 3 gallons per hour (11.4 liters per hour). The exemption does not preclude the use of spark gap irradiators in private home oil burners if they have a firing rate greater than 3 gallons per hour (11.4 liters per hour).

#### DISCUSSION OF FINAL RULE

The Commission has found that exemption from licensing requirements for the receipt, possession, use, transfer, export, ownership, and acquisition of spark gap irradiators containing not more than 1 microcurie of cobalt-60 under the conditions set forth below will not constitute an unreasonable risk to the common defense and security and to the health and safety of the public.

The exemption does not apply to the manufacture or import for sale or distribution of the spark gap irradiators. Criteria for the issuance of a specific license to conduct such activities and quality control and reporting requirements are set forth in §§32.14, 32.15, 32.16, and 32.110 of 10 CFR Part 32, "Specific Licenses to Manufacture, Distribute, or Import Certain Items Containing Byproduct Material." Prototype tests for spark gap irradiators containing cobalt-60 are not specified in the regulation. Applicants for specific licenses are required by §32.14(b)(4) to submit procedures for and results of prototype tests. The Nuclear Regulatory Commission will either approve the tests or require submission of acceptable tests to demonstrate that the material will not become detached from the product

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and that the byproduct material will not be released to the environment under the most severe conditions likely to be encountered in normal use of the product. The testing requirements will be incorporated into the specific license.

The amendment, in effect, makes the manufacturer or importer responsible for providing an approved product for use in electrically ignited fuel oil burners. The requirement for use in electrically ignited fuel oil burners will be met prior to the transfer of the product for use under §30.15 by conditioning each specific license issued to the manufacturer or importer with the requirement of incorporating a spark gap irradiator containing not more than 1 microcurie of cobalt-60 in either an electrically ignited fuel oil burner or a container labeled with instructions for installation in such a burner. In addition, the manufacturer or importer will be authorized to transfer these spark gap irradiators to a person holding a specific license provided such specific license contains similar transfer conditions to meet the end use requirements of the exemption. The subsequent possession, use, and disposal by all other persons will be exempt from licensing and regulatory requirements of the Commission.

Under the provisions of §150.15(a)(6) of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," the transfer of possession or control by persons in Agreement States who manufacture, process, or produce spark gap irradiators containing cobalt-60 for use by exempt persons are subject to the Commission's licensing and regulatory requirements, even though the spark gap irradiators are manufactured under an Agreement State license. Such manufacturers, processors, or producers wishing to transfer possession or control of spark gap irradiators containing cobalt-60 for use by exempt persons will be required to obtain a specific license issued by the Commission under §32.14 of 10 CFR Part 32.

#### AVAILABILITY OF FINAL ENVIRONMENTAL STATEMENT

Pursuant to the National Environmental Policy Act of 1969, and the Commission's regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," the Commission's Office of Standards Development has prepared a final environmental impact statement in connection with this action to amend Part 30 of the Commission's regulations. The statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW, Washington, D.C. In about two weeks after publication of this notice in the FED-

ERAL REGISTER, copies of the statement will be available as NUREG-0319 from the National Technical Information Service, Springfield, Va. 22161. The price will be \$8.00 for paper copy and \$3.00 for microfiche.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 30 is published as a document subject to codification.

Section 30.15 of 10 CFR Part 30 is amended by adding a new paragraph (a)(10) to read as follows:

§30.15 Certain items containing byproduct material.

(a) Except for persons who apply byproduct material to, or persons who incorporate byproduct material into, the following products, or persons who import for sale or distribution the following products containing byproduct material, any person is exempt from the requirements for a license set forth in section 81 of the Act and from the regulations in Parts 20 and 30-36 of this chapter to the extent that such person receives, possesses, uses, transfers, exports, owns, or acquires the following products:

(10) Spark gap irradiators containing not more than 1 microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least 3 gallons per hour (11.4 liters per hour).

(Secs. 81, 161, Pub. L. 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201); Sec. 201, Pub. L. 93-438, 68 Stat. 1242 (42 U.S.C. 5841).)

Dated at Washington, D.C., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILE,  
Secretary of the Commission.

[FR Doc. 78-1173 Filed 1-16-78; 8:45 am]

#### [6320-01]

##### Title 14—Aeronautics and Space

#### CHAPTER II—CIVIL AERONAUTICS BOARD

#### PART 371—ADVANCE BOOKING CHARTERS

#### PART 372a—TRAVEL GROUP CHARTERS

#### PART 378a—INCLUSIVE TOUR CHARTERS

#### PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTER

##### Interpretations

AGENCY: Civil Aeronautics Board.

ACTION: Interpretation of existing rules: 14 CFR 371.27, 371.28, 372a.22, 372a.24, 378.12, 378.13, 378a.27, 378a.28.



**SUMMARY:** This interpretive notice informs certificated air carriers and indirect air carriers that the Board will no longer accept passenger charter prospectuses that name more than one origination or destination point, unless the solicitation materials clearly inform the public of the true nature of the arrangements the charter operator has made with the direct air carrier. The Board is acting on its own initiative, because of its concern that so-called "area filings" are misleading the public as to the actual origins or destinations of charter flights.

**DATES:** Issued: January 4, 1978; effective: February 3, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Patricia T. Szrom, Supplementary Services Division, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428, 202-673-5088.

**SUPPLEMENTARY INFORMATION:** The following letter was sent to certificated air carriers and indirect air carriers of passengers on January 4, 1978.

**Subject:** Interpretation of the Board's Special Regulations affecting "area" charter filings.

So-called "area" charter filings have become a source of increasing problems for charter participants. Area filings are a marketing concept first permitted in a limited context by Order E-26578, dated March 27, 1968, and Order E-26682, dated April 18, 1968. In these orders, the Board adopted a policy under which a tour operator could file a tour prospectus listing one or more cities over a broad area of the United States as the possible point of origin for a particular tour. This procedure was adopted to eliminate the need for operators to file minor amendments changing the point of departure, and thus to alleviate an administrative burden on the operator and the Board. In our opinion this policy is now being abused.

When the Board adopted these orders, its intention was to alleviate the problems faced by tour operators who market their programs by soliciting organizations rather than individuals. At the present time, however, a tour operator who files an "area-origination" program is often soliciting individuals from numerous cities at the same time, stating dates and prices, and giving the impression that the tour will originate from all of the cities listed, when, in reality, there is only one flight leaving from only one of the various cities. The other cities are dropped, sometimes at the last moment, and unsuspecting tour participants find their vacation plans disrupted.

A similar problem sometimes occurs with "area-destination" filings. Some tour operators have filed prospectuses naming several cities as possible destinations for the tour. For example, the tour operator might contract with a carrier for a plane to leave from New York and fly to either Rome, London, or Paris, depending on the response received for each destination. The solicitation material, however, indicates that on each date shown, there will be a tour landing in each of the cities listed, when in reality, there is to be only one flight going to only one city.

In our view, this growing practice goes far beyond the limited intent of the Board's previously pronounced policy, and can be permitted to continue only so long as the solicitation materials fully and fairly disclose to prospective participants the actual number of flights that will be operated. Therefore, effective 30 days from the date of this announcement, it will be the policy of the Board to reject charter prospectuses naming two or more origination (or destination) points for any one charter unless the solicitation materials clearly disclose the true nature of the arrangements the operator has made with the direct air carrier with respect to departure (or destination) points. For such a filing to be acceptable, the tour operator must clearly state whether any one particular point has definitely been selected as a departure (or destination) city, or whether the plane is to depart from (or fly to) only one of a number of alternative cities. For example, if only one flight per date will actually be operated, the solicitation material must state that the charter will originate from only one of the various cities listed and indicate the city most likely to be chosen. If there is a provision in the charter contract for stop-overs to pick up other passengers, the solicitation material must state that the tour will originate from only one of the various cities listed, but may stop at others (the maximum number of stop-overs should be specified) to enplane or deplane passengers. Failure of the advertising materials and operator/participant contract to disclose accurately the operator's arrangements for the itinerary of the charter will be regarded by the Board as a violation of the Special Regulations as they pertain to the filing of charter prospectuses (§§ 371.28, 372a.22, 378.13, and 378a.28) as well as a violation of the unfair and deceptive practices provisions (§§ 371.27, 372a.24, 378.12, 378a.27) of those regulations, and will therefore be grounds for rejection of such filings.

If you have any questions on this interpretation, please contact the Supplementary Services Division, Bureau of Operating Rights.

For the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1193 Filed 1-16-78; 8:45 am]

**[6750-01]**

**Title 16—Commercial Practices**

**CHAPTER I—FEDERAL TRADE COMMISSION**

[Docket No. 9059-0]

**PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS**

*Trans World Accounts, Inc., et al.*

**AGENCY:** Federal Trade Commission.

**ACTION:** Final order.

**SUMMARY:** This order, among other things, requires a Santa Rosa, Calif. debt collection agency to cease misrepresenting the likelihood or imminence of legal action; and to cease using, or placing in the hands of others, materials which simulate telegraphic commu-

nications, or which may otherwise mislead debtor recipients as to the nature, import or urgency of such communications.

**DATES:** Complaint, September 30, 1975; Final order, October 25, 1977.

**FOR FURTHER INFORMATION CONTACT:**

William A. Arbitman, Director, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, 415-556-1270.

**SUPPLEMENTARY INFORMATION:** In the Matter of Trans World Accounts, Inc., a corporation, and Floyd T. Watkins, individually and as an officer of said corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

**Subpart-Coercing and Intimidating:** § 13.356 Delinquent debtors. **Subpart-Enforcing Dealings or Payments Wrongfully:** § 13.1045 Enforcing dealings or payments wrongfully.

**Subpart-Furnishing Means and Instrumentalities of Misrepresentation or Deception:** § 13.1055 Furnishing means and instrumentalities of misrepresentation and deception. **Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections:** § 13.1370 Business methods, policies and practices. **Subpart-Neglecting, Unfairly or Deceptively, to Make Material Disclosure:** § 13.1895 Scientific or other relevant facts. **Subpart-Threatening Suits, Not in Good Faith:** § 13.2264 Delinquent debt collection.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interpretations or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45).)

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

**FINAL ORDER**

This matter has been heard by the Commission upon the appeal of respondents' counsel from the initial decision and upon briefs and oral argument in support thereof and opposition thereto, and the Commission, for the reasons stated in the accompanying Opinion, has substantially denied the appeal.

It is ordered, That pages 1-42 of the initial decision of the administrative law judge are hereby adopted as the Findings of Fact and Conclusions of Law of the Commission.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying opinion.

Copies of the Complaint, Initial Decision, Opinion, Dissenting Statement by Commissioner Collier and the Final Order filed with the original document.

It is further ordered, That the following Order to Cease and Desist be hereby entered:

**ORDER**

It is ordered, That respondents, Trans World Accounts, Inc., a corporation, its successors and assigns, and its officers, and Floyd T. Watkins, individually and as an officer of said corporation, and respondents agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by their appearance, content, or otherwise, misrepresent that they are telegrams or a telegram.

2. Using or placing in the hands of others for use, envelopes, letters, forms or any other materials which by simulating telegrams or other methods or forms or types of communication misrepresent the nature, import, or urgency of any communication.

3. Misrepresenting directly or by implication, that legal action with respect to an alleged delinquent debt has been, is about to be, or may be initiated, or otherwise misrepresenting in any manner the likelihood or imminence of legal action.

4. Placing in the hands of others the means and instrumentalities to accomplish any of the matters prohibited in this order, or which fail to comply with the requirements of this order.

It is further ordered, That the respondent corporation shall distribute a copy of this order to each of its operating divisions or departments and to each of its present and future officers, agents, representatives, or employees engaged in any aspect of the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts, and that said respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the respondent corporation notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation,

the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his employment with Trans World Accounts, Inc., and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the individual respondent named herein shall promptly notify the Commission of his affiliation with a new business or employment whose principal activities include the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the offering for sale, sale or distribution of any service or printed matter for use in the collection of, or attempted collection of, or for assisting in the collection of, or for inducing or attempting to induce the payment of, alleged delinquent debts. Such notice shall include individual respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered, That the respondents herein shall, within sixty (60) days from the date this order becomes final, and periodically thereafter as required by the Federal Trade Commission, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

By the Commission, Commissioner Collier dissenting.

CAROL M. THOMAS,  
Secretary.

**DISSENTING STATEMENT OF  
COMMISSIONER COLLIER**

In my opinion the record proof fails to support any reasonable interpretation that Trans World Accounts (TWA) threatened debtors with imminent and likely lawsuits. The challenged communications generally followed a two-part format. In the first part, TWA demanded immediate payment and sometimes demanded to be contacted by the debtor as an alternative to payment. In the second part TWA advised debtors (or suggested to them) that a failure to make the payment demanded "may" result in a lawsuit, sometimes an "immediate" one.

This record does not show that TWA's clients never brought lawsuits, "immediate" or otherwise. Three of the four of these clients who testified said either that they sued or that TWA sued for them. (Tr. 205-06, 210-12, 256.) The fourth client was not asked whether his employer sued. (Tr. 171-78.)

It cannot be discerned from this record, even in general terms, how much time elapsed between the sending of the letters that mentioned a lawsuit and the subsequent decision to sue. The majority concludes that a lawsuit is not "imminent" if it is not initiated during the letter series. I find no support in the record for placing this meaning on TWA's letters, and the record proof regarding clients' litigation policies is in disarray. The client witness who was asked the most probing questions about his firm's policy testified as follows:

Question (by complaint counsel): But if they—suppose a debtor has not responded at all after the first, second or third, would you let the series go to its conclusion?

Answer (by Mr. Anderson of Beckman Instruments): Yes. That's our policy.

Q. Then you would decide whether to bring a lawsuit; is that correct?

A. Yes, unless we heard through other sources, either from a salesman that goes by and sees them moving out of the building, or some evidence that would indicate that, "Hey, they're closing up." Then we'd stop the service and file suit. (Tr. 257)

This hardly proves that lawsuits were not brought before the series expired.

What were the chances of a lawsuit when the challenged letters went out and afterwards? What were the determinants? Were they different between respondents' "commercial" and "non-commercial" clients? In all these matters, the Commission is asked to resolve silence against the respondents.

\*The same client earlier testified: "If . . . the customer says, 'Well, look, there isn't any way that I can pay you because at the advice of counsel we're thinking seriously of filing bankruptcy, we have such a cash flow problem that we really don't know whether we're going to stay in business,' we'll stop the TWA service and immediately turn the account over to an attorney." (Tr. 250)

\*Rather than on the testimony, which was inconclusive, complaint counsel may be relying on respondents' admission that certain communications mentioning the possibility of a lawsuit "were sent by Trans World Accounts, Inc. to debtors in instances where the creditor had not assigned the debts involved to Trans World Accounts, Inc. until after the final notice in the series had been sent." CX 40 at p. 6, CX 41c. This does not prove that TWA's clients did not bring suit during the series, assuming arguendo that

Footnote continued on next page.



If the communications had told debtors that the respondents or their clients would definitely sue, or even, that they would probably sue if payment were not made, complaint counsel might have proved its case. But the respondents were careful, to say only that a lawsuit "may" be brought.

In deciding for liability, the majority gives "may" a statistical meaning that runs against common usage. Although the majority purports to do this only for the sake of clarifying the order, it is clear that this statistical conception of "may" is the root of its finding of liability. The word "may" usually conveys uncertainty of a fairly elastic nature, and I think that it must have been understood in this way by the debtors who received the respondents' letters. So far as it is used to express volition, "may" conveys the absence of a present intention—certainly not the presence of one, as the majority suggests. Unlike the situations that we sometimes face where communications are hurled in staccato rhythm at partially attentive audiences of mass media, one can reasonably assume that readers of the morning mail will read and understand the common meaning of simple words.

The majority's decision effectively regulates the word "may" out of respondents' vocabulary, at least insofar as it can be used by them to express the possibility of a lawsuit. If respondents can establish that a debtor has a 51 percent chance of being sued, I do not see why they wouldn't say, "You will probably be sued" rather than "You may be sued." (Unless, of course, the majority also intends to establish a regulatory meaning for "probably" beyond what is commonly comprehended by that word.)

The public policy reasons that dictate this reworking of the English language are obscure to me. There is a public interest in consumers knowing that they may be sued, and possibly assessed costs, in time to head off the consequences. If the majority believes

Footnote continued from preceding page.

to be the relevant time period. Moreover, there was evidence and the ALJ found that "currently, TWA receives an assignment of the debt before the first letter is mailed in about 80-90 percent of all flat rate sales. I.D. 10. There was evidence that two years before trial this figure was 60 to 70 percent." (Tr. 70)

A California statute, which governs a substantial part of respondents' operations, effectively conditions a debt collector's recovery of costs in municipal and justice courts upon his prior notice to the debtor that the debt collector "intended to commence legal action against the defendant and that legal action could result in a judgment against the defendant which would include the costs and necessary disbursements." Cal. Code Civ. Proc. §1031 (Deering's An. Supp. 1977). Obviously, this is a consumer protection measure, and I do not see that the interest that it guarantees

that there will be time enough to locate debtors in a class that will probably be sued, I don't know the basis for that belief. A debtor may be more likely to have the means to pay a debt over a longer period of time than over a shorter one. I do not think we earn the gratitude of those consumers who will receive the shorter "notice periods" and quicker litigation decisions that the majority's language convention may inspire. Even if the long-term consequences of our language reform efforts are nil, as those who leave their debts unpaid learn not to trust the absence of mention of a lawsuit, there are bound to be some short-term costs of this reeducation process.

Having concluded that the text of the letters contains no misrepresentation, I believe that there is no public interest in entering and enforcing an order against respondents' practice of styling these communications "telegrams", "Trans-O-Grams" and the like.

Clearly TWA would be permitted to call their communications telegrams if they had paid the price to Western Union. Western Union may—or may not—have a private right of action for TWA's conduct.

In the ordinary trademark infringement case, the trademark holder's private right of action can protect the important interest that consumers have in getting what they have chosen, an interest that we also have a duty to protect. See *FTC v. Algoma Lumber Co.*, 291 U.S. 67 (1934); but see, *FTC v. Klesner*, 280 U.S. (1929). Here, however, the case is different. There is no question that TWA's clients got what they chose, and the recipients of these communications were not in a position to choose whether they were to receive a Trans World telegram (or

is less important when a suit is only possible.

The reach of the majority's holding on this issue is unclear. The record, buttressed by our experience in reviewing marketing practices, indicates that (fill-in-the-blank)-O-Grams are often used in promotional activities, ranging from soliciting political campaign contributions to sales of products. RX 7-19.

Mr. Michael Borsella, patent and trademark attorney for Western Union, seems to admit in his affidavit that "the word 'telegram' is a dictionary word in the public domain." He objects not to the use of the word "telegram" but to the use of that word "on a spurious telegraphic format together with a number of proprietary features ordinarily embodied in one or more of Western Union's formats." (Emphasis in original.) CX 43c. See, also CX 43d. While this objection may be more valid with regard to respondents' original "telegram" communication (CX 43c, CX 43f), it seems very weak with regard to the "Trans-O-Gram" format. See *Western Union Telegraph Co. v. ITT World Communications, Inc.*, 164 U.S.P.Q. 651 (Patent Office Trademark Trial and Appeal Board 1970) (editorial description).

Trans-O-Gram) or a Western Union telegram, because the recipients obviously were not buying the communications. The nature of the consumer injury in this case must be on a different plane than in the ordinary trademark infringement case. It is not apparent exactly what this consumer injury is. Surely it is not merely that respondents failed to pay Western Union.

The majority writes that respondents' practice of calling their communications telegrams is material, because "the obvious conclusion to be drawn from the receipt of a demand to pay, telegraphically communicated at substantial cost, is that precipitous action may follow if immediate response to the message is not made." Presumably this "immediate response" would be either payment of the debt or some communication by the debtor to the creditor.

There is no evidence on this record that shows that TWA's practice of styling its communications as "telegrams" induced consumers to pay their debts or communicate with their creditors. Two consumer affiants gave evidence of their impressions of respondents' communications.

Affiant Semien: "When my mother first showed me the billing notice, I thought it was a real telegram until I read it and realized it was a fake." (CX 44a)

Affiant Pere: "When I first received the collection notices, I thought they were real telegrams sent by Western Union." (CX 45a)

Both of these statements make clear to my mind that any misimpression was temporary and did not last long enough to induce payment or other prejudicial action by the debtor. A third consumer testified to the same effect.

Question (by respondents' counsel): [You received a Trans-O-Gram from Trans World Accounts?

Answer (by Mr. Doolittle): That's correct.

Q. And the first thing you wondered is whether it was something similar to a Mailgram?

A. That's correct.

Q. How long did that frame of mind exist?

A. Until I opened it. (Tr. 47-48)

On this evidence I am not willing to find as a matter of expertise that respondents' use of the telegram or Trans-O-Gram format was a "material" deception, even assuming that it was a deception at all. See *FTC v. Colgate-Palmolive Co.*, 380 U.S. 374, 392 (1965). At most, these symbols on the envelope may have led readers to be more attentive to the contents, but this ephemeral reaction is not the sort of public injury that I had thought Congress had charged the Commission with preventing.

The ALJ held that an incorrect "initial impression" is enough to make a violation, whether or not this initial misimpression induced any action." I.D. at 32-33.

The "first contact" cases that he cites do not go so far as to read the materiality requirement out of Section 5. In each, the initial misimpression, induced or could have induced consumers to take some action to their prejudice, such as taking a trip to the store. *Carter Products, Inc. v. FTC*, 186 F. 2d 821, 824, (7th Cir. 1951), consenting to a deceptive sales presentation, *FTC v. Standard Education Society*, 302 U.S. 112, 115 (1937), or answering a deceptive offer of employment, *Progress Tailoring Co. v. FTC*, 153 F. 2d 103, 104-05 (7th Cir. 1946).

Because, in my view, the text of the letters were not proved false and the use of the telegram format did not cause material deception, I would dismiss the complaint.

I believe that this result is consistent with the soon-to-be-effective Fair Debt Collection Practices Act, Pub. L. 95-109, which will comprehensively regulate deception and unfairness in the debt collection industry.

There is nothing in the Act or in its legislative history to suggest that the general prohibitory sections set different standards for deception and unfairness than Section 5. Because I do not believe that respondents cognizably violated Section 5, I do not believe that they have violated these general sections.

Neither did the respondents violate the specific prohibitions of the Act. Section 807(5) prohibits "the threat to take any action that cannot legally be taken or is not intended to be taken." Nothing that the respondents said about the possibility of a lawsuit could reasonably be construed as a "threat", at least giving that term its plain meaning as Congress apparently intended.

There are two specific provisions in the new Act that might be argued to

The ALJ found that the telegram format may have actually induced one consumer to work out an installment payment program. I.D. at 33. I reject this finding. The consumer to whom the ALJ refers is affiant Semien whose statement quoted supra indicates that she was disabused of her initial misimpression as soon as she opened the envelope.

Section 807 provides: "A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt." Section 808 provides: "A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt."

The Act expressly prohibits the Commission from interpreting its terms through administrative regulations. Fair Debt Collection Practices Act, Section 814(d). See S. Rep. No. 95-382, 95th Cong., 1st Sess. 6

bar the "telegram" and "Trans-O-Gram" formats. Section 807(9) prohibits "the use or distribution of any written communication . . . which creates a false impression as to its source . . ." I do not believe that respondents misrepresented the "source" of their communications within the meaning of the Act. Even if a consumer thought a Trans World telegram were a Western Union telegram, he would not be mistaken as to the source, because Western Union is a medium of messages, not a source of them. (CX 43c) A consumer could not possibly doubt from any of the respondents' communications on this record that the source was TWA. Moreover, both the prohibitory language associated with the language quoted above and the Senate Report make clear that the evil addressed by this provision is the practice of some debt collectors passing themselves off as government officials, attorneys or credit bureaus. There is no allegation of this kind of deception here.

The second specific provision that might be relevant to the respondents' practice of calling their communications telegrams and Trans-O-Grams is Section 808(8) which prohibits "using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business."

The interest protected by this provision is obviously the consumer's privacy from the awareness of others that he owes an uncollected debt. As the Senate Report explains, the section prohibits "using symbols on envelopes indicating that the contents pertain to debt collection." There would be little sense, from the perspective of avoiding deception, to read this section to permit use of the word "telegram" on the letter to the debtor and forbid it on the envelope. Unless the respon-

(1977) (hereinafter cited as "Senate Report"). This feature was stressed in the House debate, 123 Cong. Rec. H2921 (daily ed. April 4, 1977) (remarks of Rep. Annunzio); 123 Cong. Rec. H2928 (daily ed. April 4, 1977) (remarks of Rep. Evans).

The subsection 807(9) reads in full: "The use or distribution of any written communications which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval."

Senate Report at 8. This reading of subsection 808(8) is reinforced by subsection 804(5) which governs collector communications to third parties (not the debtor) and forbids the use of identifying symbols on both the envelope and the letter.

dents' use of the telegram and Trans-O-Gram formats links in the public mind their communications to the business of debt collection, I do not see how their use offends this subsection. Moreover, since this subsection expressly permits debt collectors to send telegrams, I cannot see how TWA's conduct contravenes its policy.

The majority clearly interprets respondents' statements to mean something different than my interpretation of them. If this were a case of a merchant describing his products in language susceptible of misunderstanding, I might be inclined to take another view. In such a case we are entitled to infer injury from the mere fact of misunderstanding of a material aspect of the transaction. *FTC v. Algoma Lumber Co.*, 291 U.S. 67, 78 (1934). But here the injury is more remote: It is the possibility that a debtor might because of his misunderstanding pay an unjust debt. In my view, the respondents' proven conduct does not make this a substantial risk. In any event, the real risks of this injury are regulated far more effectively by the new Fair Debt Collection Practices Act than they will be by the majority's order.

[FR Doc. 78-1199 Filed 1-16-78; 8:45 am]

## [8010-01]

Title 17—Commodity and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5896, 34-14363, and IC-10089]

#### DEFINITIONS CONCERNING MULTIBANK COMMON TRUST FUNDS

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: These rules have the effect, provided certain conditions are met, of treating common trust funds for several banks in the same affiliated group ("multibank common trust funds") in the same manner as traditional single bank common trust funds which are ordinarily exempt from regulation as investment companies, and from the registration and reporting requirements normally applicable to publicly held companies and other issuers of securities. Some state laws permit multibank common trust funds, which under recent amendments to the federal tax laws may operate as nontaxable entities. In the absence of the rules now being adopted, multibank common trust funds might be treated differently under the Fed-



eral securities laws from single bank common trust funds.

**EFFECTIVE DATE:** January 10, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Lawrence R. Bardfeld, Esq., Office of the Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-376-8056.

**SUPPLEMENTARY INFORMATION:** Bank holding companies and representatives of the banking industry have recently indicated an interest in using "multibank common trust funds," i.e., common trust funds maintained by one constituent bank of a bank holding company for assets contributed thereto by the bank or by other constituent banks in the same holding company in their capacity as trustee, executor, administrator, or guardian. Some State laws allow such common trust funds, and recent Federal legislation permits such funds to be operated as nontaxable entities.<sup>1</sup>

At present, common trust funds maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian, and interests or participations therein, are exempted or excluded from provisions of the federal securities laws by section 3(a)(2) (15 U.S.C. 77e(a)(2)) of the Securities Act of 1933 (15 U.S.C. 77a et seq.) ("Securities Act"), section 3(a)(12) (15 U.S.C. 78c(a)(12)) and rule 12h-2 (17 CFR 240.12h-2) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) ("Exchange Act"), and section 3(c)(3) (15 U.S.C. 80a-3(c)(3)) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("Investment Company Act").<sup>2</sup> Because the present definition of "common trust fund" in the Federal securities laws refers to a fund maintained by "a bank" for assets contributed to the fund by "such bank," it appears that, as presently drafted, the exclusionary and exemptive provisions in the Federal securities laws would not be available if one bank in a bank holding company maintained a common trust fund which included assets contributed by other bank members of the same holding company.

On October 28, 1977 the Commission published in the *FEDERAL REGISTER* (42

FR 56754) proposed rules which would define the term "common trust fund" so as to include such multi-bank common trust funds, and thus have the effect of exempting them from the provisions of the Investment Company Act. Also, under those rules interests or participations therein would be exempt from the registration requirements in section 5 (15 U.S.C. 77e) of the Securities Act and section 12(g) of the Exchange Act (15 U.S.C. 78l(g)), and be "exempted securities" under section 3(a)(12) of the Exchange Act.

#### PUBLIC COMMENTS ON THE PROPOSED RULES

The comments received concerning the proposed rules unanimously favored their adoption, supporting the rules both in concept and substance.

#### COMMISSION ACTION

##### PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Part 230 of Chapter II of Title 17 of the Code of Federal Regulations, general rules and regulations, Securities Act of 1933, is hereby amended by adding a new § 230.132 to read as follows:

§ 230.132 Definition of "common trust fund" as used in section 3(a)(2) of the Act.

The term "common trust fund" as used in section 3(a)(2) of the Act (15 U.S.C. 77e(a)(2)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian, provided that:

- (a) The common trust fund is operated in compliance with the same state and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and
- (b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

(15 U.S.C. 77e(a).)

##### PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations,

general rules and regulations, Securities Exchange Act of 1934, is hereby amended:

By revising paragraph (b) of § 240.12h-2 to read as follows:

§ 240.12h-2 Exemptions from registration under section 12(g) of the act.

(b) Any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of monies contributed thereto by the bank in its capacity as a trustee, executor, administrator, or guardian. For purposes of this paragraph (b), the term "common trust fund" shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided, That:*

- (1) The common trust fund is operated in compliance with the same state and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and
- (2) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group; and

(15 U.S.C. 78c(b), 78l.)

2. Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, general rules and regulations, Securities Exchange Act of 1934, is hereby amended by adding a new § 240.3a12-6 to read as follows:

§ 240.3a12-6 Definition of "common trust fund" as used in section 3(a)(12) of the act.

The term "common trust fund" as used in section 3(a)(12) of the Act (15 U.S.C. 78c(a)(12)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided, That:*

- (a) The common trust fund is operated in compliance with the same state

and federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and

(b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

(15 U.S.C. 78c(b).)

##### PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations, rules and regulations, Investment Company Act of 1940, is hereby amended by adding a new § 270.3c-4 to read as follows:

§ 270.3c-4 Definition of "common trust fund" as used in section 3(c)(3) of the Act.

The term "common trust fund" as used in section 3(c)(3) of the Act (15 U.S.C. 80a-3(c)(3)) shall include a common trust fund which is maintained by a bank which is a member of an affiliated group, as defined in section 1504(a) of the Internal Revenue Code of 1954 (26 U.S.C. 1504(a)), and which is maintained exclusively for the collective investment and reinvestment of monies contributed thereto by one or more bank members of such affiliated group in the capacity of trustee, executor, administrator, or guardian; *Provided, That:*

- (a) The common trust fund is operated in compliance with the same State and Federal regulatory requirements as would apply if the bank maintaining such fund and any other contributing banks were the same entity; and
- (b) The rights of persons for whose benefit a contributing bank acts as trustee, executor, administrator, or guardian would not be diminished by reason of the maintenance of such common trust fund by another bank member of the affiliated group.

(15 U.S.C. 80a-6(c), 80a-37(a).)

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 10, 1978.

[FR Doc. 78-1201 Filed 1-16-78; 8:45 am]

[1505-01]

#### Title 21—Food and Drugs

##### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION [Docket No. 78F-0420]

##### PART 176—INDIRECT FOOD ADDITIVES; PAPER AND PAPERBOARD COMPONENTS

##### Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

#### Correction

In FR Doc. 77-38861 appearing at page 65150 in the issue for Friday, December 30, 1977, in the table for § 176.170(b)(2), in the second column, under "List of substances," in the second line, "...azona..." should have read "...azonia..."

[1505-01]

#### SUBCHAPTER D—DRUGS FOR HUMAN USE [Docket No. 75N-0020]

##### PART 440—PENICILLIN ANTIBIOTIC DRUGS

##### Updating and Technical Revisions

#### Correction

In FR Doc. 77-33332 appearing at page 59852 in the issue for Tuesday, November 22, 1977:

1. The fourth line, first column, page 59858, should be designated as "d".
2. The eighth line, first column, page 59858, reading "d. By changing 'potassium hetacillin' should be deleted and "e. By deleting the figures 'X 427.57' should be substituted therefor.
3. In the middle column, page 59858, the heading "§ 40.53a [Revoked]" should read "§ 440.53a [Revoked]".
4. In the fourth line of amendatory paragraph b. under "§ 440.119a [Amended]", third column, page 59861, "disclloxacillin" should read "dicloxacillin".
5. In the twelfth line of § 440.281b(a)(1), middle column, page 59872, "6.0" should read "90 per cent".
6. At the end of § 440.1081a(b)(3), third column, page 59873, "millimeter" should read "milliliter".

[4310-02]

#### Title 25—Indians

##### CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

##### SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

##### PART 259—PREFERENCE IN EMPLOYMENT

##### Establishment of New Part

DECEMBER 28, 1977.

AGENCY: Bureau of Indian Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Bureau is filing its final rule on Preference in Employment in order to establish a definition of the term "Indian" for preference in employment in the Bureau of Indian Affairs by adding a new Part 259 to Subchapter W, Miscellaneous Activities, of Chapter I, Title 25, Code of Federal Regulations. The new Part 259 was inadvertently published in the proposed rulemaking notice as Part 258. It is being established as Part 259. **EFFECTIVE DATE:** February 16, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Louis Bayhille, Division of Personnel Management, telephone 202-343-5547.

**SUPPLEMENTARY INFORMATION:** The principal author of the regulations in Part 259 is David E. Jones, Office of the Solicitor, telephone 202-343-9331. On May 31, 1977, the Bureau of Indian Affairs published a proposed rule (42 FR 27609 and 27610) adding a new part to its regulations to establish a definition of the term "Indian" for eligibility for a preference in employment in the Bureau of Indian Affairs. A 45 day period was allowed for comments.

Eight interested individuals and four tribal chairpersons responded to the proposed rulemaking. The staff from one Bureau Agency Office, one Bureau Area Office, and one each from the Central Office of the Bureau and the Indian Health Service, Department of Health, Education, and Welfare, also commented. In addition, a group of Bureau Central Office employees submitted comments and requested a hearing of record regarding their proposed amendments and inter-related matters. The hearing request is denied, since there has not been sufficient interest indicated to warrant a public hearing.

The explanatory statements in the notice of May 31, 1977, concerning § 259.1(b) and (c) of the proposed rulemaking caused concern from three commentators.

The explanation in the notice concerning the descendency criterion, § 259.1(b), was ambiguous and was not in accordance with the Associate Solicitor for Indian Affairs' opinion of March 24, 1976. It must be clarified that in order for a person to meet the criterion of § 259.1(b) the person must meet all three of the following criteria: (1) Be descended from a member of a tribe now under Federal jurisdiction; (2) have been born on or before June 1, 1934; and (3) have been residing within any Indian reservation on June 1, 1934.

The explanation given in the proposed rulemaking notice concerning



§ 259.1(c), according to one commentator, gave the impression that persons whose Indian ancestry was not of a Federally recognized tribe(s) could not include that ancestry in computing their quantum. The correct implication is that the criterion applies to persons whose ancestry is not of a Federally recognized tribe(s) as well as those whose ancestry is of a Federally recognized tribe(s).

Careful consideration was given to other comments received; however, it was determined that these comments were not significant or substantial enough to warrant changing, deleting, removing, or adding to the proposed rulemaking as published on May 31, 1977. Some of the recommendations pertained to the administrative application of the rules. Such suggestions will be incorporated in the revised issuance of 44 BIAM 302 which will outline the administrative procedures for implementation of the regulations.

Persons who are employed by the Bureau of Indian Affairs on the date these regulations become effective and who received preference in any previous appointment will continue to be preference eligibles so long as they are continuously employed.

The authority for the Assistant Secretary for Indian Affairs to issue these regulations is contained in Section 9 of the Act of June 30, 1834 (4 Stat. 737, 25 U.S.C. 43), Section 6 of the Act of May 17, 1882 (22 Stat. 88, 25 U.S.C. 46), Section 10 of the Act of August 15, 1894 (28 Stat. 313, 25 U.S.C. 44), Section 5 of the Act of February 8, 1887 (24 Stat. 389, 25 U.S.C. 348), and Sections 12 and 19 of the Act of June 18, 1934 (48 Stat. 986, 25 U.S.C. 472 and 479), and 230 DM 1 and 2.

25 CFR is amended to add a new Part 259 as follows:

Sec.  
259.1 Definitions.  
259.2 Appointment actions.  
259.3 Application procedure for preference eligibility.

AUTHORITY: 4 Stat. 737, 25 U.S.C. 43; 22 Stat. 88, 25 U.S.C. 46; 28 Stat. 313, 25 U.S.C. 44; 24 Stat. 389, 25 U.S.C. 348; and 48 Stat. 986, 25 U.S.C. 472 and 479.

#### § 259.1 Definitions.

For purposes of making appointments to vacancies in all positions in the Bureau of Indian Affairs a preference will be extended to persons of Indian descent who are:

(a) Members of any recognized Indian tribe now under Federal Jurisdiction;

(b) Descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation;

(c) All others of one-half or more Indian blood of tribes indigenous to the United States;

(d) Eskimos and other aboriginal people of Alaska; and

(e) Until January 17, 1981, a descendant of at least one-quarter degree Indian ancestry of a currently Federally-recognized tribe whose rolls have been closed by an act of Congress.

#### § 259.2 Appointment actions.

(a) Preference will be afforded a person meeting any one of the standards of § 259.1 whether the appointment involves initial hiring, reinstatement, transfer, reassignment or promotion.

(b) Preference eligibles may be given a Schedule A excepted appointment under 5 CFR 213.3112(a)(7). However, if the individuals are within reach on a Civil Service Register, they may be given a competitive appointment.

#### § 259.3 Application procedure for preference eligibility.

(a) Proof of eligibility must be submitted with the person's application for a position.

(b) In order for a person to be considered a preference eligible according to the standards of § 259.1, they must submit proof of membership, descent, or degree of Indian ancestry as indicated on rolls or records acceptable to the Secretary.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

FORREST J. GERARD,  
Assistant Secretary for  
Indian Affairs.

[FR Doc. 78-1194 Filed 1-16-78; 8:45 am]

[1505-01]

#### Title 29—Labor

##### SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

#### PART 5—LABOR STANDARDS PROVISION APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NON-CONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND THE SAFETY STANDARDS ACT)

##### Correction

In FR Doc. 77-35295 appearing on page 62132 in the issue for Friday, December 9, 1977, in the "Date" paragraph, middle column, page 62132, the effective date reading "January 9, 1977" should read "January 9, 1978".

[3910-01]

#### Title 32—National Defense

##### CHAPTER VII—DEPARTMENT OF THE AIR FORCE

##### SUBCHAPTER G—ORGANIZATION AND MISSION—GENERAL

##### PART 865—PERSONNEL REVIEW BOARDS

##### Subpart B—Air Force Discharge Review Board

##### ADDRESS: INQUIRIES FOR INDEXES

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending this part to add an address where inquiries may be made for indexes. This address was inadvertently omitted from the rule. The intended effect of this amendment is to make the public aware of the source for the index of documents available for public inspection and copying in connection with the Air Force Discharge Review Board statements of findings.

EFFECTIVE DATE: September 1, 1977.

##### FOR FURTHER INFORMATION CONTACT:

Colonel Lee, Principal Assistant for Discharge Review Matters, Office of the Secretary of the Air Force (Personnel Council), Commonwealth Building, 1300 Wilson Boulevard, Room 920, Arlington, Va. 22209, 202-694-5418.

SUPPLEMENTARY INFORMATION: On May 10, 1977, the Department of the Air Force, DOD, published a final rule (42 FR 23601) to revise 32 CFR Part 865, Subpart B, Air Force Discharge Review Board. On July 15, 1977 amendments to that part were published (42 FR 36450). This amendment is to add an address that was inadvertently omitted from the revision.

The legal authority for this part is Sec. 8012, 70A Stat. 488, sec. 1553, 72 Stat. 1267, 10 U.S.C. 8012, 1553.

Accordingly, 32 CFR Part 865 is amended as follows:

##### § 865.109 [Amended]

Section 865.109 is amended by adding the following sentence to paragraph (e)(3):

(e) . . .  
(3) . . . Inquiries for indexes should be addressed to: Armed Forces Discharge Review/Corrections Board Reading Room, Pentagon Concourse, Washington, D.C. 20301.

FRANKIE S. ESTEP,  
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-1189 Filed 1-16-78; 8:45 am]

[6712-01]

#### Title 47—Telecommunication

##### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

##### SUBCHAPTER D—SAFETY AND SPECIAL RADIO SERVICES

[Docket No. 21349; FCC 77-785]

##### PART 81—STATIONS ON LAND IN THE MARITIME SERVICE AND ALASKA—PUBLIC FIXED STATIONS

##### PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

##### Maritime Mobile Services; Changes in Frequencies; Second Correction

AGENCY: Federal Communications Commission.

##### ACTION: SECOND ERRATA.

SUMMARY: This document corrects certain errors contained in the temporary assignment plan of new High Frequency (HF) radio-telephony frequencies for use in the maritime mobile service. These assignments were published as FR Doc. 77-33495, on November 25, 1977 at 42 FR 60145.

EFFECTIVE DATE: January 1, 1978 (for temporary frequency assignment plan).

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

##### FOR FURTHER INFORMATION CONTACT:

Nicholas G. Bagnato,  
Safety and Special Radio Services Bureau, 202-632-7197.

RELEASED: January 10, 1978.

Amendment of Parts 81 and 83 to implement changes in frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000 to 27500 kHz in the maritime mobile service adopted at the ITU World Administrative Radio Conference, Geneva, 1974, Docket No. 21349.

1. In Paragraph 2 of the Appendix to the Order in the above-captioned matter, FCC 77-785, released November 16, 1977 at 42 FR 60145 and ERRATUM, 83828, released December 2, 1977 at 42 FR 62373, several of the 4 and 6 MHz frequencies are in error and should be corrected as shown below.

2. In addition, in Paragraph 3 of the same Order, the frequency 4383.6 kHz shown for all zones in Alaska is incorrect and should be corrected to be 4383.8 kHz.

For the Federal Communications Commission,

WILLIAM J. TRICARICO,  
Secretary.

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

In the Appendix to Parts 81 and 83, paragraph 2 is amended as shown below.

##### TEMPORARY FREQUENCY ASSIGNMENT PLAN

2. Stations operating on inland waterways on a simplex basis.

Coast station location and carrier frequency (kHz)

WFM, Jeffersonville, Ind.-Louisville, Ky., 4115.7, 6518.8, 8725.1, 13,103.9, 17,291.8.  
WJG, Memphis, Tenn., 4087.8, 6209.3, 8201.2, 12,333.1, 16,518.9.  
WCM, Pittsburgh, Pa., 4063.0, 6515.7, 8213.6, 12,333.1, 16,518.9.  
WGK, St. Louis, Mo., 4410.1, 6212.4, 8737.5, 13,103.9, 17,291.8.

[FR Doc. 78-1266 Filed 1-16-78; 8:45 am]

[7035-01]

#### Title 49—Transportation

##### CHAPTER X—INTERSTATE COMMERCE COMMISSION

##### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 2 to Revised Service Order No. 1182]

##### PART 1033—CAR SERVICE

##### Substitution of Stock Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 2 to Revised Service Order No. 1182).

SUMMARY: Revised Service Order No. 1182 authorized the Burlington Northern, Inc., to substitute specially prepared stock cars for boxcars for shipments of grain originating on its line in order to augment the available supply of cars suitable for grain traffic. Amendment No. 2 extends the order for six months.

DATES: Effective 11:59 p.m., January 15, 1978. Expires 11:59 p.m., July 15, 1978.

##### FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washing-

ton, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The amendment is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 12th day of January 1978.

Upon further consideration of Revised Service Order No. 1182 (42 FR 3844 and 37000), and good cause appearing therefor:

It is ordered, That: § 1033.1182 Substitution of stock cars for boxcars. Revised Service Order No. 1182 is amended by substituting the following paragraph (h) for paragraph (h) thereof:

(h) Expiration date: The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., January 15, 1978.

(49 U.S.C. 1(10-17).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1301 Filed 1-16-78; 8:45 am]

[7035-01]

[Service Order No. 1275, Amdt. 1]

##### PART 1033—CAR SERVICE

Erie Western Railway Co. Authorized to Operate Over Tracks Abandoned by Consolidated Rail Corp.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1275).



**SUMMARY:** Service Order No. 1275 authorizes Erie Western Railway Co. (EW) to operate over the former Erie Lackawanna (EL) line between Hammond and Decatur, Indiana, via North Judson, Indiana. Operation by the EW over these tracks of the former EL is necessary to provide rail service to shippers located adjacent to the line.

**DATES:** Effective 11:59 p.m., January 15, 1978.

*Expires 11:59 p.m., July 15, 1978.*

**FOR FURTHER INFORMATION CONTACT:**

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:** The amendment is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 12th day of January, 1978.

Upon further consideration of Service Order No. 1275 (42 FR 48882), and good cause appearing therefor:

*It is ordered,* That: § 1033.1275 Service Order No. 1275 (The Erie Western Railway Co. authorized to operate over tracks abandoned by Consolidated Rail Corp.) is amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 11:59 p.m., January 15, 1978.

(49 U.S.C. 1 (10-17).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service, and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-1306 Filed 1-16-78; 8:45 am)

# [7035-01]

(Ex Parte No. MC-75 (Sub No. 1))

## PART 1047—EXEMPTIONS

### Agricultural Cooperative Transportation Exemption (Modification of Regulations)

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final regulations.

**SUMMARY:** The regulations governing agricultural cooperative transportation exemptions are being modified. These changes are to clarify the exemption and prohibit certain practices prevalent among "sham" operators, while at the same time requiring carriers to keep better records. These modifications will make cooperative records, officers and directors more accessible and accountable to Commission personnel. Also, these modifications will strengthen the Commission's ability to administer and enforce the law by enabling the Commission to determine the legitimacy of claimants to the agricultural cooperative exemption and maintain observance of the tonnage limitations set out in the laws.

**EFFECTIVE DATE:** March 20, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

**SUPPLEMENTARY INFORMATION:** By Notice and Order entered November 18, 1976, the Commission, on its own motion, instituted this rulemaking proceeding and published in the FEDERAL REGISTER proposed modifications to the regulations pertaining to the agricultural cooperative exemption published at 41 FR 52893, December 2, 1976, and corrected at 41 FR 54009, December 10, 1976. This proceeding, the sequel to the Commission's initial report on the subject, "Implementation of Pub. L. 90-433-Agric. Coop. Exemption," 108 M.C.C. 799 (1969), was initiated in response to the increasing number of organizations claiming the exemption and mounting evidence that unlawful operations and solicitations by "sham" agricultural cooperatives were adversely affecting the regulated transportation industry. The purpose was to (1) define more clearly the exemption from economic regulation accorded motor vehicles controlled and operated by agricultural cooperative associations or federations thereof, and (2)

formulate new and revised requirements concerning record keeping and notice to the Commission respecting certain transportation provided in such motor vehicles. Interested parties were invited to submit their views in writing to the Commission and the Bureau of Enforcement of this Commission, now the Bureau of Investigations and Enforcement, was authorized and directed to participate.

## DEFINITIONS

**Cooperative association.**—The Commission finds that the Congressional intent to tie the exemption of section 203(b)(5) of the Interstate Commerce Act to agricultural cooperatives meeting the definition found in the Agricultural Marketing Act is clear and unambiguous. It concludes that the proposal to further limit the exemption in such a way as to eliminate legitimate transportation, supply, and perhaps even marketing and processing cooperatives would be inconsistent with the legislative history and plain meaning of the statutes. The second proposed limitation concerns control of the cooperative, and it likewise would alter the statutory criteria and might well hamper effective management; so it is also rejected. The Commission opts not to retain the regulation in the form which defines the term by reference to another statute but rather to set forth that entire definition and thereby inform cooperatives and the shipping public exactly what is and what is not a bona fide cooperative so that they will not have to search other federal statutes to find the definition.

**Member.**—In its analysis of this proposal which rewords the definition but contemplates no substantive change, the Commission uncovered a substantial alteration which consisted of the elimination of mixed farmer and cooperative association membership within a single federated cooperative association. This is contrary to the definition of such federation in the preceding § 1047.20(b) and contrary to the holding in the Commission's own cases. Whether the proposal contained an inadvertent omission or not, the current definition does not warrant amendment.

**Member transportation.**—The Commission agrees with most participants in the proceeding that the modifications are complicated, confusing, and impractical. The modifications consist of a proposed farm-related test and a proposed connection of member transportation to a percentage ratio of manufactured or processed goods transported to raw agricultural commodities produced. The modifications ignore the fundamental fact that cooperative associations or federations do not engage in farming per se but rather in those activities enumerated in the Agricultural Marketing Act.

Classifying the member activities of many legitimate cooperatives as "non-member transportation" places severe restrictions on their operations. Also, it places the emphasis of the regulation on transportation for members, rather than for nonmembers. The latter should be the chief concern since that constitutes the major portion of unlawful activity and causes the greatest harm to regulated carriers. The proposed amendments are not accepted.

## OTHER SECTIONS

**Computation of tonnage allowable in nonfarm-nonmember transportation.**—The one addition to this section is a prohibition against one-way trip-leasing. Parties to the rulemaking expressed confusion over the extent of this prohibition. The Commission therefore interprets the modification as being applicable only where the agricultural cooperative acts as lessee; that is, where equipment is trip-leased to the cooperative. The Commission adopts the one-way trip-lease prohibition after rewording it and placing it in the second paragraph of the section so that it clearly complies with the Commission's interpretation.

**Nonmember transportation limitation and recordkeeping.**—The Commission claims the power to promulgate the new subsection requiring that records of transportation activities be kept by agricultural cooperatives and federations thereof by virtue of the exemption itself and sections 204(a)(6) and 220(g) of the Interstate Commerce Act. Enforcement of the congressionally prescribed limitations on exemption would seem to be dependent on such powers. The legislative history of the amendments to the exemption supports this view, and the proviso to section 220(g) is not relevant since the regulation does not prescribe the "form" but rather the "substance" of the matters to be recorded. The new regulation requires information to be kept which is germane to the enforcement of the statutory provisions. For this reason some items are dropped and others added pursuant to the comments of the participants. The regulation is also amended to require compliance only by cooperatives required to give notice to the Commission rather than by all cooperatives performing nonmember transportation. This is to keep it consistent with other parts of the Interstate Commerce Act. This section will have minimal effect on the legitimate cooperative retaining records in the ordinary course of its business, whereas sham cooperatives which often do not keep records in efforts to deter or impede detection will feel the full impact.

**Notice to the Commission.**—The regulation requiring annual filings of the Notice and strict updating of the in-

formation are indispensable tools for proper enforcement of the exemption. Again, this will have little if any effect on legitimate cooperatives but will facilitate the investigation and prosecution of sham cooperatives. In order to avoid the necessity of multiple filings and the difficulty of assessing operations and choosing management personnel by the proposed January 15 deadline, the annual filing will be required within 30 days after the annual meeting of the cooperative or federation.

The 15-day notification period is modified to 30 days, and failure to comply will not rescind a previous notice as was proposed. A failure may, however, subject the organization, its officers, and directors to the fine and imprisonment penalties of 18 U.S.C. 1001. This should have a deterrent effect and a reminder will be printed on Form BOP 102. Publication in the FEDERAL REGISTER and the availability of a central file will put shippers on notice and invite the submission of information having a bearing upon the propriety of the filing. The Form BOP 102 has also been changed to require some additional information, but these changes stop far short of the numerous suggestions of the participants. These changes primarily expedite initial verification of the legitimacy of the filing cooperative and make the cooperative and its officers more accessible to the Commission's enforcement staff. The new form also has some certification changes and requires notarization.

Accordingly, sections 1047.20, 1047.21, 1047.22, and 1047.23 of Chapter X of Title 49 of the Code of Federal Regulations are modified and supplemented and the Form BOP 102 is changed as set forth below:

## § 1047.20 Definitions.

(Modifications are in italics.)

As used in the regulations in this part, the following terms shall have the meaning shown:

(a) **Cooperative Association.** The term "cooperative association" means an association which conforms to the following definition in the Agricultural Marketing Act, approved June 15, 1929, as amended (12 U.S.C. 1141j):

*As used in this act, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services. Provided, however, That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:*

*First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and*

*Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.*

*And in any case to the following:*

*Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.*

Associations which do not conform to such definition are not eligible to operate under the partial exemption of section 203(b)(5) of the Interstate Commerce Act.

(b) **Federation of cooperative associations.** The term "federation of cooperative associations" means a federation composed of either two or more cooperative associations, or one or more cooperative associations and one or more farmers, which federation possesses no greater powers or purposes than a cooperative association as defined in paragraph (a) of this section. Federations of cooperative associations which do not conform to such definition are not eligible to operate under the partial exemption of section 203(b)(5) of the Interstate Commerce Act.

(c) **Member.** The term "member" means any farmer or cooperative association which has consented to be, has been accepted as, and is a member in good standing in accordance with the constitution, bylaws, or rules of the cooperative association or federation of cooperative associations.

(d) **Farmer.** The term "farmer" means any individual, partnership, corporation, or other business entity to the extent engaged in farming operations either as a producer of agricultural commodities or as a farm owner.

(e) **Interstate transportation.** The term "interstate transportation" means transportation by motor vehicle in interstate or foreign commerce as defined in part II of the Interstate Commerce Act, as amended.

(f) **Member transportation.** The term "member transportation" means transportation performed by a cooperative association or federation of cooperative associations for itself or for its members, but does not include transportation performed in furtherance of the nonfarm business of such members.



(g) *Nonmember transportation.* The term "nonmember transportation" means transportation performed by a cooperative association or federation of cooperative associations other than member transportation as defined in paragraph (f) of this section.

(h) *Fiscal year.* The term "fiscal year" means the annual accounting period adopted by the cooperative association or federation of cooperative associations for Federal income tax reporting purposes.

**§ 1047.21 Computation of tonnage allowable in nonfarm-nonmember transportation.**

Interstate transportation performed by a cooperative association or federation of cooperative associations for nonmembers who are neither farmers, cooperative associations, nor federations thereof for compensation, except transportation otherwise exempt under part II of the Act, shall be limited to that which is incidental to its primary transportation operation and necessary for its effective performance and shall in no event exceed 15 percent of its total interstate transportation services in any fiscal year, measured in terms of tonnage. A cooperative association or federation of cooperative associations may transport its own property, its members' property, of other farmers and the property of other cooperatives or federations in accordance with existing law, except insofar as the provisions of § 1047.22 may be applicable with respect to the limit on member/nonmember transportation.

(a) The phrase "incidental to its primary transportation operation and necessary for its effective performance" means that the interstate transportation of the cooperative association or federation of cooperative associations for nonmembers as described above is performed with the same trucks or tractors employed in a prior or subsequent trip in the primary transportation operation of the cooperative association or federation, that it is not economically feasible to operate the trucks or tractors empty on return trips (outbound trips in cases where the primary transportation operation is inbound to the association or federation), and that the additional income obtained from such transportation is necessary to make the primary transportation operation

financially practicable. Transportation performed by a cooperative or federation through the use of one-way trip-leased vehicles is not incidental and necessary.

(b) The base tonnage to which said 15 percent limitation is applied is all tonnage of all kinds transported by the cooperative association or federation of cooperative associations in interstate or foreign commerce, whether for itself, its members or nonmembers, for or on behalf of the United States or any agency or instrumentality thereof, and that performed within the exemption provided by section 203(b)(6) of the Act.

**§ 1047.22 Nonmember transportation limitation and record keeping.**

(a) *Overall limitation of nonmember transportation.* No cooperative association or federation of cooperative associations which is required to give notice to the Commission under § 1047.23 may engage in nonmember interstate transportation for compensation in any fiscal year which, measured in terms of tonnage, exceeds its total interstate member transportation in such fiscal year.

(b) *Records of interstate transportation when nonmember transportation is performed.* Any cooperative association or federation of cooperative associations as defined in this part performing interstate transportation for nonmembers and required to give notice to this Commission under § 1047.23 shall prepare and retain for a period of at least two years written records of all interstate transportation performed for members and nonmembers. Such records shall contain (1) the date of the shipment, (2) the names and addresses of the consignor and consignee, (3) the origin and destination of the shipment, (4) a description of the articles in the shipment, (5) the weight or volume of the shipment, (6) a description of the equipment used either by unit number or license number and, in the event this equipment is nonowned, the name and address of its owners and drivers, (7) the total charges collected, (8) a copy of all leases executed by the cooperative association or federation of cooperative associations to obtain equipment to perform transportation under section 203(b)(5), (9) whether the transportation performed is (i) member transportation as defined in § 1047.20(f), (ii)

nonmember transportation for nonmembers who are farmers, cooperative associations, or federations thereof, (iii) other nonmember transportation, and if of class (iii), how such transportation was incidental and necessary as defined in § 1047.21(a).

**§ 1047.23 Notice to the Commission.**

A cooperative association or federation of cooperative associations which performs or proposes to perform interstate transportation for nonmembers, who are neither farmers, cooperative associations, nor federations of cooperative associations, under section 203(b)(5) of the Interstate Commerce Act, as amended July 26, 1968, which transportation is not otherwise exempt under Part II of the act, shall notify the Commission of its intent to perform such transportation. Such notification shall be given prior to the commencement of such operations and shall be in the form, contain the information, and be served in the manner called for in Form BOP 102, Notice to Commission of Intent to Perform Interstate Transportation for Certain Nonmembers Under Section 203(b)(5) of the Interstate Commerce Act (§ 1003.1 of this chapter). Such notice must be filed with the Commission annually, within 30 days of its annual meeting. Following the receipt of a properly completed Form BOP 102, the information contained therein will be published in the FEDERAL REGISTER and put in a central file at the Commission, as public notice of the intent of the agricultural cooperative association or federation of cooperative associations to conduct interstate for-hire transportation for nonmembers under section 203(b)(5) of Part II of the Interstate Commerce Act. The information requested is of a continuing nature and any changes in the information concerning officers, directors, and location of transportation records in the notice on file shall be brought to the Commission's attention by the filing of a supplemental form BOP 102 within 30 days of such change. Additionally, forms which are incomplete or are not properly notarized will be rejected by the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

INTERSTATE COMMERCE COMMISSION

NOTICE TO COMMISSION OF INTENT TO PERFORM INTERSTATE TRANSPORTATION FOR CERTAIN NONMEMBERS UNDER SECTION 203(b)(5) OF THE INTERSTATE COMMERCE ACT

COMPLETE LEGAL NAME OF COOPERATIVE ASSOCIATION OR FEDERATION OF COOPERATIVE ASSOCIATIONS				
PRINCIPAL MAILING ADDRESS (Street No., City, State and Zip Code)				
BUSINESS ADDRESS (If different from principal mailing address)				
STATE OF INCORPORATION	DATE	NO. OF MEMBERS	ANNUAL MEETING	FISCAL YEAR
TYPE OF COOPERATIVE OR FEDERATION AND PRIMARY PURPOSE				
PRINCIPAL OFFICERS (Name, Title & Address)	PRINCIPAL OCCUPATION & BUSINESS ADDRESS	AFFILIATION WITH OTHER COOPERATIVES OR FEDERATION REQUIRED TO FILE NOTICE (Past 5 years)		
1.				
2.				
3.				
DIRECTORS				
1.				
2.				
3.				
4.				
WHERE ARE RECORDS OF YOUR MOTOR TRANSPORTATION MAINTAINED? (Street No., City, State and Zip Code)				
DESCRIBE TRANSPORTATION (Commodities and Territory) CONTEMPLATED TO BE PERFORMED BY YOU UNDER THE 15 PERCENT PROVISION OF SECTION 203(b)(5). (Attach separate sheet if necessary)				
PERSON TO WHOM INQUIRIES AND CORRESPONDENCE SHOULD BE ADDRESSED				
NAME	MAILING ADDRESS (Street No., City, State, and Zip Code)	PHONE NO. (Include Area Code)		

(Receipt Stamp)

NOTE: The filing of this Notice is a proforma requirement and therefore does not constitute approval of the Interstate Commerce Commission or bear on the legitimacy of the named organization or its operations.

THE INFORMATION REQUESTED IS OF A CONTINUING NATURE AND ANY CHANGES IN THE INFORMATION CONCERNING OFFICERS, DIRECTORS, AND LOCATION OF TRANSPORTATION RECORDS IN THE NOTICE ON FILE SHALL BE BROUGHT TO THE COMMISSION'S ATTENTION BY THE FILING OF A SUPPLEMENTAL FORM BOP 102 WITHIN 30 DAYS OF SUCH CHANGE. THE FAILURE TO INFORM THE COMMISSION OF SUCH CHANGES MAY SUBJECT THE ASSOCIATION OR FEDERATION AND ITS OFFICERS AND DIRECTORS TO THE PENALTIES PRESCRIBED IN 18 U.S.C. § 1001.

BOP-102  
6/77



## RULES AND REGULATIONS

(To be completed by each principal officer)

I certify that the above statements are true and correct; that I am a principal officer of the organization in whose behalf this notice is filed, duly authorized to sign said notice; that I have personally acquainted myself with the requirements of section 203(b)(5) of the Interstate Commerce Act and the Commission's regulations (49 CFR 1047.20 to 1047.23, inclusive) promulgated thereunder; that the association or federation in whose behalf this notice is filed is a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended (12 U.S.C. § 1141j) which intends to engage in interstate transportation for nonmembers who are neither farmers, cooperative associations, nor federations thereof, in addition to transportation otherwise exempt under part II of the Interstate Commerce Act; that the original of this Notice is being filed with the Secretary of Interstate Commerce Commission, Washington, D. C., 20423; that a copy of this notice shall be carried upon each truck or tractor engaged in interstate transportation pursuant to section 203(b)(5) of the Interstate Commerce Act; and that pursuant to Section 220(g) of the Act, the Commission or its duly authorized special agents, accountants, or examiners shall, during normal business hours, have access to and authority, under its order, to inspect, examine, and copy any and all accounts, books, records, memorandums, correspondence and other documents pertaining to motor vehicle transportation of this cooperative association or federation of cooperative associations.

I further certify that in signing the foregoing certificate I am aware that anyone who, in any matter within the jurisdiction of any agency of the United States, intentionally makes or uses any false, fictitious, or fraudulent writing or document, may be subject to prosecution and fined up to \$10,000 and imprisoned for up to 5 years. (18 U.S.C. § 1001).

SIGNATURE	TYPED NAME AND TITLE	
ADDRESS	DATE	
COUNTY OF _____	} ss:	Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19 _____.
STATE OF _____		
SIGNATURE	TYPED NAME AND TITLE	
ADDRESS	DATE	
COUNTY OF _____	} ss:	Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19 _____.
STATE OF _____		
SIGNATURE	TYPED NAME AND TITLE	
ADDRESS	DATE	
COUNTY OF _____	} ss:	Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of _____, 19 _____.
STATE OF _____		

[FR Doc. 78-1136 Filed 1-16-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 11—TUESDAY, JANUARY 17, 1978

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 907]

## NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses and a rate of assessment for the 1977-78 fiscal year, to be collected from handlers to support activities of the Navel Orange Administrative Committee which locally administers the Federal marketing order covering Arizona and California navel oranges.

DATES: Comments must be received on or before January 31, 1978. Proposed effective dates: November 1, 1977, through October 31, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the committee, established under Marketing Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions. The proposals are:

(a) Expenses that are reasonable and likely to be incurred by the Navel Orange Administrative Committee during the period November 1, 1977, through October 31, 1978, will amount to \$474,720.

(b) The rate of assessment for said period payable by each handler in accordance with § 907.41 is fixed at \$0.013 per carton of navel oranges.

(c) Unexpended assessment funds in excess of expenses incurred during the

fiscal year ended October 31, 1977, shall be carried over as a reserve in accordance with § 907.42.

Dated: January 11, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-1237 Filed 1-16-78; 8:45 am]

[3410-02]

[7 CFR Parts 911 and 915]

[Dockets Nos. AO-267-A9 and AO-254-A8]

## HANDLING OF LIMES GROWN IN FLORIDA, HANDLING OF AVOCADOS GROWN IN SOUTH FLORIDA

Hearing on Proposed Amendments of Marketing Agreements, as Amended, and Orders, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public Hearing on Proposed Rulemaking.

SUMMARY: The hearing is being held to consider proposed changes in both marketing orders. The principal issues to be considered are: (1) removal of assessment limitations, (2) exclusion of exports of limes from volume control, and (3) provision of separate regulations for exports of limes and avocados.

DATES: The hearing will be held February 7, 1978, at the location listed under addresses below.

ADDRESSES: The hearing will be held in the Homestead Agricultural Center, 18710 S.W. 288th Street, Homestead, Fla.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held beginning at 9:30 a.m., local time, with respect to proposed amendments of the marketing agreement, as amended, and Order No. 911, as amended, regulating the handling of limes grown in Florida and of the marketing agreement, as amended, and Order No. 915, as amended, regulating the handling of avocados grown in South Florida.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as

amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to proposed amendments, hereinafter set forth, or any appropriate modifications thereof, of the marketing agreements, as amended, and the orders, as amended.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY THE FLORIDA LIME ADMINISTRATIVE COMMITTEE AND THE AVOCADO ADMINISTRATIVE COMMITTEE

The proposed amendment to the marketing agreement and order regulating the handling of limes grown in Florida is as follows:

M.O. 911

PROPOSAL NO. 1

Add a new § 911.12 Export as follows:

§ 911.12 Export.

"Export" means to ship limes to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

PROPOSAL NO. 2

Revise § 911.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 911.20 reads as follows:

§ 911.20 Establishment and membership.

(b) The committee may be increased by one non-industry member and alternate. Persons for the non-industry positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office, and the procedure for nominating the non-industry person.

PROPOSAL NO. 3

Revise paragraph (a) of § 911.30 and add a new paragraph (d) to such section. As amended, § 911.30 reads as follows:

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## PROPOSED RULES

## § 911.30 Procedure.

(c) Except as provided in paragraphs (c) and (d), of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommendation or other action of the committee shall require not less than five concurring votes, including one by a handler, or an alternate acting as such: *Provided*, That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes, including one by a handler or an alternate acting as such.

(d) For any recommendation of the committee for an assessment rate exceeding \$0.20 per bushel to be applied pursuant to § 911.41, the quorum, requirement shall be eight members or alternates acting for members and eight concurring votes shall be required.

## PROPOSAL NO. 4

Revise § 911.31 to read as follows:

## § 911.31 Expenses.

The members of the committee and their respective alternates when acting as members or when performing other duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

## PROPOSAL NO. 5

Revise paragraph (b) of § 911.41 to read as follows:

## § 911.41 Assessments.

(b) The Secretary shall fix the rate of assessment per 55-pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

## PROPOSAL NO. 6

Revise subparagraph (a)(2) of § 911.42. As amended, § 911.42 reads as follows:

## § 911.42 Accounting.

(a) . . .

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining at the end of a fiscal year which are in excess of the expenses necessary for committee operation during such a year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

## PROPOSAL NO. 7

Revise § 911.48 by adding a new subparagraph (a)(7). As amended, § 911.48 reads as follows:

## § 911.48 Issuance of regulations.

(a) . . .  
(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

## PROPOSAL NO. 8

Revise paragraph (a) of § 911.53, so that after revision such paragraph reads as follows:

## § 911.53 Recommendation for volume regulation.

(a) The committee may, during any week, recommend to the Secretary the total quantity of limes which it deems advisable to be handled to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada during the next succeeding week: *Provided*,

That such volume regulations shall not be recommended for any week except during the 18-week regulatory period beginning with the week preceding the first full week in May: *Provided, further*, That no such regulation shall be recommended after such regulations have been in effect for an aggregate of eight (8) weeks during the aforesaid period.

## PROPOSAL NO. 9

Revise § 911.54 to read as follows:

## § 911.54 Issuance of volume regulations.

Whenever the Secretary finds, from the recommendation and information submitted by the committee, or from other available information, that to limit the quantity of limes which may be handled to destinations within the 48 contiguous States of the United States, the District of Columbia and Canada during a specified week of a regulatory period will tend to effectuate the declared policy of the act, he shall fix such quantity: *Provided*, That such regulations during a regulatory period shall not in the aggregate limit the volume of lime shipments for more than eight (8) weeks. The quantity so fixed for any week may be increased by the Secretary at any time during such week. Such regulations may, as authorized by the act, be made effective irrespective of whether the season average price of limes is in excess of the parity price. The Secretary may, upon the recommendation of the committee, or upon other available information, terminate or suspend any regulation pursuant to this section at any time.

## PROPOSAL NO. 10

Revise paragraph (d) of § 911.55 to read as follows:

## § 911.55 Prorate bases.

(d) Each week during the regulatory period when volume regulation is likely to be recommended for the following week, the committee shall compute a prorate base for each handler who has made application in accordance with the provisions of this section. The prorate base for each such handler shall be computed by adding together the handler's shipments of limes in the current season and his shipments in the immediately preceding seasons, if any, within the representative period in which he shipped limes and dividing such total by a divisor computed by adding together the number of weeks elapsed in the current season and the eighteen weeks for each of such immediately preceding seasons within the representative

## PROPOSED RULES

period in which the handler shipped limes. For purposes of this section "shipments" shall include only those limes which were shipped to destinations within the forty-eight contiguous States of the United States, the District of Columbia and Canada; "representative period" means the two preceding seasons together with the current season; the term "season" means the eighteen-week period beginning with the week preceding the first full week in May of any fiscal year; and the term "current season" means the period beginning with the week preceding the first full week in May of the current fiscal year through the fourth full week preceding the week of regulation: *Provided*, That, when official shipping records are available to the committee the said "current season" shall extend through the third full week preceding the week of regulation.

The proposed amendment to the marketing agreement and order regulating the handling of avocados grown in South Florida is as follows:

## M.O. 915

## PROPOSAL NO. 1

Add a new § 915.12 Export as follows:

## § 915.12 Export.

"Export" means to ship avocados to any destination which is not within the 48 contiguous States or the District of Columbia of the United States or Canada.

## PROPOSAL NO. 2

Revise § 915.20 by designating the first paragraph as paragraph (a) and by adding a new paragraph (b). As amended, § 915.20 reads as follows:

## § 915.20 Establishment and membership.

(b) The committee may be increased by one non-industry member and an alternate. Persons for the nonindustry positions would be nominated by the committee and selected by the Secretary. The committee, with the approval of the Secretary, shall prescribe qualifications, term of office and the procedure for nominating the non-industry persons.

## PROPOSAL NO. 3

Revise paragraph (a) of § 915.30 and add a new paragraph (c) to such section. As amended, § 915.30 reads as follows:

## § 915.30 Procedure.

(a) Except as provided in paragraph (c) of this section, six members of the committee, including alternates acting for members, shall constitute a quorum and any decision, recommen-

dation or other action of the committee shall require not less than five concurring votes including one by a handler, or an alternate acting as such: *Provided*, That if the committee is increased by one, the quorum requirement shall be increased to seven and any decision, recommendation or other action of the committee shall require not less than six concurring votes including one by a handler, or an alternate acting as such.

## PROPOSAL NO. 4

Revise § 915.31 to read as follows:

## § 915.31 Expenses.

The members of the committee and their respective alternates when acting as members or when performing other duties at the direction of the committee, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties under this part.

## PROPOSAL NO. 5

Revise paragraph (b) of § 915.41 to read as follows:

## § 915.41 Assessments.

(b) The Secretary shall fix the rate of assessment per 55 pounds of fruit or equivalent in any container or in bulk, to be paid by each such handler. At any time during or after a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expense which may be incurred. Such increase shall be applied to all fruit handled during the applicable fiscal year. In order to provide funds for the administration of the provisions of this part, the committee may accept the payment of assessments in advance.

## PROPOSAL NO. 6

Revise subparagraph (a)(2) of § 915.42. As amended, § 915.42 reads to follow:

## § 915.42 Accounting.

(a) . . .

(2) The Secretary, upon recommendation of the committee, may determine that it is appropriate for the maintenance and functioning of the committee that the funds remaining

at the end of a fiscal year which are in excess of the expenses necessary for committee operations during such year may be carried over into following years as a reserve. Such reserve may be established at an amount not to exceed approximately 3 fiscal years' operational expenses. Funds in the reserve may be used to cover the necessary expenses of liquidation, in the event of termination of this part, and to cover the expenses incurred for the maintenance and functioning of the committee during any fiscal year when there is crop failure, or during any period of suspension of any or all the provisions of this part. Such reserve may also be used by the committee to finance its operations during any fiscal year prior to the time that assessment income is sufficient to cover such expenses; but any of the reserve funds so used shall be returned to the reserve as soon as assessment income is available for this purpose. Upon termination of this part any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

## PROPOSAL NO. 7

Revise § 915.51 by adding a new subparagraph (a)(7). As amended, § 915.51 reads as follows:

## § 915 Issuance of regulations.

(a) . . .  
(7) Prescribe requirements, as provided in this paragraph, applicable to exports of any variety of limes which are different from those applicable to the handling of the same variety to other destinations.

*Proposed by the Fruit and Vegetable Division, Agricultural Marketing Service:*

## PROPOSAL NO. 11

Make such changes as may be necessary to make the marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Lakeland Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Florida Citrus Mutual Building, P.O. Box 9, Lakeland, Fla. 33802 or from the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.



Signed at Washington, D.C., on January 12, 1978.

WILLIAM T. MANLEY,  
Deputy Administrator,  
Marketing Program Operations.  
[FR Doc. 78-1235 Filed 1-16-78; 8:45 am]

## [3410-02]

Agricultural Marketing Service

[7 CFR Part 1139]

## MILK IN LAKE MEAD MARKETING AREA

Proposed Suspension of a Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

**SUMMARY:** This notice invites written comments on a proposal to suspend a provision of the Lake Mead milk marketing order. The provision relates to the number of days that a dairy farmer must deliver milk to a pool supply plant during January and February to maintain producer status with such plant during the following March-July period. Suspension of the provision was requested by a cooperative association to help it continue the association of its members' milk with the order. The proposed suspension would apply during the months of March through July 1978.

**DATE:** Comments are due not later than January 23, 1978.

**ADDRESS:** Comments (4 copies) should be filed with the Hearing Clerk, U.S. Department of Agriculture, Room 1077-S, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:**

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-7183.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Lake Mead marketing area is being considered for the months of March through July 1978.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, United States Department of Agriculture, Room 1077-S, Washington, D.C. 20250, not later than January 23, 1978. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made avail-

## PROPOSED RULES

able for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended, as set forth in the "producer" definition of the order, is § 1139.12(b)(5).

## STATEMENT OF CONSIDERATION

The proposed action would make inoperative for 1978 the requirement that at least 52 days' milk production of a dairy farmer be received at a pool supply plant during January and February if the farmer wishes to deliver milk to the same pool plant in the following March-July period and have it pooled under the order.

The suspension was requested by the Lake Mead Cooperative Association, which operates the only supply plant in the market. The cooperative indicated that without the suspension, a number of its producer-members who are now supplying pool distributing plants on a regular basis cannot be considered as producers during the forthcoming months of March through July if the milk of such members is delivered to the co-operative's supply plant.

The 52-day delivery requirement was intended to prevent the attachment of surplus milk supplies from other markets to the Lake Mead market through a pool supply plant that has automatic pool plant status. The cooperative's supply plant, which customarily qualifies for such status, failed, however, to do so for 1978. It thus must make monthly shipments to the market during March through July if it is to qualify for pooling during this period. Because of this, the 52-day requirement has no useful purpose this year. However, because this provision remains in the order, it may impede the orderly handling of milk at this supply plant under the changed operating situation.

Signed at Washington, D.C., on January 11, 1978.

WILLIAM T. MANLEY,  
Deputy Administrator,  
Marketing Program Operations.

[FR Doc. 78-1240 Filed 1-16-78; 8:45 am]

## [3410-05]

Agricultural Stabilization and Conservation Service

[7 CFR PARTS 1421, 1446]

## 1978 PEANUT PROGRAM

Proposed Determinations Regarding a Loan and Purchase Program for the 1978 Crop of Peanuts

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Proposed rule.

**SUMMARY:** The Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program for the 1978 crop of peanuts. The loan and purchase program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), including amendments contained in the Food and Agriculture Act of 1977, and the Commodity Credit Corporation Charter Act, as amended. The effect of these determinations is to establish for the 1978 program:

(a) The national level of support for quota peanuts.

(b) The national level of support for additional peanuts.

(c) The use of services of approved area marketing associations in making warehouse storage loans and performing other activities relating to the program, as authorized by the 1977 amendments.

(d) The definition of "eligible for domestic edible use" as it pertains to peanuts marketed or considered marketed from a farm.

(e) Sales policy for peanuts received under loan or acquired by the Corporation under the 1978 program.

Other program provisions for the 1978 program, such as the loan and purchase rates by types of peanuts, quality premiums and discounts, and program regulations, will be proposed and determined at a later date. The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. This notice invites comments on these proposed determinations.

**DATES:** Written comments must be received on or before January 31, 1978 (14 days after publication), in order to be sure of consideration.

**ADDRESSES:** Send comments to Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

**FOR FURTHER INFORMATION CONTACT:**

Thomas A. VonGarlem, ASCS, 202-447-7954.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Act of 1977, effective October 1, 1977 (Pub. L. 95-113), contains major amendments to the Act as it pertains to loan and purchase programs for the 1978 through 1981 crop of peanuts. It amends Title I of the Act to include definitions of "quota" and "additional" peanuts, "crushing" and "domestic edible use", which have a significant bearing on farm marketings, loan rates, and policies for disposing of loan or purchase inventories. It also adds a new section 108 to the Act which: (a) Requires separate price support levels for quota

and additional peanuts and new criteria which must be observed in establishing those loan levels, and (b) specific requirements pertaining to the use of area marketing associations in implementing the price support programs. Following are the determinations to be made pursuant to this proposal:

1. *The national level of support for quota peanuts.* New subsection 108(a) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on quota peanuts at such levels as he finds appropriate, but not less than \$420 per ton. In determining price support levels, subsection 108(a) of the Act directs the Secretary to take into consideration: (a) Any change in the index of prices paid by farmers for production items, interest, taxes, and wage rates during the period January 1 through December 1, 1977, inclusive, and (b) the eight factors specified in section 401(b) of the Act, namely, the supply of the commodity in relation to the demand therefor, the levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

The new subsection supersedes the peanut provisions of section 101(b) of the Act, which required a loan level of between 75 and 90 percent of the parity price for peanuts, with the minimum permissible level of support within such range to be determined by the supply percentage. The 1977 national average loan determined under section 101(b) was \$430.50 per ton. The loan level determined under this new subsection 108(a) will be applicable only to "quota" peanuts, which are defined in the 1977 amendments to the Act as any peanuts which are eligible for domestic edible use as determined by the Secretary, which are marketed or considered marketed from a farm, and which do not exceed the farm poundage quota of such farm for such year. The national poundage quota for the 1978 crop of peanuts, which will be eligible for support at the loan rate determined under this new subsection, has been determined and proclaimed to be 1,680,000 tons (7 CFR 729.100 (1977 ed.)).

This new subsection further provides that the levels of support determined thereunder shall not be reduced by any deductions for inspection, handling, or storage. In 1977, a deduction of \$20 per ton was made from loan advances.

## PROPOSED RULES

2. *The national level of support for additional peanuts.* New subsection 108(b) of the Act provides that the Secretary shall make price support available to producers through loans, purchases, or other operations on "additional peanuts," which are defined in the 1977 amendments to the Act as any peanuts which are marketed from a farm and which are in excess of the marketings of quota peanuts from such farm for the marketing year but not in excess of the actual production from the farm acreage allotment. This subsection requires that the loan rate for 1978 crop additional peanuts shall be announced not later than February 15, 1978, and that in determining this rate the Secretary shall take into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets.

There was no comparable provision for additional peanuts under the 1977 program. All of the peanuts eligible for loan under that program were produced within the 1977 crop marketing quota and were eligible for support at the national average loan rate of \$430.50.

3. *Area marketing associations.* New subsection 108(c) of the Act authorizes the Secretary to make loans available in each of the three producing areas (described in 7 CFR § 1446.4 (1977 ed.)) to a designated area marketing association of peanut producers which is selected and approved by the Secretary and which is operated primarily for the purpose of conducting such loan activities. Such associations may be used in administrative and supervisory activities relating to price support and marketing activities under section 108 and under the Agricultural Adjustment Act of 1938, as amended. Such loans shall include, in addition to the price support value of the peanuts, such costs as the associations may reasonably incur in carrying out such responsibilities.

The Department proposes to use area marketing associations as authorized by this subsection in implementing the 1978 program. Since 1937, such associations have participated in administering and supervising the peanut program in a manner generally similar to that described herein.

4. *Peanuts eligible for domestic edible use.* The 1977 amendment to Title I of the Act defines "domestic edible use" as use for milling to produce domestic food peanuts and seed and use on a farm. Only peanuts which are eligible for domestic edible use as determined by the Secretary may be marketed from a farm as quota peanuts in the 1978 marketing year.

Regulations currently in effect, contained in 7 CFR 1446.3 (1974 ed.) and

the 1977 quality regulations issued pursuant to the Peanut Marketing Agreement classify farmers stock peanuts as follows:

Segregation 1 peanuts means farmers stock peanuts which: (i) Have at least 99 percent peanuts of one type, (ii) have not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold, or decay, and (iii) are free from *A. flavus* mold.

Segregation 2 peanuts means farmers stock peanuts which: (i) Have less than 99 percent peanuts of one type, or (ii) have more than 2 percent damaged kernels or more than 1 percent concealed damage caused by rancidity, mold, or decay, and (iii) are free visible *A. flavus* mold.

Segregation 3 peanuts means farmers stock peanuts which have visible *A. flavus* mold.

Under these regulations, only segregation 1 peanuts may be milled and sold for the manufacture of peanut butter, roasted peanuts, salted peanuts, and other edible products using the peanuts as peanuts. In common usage, the term "eligible for domestic edible use" has been applied only to these segregation 1 peanuts, although other classes of peanuts may be crushed to obtain edible oil.

In defining the term "eligible for domestic edible use" as it applies to the definition of quota peanuts, the Department is considering whether to restrict eligibility to segregation 1 peanuts or to broaden the term, for program purposes only, to include segregation 3 peanuts. The broader definition would assist the Department in its attempts to protect consumers by isolating these peanuts from edible markets and controlling the disposition of the contaminated meal outturn of the peanuts. In addition, it would alleviate losses of farm income due to drought or other weather conditions conducive to the growth of the contaminant, *A. flavus* mold.

The loan rate for segregation 3 peanuts marketed as quota peanuts would be less than the rate for segregation 1 quota peanuts, but possibly higher than the loan rate for additional peanuts grown for export and crushing markets.

5. *Sales policy.* The Department invites comments on a sales policy for quota and additional peanuts pledged as loan collateral or acquired by Commodity Credit Corporation under the 1978 program. Section 407 of the Act provides that the Corporation may not sell peanuts at less than 105 percent of the support price plus reasonable carrying charges, except sales for new or byproduct uses, extraction of oil, export, and prevention of deterioration or spoilage. Section 359(j) of the Agricultural Adjustment Act of 1938, contained in the Food and Agriculture



## PROPOSED RULES

[6750-01]

## FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3061]

FERRARA IMPORTS, LTD., ET AL

Consent Agreement With Analysis To Aid  
Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agree-  
ment.

**SUMMARY:** In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this provisionally accepted consent order, among other things, would require a New York City importer and manufacturer of men's clothing to cease misrepresenting or failing to affix to their products required fiber disclosure labels. The firm is additionally required to furnish affected customers with a copy of the order.

**DATE:** Comments must be received on or before March 16, 1978.

**ADDRESS:** Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION  
CONTACT:

John F. Dugan, Acting Director,  
New York Regional Office, 2243-EB  
Federal Building, 26 Federal Plaza,  
New York, N.Y. 10007, 212-264-1200.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record, together with material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act, for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

FERRARA IMPORTS, LTD., AND LOUIS  
FERRARAAGREEMENT CONTAINING CONSENT ORDER  
TO CEASE AND DESIST

The Federal Trade Commission having initiated an investigation of certain acts and practices of Ferrara Imports, Ltd., and Louis Ferrara, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Ferrara Imports, Ltd., a corporation, by its duly authorized officer, and Louis Ferrara, individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed respondent Ferrara Imports, Ltd., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 655 Madison Avenue, New York, N.Y. 10021.

Proposed respondent Louis Ferrara is an officer of said corporation. He formulates, directs, and controls the policies, acts, and practices of said corporation and his address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondents waive:  
(a) Any further procedural steps;  
(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper, or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as al-

leged in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may without further notice to proposed respondents: (1) Issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

## ORDER

It is ordered, That respondents Ferrara Imports, Ltd., a corporation, its successors and assigns, and its officers, and Louis Ferrara, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction or importing for introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products.
2. Failing to securely affix to or place on, each such product a stamp,

## PROPOSED RULES

tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents mail a copy of this order to each of their customers that purchased the wool products which gave rise to this complaint.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the individual respondent named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of his present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondent's current business address and a description of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

It is further ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

FERRARA IMPORTS, LTD.

ANALYSIS OF PROPOSED CONSENT ORDER  
TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Ferrara Imports, Ltd., and Louis Ferrara, an officer of the company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Ferrara Imports, Ltd., is a New York corporation and is an importer, manufacturer, and distributor of clothing. Louis Ferrara is the president of the corporation, and controls and is responsible for its acts and practices.

The complaint alleges that the firm imported men's suits, manufactured other men's suits and sold them without affixing tags or labels disclosing wool and other fiber content as required by the Wool Products Labeling Act of 1939. It further alleges that the firm falsely labeled samples used in selling these suits by substantially overstating the wool content and by misrepresenting the percentages of other constituent fibers.

The consent order in this matter prohibits Ferrara Imports, Ltd., and Louis Ferrara from failing to affix to their wool blend clothing labels disclosing fiber content and from misrepresenting the wool and other fiber content. It further requires that they mail a copy of the order to those who purchased the clothing that was the subject of this action.

The order is generally designed to prevent deception as to the wool content of clothing and to protect the corporation's competitors from unfair competition.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-1200 Filed 1-16-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE  
COMMISSION

[19 CFR Ch. II]

INTERPRETIVE RULES AND POLICY  
STATEMENTS

Advance Notice of Proposed Rulemaking with regard to the possible adoption of interpretive rules and policy statements concerning the administration of the Antidumping Act, 1921 (19 U.S.C. 160, et seq.), and section 303(b) of the Tariff Act of 1930 (the countervailing duty statute) (19 U.S.C. 1303(b)).

AGENCY: U.S. International Trade Commission.

ACTION: Notice of agency consideration of possible issuance of a notice of proposed rulemaking. The Commission solicits comments and suggestions from any interested persons with regard to the content of such proposed rulemaking.

**SUMMARY:** This is an advance notice of the possible issuance of proposed rulemaking, namely, interpretive rules and policy statements to serve as guidelines in construing the Antidumping Act, 1921, and section 303(b) of the Tariff Act of 1930, and to advise the public of the Commission's policies in administering these statutes.



**DATES:** Comments and suggestions concerning the proposed rulemaking, including proposals for rules, must be received before 5:15 est, on March 20, 1978.

**ADDRESS:** Interested persons are invited to submit their comments and suggestions concerning the proposed rulemaking to the Secretary of the Commission, 701 E Street NW., Washington, D.C. 20436.

**FOR FURTHER INFORMATION CONTACT:**

Edward Easton, Esq., Office of General Counsel, U.S. International Trade Commission, Washington, D.C. 20438, telephone 202-523-0379.

**SUPPLEMENTARY INFORMATION:** The Commission is considering promulgating interpretive rules and policy statements to interpret the statutory language of section 201(a) of the Antidumping Act, 1921 and section 303(b) of the Tariff Act of 1930. Also under consideration are the issuance of guidelines concerning the administration of the statutes. Potential sources for suggestions in formulating proposed rules include, but are not limited to: (1) the Commission's determinations under the above-cited statutes, (2) those reports of the Senate Finance Committee and the House Committee on Ways and Means which refer to the administration of the subject statutes and, (3) those holdings of the U.S. Customs Court and the U.S. Court of Customs and Patent Appeals which refer to the administration of the Antidumping Act, 1921, by the Commission. The Commission reserves the right, after consideration of any comments and suggestions, to issue no rules or statements.

By order of the Commission:

Issued: January 12, 1978.

KENNETH R. MASON,  
Secretary.

(FR Doc. 78-1311 Filed 1-16-78; 8:45 am)

**[1505-01]**

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

Food and Drug Administration

[21 CFR Parts 182 and 186]

[Docket No. 77N-0176]

**DEXTRANS (AVERAGE MOLECULAR WEIGHT  
BELOW 100,000)**

**Affirmation of GRAS Status as Indirect Human  
Food Ingredients and Deletion of GRAS  
Status as Direct Human Food Ingredients**

**Correction**

In FR Doc. 77-33165 appearing at page 59518 in the issue for Friday, November 18, 1977, make the following changes:

**PROPOSED RULES**

(1) In the paragraph "For further information contact", the phone number for Corbin I. Miles now reading "202-472-475" should have read "202-472-4750."

(2) On page 59519, the last line of the second column, "(molecular weight 700,000)" should have read "(molecular weight 70,000)".

(3) On page 59521, in the first column, the table in § 186.1275(b), in the last two lines, "kkm" should have read "ppm" in both places.

**[4310-02]**

**DEPARTMENT OF THE INTERIOR**

Bureau of Indian Affairs

[25 CFR Part 113]

**MANAGEMENT OF OSAGE JUDGMENT FUNDS  
FOR EDUCATION AND SOCIOECONOMIC  
PROGRAMS**

Issuance of New Part

**AGENCY:** Bureau of Indian Affairs Interior.

**ACTION:** Proposed issuance of new part.

**SUMMARY:** These regulations proposed to implement section 1(b) of the Act of October 27, 1972, set forth procedures and guidelines to govern the use of funds awarded to the Osage Tribe by PUB. L. 92-586, enacted October 27, 1972. The funds were awarded for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Indian Tribe of Oklahoma.

**DATE:** Comments by February 16, 1978.

**ADDRESSES:** Mail comments to: Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue NW., Washington, D.C. 20245. Deliver hand carried comments to: Assistant Secretary for Indian Affairs Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 18th and C Streets NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**

Ramona L. Osborne, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

**SUPPLEMENTARY INFORMATION:** Beginning on page 47795 of the October 10, 1975, FEDERAL REGISTER (40 FR 47795) there was published a notice to add a proposed new Part 113 to Subchapter J, Chapter 1, Title 25 of the Code of Federal Regulations. The addition was proposed pursuant to the authority contained in the Act of October 27, 1972 (86 Stat. 1295).

The purpose of the proposed new Part was to implement section 1(b) of such Act of October 27, 1972, wherein it is provided that the "sum of \$1 million plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe . . . such programs to be administered as authorized by the Secretary of the Interior."

In compliance with Department of the Interior policy, interested persons were afforded an opportunity to comment on the aforementioned proposed new Part 113 as published on October 10, 1975. Individuals of Osage Indian blood, Osage organizations, and other interested parties were specifically invited to submit written comments, suggestions, or objections regarding the proposed regulations. The number of comments received was relatively small. About half were general expressions on various aspects of the proposed regulations. To illustrate, one commenter endorsed the provision which permits the expenditure of interest only; another expressed satisfaction that applicants would not be required to prove need as a condition for financial aid; another felt that need should be a condition for assistance; one commenter suggested that the tribal council be permitted to place the funds under the management of a commercial bank; still another suggested that the tribal council should have full responsibility for management of the funds.

On the other hand, at least half of the commenters specifically and strongly objected to the proposed provisions which would permit the tribal council to select a committee to administer the fund. Their opposition was based primarily upon the claim that questions of propriety exist regarding the authority of the tribal council in relationship to the \$1 million fund. More specifically, the objectors claim that the tribal council is not representative of the Osage Tribe since the right to vote in tribal elections is restricted to those having an interest in the tribe's mineral estate; that the council's scope of legislative authority is limited to matters pertaining to the mineral estate only; and therefore, the council does not have authority with regard to the \$1 million fund. Inasmuch as these claims have been the subject of litigation, and since the questions raised have not been completely resolved we feel it inappropriate to provide further comment.

Recognizing the complex and controversial nature of the comments received, the Bureau felt that additional efforts should be made to insure that all major and pertinent factors were

known and considered in finalizing the regulations. In this regard, the Bureau contacted and/or held consultation meetings with a number of Osage organizations. These included, among others, the Osage Tribal Council; the Osage Nation Organization; and, each Village Committee of the three Osage Indian Villages, i.e., Hominy, Greyhorse, and Pawhuska.

Due consideration has now been given to all comments and views which were made either in response to the published proposed regulations, or those expressed in the consultation meetings. Overwhelmingly, the focal point of these expressions reflect widespread and grave concern regarding (1) an administering body for, and, (2) the beneficiaries of the \$1 million fund. More specifically, there are serious and conflicting views as to who is to administer the fund; and, whether or not blood quantum is to be a factor in determining who is to receive financial aid as provided by the proposed new Part.

Unquestionably, these concerns transcend the \$1 million fund. They are rooted in complex problems and circumstances which encompass and affect the very well-being of the Osage Tribe. For this reason, the Bureau has determined it appropriate to incorporate into the regulations, fundamental principles which not only accommodate the expressed concerns, but, which also, and perhaps more importantly, enhance the posture of the Osage people as a Tribe. These principles give recognition to the fact that it is the Tribes, as aggregate units, which provides the basis for the Federal Government's trust responsibility and relationship with Indian people. Foremost among the principles are the following: (1) Clearly, the legislation intends that the \$1 million be used for the benefit of the Osage Tribe; (2) The Congress placed high value upon Osage heritage by specifically requiring that beneficiaries of such legislation be of Osage Indian blood; (3) Any program, to be of greatest benefit to the Osage Tribe must, of necessity, enhance and perpetuate the longevity of the tribe; (4) Those having a practicing knowledge of the Osage heritage—its customs and traditions—can best advance the Osage people as a tribe; and, (5) Undoubtedly, the best interest of the tribe can be served through concerted efforts to maximize participation of those having this practicing knowledge and who are able and willing to acquire appropriate skills and knowledge which can benefit both himself and the tribe.

These principles, upon their application, can (1) accommodate the Congressional intent that the funds benefit the Osage Tribe; (2) further the Federal policy of Indian Self-Determination; and, (3) advance the desire of

the Osage people that their existence as a Tribe, and, their trust relationship with the Federal Government be enhanced.

Five years have passed since the \$1 million sum was appropriated. During this time efforts to finalize regulations for use of the funds have been hampered by a number of conditions, including the previously mentioned litigation. The Bureau feels that further delay in making these funds available would not be in the best interest of the Osage Tribe. Therefore, until the heretofore mentioned questions of propriety are resolved, the Bureau has determined that it shall administer the fund in the manner prescribed by the proposed new Part 113. While certain provisions may appear somewhat contradictory to the policy of Self-Determination, they are adjudged to be in the best interest of the Osage Tribe at this particular time, given the complexity of current problems.

Accordingly, the proposed regulations published on October 10, 1975, have been revised to reflect the foregoing principles and determinations; and, are herewith published as proposed regulations. Primary author of this document is Ramona L. Osborne, Education Specialist, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, any individual of Osage Indian blood, Osage organizations, and other interested parties are invited to submit written comments, suggestions, or objections regarding the proposed regulations on or before February 16, 1978, as follows:

1. By mail, address to the Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue NW., Washington, D.C. 20245.

2. By hand, deliver to the Assistant Secretary for Indian Affairs, Attention: Director of Indian Education Programs (Osage Tribal Education Committee), 18th and C Streets NW., Washington, D.C.

Comments, suggestions, or objections received on or before February 16, 1978, will be considered in preparing the final regulations.

For further information contact Ramona L. Osborne, Bureau of Indian Affairs, Office of Indian Education Programs, Washington, D.C., 202-343-7387.

This notice, as did the heretofore mentioned notice of October 10, 1975, proposes to add a new Part 113 to Subchapter J, Chapter 1, Title 25 of the Code of Federal Regulations, to read as follows:

**PART 113—EXPENDITURE OF EDUCATION AND  
SOCIOECONOMIC FUNDS OF THE OSAGE  
TRIBE OF INDIANS**

- Sec.  
113.1 Purpose and scope.  
113.2 Definitions.  
113.3 Principal to be invested, interest only to be expended.  
113.4 Eligible applicants.  
113.5 Interim Osage Tribal Education Committee.  
113.6 Establishment of Osage Tribal Education Committee.  
113.7 Duties and responsibilities of the Osage Tribal Education Committee.  
113.8 Other socioeconomic programs.  
113.9 Use of funds for Committee Administrative Costs.  
113.10 Regulations to apply for indefinite period of time.  
113.11 Appeals.

AUTHORITY: 86 Stat. 1295.

**§ 113.1 Purpose and scope.**

(a) Pub. L. 92-586, enacted October 27, 1972, makes provision whereby the sum of \$1 million, together with other funds which revert to the Osage Tribe, "may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior."

(b) The purpose of the regulations in this Part is to set forth procedures and guidelines to govern the use of such funds. Included are (1) application requirements and processes for use of these funds for educational purposes by eligible persons; and, (2) procedures whereby the funds may also be used for socioeconomic programs of benefit to the Osage Tribe.

**§ 113.2 Definitions.**

(a) "Act" means Pub. L. 92-586 enacted October 27, 1972 (86 Stat. 1295).

(b) "Secretary" means the Secretary of the Department of the Interior.

(c) "Assistant Secretary" means the Assistant Secretary for Indian Affairs.

(d) "Superintendent" means the official in charge of the Bureau of Indian Affairs Osage Indian Agency.

(e) "Reverted Funds" means the unpaid portions of the per capita distribution funds, as provided by the Act, which were not distributed because they were (1) Unclaimed within the period specified by the Act; or, (2) for an amount totaling less than \$20 due an individual from one or more shares of one or more Osage allottees. The Act provides that such unpaid funds revert to the Osage Tribe and upon their reverting thereto are to be used together with the \$1 million fund for education or other socioeconomic programs of benefit to the Osage Tribe.

(f) "Allottee" means a person whose name appears on the roll of the Osage



## PROPOSED RULES

Tribe of Indians approved by the Secretary of the Interior on April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539).

(g) "Osage Tribal Education Committee" means the committee selected to administer the provisions of this Part as specified by § 113.6.

(h) "Other Socioeconomic Programs" means activities, other than educational, for which funds may be used, as specified by § 113.16 of this Part.

(i) "Educational Programs/Purposes" means those endeavors or activities for which funds under this Part may be used to advance the formal, academic education or vocational/technical training of eligible persons.

(j) "Point System" means a set of specific conditions appropriate to an application for educational assistance for which a specified number of points are awarded to an application for each condition met. Such point system provides the basis for rating and ranking all applications for financial assistance under this Part.

(k) "Rating Applications" means the method, or procedure, by which each and all applications are individually evaluated against the point system to determine (1) which, if any, of the conditions for which points are awarded, have been met by the applicant; and, (2) the total number of points earned.

(l) "Ranking Applications" means the process by which all applications, after having been rated, are placed in a descending order according to the total number of points awarded each.

§ 113.3 Principal to be invested, interest only to be expended.

(a) The principal sum of \$1 million and reverted funds shall be invested and reinvested at the highest available rate of interest by the Bureau of Indian Affairs on behalf of the Osage Tribe. Expenditures for the purposes of this Part shall not be made from the principal sum, but, shall be made against only the interest generated from such principal sum, and, other funds which revert to the tribe as provided by the Act.

§ 113.4 Eligible applicants.

(a) Any person of Osage Indian blood who is an allottee or a descendant of an allottee is eligible to apply for use of funds for the purposes prescribed by, and, in accordance with, the provisions of this Part. All applicants, for assistance shall, as a part of the application process, identify his allotment number if he or she is an original allottee; or, if applicant is a descendant of an allottee, then, the allottee through whom eligibility is claimed shall be identified.

§ 113.5 Interim Osage Tribal Education Committee.

(a) To enable the Osage Tribe to begin utilization of funds without further delay, an Interim Osage Tribal Education Committee shall be established to administer the provisions of this Part until a regular Osage Tribal Education Committee can be established for this purpose. Such committee shall be appointed by the Assistant Secretary, and, shall be composed of Bureau education personnel including (1) one Area Office person; and, (2) two persons from the Office of Indian Education Programs.

(b) The Interim Committee shall perform all duties and responsibilities as set out in § 113.7 of this Part, and, in addition, shall assist in the establishment of the regular Osage Tribal Education Committee.

(c) The Interim Committee shall be appointed and convene their first meeting within 45 days after these regulations become final.

§ 113.6 Establishment of Osage Tribal Education Committee.

(a) In an effort to provide the Osage Tribe maximal opportunity to exercise their right to Tribal Self-Determination, an Osage Tribal Education Committee shall be established to perform the on-going responsibilities and provisions of this Part. Such committee, once established, shall replace the Interim Committee.

(b) The Osage Tribal Education Committee shall be composed of seven members and shall include two (2) education staff members of the Bureau; and five (5) persons of Osage Indian blood who are allottees, or, descendants of original allottees. Of the five Osage members, at least three shall be legal residents of, or live within a 20-mile radius of one of the three Osage Indian Villages. Of these, at least one shall reside within the specified radius of the Pawhuska Indian Village; one, at least, within the specified radius of the Hominy Indian Village; and, at least one within the specified radius of the Greyhorse Indian Village.

(c) Selection of the five Osage committee members shall be made by the Assistant Secretary in accordance with the following procedures and provisions:

(1) *Eligibility.* Any adult person of Osage Indian blood who is an allottee, or a descendant of an allottee is eligible to serve on the education committee.

(2) *Applications and Nominations.* Formal application or nomination for committee membership shall be required. In accordance with the provisions of the following paragraph, any eligible person may make application for committee membership by submitting a brief statement requesting that

he/she be considered a candidate for such committee; or, any Osage organization, including the Osage Indian Village Committees, may submit the name(s) and address(es) of eligible persons as their nominee(s) for the education committee. Applications and nominations shall be made by registered mail, within 60 days after these regulations become final, to:

Assistant Secretary for Indian Affairs, Attn: Director of Indian Education Programs (Osage Tribal Education Committee), 1951 Constitution Avenue, NW., Washington, D.C. 20245.

(3) *Personal Interview of Applicants and Nominees.* Following the expiration date for receiving applications and nominations, the Bureau shall arrange for personal interviews with all applicants and nominees. The personal interview shall be the primary method for selecting committee members, for, under controlled conditions, it can provide an objective process for selection of the most competent and effective persons to perform committee responsibilities in a fair and reasonable manner. Each interview session shall utilize a standard interview instrument developed by an independent, experienced arbitration agency. The instrument shall be designed to measure the interviewees responses to hypothetical problems which might be encountered in the administration of grant or scholarship programs. All interviews shall be conducted by the same arbitration agency responsible for the interview instrument.

(4) *Selection of Committee Members.* Upon completion of the interview, the arbitration agency shall recommend a reasonable number of applicants or nominees from which the Assistant Secretary for Indian Affairs shall select five Osage persons to serve on the Osage Tribal Education Committee; and shall appoint two Bureau persons to serve on the Committee. The Assistant Secretary for Indian Affairs shall notify all persons of their selection or appointment, and, shall also notify all applicants and nominees of the final selection. Thereafter, the Bureau shall arrange for the Committee to begin assumption of duties and responsibilities from the Interim Committee.

(5) *Committee Vacancies.* Any vacancy shall be filled in the same manner described by this section for the selection of committee members. The period of time for receiving applications shall not exceed 30 days with the expiration date to be announced by the Assistant Secretary for Indian Affairs. The Assistant Secretary for Indian Affairs may appoint an individual to serve for a temporary period of time until vacancy is filled. However, such appointment shall not exceed 45 days.

§ 113.7 Duties and responsibilities of the Osage Tribal Education Committee.

(a) In order to provide maximal use of the limited funds; accommodate the anticipated large number of applications; and, insure prompt, efficient and fair treatment of all applications, a sound and equitable system for administering the program is imperative. In this regard, therefore, and consistent with the policy of Indian Self-Determination, the Osage Tribal Education Committee shall develop an overall plan, including a systematic, sequential process for selecting awardees which avoids a "first come, first serve" method; and, instead, insures that all applications received prior to the specified closing date, shall be ranked simultaneously to enable equal competition for funds by all applicants.

(b) The procedure shall provide that (1) no funds shall be awarded until all applications have been ranked; and, (2) applications shall not be ranked until all have been rated against the point system.

(c) Specifically, the Over-all Plan shall include:

(1) *Procedures for Receiving and Reviewing Applications.* Such procedures shall set out the following:

(i) Beginning and closing dates for accepting applications;

(ii) Office and address from which application forms may be obtained;

(iii) Address to which applications are to be submitted; and any special method by which they are to be submitted, i.e., certified, registered, or regular mail;

(iv) Date by which all applicants shall have been notified of the Committee decision relative to their application;

(v) Process by which applications shall be reviewed for completeness; and, how additional information shall be requested and received.

(2) *A point system for rating and ranking applications.* The point system is, perhaps, the most important part of the Over-all Plan as required by this section. It shall serve as the standard basis for rating and ranking each and all applications for financial assistance under this Part, in an identical, objective manner.

(i) The point system shall set out specific conditions, or criteria, appropriate to an application for financial assistance, for which a specified number of points shall be awarded to those applications meeting the condition or conditions. For example, an applicant's scholastic achievement or grade average for the preceding semester could be one condition for which points would be awarded. In this regard, it could be determined that 10 points would be awarded for an "A" average; 7 points for a "B" average, 5 points for a "C" average, etc.

(3) *Procedures for Awarding Funds.* This shall include: (i) Determinations as to whether awards are to be a specified amount, or, whether the amount is to be based upon the applicant's established individual need; and, a formula for affixing amounts.

(ii) The process and date by which applicants shall be notified as to

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(ii) Each application shall be evaluated against the conditions specified by the point system to determine (A) which, if any, of the conditions applicant has met; (B) the total point value of the application, as derived from the conditions applicant has met; and, (C) the value of each application in relationship to all applications, for ranking purposes. The point value of each condition set out by the point system shall be determined by the education committee.

(iii) In addition to those conditions for which the Osage Tribal Education Committee determines points are to be awarded, the point system shall include provisions whereby points shall also be awarded to those applications, wherein the applicant:

(A) Meets a specified Osage blood quantum requirement which shall be established by the Osage Tribal Education Committee. The specified quantum shall be considered only for the purposes of the point system, and, shall not, in any way, affect or determine eligibility, as any person who meets the requirements of Section 113.4 is eligible to make application for aid under this Part.

(B) Establishes that financial assistance is necessary, and that without such assistance the applicant's personal educational or career objectives would not be attainable. The financial information required shall be established by the Osage Tribal Education Committee.

(C) Provides evidence that other available financial resources have been applied for, and indicates whether or not such application(s) has been approved, and, if so, the amount approved; or, otherwise indicate the status of such application(s). The financial resources information required shall be determined by the Osage Tribal Education Assistance Committee.

The number of points to be awarded for each of the foregoing conditions shall be determined by the Osage Tribal Education Committee. After all applications have been rated according to the point system, they shall be ranked according to the total number of points awarded. Applications receiving the greatest number of points shall be first in line to receive financial aid as provided by this Part. The point system shall specify whether applications are to be rated upon their receipt; at periodic intervals, or, after the specified closing date for receiving applications.

(3) *Procedures for Awarding Funds.* This shall include: (i) Determinations as to whether awards are to be a specified amount, or, whether the amount is to be based upon the applicant's established individual need; and, a formula for affixing amounts.

(ii) The process and date by which applicants shall be notified as to

whether or not they are to receive an award, and, how awards are to be announced or published.

(iii) Determinations as to whether payment of awards are to be made directly to the student, or to the educational institution which the respective applicant shall be attending. In addition, the Education Committee shall:

(A) Establish the time and place for convening regular Committee meetings; conditions and procedures for convening special meetings; and, the procedures for notifying members of both regular and special meetings.

(B) Establish a procedure for the selection/election of a Committee chairman and other officers considered appropriate.

(C) Develop a standard application form

(D) Prepare an official document which sets out the Over-all Plan established by the Committee in compliance with the provisions of this Part for submission to the Assistant Secretary for Indian Affairs for approval.

(E) Notify the Osage people, through appropriate media, of the procedures, processes, etc., set out by the Over-all Plan for administering the \$1 million fund within a reasonable time after these regulations become final.

(F) Any other responsibilities necessary and/or appropriate to effective performance of committee tasks.

Inasmuch as the Over-all Plan encompasses the full amount of operating procedures, requirements, etc., to be used in administering the fund, the Assistant Secretary for Indian Affairs' approval of such plan shall be required. Any revisions of the approved Over-all Plan shall require strong justification, and, shall also require approval of the Assistant Secretary for Indian Affairs. The approved Over-all Plan shall be printed in its entirety and made available to persons requesting applications; and, upon request, to persons eligible for aid under this part.

§ 113.8 Other socioeconomic programs.

(a) Applications for financial assistance for socioeconomic programs shall be in the form of a narrative proposal which provides a full description of the proposed program. The narrative shall include (1) program objectives; (2) methods for attaining objectives; (3) staff requirements, i.e., number and qualifications; and, (4) program budget.

(b) Applications for socioeconomic program funding shall be considered only if the Osage Tribe is not eligible for participation in other programs which have the same objectives as those proposed by the application.

(c) The Osage Tribal Education Committee shall establish a procedure for considering such applications. In



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addition, the Committee shall establish a maximum percentage to be used for funding socioeconomic programs. Such percentage shall not exceed 15 percent of the total funds available during any given year.

(d) Applications approved by the Osage Tribal Education Committee shall also require the approval of the Assistant Secretary for Indian Affairs.

#### § 113.9 Use of funds for Committee administrative costs.

(a) A reasonable portion of funds available for expenditure may be used by the Osage Tribal Education Committee in the performance of their duties and responsibilities.

(b) The Committee shall prepare and submit for the Assistant Secretary for Indian Affairs' approval, a budget for each calendar year. The budget may, at the discretion of the Committee, provide for travel and per diem of Committee members. The amount used for program administration shall not exceed 5 percent of the total amount available, except, with the special approval of the Assistant Secretary for Indian Affairs.

#### § 113.10 Regulations to apply for indefinite period of time.

These regulations shall cease upon determination of the legal and appropriate body to administer the fund, and, upon the establishment of succeeding regulations.

#### § 113.11 Appeals.

The procedure for appealing any decision regarding the awarding of funds under this Part shall be made in accordance with 25 CFR, Part 2, Appeals from Administrative Action.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 230 DM 2.

FORREST J. GERARD,  
Assistant Secretary for  
Indian Affairs.

[FR Doc. 78-1241 Filed 1-16-78; 8:45 am]

## [4110-35]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Chapter IV]

#### RURAL HEALTH CLINIC SERVICES

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The regulations will apply to services furnished by clinics located in rural, medically underserved areas, and staffed by physician assistants and nurse practitioners. They will establish certification requirements, define covered services, and prescribe reimbursement methods under Medicare (Title XVIII of the Social Security Act) and Medicaid (Title XIX of the Act). The regulations will implement the Rural Health Clinic Services Act of 1977 (Pub. L. 95-210) which is effective on March 1, 1978, for Medicare, and on July 1, 1978, for Medicaid. Medicaid policies will be issued as Notice of Proposed Rulemaking. Policies on certification of clinics and on Medicare coverage and reimbursement will be published as final regulations. These will be revised later if comments indicate that changes are needed.

FOR FURTHER INFORMATION CONTACT:

#### CERTIFICATION

Lorraine Kytile, Health Standards and Quality Bureau, HCFA, Room 349, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9748.

#### MEDICARE COVERAGE AND REIMBURSEMENT

Marinos Svolos, Medicare Bureau, HCFA, Room 106, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

#### MEDICAID COVERAGE AND REIMBURSEMENT

Emily Nichols, Medicaid Bureau, HCFA, Room 4513, 330 C. St. SW., Washington, D.C. 20201, 202-245-0701.

Draft regulations will be made available to interested persons as soon as they are completed and may be obtained by contacting the individuals identified above.

Dated: January 6, 1978.

ROBERT A. DERZON,  
Administrator, Health Care  
Financing Administration.

[FR Doc. 78-1281 Filed 1-16-78; 8:45 am]

## [4110-35]

## [42 CFR Part 405]

#### MEDICARE PROGRAM

Contracts With Health Maintenance Organizations (HMOs)

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Final Regulations.

SUMMARY: The regulations would set forth eligibility conditions and contract requirements and procedures for entities that wish to qualify as HMOs and enter into contracts to provide services to enrollees who are eligible for Medicare benefits under Title XVIII of the Social Security Act. The purpose is to more fully implement provisions of Section 1876 of that Act and to further clarify requirements and procedures. Notice of Proposed Rulemaking was published on December 22, 1976 (41 FR 55718) and all comments are being considered.

FOR FURTHER INFORMATION CONTACT:

Marinos Svolos, Medicare Bureau, HCFA, Room 106, East High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9315.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1285 Filed 1-16-78; 8:45 am]

## [4110-35]

## [42 CFR Parts 449 and 405]

#### PROHIBITION AGAINST REASSIGNMENT OF PROVIDER CLAIMS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Department is developing regulations to implement statutory provisions which prohibit, with certain exceptions, Medicare and Medicaid providers from assigning claims for reimbursement of services to other persons either through reassignment or power of attorney. Medicaid regulations at 42 CFR 449.31 will be amended to expand and clarify: (1) the current prohibition against reassignment of claims; (2) conditions under which billing agents may be used; and (3) exceptions to the prohibition permitted by law. Medicare regulations will establish related prohibitions, including enforcement provisions, as well as other conditions and exceptions.

FOR FURTHER INFORMATION CONTACT:

#### Medicaid

Estelle Seldowitz, Division of Policy and Standards, Medicaid Bureau, HCFA, 330 C Street, SW., Washington, D.C. 20201, 202-245-0233.

#### Medicare

John B. Russell, Division of Technical Policy, Medicare Bureau, HCFA, 6401 Security Blvd., Baltimore, Md. 21235, 301-594-8260.

Dated December 30, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.  
[FR Doc. 78-1287 Filed 1-16-78; 8:45 am]

## [4110-35]

#### Health Care Financing Administration

[42 CFR Parts 446, 447, 448, 449, 450, 451,  
452]

#### MEDICAL ASSISTANCE PROGRAMS

Reorganization and Rewrite of Medicaid Regulations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Recodification proposal.

SUMMARY: HCFA proposes to reorganize and rewrite existing regulations for the Medicaid program (title XIX, Social Security Act) now contained in Parts 446 through 452 of Title 42 (formerly Parts 246 through 252 of Title 45) of the Code of Federal Regulations. The purpose is to produce clear simply written regulations that will be more easily understood by those affected and more useful as a tool for effective program administration. No policy changes will be included; accordingly, the regulations will be published in final form. However, a comment period will be provided so that suggestions for further simplification can be submitted. A related recodification proposal will be published describing a similar rewriting of regulations now in 45 CFR Chapter II. Those regulations cover administrative requirements applicable to all the public assistance programs under the Social Security Act.

FOR FURTHER INFORMATION CONTACT:

Robert Bergstrom, 202-472-6551.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.  
[FR Doc. 78-1288 Filed 1-16-78; 8:45 am]

## [4110-35]

## [42 CFR Part 462]

#### GRANTS TO PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS (PSROs)

AGENCY: Health Care Financing Administration (HCFA), HEW.

## PROPOSED RULES

ACTION: Notice of decision to develop regulations.

SUMMARY: The regulations would set forth the requirements that must be met by organizations seeking to be designated as PSROs and specific conditions and procedures for grants to conditionally or fully designated PSROs. They would implement Sections 1152, 1154, and 1155(f) (2) and (3) of the Social Security Act. The purpose is to provide for funding PSROs through grants rather than the current procurement procedures.

FOR FURTHER INFORMATION CONTACT:

Hal Beledoff, Health Standards and Quality Bureau, Room 16A-44, Parklawn Building, Rockville, Md. 20857, Phone 301-443-4086.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.  
[FR Doc. 78-1283 Filed 1-16-78; 8:45 am]

## [4110-35]

## [42 CFR Part 474]

#### PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Sanctions on Practitioners and Providers of Medical Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The regulations would establish criteria and procedures under which the Department will invoke sanctions against a health care practitioner or provider who: (1) provides items or services which are not medically necessary or do not meet professionally recognized standards, or (2) fails to properly document the medical necessity or quality of the services. They would also establish the rights and responsibilities of the health care practitioners or providers, the PSRO, the Statewide Professional Standards Review Council and the Department. The regulations would implement Section 1160 of the Social Security Act and apply to health care services for which payment may be made under that Act. The purpose is to better assure that those services are medically necessary and of acceptable quality.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Tirone, Health Standards and Quality Bureau, HCFA, Room 16A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3708.

Dated: December 30, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.  
[FR Doc. 78-1282 Filed 1-16-78; 8:45 am]

## [6712-01]

#### FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21502; RM-2737; FCC 77-8481]

#### AMENDING RULES REGARDING SUBSCRIPTION TELEVISION SERVICE

Correction to Preamble

AGENCY: Federal Communications Commission.

ACTION: Correction to the Preamble to Memorandum Opinion and Order and Notice of Inquiry and Notice of Proposed Rulemaking.

SUMMARY: The Preamble appearing in the FEDERAL REGISTER on January 10, 1978, at 43 FR 1516, listed the dates for comments as January 30, 1978 and for reply comments as February 21, 1978. These dates were incorrect, and the correct date for comments due in this proceeding is March 13, 1978, and the date for reply comments is April 12, 1978. The comments and reply comments dates appearing in paragraph 17 of the document itself were published correctly.

DATES: Comments must be received on or before March 13, 1978, and reply comments must be received on or before April 12, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau, 202-632-7792.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-1284 Filed 1-16-78; 8:45 am]



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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

DEPARTMENT OF AGRICULTURE

Former Home Administration

(Notice of Designation Number A553)

MISSISSIPPI

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Mississippi Counties as a result of various adverse weather conditions shown in the following chart:

MISSISSIPPI: COUNTIES OF

County and dates of disaster	Nature of disaster
Alcorn: Jan. 1, 1977 to Aug. 31, 1977.	Drought.
Sept. 13, 1977 to Sept. 25, 1977.	Excessive rainfall.
Amite: May 6, 1977 to July 15, 1977.	Severe drought.
Attala: Apr. 15, 1977 to July 10, 1977.	Do.
Benton: Jan. 1, 1977 to Sept. 1, 1977.	Drought.
Bolivar: Apr. 19, 1977 to Sept. 12, 1977.	Do.
Calhoun: Apr. 1, 1977 to July 11, 1977.	Do.
Chickasaw: May 15, 1977 to July 15, 1977.	Do.
Clarke: Apr. 15, 1977 to July 15, 1977.	Do.
July 22, 1977 to Sept. 1, 1977.	Excessive rainfall.
Forrest: Apr. 1, 1977 to July 31, 1977.	Drought.
Franklin: May 8, 1977 to July 12, 1977.	Do.
George: May 1, 1977 to July 8, 1977.	Do.
Greene: May 4, 1977 to July 7, 1977.	Do.
Grenada: Apr. 10, 1977 to June 30, 1977.	Do.
Nov. 4, 1977 to Nov. 29, 1977.	Excessive rainfall.
Hancock: May 1, 1977 to July 5, 1977.	Drought.
July 25, 1977 to Sept. 17, 1977.	Excessive rainfall.
Harrison:	

MISSISSIPPI: COUNTIES OF—Continued

County and dates of disaster	Nature of disaster
May 8, 1977 to July 11, 1977.	Drought.
Humphreys: May 13, 1977 to July 9, 1977.	Do.
Aug. 12, 1977 to Sept. 9, 1977.	Do.
Issaquena: May 1, 1977 to Sept. 1, 1977.	Do.
Itawamba: May 1, 1977 to Aug. 31, 1977.	Do.
Sept. 1, 1977 to Oct. 31, 1977.	Excessive rainfall.
Jackson: May 1, 1977 to July 5, 1977.	Drought.
Jasper: May 1, 1977 to June 30, 1977.	Do.
Jefferson: May 1, 1977 to July 10, 1977.	Do.
Jefferson Davis: May 1, 1977 to July 10, 1977.	Do.
Jones: May 1, 1977 to July 5, 1977.	Do.
Lafayette: May 1, 1977 to July 15, 1977.	Do.
Lamar: May 1, 1977 to July 6, 1977.	Do.
July 15, 1977 to Sept. 15, 1977.	Excessive rain.
Lauderdale: Apr. 15, 1977 to July 8, 1977.	Drought.
Lawrence: May 5, 1977 to June 30, 1977.	Do.
Leake: Apr. 15, 1977 to July 10, 1977.	Do.
Lee: Apr. 23, 1977 to July 15, 1977.	Do.
Sept. 1, 1977 to Oct. 10, 1977.	Insects.
Lincoln: May 1, 1977 to July 15, 1977.	Drought.
Madison: Apr. 25, 1977 to July 25, 1977.	Do.
July 28, 1977 to July 31, 1977.	Excessive rainfall.
Marion: May 1, 1977 to July 4, 1977.	Drought.
Marshall: May 8, 1977 to Aug. 12, 1977.	Do.
Monroe: Apr. 4, 1977 to July 10, 1977.	Do.
July 11, 1977 to July 30, 1977.	Excessive rainfall.
Aug. 28, 1977 to Oct. 5, 1977.	Do.
Montgomery: Apr. 1, 1977 to July 9, 1977.	Drought.

MISSISSIPPI: COUNTIES OF—Continued

County and dates of disaster	Nature of disaster
July 10, 1977 to Aug. 15, 1977.	Excessive rainfall.
Neshoba: Apr. 1, 1977 to Aug. 10, 1977.	Drought.
Newton: Apr. 15, 1977 to July 14, 1977.	Do.
Pearl River: May 1, 1977 to July 5, 1977.	Do.
July 25, 1977 to Sept. 17, 1977.	Excessive rainfall.
Pike: May 2, 1977 to July 7, 1977.	Drought.
Pontotoc: Apr. 10, 1977 to Sept. 6, 1977.	Do.
Prentiss: Jan. 1, 1977 to Sept. 15, 1977.	Do.
Sharkey: May 1, 1977 to Sept. 1, 1977.	Do.
Smith: Apr. 23, 1977 to July 12, 1977.	Do.
Stone: May 8, 1977 to July 11, 1977.	Do.
Sunflower: May 15, 1977 to Aug. 18, 1977.	Do.
July 10, 1977 to Aug. 10, 1977.	Excessive rain—another area.
Tallahatchie: Apr. 3, 1977 to Sept. 30, 1977.	Drought.
Tippah: Mar. 1, 1977 to Sept. 19, 1977.	Do.
Tishomingo: May 8, 1977 to Sept. 1, 1977.	Do.
Union: May 1, 1977 to Sept. 15, 1977.	Do.
Walthall: May 1, 1977 to July 2, 1977.	Do.
Warren: May 1, 1977 to July 30, 1977.	Do.
Sept. 1, 1977 to Oct. 15, 1977.	Excessive rainfall.
Washington: May 1, 1977 to Aug. 30, 1977.	Drought.
Wayne: Apr. 25, 1977 to Nov. 17, 1977 to.	Drought followed by excessive rainfall.
Webster: Apr. 4, 1977 to July 8, 1977.	Drought.
Wilkinson: May 2, 1977 to July 8, 1977.	Do.
Aug. 1, 1977 to Sept. 30, 1977.	Excessive rainfall.
Winston: Apr. 10, 1977 to July 10, 1977.	Drought.
July 11, 1977 to Nov. 15, 1977 to.	Excessive rainfall.

NOTICES

MISSISSIPPI: COUNTIES OF—Continued

County and dates of disaster	Nature of disaster
Yalobusha: Jan. 1, 1977 to Aug. 31, 1977.	Drought.
Oct. 12, 1977 to Oct. 31, 1977.	Frost.
Sept. 1, 1977 to Oct. 31, 1977.	Excessive rainfall.
Yazoo: Apr. 22, 1977 to July 8, 1977.	Drought.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Cliff Finch that such designation be made.

Applications for emergency loans must be received by this Department no later than July 5, 1978, for physical losses and January 4, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, DC, this 7th day of January, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-1048 Filed 1-16-78; 8:45 am)

[3410-07]

(Notice of Designation No. A552)

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of drought during periods ranging from April 1 through November 18, 1977, in Bowie, Hood, Stephens, and Swisher Counties and in Castro County from October 1, 1976, through July 31, 1977, also extreme (abnormal) cold January 1 through February 22, 1977, and early frost October 12 and 13, 1977, in Bowie County; intermittent hailstorms May, June, July, and August 1977, and damaging winds September 12, 1977, in Castro County; and extremely heavy rainfall May 20, 1977, and hailstorms June 1 and August 23, 1977, in Swisher County.

Therefore, the Secretary has designated these areas as eligible for emer-

gency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than June 28, 1978, for physical losses and January 2, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 9th day of January, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-1219 Filed 1-16-78; 8:45 am)

[3410-30]

Food and Nutrition Service  
ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT AND FETAL NUTRITION

Date and time: 9 a.m., February 15-16, 1978. Place: Holiday Inn-Rivermont, 200 West Georgia at Riverside, Memphis, Tenn. Purpose of meeting: The Council will continue its study of the operations of the special supplemental food program for women, infants, and children (WIC), and will discuss a wide range of matters concerning program operations.

Proposed agenda: The agenda will cover legislative proposals for the WIC program, the migrant demonstration project, results of the participant profile study and the administrative cost study, and the relationship of the WIC program to the supplemental food program. The Council will also observe the operation of the supplemental food program in Memphis.

This meeting will be open to the public.

Persons wishing additional information about this meeting should contact Virginia Hungerford, Special Supplemental Food Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-6746.

Dated: January 12, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

(FR Doc. 78-1289 Filed 1-16-78; 8:45 am)

[3410-30]

CHILD CARE FOOD PROGRAM

National Average Payment Factors and Food Cost Factors for the Period January 1-June 30, 1978

Pursuant to section 17(b) of the National School Lunch Act (42 U.S.C. 1766(b)) and § 226.4 and § 226.12(h) of the regulations governing the Child Care Food Program (7 CFR Part 226), notice is hereby given that the national average payment factors and food cost factors for meals served to children attending institutions which participate in the Child Care Food Program during the period January 1-June 30, 1978, shall be as follows:

National average payments for breakfasts served in the program: (a) 11.50 cents for each breakfast served in the program; (b) an additional 21.75 cents for each breakfast served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 28.75 cents for each breakfast served to children from families whose incomes meet the eligibility criteria for free school meals.

National average payments for lunches and suppers served in the program: (a) 14.50 cents for each lunch and supper served in the program; (b) an additional 55.00 cents for each lunch and supper served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 65.00 cents for each lunch and supper served to children from families whose incomes meet the eligibility criteria for free school meals.

For supplements served in the program: (a) 6.00 cents for each supplement served; (b) an additional 12.00 cents for each supplement served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and (c) an additional 17.75 cents for each supplement served to children from families whose incomes meet the criteria for free school meals.

The total amount of payments to be made to each State agency from the sums appropriated for the program shall be based upon these national average payment factors and the number of meals of each type served.

The above factors for breakfasts are identical to those prescribed for breakfasts under the School Breakfast Program; the factors prescribed for lunches and suppers are identical to



those prescribed for lunches served under the National School Lunch Program. National average payment factors for supplements are unique to the Child Care Food Program. These factors are adjusted semi-annually to reflect changes in the Consumer Price Index series for food away from home.

Food cost factors for meals served to children attending family and group day care homes whose sponsoring organizations participate in the Child Care Food Program during the period January 1 to June 30, 1978, shall be as follows: (a) 45.50 cents for each lunch or supper; (b) 25.50 cents for each breakfast; and (c) 15.50 cents for each supplement.

The above food cost factors may be used by sponsoring organizations for all family and group day care homes under their jurisdiction, in lieu of maintaining records on the actual cost of food used. These factors are adjusted semi-annually to reflect changes in the Consumer Price Index series for food away from home.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the Child Care Food Program (7 CFR Part 226).

(Catalog of Federal Domestic Assistance Program No. 10.558.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary for Food  
and Consumer Services.

(FR Doc. 78-1387 Filed 1-16-78; 8:45 am)

#### [3410-30]

##### NATIONAL SCHOOL LUNCH PROGRAM

Payment for the Period January 1-June 30, 1978

Pursuant to section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 210.4 and § 210.11 of the regulations governing the National School Lunch Program (7 CFR Part 210), notice is hereby given of adjustments in the national average factors for payment for lunches and the maximum rates of reimbursements. The national average factors for payment for lunches served during the six-month period January 1-June 30, 1978, to children participating in the National School Lunch Program are as follows: (a) 14.50 cents from general cash-for-food assistance funds for each lunch; (b) an additional 55.00 cents from special cash assistance funds for each reduced price lunch, and (c) an additional 65.00 cents from special cash assistance funds for each free lunch.

The total amount of general cash-for-food assistance payments and special cash assistance payments to be

made to each State agency from the sums appropriated therefor, shall be based upon such national average factors.

The above factors represent a 3.1 percent increase in the factors prescribed for the period July-December 1977. This represents the percent of increase during the six-month period May-November, 1977 (from 199.3 in May 1977 to 205.4 in November 1977) in the series for food away from home of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For the six-month period January 1-June 30, 1978, (a) the maximum rate of reimbursement from general cash-for-food assistance funds shall be 20.50 cents per lunch served; (b) the maximum per lunch reimbursement (from a combination of general cash for food assistance and special cash assistance funds) shall be 94.50 cents for a free lunch and 84.50 cents for a reduced price lunch.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210) and the regulations for Determining Eligibility for Free and Reduced Price meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.555.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary for Food  
and Consumer Services.

(FR Doc. 78-1388 Filed 1-16-78; 8:45 am)

#### [3410-30]

##### SCHOOL BREAKFAST PROGRAM

National Average Payment for the Period January 1-June 30, 1978

Pursuant to section 11 of the National School Lunch Act (42 U.S.C. 1759a) and § 220.4 and § 220.9 of the regulations governing the school breakfast program (7 CFR Part 220), notice is hereby given that the national average payment factors for breakfasts served during the six-month period January 1-June 30, 1978, to children participating in the school breakfast program shall be: (a) 11.50 cents for all breakfasts; (b) an additional 21.75 cents for each reduced price breakfast, and (c) additional 28.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to each State agency from the sums appropriated therefor, shall be based upon such national average factors: *Provided, however,* That additional payments shall be made in such

amounts as are needed to finance reimbursement rates assigned for especially needy schools under § 220.9.

The above factors represent a 3.1 percent increase in the factors prescribed for the period January 1-June 30, 1978. This represents the percent of increase during the six-month period May to November 1977 (from 199.3 in May 1977 to 205.4 in November 1977) in the series for food away from home of the Consumer Price Index, published by the Bureau of Labor Statistics of the Department of Labor.

For nonspecially needy schools, the maximum rates of reimbursement for paid breakfasts, for reduced price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For especially needy schools, the maximum rates of reimbursement are established pursuant to section 12 of Pub. L. 95-166, the National School Lunch Act and Child Nutrition Amendments of 1977. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for especially needy schools, the maximum rate of reimbursement for paid breakfasts shall be equal to the national average factor for all breakfasts, and the maximum rate of reimbursement for reduced price and free breakfasts shall be 45.25 and 50.25 cents, respectively.

Definitions. The terms used in this notice shall have the meanings ascribed to them in the regulations governing the school breakfast program (7 CFR Part 220) and the regulations for determining eligibility for free and reduced price meals and free milk in schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Program No. 10.553.)

Effective date: This notice shall be effective as of January 1, 1978.

Dated: January 13, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary for  
Food and Consumer Services.

(FR Doc. 78-1386 Filed 1-16-78; 8:45 am)

#### [3410-11]

##### Forest Service

##### GOSPEL-HUMP WILDERNESS STUDY AREA AND LAND MANAGEMENT PLAN

##### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Gospel-Hump Wilderness Study Area and Land Management Plan, Forest Service Report Number USDA-FS-R1(17) DES (Adm) 78-4.

The environmental statement concerns a recommendation for a Wilderness Study Area of 236,830 acres of National Forest land in the Nezperce and Payette National Forests, both north and south of the Salmon River in northern Idaho, and a Land Management Plan for 212,444 acres of National Forest land in the Nezperce National Forest.

This draft environmental statement was filed with EPA on January 9, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service, South Agriculture Bldg., Room 3231, 12th St. & Independence Avenue SW., Washington, D.C. 20250.

USDA Forest Service, Northern Region, Federal Building, Missoula, Mont. 59807.

USDA Forest Service, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530.

USDA Forest Service, Payette National Forest, McCall, Idaho 83638.

A limited number of single copies are available upon request to Forest Supervisor Donald L. Biddison, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Don Biddison, Nezperce National Forest, 319 East Main, Grangeville, Idaho 83530. Comments must be received by March 9, 1978 in order to be considered in the preparation of the final environmental statement.

Dated: January 9, 1978.

ROBERT H. TORHEIM,  
Regional Forester,  
Northern Region, Forest Service.  
(FR Doc. 78-1222 Filed 1-16-78; 8:45 am)

#### [3410-15]

##### Rural Electrification Administration

##### MINNKOTA POWER COOPERATIVE, INC.

##### Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is

hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$177,000,000 to Minnkota Power Cooperative, Inc., (Minnkota) of Grand forks, N. Dak. These loan funds will be used to finance Minnkota's proposed 30 percent undivided ownership interest in the proposed Coyote No. 1 project in Mercer County, N. Dak., which consists of a single unit 410 MW mine-mouth lignite-fired steam generating station, conversion of 212 miles of transmission line from 230 kV to 345 kV, approximately 70 miles of related new 345 kV transmission line and other related facilities being constructed by Ottetail Power Company of Fergus Falls, Minn.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedules for advances to the borrower from Andrew L. Freeman, Manager, Minnkota Power Cooperative, Inc., P.O. Box 1318, Grand Forks, N. Dak. 58201.

In order to be considered, proposals must be submitted on or before February 16, 1978, to Mr. Freeman. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received as Minnkota and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C. this 10th day of January 1978.

DAVID A. HAMIL,  
Administrator, Rural  
Electrification Administration.  
(FR Doc. 78-1220 Filed 1-16-78; 8:45 am)

#### [3410-16]

##### Soil Conservation Service

##### SALADO CREEK WATERSHED, TEXAS

##### Intent To Not Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. De-

partment of Agriculture, gives notice that an environmental impact statement is not being prepared for the remaining project measures in the Salado Creek Watershed, Bexar County, Tex.

The environmental assessment of this federally-assisted action indicates that implementation of the remaining project measures will not create significant adverse local, regional, or national impacts on the environment and no significant controversy is associated with the project. As a result of these findings, Mr. George C. Marks, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan to provide flood protection for the portion of San Antonio, Tex., subject to flood damages from Salado Creek and for the agricultural land within the watershed subject to flood damages from Salado Creek and its tributaries. The planned works of improvement include technical assistance for the acceleration of applying land treatment measures and 15 floodwater retarding structures. To date, approximately 70 percent of the accelerated land treatment measures and 8 floodwater retarding structures are constructed or under construction.

The Notice of Intent to not Prepare an Environmental Impact Statement has been forwarded to the Council on Environmental Quality. The basic data developed during the environmental assessment is on file and may be reviewed by interested parties at the Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, Temple, Tex. 76501. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal is available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 16, 1978.

Dated: January 5, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (18 U.S.C. 1001-1008).)

VICTOR H. BARRY, JR.,  
Deputy Administrator for  
Programs.

(FR Doc. 78-1181 Filed 1-16-78; 8:45 am)



[6320-01]

## CIVIL AERONAUTICS BOARD

[Order 78-1-31; Docket 31222; Agreement CAB 21715-A6]

## ORDER

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of January 1978.

Application of Allegheny Airlines, Inc., for an exemption pursuant to sections 408(a)(5) and 416(b) of the Federal Aviation Act of 1958, as amended, and agreement between Allegheny Airlines, Inc., and Southern Jersey Airways, Inc.

By order 70-6-147, June 26, 1970, the Board authorized Allegheny Airlines to suspend service temporarily at Atlantic City and Cape May, N.J., and approved agreement CAB 21715 between Allegheny and Atlantic City Airlines, Inc. (ACA), which provides for ACA to operate an Allegheny commuter replacement service between the suspended points and Philadelphia. The agreement, as amended, provides for additional permissive service in the Atlantic City/Cape May-Newark markets.

On August 1, 1977, Allegheny filed an application for approval of amendment No. 6 to agreement CAB 21715, which provides for extension of the Atlantic City/Cape May replacement service to Millville, N.J. Under the proposal, Southern Jersey Airways (formerly ACA)\* would operate a permissive service as an Allegheny commuter between Millville and Philadelphia on a turnaround basis as well as between Cape May and Philadelphia via Millville. These services would be in addition to the basic pattern of service now provided to Cape May and Atlantic City by Southern Jersey. Allegheny requests that the approval be co-extensive with the basic replacement

\*Allegheny's certificate authority at Cape May is seasonal, extending for the period commencing not earlier than June 1 or later than June 15 and terminating not earlier than September 1 or later than September 15 of each year. By application filed July 15, 1975, Allegheny requested exemption authority to permit ACA to serve Cape May between September 15 and June 1, of each year. Such services had already been provided and were contemplated in the original agreement; however, Allegheny determined that, on review of the situation and its certificate authority, an exemption was required. By order 75-9-39, September 15, 1975, the Board granted Allegheny's request.

\*By plan of merger effective July 1, 1977, ACA merged into Southern Jersey. By order 77-10-48, October 13, 1977, the Board approved amendment No. 5 to agreement CAB 21715, which provided for the substitution of Southern Jersey for ACA as the Allegheny commuter carrier at Cape May and Atlantic City.

## NOTICES

agreement, i.e., until June 21, 1980. In order to effectuate the amended agreement, Allegheny also requests an exemption from section 401 of the Act to the extent necessary to permit service at Millville, and exemption from section 408(a)(5) of the Act insofar as additional control over the operations of Southern Jersey will be involved.

In support of its application, Allegheny states that the operations conducted by Southern Jersey at Cape May and Atlantic City are characterized by a high degree of seasonality; during the winter months, from September to May, Southern Jersey uses only one of its two Twin Otter aircraft in scheduled operations with the other devoted to occasional charter flights and extra sections; the proposed permissive service to Millville would permit Southern Jersey to make use of excess aircraft time available without adversely affecting the basic Cape May/Atlantic City replacement services; the Millville services are expected to be profitable; there is substantial support from the community for the new flights; and an exemption from section 401 is warranted because of the limited extent of the proposed service, the experimental nature of the Allegheny commuter flights to be operated, and the public benefits which are likely to result from grant of the authority requested.

Answers in support of Allegheny's application have been filed by the City of Millville and Cumberland County Board of Freeholders and by Wyble Advertising located in Millville. No other answers have been received.

We have decided to grant Allegheny's request for an exemption to serve Millville and to approve amendment No. 6 agreement CAB 21715 so as to authorize the carrier to provide service to the point through its Allegheny commuter, Southern Jersey, as an ad-

\*Allegheny presents data which show that 32 percent of Southern Jersey's traffic at Atlantic City and 61 percent at Cape May is enplaned during the months of June, July, and August.

\*The applicant indicates that if the proposed Millville service is as profitable as anticipated, Southern Jersey would buy a third Twin Otter aircraft in order to continue the operations during the next peak summer season. The new aircraft could then be used during the ensuing winter months in charter activities and for special sections.

\*Attached to the application are a series of letters from civic officials and business executives in the Millville area attesting to the need for air service at that community.

\*Benefits would include reservation service through Allegheny's reservation center, inclusion of Millville in Allegheny's timetables and in the Official Airline Guide, joint passenger fares and air freight rates on connections to flights on Allegheny's system, and the same facilities at Philadelphia as are available to other Allegheny commuter passengers.

junct to the replacement services being provided at Cape May and Atlantic City. Finally, we will exempt Allegheny from section 408 of the Act to the extent necessary to implement the amended agreement.

We find that grant of the authority requested is in the public interest. Allegheny's application has generated a substantial amount of civic support indicating that the proposed Allegheny commuter services will, in fact, result in significant public benefits. The initial service pattern will consist of nine daily round trips between Millville and Philadelphia, five of which will also serve Cape May. These flights will not cause any deterioration in the basic Allegheny commuter replacement services at Cape May and Atlantic City but rather will complement them and will permit Southern Jersey to make better use of its second Twin Otter aircraft during the off-peak period (September 15-May 15). Passengers at Millville will have the benefit of joint passenger fares in making connections to flights on Allegheny's system, and at Philadelphia they will be served through Allegheny's facilities on the same basis as other Allegheny commuter passengers. The schedules will be printed in Allegheny's timetable and in the Official Airline Guide, and the community will have the assurance of service standards similar to those included in other Allegheny commuter agreements.

The arrangement will also benefit both Allegheny and the commuter air carrier. Allegheny will have feed traffic from Millville to other points on its system, contributing to system revenues. It will be reimbursed for support services it will provide for Southern Jersey on the same basis as it is paid for such services at Cape May and Atlantic City. The commuter carrier will achieve increased aircraft utilization during the off-peak period and expects to carry sufficient passengers to and from Millville to produce profits for the operations. Profitable results for the commuter would, in turn, provide route strengthening support for the basic Cape May/Atlantic City replacement services.

We further find that the operations of Allegheny and Southern Jersey are affected by unusual circumstances. Millville has not received certificated service since 1953,\* and, therefore, the market for the proposed commuter service is untested. Although the amended agreement provides for Millville service, this will not be required

\*Millville received service from Allegheny's predecessor, All-American Airways. It was certificated as Bridgetown-Millville-Vineland, N.J. (served through the Millville Airport); by order E-2367, January 11, 1949, and was deleted June 9, 1953, by Order E-7294, April 10, 1953.

under the terms agreed upon and may be discontinued at any time upon 60 days' notice to, and approval by, Allegheny. The experimental nature of these services and the uncertainty of traffic response make service by Allegheny with its own aircraft impractical. By contrast, Southern Jersey can incorporate service to Millville with an already existing Allegheny commuter service at two other points suspended on Allegheny's system with no significant additional expenditure of resources and with aircraft well suited to the short-haul, low-density markets involved.

Allegheny's involvement in the service arrangement at Millville, especially its participation in reservations and support services and inclusion of schedules in its timetable and the Official Airline Guide, is sufficient to constitute Allegheny engaging in air transportation at the point. Therefore, it requires an exemption under section 416(b) of the Act to hold out service to the community, albeit through its Allegheny commuter. The specific circumstances of this case make the use of the Board's exemption power particularly desirable, since such authority will be permissive and will not place too heavy a burden on the certificated carrier as to minimum service obligations or the need to undergo a full evidentiary hearing.

We wish to emphasize that we view this application as providing us with the opportunity to encourage service to a small community that otherwise would likely not receive scheduled air service in the foreseeable future. This is a situation in which we are facilitating entry of a commuter carrier into a point that it would not ordinarily enter. As to the competitive effects, we recognize that entry by Southern Jersey into Millville is made possible by its attractive arrangement with Allegheny and that, given the small size of the market, entry by Southern Jersey might leave no room for profitable service by some potential competitor. Allowing this arrangement to go forward does not, however, give Southern Jersey an unfair competitive advantage over rivals who wish to serve Millville for the simple reason that there is no other commuter carrier proposing such service. We are mindful of the potential anticompetitive effects that may arguably flow from a variety of hypothetical joint venture arrangements between air carriers; but speculation about the types of arrangements factual situations we might be asked to consider in the future is no reason to deny a proposed arrangement today that will provide clear public benefits and is not itself anticompetitive.\* We, of course, will retain jurisdiction over the arrange-

\*The distance between Millville and Philadelphia is approximately 38 air miles.

## NOTICES

ment and we will monitor the arrangement during the remaining life of the Cape May/Atlantic City replacement agreement. We believe that the public benefits being offered to Millville passengers are so positive that to deprive them of the opportunity to receive scheduled service as contemplated in the agreement before us would be contrary to the public interest."

We conclude that Southern Jersey's record and experience render it qualified to provide the proposed replacement services. We are satisfied that there are no safety considerations which would warrant a determination that the replacement arrangement will not be in the public interest. Southern Jersey is a commuter air carrier and as such has been issued an Air Taxi/Commercial Operator Certificate by the Federal Aviation Administration (FAA). The Secretary of Transportation, through the FAA, is charged by law with ensuring the highest degree of safety in air transportation, and, to this end, monitors the operations of Southern Jersey in accordance with the provisions of the Federal Aviation Act and the applicable safety regulations. In this connection, we have received a written evaluation from the FAA of Southern Jersey's safety and compliance record."

We further find that certification would be an undue burden on Southern Jersey by reason of the limited extent of, and unusual circumstances affecting, its operations. The carrier's operations are of limited extent, in terms of both the proposed replacement services involved and the overall scope of its operations. Furthermore, the nature of the small aircraft which a commuter carrier uses tends to restrict the scope of its operations. The

\*There is one aspect of the agreement between Allegheny and Southern Jersey (part XII, section 2: a covenant that Southern Jersey will not undertake new services in any of Allegheny's authorized markets) that requires some further analysis. This is a standard covenant that appears in other Allegheny commuter agreements. It raises the issue of the reasonableness of the covenant which appears to be a broad agreement not to compete. While we do not believe that this covenant warrants present disapproval of the Millville agreement, we have determined to give this matter general consideration in the context of the entire Allegheny commuter program.

\*Compare *Allegheny Airlines, Inc., et al., Agreement CAB 20967-A1* (Gallon), Order 71-4-198, where a similar agreement was disapproved in a market that already received commuter service. We are not presented here with the facts of *Gallon*, and are not required at this point to decide whether we would continue to follow that precedent.

\*Southern Jersey is registered with the Board and has insurance in effect. A copy of the FAA's letter giving a safety and compliance evaluation of Southern Jersey has been placed in this docket.

accommodations on these aircraft not only limit the competitive capabilities of Southern Jersey, but also limit the amount of traffic it can carry and the length of markets it can serve, compared with a certificated carrier operating large aircraft. Thus, the cost of certificate procedures would impose a severe financial burden on the carrier wholly disproportionate to its existing and proposed operations. Moreover, enforcement of section 401 requirements would be an undue burden because certification would deprive Southern Jersey of the necessary operating flexibility it must have to conduct nonsubsidized services with small aircraft in short-haul, low-density markets.

We have also considered the facts presented here and our findings in light of *Air Line Pilots Association v. CAB*, 494 F. 2d 1118 (D.C. Cir. 1974), involving air taxi replacement services. We find that it would not be desirable or in the public interest to require Southern Jersey to undergo certification proceedings in order to provide the replacement services for Allegheny that are specified. Thus, in view of the volume of operations of the replacement carrier and the scope of replacement services at issue, and the Board's findings and conclusions in orders 72-9-39, September 12, 1972, and 73-1-3, January 2, 1973, we further find that the statutory conditions and guidelines for exemption, under section 416(b) of the Act, continue to exist.

The agreement provides for the establishment of joint passenger fares and air freight rates applicable to the connecting service which will be available between Southern Jersey's Allegheny commuter service at Millville and Allegheny's other services. We view the maintenance of the certificated fare level for passengers utilizing Southern Jersey's replacement services to be in the public interest, and we are specifically conditioning approval of the amended agreement upon the establishment by Allegheny and Southern Jersey of joint passenger fares and cargo rates at levels equal to or less than the through, single-factor fares which Allegheny could charge if it were serving Millville with its own aircraft."

In addition, phase 4 of the *Domestic Passenger-Fare Investigation* (Docket 21866) requires that joint fares be provided in all markets over all routings.

"Since the substitute service by Southern Jersey, like other Allegheny commuter arrangements, will likely be perceived as service by Allegheny, we believe that the same consumer protection provisions should apply to the Millville Allegheny commuter services as apply to all other such services, i.e., standard baggage liability, overbooking, and other provisions common to certificated carrier tariffs.



Therefore, in order to effectuate this Board policy, we will require Allegheny to publish for the Millville services provided by Southern Jersey all joint-fare tariffs required to be filed by the Board in Phase 4 of the *Domestic Passenger-Fare Investigation*, and we anticipate that Allegheny will file such tariff revisions as may be necessary to meet this requirement.

With respect to the requirements of section 408 of the Act, essentially the same control factors are presented here as were presented in the original Allegheny-ACA agreement, as amended. It therefore appears that, as a result of the proposed amended agreement, Allegheny will control Southern Jersey within the meaning of section 408. However, we have decided, under section 408(a)(5), to exempt the acquisition of control by Allegheny over Southern Jersey, a noncertificated air carrier, from the provisions of section 408. Approval of the agreement in question will not create a monopoly, restrain competition, or jeopardize another air carrier not a party to the transaction or be inconsistent with the public interest. In these circumstances, to require Allegheny to obtain approval under section 408(b) and the applicable regulations would unduly delay implementation of the agreement, would subject the parties to unnecessary expense, and would not be in the public interest.

We have reviewed the environmental evaluation submitted by Allegheny,<sup>13</sup> to which no answers were filed, and find that our action approving the amended agreement will not have a significant adverse impact on the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The proposed operations with Twin Otter aircraft would not exceed the pollutant screening threshold of the Millville Municipal Airport. Furthermore, the standard noise screening test of Part 312 of the Board's regulations shows that the services proposed, although the first scheduled commuter operations at Millville, would increase the noise level by less than 17 percent; therefore, no further analysis is required.<sup>14</sup>

<sup>13</sup>In its application, Allegheny requested a waiver of the filing requirements of Part 312. However, the carrier later filed a supplement to the application containing an environmental evaluation for the proposed service. We will therefore dismiss the waiver request.

<sup>14</sup>We recognize that the noise screening test formula of Part 312 was derived for comparison of jet operations, and we have stated in the past that computations under the noise screening test are not required when new service with nonjet aircraft is being proposed at an airport where jet service is being provided. However, we continue to believe that the Part 312 tests are useful in cases where nonjet operations are being

In view of the above, the Board finds that: (1) Amendment NMO. 6 to agreement CAB 21715, as conditioned, will not be adverse to the public interest or in violation of the Federal Aviation Act; and (2) enforcement of sections 401 and 408 of the Act, to the extent that they would otherwise prevent Allegheny and Southern Jersey from implementing the agreement, would be an undue burden on them by reason of the limited extent of and unusual circumstances affecting their operations and is not in the public interest.

Accordingly, it is ordered, That:

1. Allegheny Airlines, Inc., be exempted from the provisions of section 401 of the Act and the terms, conditions, and limitations of its certificate of public convenience and necessity for Route 97 to the extent that they would prevent it from engaging in air transportation between Millville, N.J., and Philadelphia, Pa.;

2. Amendment No. 6 to agreement CAB 21715, be approved, subject to the following conditions:

(a) Any financial transactions between Allegheny and Southern Jersey be appended to Allegheny's Form 41 reports and so footnoted;

(b) The information requested in (a) above must be shown separately from similar information regarding financial transactions between Allegheny and various other replacement carriers;

(c) Approval of this agreement does not constitute approval for ratemaking purposes and in no event shall Allegheny receive any subsidy, directly or indirectly, for the operations performed or the services provided by any party under the agreement;

(d) Southern Jersey shall, with respect to the operations conducted under this agreement, keep on deposit with the Board a signed counterpart of agreement CAB 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol, approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment which may be approved by the Board and to which the holder becomes a party;

(e) Allegheny shall publish in its tariffs for the services operated under the agreement all joint-fare tariffs required to be filed by the Board in the *Domestic Passenger-Fare Investigation*, Docket 21866; and

(f) Allegheny shall publish in its tariffs, and Southern Jersey shall concur in, as long as the agreement is in effect, local passenger fares and cargo rates to and from Millville, and such rates shall not exceed the rates which Allegheny could charge for travel between Millville, on the one hand, and

added at an airport where only nonjet operations are conducted (see Order 77-10-33).

other points on Allegheny's system, on the other hand, if it were providing service at Millville with its own aircraft;

3. As provided in section 408(a)(5) of the Federal Aviation Act of 1958, as amended, the acquisition by Allegheny of control over Southern Jersey, be temporarily exempted from the requirements of section 408 of the Act to the extent necessary for the implementation of amendment No. 6 to agreement CAB 21715;

4. The authority granted in paragraphs 1, 2, and 3 of this order will be effective until June 26, 1980, unless sooner terminated by the Board;

5. The request by Allegheny Airlines, Inc., for a waiver of the requirements of section 312 of the Board's economic regulations be dismissed;

6. This order may be amended or revoked at any time in the discretion of the Board without hearing; and

7. We will retain jurisdiction over all authority granted in this case.

This order shall be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1276 Filed 1-16-78; 8:45 am]

#### [6320-01]

[Order 78-1-48; Docket 31975]

#### CONTINENTAL AIR LINES, INC.

##### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January 1978.

By tariff revisions<sup>1</sup> marked to become effective February 1, 1978, Continental Air Lines, Inc. (Continental) proposes to increase its passenger fares in the mainland-Hawaii market by 6 percent. The carrier bases its proposal on data for the year ended March 1977, adjusted to reflect certain alleged mathematical and "conceptual" errors in the Board's previous rate of return (ROI) analysis.

The Board has concluded that the proposed fares may be unjust, unreasonable, unjustly discriminatory, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation.

Continental challenges several aspects of the methodology used by the Board in computing ROI for the mainland-Hawaii entity. Without getting into the merits of those allegations, the fact remains that it seeks a 6-percent fare increase based on "industry" operating results for the year ended March 1977, even though more cur-

<sup>1</sup>Revisions to Airline Tariff Publishing Co., Agent, Tariff CAB No. 258.

rent data are available. In the past, certain data for this operating entity necessary to make the ROI calculation were not available to the carriers on a current basis. However, this is no longer the case and carriers now have access to all data required for an entity ROI analysis. Furthermore, as the Board has stated before, the carriers should use the most current data available in seeking to justify any proposed fare increase. There is no reason why the Board should, in effect, do a carrier's justification for it, particularly when the carrier seeks to make several changes in the methodology used to compute ROI. At this time, any re-filing made within the next 60 days should be based on industry data for the year ended September 1977.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in the attached appendix, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in the attached appendix are suspended and their use deferred to and including May 1, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The proceeding ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

4. Copies of this order be filed with the aforesaid tariff and served upon Continental Air Lines, Inc.

This order will be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

TARIFF CAB NO. 258 ISSUED BY AIRLINE TARIFF PUBLISHING CO., AGENT

All increased fares in Supplement No. 82.  
[FR Doc 78-1278 Filed 1-16-78; 8:45 am]

#### [6320-01]

[Order 78-1-33; Docket 30777, Agreement CAB 27083, R-1 through R-17]

#### INTERNATIONAL AIR TRANSPORT ASSOCIATION

##### Order

Issued under delegated authority January 11, 1978.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at the JT31 South Pacific Passenger Traffic Conference held in Hollywood, Florida during November 1977, and was filed with the Board on January 3, 1978.

The agreement would amend the fare structure over the South Pacific, effective April 1, 1978, through March 31, 1979, and proposes to increase first-class fares by amounts ranging from 7.9 to 13.4 percent<sup>1</sup> and 14/35-day individual inclusive-tour (IIT) fares by about 3 percent. Normal economy fares and all other promotional fares would remain at existing levels.<sup>2</sup> The agreement also proposes to reduce the advance-purchase excursion (APEX) fare's advance-purchase requirement from 60 to 45 days, increase the stop-over charge of the 14/35-day IIT and group inclusive-tour (GIT) fares from \$25 to \$30, and revise the GIT minimum tour price to Papeete from \$15 per day to \$110 for the first six days plus \$15 for each additional day.

In addition, the agreement would introduce a budget fare, similar to the one in effect between New York and London, in various South Pacific markets at levels representing discounts from normal economy fares of slightly more than 50 percent. Conditions of the fare would include passenger selection of the week of departure, ticket purchase at least 21 days before the beginning of that week, carrier assignment and written notification of a specific date and flight 7 to 14 days before the week of departure, a penalty of 50 percent of the fare paid for voluntary cancellation, and a weekly capacity limitation of 15 percent of economy-class seats. The Budget fare

<sup>1</sup>The first-class increases are designed to establish a first-class/normal economy fare ratio of 1.6/1. However, increases in first-class fares to Papeete would be limited to about 10 percent, leaving those ratios slightly lower.

<sup>2</sup>A comparison of existing and proposed fares in selected U.S.-South Pacific markets is shown in the Appendix, which is filed with the Office of the Federal Register as part of the original document.

would be available for one-way as well as roundtrip travel, would be combinable with certain other fares, and would permit no stopovers.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carrier justification should be set out in the tabular format suggested in Order 75-7-88, July 17, 1975, with historical data as reported to the Board in form 41 reports by functional account for total transpacific services for the year ended September 1977, adjusted to exclude market areas not covered by the agreement, e.g., North/Central and intra-Pacific total operations, and all scheduled cargo and charter operations pertaining to the South Pacific market. The end result should establish the present economic status of scheduled passenger service in the market area covered by the agreement. The carrier will also be expected to include a forecast for the year ending March 1979, under both present and proposed fares. Costs should be allocated between the passenger and cargo compartments of scheduled combination aircraft, using both the "space method" stipulated by the Board in the *Nonpriority Mail Rates* decision, Orders 70-4-9 and 70-4-10, and the "revenue-offset method" adopted in Phase 7 of the *Domestic Passenger-Fare Investigation*, Orders 71-4-59 and 71-4-60, with complete explanatory notes and supporting detail, including statistical data, to describe the methods used in making the allocation.

In addition, the carrier will be expected to submit detailed traffic data showing revenue passenger-miles and revenue by specific fare category, as well as capacity and load-factor information, both for the historical period and the forecast period, including and excluding implementation of the agreement.

Accordingly, It is ordered That:

1. Pan American World Airways, Inc., the only U.S. air carrier member of the International Air Transport Association providing service within the area affected by the agreement, shall file, with 15 calendar days of the date of service of this order, full documentation and economic justification for the fares and related conditions embodied in the subject agreement;

2. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

3. Replies to submissions received in response to ordering paragraph 2 above shall be submitted within 25 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, tariffs



implementing the subject agreement shall not be filed in advance of Board approval of the agreement.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,  
Chief, Passenger and Cargo  
Rates Division, Bureau of  
Fares and Rates.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1277 Filed 1-16-78; 8:45 am]

#### [6320-01]

[Order 78-1-53; Docket 31749]

TRANS WORLD AIRLINES, INC.

#### Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 12th day of January 1978.

By tariff revisions bearing the issue date of October 6, and marked to become effective December 21, 1977, Trans World Airlines, Inc. (TWA) proposes to establish a specific commodity rate on books of 76 cents per kg. from New York to London, subject to a minimum weight of 10,000 kgs.

A complaint requesting suspension pending investigation has been filed by Seaboard World Airlines, Inc. (Seaboard). The complaint alleges that: the proposed rate represents an unwarranted and unjustified reduction in the existing 1,000 kg. minimum weight rate; the dilutionary effect of the proposal is far greater than its generative potential; the proposal is for application in the prime eastbound direction, and hence, unlike the multitude of recent specific commodity rate filings designed to fill backhaul capacity, has a significantly greater chance of causing revenue dilution; TWA's projected yield of 19.95 cents per revenue ton-mile is over 40 percent lower than its 33.51 cents per revenue ton-mile costs for the period ending December 31, 1976; TWA's assertion that a 7.3 percent rate reduction will cause an overall industry volume increase for this commodity of 273 percent cannot be accepted without further documentation; and, as an alternative to suspension, Seaboard proposes that the Board limit the experimental period for the proposed rate to no more than three months to test its generative capacity.

In support of its proposal and in answer to the complaint, TWA asserts that: on the basis of discussions with a major shipper, it expects one shipment per week at this rate level; this traffic will be diverted from surface transportation; the proposal will result in about 1.5 million pounds of addi-

\*Revisions to Tariff CAB No. 313, issued by Trans World Airlines.

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tional traffic a year; after considering the possible revenue dilution, TWA estimates additional revenues of approximately \$474,000 annually; the proposed level covers TWA's all-cargo operating expenses; and, aside from a three-month experimental period being too short, an expiry date is unnecessary because the proposal constitutes only a modest 7.3 percent discount, is not likely to result in significant dilution, and will be withdrawn should the expected traffic fail to materialize.

The Board has determined to dismiss the complaint and permit the filing to become effective. The proposal is a narrowly drawn, specific commodity rate designed to divert traffic from surface to air in the New York to London market where capacity exists to accommodate high density traffic. Also, it appears capable of attracting additional volumes of new traffic to air transportation as well as making a contribution to TWA's capacity costs.

Directional load factor data are not filed with the Board. Although eastbound load factors are generally higher than westbound, the overall transatlantic all-cargo load factor for TWA for the year ending June 1977, was only 43 percent. While alleging that the proposal will not generate the traffic volume estimated by TWA, Seaboard does not assert that any of its existing traffic will be diverted. Further, we do not believe TWA would file reduced rates on desirable high density traffic such as books which would dilute its own revenues. Consequently, not only do we expect the dilutionary effect to be minimal, but the high minimum weight attached to the rate will also have a favorable effect on load factors. In addition, while Seaboard contends that the proposed rate yields significantly less than TWA's revenue ton-mile costs, the proposal results in approximately 20 cents per ton-mile compared with TWA's transatlantic all-cargo available ton-mile costs of approximately 15.2 cents for the year ending June 1977, the latest data on file with the Board. In view of the apparent available capacity on TWA, and the potential of the rate to generate a considerable amount of new traffic at a level which appears to contribute significantly to capacity costs, we see no reason to attempt to limit the term of the rate and will therefore permit it to become effective.

Accordingly, it is ordered, That: The complaint of Seaboard World Airlines, Inc., in Docket 31749 be and hereby is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1279 Filed 1-16-78; 8:45 am]

#### [6320-01]

[Docket 31955]

TWIN CITIES-LAS VEGAS/PHOENIX/SAN  
DIEGO ROUTE PROCEEDING

#### Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Henry M. Switkay. Future communications should be addressed to Judge Switkay.

Dated at Washington, D.C., January 11, 1978.

NAHUM LITT,  
Chief Administrative Law Judge.  
[FR Doc. 78-1280 Filed 1-16-78; 8:45 am]

#### [6325-01]

CIVIL SERVICE COMMISSION

#### DEPARTMENT OF COMMERCE

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Ocean, Resource, and Scientific Policy Coordination, Office of the Assistant Secretary for Policy.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.

[FR Doc. 78-1092 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF DEFENSE

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Deputy Assistant Secretary of Defense (Regional Programs), OASD (Program Analysis and Evaluation), Office of the Secretary of Defense.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.

[FR Doc. 78-1093 Filed 1-16-78; 8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the

Civil Service Commission authorizes the Environmental Protection Agency to fill by noncareer executive assignment in the excepted service the position of Assistant to the Assistant Administrator for Water and Hazardous Materials, Office of the Assistant Administrator for Water and Hazardous Materials.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1094 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF THE INTERIOR

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy High Commissioner of the Trust Territory, Office of Territorial Affairs.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1095 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF THE INTERIOR

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director of Ocean Resources, Office of the Secretary, Office of the Assistant Secretary—Mineral Resources.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1096 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF DEFENSE

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the

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Department of Defense to fill by noncareer executive assignment in the excepted service the following positions in OASD (Manpower, Reserve Affairs and Logistics), Office of the Secretary of Defense: (1) Deputy Assistant Secretary (Program Management), and (2) Deputy Assistant Secretary (Requirements, Resources, and Analysis).

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1212 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF DEFENSE

#### Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary of Defense (Planning and Requirements), Office of DASD (Planning and Requirements), Office of the Secretary (M&RA), Office of the Secretary of Defense.

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1211 Filed 1-16-78; 8:45 am]

#### [6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the positions of (1) Deputy Commissioner for Postsecondary Education, Bureau of Postsecondary Education; and (2) Assistant Commissioner for Policy Studies, Office of Policy Studies, Office of Education.

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.  
[FR Doc. 78-1213 Filed 1-16-78; 8:45 am]

#### [6325-01]

U.S. WATER RESOURCES COUNCIL

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the U.S. Water Resources Council to fill by noncareer executive assignment in the excepted service the position of Deputy Director, Water Resources Council.

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant to the  
Commissioners.

[FR Doc. 78-1214 Filed 1-16-78; 8:45 am]

#### [3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census

CENSUS ADVISORY COMMITTEE ON HOUSING FOR THE 1980 CENSUS

#### Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, Supp. V, 1975), notice is hereby given that the Census Advisory Committee on Housing for the 1980 Census will convene on February 9, 1978 at 9:30 a.m. The Committee will meet in Room 2424, Federal Building 3 at the Bureau of the Census in Suitland, Md.

The Census Advisory Committee on Housing for the 1980 Census was established in March 1976 to provide technical advice and guidance in planning the forthcoming decennial Census of Housing to ensure that the major statistical requirements of decision makers are provided by the 1980 Census of Housing program.

The Committee is composed of 18 members including a representative from each of nine organizations and nine members appointed by the Secretary of Commerce.

The agenda for the meeting, which is scheduled to adjourn at 4:30 p.m., is: (1) Status of 1980 census planning; (2) results from pretest evaluation studies, including housing quality items and shelter cost items; (3) disability follow-on survey; (4) definitional problems, including (a) half bathrooms, (b) seasonal, and (c) vacant for rent; (5) 1980 Census of Housing—tabulation and publication plans for 100 percent items; (6) Committee discussion of tabulation and publication plans; and (7) election of chairperson-elect, Committee recommendations, and plans for the next meeting.

The meeting will be open to the public and a brief period will be set



aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact Mr. Arthur F. Young, Chief, Housing Division, Bureau of the Census, Federal Building 3, Suitland, Md. (Mail address: Washington, D.C. 20233). Telephone: 301-763-2863.

Dated: January 11, 1978.

MANUEL D. PLOTKIN,  
Director,  
Bureau of the Census.

[FR Doc. 78-1221 Filed 1-16-78; 8:45 am]

## [3510-22]

National Oceanic and Atmospheric  
Administration

**NORTH PACIFIC FISHERY MANAGEMENT  
COUNCIL AND ITS SCIENTIFIC AND STATIS-  
TICAL COMMITTEE AND ADVISORY PANEL**

**Public Meeting With Partially Closed Session**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C., Appendix I, as amended, notice is hereby given (1) of a joint meeting of the North Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP); both established under section 302(g), of the Act, (2) separate meetings of the SSC and AP.

The SSC and AP will meet separately on February 21-22, 1978, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, beginning at 9 a.m.

The Council and its SSC and AP will meet jointly on Thursday and Friday, February 23, 24, 1978, in the Hill Building, Rooms 808/809, 6th and G Streets, Anchorage, Alaska. The meeting will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. The meetings may be extended or shortened depending upon progress on the agenda.

**FEBRUARY 23**

**Proposed Agenda:** (1) Executive Director's Report and other Council administrative business; (2) Reports from Scientific and Statistical Committee and Advisory Panel; (3) Progress report and update from Council's Drafting Management Planning Teams; (4) Closed Session to discuss classified material on preparations for and actual negotiations in connection with the International North Pacific Fisheries Commission (INPFC), and

the International Pacific Halibut Commission (IPHC) and continuing negotiations with the Canadians; (5) Period for public comment; (6) Review of foreign fishing activities.

**FEBRUARY 24**

(1) Discussions of management plans; Tanner Crab off Alaska; Gulf of Alaska Groundfish Fishery during 1978; Commercial Troll Fisheries off the Coast of Alaska; Bering Sea Clam Fishery; King Crab, and Bering Sea Groundfish Fishery; (2) Other Council business.

The SSC and AP meetings will be open to the public, as will all but the early afternoon of the first day of the Council meeting. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510, telephone 907-274-4563.

A closed session of the Council is planned for the early afternoon of the first day, February 23, 1978, from 1:30 to 3:30 p.m. to hear and discuss Department of State security classified reports concerning preparations and actual negotiations in connection with the International North Pacific Fisheries Commission, the International Pacific Halibut Commission, and continuing negotiations with the Canadians.

Only those Council members and staff having security clearances will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on January 5, 1978, pursuant to section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1) as information which is properly classified pursuant to Executive Order 11652. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: January 12, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

[FR Doc. 78-1198 Filed 1-16-78; 8:45 am]

## [3510-22]

**SOUTH ATLANTIC FISHERY MANAGEMENT  
COUNCIL**

**Public Meeting**

The South Atlantic Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet March 23-24, 1978, at Council headquarters, Suite 308, 1 Southpark Circle, Charleston, S.C. 29407. The meeting starts at 8 a.m. on March 23, and will adjourn at about noon on March 24.

**Proposed Agenda:** (1) Billfish Fishery Management Plan development progress; (2) Snapper-Grouper Fishery Management plan status; (3) King & Spanish Mackerel Fishery Management Plan; and (4) Other management business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 308, Charleston, S.C. 29407, telephone 803-571-4366.

Dated: January 12, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

[FR Doc. 78-1205 Filed 1-16-78; 8:45 am]

## [6820-44]

**COMMISSION ON FEDERAL  
PAPERWORK**

**PRIVACY ACT OF 1974**

**Revocation and Transfer of System of Records**

Pursuant to the provision of the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a, the Commission on Federal Paperwork published in the FEDERAL REGISTER (42 FR 7980) notices of the existence of the following systems of records subject to the Privacy Act:

CFP-1, General Personnel Files; CFP-2, Financial Records—CFP; and CFP-3, Payroll Records—Commission on Federal Paperwork. The Commission will terminate operations on January 31, 1978, and the above systems of records are revoked as of that date.

Following is a summary of the disposition of the Commission's systems of records, subsequent to the termination date:

**CFP-1**

System name: General Personnel Files—CFP  
To be destroyed.

**CFP-2**

System name: Financial Records—CFP  
To be retained by the General Services Administration, External Ser-

vices Branch, for use in concluding administrative operations of the Commission on Federal Paperwork as part of the GSA system of records, Defunct Agency Records, GSA/OAD-36.

**CFP-3**

System name: Payroll Records—Commission on Federal Paperwork

To be retained by the General Services Administration, Region 3, Payroll Processing Branch, for use in concluding administrative operations of the Commission on Federal Paperwork as part of the GSA system of records. Defunct Agency Records, GSA/OAD-36.

FRANK HORTON,  
Chairman, Commission on  
Federal Paperwork.

[FR Doc. 78-974 Filed 1-16-78; 8:45 am]

## [3710-08]

**DEPARTMENT OF DEFENSE**

**Department of the Army**

**DEPARTMENT OF THE ARMY HISTORICAL  
ADVISORY COMMITTEE**

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the consolidation of the Department of the Army Historical Advisory Committee (DAHAC) and the U.S. Army Military History Research Collection Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget concurs with the consolidation. The consolidated committee will be known as the Department of the Army Historical Advisory Committee.

The nature and purpose of the DAHAC is to provide the Secretary of the Army and the Chief of Military History with advice and counsel regarding: (1) the conformity of the Army's historical work and methods with professional standards, (2) effective cooperation between the historical and military professions in advancing the purpose of the Army Historical Program and (3) the mission of the U.S. Army Center of Military History to further the study of and interest in military history in both civilian and military schools.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Head-  
quarters Services, Department  
of Defense.

JANUARY 12, 1978.

[FR Doc. 78-1217 Filed 1-16-78; 8:45 am]

## [3810-70]

**Office of the Secretary of Defense**

**DEFENSE SCIENCE BOARD TASK FORCE ON  
ICBMs/M-X**

**Advisory Committee Meeting**

The Defense Science Board Task Force on ICBMs/M-X will meet in closed session 7-8 February 1978 at Lawrence Livermore Laboratory, Livermore, Calif.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate alternative basing modes for U.S. land-based ICBMs. Concepts will be examined against survivability, cost and SALT verification considerations.

In accordance with Section 10(d) of Appendix 1, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof; and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, OASD (Comptroller).

[FR Doc. 78-1216 Filed 1-16-78; 8:45 am]

## [3128-01]

**DEPARTMENT OF ENERGY**

**ISSUANCE OF DECISIONS AND ORDERS BY  
THE OFFICE OF ADMINISTRATIVE REVIEW**

**Week of October 24 Through October 28, 1977**

Notice is hereby given that during the week of October 24 through October 28, 1977, the decisions and order summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

**REQUESTS FOR EXCEPTION**

Columbia Hydrocarbon Corp., Columbus, Ohio, FEE-4336, propane

Columbia Hydrocarbon Corp. (Columbia) filed an application for exception which, if granted, would have increased the amount of propane which the firm is entitled to purchase from its base period suppliers and would have resulted in the assignment of Dome Petroleum, Ltd., as its base period supplier for the additional quantity of propane. In considering Columbia's exception request, the DOE observed that during 1972

the firm had executed long-term contracts with the Standard Oil Co. of Ohio (Sohio) and the Exxon Co., U.S.A. (Exxon), which provided that Sohio and Exxon would supply substantial quantities of propane to Columbia. However, the amount of propane which Columbia actually received from Sohio and Exxon during the base period used in the DOE regulations was considerably less than the amounts provided for in these contracts, and consequently the amount of propane which Columbia is entitled to receive on an ongoing basis from its base period suppliers is less than the amounts originally specified in the contracts. However, the DOE rejected Columbia's claim that the application of the provisions of the mandatory petroleum allocation regulations had therefore caused the firm to incur a gross inequity. In this regard the DOE noted that Columbia had not experienced any difficulty in purchasing propane on the surplus market and in fact had purchased surplus propane in quantities which exceeded the amounts specified in the contracts which the firm had executed with Sohio and Exxon. Finally, the DOE noted that since propane is in relatively short supply, a firm which seeks exception relief increasing its allocation of propane must demonstrate that it is affected in an unusual manner by the general requirements governing the allocation of propane. Since Columbia had failed to make this demonstration, the DOE concluded that the Columbia exception request should be denied.

Eason Oil Co., Oklahoma City, Okla., FEE-4575, crude oil

Eason Oil Co. (Eason) filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of the exception relief previously granted to Eason and would permit the firm to continue to sell a portion of the crude oil produced from the Weiner property in the Flora field at upper tier ceiling prices. Eason Oil Co., 5 FEA Par. 83,116 (March 30, 1977). In considering the exception application, the DOE found that Eason continued to incur increased operating expenses on the Weiner property and that, in the absence of exception relief, the working interest owners would lack an economic incentive to continue to produce crude oil from the property. In view of this determination and on the basis of the operating data which Eason had submitted for the most recently completed fiscal period, the DOE concluded that exception relief should be continued to permit Eason to sell 54.69 percent of the crude oil produced from the Weiner property for the benefit of the working interest owners at upper tier ceiling prices.

George A. Hoffman, Henderson, Ky., FEE-4041, Crude oil

George A. Hoffman (Hoffman) filed an application for exception from the provisions 10 CFR, Part 212, Subpart D, which, if granted, would permit Hoffman to retain the revenues which he realized by selling the crude oil produced from the Edward Bohnhoff lease at unlawful price levels during the period November 1973 through December 1975. In considering the exception application, the DOE observed that substantial monetary sums were required for the medical care and supervision of the majority working interest owner, who had been adjudged incompetent by a State court. The revenues attributable to that individual, as his only means of financial sup-



port, were found to be barely sufficient to meet his continuing health care expenses. In view of these circumstances, the DOE concluded that the majority working interest owner would experience a severe and irreparable injury if the revenues which he receives from the Bohnhoff lease were reduced in order to refund the overcharges that occurred during the November 1973 through December 1975 period. However, Hoffman failed to demonstrate that the remaining working interest owners would incur an irreparable injury in the absence of retroactive exception relief. The DOE therefore ordered that Hoffman's request for retroactive exception relief for the individual who owned the majority working interest share of the Bohnhoff lease be granted, and that the remainder of the Hoffman application be denied.

#### REQUESTS FOR STAY

*J&W Refining, Inc., Tucker, Tex., DES-0005; DST-0001, crude oil*

J&W Refining, Inc. (J&W), requested that the application to it of 10 CFR 211.67 (the old oil entitlements program) be stayed pending a final determination of an application for exception which the firm had filed. In considering the request, the DOE observed that in view of the agency's ability to adjust J&W's entitlements position on subsequent entitlement notices, the firm could be compensated for any entitlement purchases which it makes in excess of the level which the DOE ultimately determines is appropriate. Under these circumstances and in view of J&W's statement that it had sufficient funds to purchase entitlements, the DOE concluded that J&W had not made a showing that it would be irreparably injured in the absence of the requested stay. The DOE also found that J&W's contention that it would succeed on the merits of its exception request was not supported by the record. The material furnished by J&W indicated that the firm's alleged cash flow difficulties were not caused by the entitlements program, but resulted instead from J&W's decision to purchase and modernize its refinery facility. J&W's stay request was therefore denied.

*Texas Oil & Gas Corp., Dallas, Tex., FES-4855, natural gas producer*

On September 30, 1977, Texas Oil & Gas Corp. (Texas Oil) filed an application for stay of the regulatory provisions applicable to the pricing of natural gas liquids pending the determination of an application for exception filed by the firm. Texas Oil also requested in its stay submission that a compliance proceeding being conducted by DOE Region VI be suspended pending a decision on the exception request. In considering the application for stay, the DOE determined that Texas Oil had not demonstrated that it was likely to succeed on the merits of the exception request or that the firm would incur an irreparable injury in the absence of a stay. The DOE further found that the public interest was best served by permitting the Region VI compliance proceeding to continue concurrently with the consideration of Texas Oil's request for exception relief. Accordingly, the Texas Oil application for stay was denied.

*Request for Modification and Recission  
Bassett Oil & Equipment Co., Inc., Bassett, Va., DRR-0002, No. 2 fuel oil*

Bassett Oil & Equipment Co., Inc. (Bassett), filed an application for modification

of a decision and order which the Federal Energy Administration issued to the firm on May 4, 1977. Bassett Oil and Equipment Co., Inc., 5 FEA Par. 85,058 (May 4, 1977). In that determination, the FEA granted an application for stay of a remedial order which had been issued to Bassett by FEA Region III on April 13, 1977. However, as an express condition of the stay which was approved, Bassett was required to establish an irrevocable escrow account and deposit a portion of the disputed funds into the account pending a final determination on the firm's appeal of the remedial order. *Cf. General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976).* In its application for modification, Bassett requested that the May 4 order be modified to eliminate the escrow requirement, and that a further order be entered permitting the firm to recover from the escrow account the funds which it had deposited. Bassett contended that the approval of this request would be consistent with the new procedures adopted by the FEA in *Rickelson Oil & Gas Co., 6 FEA Par. 85,029 (August 24, 1977).* In considering the Bassett request, the DOE noted that unlike the situation in the *Rickelson* case, the DOE has already fully considered all of the contentions raised by Bassett on appeal, and has issued a final decision and order with respect to that appeal on August 3, 1977. Except for a finding that the remedial order should be remanded to the Region III Office for a more precise calculation of the firm's refund obligation, the August 3 decision and order rejected all of the contentions raised by Bassett concerning the factual and legal findings of the remedial order. Under these circumstances, the DOE concluded that it would be inappropriate to dissolve the escrow account at the present time and the Bassett application for modification was denied.

#### SUMMARY DECISIONS

The following firms filed applications for stay of remedial orders which the DOE issued to the respective firms. In considering the stay requests, the DOE referred to a recent decision in *Rickelson Oil & Gas Co., 6 FEA Par. 85,029 (August 24, 1977)*, in which it held that a remedial order will generally be stayed pending the determination of an appeal unless it appeared that the public interest required immediate compliance with the remedial order. Since the record in these cases did not indicate that the public interest required immediate compliance with the remedial orders, the DOE granted the requests for stay pending consideration of the appeals.

*Home Gas Service, Inc., Swanton, Ohio, FRS-1466*

*B. W. Whittington, Corpus Christi, Tex., DRS-0008*

#### DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

*L. A. Olson Co., Madison, Wis., FEE-4840*

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

*Little Major Oil Co., Denton, Tex., FEE-4128*

The following submission was dismissed on the grounds that the request was now moot:

*Shell Oil Co., Washington, D.C., FES-3545*

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,  
Director, Office of  
Administrative Review.

(FR Doc. 78-1138 Filed 1-16-78; 8:45 am)

#### [3128-01]

#### ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

October 31 Through November 4, 1977

Notice is hereby given that during the week of October 31 through November 4, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Administrative Review and the basis for the dismissal.

#### APPEALS

*Harpel Petroleum Corp., Casper, Wyo., FRA-1275, crude oil*

The Harpel Petroleum Corp. appealed from a Remedial Order which the Deputy Regional Administrator of Region VIII of the Federal Energy Administration issued to the firm on April 11, 1977. In the Remedial Order, the FEA found that during the period December 1973 through December 1974 Harpel had sold the crude oil produced from Lease C-37886, located near Casper, Wyo., at prices which were in excess of the ceiling price levels determined in accordance with 6 CFR 150.353 and 10 CFR 212.73. The Remedial Order therefore directed Harpel to refund the overcharges which it had realized to the purchaser of the crude oil. In considering the Appeal, the DOE rejected the firm's contention that the term "10 barrels" as used in the stripper well property exemption means that a property qualifies for the exemption if the wells involved produce less than 11.0 barrels of crude oil per day. The DOE also found that even if the total production from the property during the calendar year prior to the audit period were divided by the number of wells which Harpel contended was appropriate, which was greater than the number used in the Remedial Order, the property would still have produced in excess of 10 barrels per day per well and would not have qualified for the stripper well property exemption. The DOE also determined that it was inappropriate at this stage of the proceedings to

consider Harpel's contention that the FEA should have adjusted production figures for the Lease for temperature and gravity variations from industry standards. Moreover, Harpel had failed to establish that those adjustments, if made, would have any effect on the property's qualification as a stripper well property. Finally, the DOE determined that Harpel had failed to submit any evidence in support of its contention that it would experience an undue hardship if it were required to make the refunds required by the April 11 Remedial Order. Accordingly, the Harpel Appeal was denied.

*Union Oil Co., of California, Schaumburg, Ill., FIA-1381, refined petroleum products*

The Union Oil Co. of California (Union) appealed from an Interpretation which the Regional Counsel of FEA Region IX issued to Francis O. Scarpulla. The Interpretation held that six consignees under contract with Union qualify as wholesale purchaser-resellers as that term is defined in Section 211.52 of the DOE Regulations. In its Appeal, Union contended that the Interpretation was based upon an erroneous factual situation and upon decisions, regulations, and Rulings which violate the purpose and mandate of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA). In considering Union's Appeal, the DOE determined that even under Union's version of the facts, the Regional Counsel properly found that the consignees qualify as wholesale purchaser-resellers. Nevertheless, the DOE stated that if Union believes that the factual situation which is set forth in the Interpretation is materially different from Union's version of the facts, the firm may submit a separate Request for Interpretation to the Regional Counsel. The DOE also held that Union was in effect requesting that the DOE amend its regulations, an action which can be effected only through a rulemaking procedure. In addition, the DOE noted that the Interpretation was based on regulatory provisions which emphasize the importance of preserving the competitive viability of all sectors of the petroleum industry and was therefore consistent with the purposes of the EPAA. The Union Appeal was accordingly denied.

*White's Union 76, Rock, W. Va., FRA-1343, motor gasoline*

White's Union 76 appealed from a Remedial Order issued to the firm on May 5, 1977, by the Director of the Compliance Division of the Federal Energy Administration, Region III. In the May 5 Order, FEA Region III found that during the period from January 1974 through December 1975, White's charged prices for motor gasoline which were in excess of the maximum allowable prices for that product calculated pursuant to the provisions of the Mandatory Petroleum Price Regulations. In considering the Appeal, the DOE determined that it was not arbitrary for the FEA to issue a Remedial Order which contradicted the earlier findings made by an FEA auditor during an initial investigation. In fact, the applicable regulations contemplate that reconsiderations of this type be made. The DOE also found that although White's did receive incorrect advice from FEA auditors, it had failed to demonstrate that it relied upon that advice to its detriment. The Appeal was therefore denied.

#### REQUESTS FOR EXCEPTION

*Barber Oil Exploration, Inc., Houston, Tex., FEE-4469, crude oil*

Barber Oil Exploration, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Condon-Federal Lease located in Campbell County, Wyo., at upper tier ceiling prices. In considering the exception request, the DOE found that there had been significant fluctuations in the profitability of Barber's operation at the Condon-Federal Lease during the preceding four years and accordingly, analysis of the firm's historical data did not convincingly reveal that exception relief would be necessary to provide an economic incentive to continue operations at the Condon-Federal Lease. However, the DOE also found that Barber was about to incur substantial additional operating costs as a result of an order of the United States Department of Interior Geological Survey which requires that Barber utilize certain methods to dispose of salt water produced at the Lease after October 1, 1977. As a result, the DOE determined that the Barber no longer had an economic incentive to continue the production of crude oil from the Condon-Federal Lease. In previous decisions, the FEA granted exception relief which permitted a firm to reflect in its selling prices the unrecovered increased operating costs per barrel incurred between the second quarter of 1973 and the most recent six-month period for which production and financial data were available. In considering the Barber application, however, the DOE determined that this type of relief would not provide Barber with a sufficient economic incentive to continue its operation of the Condon-Federal Lease. Alternative exception relief was therefore approved which permitted Barber to reflect in its selling prices the unrecovered difference between the cost of producing a barrel of crude oil during the second quarter of 1973 and the firm's actual operating expenses during the first six months of 1977 as adjusted to include projected increased expenses associated with salt water disposal.

*Great Southern Oil & Gas Co., Inc., Lafayette, La., FEE-4417, crude oil*

Great Southern Oil & Gas Co. (Great Southern) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Castille RASUA-Breaux No. 1 well located in St. Martin Parrish, La., at upper tier ceiling prices. In considering the exception request, the DOE found that operating costs at the Castille well had increased to the point where they exceeded the revenues which Great Southern received from the sale of crude oil at lower tier ceiling prices. The DOE also found that the abandonment of the Castille well would result in the loss of approximately 25,000 barrels of otherwise recoverable crude oil. Consequently, the DOE concluded that exception relief should be granted to Great Southern in order to provide the firm with an economic incentive to continue production operations at the Castille well. In accordance with the precedent established in a number of prior Decisions, the DOE permitted Great Southern to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Castille well for the benefit of the working interest owners.

*Koch Exploration Co., Wichita, Kans., FEE-4433, FEE-4434, crude oil*

The Koch Exploration Co. filed two applications for exception from the provisions of

10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Sink Draw No. 1 lease and the Cedar Rim No. 3 lease at upper tier ceiling prices. In considering the exception requests, the DOE determined that the costs of producing crude oil from the Sink Draw and Cedar Rim leases have increased significantly since 1973 and, as a result of these increased costs, Koch's production costs per barrel now exceed the prices which the firm is permitted to charge for the crude oil which it sells. Consequently, the DOE concluded that Koch did not have an economic incentive to continue to operate the Sink Draw and Cedar Rim leases. The DOE also found that there was little possibility that the crude oil which is recoverable from the reservoirs underlying the two leases would be produced in the absence of exception relief. On the basis of precedents involving similar factual situations, the DOE concluded that the application of the lower tier ceiling price rule to Koch resulted in a gross inequity. Accordingly, on the basis of the operating data which the firm submitted for its most recently completed fiscal period, Koch was granted exception relief which permits the firm to sell at upper tier ceiling prices a portion of the crude oil produced and sold from the Sink Draw and Cedar Rim leases for the benefit of the working interest owners.

*Phillips Petroleum Co., Bartlesville, Okla., FEE-4435, crude oil*

The Phillips Petroleum Co. filed an application for exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Foote lease, located in Oklahoma County, Okla., at upper tier ceiling prices. In considering the exception request, the DOE found that Phillips' operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Foote lease if the crude oil were subject to the lower tier ceiling price rule. The DOE also determined that if Phillips abandoned its operations at the Foote lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous Decisions by the FEA, the DOE determined that Phillips should be permitted to sell 88.13 percent of the crude oil produced from the Foote lease for its benefit at upper tier ceiling prices.

#### REQUEST FOR STAY

*Getty Oil Co., Washington, D.C., DRS-0006, crude oil*

The Getty Oil Co. (Getty) filed an application for stay with the Office of Administrative Review of the Department of Energy. The Getty submission involved a remedial order which the Deputy Assistant Administrator for Compliance of the Federal Energy Administration issued to the firm on August 12, 1976, and an appeal decision and order which the Department of Energy issued to Getty and the Standard Oil Co. of Ohio on October 7, 1977. *Getty Oil Co.; Standard Oil Co., 1 DOE Par. — (October 7, 1977).* The Getty request, if granted, would result in a stay of the refund requirements which are set forth in the remedial order, as amended by the appeal decision, pending judicial review of the two orders. In considering the Getty stay request, the DOE found that there is little likelihood



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that Getty will succeed in obtaining the relief which it seeks in the judicial proceeding. The DOE further found that Getty had failed to make a showing that it will incur an irreparable injury in the absence of the stay which it requests. Finally, the DOE determined that contrary to Getty's assertions, the approval of a stay in this matter would not be desirable for public policy reasons. On the basis of these considerations as well as the regulatory criteria set forth in 10 CFR 205.125(b), the DOE determined that the public interest and the desirability of securing timely compliance with the DOE price regulations led to the conclusion that a stay should not be granted in this case. However, in view of the complexity of the proceeding and the large sum of money involved, the DOE determined that the stay of 30 days set forth in the October 7 appeal decision should be extended for an additional 45 days. As a condition of the stay, Getty was required to file its petition for judicial

review within 45 days of issuance of the October 7 decision and order.

SUPPLEMENTAL ORDER

Young Refining Corp., Douglasville, Ga., FEX-0173, crude oil

On June 18, 1976, and December 15, 1976, the FEA issued decisions and orders to the Young Refining Corp. granting the firm exceptions which relieved it of any obligation under the provisions of 10 CFR 211.67 to purchase entitlements during the period April 1976 through March 1977. The June 18 and December 15 orders stated that a review of Young's actual financial operating results would be conducted at the end of the firm's fiscal year in order to consider the appropriateness of the level of exception relief which had been approved. The orders further stated that if Young received excessive entitlements exception relief during its 1977 fiscal year, an adjustment would be made

and Young would be required to purchase additional entitlements to account for the excessive benefits. In reviewing the entitlements exception relief provided to Young during its 1977 fiscal year, the DOE determined that Young did not attain either its historical profit margin or its historical return on invested capital and accordingly concluded that no adjustment to Young's 1977 entitlements exception relief was necessary.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued a decision and order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Amount of price increase (dollars in gallons)
Allied Chemical Corp.	FXE-4504	Benedum	\$0.0362
	FXE-4505	Silgo	.0238
	FXE-4506	Walnut Bend	.0258
Aminol USA, Inc.	FXE-4515	Aline	.0454
	FXE-4516	Fox	.0173
	FXE-4517	Huntington Beach	.0629
	FXE-4518	Inglewood	.0305
	FXE-4519	Taloga	.0145
	FXE-4520	Tloga	.0194
Arkansas Louisiana Gas Co.	FXE-4733	Bistineau	.0155
	FXE-4734	Waskom	.0129
Atlantic Richfield Co.	FXE-4686	Bayou Sale	.0059
	FXE-4687	Covington	.0204
	FXE-4688	Crane	.0267
	FXE-4689	Dayton	.0345
	FXE-4690	Drumright	.0278
	FXE-4691	Eldorado	.0199
	FXE-4692	Longview	.0370
	FXE-4693	Midland	.0695
	FXE-4694	North Cowden	.0067
	FXE-4695	Nueces River	.0085
	FXE-4696	Price	.0659
	FXE-4697	Seminole	.0439
	FXE-4698	Spivey	.0229
	FXE-4699	Stevens Caldon	Denied.
Beacon Gasoline Co.	FXE-4700	Swanson River	.0373
Cabot Corp.	FXE-4511	Calumet	.06113
	FXE-4507	Beaver	.0108
	FXE-4508	Estes	.0172
	FXE-4509	North Terrebonne	.0084
	FXE-4510	Prentice	.0074
Champlin Petroleum Co.	FXE-4664	Witcher	.0259
Cities Service Co.	FXE-4557	Bryans Mill	.0174
	FXE-4558	Chico	.0153
	FXE-4559	Crowley	.0065
	FXE-4560	Dollarhide	.0130
	FXE-4561	East Texas	.0132
	FXE-4562	Lapeyrouse	.0295
	FXE-4563	Lefors	.0212
	FXE-4564	Maysville	.0118
	FXE-4576	North Cowden	.0122
	FXE-4577	Pampa	.0791
	FXE-4578	Price	.0519
	FXE-4579	Rodman	.0120
	FXE-4580	San Antonio Bay	.0608
	FXE-4581	Stonewall	.0216
	FXE-4582	Waco	.0258
	FXE-4583	Wichita	.0181
Coastal States Gas Corp.	FXE-4735	Hidalgo	.0560
Coline Gasoline Corp.	FXE-4463	Rincon	.0326
Continental Oil Co.	FXE-4591	Acadia	.0681
	FXE-4592	Burnell North Pettus	.0538
	FXE-4593	Hamlin	.0119
	FXE-4594	Maljamar	.0141
	FXE-4595	North Cowden	.0122
	FXE-4596	North Okarche	.0251
	FXE-4597	Rincon	.0290
	FXE-4598	Sussex	.0343
	FXE-4599	West Seminole	.0224
	FXE-4600	West World	.0308
Delta Drilling Co.	FXE-4804	Etexas	.0519
Diamond Shamrock	FXE-4472	McKee	.0145
Enkay Corp.	FXE-4521	East Texas	.0232
Estates of George H. Costes	FXE-4790	Jay Simmons	.03285
Getty Oil Co.	FXE-4601	Bastian Bay	.0361
	FXE-4602	Houma	.0057
	FXE-4603	Vermillion	.0691
	FXE-4793	Prentice	.0124
Great Western Drilling Co.	FXE-4794	West Seminole	.0353

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Company	Case No.	Plant	Amount of price increase (dollars in gallons)
Kerr McGee Corp.	FXE-4522	Beaver	.0126
	FXE-4523	Beaver Creek	.0070
	FXE-4524	Dubach	.0059
	FXE-4525	Maysville	.0162
MAPCO, Inc.	FXE-4526	Pampa	.0214
	FXE-4527	Altonah	.0495
Marathon Oil Co.	FXE-4528	Tyrone	.0311
	FXE-4648	Rocker River	.0964
	FXE-4649	Welder	.1243
	FXE-4650	West Forelands	.0667
	FXE-4651	West Sidney	.0417
McCulloch Gas Processing Corp.	FXE-4529	Belle Fourche	.0663
	FXE-4530	Gillette	.0315
	FXE-4531	Oedekoven	.0793
Mobil Oil Corp.	FXE-4713	Burnell North Pettus	.0358
	FXE-4714	Chitwood	.0233
	FXE-4715	Desdemona	.0313
	FXE-4716	Dollarhide	.0145
	FXE-4717	Electra	.0329
	FXE-4718	Hickok	.0238
	FXE-4719	Kermit	.0179
	FXE-4720	Kettleman North Dome	.0248
	FXE-4721	Nueces River	.0079
	FXE-4722	Pegasus	.0109
	FXE-4723	Phillips Bradley	.0287
	FXE-4724	Rio Bravo	.0574
	FXE-4725	Sholen Alechem	.0154
	FXE-4726	Slaughter	.0085
	FXE-4727	West Seminole	.0181
Mustang Fuel Co.	FXE-4511	Calumet	.06113
Northern Natural Gas Co.	FXE-4605	No. 1 and No. 2 plants in Martin County, Tex.	.02157
Phillips Petroleum Co.	FXE-4532	Andrews	.0375
	FXE-4533	Benedum	.0201
	FXE-4534	Bradley	.0427
	FXE-4535	Canadian	.0377
	FXE-4536	Crane	.0260
	FXE-4537	Douglas	.0116
	FXE-4538	Dumas	.0174
	FXE-4539	Gray	.0263
	FXE-4540	Henderson	.0275
	FXE-4541	Hobbs	.0169
	FXE-4542	Lee	.0072
	FXE-4543	Lovington	.0278
	FXE-4544	North	.0172
	FXE-4545	Oklahoma	.0304
	FXE-4546	Spraberry	.0145
	FXE-4547	Tunstill	.0480
	FXE-4548	Vermillion	.0175
Shell Oil Co.	FXE-4665	Bayou Goula	.0406
	FXE-4666	Black Bayou	.0581
	FXE-4667	Bryans Mill	.0061
	FXE-4668	Camargo	.0317
	FXE-4669	Chalkley	.1349
	FXE-4670	KNDU	.0279
	FXE-4671	Lirette	.0081
	FXE-4672	Mermentau	.0171
	FXE-4673	O'Keene	.0198
	FXE-4674	Prentice	.0060
	FXE-4675	Red Fish Bay	.0213
	FXE-4676	Selling	.0236
	FXE-4677	Tallahala	.0729
	FXE-4678	TXL	.0155
	FXE-4679	Van	.0323
	FXE-4680	Weeks Island	.0133
Signal Petroleum	FXE-4681	West Seminole	.0243
Tenneco Oil Co.	FXE-4475	Lake Washington	.0109
	FXE-4737	Chesterville	.0271
	FXE-4738	Dover Hennessey	.0129
	FXE-4739	La Porte	.0100
	FXE-4740	Lake Bouef	.0120
	FXE-4741	Leabo	.0481
	FXE-4742	Mayfield	.0351
	FXE-4743	Mermentau	.0053
	FXE-4744	Normanna	.0256
	FXE-4745	Nueces River	Denied.
	FXE-4746	Sea Robin	Denied.
	FXE-4747	South Fullerton	.0476
	FXE-4748	Stephens	.0053
	FXE-4749	Ward	.0302
Texaco, Inc.	FXE-4565	Garvin County	.0138
	FXE-4566	Handy	.0429
	FXE-4567	Kettleman Hills	.0300
	FXE-4568	Luby	.0213
	FXE-4569	New Hope	.0540
	FXE-4570	Ross South Campens	.0751
	FXE-4571	Shiells Canyon	.0484
	FXE-4572	South Kermit	.0290
	FXE-4573	Tlerina	.0547
	FXE-4574	Van	.0114
Vallery Corp.	FXE-4611	Vallery	.0279
Wel-Gas, Inc., of Texas	FXE-4738	Possum Kingdom	.06366



## DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the DOE procedural regulations:

Rayburn Garage, Columbia, Miss. FEE-4653

Reinauer Petroleum Co., Hackensack, N.J., FPI-0126

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,  
Director,  
Office of Administrative Review.  
[FR Doc. 78-1141 Filed 1-16-78; 8:45 am]

## [3128-01]

## ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

December 28, 1977, Through January 4, 1978

Notice is hereby given that during the period December 30, 1977, through January 4, 1978, the proposed decisions and orders which are summarized below were issued by the Office of Administrative Review of the Eco-

nomic Regulatory Administration of the Department of Energy with regard to applications for exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 FR 47210 (September 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a notice of objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the proposed decision and order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In that statement of objections an aggrieved party must specify each issue of fact or law contained in the proposed decision and order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of

1 p.m. and 5 p.m., e.s.t., except Federal holidays.

Dated: January 10, 1978.

MELVIN GOLDSTEIN,  
Director, Office of  
Administrative Review.

## PROPOSED DECISIONS AND ORDERS

Twin-Tech Oil Co., Washington, D.C., DXE-0069, natural gas liquids

Twin-Tech Oil Co. applied for an extension of the exception relief from the provisions of 10 CFR 212.165 previously granted to the firm. Twin-Tech Oil Co., 5 FEA Par. 83,126 (March 28, 1977). The exception request, if granted, would permit Twin-Tech to increase its selling prices for natural gas liquids and natural gas liquid products above the maximum permissible levels specified in 10 CFR 212.165. On January 4, 1978, the DOE issued a proposed decision and order which determined that the exception request be granted.

Van Fleet Brothers, Inc., Ontario, Calif., FEE-4127, motor gasoline

Van Fleet Brothers, Inc., filed an application for exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Van Fleet to increase its selling prices for regular motor gasoline to two classes of purchaser above the maximum permissible levels specified in 10 CFR 212.93. On December 28, 1977, the DOE issued a proposed decision and order which determined that the exception request be granted.

## REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued proposed decisions and orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of price increase (dollars in gallons)
Adobe Oil and Gas Corp.	DXE-0183	Adobe Sale Ranch	Martin County, Tex.	\$0.01275
Belridge Oil Co.	DXE-0242	Kern County	Kern County, Calif.	.1032
Breckenridge Gasoline Co.	DXE-0194	Ellisville	Stephens County, Tex.	.0788
	DXE-0195	Lodi	Cass County, Tex.	.1487
Champlin Petroleum Co.	DXE-0196	Gulf Plains	Nueces County, Tex.	.0566
	DXE-0197	Mayfield	Kieberg County, Tex.	.0480
	DXE-0198	Peoria	Arapahoe County, Colo.	.0218
	DXE-0199	South Fullerton	Andrew County, Tex.	.0382
Florida Gas Co.	DXE-0193	Brooker	Bradford County, Fla.	.0192
Halliburton Co./Vessels Gas Processing Co.	DXE-0316	Irondale	Adams County, Colo.	.0597
Locust Ridge Gas Processing Co.	DXE-0315	Locust Ridge	Texas Parish, La.	.06937
Marathon Oil Co.	DXE-0175	Camrick	Beaver County, Okla.	.0404
	DXE-0176	Cotton Valley	Webster Parish, La.	.0254
	DXE-0177	Heyser	Victoria County, Tex.	.2568
	DXE-0178	Indian Basin	Eddy County, N. Mex.	.0086
	DXE-0179	Markham	Matagorda County, Tex.	.0271
	DXE-0180	Scipio	Hillsdale County, Mich.	.0240
	DXE-0181	South Coles Levee	Kern County, Calif.	.0491
	DXE-0182	Stephens	Claiborne Parish, La.	.0295
Permian Corp.	DXE-0378	Possum Kingdom	Stephens County, Tex.	.0483
	DXE-0379	Todd Ranch	Crockett County, Tex.	.0230
Phillips Petroleum Co.	DXE-0254	Cimarron	Woodward County, Okla.	.0911
	DXE-0255	Goldsmith	Ector County, Tex.	.0060
	DXE-0256	Lusk	Lea County, N. Mex.	.0183
	DXE-0257	Puckett	Pecos County, Tex.	.0545
	DXE-0258	Sooner No. 1	Major County, Okla.	.0515

Company	Case No.	Plant	Location	Amount of price increase (dollars in gallons)
Placid Oil Co.	DXE-0328	Black Lake	Natchitoches Parish, La.	.0074
	DXE-0327	Calumet	St. Mary Parish, La.	.0055
	DXE-0328	Lapeyrouse	Terrebonne Parish, La.	.0318
	DXE-0329	Lake Washington	Plaquemine Parish, La.	.0239
	DXE-0330	Patterson	St. Mary Parish, La.	.0217
	DXE-0331	Prentice	Terry County, Tex.	.0152
	DXE-0332	Promix	St. Mary Parish, La.	.0069
	DXE-0333	Womack Hill	Choctaw County, Ala.	.0189
Southern Natural Resources	DXE-0358	Lapeyrouse	Terrebonne Parish, La.	.0215
	DXE-0357	Patterson	Terrebonne Parish, La.	.0204
	DXE-0358	Sea Robin	Erath Parish, La.	.0172
Standard Oil Co. (Indiana)	DXE-0188	Empire Abo	Eddy County, N. Mex.	.0061
	DXE-0189	Ropes	Lafourche Parish, La.	.0131
	DXE-0190	South Jennings	Hartley County, Tex.	.0327
	DXE-0191	South Thornwell	Jefferson Davis Parish, La.	.0314
	DXE-0192	Prentice	Cameron Parish, La.	.0234
	DXE-0205	Third Creek	Yoakum County, Tex.	.0255
	DXE-0206	White Flat	Watkins County, Colo.	.0150
	DXE-0207	Steedman	Nolan County, Tex.	.0237
Sun Co., Inc.	DXE-0263	Steedman	Pontotoc County, Okla.	.0807
Upham Oil and Gas Co.	DXE-0184	Chico	Wise County, Tex.	.0448
Vickers Energy Corp.	DXE-0185	Mayfield	Kleberg County, Tex.	.0467
	DXE-0186	Patterson	St. Mary Parish, La.	.0148
	DXE-0187	Putnam Oswego	Dewey County, Okla.	.0059

[FR Doc. 78-1140 Filed 1-16-78; 8:45 am]

## [3128-01]

Economic Regulatory Administration  
SYNTHETIC NATURAL GAS FEEDSTOCK, AIR  
PRODUCTS AND CHEMICALS, INC.

## Request for Comment

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Request for Comment.

SUMMARY: Air Products and Chemicals Co., Inc. (APC), has submitted to the Economic Regulatory Administration (ERA) a petition requesting an annual allocation of approximately 275,000 barrels of naphtha per year for use as a synthetic natural gas (SNG) feedstock in its proposed SNG facility at Marcus Hook, Pa. APC's proposed plant is an experimental prototype or pilot plant, which will test the use of high boiling point, high sulphur distillate fuel oils (gas oil) as feedstock, to produce methane, ethane, and benzene-toluene-xylene (BTX). The main purpose of this plant is to prove the commercial viability of this process.

DATE: Comments to be submitted by February 3, 1978.

ADDRESS: Comments should be submitted to: Finn K. Neilsen, Office of Fuel Allocation, Specialty Fuels Branch, Economic Regulatory Administration, Room 6318, 2000 M Street NW., Washington, D.C. 20461.

## FOR FURTHER INFORMATION CONTACT:

Deanna Williams, Freedom of Information Reading Room, 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Finn K. Neilsen, Office of Fuel Allocation, Specialty Fuels Branch, Eco-

nomic Regulatory Administration, 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730.

SUPPLEMENTARY INFORMATION: A file containing all information and data filed in conjunction with APC's petition, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 U.S.C. 552, is available for public inspection and copying at the Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding the APC petition will be accepted and considered if filed by February 3, 1978. Any person submitting written comments with respect to the APC petition should submit five (5) copies and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.9. Comments should be submitted to the Office of Fuel Allocation, Specialty Fuels Branch, ERA, Room 6318, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Finn Neilsen. Comments should be identified on the outside of the envelope and on documents submitted to ERA with the designation "Allocation of SNG Feedstock for APC."

Any information or data submitted pursuant to the above procedures and considered by the person furnishing it to be confidential must be so identified and submitted in one copy only in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be nonconfidential. ERA reserves the

right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., January 11, 1978.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulations, Economic Regu-  
latory Administration.

[FR Doc. 78-1233 Filed 1-16-78; 8:45 am]

## [6740-02]

Federal Energy Regulatory Commission  
[Project No. 6187]

## ALABAMA POWER CO.

Application for Approval of Change in Land Rights

JANUARY 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the ap-



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appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Public notice is hereby given that an application was filed on September 1, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r), by Alabama Power Co. (Correspondence to: Mr. R. P. McDonald, Vice President, Alabama Power Co., P.O. Box 2641, Birmingham, Ala. 35291) for Commission approval of a change in land rights at FERC Project No. 618, known as the Jordan Dam Project. Project No. 618 is located on the Coosa River in Elmore, Chilton, and Coosa Counties, Ala.

Applicant seeks Commission authorization to convey to South Central Bell Telephone Co. an easement over project lands for the purpose of installing and maintaining buried telephone cable and appurtenant facilities necessary to serve a public telephone system in a real estate development located along the northeastern shore of Jordan Reservoir in sections 6, 8, 9, 10, 15, 16, and 17, T. 19 N., R. 18 E., Elmore County, Ala. The real estate development is situated on land owned by Applicant inside the boundary for Project No. 618. The telephone cables would be located on the centerline of, or adjacent to, existing roads, and would be buried to a depth of 30 inches. Trenching would be back-filled and rolled in such a manner as to render it capable of withstanding occasional heavy loads.

Any person desiring to be heard or to make protest with reference to said application should, on or before February 28, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.8 or § 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc 78-1242 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. RI78-14)

## BRADCO OIL &amp; GAS CO. AND BRADCO PROPERTIES, INC.

## Petition for Special Relief Authorizing and Approving Refund Payment Plan

JANUARY 11, 1978.

Take Notice that on November 18, 1977, Bradco Oil & Gas Co. and Bradco Properties, Inc. (Petitioners), 3410 Entex Building, Houston, Tex. 77002, filed in Docket No. RI78-14 a petition for special relief pursuant to Ordering Paragraph (A) of the order issued September 23, 1977, as such order allegedly modified Area Rate Proceeding, et al. (Southern Louisiana), Docket No. AR61-2 and AR69-1, et al. and established October 31, 1977, as the date beyond which Petitioners were permitted under section 8.2.6 of the U.D.C. settlement proposal to advise the Commission of its intention to seek special relief. Petitioners state that they have been unable to make a discharge, by the commitment of new gas reserves, of the refunds accrued through October 1, 1977, and estimate the amounts owing to interstate pipelines in the Southern Louisiana Area to approximate \$62,905, inclusive of interest thereon.

Petitioners further state that it is a small producer and would utilize such funds for the purpose of locating, acquiring, and drilling new acreage. Also, that it has caused to be committed reserves of natural gas under other rate schedules unrelated to the aforesaid Southern Louisiana Area Rate Proceeding. Accordingly, Petitioners request the Commission issue an order approving its plan on the basis that the use of such monies to elicit new sources of gas supply will better serve the end-user/consumer than the flow through to these same end-user/consumers of de minimus cash sums.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or

to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc 78-1252 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. ER77-514)

## CENTRAL POWER &amp; LIGHT CO.

## Certification of Proposed Settlement Agreement to Commission

JANUARY 11, 1978.

Take notice that on January 5, 1978, the Presiding Administrative Law Judge certified to the Commission a proposed settlement agreement filed by Central Power & Light Co. (CP&L). The agreement represents a settlement between CP&L and the "intervening nongenerating wholesale customers". CP&L's joint motion requesting certification states that all parties, including staff, join in the motion.

Any person desiring to be heard or to protest the settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before January 25, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1253 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. ER76-709)

## CINCINNATI GAS &amp; ELECTRIC CO.

## Filing of Revised Tariff Sheet

JANUARY 11, 1978.

Take notice that on December 27, 1977, the Cincinnati Gas & Electric Co. (CG&E) filed rate WS-P, second revised sheet No. 5, as the revised tariff sheet pertaining to rates applicable to the Village of Georgetown, Ohio, for Commission approval, pursuant to an order of the Commission issued November 23, 1977.

CG&E states that rate WS-P is the settlement rate for Georgetown which will provide an annual increase of \$63,743 based on estimated data for the twelve months ending December 31, 1976.

CG&E indicates that a copy of the filing was served on all parties and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said filing should file a peti-

## NOTICES

tion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1254 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. ER78-166)

## GEORGIA POWER CO.

## Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Georgia Power Co. (Georgia Power), on December 30, 1977, tendered for filing proposed changes in its FERC electric tariffs, original volumes No. 1 (full requirements service) and No. 2 (partial requirements service). According to Georgia Power, based on the twelve-month period ended February 28, 1979, the proposed changes would increase revenues from jurisdictional full requirements service by \$250,765 and would increase revenues from jurisdictional partial requirements service by \$27,995,767. The filing contains proposed rate schedules FR-1 which would replace rate schedule WR-9 (full requirements) and PR-3 which would replace rate schedule PR-2 (partial requirements). Georgia Power requests an effective date of March 1, 1978, for the changes.

Georgia Power asserts that its costs have escalated steadily since the filing of its WR-9 and PR-2 rates, resulting in a large increase in the revenue required from wholesale service. Georgia Power states that the data submitted demonstrates that WR-9, as presently in effect, and the settlement rate level in PR-2, pending before the Commission, do not provide a fair return on Georgia Power's wholesale service.

Georgia Power states that copies of the filing were served upon all of its jurisdictional customers and on the Georgia Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance

with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 31, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1243 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. ER78-179)

## INDIANA &amp; MICHIGAN ELECTRIC CO.

## Filing of Interconnection Agreement

JANUARY 11, 1978.

Take notice that Indiana & Michigan Electric Co. (I&M) on January 5, 1978, tendered for filing an interconnection agreement between it and the city of Richmond, Ind. for and on behalf of its Municipal Light Department, Richmond Power & Light. I&M states that the interconnection agreement incorporates schedules providing for the followings: Firm power and energy, emergency service, short term power and energy, economy energy and transmission service. I&M proposes an effective date of January 2, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1255 Filed 1-16-78; 8:45 am)

## [6740-02]

(Docket No. ES78-17)

## IOWA POWER &amp; LIGHT CO.

## Application

JANUARY 6, 1978.

Take notice that on December 22, 1977, Iowa Power & Light Co. (applicant) of Des Moines, Iowa, filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue on or before December 31, 1979, bank notes maturing not more than one year after date of issue and commercial paper notes maturing not more than nine months after the date of issue in principal amounts not exceeding \$100,000,000, of which up to an amount not exceeding twenty-five percent (25%) of the company's gross revenues during the preceding twelve (12) months of operations in the aggregate at any one time may be issued as commercial paper, and that the company may issue and sell commercial paper either directly to buyers, insofar as allowed by State law, or through established commercial paper dealers.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

The notes are to be issued from time to time to banking institutions or sold through a commercial paper dealer. Notes to banking institutions will be issued in accordance with various informal lines of credit agreements. The notes are to have maturities on demand with semiannual renewals, or specific maturities of not more than one year from their dates, and are to bear interest at the prevailing rate in effect at the time of issuance. Commercial paper will be issued as promissory notes either through an established commercial paper dealer or directly to buyers of the paper, as determined in the discretion of the company and as allowed by the laws of Iowa regulating the sale of securities. Commercial paper notes are to have maturities of not more than nine months from their dates and the interest rate will be dependent upon the terms of the notes and money market conditions at the time of issuance. The proceeds from the issuance of notes will be used as interim financing of the applicant's construction program.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 20, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with



## NOTICES

the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1244 Filed 1-16-78; 8:45 am]

## [6740-02]

[Docket No. RI78-7]

LESLIE AND VERONICA ROBINSON

Petition for Special Relief

JANUARY 11, 1978.

Take notice that on November 7, 1977, Leslie and Veronica Robinson (Petitioners), 1000 Valley Forge Circle, King of Prussia, Pa. 19406, filed in Docket No. RI78-7 a petition for special relief pursuant to § 2.76 of the Commission's rules of practice and procedure.

Petitioners seek authorization to change a total rate of \$1.00 per Mcf for the sale of gas currently being sold at 63.85 cents per Mcf from all the working interest in the Hewitt Well No. 2, Gilmer County, W. Va. The subject gas is currently being sold under small producer certificate issued in Docket No. CS71-82. Petitioners state that by letter dated July 29, 1975, it was advised by the pipeline purchaser that if the well was stimulated the total rate received would be increased to \$1.00 per Mcf. A proposal was submitted and approved by the pipeline purchaser on March 17, 1976. In alleged reliance on such increase in price subject to receipt of invoices, Petitioners expended in excess of \$19,400 for stimulation and reconnection of said well. Thereafter, Petitioners were advised that the total rate to be received had been reduced to 63.85 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said petition should on or before January 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to in-

tervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1256 Filed 1-16-78; 8:45 am]

## [6740-02]

[Docket No. CP75-205]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition to Amend

JANUARY 6, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and the orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer or Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 27, 1977, Michigan Wisconsin Pipe Line Co. (Petitioner), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP75-205 a petition to amend the order issued pursuant to section 7(c) of the Natural Gas Act on July 3, 1975 (54 FPC —), as amended March 19, 1976 (55 FPC —), and February 28, 1977 (57 FPC —), so as to authorize a new delivery point where Petitioner can exchange gas with Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued July 3, 1975, Petitioner was authorized to deliver up to 10,000,000 Mcf of natural gas per day to Natural at a point in Wheeler County, Tex., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex. The order of March 19, 1976, in the instant docket authorized Petitioner to deliver up to 2,000,000 Mcf of natural gas per day to Natural at a point in Beaver County, Okla., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex. Petitioner was authorized to deliver up to 500 Mcf of natural gas per day to Natural at a point in Beaver County, Okla., in exchange for an equivalent volume from Natural at a redelivery point in Hansford County, Tex., pursuant to the order issued February 28, 1977.

Petitioner states that Natural has obtained a commitment of gas reserves from the Blackburn "A" No. 1 Well in close proximity to the facilities of Petitioner in Caddo County, Okla., and proposes herein to deliver such gas to Petitioner in Sec. 2, T. 10 N., R. 10 W., Caddo County, Okla., in exchange for delivery of an equivalent volume of gas by Petitioner to Natural at the presently authorized existing point of redelivery in Hansford County, Tex., less compressor fuel utilized by Petitioner.

It is stated that Natural proposes to deliver up to 1,000 Mcf of gas per day to Petitioner through existing facilities in Caddo County. It is further stated that in order to account for compressor fuel used by Petitioner, the daily quantity of exchange gas redelivered by Petitioner to Natural attributable to the Blackburn Well would be reduced by 1.25 percent and there is no compensation for the exchange as the transaction is on a straight gas-for-gas basis.

Petitioner states that the new point of exchange will facilitate an increase in gas supply to Natural without the construction of additional facilities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to in-

tervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1245 Filed 1-16-78; 8:45 am]

## [6740-02]

[Docket No. ER78-167]

MISSISSIPPI POWER & LIGHT CO.

Cancellation

JANUARY 6, 1978.

Take notice that on December 30, 1977, Mississippi Power & Light Co. (MP&L) tendered for filing a notice of cancellation of its Rate Schedule FPC No. 166, which provides for sales of electric power to Coahoma Electric Power Association at Darling, Miss. MP&L states that the load has been transferred to the Company's Lula Substation.

MP&L requests that the cancellation be made effective as of December 9, 1977, the date of the load transfer, in order to obviate the necessity that the Association pay certain minimum charges included in its rate schedule after that date. MP&L therefore requests waiver of the Commission's notice requirements.

According to MP&L copies of this filing have been sent to Coahoma Electric Power Association, Lyon, Miss.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1246 Filed 1-16-78; 8:45 am]

## [6740-02]

[Docket No. CP66-237]

NATURAL GAS PIPELINE CO.

Extending Procedural Dates

JANUARY 5, 1978.

On December 30, 1977, Northern Illinois Gas Co. (NI-Gas) filed a motion to extend the procedural dates established by Commission Order issued December 19, 1977, in the above refer-

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enced docket, and a notice of intent to file for rehearing of the December 19 Order. The motion states that NI-Gas will file a petition for rehearing no later than January 18, 1978.

Upon consideration, notice is hereby given that the procedural dates established by the December 19, 1977, Order are extended as follows:

March 24, 1978: Filing and service on all parties, the Presiding Administrative Law Judge, and Commission Staff of the direct case of Natural Gas Pipeline Company of America (Natural), including testimony on the issue raised by the December 19, 1977, Order.

March 31, 1978: Filing of testimony and exhibits comprising the case-in-chief of supporting intervenors.

April 17, 1978: Filing of testimony of opposing intervenors and Staff Counsel.

April 28, 1978: Rebuttal testimony of Natural and supporting intervenors.

May 8, 1978: Prehearing conference.

Any further procedural dates will be established by the Presiding Administrative Law Judge.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1247 Filed 1-16-78; 8:45 am]

## [6750-02]

[Docket No. ER78-178]

OHIO POWER CO.

Amendment to Filing of Changes in Rates and Charges

JANUARY 11, 1978.

Take notice that American Electric Power Service Corp. (AEP) on January 3, 1978 tendered for filing on behalf of its affiliate, Ohio Power Co. (Ohio Power), an amendment to Modification No. 6 dated December 1, 1976 to the Facilities and Operating Agreement dated May 1, 1967 between Ohio Power Co. and The Dayton Power and Light Co. (Dayton) designated Ohio's Rate Schedule FPC No. 36. Ohio Power states that Modification No. 6 was filed with the Commission on May 18, 1977.

Ohio Power further states that in the original filing, Applicant had requested inadvertently that Modification No. 6 become effective July 1, 1977. According to Ohio Power the amendment to Modification No. 6 is intended by the parties to correct said inadvertence by requesting the Modification become effective January 1, 1977. Ohio Power also requests that the Commission waive its 30-day notice requirement.

Ohio Power indicates that copies of this amendment were served upon Dayton and the Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Com-

mission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of the amended application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1257 Filed 1-16-78; 8:45 am]

## [6740-02]

[Docket No. ER78-163]

PACIFIC GAS AND ELECTRIC CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that on December 27, 1977, Pacific Gas and Electric Co. (PG&E) tendered for filing a notice of change in contract provisions regarding rates for certain off-peak energy sales to the State of California (State) under Article 20 of its Rate Schedule FPC No. 36. The present rate is to remain in effect until January 1, 1983. PG&E states that the proposed rates are designed to permit the company to recover its cost of providing off-peak service to the State pursuant to the contract during the five-year period commencing January 1, 1983.

PG&E proposes an effective date of January 1, 1983, and therefore requests waiver of the Commission's notice requirements.

PG&E further states that copies of this filing were served upon the State of California Department of Water Resources, the California Public Utilities Commission, Southern California Edison Co. and San Diego Gas and Electric Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file



with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc 78-1258 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-159]

PACIFIC POWER & LIGHT CO.

Initial Rate Filing

JANUARY 6, 1978.

Take notice that Pacific Power & Light Co. (Pacific) on December 27, 1977 tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for provisional power sales to San Diego Gas & Electric Co., Pacific Gas and Electric Co., and Southern California Edison Co.

Pacific requests waiver of the Commission's notice requirements to permit this rate schedule to become effective on November 17, 1977, which it claims is the date of commencement of service.

Pacific states that copies of this filing are being supplied to the purchasers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1248 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-165]

PHILADELPHIA ELECTRIC CO.

Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Philadelphia Electric Co. (Philadelphia) on December 30, 1977, tendered for filing proposed changes in its FERC electric service tariff applicable for service to the Borough of Lansdale. Philadelphia states that the proposed changes would increase revenues from jurisdictional

sales and service by \$704,100 based on the twelve-month period ending September 30, 1978. Philadelphia proposes an effective date of February 14, 1978. Philadelphia further states that copies of this filing were served upon the Borough of Lansdale and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
[FR Doc. 78-1249 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket ER78-164]

PHILADELPHIA ELECTRIC CO.

Tariff Change

JANUARY 11, 1978.

Take notice that Philadelphia Electric Co. (PE) on December 30, 1977, tendered for filing proposed changes to the tripartite agreement between PE, the Susquehanna Electric Co. (Susquehanna), and Conowingo Power Co. (Conowingo), dated May 1, 1972, for supply to Conowingo on file with the Commission as rate schedule FPC No. 36 of Philadelphia Electric Co. and rate schedule No. 2 of the Susquehanna Electric Co. PE states that the proposed changes would become effective on February 14, 1978, and are designed to increase revenues by \$2,195,800 for period II operations.

According to PE, copies of this filing have been supplied to Conowingo and the Public Service Commission of Maryland.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

mining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1259 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-51]

PUBLIC SERVICE ELECTRIC & GAS CO.

Filing of Electric Service Agreement

JANUARY 11, 1978.

Take notice that Public Service Electric & Gas Co. of New Jersey (Company) on December 13, 1977, tendered for filing an agreement for electric service to the Borough of Park Ridge, N.J.

Company indicates that the rate for service is a standard rate of the Company designated rate schedule FPC No. 60 and 61 which was accepted for filing by the Commission effective April 1, 1977, in Docket No. ER77-219. Company indicates that it has no other rate for similar service.

According to Company, copies of the filing were served upon the Borough of Park Ridge, N.J., the New Jersey Board of Public Utilities, and Rockland Electric Co.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before January 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
[FR Doc. 78-1260 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-171]

SAN DIEGO GAS & ELECTRIC CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that on January 3, 1978, San Diego Gas & Electric Co. (SDG&E) tendered for filing a notice

of change in contract provisions regarding rates for certain off-peak energy sales to the State of California (State) under articles 20 and 21 of its rate schedule FPC No. 18. The proposed effective date for the changed rate is January 1, 1983, and waiver of the Commission's notice requirements is therefore requested.

SDG&E states that the proposed rates are designed to permit the company to recover its cost of providing off-peak energy to the State pursuant to the contract commencing January 1, 1983.

According to SDG&E, copies of the filing were served upon the State of California Department of Water Resources, the California Public Utilities Commission, Southern California Edison Co., and Pacific Gas & Electric Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
[FR Doc. 78-1261 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-168]

SOUTHERN CALIFORNIA EDISON CO.

Proposed Tariff Change

JANUARY 11, 1978.

Take notice that Southern California Edison Co. (Edison) on December 29, 1977, tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreement with the City of Pasadena as embodied in rate schedule FPC No. 88. Edison indicates that the new rate for these services, which is proposed to be effective in January 1, 1978, is \$800 per month, and that is an increase of \$60 per month over that for the year 1977. Edison states that said filing is in accordance with terms of the agreement stating that the sum for these services will be redetermined prior to January 1 of each year based on Edison's budgeted amounts of money for load dispatching and pro-

duction section function expenses for that year. Edison failed to file thirty days prior to the date on which the new rate is to take effect and therefore requests waiver of the normal notice requirements to allow for effective date of January 1, 1978.

According to Edison copies of this filing were served upon the City of Pasadena and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 19, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
[FR Doc. 78-1262 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-170]

SOUTHERN CALIFORNIA EDISON CO.

Intent To Change Tariff

JANUARY 11, 1978.

Take notice that on December 30, 1977, Southern California Edison Co. (SCE) tendered for filing a notice that SCE intends to change effective January 1, 1983, the rate at which SCE offers off-peak energy to the State of California Department of Water Resources (DWR) under section 20 of the contract between State of California and California companies for the sale, interchange, and extra high voltage transmission of electric capacity and energy, dated August 1, 1967 (EHV contract). SCE states that for SCE said contract is embodied in rate schedule FPC No. 38. SCE proposes that the rate change, in accordance with the contract and applicable section, will not be effective until January 1, 1983. SCE contends that the current rate of \$0.003 (3 mills) per kilowatt-hour is not economically justifiable and would, if allowed to prevail in accordance with interpretations of the EHV contract, for the entire five year period of 1983-1988 place an undue burden on SCE's other ratepayers.

SCE further contends that Commission regulations under 18 CFR provide no mechanism for filing of a rate five

years in advance of its effective date. Accordingly, SCE in its filing requests staff suggestions pursuant to 18 CFR 35.6.

SCE states that its is uncertain as to whether sales under section 20 of the EHV contract are within the jurisdiction of the California Public Utilities Commission or within the jurisdiction of the Federal Energy Regulatory Commission. Therefore, SCE requests that this Commission determine the extent, if any, to which sales under section 20 of the EHV contract are within its jurisdiction.

According to SCE, copies of this filing were served upon the California companies, DWR and the California Public Utilities Commission.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 2, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.  
[FR Doc. 78-1263 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. ER78-169]

SOUTHERN CALIFORNIA EDISON

Proposed Tariff Change

JANUARY 6, 1978.

Take notice that Southern California Edison Co. (Edison) on December 29, 1977, tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreement with San Diego Gas & Electric Co. as embodied in rate schedule FPC No. 86. Edison indicates that the new rate for these services effective on January 1, 1978, is \$800 per month and that this is an increase of \$60 per month over that for the year 1977. Edison states that said filing is in accordance with terms of the agreement stating that the sum for these services will be redetermined prior to January 1 of each year based on Edison's budgeted amounts of money for load dispatching and production section function expenses for that year. Edison failed to file thirty days prior to the date on which the new rate is to



NOTICES

take effect and therefore requests waiver of the normal notice requirements to allow for an effective date of January 1, 1978.

According to Edison, copies of this filing were served upon San Diego Gas & Electric Co. and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest this application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 16, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1250 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. CP78-26]

UNITED GAS PIPE LINE CO.  
Amendment

JANUARY 6, 1978.

Take notice that on December 23, 1977, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-26 an amendment to its application in said docket for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to provide that the transportation of volumes of gas by United for the account of Marion Corp. (Marion) would be the lesser quantity of 50 percent of the daily quantity of gas delivered by Marion to United for purchase by United, or the daily quantity by which Mobile Gas Service Co. (Mobile) curtails Marion at its refinery located near Mobile, Ala., all as more fully set forth in the amendment on file with the Commission and open to public inspection.

The application in this docket requests authorization for United to transport up to 1,500 Mcf of gas per day for the account of Marion. United proposes to deliver said quantity of gas, less 1.5 percent for fuel and unaccounted for gas, to Mobile for the account of Marion. Mobile, in turn would deliver said quantity of gas to Marion for use in its refinery near Mobile, Ala., it is said.

It is indicated that Marion has developed a supply of gas in the Gwinville

field, Jefferson Davis County, Miss. Further, it is stated that pursuant to a gas purchase contract, dated June 9, 1977, as amended by amendatory agreement, dated December 6, 1977, United has the right to purchase all of the Gwinville field gas Marion has available; but Marion has the right to reserve for its own use a quantity of gas each day not to exceed the lesser of 50 percent of the quantity of gas delivered on such day by Marion to United at the delivery point provided thereunder or the quantity of gas by which Mobile is so curtailing Marion on each day. *Provided, however*, That the quantity of gas so reserved by Marion on any day shall not exceed 1,500 Mcf.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before January 26, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed need not file again.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1251 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket No. EL78-2]

VIRGINIA ELECTRIC & POWER CO.

Application To Sell Substation

JANUARY 11, 1978.

Take notice that Virginia Electric & Power Co. (VEPCO) on January 3, 1978, tendered for filing, pursuant to section 203(a) of the Federal Power Act, an application for approval of the sale by VEPCO to Shenandoah Valley Electric Cooperative (SVEC) of the 7,500/12,500 kVA, 115-24.9 kV distribution substation facilities at North River delivery point.

VEPCO indicates that the consideration for the proposed sale is \$67,766, which is the reproduction cost new, depreciated. VEPCO further indicates that the substation facilities have been and are being used by VEPCO to distribute power and energy to SVEC and will continue to be used by SVEC for the same purpose, and also for dis-

tribution of power within the SVEC system.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1264 Filed 1-16-78; 8:45 am]

[6740-02]

[Docket Nos. G-11682, et al.]

TEXACO INC., ET AL

Applications for Certificates, Abandonment of Service, and Petitions to Amend Certificates<sup>1</sup>

JANUARY 11, 1978.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and sub-

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

nence and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and sub-

KENNETH F. PLUMB,  
SECRETARY.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. <sup>3</sup> Pressure Base
G-11882	Texaco Inc., P.O. Box 3109, Midland, Tex. 79702.	Northern Natural Gas Co., Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
G-16139	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C165-145	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/22/77	Texaco Inc.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C165-926	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/22/77	Gulf Oil Corp.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-202	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-245	WEVA Oil Corp., 808 Main Street, Hingham, Mass. 02043.	Consolidated Gas Supply Corp., Wirt, Roane and Calhoun Counties, W. Va.	Leases expired or have been abandoned.
G-5392	Texaco Inc., P.O. Box 60232, New Orleans, La. 70160.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C165-689	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C167-1684	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C168-942	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-246	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/30/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-247	Glen N. Rupe, P.O. Box 2273, 434 Ohio, Wichita, Kans. 67201.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/20/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-248	W. W. Buchanan, Petroleum Commerce Bldg., 78206, San Antonio, Tex. 78206.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-249	Horizon Oil & Gas Co. of Texas, Harford Bldg., Dallas, Tex. 75201.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
C178-250	Kerr-McGee Corp., P.O. Box 25601, Oklahoma City, Okla. 73125.	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.
12/19/77	do	Barlow Field, Ochiltree County, Tex. 79702.	Leases expired or have been abandoned.

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Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft. <sup>3</sup> Pressure Base
C178-251	Sobito Petroleum Co., 50 Penn Place, Suite 1100, Oklahoma City, Okla. 73118.	Clites Service Gas Co., Elitz Well No. 1, Section 6, T28N, R9E, only from the Redfork Formation found between the depths of 3,237 and 3,370 feet in said well.	(*) 14.65
C178-252	The Superior Oil Co., P.O. Box 1521, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., Block 111, High Island Area, Offshore, Tex.	(*) 14.65
C178-253	Diamond Shamrock Corp., (Successor to The Shamrock Oil & Gas Corp.), P.O. Box 631, Amarillo, Tex. 79173.	Transcontinental Gas Pipe Line Corp., Block 111, High Island Area, Offshore, Tex.	(*) 14.65
C178-254	Ashland Exploration, Inc. (Successor in Interest to Ashland Oil, Inc.), P.O. Box 1503, Houston, Tex. 77001.	Western Transmission Corp., No. 13-22 Well located in Section 22-T16N-R91W, Carbon County, Wyo.	(*) 15.025
C178-255	Chvron U.S.A. Inc., 1111 Texas Ave., New Orleans, La. 70112.	United Gas Pipe Line Co., (Successor in Interest to SUIA Company), Block 111, Unit in the West Deer Parish, La.	(*) 15.025
C178-256	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage in Block 307 (E/2), Eugene Island South Addition Area, Offshore, La.	(*) 15.025
C178-257	Rex Monahan, Box 1231, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Koyo Logan County, Colo.	(*) 14.65
C178-258	Napoco, Inc., 122 South Michigan Avenue, Chicago, Ill. 60603.	Natural Gas Pipeline Co. of America, Bowen No. B-1 Well, Panola County, Tex.	(*) 14.65
C178-259	Vanadium Gas & Oil Co. (previously E. C. Wedell and Hydrocarbon Facilities, Inc.), 111 West Douglas, Wichita, Kans. 67202.	Northern Natural Gas Co., Northern Natural Gas Co's meter site (E.C. Wedell meter station) in the SW 1/4 of Section 22-T16N-R13W, Barton County, Kans.	Uneconomical and depleted.

<sup>1</sup> Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

<sup>2</sup> Applicant is requesting abandonment only with respect to sands below the Pocono Formation which has not been exploited and/or developed, in order to drill new wells necessary to explore the deep formation; and any gas so recovered in its subject formation will be committed to interstate sales.

<sup>3</sup> Applicant is filing under Gas Purchase Contract dated Nov. 16, 1977.

<sup>4</sup> Applicant is filing under Contract with United dated Oct. 1, 1977.

Filing code:  
A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.  
D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

[FR Doc. 78-1142 Filed 1-16-78; 8:45 am]



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# NOTICES

[67612-01]

[Supplement No. 8]

## CANADA-U.S.A. FM BROADCASTING AGREEMENT OF 1947

Amendment of Table A

JANUARY 5, 1978.

Supplement No. 6 to the Table of Canadian FM Broadcasting Channel Assignments and Allocations within

250 miles of the Canada-U.S.A. Border, dated December 27, 1977, as revised April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canada-U.S.A. FM Broadcasting Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic Table of Allocations may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau, Federal Communications Commission.

FM ENGINEERING DATA BASE LISTING - INDEX KEY STATE, CITY, FREQ  
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU

DEC 27, 1977 PAGE

\*\*\*NOTICE\*\*\* UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION \*\*\*NOTICE\*\*\*

LONDON ON 248 B 42-59-02.0  
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USA  
SPECIAL NEGOTIATED SHORT-SPACED ALLOCATION.

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[FR Doc. 70-1102 Filed 1-16-78; 8:45 am]

# NOTICES

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[6712-01]

[Supplement No. 1]

## MEXICO-U.S.A. TELEVISION AGREEMENT OF 1952

Amendment of Table A

JANUARY 5, 1978.

Supplement No. 1 to the Table of Mexican Television Channel Assignments and Allocations within 250

miles of the Mexico-U.S.A. Border, dated December 27, 1977, as revised April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Mexico and the Federal Communications Commission, Table A of the Mexico-U.S.A. Television Agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Mexican Department of Frequencies.

Copies of the list may be obtained from Downtown Copy Center, 1730 K Street, NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau, Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX KEY STATE, CITY, CHAN  
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU

DEC 27, 1977 PAGE 1

\*\*\*NOTICE\*\*\* UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION \*\*\*NOTICE\*\*\*

CO REYNOSA TA 26-05-50.0 17 Z  
ZONE 3 \*\*USA BORDER\*\* 98-16-42.0

771103



[FR Doc. 78-1101 Filed 1-16-78; 8:45 am]



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[6712-01]

[Supplement No. 8]

**CANADIAN TELEVISION CHANNEL ASSIGNMENTS AND ALLOCATION**

**Amendment of Table**

JANUARY 5, 1978.

Amendment of table A of the Canada-United States of American Television Agreement of 1952 (TIAS-2594).

**NOTICES**

Supplement No. 8 to the table of Canadian television channel assignments and allocations within 250 miles of the Canada-United States of America border, dated December 27, 1977, as revised to April 12, 1977.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, table A of the Canada-United States of America television agreement has been amended as set forth in the attached list. It is to be noted that those representing assignments will indicate

call signs plus parameters.

Further additions, changes, and deletions will be issued as reported to the Commission by the Canadian Department of Communications.

Copies of the basic table of allocations may be obtained from Downtown Copy Center, 1730 K Street NW., Washington, D.C. 20036, telephone 202-452-1422.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau, Federal Communications Commission.

TV ENGINEERING DATA BASE LISTING - INDEX BY STATE, CITY, CHAN									
FEDERAL COMMUNICATIONS COMMISSION - BROADCAST BUREAU									
***NOTICE*** UNOFFICIAL SECONDARY SOURCE. USE PRIMARY SOURCES FOR OFFICIAL INFORMATION ***NOTICE***									
CBCATV01	CO LIC	ETZIKOM	AB	49-33-59.0	12 +	66(KW)	482(FT)		771216
		ZONE 2	**USA BORDER**	111-07-52.0	DA	HOR			
CHEKTV	CO APP	VICTORIA	BC	48-46-28.0	06 Z	100(KW)	1628(FT)	CHEK TV LTD	771103
		ZONE 2	**USA BORDER**	123-10-10.0		HOR		CANADIAN PROPOSAL	
CBWGT02	CO LIC	FAIRFORD	MB	51-42-50.0	07 -	4(KW)	308(FT)		771103
		ZONE 2	**USA BORDER**	98-34-50.0	DA	HOR			
	CO	LAC DU BONNET	MB	50-18-00.0	05 -				771117
		ZONE 2	**USA BORDER**	96-04-00.0					
CBWAT	CO LIC	KENORA	ON	49-46-13.0	08 Z	16(KW)	433(FT)	CANADIAN BCTING CORP	771216
		ZONE 2	**USA BORDER**	94-30-13.0	DA	HOR			
CBWOT01	CO LIC	STOUX LOOKOUT	ON	50-04-31.0	12 +	72(KW)	664(FT)		771216
		ZONE 2	**USA BORDER**	92-01-40.0	DA	HOR			
NEW	CO	TORONTO	ON	43-38-33.0	45 Z	1381(KW)	1645(FT)		771117
		ZONE 1	**USA BORDER**	79-23-15.0	BT	HOR			
	CO	BAIE COMEAU	QU	49-13-00.0	07 -				771103
		ZONE 2	**USA BORDER**	68-09-00.0					
	CO	GRANDE VALLES	QU	49-13-00.0	06 -				771103
		ZONE 2	**USA BORDER**	65-08-00.0					
NEW	CO	HULL	QU	43-30-11.0	40 Z	1022(KW)	1184(FT)	RADIO NORD, INC.	771205
		ZONE 1		75-51-02.0	DA	BT HOR		CANADIAN PROPOSAL	
NEW	CO	HULL	QU	43-30-11.0	40 Z	1026(KW)	1157(FT)	TELE-METROPOLE, INC.	771205
		ZONE 1		75-51-02.0	DA	BT HOR		CANADIAN PROPOSAL	
	CO	MURDOCHVILLE	QU	48-58-00.0	10 -				771103
		ZONE 2	**USA BORDER**	65-31-00.0					
CBKFT	CO LIC	REGINA	SA	50-28-58.0	13 -	319(KW)	589(FT)		771103
		ZONE 2	**USA BORDER**	104-30-20.0	DA	HOR			
CICCTV	CO LIC	YORKTON	SA	51-12-33.0	10 Z	56(KW)	0444(FT)		771216
		ZONE 2	**USA BORDER**	102-43-59.0		HOR			

[FR Doc. 78-1271 Filed 1-16-78; 8:45 am]

**NOTICES**

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[6712-01]

[Report No. I-425]

**COMMON CARRIER SERVICES INFORMATION**

**International and Satellite Radio Applications Accepted for Filing**

JANUARY 9, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

**SATELLITE COMMUNICATIONS SERVICES**

TX-150-DSE-P-78 New World Cable TV, Rockdale, Tex. Authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°39'54"N., Long. 97°12'03" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MN-201-DSE-P/L-78 Fosston Cable TV, Fosston, Minn. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 47°34'14"N., Long. 95°42'28" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

NB-202-DSE-P/L-78 Beatrice Cable TV Co., Beatrice, Nebr. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°14'37"N., Long. 96°43'21" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

MT-203-DSE-P/L-78 Community Telecommunications, Inc., Butte, Mont. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°59'58" N., Long. 112°31'55" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

UT-205-DSE-P/L-78 Community Telecommunications, Inc., Ogden, Utah. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°13'46" N., Long. 111°58'41" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA-206-DSE-P-78 Northern California Educational Television Association, Inc., Redding, Calif. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°34'30" N., Long. 122°21'20" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

TX-207-DSE-P/L-78 Williamson County Cablevision Co., Georgetown, Tex. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 30°38'35" N., Long. 97°40'13" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MA-208-DSE-P-78 WGBH Educational Foundation, Needham, Mass. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 42°18'35" N., Long. 71°14'16" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

OK-209-DSE-P/L-78 Com-West, Inc., Duncan, Okla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°43'25" N., Long. 111°51'17" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

UT-210-DSE-P/L-78 Community Television of Utah, Salt Lake City, Utah. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°43'25" N., Long. 111°51'17" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NY-211-DSE-P/L-78 Petra Cablevision Corp., Central Islip, N.Y. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°46'05" N., Long. 73°12'20" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

KS-212-DSE-P/L-78 Mid American Cable Systems of Olathe, Inc., Olathe, Kans. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°55'10" N., Long. 94°47'47" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

28-CSS-MP-78 Comsat General Corp., RCA Global Communications, Inc., Western Union International, Inc., and ITT World Communications, Inc. Application for modification of MARISAT space station construction permits in order to make available to Kokusai Denshin Denwa commercial space segment capacity in MARISAT satellites over the Indian and Pacific Oceans.

[FR Doc. 78-1273 Filed 1-16-78; 8:45 am]

[6712-01]

**RADIO TECHNICAL COMMISSION FOR MARINE SERVICES**

**Meetings**

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 71—"VHF Automated Radiotelephone Systems." Notice of 7th meeting—Wednesday, February 1, 1978, 10 a.m. (full day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

**AGENDA**

1. Call to order; Chairman's report.

2. Introduction of attendees; adoption of agenda.

3. Acceptance of SC-71 summary record.

4. Morning session (10 a.m.-11:45 a.m.).

Afternoon session (1:45 p.m.-3:45 p.m.).

(a) Report from U.S. representatives to IWP 5 second meeting in Geneva, January 1978.

(b) Discussion of nonpublic correspondence application for automated VHF/UHF communications.

(c) Preparation of agenda for further meeting on interface with public telephone network.

(d) Discussion of program for committee's action and schedule for accomplishing objective.

5. Other business.

6. Establishment of next meeting date.

John J. Renner, chairman, Advanced Technology Systems, Inc., 2425 Wilson Boulevard, Arlington, Va. 22201, phone 703-525-2664.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone 202-632-6490.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-1272 Filed 1-16-78; 8:45 am]

[6730-01]

**FEDERAL MARITIME COMMISSION**

**AGREEMENTS FILED**

**Correction**

The notice of the filing of "Agreements Nos. 10140-5 and 10140-6" published January 3, 1978 (43 FR 35) is corrected to read "Agreements Nos. 10140-7 and 10140-6." That notice is further corrected by inserting the designation "Agreement No. 10140-7" in all instances where "Agreement No. 10140-5" now appears. The notice is correct in all other respects. Time for comments remains unchanged.

By order of the Federal Maritime Commission.

Dated: January 12, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-1294 Filed 1-16-78; 8:45 am]



## [6730-01]

[Independent Ocean Freight Forwarder License No. 1440]

## SURFACEAIR MULTI-MODAL CORP.

## Order of Revocation

On January 3, 1978, Surfaceair Multi-Modal Corp. voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1440 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 1440, issued to Surfaceair Multi-Modal Corp., be and is hereby revoked effective January 3, 1978, without prejudice to reapply for a license in the future.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Surfaceair Multi-Modal Corp.

LEROY F. FULLER,  
Director, Bureau of  
Certification and Licensing.  
[FR Doc. 78-1293 Filed 1-16-78; 8:45 am]

## [6210-01]

## FEDERAL RESERVE SYSTEM

## MATERIAL SCHEDULED TO BE DISCUSSED AT OPEN BOARD MEETINGS

## Procedure for Processing Requests

For the information of the public, the Secretary of the Board of Governors of the Federal Reserve System has outlined the following procedures that are in effect at the Board for the processing of requests for copies of memoranda and other material scheduled to be discussed at meetings of the Board that are open to public observation.

As required by law, the Secretary of the Board regularly makes public announcement of the agenda for each open meeting at least one week in advance of the meeting. Members of the public who wish to request copies of materials scheduled to be discussed at such a meeting should make their requests to the Secretary as far in advance of the meeting as possible in accordance with the Board's rules regarding availability of information, 12 CFR Part 261. In any case, the request should be received by the close of business two working days prior to the meeting.

Because such materials may be helpful to the requesting party if they are available for use at the open meeting to which they relate, the Secretary gives such requests priority treatment. Requested materials are made available by the time of the meeting unless

## NOTICES

there is insufficient opportunity to process the request or a determination is made to invoke an applicable exemption from disclosure.

Requests for materials to be discussed in open meetings should be in writing and addressed to the Secretary. They may be presented during business hours at the Board's Freedom of Information Office, Room 1228, Federal Reserve Building, 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, January 12, 1978.

THEODORE E. ALLISON,  
Secretary of the Board.

[FR Doc. 78-1269 Filed 1-16-78; 8:45 am]

## [6210-01]

## UNION BANCORPORATION, INC.

## Formation of Bank Holding Company

Union Bancorporation, Inc., Oklahoma City, Okla., has applied for the Board's approval under subsection 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Union Bank & Trust Co., Oklahoma City, Okla. The factors that are considered in acting on the application are set forth in subsection 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 8, 1978.

Board of Governors of the Federal Reserve System, January 11, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 78-1270 Filed 1-16-78; 8:45 am]

## [4110-88]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health  
Administration

CRIME AND DELINQUENCY REVIEW  
COMMITTEE

## Changed Meeting Information

In FR Doc. 77-36292, appearing on page 63816 in the issue of Tuesday, December 20, 1977, the location of the January 18-20 meeting of the Crime and Delinquency Review Committee has been changed to the Gallery Room of the Dupont Plaza Hotel, Connecticut and Massachusetts Avenue NW., Washington, D.C. All other information remains as published December 20.

Dated: January 11, 1978.

CAROLYN T. EVANS,  
Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administration.  
[FR Doc. 78-1204 Filed 1-16-78; 8:45 am]

## [4110-88]

NATIONAL ADVISORY MENTAL HEALTH  
COUNCIL

## Changed Meeting Information

Notice of the January 23-25 meeting was provided in FR Doc. 77-36292 appearing at page 63816 in the issue of Tuesday, December 20, 1977, and an amended notice appeared in FR Doc. 77-36974 on page 65267 in the issue of Friday, December 30, 1977, to announce that the policy session on January 23 from 9:30 a.m. to adjournment, which is open to the public, would be held in Conference Room F of the Parklawn Building, and that the grant review sessions on January 24 and 25, which are not open to the public, would be held in Conference Room 14-105, Parklawn Building, as previously announced.

The time for the policy session has now been changed to 9:30 a.m. to 3:30 p.m. on January 23 in conference Room F. The grant review session will begin in Conference Room 14-105 on January 23 immediately following the policy session.

Dated: January 11, 1978.

CAROLYN T. EVANS,  
Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administration.  
[FR Doc. 78-1203 Filed 1-16-78; 8:45 am]

## [4110-03]

## Food and Drug Administration

[Docket No. 77D-0281]

BRAZIL NUTS, PISTACHIO NUTS, AND OTHER  
FOODS AND FEEDS

## Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the availability of revised administrative guidelines pertaining to the analytical methods used to confirm the presence of aflatoxin in Brazil nuts, pistachio nuts, and other foods and feeds.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington D.C. 20204, 202-245-3092.

**SUPPLEMENTARY INFORMATION:** The previous guidelines for aflatoxin in Brazil nuts, pistachio nuts, and other foods and feeds were established in 1973. Since that time, as required by the guidelines, confirmatory analyses for aflatoxin have been performed using two procedures, one consisting of a chemical derivation of aflatoxin, the other a lengthy chicken embryo bioassay for aflatoxin B<sub>1</sub> toxicity. The chicken embryo bioassay confirmation takes a little more than 3 calendar weeks to perform, and regulatory action must await the bioassay results. The need for quick and reliable analytical procedures is readily recognized.

The Food and Drug Administration has reviewed data since 1964, which show that confirmation of aflatoxin B<sub>1</sub> by the chemical derivation has, without exception, been corroborated by the chicken embryo bioassay. Thus, the chemical test can stand alone as the confirmatory test for aflatoxin for Brazil nuts, pistachio nuts, coconut meal, copra, corn and corn products, and cottonseed meal, the products covered by the FDA review.

Accordingly, the following revisions in the Administrative Guidelines (Chapter 12—Brazil nuts and Pistachio nuts; Chapter 20—Food and Feed) have been made:

1. *Brazil nuts, adulteration— aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxin in Brazil nuts and deletes the requirement for the chicken embryo bioassay.

2. *Pistachio nuts, adulteration— aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxins in pistachio nuts and deletes the requirement for the chicken embryo bioassay.

3. *Foods and Feeds, adulteration— aflatoxin.*—This revision updates references to analytical methodology used for the isolation and confirmation of aflatoxins for specific commodities of foods and feeds and eliminates the requirement for the chicken embryo bioassay for aflatoxin B<sub>1</sub> toxicity in samples of corn, corn meal, coconut meal, copra, and cottonseed meal.

The level of aflatoxin permitted in Brazil nuts, pistachio nuts, and other foods and feeds covered by these guidelines has not changed. The new guidelines exclude certain commodities from the requirement that the chicken embryo bioassay method be

used before regulatory action can be taken on sample lots found violative.

## REFERENCES

A copy of each of the following references is on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m. Monday through Friday:

1. FDA Internal Memorandum of June 11, 1976 of the Division of Toxicology, Bureau of Foods, Food and Drug Administration.

2. FDA Internal Memorandum of June 2, 1976 from the Division of Chemistry and Physics to the Division of Regulatory Guidance, Bureau of Foods, Food and Drug Administration.

Copies of these revised guidelines are available for public examination at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding these action levels. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: December 15, 1977.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-1024 Filed 1-16-78; 8:45 am]

## [4110-03]

[Docket No. 77D-0303]

## CHOCOLATE AND CHOCOLATE LIQUOR

## Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is announcing the availability of revised administrative guidelines pertaining to defect action levels for chocolate and chocolate liquor.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

## NOTICES

**SUPPLEMENTARY INFORMATION:** Administrative guidelines represent the maximum levels for natural or unavoidable defects in foods produced under good manufacturing practices and are the levels used for recommending legal action. As field inspection activities identify changing problems and as relevant technology changes, the various guidelines are updated to reflect current policy as it relates to specific products.

The following administrative guideline revisions have been made for chocolate and chocolate liquor, adulteration-insect and rodent filth:

1. The limit for microscopic insect filth in a single 100-gram subsample has been lowered from 100 to 90 fragments.

2. The limit for rodent filth in the average of six or more 100-gram subsamples has been lowered from 1.5 rodent hairs to 1.0 rodent hair.

Copies of the revised guidelines are available for public examination at the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding these action levels. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: January 9, 1978.

JOSEPH P. HILE,  
Associate Commissioner  
for Compliance.

[FR Doc. 78-1025 Filed 1-16-78; 8:45 am]

## [4110-03]

[Docket No. 77F-0374]

## DeLAVAL SEPARATOR CO.

## Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The DeLaval Separator Co. has filed a petition proposing that the food additive regulations be amended to provide for the use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street



SW., Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 6A3170) has been filed by DeLaval Separator Co., 350 Dutchess Turnpike, Poughkeepsie, N.Y. 12602, proposing that the food additive regulations be amended to provide for the use of sodium lauryl sulfate as a wetting agent in the partition of high and low melting fractions of crude vegetable oils and animal fats.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 6, 1978.

HOWARD R. ROBERTS,  
Acting Director of  
Bureau of Foods.

[FR Doc. 78-1022 Filed 1-16-78; 8:45 am]

#### [4110-03]

##### IMPORTATION OF DRY MILK PRODUCTS

Memorandum of Understanding With the Swedish Government Control Board of Dairy Products and Eggs

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has executed a memorandum of understanding with the Swedish Government Control Board of Dairy Products and Eggs. The purpose of the understanding is to set forth cooperative working arrangements to facilitate, simplify, and expedite the importation of dry milk products into the United States.

**DATE:** The agreement became effective November 2, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

**SUPPLEMENTARY INFORMATION:** Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future

#### NOTICES

memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

**MEMORANDUM OF UNDERSTANDING BETWEEN THE FOOD AND DRUG ADMINISTRATION, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND THE SWEDISH GOVERNMENT CONTROL BOARD OF DAIRY PRODUCTS AND EGGS, KMA, SWEDEN EXPORTING DRY MILK PRODUCTS TO THE UNITED STATES OF AMERICA**

##### OBJECTIVES

It is the aim of the parties to this Memorandum of Understanding to facilitate, simplify and expedite the importation of dry milk products into the United States of America; to improve compliance with regulations enforced by the Food and Drug Administration by assuring that contaminated or underprocessed dry milk products will not be exported to the United States; to minimize, and in the future, diminish the risk of lots of dry milk products being denied entry because of failure to comply with FDA regulations; and to eventually reduce the need for extensive sampling of dry milk products from Sweden to assure that they meet the requirements of the laws and regulations enforced by the Food and Drug Administration.

##### DEFINITIONS

For purposes of this Memorandum, both parties agree to the definitions following:

**Dry Milk Products.**—Dry Milk products include non-fat dry milk, whole milk powder, dried whey, buttermilk powder, casein and caseinates.

**Lot.**—A lot is a quantity of dry milk product produced during a discrete period of time, not exceeding one day's production by one manufacturer, in one continuous process using a single processing line, packaged in identical containers identified by a code or mark traceable to the manufacturer.

**Salmonella-negative.**—The absence of *Salmonella* (including *S. arizonae*) in 30/25 gram portions each taken from a single lot of dry milk product and reconstituted individually or composited and tested by procedures outlined in the Bacteriological Analytical Manual (BAM), Fourth Edition; or in Methods of Analysis—AOAC, Twelfth Edition, except using 30/25 gram portions instead of the 100 gram portions stated in BAM and AOAC.

**Phosphatase negative.**—Each of the 30 reconstituted 25 gram portions or composited units of dry milk product contains less than 1 microgram of phenol per milliliter of milk when tested by the Scharer Rapid Method indicating no underpasteurization or contamination with raw milk.

**Penicillin negative.**—Each of the 30/25 gram portions individually reconstituted or composited before reconstituting, contains less than .01 of an International Unit of penicillin G per milliliter of milk when tested by the *S. lutea* cylinder method, or by the *B. steurothermophilus*, variety caldolat, disk assay method normally used in Sweden for this purpose.

##### OBLIGATIONS OF PARTICIPANTS

**The Swedish Government Control Board of Dairy Products and Eggs, KMA, SWEDEN**

1. The Swedish Government Control Board of Dairy Products and Eggs, KMA,

Sweden, agrees to inspect each lot of dry milk product produced in Sweden and offered for certification and exportation to the United States of America to assure that the lot is *Salmonella* negative, phosphatase negative, and penicillin negative.

2. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to issue a separate certificate for only those lots which meet the criteria of 1., above. Any lot offered for certification which fails to meet such criteria will be denied export to the United States of America.

3. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden agrees to require all containers in each lot exported to the United States of America under certificate, to be identified by a lot number and marked with all the information required by the Food, Drug, and Cosmetic Act.

4. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to include in the certificate for each lot exported to the United States of America the following information:

- a. Lot identification, including name and address of manufacturer;
- b. Number and size of containers, in the lot;
- c. Analytical results for *Salmonella*, phosphatase, and penicillin;
- d. Date of the certificate; and,
- e. Name and stamp, or seal of authorizing official.

The validated certificate will accompany the shipping manifest.

5. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to furnish to the Food and Drug Administration a copy of the regulations, and procedures used to assure that dry milk products are sanitary.

6. The Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden, agrees to furnish to the Food and Drug Administration a full description of the manufacturing processes and quality controls used to assure the production of sanitary dry milk products.

##### The Food and Drug Administration

The Food and Drug Administration (FDA) of the Department of Health, Education and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act and Fair Packaging and Labeling Act. In fulfilling its responsibilities under the Acts, FDA directs its activities toward the protection of the public health of the United States of America by ensuring that foods are safe and wholesome and that products are honestly and informatively labeled. This is accomplished by inspecting the processing and distribution of foods and by collecting and examining samples to assure compliance with these Acts. To carry out these responsibilities as they relate to imported dry milk products and in fulfillment of its Memorandum of Understanding commitment:

1. The Food and Drug Administration will sample dry milk products certificated under this Memorandum of Understanding to assure that the exporting country and the exported products comply with specifications set forth in this agreement. The intensity of sampling may be reduced on gaining confidence in the compliance of the products to these specifications. The FDA may also check for other attributes to make sure the products also comply with the other re-

#### NOTICES

quirements of the Food, Drug, and Cosmetic Act, and the Fair Packaging and Labeling Act.

2. Information obtained by the Food and Drug Administration through its audit sampling will be shared with the Commercial Office of the Royal Swedish Embassy.

3. The Commercial Office of the Royal Swedish Embassy will be promptly notified by the Food and Drug Administration of any detention of dry milk products covered by this Memorandum and also of modifications in the regulations.

4. The Food and Drug Administration will share expertise and will provide consultative assistance to the exporting country when necessary to assure the safety of the dry milk products exported to the United States of America.

5. If audit sampling discloses that certified dry milk products are not conforming to the requirements of the MOU and if adequate steps are not taken to correct the situation after proper notification, the Food and Drug Administration may propose termination of the Memorandum of Understanding.

##### Sample Collection

The same subsamples will be used for determining the presence of *Salmonella*, phosphatase and penicillin residues. They will be collected as follows: Following aseptic techniques, 30 subsamples each containing approximately 100 grams will be randomly collected from each lot. If the lot contains packaged units weighing approximately 225 grams (about 8 ounces) or less, but more than 100 grams, 30 of these units will be randomly collected; unopened, from the lot.

##### Analytical Methodology

The subsamples of dry milk products will be aseptically reconstituted. To reduce the analytical workload, the subsamples collected from a lot may be combined to give 2 to 10 composites at the option of the testing laboratory and reconstituted. Examples of compositing combinations are given in Attachment A.

1. **Salmonella.** Reconstituted dry milk products will first be analyzed for presence of *Salmonella* according to the methods contained in:

a. *Bacteriological Analytical Manual*, Fourth Edition, 1976, Chapter VI—Detection and Identification of *Salmonella*, including *Arizona*, or in

b. *Methods of Analysis—AOAC*, Twelfth Edition, 1975, Chapter 46, Microanalytical Methods, Section 46.013, et. seq. (Note: Both (a) and (b) give methods based upon 100 gram samples.)

Lots of dry milk products that are positive

<sup>1</sup>Filed as part of the original document.

for *Salmonella* will not be certified for export to the United States.

2. **Phosphatase.** Reconstituted dry milk products will be tested for phosphatase activity by the Scharer Rapid Method for Phosphatase Analysis, described in *Standard Methods for the Examination of Dairy Products*, Thirteenth Edition, 1972, Section 18.4.

Lots of dry milk products demonstrating positive phosphatase activity will not be certified for export to the United States.

3. **Penicillin.** Reconstituted dry milk products will be tested for penicillin residues by either the *S. lutea* cylinder method as described in *Methods of Analysis—AOAC*, Twelfth Edition, Section 42.252 et. seq., p. 812-813; or, by the *B. steurothermophilus*, variety caldolat, disk assay method described in the *International Standard FIL-IDF 57:1970* of the International Dairy Federation normally used in Sweden for this purpose.

While the Swedish Government Control Board of Dairy Products and Eggs, KMA, Sweden may choose to use either of these methods for certification of lots, FDA will continue to use the *S. lutea* cylinder method, which is an official AOAC method, in its regulatory enforcement to assure that imported dry milk products are free of penicillin residues.

Lots of dry milk products found to be penicillin positive, will not be certified for export to the United States.

##### References of Analytical Methods Cited in This MOU

1. *Bacteriological Analytical Manual*, Fourth Edition, 1976, The Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

2. *Methods of Analysis—AOAC*, Twelfth Edition, 1975, The Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

3. *Standard Methods for the Examination of Dairy Products*, Thirteenth Edition, 1972, American Public Health Association, 1015 Eighteenth Street, NW., Washington, D.C. 20036.

4. *The International Standard FIL-IDF 157: 1970*, International Dairy Federation, General Secretariat, Square Vergote 41, Brussels, Belgium.

##### Modification and Termination of the MOU

Changes in this Memorandum of Understanding may be proposed by either of the participants. When the proposed changes are acceptable to both participants, they will be incorporated into the Memorandum.

This Memorandum of Understanding will become effective 90 days after signature by

the participants, and will remain in effect pending revocation by either participant. Upon its effective date, this Memorandum of Understanding will be published in the FEDERAL REGISTER. A copy will be available for public review at the office of the Hearing Clerk, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

In witness whereof, the countries have executed this Memorandum of Understanding. For the Swedish Government Board of Dairy Products and Eggs, KMA, Sweden:

TORRE FRENNEBORN,  
Managing Director, Sweden.

Date: August 15, 1977.

For the Food and Drug Administration:

DONALD KENNEDY,  
Commissioner of Food and Drugs,  
United States of America.

Date: November 2, 1977.

Effective date: This memorandum of understanding became effective November 2, 1977.

Dated: January 9, 1978.

JOSEPH P. HILE,  
Associate Commissioner for  
Compliance.

[FR Doc. 78-1021 Filed 1-16-78; 8:45 am]

#### [4110-03]

##### OPHTHALMIC DEVICE CLASSIFICATION PANEL

##### Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. 1)), and FDA regulations (21CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Ophthalmic Device Classification Panel	Feb. 16 and 17, 9 a.m. room 503/507A, 200 Independence Ave. SW., Washington, D.C.	Closed deliberations, Feb. 16, 9 to 11:30 a.m.; open public hearing, Feb. 16, 12:30 to 1:30 p.m.; open committee discussion, Feb. 16, 1:30 to 5 p.m.; open public hearing Feb. 17, 9 to 10 a.m.; open committee discussion, Feb. 17, 10 a.m. to 5 p.m.; Max W. Talbott, Ph. D. (HFC-450), 8757 Georgia Ave., Silver Spring, Md. 20910, 301-427-7538.

**General function of the committee.** Reviews and evaluates available data concerning the safety and effective-

ness of devices currently in use and makes recommendations for their regulation.

**Agenda—Open public hearing.** Interested persons are encouraged to pre-



sent to the executive secretary information pertinent to: (1) preclinical and manufacturing guidelines for intraocular lenses and (2) exemption of Class I ophthalmic devices from certain registration requirements. Submission of data on tentative classification findings is also invited. Those desiring to make formal presentations should notify the executive secretary by February 3, 1978, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their presentations.

**Open committee discussion.** Discussions will concern the subjects listed under the open public hearing. The panel will also discuss any other pertinent items concerning ophthalmic devices.

**Closed committee deliberations.** The panel will review premarket approval applications for ophthalmic devices. These reviews will be conducted in closed session because of trade secret data contained in the applications (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance

of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permit such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review,

discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably, deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Dated: January 9, 1978.

SHERWIN GARDNER,  
Acting Commissioner of  
Food and Drugs.

(FR Doc. 78-1023 Filed 1-16-78; 8:45 am)

[4110-03]

[FDA-225-78-4000]

**INSPECTION OF ALLEGHENY COUNTY, PA,  
FOOD PROCESSING, STORAGE, AND SERVICE  
FACILITIES AND INTERSTATE CARRIER  
SUPPORT FACILITIES**

Memorandum of Understanding with the  
Allegheny County Health Department

AGENCY: Food and Drug Administration.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has executed a memorandum of understanding with Allegheny County (Pennsylvania) Health Department. The purpose of the memorandum is to set forth cooperative working arrangements to be followed in the inspection of Allegheny County food processing, storage, and service facilities of mutual obligation and interstate carrier support facilities.

**DATES:** The agreement became effective November 18, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3470.

**SUPPLEMENTARY INFORMATION:** Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of understanding:

**MEMORANDUM OF UNDERSTANDING BETWEEN  
ALLEGHENY COUNTY HEALTH DEPARTMENT  
AND PHILADELPHIA DISTRICT OFFICE, U.S.  
FOOD AND DRUG ADMINISTRATION**

**I. PURPOSE**

It is the purpose of this understanding to provide more effective consumer protection through the more efficient utilization of County and Federal manpower and resources in the inspection of food processing, storage, and service facilities and interstate carrier support facilities in Allegheny County, Pa.

**II. OBJECTIVE**

To coordinate County and Federal regulation of food processing, storage, and service facilities and interstate carrier support facilities in Allegheny County, Pa., by means of a joint system of planning, inspection, sampling, data processing and compliance action.

**III. GENERAL PROVISIONS**

**A. Inspectional obligation**

1. **Inspection inventory.**—An inventory of facilities to be covered by this understanding will be developed by both agencies and maintained by FDA's data processing unit (DPU).

2. **Inspection frequency.**—a. **Food facilities.**—Inspections will be performed by County and Federal inspectional personnel (FDA inspections and FDA contracted inspections). Inspection frequency will be determined and a scheduling system will be developed during the term of this understanding.

b. **Interstate carrier.**—County inspectional personnel will conduct semi-annual inspections of each facility included in the inventory with follow-up inspections as necessary to determine compliance with regulations.

3. **Inspection format.**—a. **Food facilities.**—Inspection formats currently used by the participating agencies will remain unchanged during the term of this understanding unless both agencies agree to revisions.

b. **Interstate carrier.**—Each inspection will consist of an evaluation of water distribution systems, hydrants and appurtenances, sewage and solid waste disposal equipment, sanitary practices and insect and rodent control. Water samples will be collected from hydrants and bulk water trucks periodically for laboratory analysis for potability.

4. **Joint inspections.**—Inspections involving personnel of both agencies will be conducted as needed for training purposes, program evaluation or impact action.

5. **Inspection reporting.**—a. **Food facilities.**—Inspection reports will be maintained by each agency and provided to the partner agency for review if requested.

b. **Interstate carrier.**—Inspectional data will be obtained by County personnel and provided to FDA on forms supplied by FDA.

6. **Accomplishment data.**—a. **Food facilities.**—During the term of this understanding the need for retrieval of accomplishment data will be determined and a system will be devised for its retrieval if indicated.

b. **Interstate carrier.**—Data will be retrieved periodically and supplied by DPU to both agencies for program evaluation and planning purposes.

**B. Compliance actions**

1. **Food facilities.**—The agency which discovers a violation will be responsible for ob-

taining compliance either under its own authority or by referral to its partner agency. The partner agency will be informed of the violation discovery and of the status of the partner's corrective action and will refrain from inspecting the facility during the period of compliance activity. If indicated, the County will utilize the regulatory tools of embargo or condemnation when requested by FDA to correct a violative condition.

2. **Interstate carrier.**—a. **County action.**—Inspection reports will be directly transmitted to the responsible official at the support facility with copies routinely forwarded to the FDA District Office. Violations of a critical nature will be immediately brought to the District Office attention for decision regarding "Use-Prohibited" classification.

b. **FDA action.**—FDA will send letter of transmittal to all interstate carriers utilizing the facility for all classifications—Approved, Provisional and Use-Prohibited. FDA will notify carriers within 24 hours of "Use-Prohibited" classification.

**C. FDA commissioning**

During the term of this understanding the need for FDA commissions of county officials will be determined and obtained if indicated.

**D. Foodborne illness investigation**

The Deputy Director for Environmental Health of Allegheny County or his designee will promptly notify the director of FDA's Philadelphia Investigations Branch or his designee of suspected foodborne illnesses and request assistance as needed. FDA will provide requested assistance to the County and will be kept informed of the progress of County investigation by telephone and with copies of written investigation reports.

**E. Recall effectiveness checks**

Each agency will cooperate with the other in determining the effectiveness of product recalls in removing food products of public health significance from the market. The County will respond promptly within the limits of available manpower to FDA requests for assistance during recalls.

**F. Complaint investigations**

1. **Received by county.**—Complaints involving out-of-county food products will be investigated at the consumer level by the County and submitted to FDA for further follow-up investigation at the manufacturer if indicated.

2. **Received by FDA.**—FDA may refer complaints received which involve food products manufactured in the County or out-of-county products suspected of being adulterated while in the County to the County for follow-up investigation. FDA will refer such complaints to the County on forms FD-2516 and 2516a. The County will complete section 5b on 2516a to denote action taken and will return the form to FDA retaining one copy for its files.

**IV. PROGRAM REVIEW**

**A. Planning sessions**

Semi-annual joint planning sessions will be held during the term of this understanding to discuss the cooperative program, maintain effective communication, evaluate accomplishments and plan future objectives. The sessions will be alternated between the agencies with the host providing a meeting room and secretarial support for preparation of a record of the proceedings. Each session will be arranged for and moderated by FDA's Region III Assistant Food and

Drug Director for Intergovernmental Affairs.

**B. Performance evaluation**

Report review, periodic joint inspections and data appraisal will be used to evaluate program performance. Program inadequacies discovered during such evaluation will be discussed by both agencies and corrective measures immediately implemented.

**V. TERM OF UNDERSTANDING**

This understanding will expire on November 30, 1978, unless renewed and signed by the heads of both cooperating agencies to continue it in effect for another year.

This understanding in its entirety, or in part, may be revised by mutual consent or terminated upon thirty days' written notice by either agency.

Approved and accepted for the Allegheny County Health Department by:

FRANK B. CLACK, V.M.D.,  
Director.

Dated: November 18, 1977.

Approved and accepted for Philadelphia District, FDA, by:

LOREN Y. JOHNSON,  
District Director.

Dated: November 18, 1977.

Effective date: This memorandum of understanding became effective November 18, 1977.

Dated: January 9, 1978.

JOSEPH P. HILE,  
Associate Commissioner  
for Compliance.

(FR Doc. 78-1202 Filed 1-16-78; 8:45 am)

[1505-01]

[Docket No. 77P-0274]

HANOVER BRANDS, INC.

**Tomato Juice Deviating From Identity  
Standard; Temporary Permit for Market Testing  
Correction**

In FR Doc. 77-31925, appearing at page 57748 in the issue of Friday, November 4, 1977, the last line of the "Effective Date" paragraph should read, "1978" and the last line of the last full paragraph should read, "than February 2, 1978".

[1505-01]

[Docket No. 77N-0316]

PFIZER, INC., ET AL.

**Tetracycline (Chlortetracycline and Oxytetracycline)-Containing Premixes; Opportunity  
for Hearing**

**Correction**

In FR Doc. 77-30698, appearing at page 56264 in the issue of Friday, October 21, 1977, make the following changes:



## NOTICES

Dated: January 9, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-1064 Filed 1-16-78; 8:45 am)

## [4110-08]

REPORTS ON BIOASSAYS OF ALDRIN AND  
DIELDRIN FOR POSSIBLE CARCINOGENICITY

## Availability

Aldrin and dieldrin have been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. Reports on the tests of each compound are available to the public. One report concerns tests of aldrin and dieldrin with rats and mice; a second report concerns tests of dieldrin with a different rat species.

**Summary of Aldrin and Dieldrin Tests:** Bioassays of technical-grade aldrin and dieldrin for possible carcinogenicity were conducted by administering the test materials in feed to Osborne-Mendel rats and B6C3F1 mice.

**Aldrin:** Group of 50 rats of each sex were administered aldrin at one of two doses, either 30 or 60 ppm. Male rats were treated for 74 weeks, followed by 37-38 weeks of observation; female rats were treated for 80 weeks, followed by 32-33 weeks of observation. Matched controls consisted of groups of 10 untreated rats of each sex; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with 58 untreated males and 60 untreated females from similar bioassays of other chemicals. All surviving rats were killed at 111-113 weeks.

Groups of 50 mice of each sex were administered aldrin at one of two doses for 80 weeks, then observed for 10-13 weeks. Time-weighted average doses were 4 or 6 ppm for males and 3 or 6 ppm for females. Matched controls consisted of groups of 20 untreated male mice and 10 female mice; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with 92 untreated males and 79 untreated female mice from similar bioassays of other chemicals. All surviving mice were killed at 90-93 weeks.

Mean body weights attained by the rats and mice fed diets containing aldrin were similar to those of the controls during the first year of the study; however, mean body weights of the treated rats were lower than those of the controls during the second year of the study. Hyperexcitability was observed in all treated groups with increasing frequency and severity during the second year. Aldrin produced no significant effect on the mortality of

rats or of male mice, but there was a dose-related trend in the mortality of female mice, primarily due to the early deaths in the high-dose groups.

There was an increased combined incidence of follicular-cell adenoma and carcinoma of the thyroid both in male rats fed aldrin (matched controls 3/7, pooled controls 4/48, low-dose 14/38, high-dose 8/38) and female rats fed aldrin (matched controls 1/9, pooled controls 3/52, low-dose 10/39, high-dose 7/46). These incidences were significant in the low-dose but not in the high-dose groups both of males ( $P=0.001$ ) and females ( $P=0.009$ ) when compared with the pooled controls. Comparisons with matched controls, however, were not significant.

Cortical adenoma of the adrenal gland was also observed in aldrin-treated rats in significant proportions ( $P=0.001$ ) in low-dose (8/45) but not in high-dose (1/48) females when compared with pooled controls (0/55). Because these increased incidences were not consistently significant when compared with matched rather than pooled control groups, it is questionable whether the incidences of any of these adrenal tumors were associated with treatment.

In male mice, there was a significant dose-related increase in the incidence of hepatocellular carcinomas (matched controls 3/20, pooled controls 17/92, low-dose 16/49, high-dose 25/45 when compared with either matched controls ( $P=0.001$ ), or pooled controls ( $P<0.001$ ). The incidence in the high-dose group was significant when compared with matched controls ( $P=0.002$ ) or pooled controls ( $P<0.001$ ).

**Dieldrin:** Groups of 50 rats and 50 mice of each sex were administered dieldrin at one of two doses. Low dose rats and both low- and high-dose mice were treated for 80 weeks, followed by observation periods of 30-31 weeks for rats and 10-13 weeks for mice. Treatment of high-dose rats was terminated after 59 weeks and followed by 51-52 weeks of observation. Time-weighted average doses for rats were 29 or 65 ppm; doses for mice were 2.5 or 5 ppm. Matched controls consisted of groups of 10 untreated rats of each sex and 20 untreated male mice and 10 female mice; pooled controls, used for statistical evaluation, consisted of the matched-control groups combined with untreated animals from similar bioassays of other chemicals (58 male and 60 female rats, 92 male and 79 female mice). All surviving rats were killed at 110-111 weeks, and all surviving mice at 90-93 weeks.

Mean body weights attained by the rats and mice fed diets containing dieldrin showed little or no difference compared with those of the controls during the first year of the study; however, mean body weights of the

treated rats were lower than those of the controls during the second year of the study. Hyperexcitability was observed in all treated groups with increasing frequency during the second year, especially in high-dose rats.

There was a marked increase in the mortality rate of rats during the first 90 weeks of the study. However, because of the high rates of mortality in the control groups during the remaining 20 weeks, survival could not be shown to be statistically dose responsive.

In rats, there was a significant ( $P=0.007$ ) difference between the combined incidence of adrenal cortical adenoma or carcinoma in the low-dose females (6/45) and that in the pooled controls (0/55). Although this tumor was also found in animals treated with aldrin, it is not clearly associated with treatment, because the incidence in the high-dose (2/40) was not significant, and the incidences were not significant when matched, rather than pooled, controls were used for comparison.

In male mice, there was a significant positive dose-related trend ( $P=0.020$ ) in the incidence of hepatocellular carcinomas using the pooled controls (pooled controls 17/92, low-dose 12/50, high-dose 16/45). When high-dose males were compared with the pooled controls, the results were also significant ( $P=0.025$ ).

It is concluded that under the conditions of these bioassays, none of the tumors occurring in Osborne-Mendel rats treated with aldrin or dieldrin could clearly be associated with treatment. Aldrin was carcinogenic for the liver of male B6C3F1 mice producing hepatocellular carcinomas. With dieldrin, there was a significant increase in the incidence of hepatocellular carcinomas in the high-dose males which may be associated with treatment.

**Summary of Dieldrin Test:** A bioassay of purified technical-grade dieldrin for possible carcinogenicity was conducted by administering the test chemical in feed to Fischer 344 rats.

Groups of 24 rats of each sex were administered dieldrin at one of three doses, either 2, 10, or 50 ppm, for 104-105 weeks. Matched controls consisted of groups of 24 untreated rats of each sex. All surviving rats were killed at 104-105 weeks.

Body weights of the rats were essentially unaffected by the treatment, but typical signs of organochlorine intoxication including hyperexcitability, tremors, and coma were observed in high-dose males beginning in week 76 and in high-dose females beginning in week 80. Survival was not adversely affected, and adequate numbers of rats were available for meaningful statistical analyses of the incidences of tumors.

A variety of neoplasms occurred in control and treated rats; however, the

incidences were not related to treatment.

It is concluded that under the conditions of this bioassay, dieldrin was not carcinogenic in Fisher 344 rats.

Single copies of the reports, Bioassays of Aldrin and Dieldrin, for Possible Carcinogenicity and Bioassay of Dieldrin for Possible Carcinogenicity, are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: January 6, 1978.

DONALD S. FREDRICKSON,  
Director,  
National Institutes of Health.

(FR Doc. 78-787 Filed 1-16-78; 8:45 am)

## [4110-85]

## Public Health Service

QUALIFIED HEALTH MAINTENANCE  
ORGANIZATIONS

## Notice

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of October 1977 the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE  
ORGANIZATIONS

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. AV-MED, Inc., (Individual Practice Association Model, see section 1310(b)(2)(A) of the Public Health Service Act), 9300 South Dadeland Boulevard, Miami, Fla. 33156. Service area: Dade County, Fla. Date of operational qualification: October 7, 1977. (Achieved preoperational qualification on September 9, 1977—see 42 FR 56805-06, October 28, 1977.)

(Transitionally Qualified Health Maintenance Organizations: 42 CFR 110.603(b))

2a. Kaiser Foundation Health Plan, Inc., (Northern California Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1924 Broadway, Oakland, Calif. 94612. Service area: A radius of 30 miles of any Kaiser Foundation Hospital or Northern California Permanente Medical Office including the entire counties of: Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Mateo, Santa Clara, Solano, and cities and towns in the following counties:

## AMADOR COUNTY

Carbondale, Forest Home, Ione, and Nashville.

## EL DORADO COUNTY

Brandon, Brela, Cameron Park, Clarksburg, Cool, Cothrin, Dugan, El Dorado, El Dorado Hills, Lake Hills Estates, Latrobe, Lotus, Pilot Hill, Rescue, and Shingle Springs.

## NAPA COUNTY

Aetna Springs, Angwin, Calistoga, Deer Park, Franklin, Kellogg, Napa, Oakville, Pope Valley, Rutherford, Sanitarium, St. Helena, and Yountville.

## PLACER COUNTY

Auburn, Bowman, Hidden Valley, Lincoln, Loomis, Newcastle, Ophir, Penryn, Rocklin, Roseville, Sheridan, Sunset Whitney Branch, and Thermolands.

## SONOMA COUNTY

Bloomfield, Boyes Springs, Cotati, El Verano, Eldridge, Freestone, Fulton, Glen Ellen, Kenwood, Penngrove, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, Valley Ford, and Vineburg.

## SUTTER COUNTY

Chandler, East Nicolaus, Kirkville, Nicolaus, Pleasant Grove, Rio Oso, Robbins, Trowbridge, and Verona.

## YOLO COUNTY

Broderick, Bryte, Capay, Clarksburg, Davis, Dixon, El Macaro, Knights Landing, Madison, Tremont, West Sacramento, Winters, Woodland, Yolo, and Zamora.

## YUBA COUNTY

Wheatland.  
Date of qualification: October 27, 1977.  
2b. Kaiser Foundation Health Plan, Inc., (Southern California Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1515 North Vermont, Los Angeles, Calif. 90027. Service area: A radius of 30 miles of any Kaiser Foundation Hospital or Southern California Medical Office. Kern County and Mexico are excluded from the service area. The following zip codes located in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties are included:

9000-90099, 90101, 90200-90299, 90300-90399, 90400-90499, 90500-90599, 90600-90699, 90700-90799, 90800-90899, 91000-91099, 91100-91199, 91200-91299, 91300-91399, 91400-91499, 91500-91599, 91600-91699, 91700-91799, 91800-91899, 92100-92199, 92400-92499, 92500-92599, 92600-92699, 92700-92799, 92800-92899, 92900-92999, 92007, 92008, 92010, 92011, 92012, 92014, 92016, 92017, 92020, 92021, 92022, 92024, 92025, 92026, 92027, 92031, 92032, 92035, 92037, 92040, 92041, 92045, 92047, 92048, 92050, 92053, 92054, 92062, 92063, 92064, 92065, 92067, 92069, 92070, 92071, 92073, 92075, 92077, 92078, 92080, 92082, 92083, 92220, 92223, 92305, 92307, 92314, 92315, 92316, 92317, 92318, 92320, 92321, 92322, 92324, 92325, 92326, 92329, 92330, 92333, 92335, 92339, 92340, 92341, 92343, 92345, 92346, 92348, 92352, 92353, 92354, 92356, 92358, 92359, 92360, 92362, 92367, 92369, 92370, 92371, 92372, 92373, 92376, 92378, 92380, 92381, 92382, 92385, 92386, 92388, 92391, 92392, 92395, 92396, 92397, 92399, 93010, 93015, 93021, 93040, 93060, 93063, 93064, 93065, 93510, 93532, 93534, 93543, 93544, 93550, 93553, and 93563.

\*Except 90704 (Avalon).

\*Except 92672 (San Clemente).



## NOTICES

Date of qualification: October 27, 1977.  
Kaiser Foundation Health Plan, Inc., (Hawaii Region), (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1697 Ala Moana Boulevard, Honolulu, Hawaii 96815. Service area: Islands of Oahu and Maui. Date of qualification: October 27, 1977.

3. Kaiser Foundation Health Plan of Oregon, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1500 S.W. First Avenue, Portland, Oregon 97201. Service area as follows:

## STATE OF OREGON

## Cities, Towns, and Zip Codes

Aloha	97008
Donald	97020
Banks	97106
Dundee	97115
Barlow	97003
Eagle Creek	97022
Beavercreek	97004
Estacada	97023
Beaverton	97005
Fairview	97024
Do	97007
Forest Grove	97116
Bonne	97009
Gales Creek	97117
Bridal Veil	97010
Gaston	97119
Brightwood	97011
Gladstone	97027
Canby	97013
Gresham	97030
Carlton	97111
Hillsboro	97123
Clackamas	97015
Hubbard	97032
Colton	97017
Jennings Lodge	97287
Columbia City	97016
Lafayette	97127
Corbett	97019
Lake Grove	97035
Cornelius	97113
Lake Oswego	97034
Dayton	97114
Manning	97125
Deer Island	97054
Maryhurst	97036
McMinnville	97222
Milwaukie	97038
Molalla	97038
Mt. Angel	97362
Mulino	97043
Newberg	97132
North Plains	97133
Oak Grove	97268
Oregon City	97045
Portland	97043
Do	97201
Do	97202
Do	97203
Do	97204
Do	97205
Do	97206
Do	97207
Do	97208
Do	97209
Do	97210
Do	97211
Do	97212
Do	97213
Do	97214
Do	97215
Do	97216
Do	97217
Do	97218
Do	97219
Do	97220
Do	97221
Do	97225
Do	97226
Do	97227
Do	97228
Do	97229
Do	97231
Do	97232
Do	97233

## STATE OF OREGON—Continued

## Cities, Towns, and Zip Codes

Do	97236
Do	97342
Do	97386
St. Helens	97055
Sandy	97058
Scappoose	97140
Sherwood	97223
Tigard	97060
Troutdale	97062
Tualatin	97053
Warren	97087
Wemme	97068
Westlinn	97070
Wilsonville	97071
Woodburn	97072
Do	

## STATE OF WASHINGTON

## Cities, Towns, and Zip Codes

Amboy	98601
Ariel	98603
Battleground	98604
Camas	98606
Do	98607
Heilsson	98622
Kalama	98625
LaCenter	98629
Ridgefield	98642
Skamania	98646
Vancouver	98660
Do	98661
Do	98662
Do	98663
Do	98664
Do	98665
Washougal	98671
Woodland	98674
Yacolt	98675

Date of qualification: October 27, 1977.

4. Kaiser Community Health Foundation, (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 1101 Bond Court, 1300 East Ninth Street, Cleveland, Ohio 44114. Service area: Counties—Cuyahoga, Lake, Geauga, Medina, Lorain and Summit, except the townships of Franklin and Green are excluded from Summit County. Townships in the following counties—Ashtabula, Trumbull, Hartsgrove and Windsor. Trumbull: Mesopotamia and Farmington. Portage: Aurora, Brimfield, Charlestown, Franklin, Freedom, Hiram, Mantua, Nelson, Ravenna, Rootstown, Shalersville, Streetsboro, and Windham.

Date of qualification: October 27, 1977.

5. Kaiser Foundation Health Plan of Colorado, Inc., (Medical Group Model, see section 1310(b)(1) of the Public Health Service Act), 2525 West Alameda Avenue, Denver, Col. 80219. Service area: City and County of Denver; communities immediately surrounding Denver, including all major and minor urbanized areas immediately adjacent to Denver; and cities, towns and communities in the following counties:

## ADAMS COUNTY

Adams City, Barr Lake, Bow Mar, Brighton, Commerce City, Derby, Dupont, Eastlake, Federal Heights, Hazelton, Henderson, Highland Acres, Irondale, Lochbuie, Northglenn, Riverdale, Thornton, Watkins, Welby, and Westminster.

## ARAPAHOE COUNTY

Aurora, Cherry Hills, Columbine Valley, Englewood, Greenwood Village, Littleton, and Sheridan.

## BOULDER COUNTY

Boulder, Broomfield, Crescent Village, Eldorado Springs, Erie, Goodview, Lafayette, Longmont, Louisville, Marshall, Niwot, Silver Spruce, Superior, and Valmont.

## CLEAR CREEK COUNTY

Beaver Brook, Brookvale, and Hyland Hills.

## DOUGLAS COUNTY

Blakeland, Gann, Louviers, Parker, Riverside, and Sedalia.

## GILPIN COUNTY

Floyd Hill.

## JEFFERSON COUNTY

Arvada, Aspen Park, Bensen Park, Conifer, Critchell, Deermont, Edgewater, El Rancho, Evergreen, Fenders, Green Valley Acres, Golden, Hiwan Hills, Homewood Park, Idledale, Indian Hills, Kassler, Kitzredge, Lakewood, Leyden, Marshalldale, Morrison, Mountain View, Plain View, Phillipsburg, Rosedale, Semper, Sprucedale, Tiny Town, Troutdale, Twin Forks, and Wheat Ridge.

Date of qualification: October 27, 1977.

(Preoperational Qualified Health Maintenance Organization: 42 CFR 110.603(c))

6. Manhattan Health Plan, Inc., (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 425 East 81st Street, New York, N.Y. 10021. Service area: Manhattan and Roosevelt Island in County of New York in the State of New York inclusive of zip codes 10001 through 10048. Date of qualification: October 31, 1977.

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Division of Health Maintenance Organizations Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: January 10, 1978.

JOYCE C. LASHOF,  
Deputy Assistant Secretary for  
Health—Programs.

(FR Doc. 78-1127 Filed 1-16-78; 8:45 am)

[4310-55]

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## ENVIRONMENTAL ASSESSMENT

## Availability

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Service announces the availability of an environmental assessment on "Proposed Permanent

## NOTICES

## ALASKA

## Kenai-Cook Inlet Division

Ninilchik, *Holy Transfiguration of Our Lord Chapel*, Mile 135, Sterling Highway.

## DELAWARE

## New Castle County

Newark, Dean, Joseph, and Son, Woolen Mill, Race St., Deandale St.  
Wilmington vicinity, *Augustine Paper Mill*, N. Brandywine Park Dr.  
Yorklyn, *Garrett Snuff Mill*, jct. of DE 82 and Yorklyn Rd.

## Sussex County

Laurel vicinity, *Chipman's Mill*, E of Laurel on SR 465.

## DISTRICT OF COLUMBIA

## Washington

*American Revolution Statuary*, at public buildings and various parks in DC.

## MINNESOTA

## Cook County

Grand Marais vicinity, *Eagle Mountain*, NW of Grand Marais.  
Grand Marais vicinity, *Paulson Mine Site*, 45 mi. (72 Kms) NW of Grand Marais on SR 12.

## Lake County

Ely vicinity, *Crooked Lake Pictographs*, NE of Ely on Superior National Forest.  
Isabella vicinity, *Fishdance Lake Pictographs*, N of Isabella on Superior National Forest.

## St. Louis County

Buyck vicinity, *Beatty Portage Pictographs*, NE of Buyck on Superior National Forest.  
Ely vicinity, *Birch Lake Plantation*, S of Ely on Superior National Forest.  
Ely vicinity, *Hegman Lake Pictographs*, N of Ely on Superior National Forest.

## OKLAHOMA

## Beaver County

Gate vicinity, *Lonker Archeological Site*, N of Gate.

## Cimarron County

Kenton vicinity, *Red Ghost Cave Archeological Site*, S of Kenton.  
Kenton vicinity, *Three Entrance Cave Archeological Site*, NE of Kenton.

## Roger Mills County

Berlin vicinity, *Goodwin-Baker Archeological Site*, NE of Berlin.

## Seminole County

Sasakwa vicinity, *Roulston-Rogers Site*, NW of Sasakwa.

## Texas County

Eva vicinity, *Shores Archeological Site*, E of Eva.  
Guymon vicinity, *Easterwood Archeological Site*, NW of Guymon.  
Texhoma vicinity, *Johnson-Cline Archeological Site*, NW of Texhoma.

## OREGON

## Lane County

Florence vicinity, *Heceta Head Lighthouse and Lighthouse keepers' Quarters*, N of Florence on U.S. 101.

## TEXAS

## Bastrop County

Bastrop, *Resources of Bastrop*, U.S. 290 and TX 95.

## WASHINGTON

## Clallam County

Sequim vicinity, *Manis Mastodon Site*, S of Sequim.

## Grays Harbor County

Aberdeen, *Sierra (motor ship)*, 1401 Sargent Blvd.

## King County

Bellevue, (The) *Moorings*, 1401 92nd Ave., NE.  
Seattle, *Home of Good Shepherd*, 50 and Sunnyside N.  
Seattle, *Nippon Kan*, 622 S. Washington St.

## Pacific County

Tokeland, *Tokeland Hotel*, Kindred Ave. and Hotel Rd.

## Pierce County

Gig Harbor vicinity, *Glencove Hotel*, W of Gig Harbor off WA 302  
Tacoma, *Rhodes Medical Arts Building*, 740 St. Helens Ave.

## Skagit County

LaConner vicinity, *Squikwikwab*, SE of LaConner.

## Spokane County

Spokane, *First Congregational Church of Spokane*, W. 311-329 4th Ave.

## Thurston County

Olympia, *Cloverfields*, 1100 Carlyon Ave., SE.  
Olympia, *Patnude, Charles, House*, 1239 8th Ave.

Tumwater, *Tumwater Historic District*, roughly bounded by I-5, Capitol Way, and Capitol Lake.

(FR Doc. 78-1035 Filed 1-16-78; 8:45 am)

[4310-10]

## Office of the Secretary

BUREAU OF INDIAN AFFAIRS  
REORGANIZATION

## Task Force

Notice is hereby given in accordance with Pub. L. 92-463 that the fourth meeting of the Bureau of Indian Affairs Reorganization Task Force has been rescheduled from February 8, 1978, meeting in Washington, D.C., to five (5) field conference locations. The 5 field conference locations, together with the specific date and specific meeting room for each conference follow:

January 30—Phoenix: U.S. Tax Court, Room 235, Federal Building and Court



House, 522 North Central, Phoenix, Ariz. 85004; conference time: 10 a.m. to 5 p.m.

February 1—Oklahoma City: Room 637, A. P. Murray Building, 200 Northwest 5th Street, Oklahoma City, Okla. 73102; 10 a.m. to 5 p.m.

February 1—Denver: Federal Office Building, 1961 Stout Street, Room 2330, 2nd floor, Denver, Colo. 80202; 10 a.m. to 5 p.m.

February 2—Portland: Conference Room 1578, Federal Building, 1220 Southwest 3rd Avenue, Portland, Ore. 97204; 10 a.m. to 5 p.m.

February 8—Duluth: U.S. Court House, Room No. 1, 515 West 1st Street, Duluth, Minn. 44802; 10 a.m. to 5 p.m.

The purpose of these conferences is to receive comments concerning issues and problems involving Bureau of Indian Affairs reorganization.

Testimony may be given by any member of a tribal group or organization or any member of the general public. Four days prior to each conference, persons wishing to testify must notify, in writing, the appropriate office listed below of such desire to testify. (At the conference each of these persons must also submit a written statement to a BIA reorganization task force staff member present before delivering his presentation.)

Phoenix Area Office: 3030 North Central, P.O. Box 7007, Phoenix, Ariz. 85011, 602-261-4101, FTS (8) 261-4101.

Minneapolis Area Office: Area Director, Bureau of Indian Affairs, 831 2nd Avenue South, Minneapolis, Minn. 55402, 612-725-2905, FTS (8) 725-2905.

Bureau of Indian Affairs, U.S. Post Office Building and Court House, Room 158, 3rd and Robinson Streets, Oklahoma City, Okla. 73102, 405-231-4217, FTS (8) 231-4217.

Denver Field Liaison Office: Bureau of Indian Affairs, 491 United States Custom House, 721 19th Street, Denver, Colo. 80202, 303-637-5361, FTS (8) 327-5361, (8) 327-4281.

Bureau of Indian Affairs, Office of Tribal Operations, P.O. Box 3785, Portland, Ore. 97208, 503-234-3361, ext. 4283, FTS (8) 429-4248, ext. 4283.

Persons wishing further general information concerning these conferences may contact Jack Rushing, Task Force Director, Office of the Secretary, Room 7353, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-6010.

Minutes of each conference will be available for public inspection one to two weeks after each task force conference.

Dated: January 11, 1978.

DAVID USHIO,  
Deputy Assistant Secretary for  
Policy, Budget and Administration.  
[FR Doc. 78-1196 Filed 1-16-78; 8:45 am]

## NOTICES

[7020-02]

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-30]

## CERTAIN DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE

## Commission Determination and Order and Commissioners' Opinions

## PROCEDURAL HISTORY

On January 14, 1977, a complaint was filed with the U.S. International Trade Commission under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of Charles D. Burnes Co., of Boston, Mass. (hereinafter "complainant"), that unfair methods of competition and unfair acts exist in the unlicensed importation of hexahedron-shaped devices for the display of photographs and the like (hereinafter "display cubes") into the United States, or in their sale, by reason of the coverage of such display cubes by the claims of U.S. Letters Patent No. 3,774,332, the effect or tendency of such unlicensed importation being to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Accordingly, complainant sought an order of exclusion against the imports in question. On February 15, 1977, the Commission instituted an investigation thereof and published a notice of investigation in the FEDERAL REGISTER of February 18 (42 FR 10073). Copies of the complaint and notice of investigation were served upon numerous named respondents. Of those, only four companies—Montgomery Ward Co., Inc., Harben Co., Chadwick-Miller, Inc., and M.I.M. Lador, Inc.—answered the complaint and then only in a general manner. On March 2, 1977, respondents were served with interrogatories by Commission investigative staff. On May 6, 1977, the Presiding Officer issued a notice of preliminary conference for May 26, 1977, but no respondent attended this conference.

On August 1, 1977, complainant and the Commission investigative staff filed a joint motion for summary determination under section 210.50 of the Commission's rules of practice and procedure (hereinafter "CRPP"). None of the respondents opposed the motion by filing affidavits with the Presiding Officer, or by any other means. Accordingly, on August 31, 1977, the Presiding Officer, per CRPP section 210.53, issued his recommended determination that the Commission:

1. Determine that there is a violation of section 337 in the importation or sale in the United States of display devices for photographs and the like meeting the claims of U.S. Letters Patent 3,774,332; and, further,

2. Grant the joint motion of complainant and the Commission investigative staff for summary determination under CRPP section 210.50 on all issues (motion Docket 30-5); and, further,

3. Dismiss certain enumerated respondents for the reason that they are not presently importing infringing products, or were not effectively served, and therefore are not proper respondents in the investigation (motion Docket 30-4).

No respondent filed exceptions or alternative findings of fact and conclusions of law to the Presiding Officer's recommended determination per CRPP section 210.54, nor did any respondent take any other action.

On September 2, 1977, the Commission investigative staff filed a supplemental submission to the joint motion of complainant and Commission investigative staff discussing U.K. Patent No. 1,270,715 (hereinafter "the British patent") in order to complete the record and address certain questions as to the existence of prior art and derivation raised thereby. The Presiding Officer, by his supplement to recommended determination of September 8, 1977, discussed the British patent, held that it does not affect the findings of fact and conclusions of law of the recommended determination of August 31, and amended the recommended determination to include five additional respondents recommended for dismissal.

On October 31, 1977, the Commission held a hearing for the purposes of hearing oral argument with respect to:

1. The Presiding Officer's recommended determination that there is a violation of section 337.

2. Appropriate relief in the event that the Commission determines that there is a violation of section 337 and determines that there should be relief; and

3. Relief and the public interest factors as set forth in sections 337 (d) and (f) of the Tariff Act of 1930, which the Commission is to consider in the event it determines there is a violation of section 337 and determines that there should be relief.

Notice for the above hearing was issued on October 5, 1977, and served upon respondents; no respondent attended the hearing. Oral argument on all three of the above topics was presented by both complainant and the Commission investigative staff at the hearing.

## COMMISSION DETERMINATION

Having reviewed: (1) The evidentiary record in the investigation as certified to it by the Presiding Officer, (2) the Presiding Officer's recommended determination and supplemental documents, and (3) the hearing record of October 31, 1977, the Commission, by action of November 29, 1977, unanimously determined:

1. To dismiss J & M Enterprises; Amerex International, Ltd.; Sanyei New York Corp.; Wai Cheong Industrial Co., Ltd.; Minami

Sangyo, Ltd.; G. C. Murphy Co.; Cuckoo Clock Mfg. Co., Inc.; Reliance Pen & Pencil Corp.; F. W. Woolworth Co.; Crest Industries Corp.; Henry Co.; T. Chatani & Co., Ltd.; Osaka General Trading Co., Ltd.; Wing Tat Industrial Co.; Medi Mart; Maruyama Noboru Seisakusho K. K.; Wah Hing Plastic & Metal Ware Factory, Ltd.; Oriental Plastic Factory; Oriental Plastic Industrial Corp.; Western Universal (H.K.), Ltd.; and Montgomery Ward & Co., Inc., as respondents in the investigation for the reason that they are not presently importing infringing products or were not effectively served, and therefore are not proper respondents in the investigation (Motion Docket 30-4 and 30-6).

2. That the joint motion for summary determination of complainant and the Commission investigative staff should be granted for the reason that there is no genuine issue as to any material fact and that the moving parties are entitled to summary determination as a matter of law (Motion Docket 30-5).

3. That there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), by reason of the importation into the United States of certain display devices for photographs and the like, or in their sale by the owner, importer, consignee, or agent or either, because such devices: (a) Infringe claims 1, 2, and 3 of the valid U.S. Letters Patent No. 3,774,332, thereby constituting an unfair method or unfair act within the meaning of section 337, and (b) the effect or tendency of such unfair method or act is to destroy or substantially injure an industry, efficiently and economically operated, in the United States; and

4. That the appropriate remedy for such violation is to direct that the articles concerned, display devices for photographs and the like, made in accordance with one or more of the claims of U.S. Letters Patent No. 3,774,332, be excluded from entry into the United States for the term of said patent; and that, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers, such articles should be excluded from entry; and

5. That the bond provided for in subsection 337(g)(3) is determined by the Commission to be, as prescribed by the Secretary of the Treasury, in the amount of 100 percent of the value of the articles concerned, f.o.b. foreign port.

## COMMISSION ORDER

Accordingly, it is hereby ordered:

1. That J & M Enterprises; Amerex International, Ltd.; Sanyei New York Corp.; Wai Cheong Industrial Co., Ltd.; Minami Sangyo, Ltd.; G. C. Murphy Co.; Cuckoo Clock Mfg. Co., Inc.; Reliance Pen & Pencil Corp.; F. W. Woolworth Co.; Crest Industries Corp.; Henry Co.; T. Chatani & Co., Ltd.; Osaka General Trading Co., Ltd.; Wing Tat Industrial Co.; Medi Mart; Maruyama Noboru Seisakusho K. K.; Wah Hing Plastic & Metal Ware Factory, Ltd.; Oriental Plastic Factory; Oriental Plastic Industrial Corp.; Western Universal (H.K.), Ltd.; and Montgomery Ward & Co., Inc., are dismissed as respondents in the investigation (Motion Docket 30-4 and 30-6).

2. That the joint motion for summary determination of complainant and Commission investigative staff is granted (Motion Docket 30-5).

## NOTICES

3. That display devices for photographs and the like, made in accordance with one or more of the claims of U.S. Letters Patent No. 3,774,332 are excluded from entry into the United States for the term of said patent except (1) as provided in paragraph 4 of this order, infra, or (2) as such importation is licensed by the holder of U.S. Letters Patent No. 3,774,332; and

4. That the articles ordered to be excluded from entry are entitled to entry into the United States under bond in the amount of 100 percent of the value of the articles, f.o.b. foreign port, from the day after the day this order is received by the President pursuant to section 337(g) of the Tariff Act of 1930, as amended, until such time as the President notifies the Commission that he approves this action, or the President disapproves this action, but, in any event, not later than sixty (60) days after such day of receipt.

5. That this order will be published in the FEDERAL REGISTER and served upon each party of record in this investigation and upon the U.S. Department of Health, Education, and Welfare, the U.S. Department of Justice, the Federal Trade Commission, and the Secretary of the Treasury.

OPINION OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS GEORGE M. MOORE AND BILL ALBERGER

Our determination and order, supra, are primarily predicted upon the following bases:

1. The Commission has jurisdiction over the subject matter of the investigation and over the respondents named by the Commission in its notice of investigation (19 U.S.C. 1337).

2. Patent infringement has been held to be an "unfair method of competition and unfair act" for the purposes of section 337 of the Tariff Act of 1930, as amended (see, e.g., *In re Northern Pigment Co., et al.*, 71 F. 2d 447 (C.C.P.A. 1934) and 71 F. 2d 447, *In re Von Clemm*, 229 F. 2d 441 (C.C.P.A. 1955)).

3. Complainant is the owner of U.S. Letters Patent 3,774,332 by virtue of an assignment from the inventor, Marshall C. Schneider, filed with the U.S. Patent Office, March 9, 1971 (Recommended Determination, Finding B, p. 6). Complainant is therefore a proper party to bring a section 337 proceeding with infringement of said patent as the basis for an "unfair method of competition or unfair act."

4. U.S. Letters Patent No. 3,774,332 is a valid and enforceable patent for the purposes of section 337 (Recommended Determination, Findings 19-21, pp. 8-9). Per 35 U.S.C. 282, said patent is presumptively valid; respondents did not carry their burden of proving invalidity or unenforceability of said patent (Recommended Determination, pp. 8-9, 15; Supp. to Recommended Determination).

5. The accused infringing products which have been imported and sold in the United States directly and literally infringe the terms of claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 (Recommended Determination, Finding G, p. 8).

6. Complainant and its subcontractors constitute a domestic industry for the purpose of section 337 by producing in the United States display devices covered by claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 (Recommended Determination, pp. 8, 15). Said domestic industry is effi-

ciently and economically operated (Recommended Determination, pp. 13-14).

7. The domestic industry has suffered substantial economic injury from the loss of sales and resultant loss of revenue by reason of the importation and sale of articles which infringe the claims of U.S. Letters Patent No. 3,774,332 (Recommended Determination, pp. 9-13).

8. On motion per CRPP section 210.50(b), movant is entitled to summary determination if the pleadings and any depositions, admissions on file, and affidavits show that there is no genuine issue as to any material facts and that the moving party is entitled to a summary determination as a matter of law. Our review of the record certified to us by the Presiding Officer does not reveal a genuine issue as to a material fact. Furthermore, the facts as found by the Presiding Officer and adopted in our opinion lead to our conclusion that the moving party is entitled to a summary determination as a matter of law.

9. Our consideration of the effect of exclusion upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers as required by section 337(d), does not lead us to the conclusion that an exclusion order should not be issued.

In order to further explain the commission's determination and order, we shall briefly comment upon three areas of concern in the discussion below:

I. The more pertinent patent-related issues raised during the course of the investigation respecting:

A. The "British Patent" (U.K. Patent No. 1,270,715);

B. The "Nyman Patent" (U.S. Letters Patent No. 3,703,405); and

C. Various allegations respecting the validity of the "Schneider Patent" (U.S. Letters Patent No. 3,774,332).

II. The Commission's consideration of the "public interest" factors of section 337(d) in determining to enter an exclusion order; and

III. Rationale for a bond of 100 percent of the value of the articles concerned, f.o.b. foreign port.

## I. PATENT ISSUES

The display device which is the subject of the investigation was invented by Marshall C. Schneider and patent rights assigned by him to complainant. Upon application Serial No. 127,279, filed in the U.S. Patent Office on March 23, 1971, U.S. Letters Patent 3,774,332 was issued to complainant on November 27, 1973.

Title 35, United States Code, section 102, provides as follows:

A person shall be entitled to a patent unless:

(a) The invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent; or

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States. . . . [emphasis added].



Accordingly, in order to create successfully a genuine issue of material fact as to the validity of complainant's patent for the purposes of CRPP section 210.50, a respondent or other party could, for instance, provide evidence of knowledge or use of the invention prior to the invention thereof by Marshall C. Schneider or evidence of the patent or description in a printed publication in this or a foreign country, or public use or sale in this country of the invention more than one year prior to the date of the application for the patent in the United States by Marshall C. Schneider. Such genuine issues of material fact do not appear in the record. The following three sections discuss those patent issues which were raised but which were not sufficient to constitute genuine issues of material fact in the context of CRPP Section 210.50, 19 U.S.C. 1337, and 35 U.S.C. §§ 102 and 282.

A. *The "British Patent"* (U.K. Patent No. 1,270,715). Application for U.S. Letters Patent 3,774,332 ("complainant's patent") was filed March 23, 1971. The first patenting and publication of the British patent was not until April 12, 1972 (Supp. Submission to Joint Motion of Complainant and Investigative Staff, memo in support, p. 3), too late to invalidate complainant's patent under 35 U.S.C. 102. Furthermore, even if the British patent had been filed sufficiently early for the purposes of 35 U.S.C. 102, it would not have affected the right of complainant to a patent, inasmuch as the British patent lacked identity of invention (Supp. Submission to Joint Motion of Complainant and Investigative Staff, Memorandum in Support, p. 3). Namely, the British invention is distinguishable by the absence of an inner box to support items for viewing from all six sides (Affidavit of Marshall C. Schneider, par. 4).

B. *The "Nyman Patent"* (U.S. Letters Patent No. 3,703,405). Questions were raised quite early as to the possibility that the Nyman patent anticipated the complainant's patent. However, such suggestions carry little convincing force when one considers that just over two months before complainant's patent was filed and searched, the same Patent Office examiner who considered complainant's patent also reviewed the Nyman patent (filed January 18, 1971). In fact, field search for complainant's patent included U.S. Class 40, subclass 152 and 152.1, with the Nyman patent classified in subclass 152 and the '332 patent in 152.1 (Joint Motion for Summary Determination of Complainant and Investigative Staff, Memorandum in Support, p. 6). It is highly unlikely that identical prior art would have been overlooked.

C. *Other patent issues.* During the course of the investigation certain re-

spondents made assertions that several distinct types of display devices anticipated the claims of complainant's patent. First, it was advanced that the devices imported during 1968-1969 anticipated complainant's patent (Commission Oral Argument, p. 42, lines 5-8). Investigation subsequently revealed, however, that these display devices were identical to the Nyman patent. Since the Nyman patent appears not to have been anticipatory, neither were the display devices referred to by these respondents (Commission Oral Argument, p. 42, lines 16-21).

Second, it was indicated that display devices identical to those covered by the claims of complainant's patent (Commission Oral Argument, p. 33, line 8) were shipped from Hong Kong to the United States in December of 1970. While this statement is literally true, those shipments were of only sample devices. (Commission Oral Argument p. 32, line 12). The first commercial shipment of such display devices was not made until April 12, 1972 (Commission Oral Argument, p. 32, lines 13-14), a date which is too late to invalidate complainant's patent under U.S. law. In addition, it should be noted that suggestions of derivation are not persuasive in light of the affidavit of inventor Marshall C. Schneider that he had not visited Hong Kong before 1976, five full years after his application for a patent.

Finally, a respondent alleged that it had exported display cubes to the United States in March of 1971 (Joint Motion for Summary Determination of Complaint and Investigative Staff, Memorandum in Support, p. 7). Though the record contains a dearth of information about the structural features of these display devices, even assuming the identity thereof with those covered by complainant's patent, such exportation occurred at too late a date to affect the validity of Complainant's patent.

## II. PUBLIC INTEREST FACTORS

Title 19 U.S.C. 1337(d) provides:

If the Commission determines . . . that there is a violation . . . it shall direct that the articles concerned . . . be excluded . . . unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and the United States consumers, it finds that such articles should not be excluded from entry.

Oral argument advanced before the Commission indicates that the entry of an exclusion order will not adversely affect the public interest. The two most significant interests to be balanced in this case are the protection of a valid U.S. patent as opposed to a possible increase in consumer pricing.

Testimony before the Commission reveals that complainant possesses the productive capacity to meet domestic market demand (Commission Oral Argument p. 53, lines 16-17). Additionally, complainant is the holder of a valid U.S. patent and is entitled to the remunerative benefits that normally accrue therefrom.

While, admittedly, consumers may pay a higher retail price for the product produced by complainant in light of a landed price differential of two-to-one (Commission Oral Argument p. 50, lines 4-7), it appears that the profit markup is a normal rather than a premium one (Commission Oral Argument p. 56-57). Moreover, consumer constraints prevent premium pricing. Plastic display devices are not essentials of life. If one is to abuse the patent monopoly granted one, a reduction in sales is sure to follow.

For these reasons, the Commission feels an exclusion order strikes the most appropriate balance between patent protection and consumer interests.

## III. BONDING

In light of the fact that a two-to-one price differential exists between the landed price of the imported product and the sale price of the domestic product, the most efficacious bond would be a bond of 100 percent of the value of the articles, F.O.B. foreign port.

OPINION OF VICE CHAIRMAN JOSEPH O. PARKER AND COMMISSIONERS CATHERINE BEDELL AND ITALO H. ABLONDI

The record in this proceeding establishes that after the institution of this proceeding, service of the complaint, and the receipt of answers from four respondents, the presiding officer issued a notice of a prehearing conference. Complainants and the Commission investigative staff appeared at this conference but no respondents entered an appearance. Thereafter, complainant and the Commission investigative staff filed a joint motion for summary determination, supported by a number of affidavits. The joint motion for summary determination and the affidavits were served upon all parties to the proceedings. No responses or opposing affidavits were filed by any respondents. On August 31, 1977, the presiding officer issued a recommended determination in which he determined that there is a violation of section 337 of the Tariff Act of 1930, as amended, in the unauthorized importation into the United States, and in the sale, of certain display devices for photographs and the like, by reason of the fact that such devices infringe claims 1, 2, and 3 of United States Letters Patent No. 3,774,332, with the effect or tendency to destroy or substantially injure an industry, ef-

ficiently and economically operated in the United States, and recommended that the Commission grant the motion for summary determination. All named respondents were served with copies of the recommended determination of the presiding officer. No exceptions or alternative findings of fact and conclusions of law to the presiding officer's recommended determination were filed by any respondent. No respondent took any other action contesting the claim of the complainant.

On October 21, 1977, the Commission held a hearing for the purpose of oral argument on the recommended determination, public interest issues, and appropriate relief in the event the Commission determined that there is a violation of section 337. Notice of the above hearing was issued on October 5, 1977, and served on all parties to the investigation including all respondents; no respondent appeared or filed any written submission. Both complainant and the Commission investigative staff entered an appearance at the hearing and supported the recommended determination of the presiding officer and urged that an exclusion order be issued.

The affidavits in support of the joint motion for summary determination contain evidence which shows the importation of display devices for photographs which infringe complainant's U.S. patent. Such patent is entitled to the statutory presumption of validity. The respondents did not challenge the validity of the patent with any evidentiary showing. The affidavits also contain evidence showing that the effect or tendency of the infringing imports is to destroy or substantially injure an industry efficiently and economically operated in the United States. On the basis of the record in this proceeding, we determine that there is a violation of section 337 of the Tariff Act of 1930, as amended.

## PUBLIC INTEREST FACTORS

Section 337(d) of the Tariff Act of 1930, as amended, requires that prior to the entry of an exclusion order, consideration be given to the effect of such an order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

The Commission, after public notice, provided opportunity for oral hearing on these questions. Complainant appeared through its attorney, and the Commission's investigative attorney appeared on behalf of the Commission. Both counsel presented oral argument in support of the entry of an exclusion order. There was no appearance by any other governmental agency or any other person in opposition to the entry of an exclusion order. From the record in this proceeding, we

have determined that there is no justifiable reason for not entering an exclusion order to remedy the violation found as a result of this proceeding. We therefore determine that the entry of an exclusion order is necessary to prevent the unfair acts of importation of the subject articles in violation of section 337 of the Tariff Act of 1930, as amended, and grant the joint motion for summary determination.

## BONDING

In view of the price difference between the imported infringing article and the domestic products, we determine that a bond in the amount of 100 percent of the value of the imported article is warranted.

## ADDENDUM

It should be noted that simultaneously with the issuance of this determination and order, the U.S. International Trade Commission has transmitted to the Secretary of the Treasury and the Commissioner of Customs a letter containing: (1) A description of claims 1, 2, and 3 of U.S. Letters Patent No. 3,774,332 as found in the Presiding Officer's Recommended Determination of August 31, 1977, Finding of Fact A, at page 5, and (2) a copy of the aforementioned patent, and (3) sample display devices constructed in accordance with the claims of said patent. The Commission has made such transmittal: (1) For the guidance of Customs officer; (2) for the purpose of facilitating enforcement of the Commission's order; and (3) for the purpose of fulfilling the notice requirements of section 337(d), of the Tariff Act of 1930, as amended. Copies of the letter of transmittal to the Secretary of the Treasury and Commissioner of Customs and copies of U.S. Letters Patent No. 3,774,332 are available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: January 12, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-1313 Filed 1-16-78; 8:45 am]

## [7020-02]

[Investigation No. 337-TA-39]

## CERTAIN LUGGAGE PRODUCTS

### Preliminary Conference

Notice is hereby given that a preliminary conference will be held in connection with Investigation No. 337-TA-39, Certain Luggage Products, at 10 a.m. on Wednesday, January 25, 1978, in the ALJ Hearing Room, Room

610, Bicentennial Building, 600 E Street NW., Washington, D.C. Notice of this investigation was published in the FEDERAL REGISTER on November 30, 1977 (42 FR 60962). The purposes of this preliminary conference are to establish a discovery schedule, to discuss the procedures to be followed in pursuing such discovery, to set the dates for the prehearing conference and temporary relief hearing, and to resolve any other matters necessary to the conduct of this investigation.

If any questions should arise not covered by these instructions, the parties or their counsel shall call the chambers of the undersigned Presiding Officer.

The Secretary shall serve a copy of this notice upon parties of record and shall publish this notice in the FEDERAL REGISTER.

Issued: January 11, 1978.

Judge MYRON R. RENICK,  
Presiding Officer.

[FR Doc. 78-1312 Filed 1-16-78; 8:45 am]

## [4410-01]

## DEPARTMENT OF JUSTICE

Attorney General

U.S. v. GULF OIL CO.

### Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, a notice is hereby given that on December 21, 1977, a proposed consent decree in "United States v. Gulf Oil Company," was lodged with the United States District Court for the Eastern District of Pennsylvania. The proposed decree requires installation of pollution control equipment by July 1, 1979 and payment of a civil penalty of \$15,000.

The Department of Justice will receive on or before February 16, 1978, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to "United States v. Gulf Oil Company," D.J. Ref. 90-5-1-1-770.

The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Pennsylvania, U.S. Courthouse, Philadelphia, Pa.; the Clerk of the District Court, Eastern District of Kansas, U.S. Courthouse, Philadelphia, Pa.; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. A copy of the proposed consent judgment may be ob-



tained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 78-1183 Filed 1-16-78; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL

Meeting

The regular winter meeting of the Business Research Advisory Council will be held at 9:30 a.m., February 15, 1978, at the New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C., Room N-4437 (A, B, and C). The agenda for the meeting is as follows:

1. Chairman's opening remarks.
2. Commissioner's remarks.
3. A seminar on employment and unemployment measurement concepts:
  - (a) How does BLS measure employment and unemployment now? In the past? An overview of the household survey. A-1—The measurement of employment and unemployment. A-12—Historical comparability in the production of U.S. labor force data.
  - (b) When is a working person unemployed? A-5—The definition of full and part time. A-6—Persons working part time involuntarily for economic reasons.
  - (c) How to measure the pain of unemployment. A-3—Discouraged workers. A-4—The measurement of labor market related economic hardship.
  - (d) Too young or too old to count? A-7—The minimum age cutoff for labor force statistics. A-8—A possible maximum age cutoff for labor force statistics.
  - (e) What can we learn from foreign countries? A-11—International comparisons of unemployment.
4. Other business.
5. Chairman's closing remarks.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auker, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C., this 9th day of January 1978.

JULIUS SHISKIN,  
Commissioner of  
Labor Statistics.

[FR Doc. 78-1297 Filed 1-16-78; 8:45 am]

\* Issue paper designation.

NOTICES

[4510-28]

Office of the Secretary

"BOLTS, NUTS, AND LARGE SCREWS OF IRON OR STEEL"

On December 8, 1977, the International Trade Commission determined that increased imports of "Bolts, Nuts, and Large Screws of Iron or Steel" are a substantial cause of serious injury, or the threat thereof, to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 63481).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the Act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "Bolts, Nuts, and Large Screws of Iron or Steel." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received thirty-three petitions for certification of eligibility for adjustment assistance from workers engaged in the production of bolts, nuts, and large screws of iron or steel. The Department certified nineteen cases and denied fourteen cases. As of September 30, 1977, 4,071 workers had received \$5,122,761 in the form of trade readjustment allowances.

2. Employment of workers producing bolts, nuts, and large screws of iron or steel fell substantially in 1975 then dropped slightly in 1976 and the first half of 1977. Substantial layoffs in the next few months appear unlikely; however, continued erosion of employment levels in the coming year is possible.

3. The unemployment rates in most of the areas having bolts, nuts, and large screws producers are below the national unemployment rate of 6.6 percent (unadjusted) for September 1977. The reemployment prospects of most of the laid off workers in impacted areas are considered fair.

4. The Comprehensive Employment and Training Act (CETA) programs appear to be capable of meeting the needs of most of the displaced workers during fiscal year 1978. In addition, the Employment and Training Admin-

istration, through the State Employment Services, has the authority to purchase additional training when current CETA training programs are overenrolled or when expenditures for fiscal year 1978 exceed approved funding levels.

Copies of the Department report containing nonconfidential information developed in the course of the 6-month investigation may be purchased by contacting the Office of Trade Adjustment Assistance, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, phone 202-523-7694.

Signed at Washington, D.C. this 9th day of January 1978.

HOWARD D. SAMUEL,  
Deputy Under Secretary,  
International Affairs.

[FR Doc. 78-1002 Filed 1-13-78; 8:45 am]

"HIGH-CARBON FERROCHROMIUM"

On December 1, 1977, the International Trade Commission determined that increased imports of "High-Carbon Ferrochromium" are a substantial cause of the threat of serious injury to the domestic industry for purposes of the import relief provisions of the Trade Act of 1974 (42 FR 62050).

Section 224 of the Trade Act directs the Secretary of Labor to initiate an industry study whenever the ITC begins an investigation under the import relief provisions of the act. The purpose of the study is to determine the number of workers in the domestic industry petitioning for relief who have been or are likely to be certified as eligible for adjustment assistance and the extent to which existing programs can facilitate the adjustment of such workers to import competition. The Secretary is required to make a report of this study to the President and also make the report public (with the exception of information which the Secretary determines to be confidential).

The Department of Labor has concluded its report on "High-Carbon Ferrochromium." The report found as follows:

1. Since April 3, 1975, the effective date of the adjustment assistance program, the Department of Labor has received four petitions for certification of eligibility for adjustment assistance from workers engaged in the production of high carbon ferrochrome. The Department certified three cases and denied one case. As of September 30, 1977 the Department had paid \$712,627 to 344 workers employed in plants producing high carbon ferrochrome.

2. After the decline in employment in 1975 of workers producing high carbon ferrochrome, employment partly recovered in 1976 and remained

NOTICES

Signed at Washington, D.C. this 9th day of January 1978.

HOWARD D. SAMUEL,  
Deputy Under Secretary,  
International Affairs.

[FR Doc. 78-1003 Filed 1-16-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATION OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 27, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 27, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 3rd day of January 1978.

HAROLD A. BRATT,  
Acting Director, Office of  
Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Centennial Development Co. (workers).	Salt Lake City, Utah	Dec. 12, 1977	Dec. 8, 1977	TA-W-2,829	Underground construction development work for copper mines.
Halltex Clothing Co. (ACTWU).	Hall, Tenn.	Dec. 14, 1977	Dec. 12, 1977	TA-W-2,830	Men's suits, sportcoats, and vests.
Hyde Athletic Industries (workers).	Cambridge, Mass.	Dec. 12, 1977	Dec. 8, 1977	TA-W-2,831	Roller skates and ice hockey skates.
Jo-Mars Sportswear, Inc. (workers).	Boston, Mass.	Dec. 13, 1977	Dec. 7, 1977	TA-W-2,832	Ladies' sportswear.
Jones & Laughlin Steel Corp. (USWA).	Pittsburgh, Pa.	Dec. 8, 1977	Dec. 1, 1977	TA-W-2,833	Cold finished bars, hot rolled bars and shapes, cold rolled sheet and galvanized sheet.
Mister Dino (workers).	Los Angeles, Calif.	Dec. 12, 1977	Nov. 30, 1977	TA-W-2,834	Ladies' coats.
Totes, Inc. (workers).	Dorchester, Mass.	Dec. 5, 1977	Nov. 28, 1977	TA-W-2,835	Canvas tote bags.
U.S. Steel Corp. (USWA).	Waukegan, Ill.	Dec. 13, 1977	Nov. 15, 1977	TA-W-2,836	Stainless steel wire and carbon steel wire.
Union Carbide Corp., Metals Division (OIL, Chemical and Atomic Workers Union).	Alloy, W. Va.	Dec. 21, 1977	Dec. 21, 1977	TA-W-2,837	Silicon metal, ferro-silicon, special silicon, silicomanganese, ferromanganese silicon medium and low carbon ferromanganese.

[FR Doc. 78-1001 Filed 1-16-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-1608 and 1607; TA-W-1611, 1612]  
EVART PRODUCTS CO., EVART, MICH., AND  
COLEMAN PRODUCTS CO., COLEMAN, WIS.,  
AND IRON RIVER, MICH.

Notice of Negative Determination Regarding Application for Reconsideration

On November 22, 1977, the American Motors Corp., the petitioner for work-

ers and former workers of the above-mentioned firms, requested administrative reconsideration of the Department of Labor's negative determinations regarding eligibility to apply for worker adjustment assistance. The petitioner subsequently submitted clarifying and additional information, the most recent submission being Decem-

ber 1, 1977. These negative determinations were published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57767 and 57769).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

1. If it appears, on the basis of facts not previously considered, that the de-



termination complained of was erroneous;

2. If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

3. If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

There are three issues of substance raised by the petitioner in these cases. First, the petitioner criticizes the market segmentation approach used by the Department of Labor to analyze whether or not there are increased imports of "like or directly competitive" articles within the meaning of section 222 of the Trade Act of 1974. In its investigation, the Department of Labor had classified the Pacer as a compact and had found that imports of compacts had not increased over the relevant period. The petitioner argues that the department of Labor erred in ignoring the effect of other "more comparable" European and Japanese-made vehicles on the Pacer.

The second issue concerns the criterion which the Department of Labor uses to determine whether auxiliary plants supplying component parts for automobiles (where the assembly workers have been certified) are substantially integrated into the production of those vehicles. The petitioner claims that there is no legal basis for the Department's application of this criterion to component workers.

The third issue raised by the petitioner is that by limiting its evaluation of the Trade Act certification criterion of import increases with respect to the AMC's subcompact Gremlin and compact Hornet to imports from Canada in an earlier case (TA-W-999), the Department neglected the impact of other Canadian and foreign-made imported automobiles on the production of AMC's U.S.-made Hornets and Gremlins. The petitioner claims that this alleged failure to analyze the impact of other foreign-made competitive cars contributed to the denial of certification to workers at Evert and Coleman.

On the first issue, the Department of Labor has reviewed the data and associated rationale submitted by the U.A.W. in its application. The Department continues to believe that its market segmentation system is an appropriate way to deal with the issue of "like or directly competitive" products in the context of the automobile industry.

The Department of Labor, in assigning the Pacer to the class of compact cars, followed the classification of a

number of recognized authorities in the automotive industry. It based this classification on an amalgam of automobile characteristics.

The Department does not claim that there is no competition between automobiles in different classes such as the compact and the subcompact. What the department maintains, however, is that the cars in one class compete most directly with other cars within the same class. Specifically, however, the Department reaffirms its finding that imports of subcompacts are not "like or directly competitive" with the Pacer.

The petitioner's assertion that the Department of Labor omitted any analysis of the effects of imports of European and Japanese-made cars on the Pacer is incorrect. The Department evaluated the impact of all foreign-made compacts on the Pacer.

On the second issue, i.e., the criterion to assess whether or not components' producers are significantly integrated into the production of import-impacted automobiles, the Department of Labor believes that the petitioner has misinterpreted the purpose of that criterion. Some method is needed to deal with those cases where it is not possible to identify workers engaged in the production of components for specific automobiles, where the production of the automobiles is impacted by imports, and where there is every reason to believe that some of the unemployment or underemployment of components workers is also attributable to increased imports. Alternatives would be to deny all components workers or, as the petitioner suggests, to certify all components workers. The latter would not be consistent with the intent of Congress to exclude from coverage workers whose separations would have occurred regardless of the level of imports, such as those resulting from competition, seasonal, cyclical or technological factors. The former alternative would be unfair to component workers separated because of increased imports.

As for the third issue, the petitioner correctly asserts that the Department in TA-W-999 limited its analysis of import impact on the U.S.-made Gremlin to imports of Gremlins made in Canada and on the U.S.-made Hornet to imports of Hornets made in Canada. Imports of the identical cars from Canada provided a sound basis for the certification of AMC's Gremlin and Hornet assembly workers. The Canada-made Gremlin and Hornet provided a one-for-one measure of import displacement for U.S.-made Gremlins and Hornets. Further, aggregate imports of compacts were not increasing either absolutely or relative

to domestic production over the relevant time period. Although aggregate imports of subcompacts rose marginally relative to domestic production in the relevant time period, they fell significantly in absolute terms. At the same time, imports of AMC subcompacts were growing rapidly and represented a greater proportion of domestic AMC subcompact car production in the first three quarters of MY 1978, compared to the same period in MY 1975.

#### CONCLUSION

After review of the application for reconsideration and of the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decisions. The applications are therefore denied.

Signed at Washington, D.C., this 6th day of January 1978.

JAMES T. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-1298 Filed 1-16-78; 8:45 am)

#### [4510-27]

##### Wage and Hour Division BALLET WEST

##### Application for Variation and Public Hearing

Notice is hereby given that Ballet West, P.O. Box 11336, Salt Lake City, Utah 84147, has made application pursuant to 29 CFR 505.3(b)(2) for a variation from the standards prescribed in 29 CFR 505.3(a) concerning the payment of prevailing minimum compensation for all professional performers employed on projects or productions which are financed in whole or in part by the National Endowment of the Arts.

The applicant is a recipient of several grants from the National Endowment of the Arts pursuant to the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951, et seq.) for both its home season and its touring season. As a recipient of these grants, the applicant must make assurances that it will compensate its professional personnel at the prevailing minimum compensation. The applicant contends that the rates it compensates its professional dancers should not have to be the rates established on a national scale by the American Guild of Musical Artists as required by § 505.3(a) of the Code of Federal Regulations, Part 29. Ballet West requests that it be permitted to pay the following rates to its dancers:

	Base rates (week)	
	1977-78	1978-79
Corps de Ballet	\$150	\$160
Soloist	190	200
Principal	230	240

It further maintains that these rates which coincide with the rates in a collective bargaining agreement between Ballet West and the Ballet West Dancers Association should be determined to be the prevailing minimum compensation in the eleven Western States in which this ballet regularly performs. In justification of this position, Ballet West contends that it is the only ballet company that performs on a regular basis in Utah, Idaho, Wyoming, Montana, New Mexico, Arizona, Nevada, Oregon, Washington, Colorado, and a portion of California, while other ballet companies perform in these States on an occasional basis. Ballet West contends that since Ballet West performs regularly in these areas, its rates are the prevailing minimum compensation.

In order to give all interested parties an opportunity to present supporting and contrary views and to assist the Administrator in reaching a decision on this request for a variation, the Administrator of the Wage and Hour Division, has determined that an informal hearing is desirable.

Accordingly, such hearing will be held on February 22, 1978, in room 7102, Federal Office Building, 125 South State Street, Salt Lake City, Utah 84138, at which time and place interested persons may testify on the Ballet West's request for a variation concerning the payment of prevailing minimum compensation for its dancers.

Beginning at 10 a.m. m.s.t. on February 22, 1978, the presiding officer will hold a prehearing conference in order to establish the order and time for the presentations and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the prehearing conference, which is open to the public. The public hearing will immediately follow the prehearing conference.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and two copies of all documents to be used should be submitted at the hearing.

Persons who wish to submit data, views, or arguments, but who do not wish to attend the hearing, may mail

such written comments along with two copies to Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW., Room S-3502, Washington, D.C. 20210, by February 17, 1978. Such comments will be submitted to the presiding officer for inclusion in the hearing record.

The presiding officer shall have all the powers necessary or appropriate to conduct a full and fair informal hearing, including the powers:

- (a) To regulate the course of the hearing;
- (b) To dispose of procedural requests, objections, and comparable matters;
- (c) To confine the presentations to matters pertinent to the requested information;
- (d) To regulate the conduct of those present at the hearing by appropriate means;
- (e) To permit and to limit cross examination;
- (f) In his discretion, to keep the record open for a short, stated period of time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding officer shall certify the record thereof to the Administrator of the Wage and Hour Division. Upon closing the record, the Administrator of the Wage and Hour Division shall, after consideration of the record and other pertinent information, issue a determination on the request for a variation.

A copy of the record or portions thereof as it becomes available will be open for public inspection and examination at the office of Xavier M. Vela, Administrator, Room S-3502, Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210, and the area office of the Wage and Hour Division located at Room 3207, Federal Office Building, 125 South State Street, Salt Lake City, Utah 84138. The entire record or any part thereof may be purchased as provided in 29 CFR 70.62(c) at the actual cost of duplication as computed pursuant to the fee schedule in 29 CFR 70.62(b).

Signed at Washington, D.C., on this 12th day of January 1978.

XAVIER M. VELA,  
Administrator for the  
Wage and Hour Division.

(FR Doc. 78-1299 Filed 1-16-78; 8:45 am)

#### [4510-27]

(Administrative Order No. 653)

##### SPECIAL INDUSTRY COMMITTEE FOR ALL INDUSTRY IN AMERICAN SAMOA

##### Appointment; Convention; Notice of Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 205,

206(a)(3)), and Reorganization Plan No. 6 of 1950 (3 CFR, 1949-53 Comp., p. 1004) and 29 CFR 511, I hereby appoint special Industry Committee No. 13 for American Samoa.

2. Pursuant to section 6(a)(3) and section 8 of the Act, as amended (29 U.S.C. 206(a)(3), 208), reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and 29 CFR Part 511, I hereby:

- (a) Convene the above-appointed industry committee.
- (b) Refer to the industry committee the question of the minimum rate or rates for all industry in American Samoa to be paid under section 6(a)(3) of the Act, as amended.
- (c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industry and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the act.

The Committee shall meet in executive session to commence its investigation at 9 a.m. and begin its public hearing at 11 a.m. on April 24, 1978, in the Conference Room of the Lyndon B. Johnson Tropical Medical Center, Faga'alu, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rates prescribed by sections 6(a) and 6(b) of the Act, as amended by the Fair Labor Standards Amendments of 1977. These rates are \$2.65 during calendar year 1978, \$2.90 during calendar year 1979, \$3.10 during calendar year 1980, and \$3.35 thereafter.

The committee shall recommend to the Administrator of the Wage and Hour division of the Department of Labor the highest minimum rate or rates of wages for such industry which it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industry, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of Puerto Rico, the Virgin Islands, and American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in such industry than may be determined for other employees in such industry, the committee shall recommend such reasonable classifications within such industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR 511.10, which will not substan-



## NOTICES

tially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within industry, in making such classifications and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following: (a) Competitive conditions as affected by transportation, living, and production costs; (b) wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and (c) wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. The Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information he has assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, as soon as it is completed. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor in Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a prehearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210. Each prehearing statement shall contain the data specified in §511.8 of the regulations and shall be filed not later than April 14, 1978. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, D.C., this 12th day of January 1978.

RAY MARSHALL,  
Secretary of Labor.  
[FR Doc. 78-1300 Filed 1-16-78; 8:45 am]

## [6820-35]

## LEGAL SERVICES CORPORATION

## LEGAL SERVICES OF EASTERN MICHIGAN, ET AL.

## Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. The Legal Services of Eastern Michigan in Flint, Mich. to serve Lapeer county.
2. Legal Aid of Western Michigan in Grand Rapids, Mich. to serve Newaygo and Mecosta counties.
3. Neighborhood Legal Aid Society in Richmond, Va. to serve the cities of Colonial Heights and Hopewell.
4. Smyth-Bland Legal Aid Society in Marion, Va. to serve the city of Bristol.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, Suite 800, Arlington, Va. 22209.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1228 Filed 1-16-78; 8:45 am]

## [6820-35]

## NORTH COUNTRY LEGAL SERVICES, INC.

## Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is

considering the grant applications submitted by:

North Country Legal Services, Inc. in Upper Jay, N.Y. to serve the counties of Clinton, Essex, Franklin, Hamilton, and St. Lawrence.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, New York regional Office, 10 East 40th Street, New York, N.Y. 10018.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1229 Filed 1-16-78; 8:45 am]

## [6820-35]

## LEGAL SERVICES CORP. OF ALABAMA

## Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

The Legal Services Corporation of Alabama in Montgomery, Ala. to serve Lauderdale, Colbert, Etowah, Macon, Bullock, Lee, Hale, Houston, and Henry counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1230 Filed 1-16-78; 8:45 am]

## [6820-35]

## LAND OF LINCOLN LEGAL ASSISTANCE FOUNDATION AND EAST RIVER LEGAL SERVICES, INC.

## Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of

any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Land of Lincoln Legal Assistance Foundation in Alton, Ill. to serve Adams, Pike, Hancock, Cole, Cumberland, Douglas, Moultrie, Shelby, Franklin, Randolph, Perry, Jersey, Calhoun, and Brown counties.
2. East River Legal Services, Inc. in Sioux Falls, S. Dak. to serve Yankton and Bon Homme counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill. 60604.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1231 Filed 1-16-78; 8:45 am]

## [6820-35]

## NORTHERN PENNSYLVANIA LEGAL SERVICES, INC.

## Grants and Contracts

JANUARY 11, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1-07 (f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Northern Pennsylvania Legal Services, Inc., in Scranton, Pa., to serve Susquehanna County, Pa.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Philadelphia Regional Office, 101 North 33rd Street, Suite 115, Philadelphia, Pa. 19104.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1232 Filed 1-16-78; 8:45 am]

## NOTICES

## [6820-35]

## LEGAL AID OF WESTERN MISSOURI

## Grants and Contracts

JANUARY 12, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Aid of Western Missouri in Kansas City, Mo., to serve Andrew, Clinton, DeKalb, Benton, Pettis, and Saline Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the regional office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,  
President.  
[FR Doc. 78-1286 Filed 1-16-78; 8:45 am]

## [4510-30]

## NATIONAL COMMISSION FOR MANPOWER POLICY

## MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a formal meeting on February 17, 1978, in the Federal Room of the Capital Hilton Hotel, located at 16th and K Streets NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover a variety of issues concerned with the net employ-

ment effects of the public service employment programs of Title II and Title VI of the Comprehensive Employment and Training Act.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this tenth day of January 1978.

ISABEL V. SAWHILL,  
Director, National Commission  
for Manpower Policy.  
[FR Doc. 78-1296 Filed 1-16-78; 8:45 am]

## [4510-30]

## MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will sponsor a working conference on organized labor's views on manpower policy. The conference will be held on February 3, 1978, in the Mount Vernon Room of the Sheraton Carlton Hotel, located at 16th and K Streets NW., Washington, D.C. The confer-



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ence will begin at 9 a.m. and adjourn at 4:30 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda to be covered during the conference include: commitment to full employment and ways to achieve it; youth employment and unemployment; the delivery and efficacy of employment and training programs; the net employment effects of the local public works program; and a standby antirecessionary program.

The conference's objective is to obtain information from the union participants that will assist the Commission in furthering its development of recommendations on national manpower policy issues.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared

for the meeting will be available for public inspection five working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this tenth day of January 1978.

ISABEL V. SAWHILL,  
Director, National Commission  
for Manpower Policy.  
[FR Doc. 78-1295 Filed 1-16-78; 8:45 am]

[7537-01]

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts  
VISUAL ARTS ADVISORY PANEL

#### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel (Policy) to the National Council on the Arts will be held on February 2, 1978, from 9:30 a.m. to 5:30 p.m., and on February 3, 1978, from 9:30 a.m. to 5:30 p.m., in the Mandeville Suite of the Muir Campus of the University of California at San Diego, in La Jolla, Calif.

This meeting will be open to the public. The topic of discussion will be crafts policy.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,  
Administrative Officer, National  
Endowment for the Arts.  
[FR Doc. 78-1267 Filed 1-16-78; 8:45 am]

[7590-01]

### NUCLEAR REGULATORY COMMISSION

#### DOMESTIC SAFEGUARDS MATTERS

##### Supporting Statement of Need for Research Studies and Technical Assistance

Section 1(c) of Pub. L. 95-209 (91 Stat. 1481) requires that no amount authorized to be appropriated for fiscal year 1978 for contracts for research, studies, and technical assistance on domestic safeguards matters may be used for such contracts "until a statement supporting the need for such research, study or technical assistance has been prepared and published by the Commission." After considering the NRC needs to contract for research, studies and technical assistance in domestic safeguards matters, the Commission has concluded that

such assistance is needed in the following areas:

#### A. MATERIAL ACCOUNTABILITY

Improve capability for controlling and maintaining accurate track of location and disposition of nuclear material.

##### Major FY 1978 Activities:

Improve methods of evaluating effectiveness of licensee accountability systems.

Assess accountability aspects of alternate fuel cycles.

Apply new techniques such as time series analysis, simulations, and non-destructive analysis to material measurement.

Develop improved inspection strategies, and support for inspection of licensee material measurement capability.

Develop support for preparation and publication of material accountability standards and guides.

#### B. PHYSICAL PROTECTION

Procedures and equipment to detect, detect, and prevent sabotage or theft of nuclear materials at fixed sites.

##### Major FY 1978 Activities:

Continue development of an evaluation procedure to systematically determine the effectiveness of physical protection at fixed sites.

Provide inspectors and evaluators with improved procedures and devices for assessing licensees' physical protection equipment.

Study impact of reactor design considerations on sabotage vulnerability.

Determine physical protection needs for byproduct material, high-level waste facilities, and alternate fuel cycles.

Develop support for review and evaluation of reactor physical security plans.

Provide improved criteria for training of facility guard forces.

Develop guides and standards for explosives/metal detection.

#### C. TRANSPORTATION

Procedures, systems, and equipment for the protection of nuclear materials in transit.

##### Major FY 1978 Activities:

Develop an evaluation procedure to systematically determine the effectiveness of material protection during transportation.

Conduct vulnerability assessment of transport routes.

Test the SECOM system for achieving secure communication.

#### D. THREAT ANALYSIS

Assessment of the scope, nature, and attributes of potential threats and possible resulting consequences.

##### Major FY 1978 Activities:

Assess facility vulnerabilities associated with internal conspiracies involving the security force.

Assemble a data base for rapid assessment of threats to the commercial nuclear industry.

#### E. CONTINGENCY PLANNING

Activities addressing the responsibilities of licensee and federal, state, and local agencies in dealing with commu-

nicated threats and with nuclear emergencies.

##### Major FY 1978 Activities:

Develop a capability for assessing communicated threats.

Assemble a data base to support the review and updating of facility contingency plans and to deal with actual incidents.

Develop improved guidance for the NRC Staff to assist licensees in developing contingency plans.

#### F. INFORMATION SYSTEMS

Activities associated with the development and maintenance of systems for automated storage and retrieval of safeguards information.

##### Major FY 1978 Activities:

Continue to assess present safeguards-related informational needs; continue to develop a computerized system to store and retrieve safeguards information for all NRC offices.

Continue operational support of the existing information system for tracking nuclear materials.

A document entitled "FY 78 Proposed Technical Assistance and Research Projects" for domestic safeguards matters which sets forth presently proposed projects in which contractual assistance will be utilized has been placed in the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 for public inspection and copying.

Dated at Washington, D.C., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.  
[FR Doc. 78-1109 Filed 1-16-78; 8:45 am]

[7590-01]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, ARKANSAS NUCLEAR ONE, UNIT NO. 2 SUBCOMMITTEE

#### Meeting

The ACRS Arkansas Nuclear One, Unit No. 2 Subcommittee, will hold a meeting on February 2, 1978, in Room 1046, 1717 H Street NW., Washington D.C. 20555, to continue its review of the application of the Arkansas Power & Light Co. for an operating license for Unit No. 2.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as

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practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

THURSDAY, FEBRUARY 2, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Arkansas Power & Light Co., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-634-1374, between 8:15 a.m. and 5:00 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Arkansas Polytechnic College, Russellville, Ark. 72801.

Dated: January 11, 1978.

JOHN C. HOYLE,  
Advisory Committee,  
Management Officer.  
[FR Doc. 78-1208 Filed 1-16-78; 8:45 am]

[7590-01]

[Docket Nos. 50-387 and 50-388]

### PENNSYLVANIA POWER & LIGHT CO., AND ALLEGHENY ELECTRIC COOPERATIVE

#### Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the

Commission) has issued amendment No. 1 to construction permit No. CPPR-101 and amendment No. 1 to construction permit No. CPPR-102 issued to the Pennsylvania Power & Light Co. These amendments reflect the purchase by Allegheny Electric Cooperative, Inc. (Allegheny), of a 10 percent ownership interest in the Susquehanna steam electric station, unit No. 1 and unit No. 2. The Susquehanna steam electric station is located in Salem Township, Luzerne County, Pa.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amendments.

Prior public notice of these amendments was not required since these amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see: (1) The application for amendments transmitted by a letter, dated March 2, 1977, (2) amendment No. 1 to construction permits CPPR-101 and CPPR-102, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, located at 1717 H Street NW., Washington, D.C., and at the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, Pa. 18701.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 10th day of January 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,  
Chief, Light Water Reactors  
Branch No. 3, Division of Project Management.

[FR Doc. 78-1209 Filed 1-16-78; 8:45 am]



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## [7590-01]

[Docket Nos. STN 50-522, STN 50-523]

**PUGET SOUND POWER AND LIGHT CO., ET AL.  
(SKAGIT NUCLEAR POWER PROJECT, UNITS  
1 AND 2)****Order Convening Prehearing Conference**

The parties to this proceeding have conferred on a convenient date for convening a prehearing conference and have selected January 24, 1978.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Nuclear Regulatory Commission, that a prehearing conference shall convene at 9 a.m. on Tuesday, January 24, 1978, in Room 2866 of the New Federal Building, 915 Second Avenue, Seattle, Wash.

The subjects to be considered at the prehearing conference will include and principally relate to matters to be presented by the parties at contemplated two separate sessions of evidentiary hearings which will commence on the two dates of February 14th and March 6th, 1978. The February 14th session will consider nongeologic and nonsismic items that await further evidentiary presentations as reflected by the previous record made in this proceeding, such as health effects attributable to coal and nuclear fuel cycle alternatives, completion by the staff of cost-benefit analysis, if it is available, Ranney well collector data, and possible consideration of applicants' revised load projections. The March 6th session will consider the geologic and seismic concerns pertaining to the proposed Skagit site as indicated by the parties and reflected in the record.

The identification and availability of witnesses, as well as the prior preparation and presentation of statements intended to be offered as evidence, for both sessions of evidentiary hearings will be considered at the prehearing conference convening on January 24, 1978. No evidence nor statements by way of limited appearance will be received at the prehearing conference.

Issued: January 11, 1978, Bethesda, Md.

For the Atomic Safety and Licensing Board.

SAMUEL W. JENSCH,  
Chairman.

[FR Doc. 78-1210 Filed 1-16-78; 8:45 am]

## [7590-01]

**ADVISORY COMMITTEE ON REACTOR SAFETY  
SUBCOMMITTEE ON FLUID/HYDRAULIC  
DYNAMIC EFFECTS****Notice of Meeting**

The ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold a meeting on January 31, 1978 at the

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Sheraton Inn; 9750 Airport Boulevard, Los Angeles, Calif. 90045 to discuss the status of the Mark III Containment Tests, and the effects of blowdown forces on reactor vessel supports.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

TUESDAY, JANUARY 31, 1978

8:30 A.M. UNTIL THE CONCLUSION OF  
BUSINESS

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the General Electric Company, and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, telephone 202-634-1920 between 8:15 a.m. and 5 p.m., EST.

Dated: January 16, 1978.

JOHN C. HOYLE,  
Advisory Committee.

[FR Doc. 78-1423 Filed 1-16-78; 9:48 am]

## [3110-01]

**OFFICE OF MANAGEMENT AND  
BUDGET****PRIVACY ACT OF 1974****Reports on New Systems**

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires the agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(O)). During the period December 12, 1977, through January 6, 1978 the Office of Management and Budget received the following reports on new (or revised systems of records).

**COPYRIGHT OFFICE****System names:**

- (1) Recorded documents file.
- (2) Appeal from refusal to register file.
- (3) Freedom of Information Act requests and Privacy Act requests and disclosures file.
- (4) Notice of intention to obtain compulsory license for making and distributing of phonorecords embodying nondramatic musical compositions file.
- (5) Secondary transmission cable systems: Initial notice of identity and changes file.
- (6) Cable systems subject to compulsory license: Statements of account.
- (7) Cable system videotape transfer contracts file.
- (8) Jukebox license record books.
- (9) Unmarketable jukebox certificates.
- (10) Licensing division refund file.
- (11) Voluntary licensing agreements file.
- (12) Licensing division search report file.
- (13) Licensing division unfinished business files (open and closed).

**Report date:**

December 9, 1977.

**Point of contact:**

Mr. Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Arlington, Va. 22202.

**Summary:**

These systems of records are used by the Copyright Office in carrying out

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its responsibilities under the Copyright Act of 1976, including public search reports, registration of copyright claims, preparation of statistical reports, maintenance of public records, and preparation of reports to the Copyright Royalty Tribunal.

**DEPARTMENT OF DEFENSE****System name:**

Reports of Disposition of Personal Money Allowance and Position Allowances.

**Report date:**

December 21, 1977.

**Point of contact:**

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

**Summary:**

This proposed system will enable the Chief of Naval Operations to review the disposition of personal money and position allowances to assure that they are being properly spent in accordance with the recipients' duties and responsibilities.

**System name:**

Personnel Radiation Exposure Records.

**Report date:**

December 23, 1977.

**Point of contact:**

Mr. William Cavaney, Executive Secretary, Defense Privacy Board, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

**Summary:**

The Defense Department proposes to alter this system by adding records on individuals who work at or visit Eniwetok Atoll and individuals "known to enter a radiation environment at the Uniformed Services University of the Health Sciences."

**DEPARTMENT OF TRANSPORTATION****System name:**

Records of Official Time Granted Employees for Performing Representational Functions.

**Report date:**

December 30, 1977.

**Point of contact:**

Mr. Aubrey Robertson, TAD-17, U.S. Department of Transportation,

Washington, D.C. 20590.

**Summary:**

The proposed system of records is intended to record official time used by employees while representing other DOT employees and to assure that this time is reasonable and "beneficial to the agency and its employees."

**DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARE****System names:**

(1) Readership Surveys of Office of Research and Statistics (ORS) Publications (Statistics).

(2) Training and development awards for Vocational Education Personnel-Applications and Awards.

(3) Lump-sum Reimbursement Method for Physician Extenders Delivering Independent Medicare Services.

**Report date:**

December 30, 1977.

**Point of contact:**

Mr. Charles Miller, Acting Assistant Secretary for Management and Budget, Department of Health, Education and Welfare, Washington, D.C. 20201.

**Summary:**

The first system, Readership surveys of ORS Publications, will aid ORS in meeting the informational needs of the Social Security Administration. The second system will be used "to select the best qualified applicants for graduate training in a vocational educational leadership program and for training toward certification under Teacher Certification Awards." The third system is intended to provide data for use in determining the circumstances and extent to which Medicare, Medicaid, and other Federal health insurance programs should reimburse employers for physician extender services.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc. 78-1265 Filed 1-16-78; 8:45 am]

## [3110-01]

**PRESIDENT'S REORGANIZATION PROJECT**

Reorganization Study of Natural Resources and Environmental Functions Extension of Deadline for Submission of Public Comments

JANUARY 13, 1978.

The President's Reorganization Project in the Office of Management and Budget has extended the period for receiving comments on its document en-

titled, "Reorganization Study of Natural Resources and Environmental Functions" published in the FEDERAL REGISTER (3101-01, Vol. 42 No. 243, December 19, 1977, Pg. 63665). The deadline for submission of comments is now February 14, 1978.

WILLIAM W. HARSCH,  
Deputy Associate Director, Natural Resources/Environment  
Division.

[FR Doc. 78-1435 Filed 1-16-78; 11:02 am]

## [8010-01]

**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 10088; 811-2195]

**AMERICAN NATIONAL GROWTH FUND SHARE  
ACCUMULATION PLANS AND SECURITIES  
MANAGEMENT & RESEARCH, INC.**

Filing of Application for an Order Declaring  
That the Plan Has Ceased To Be an Investment Company

JANUARY 10, 1978.

Notice is hereby given that American National Growth Fund Share Accumulation Plans ("Plan"), registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and the Plan's sponsor, Securities Management & Research, Inc. ("SM & R"), (SM & R and Plan are collectively referred to herein as "applicants"), Two Moody Plaza, Galveston, Tex. 77550, filed an application on December 1, 1977, and an amendment thereto on December 12, 1977, pursuant to section 8 (f) of the Act, for an order of the Commission declaring that the plan has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

The Plan was organized on May 10, 1971, pursuant to Texas law, as a systematic investment plan to facilitate purchases by investors of shares of American National Growth Fund ("Growth Fund"), registered under the Act as an open-end, diversified management investment company. The Moody National Bank of Galveston, by a custodian agreement dated May 10, 1971, served as the Plan's custodian. The Plan registered under the Act on May 10, 1971, and on that date it also filed a registration statement on form S-6 (File No. 2-41399) under the Securities Act of 1933. This registration statement was declared effective by the Commission on May 22, 1972.

Pursuant to the above registration statement, the Plan offered and sold accumulation plans to the public. However, because of a lack of investor



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interest, SM & R determined in December of 1975, that the interests in the Plan should no longer be offered for sale to the public, and that the Plan should be dissolved. By a letter dated February 26, 1976, all Plan owners were solicited to terminate their participation in the Plan voluntarily and for their consent to liquidation of the Plan. All Plan owners agreed to terminate their participation and consented to liquidation. In the liquidation, each Plan owner received: (1) A pro rata distribution of the shares of the underlying Growth Fund, and (2) an additional number of Growth Fund shares equal to the difference between what the Plan owner could have purchased at the prescribed 8.5 percent (or other applicable) Growth Fund sales charge and what he actually purchased at the higher initial sales charges permitted by the Plan. The additional Growth Fund shares distributed to the former Plan owners were purchased by SM & R and did not result in any expense or loss to the Plan or to the Growth Fund.

After liquidation of the Plan, the custodian agreement with the Moody National Bank was terminated on May 4, 1976. The Plan currently has no assets or Plan owners, and does not have any liabilities or owe obligations to any person. Applicants are not now making and do not propose to make any public offering of interest in the Plan.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon applicants at the address stated above. Proof of service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as a

matter of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.  
(FR Doc. 78-1184 Filed 1-16-78; 8:45 am)

## [8010-01]

(Release No. 14362; File No. SR-NASD-77-91)

## NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

## Order Approving Proposed Rule Change

JANUARY 10, 1978.

On June 13, 1977, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), and rule 19b-4 thereunder, 17 CFR 240.19b-4, a proposed rule change (the "proposal") to amend the NASD's Code of Arbitration Procedure (the "Code") to: (a) Liberalize the access provisions of the Code, (b) liberalize the provision setting forth the methods by which process may be served to commence a proceeding and by which the respondent may serve his answer, and (c) reduce, from five to three, the number of arbitrators in matters involving public customers in which the amount in controversy does not exceed \$20,000.

Notice of the proposal (File No. SR-NASD-77-9) together with the terms of substance thereof was given by publication of a Commission release (Securities Exchange Act Release No. 13847, (August 10, 1977)) and by publication in the FEDERAL REGISTER (42 FR 41502 (August 17, 1977)).

The NASD, by letters dated December 1, 1977, and December 22, 1977, amended the proposal to: (a) Withdraw those section which would have liberalized the access provisions of the Code, and (b) withdraw all proposed changes in the requirements applicable to service of process and service of the respondent's answer except the proposed change to allow personal service. The NASD has stated that the purpose of the proposal, as so amended (the "amended proposal"), is to facilitate the arbitration process.

The Commission finds that the amended proposal is consistent with

the requirements of the Act and the rules and regulations thereunder applicable to a registered national securities association, and, in particular, the requirements of section 15A of the Act and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the amended proposal be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.  
(FR Doc. 78-1186 Filed 1-16-78; 8:45 am)

## [8010-01]

(Release No. 14199; File Nos. SR-NYSE-77-321)

## NEW YORK STOCK EXCHANGE, INC.

## Filing of Proposed Rule Change and Order Approving Proposed Rule

NOVEMBER 23, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, section 16 (June 4, 1975), notice is hereby given that on November 17, 1977, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10006, filed with the Commission copies of a proposed rule change. The proposed rule change would amend NYSE rules 91.10, 115A.20, 121, and 123 to conform with the record retention requirements contained in Commission rules 17a-3 and 17a-4 (17 CFR 240.17a-3, 4) under the Act.

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of November 28, 1977. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-77-32.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder. Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule changes conform the record retention requirements of NYSE rules 91.10, 115A.20,

121, and 123 to those of Commission rules 17a-3 and 17a-4 which, in relevant parts, require members of national securities exchanges to keep, for a period of not less than three years, the first two years in an accessible place, "[a] memorandum, of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted", and that such memorandum show "the terms and conditions of the order or instructions and of any modification or cancellation thereof, the account for which entered, the time of entry, the price at which executed and, to the extent feasible, the time of execution or cancellation." The Commission has determined that it is in the public interest and for the protection of investors for the three year retention requirement to take effect immediately.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.  
(FR Doc. 78-1187 Filed 1-16-78; 8:45 am)

## [8010-01]

(File No. 1-12081)

## KNOTT HOTELS CORP.

## Application and Opportunity for Hearing

JANUARY 6, 1978.

Notice is hereby given that Knott Hotels Corp. ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting applicant an exemption from the provisions of section 15(d) of the 1934 Act.

Section 15(d) provides that each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act with respect to a security registered pursuant to section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt in whole or in part, any issuer or class of issuers from section 15(d) if the Commission finds, by reason of the number of public investors, the amount of trading interest in the securities, the nature and extent

of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The applicant states, in part:

1. Applicant, a Delaware corporation, pursuant to a merger and through a chain of wholly owned subsidiaries, became a wholly owned subsidiary of Trust Houses Forte, Ltd., a United Kingdom corporation, on March 3, 1977. Trust Houses Forte, Ltd., has no securities publicly traded in the United States and is not subject to the filing or reporting requirements of the 1934 Act. The public shareholders of the applicant received cash for their shares.

2. Pursuant to section 15(d), applicant is obligated to file all periodic reports with the Commission which may be applicable to its current fiscal year ending December 31, 1977. This duty to file reports will cease in succeeding years pursuant to section 12(g)(4).

3. The applicant has no public shareholders.

4. The applicant's securities are not publicly traded.

Accordingly, the applicant believes that the granting of the exemption would not be inconsistent with any public interest or the protection of any investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than January 31, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.  
(FR Doc. 78-1185 Filed 1-16-78; 8:45 am)

## [8010-01]

(File No. 81-281)

## WARNER COMMUNICATIONS, INC.

## Application and Opportunity for Hearing

JANUARY 9, 1978.

Notice is hereby given that Warner Communications Inc. ("applicant"),

has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Knickerbocker Toy Co., Inc., be granted an exemption from the provisions of sections 12(g), 13, 14, and 15(d) of that Act.

Section 12(g) of the 1934 Act requires the registration of the equity securities of every issuer which is engaged in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding \$1 million and a class of equity securities held of record by 500 or more persons.

Section 13 and 15(d) of the 1934 Act require that issuers of securities registered pursuant to section 12 or that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole, or in part, any issuer or class of issuers from the provisions of section 12(g), 13, 14, and 15(d) of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or otherwise, that such exemption is not inconsistent with the public interest or protection of investors.

The applicant states, in part:

1. Knickerbocker is incorporated under the laws of the State of New York.

2. Prior to the merger with applicant, Knickerbocker had one class of equity securities registered under the Securities Act of 1933.

3. Prior to the merger, Knickerbocker was subject to the provisions of section 15(d) of the 1934 Act and its common stock was registered pursuant to section 12(g) of the 1934 Act.

4. As a result of the merger, Knickerbocker became a 98 percent owned subsidiary of applicant.

Applicant believes that its request for an order exempting Knickerbocker from the provisions of section 12(g), 13, 14 and 15(d) of the 1934 Act is appropriate in view of the fact that applicant believes that the time, effort and expense involved in compliance with such provisions would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.



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Notice is further given that any interested person not later than February 3, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1188 Filed 1-16-78; 8:45 am]

## [8025-01]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 14151]

## CALIFORNIA

## Declaration of Disaster Loan Area

Humboldt, Kern, and San Diego Counties and adjacent counties within the State of California constitute a disaster area as a result of damage caused by high winds, dust, rain, and hurricane-force winds which occurred on December 19-23, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 10, 1978, and for economic injury until the close of business on October 9, 1978 at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105

Small Business Administration, District Office, 880 Front Street, Federal Building, Suite 4-S-33, San Diego, Calif. 92101

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 9, 1978.

PATRICIA M. DOHERTY,  
Acting Administrator.  
[FR Doc. 78-1225 Filed 1-16-78; 8:45 am]

## [8025-01]

[Declaration of Disaster Loan Area No. 1416]

## CALIFORNIA

## Declaration of Disaster Loan Area

Mendocino County and adjacent counties within the State of California constitute a disaster area as a result of damage caused by heavy rains, high seas and windstorms which occurred on October 28-30, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 13, 1978, and for economic injury until the close of business on October 10, 1978, at:

Small Business Administration, District Office, 211 Main Street, San Francisco, Calif. 94105

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 10, 1978.

PATRICIA N. DOHERTY,  
Acting Administrator.  
[FR Doc. 78-1226 Filed 1-16-78; 8:45 am]

## [8025-01]

## REGION VIII—REGIONAL EXECUTIVE BOARD

## Public Meeting

The Small Business Administration Region VIII Executive Board will hold a public meeting at 1 p.m., Thursday, February 9, 1978, in Room 2240, Executive Tower Inn, 1405 Curtis Street, Denver, Colo., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Dean Lupkey, Regional Director, U.S. Small Business Administration, 1405 Curtis

Street, Denver, Colo. 80202, 303-837-4021.

Dated: January 10, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.  
[FR Doc. 78-1224 Filed 1-16-78; 8:45 am]

## [4810-40]

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

[Department Circular, Public Debt Series No. 1-78]

TREASURY NOTES OF JANUARY 31, 1980,  
SERIES K-1980

## Announcement of Auction

JANUARY 13, 1978.

## 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$3,250,000,000 of U.S. securities, designated Treasury Notes of January 31, 1980, Series K-1980 (CUSIP No. 912827 HJ 4). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

## 2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated January 31, 1978, and will bear interest from that date, payable on a semiannual basis on July 31, 1978, and each subsequent 6 months on January 31 and July 31, until the principal becomes payable. They will mature January 31, 1980, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of

1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

## 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., eastern standard time, Wednesday, January 18, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 17, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tender submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary

dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a 1/8 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid.

Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair

determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

## 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

## 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Tuesday, January 31, 1978, at the Federal Reserve Bank, or Branch, or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, January 27, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, January 25, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required on the bidder for any difference between the face amount of securities presented and

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the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

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6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,  
Acting Fiscal Assistant Secretary.  
[FR Doc. 78-1376 Filed 1-13-78; 8:45 am]

[8320-01]

#### VETERANS ADMINISTRATION STATION COMMITTEE ON EDUCATIONAL ALLOWANCES

##### Meeting

Notice is hereby given pursuant to section V, review procedure and hearing rules, Station Committee on Educational Allowances that on February 10, 1978, at 1 p.m., the Veterans Administration Regional Office Station Committee on Educational Allowances shall at Federal Building, U.S. Courthouse, Room A-220, 110 9th Avenue, South, Nashville, Tenn., conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in Donahue Barber College, 302 South Main Street, Memphis, Tenn., should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 9, 1978.

R. S. BIELAK,  
Director, VA Regional Office.  
[FR Doc. 78-1182 Filed 1-16-78; 8:45 am]

[7035-01]

#### INTERSTATE COMMERCE COMMISSION [No. 568]

##### ASSIGNMENT OF HEARINGS

JANUARY 12, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FF 497, Max Greunhut International, Inc., now assigned February 23, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 1515 (Sub-No. 228), Greyhound Lines, Inc., now assigned February 27, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 113678 (Sub-No. 699), Curtis, Inc., now being assigned February 22, 1978 (1 day), for hearing in Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140665 (Sub-No. 11), Prime, Inc., now assigned February 22, 1978, at Chicago, Ill., is postponed indefinitely.

MC 107012 (Sub-No. 238), North American Van Lines, Inc., now assigned February 7, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114457 (Sub-No. 311), Dart Transit Co., now assigned February 7, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 119777 (Sub-No. 335), Ligon Specialized Hauler, Inc., now assigned February 8, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 113678 (Sub-No. 668), Curtis, Inc., now assigned February 13, 1978, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 16831 (Sub-No. 23), Mid Seven Transportation Co., now assigned February 7, 1978, at Chicago, Ill., will be held in Room 3855A, 230 South Dearborn Street.

MC 69118 (Sub-No. 191), Spector Freight System, Inc., now assigned February 9, 1978, at Chicago, Ill., will be held in Room 3619, 230 South Dearborn Street, and February 10, 1978, will be held in Room 3855A, 230 South Dearborn Street.

MC 119619 (Sub-No. 105), Distributors Service Co., now assigned February 13, 1978, at Chicago, Ill., will be held in Room 3855A, 230 South Dearborn Street.

MC 128273 (Sub-No. 253), Midwestern Distribution, Inc., now assigned February 7, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 140033 (Sub-No. 26), Cox Refrigerated Express, Inc., now assigned February 8, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC-F-13197, Jack C. Robinson, d.b.a. Robinson Freight Lines—Control—Cumberland Express, Inc., and MC-F-13236, Atlanta Motor Lines, Inc., et al. v. Cumberland Express, Inc., et al., now assigned February 13, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street, and March 13, 1978, continued hearing will be held in Room 305, 1252 West Peachtree Street NW., at Atlanta, Ga.

MC 100668 (Sub-No. 364), Melton Truck Lines, Inc., now assigned February 15, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 120761 (Sub-No. 20), Newman Bros. Trucking Co., now being assigned February 15, 1978 (3 days), for hearing at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 116915 (Sub-No. 30), Eck Miller Transportation Corp., now assigned March 7, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 118130 (Sub-No. 80), South Eastern Xpress, Inc., now assigned March 8, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

MC 119777 (Sub-No. 338), Ligon Specialized Hauler, Inc., and MC 120761 (Sub-No. 27), Newman Bros. Trucking Co., now assigned March 9, 1978, at Dallas, Tex., will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

I & S M 29710, general increase, December 1977, C.S.M.F.T.A., now being assigned March 7, 1978, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 119656 (Sub-No. 35), North Express, Inc.; MC 114552 (Sub-No. 141), Senn Trucking Co.; MC 43887 (Sub-No. 35), A. Leander McAllister Trucking Co.; and MC 108341 (Sub-No. 72), Moss Trucking Co., now being assigned January 31, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 106274 (Sub-No. 25), Raeford Trucking Co., now being assigned January 17, 1978, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134755 (Sub-No. 114), Charter Express, Inc., now being assigned February 18, 1978 (2 days), for hearing in Kansas City, Mo., in a hearing room to be later designated.

MC 57697 (Sub 9), Lester Smith Trucking, Inc., now assigned January 19, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

MC 117686 (Sub 172), Hirschbach Motor Lines, Inc., now assigned January 24, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

MC 117686 (Sub 172), Hirschbach Motor Lines, Inc., now assigned January 24, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

MC 117686 (Sub 172), Hirschbach Motor Lines, Inc., now assigned January 24, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

MC 117686 (Sub 172), Hirschbach Motor Lines, Inc., now assigned January 24, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, suite 1718, 1050 17th Street.

#### NOTICES

(OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 136212 (Sub 22), Jensen Trucking Co., Inc., now assigned January 26, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom Suite 1718, 1050 17th Street.

MC 138328 (Sub 34), Clarence L. Werner, d.b.a. Werner Enterprises, now assigned January 23, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 129631 (Sub 56), Pack Transport, Inc., now assigned January 17, 1978, at Salt Lake City, Utah, and will be held in Room 479, U.S. Post Office and Federal Courthouse, 350 South Main Street.

MC 129994 (Sub 24), Ray Bethers Trucking, Inc., now assigned January 18, 1978, at Salt Lake City, Utah, and will be held in Room 479, U.S. Post Office and Federal Courthouse, 350 South Main Street.

MC 74321 (Sub 130), B. F. Walker, Inc., now assigned January 30, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC-F-13271, Refrigerated Foods, Inc.—Purchase—Fast Freightways, Inc., now assigned February 1, 1978, at Denver, Colo., and will be held in (OSHRC) Courtroom, Suite 1718, 1050 17th Street.

MC 107839 (Sub 172), Denver-Albuquerque Motor Transit, Inc., now assigned January 17, 1978, at New Orleans, La., is canceled, application dismissed.

MC 107839 (Sub 172), Denver-Albuquerque Motor Transit, Inc., now assigned January 17, 1978, at New Orleans, La., is canceled, application dismissed.

MC 107839 (Sub 172), Denver-Albuquerque Motor Transit, Inc., now assigned January 17, 1978, at New Orleans, La., is canceled, application dismissed.

MC 107839 (Sub 172), Denver-Albuquerque Motor Transit, Inc., now assigned January 17, 1978, at New Orleans, La., is canceled, application dismissed.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1292 Filed 1-16-78; 8:45 am]

[7035-01]

#### FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 12, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

FSA No. 43488, Traffic Executive Association—Eastern Railroad, Agent's E.R. No. 3602, on property moving on class rates within official territory, and between points in official territory, on the one hand, and points in southern and western truck-line territories, on the other, in supplements 263, 137, and 213 to its tariffs E/S-1008, E-1009-A, and E/W-1010, ICC A-946 (Boin Series), C-391, and 4488 (Hinsch Series), respectively, to become effective February 4, 1978. Grounds for relief—Short-line distance formula and grouping.

FSA No. 43489, Southwestern Freight Bureau, Agent's No. B-722, on soda ash, from stations in Texas, to Chamblee, Ga., in its tariff 357-C, ICC 5212, to become effective February 12, 1978. Grounds for relief—Rate relationship.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1291 Filed 1-16-78; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### [6210-01]

#### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11 a.m., Friday, January 20, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

1. Proposal by the Federal Reserve Bank of Atlanta to solicit competitive bids for a construction contract for the new Miami branch building.
2. Proposed negotiation of a competitive purchase of computer equipment at the Federal Reserve Bank of Dallas.
3. Proposed negotiation of a competitive purchase of property by the Federal Reserve Bank of San Francisco.
4. Proposed negotiation of a competitive purchase of high-speed currency equipment for the Federal Reserve Banks and branches.
5. Any agenda items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

[S-104-78 Filed 1-13-78; 11:55 am]

## 2

#### NATIONAL RAILROAD PASSENGER CORPORATION.

##### BOARD OF DIRECTORS MEETING

In accordance with rule 4a. of appendix A of the bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on January 25, 1978.

A. The meeting will be held on Wednesday, January 25, 1978, in the Pierre Suite of the Loews L'Enfant

Plaza Hotel, 480 L'Enfant Plaza East SW., Washington, D.C., beginning at 9:30 a.m. The portion of the meeting beginning at 9:30 a.m. will be closed to the public, during which time the Board will consider agenda items Nos. 1 and 2, as identified below.

B. The meeting will be open to the public beginning at 10:15 a.m. starting with agenda item No. 3, as identified below.

C. The agenda items to be discussed at the meeting follow:

#### AGENDA—NATIONAL RAILROAD PASSENGER CORPORATION, MEETING OF THE BOARD OF DIRECTORS, JANUARY 25, 1978

- 9:30 a.m.—Closed session.
  1. Internal personnel matters.
  2. Litigation matters.
- 10:15 a.m.—Open session.
  3. Approval of minutes of regular meeting of December 14, 1977.
  4. DOT restructuring study.
  5. Commitment approval requests: 78-37—Recondition/dieselize derrick—NEC; 78-45—Rebuild four FL-9 locomotives; 78-46—Construct trackage, post road—Rensselaer, N.Y.; 78-48—Head end power conversion—Lake Shore Limited.
  6. Board committee reports:
    - A. Organization and compensation.
    - B. Northeast corridor: (1) Proposed modifier master plan for NECIP; (2) conclusion of 1977 work program; (3) status of Woonasquatucket River bridge; (4) status of 1978 work program; (5) status of southwest corridor project; (6) labor situation.
    - C. Planning/equipment: (1) Baltimore-Washington International Station; (2) fiscal year 1978 supplemental—capital; (3) quarterly report—capital reprogramming.
  7. President's reports:
    - A. Operations: (1) National operations; (2) operations support; (3) northeast corridor operations.
    - B. Marketing.
    - C. Government affairs.
    - D. Other.
  8. Financial reports.
  9. Approval of consulting contracts for computer system services.
  10. Approval of Canadian liquor license.
  11. New business.
  12. Adjournment.

D. Inquiries regarding the information required to be made available to the public pursuant to appendix A of the Corporation's bylaws should be directed to the Corporate Secretary at 202-484-7679.

Dated: January 13, 1978.

ELYSE G. WANDER,  
Corporate Secretary.

[S-101-78 Filed 1-13-78; 10:08 am]

### [7590-01]

## 3

#### NUCLEAR REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Week of January 9, 1978.

#### CHANGES IN THE MEETINGS:

##### THURSDAY, JANUARY 12

2 p.m.—1. Appellate review in Midland. (Closed—exemptions 6 and 10). (Continued from 1-11-78.) (Approx. 45 min.) 2. License fees. (Approx. 1 hr.) (Public meeting.) (As announced.) 3. Affirmation items: Proposed rule on avoidance of contractor organizational conflict of interest (rescheduled from 1-4-78); recommendation for disposition of an FOIA appeal (cancelled).

#### CONTACT FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 12, 1978.

[S-102-78 Filed 1-13-78; 11:55 am]

### [8010-01]

## 4

#### SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1173, January 6, 1978.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The Commission will consider the following items at a closed meeting to be held on Thursday, January 12, 1978, at 3 p.m.: Formal orders of investigation; settlement of injunctive action; institution of injunctive action; consideration of stay.

The General Counsel of the Commission or his designee has certified

that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)A, and (10) and 17 CFR 200.402(a), (8), and (10).

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined to hold the meeting in closed session and determined that Commission business required consideration of the matters and that no earlier notice thereof was possible.

JANUARY 12, 1978.

[S-105-78 Filed 1-13-78; 11:55 am]

## SUNSHINE ACT MEETINGS

### [8010-01]

## 5

#### SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 1884, January 12, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: Additional item to be considered.

The Commission will consider the following additional item at the open

meeting scheduled for Tuesday, January 17, 1978, at 10 a.m.:

Consideration of the notification of certain investment company registrants of an intention to disclose, pursuant to a Freedom of Information Act request, certain information contained in annual reports and the consideration of delegating authority to the Director of the Division of Investment Management to issue notices pursuant to future notices of this kind.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JANUARY 12, 1978.

[S-103-78 Filed 1-13-78; 11:55 am]



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TUESDAY, JANUARY 17, 1978  
PART II



DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Food and Drug  
Administration

NEW ANIMAL DRUGS  
FOR USE IN  
ANIMAL FEEDS

Definitions and General  
Considerations



[4110-03]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 207, 210, 225, 226, 501, 510,  
514, 558]

[Docket No. 77N-0076]

NEW ANIMAL DRUGS FOR USE IN ANIMAL  
FEEDS

Definitions and General Considerations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

**SUMMARY:** This document proposes to redefine the articles used in medicated animal feeds. These amendments are proposed because of ambiguities in the terms as currently defined in FDA regulations and the meanings as used in the animal feed and animal drug industries. The proposal would adopt letter designations for the medicated feed articles.

**DATES:** Written comments to the Hearing Clerk by March 20, 1978.

**ADDRESS:** Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION  
CONTACT:

Robert P. Schmidt, Bureau of Veterinary Medicine (HFV-224), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3390.

**SUPPLEMENTARY INFORMATION:** A number of the current regulations affecting animal drugs resulted from application of the Federal Food, Drug, and Cosmetic Act, enacted in 1938, as it evolved before the passage of the Animal Drug Amendments of 1968 (Pub. L. 90-399). For example, section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)), which defines the term "drug", does not distinguish between drugs intended for use in man or other animals, nor does section 201(p) of the act (21 U.S.C. 321(p)), which defines the term "new drug", distinguish between new drugs intended for use in man or other animals. Therefore, before enactment of the Animal Drug Amendments, new drugs intended for both man and other animals were subject to the pre-clearance provisions of section 505 of the act (21 U.S.C. 355). In 1945, Congress added section 507 to the act (21 U.S.C. 357) requiring the Secretary, pursuant to regulations promulgated by him, to certify batches of drugs composed wholly or partly of any kind of penicillin. This section has been

amended several times to include streptomycin, chlortetracycline, bacitracin, chloramphenicol, and their derivatives. Again, no distinction was made in these provisions between the use of these drugs in man or other animals. Under authority granted by section 507 (c) of the act (21 U.S.C. 357(c)), however, the Commissioner of Food and Drugs exempted antibiotics that were added to animal feeds from the certification provisions if the antibiotics were labeled for specific conditions of use that were published in the regulations.

The Food Additives Amendment of 1958 applied to food additives intended for both man or other animals. This amendment added section 201(s) to the act (21 U.S.C. 321(s)), which defines the term "food additive" as any substance the intended use of which results or may reasonably be expected to result, directly, or indirectly, in its becoming a component or otherwise affecting the characteristics of any food. Thus, any drug added to food or feed of an animal was a food additive, and any drug capable of causing residues in the edible products of the food-producing animal was also considered to be a food additive because the residue from such drug would constitute a food additive in the edible products. Such drugs placed on the market following enactment of the Food Additives Amendment of 1958, could not be legally marketed unless a food additive regulation was promulgated providing for the drug's safe use or the drug was generally recognized as safe and, for those approved after October 10, 1962, effective.

Because animal drugs intended for use in animal feeds were subject to the pre-clearance provisions of three separate sections of the act and three distinct sets of procedural requirements, their administrative and pre-clearance provisions were overlapping, unduly complex and time consuming. The Animal Drug Amendments of 1968 were enacted to consolidate the various provisions and requirements applicable to animal drugs into one section of the act and to provide a coordinated, simplified procedure for their implementation. Throughout the lengthy proceedings leading to enactment of the Animal Drug Amendments, both the House and Senate reports noted that in many cases the requirements for pre-clearance of new drugs intended for use in animals were more complex than the pre-clearance procedures for drugs intended for use in man, and the need for simplification was continually stressed because the procedures then mandated by law led to long delays in the administrative process required for the pre-clearance of new animal drugs (Refs. 1-6). The Animal Drug Amendments added a new section—section 512 (21 U.S.C.

360b)—to the act, thereby consolidating into one section the various parts of the act that related to new drugs intended for use in animals, including those intended for use in animal feeds. Consequently, section 512 provides for separate, distinct requirements regarding regulation of new animal drugs and animal feeds bearing or containing new animal drugs.

New sections 201(w) and 201(x) of the act (21 U.S.C. 321(w) and 321(x)) were also added, defining the terms new animal drug and animal feed, respectively. For man and animals the definition of a new animal drug includes antibiotics subject to certification. The definition of a new animal drug focuses on the article intended to affect the structure or function of animals and any components thereof. On the other hand, the definition of animal feed refers to articles that are intended for use as food for animals other than man and that are intended for use as a substantial source of nutrients in the diet. The term animal feed is not limited to a mixture that is intended to be the sole ration of the animal.

One consistent topic that emerges from a review of the legislative history of the Animal Drug Amendments is the intent to facilitate pre-clearance review of articles that were used in animal feeds (Refs. 1-6). Before passage of the animal drug amendments, an applicant, e.g., a drug company, was required to file a new drug application (NDA) and have the application approved for the drug's use in animals. If the drug was an antibiotic subject to certification, an antibiotic Form 5 was required instead of an NDA. When the drug was to be administered to the animal through its feed or it left residues in the edible tissues of food-producing animals, a food additive petition was also required. Each required the applicant to demonstrate that the drug was safe when administered in animal feed. After the Drug Amendments of 1962, a demonstration of effectiveness was also required for drugs covered by both sections 505 and 507 of the act.

Medicated animal feeds have been primarily manufactured at commercial feed mills. These feeds contain animal drugs intended for prevention, cure, mitigation, or treatment of disease (therapeutic use) or intended to affect the structure or function of the animal (growth promotant and feed efficacy). Before enactment of the Animal Drug Amendments, each feed mill manufacturing a medicated feed was required to file an NDA containing authorization from the sponsor to refer to that basic NDA. For drugs covered by section 507 of the act the requirement that a Form 6 be filed

was waived under the provisions of that section. Feed mills that manufacture the finished feed constitute the final step in the commercial distribution of the drug product. Accordingly, the drug company holding an approved NDA for the new drug would authorize feed mills to incorporate the drug's basic safety and effectiveness data into the feed mill's NDA to facilitate manufacture of the medicated animal feed. Because this was an incorporation by reference of the data previously found to be satisfactory by the agency, the basic application was not normally reevaluated for each medicated feed application. Nevertheless, the overlapping statutory requirements and regulations added confusion and delay to the evaluation process without contributing to consumer protection or otherwise improving upon the conditions of the safe and effective use of the drug. For this reason, Congress amended the Federal Food, Drug, and Cosmetic Act in 1968 to differentiate between new animal drugs that are intended for use in a manner that is analogous to the use of drugs in humans, which are regulated solely as drugs, and new animal drugs intended for addition to animal feeds and in effect reformulated by feed mills, which are regulated as both drugs and food additives.

The congressional intent appears to have been to develop a new, separate, expeditious mechanism for reviewing and regulating animal drugs, particularly those used in medicated animal feeds. The history of the Animal Drug Amendments sets forth how this procedure is to function. Initially, a drug company is required to demonstrate, via adequate and well-controlled investigations, that the finished medicated feed article is safe and effective for use in animals. When a new animal drug application (NADA) for this use is approved, a regulation reflecting that approval is published in the FEDERAL REGISTER. The manufacture of the medicated feed is then regulated by use of the medicated feed application as provided under the provisions of section 512(m) of the act (21 U.S.C. 360b(m)). This regulatory mechanism is analogous to the approach developed for regulating food additives, color additives, and certifiable antibiotics. Perhaps the most difficult task in effectively regulating the medicated animal feed industry, however, is identifying when an article is a medicated animal feed covered by sections 512 (b) and (m) of the act as opposed to an animal drug covered solely by section 512(b) of the act. The dividing line is difficult to establish, but the legislative history provides guidance. This indicates that Congress was concerned primarily with expediting the administrative process of approval without jeopardizing the statutory safety requirements.

The Senate report (Ref. 1) identifies the most concentrated medicated animal feed as an article that must be diluted in a ratio of 1 to 100 per ton in an animal feed for safe use. This is defined in the regulations (21 CFR 558.2(b)(4)) as a feed premix. A premix is subject to the requirements of section 512(b) of the act, and thus requires an approved NADA before it can be subsequently remanufactured into what 21 CFR 558.3 (b) (1) through (3) defines as complete feed, feed supplements, and feed concentrates. These definitions were promulgated by the Commissioner in the FEDERAL REGISTER of July 29, 1964 (29 FR 10506), under section 409 of the act (21 U.S.C. 348), and they represent an attempt to facilitate the pre-clearance of these articles. Moreover, they established the various types of food additives and animal feed products that were applicable to the use of drugs in animal feeds. The terms were defined on the basis of safety considerations such as the concentration of the drug in each article, the intended use of that article, and the risk of harm associated with ingesting the article by the animal for food derived from the animal. The terms also represented what the agency believed to be the current state of the industry. Since 1964, the use of medicated animal feed and the nature of the animal drug industries have changed substantially, as have the types of additives now used, and thus the regulations no longer reflect the terms currently used for these additives in actual practice. Furthermore, ambiguities exist in these terms as defined in 21 CFR 558.3 and the meanings as used in the animal feed and animal drug industries. For these reasons the Commissioner is proposing to redefine the articles used in medicated animal feeds.

## I. BASIS FOR PROPOSED ACTION

Section 558.3 (21 CFR 558.3) lists and defines the feed additive articles as complete feed, feed supplement, feed concentrate, and feed premix. Ambiguities have arisen because these commonly used terms have different meanings in the animal health field. To the animal scientist and many others in the industry, a "concentrate" is a concentrated source of energy, e.g., certain basal feedstuffs such as corn, soybeans, or milo. On the other hand, many in the feed industry, animal drug industry, and the regulatory agencies use the term "concentrate" to mean a concentrated is also known as an intermediate premix or custom premix containing only drugs, vitamins, and minerals. Thus, a concentrate for feed may be referred to by several terms, some of which have different meanings.

Similarly, a supplement is known by many in the agricultural industry as

an article of feed that supplies protein, vitamins, or minerals to animal diets. These diets are otherwise nutritionally complete. Others view a supplement as being a dilute medicated feed concentrate. The term may also be used to refer to a supplemental medicated feed application.

A premix refers to a concentrated mix of any ingredient normally added to animal feed. It thus includes drugs, nutrients, and other substances. They are added for medicinal or nutritional purposes.

In addition to the practical difficulties arising from the various interpretations of terms, these terms are no longer consistent with the current industry practice, which complicates communication and regulation in the area. New forms of medicated feed articles, such as liquid feeds and blocks, have been developed since the original definitions were established; moreover, the industry has expanded, making different types of drugs and using different manufacturing procedures in larger and more complex feed mills. As a result, different ingredients and equipment are being used to manufacture medicated feed articles, with different intermediate concentrations of drugs. Because the industry has grown extensively, Food and Drug Administration has had to increase the regulatory resources in the medicated animal feed area. This has occurred while severe strains are being imposed on the agency's available resources. To improve the regulation of medicated animal feeds within available resources, the Commissioner is proposing to redefine the various types of medicated feed articles to conform to the current state of the art and to more clearly identify when a medicated feed article requires an approved NADA or an approved medicated feed application. When the original terms in 21 CFR 558.3 were promulgated, the American Feed Manufacturers Association (AFMA) suggested that the medicated feed articles be designated by letter. The commissioner has concluded that new terms are now necessary and that the nomenclature proposed by AFMA provides a practical system for clearly denominating the various types of medicated animal feeds. Thus, the Commissioner is proposing to designate the currently used medicated feed articles as Type A, Type B, Type C, or Type D medicated feed articles, depending upon the concentration of the drug in the article, its intended use, and its nutritional content.

## II. PROPOSED DEFINITIONS

**A. Type A medicated feed article.** Under the proposed new definitions, the most concentrated article will be designated as Type A. This is a true drug premix for medicating animal



feed. The article will be solely for use in the manufacture of other medicated animal feed articles (animal feed bearing or containing a new animal drug), and it will, of course, be limited to use solely in accordance with its approved labeling. It will consist principally of a new animal drug in a diluent (carrier substance), and it must be further diluted with nutrient material to produce either a Type B, C, or D medicated feed article.

A proposed Type A medicated feed article is comparable to the present "feed additive premix." In the current regulations, a "premix" must be diluted so that not more than 100 pounds of the article is added to a basic feed to produce one ton of a medicated animal feed, and this feed must have been shown to be safe and effective in accordance with section 512(b) of the act for its labeled drug use. In such premises, a large quantity of carrier substances is required. The premix is then mixed with basic nutrient feed(s) to produce the medicated animal feed. It is, however, no longer economically feasible to manufacture a premix that requires a large volume of carrier, for example, 90 to 95 pounds of calcium carbonate. A premix that is more concentrated and compact results in savings to users through reduced handling and storage costs. Currently manufactured drug premixes are more concentrated, requiring greater dilution. Today, seldom more than 1 to 5 pounds of premix are required to be added per ton of the nutrient ingredient to produce a finished feed.

The proposed definition of a Type A medicated feed article and the requirements for approval of its NADA have been developed to cover the regulatory problems that may arise from this current trend in the medicated feed industry. Accordingly, the Commissioner has concluded that the requirements being proposed are necessary to assure that the use of a Type A medicated feed article will be restricted to those conditions for which evidence has been submitted showing that the new animal drug is safe and effective as used in its final concentration in Types C and D medicated feed articles intended for use in finished feeds whether manufactured directly or through a Type B article.

The NADA for a Type A medicated feed article must include evidence that all Type B, C, and D medicated feed articles manufactured from it, whether directly or through a Type B article, are safe when used as directed. In addition, the NADA must include adequate and well-controlled investigations demonstrating that such Type C and D medicated feed articles are effective whether manufactured directly or through a Type B article. The NADA must also include manufacturing and stability data of the feed com-

ponents and the finished feed itself. This information is required for all new animal drugs under section 512(b) of the act. Finally, the NADA must include representative labeling for all articles manufactured from the Type A article.

When the Type A article and the other medicated feed articles (Types B, C, and D) manufactured from it have been shown to be safe and effective under their labeled conditions of use in accordance with the requirements of section 512 of the act and the applicable regulations, the NADA will be approved. Notice of the approval and any applicable restrictions and conditions of use will be published in the FEDERAL REGISTER in accordance with section 512(i) of the act (21 U.S.C. 360b(i)). Consequently, a Type A medicated feed article requires an approved NADA and must be shipped in accordance with section 512(a)(1) of the act and 21 CFR 510.7.

**B. Type B medicated feed article.** The proposed Type B medicated feed article will be an animal feed bearing or containing a new animal drug that is intended for further manufacturing of other medicated feed articles (other B's, C's, or D's) only. The article will consist of a new animal drug(s) approved under section 512(b) as a Type A medicated feed article, a carrier, and essential nutrients that are intended for nutritional use in subsequently manufactured medicated feed articles. A proposed Type B medicated feed article will conform to the statutory definition of animal feed because it contains substantial source of nutrients and is intended for use as such in an animal's diet. Before the article can be used in the feed of animals, however, it must be substantially diluted with a nutrient substance to form a Type C or D medicated feed article. The determinant for differentiating between the Type B and the other medicated feed articles will be the maximum amount of the Type B medicated feed article that may be added per ton of animal feed to produce a safe and effective Type C or D medicated feed article. This is a direct function of the concentration of the new animal drug and the essential nutrients in the Type B medicated feed article and the potential for that drug to produce unsafe (above tolerance) residues if the article is inadvertently fed to animals. There is no absolute weight limit on these articles because each has specific residue-producing characteristics, and these safety characteristics and any other proposed weight limits are specifically assessed in the NADA approval process in reviewing the Type A medicated feed article. These limitations are then published in 21 CFR Part 558 as special consideration for use of the Type A medicated feed article. In addition to

being diluted to a Type C or D article, a Type B medicated feed article containing a new animal drug and essential nutrients can be further diluted to yield another Type B article that may contain an additional new animal drug approved as a Type A or Type B medicated feed article, or other essential nutrients. Again, the concentration of the new animal drug(s) and the ability of that article to produce unsafe residues will be the basis for establishing the distinction between Type B and Types C and D articles.

The NADA for the Type A medicated feed article must contain evidence showing that the finished medicated feed articles produced therefrom are safe and effective. If some vitamins, minerals, or other essential nutrients in the Type B article are intended for use as a drug in the animal feed, the NADA for the Type A article from which it is manufactured must contain evidence showing that the finished feeds satisfy the combination animal drug policy in § 514.1(b)(8)(v)(21 CFR 514.1(b)(8)(v)), i.e., the combination is more effective than the individual ingredients used alone.

The Type B medicated feed article will be similar to the present "feed concentrate." The definition of the Type B article, however, has been revised to encompass intermediate premixes. Intermediate premixes are manufactured by adding essential nutrients to new animal drug premixes. Many manufacturers contend that these intermediate premixes are not new animal drugs since with the addition of the essential nutrients these articles satisfy the statutory definition of animal feed. Because these manufacturers of intermediate premixes do not make finished medicated feeds, they contend that they are not required to file medicated feed applications. The mechanism that will be established by this proposal to regulate those ostensibly hybrid articles will expand the agency's ability to monitor and regulate these manufacturers.

The agency's primary regulatory concern in the medicated animal feed area is the assurance that human food derived from animals fed medicated animal feed is safe. In the field, the resources available to monitor animal feeds are principally directed at the feed mills that manufacture finished medicated feeds. For this reason, manufacturers of the intermediate premixes have been able to avoid extensive regulatory scrutiny. These proposed revised definitions will bring the manufacturers of these articles to the direct attention of the agency and facilitate application of the current regulatory programs to them. This will also aid the regulatory effort against the manufacture of these articles during a time of limited availability of agency resources. Because a Type B

medicated feed article by definition will contain both new animal drugs and essential nutrients, it will comply with the statutory definition of animal feed. Manufacturers of these articles now have specific notice that they must file a medicated feed application (Form FD-1800) for each such article. In the medicated feed application, the manufacturer must cite the regulation under section 512(i) of the act and other evidence that establishes the safety and effectiveness of the article before the application can be approved.

The basic medicated feed application will concurrently be amended to reflect the agency's revised program concerning manufacturers of the Type B articles. The current application requires the following basic information:

1. Name and address of the applicant;
2. The registration number and last date of registration of each mill as assigned pursuant to section 510 of the act;
3. Whether the submission is an original or supplemental application;
4. Identification of the drug(s) or premix used by name, potency, and manufacturer;
5. The species of animal(s) for which the medicated feed is intended;
6. The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other;
7. Whether the feed is to be packaged in bag or bulk;
8. Whether the feed is for sale or own use;
9. The brand name of the medicated feed, name of the drug(s) and finished level in feed, and amount of drug(s) or premix per ton;
10. Identification of the regulation(s) found in Part 558 (21 CFR Part 558) and published pursuant to section 512(i) of the act on which the request for approval of the medicated feed is based;
11. Whether the attached labeling is in draft or final printed form;
12. A statement of minimum and maximum assay permitted from the labeled amount of the drug;
13. If the application provides for manufacture of a medicated feed bearing or containing a new animal drug subject to the certification provisions of section 512(n) of the act, the appropriate fee as set forth in 21 CFR 514.60;
14. Identification of the authorized agent;
15. Applicant's name, title, and signature of responsible individual, and date.

Type B medicated feed articles will be limited to further manufacturing purposes only and will contain concentrated new animal drugs and essential nutrients. The latter includes vitamins and minerals in addition to other es-

sential nutrients. Such ingredients must be covered either by a GRAS regulation, a food additive regulation, or if intended for therapeutic use, by an approved NADA. Because the article will have very concentrated levels of active ingredients, it is necessary to increase the assurance that the articles contain the precisely labeled amount of the new animal drug and essential nutrients. Only a minor deviation from the required content may result in considerable variations of concentration in medicated feed articles that are manufactured from the Type B articles. For this reason, random assays must be conducted more frequently for Type B articles than for other, less concentrated medicated feed articles (Types C and D). The medicated feed application for the manufacture of a Type B medicated feed article, therefore, must also contain the following additional information:

1. The master or batch formula used in the manufacture of the Type B medicated feed article. The batch formula shall provide for use of only recognized or approved feed ingredients;
2. Appropriate labeling providing adequate directions for the manufacture and use of other Type B, C, and/or D medicated feed articles;
3. A description of manufacturing facilities, including mixing time, equipment used, and the personnel responsible for the manufacturing operations;
4. Identification of any lot or batch numbering system used in the manufacturing, processing, packaging, and labeling of the Type B medicated feed article;
5. A commitment to perform representative assays, with results of assay being within the established assay limit, on the first three batches of the Type B article manufactured, additional samplings to be assayed at random intervals representing 5 percent of the annual production of each Type B medicated feed article covered by the application. The reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

The applicable regulations will be amended accordingly.

When the medicated feed application is approved for a Type B medicated feed article, the holder of that approved application must then comply with the other requirements imposed by the statute and regulations. Manufacturers of Type B articles may sell them only in conformance with section 512(a)(1) of the Act and 21 CFR Part 558. Finally, the new animal drugs in the articles are covered by approved NADA's, which contain evidence demonstrating their safety and effectiveness; and the primary problems associated with intermediate pre-

mixes are independent of the questions about basic safety and effectiveness. The problems concern the ability to assure that these articles are properly formulated and manufactured to maintain their purity, stability, and potency so as to be safe and effective when formulated into finished medicated animal feed as directed by the approved labeling. On that basis, the Commissioner is proposing to redefine types of ingredients used in medicated animal feeds to regulate intermediate premixes as Type B medicated feed articles under section 512(m) of the act rather than section 512(b).

Because this is merely a proposal that will be subject to public comment and potential revision, the exact terms of the final order cannot be forecast; therefore, the Commissioner concludes that current policy for intermediate premixes should continue. Intermediate premixes are subject to the provisions of section 512(b) of the act. The manufacturers of intermediate premixes containing certain antibacterials were exempted from the requirement for filing an NADA and certain data under § 558.15 (21 CFR 558.15); however, the Commissioner will prepare proposals to deal separately with those articles as he concludes the Antibiotics in Animal Feeds Program. Moreover, to assure an orderly transition period, the Commissioner will outline an implementation program for filing the appropriate applications for Type B medicated feed articles in the final order. Tentatively, he anticipates permitting a period of 90 days, following the promulgation of the final order, for the submission of the appropriate medicated feed applications for the manufacture of the Type B medicated feed article, unless it is determined that the Type B medicated feed article is not required to comply with the provisions of section 512(m) of the act. Under section 512(m)(2) of the act, the agency then has 90 days to review and approve, if appropriate, that application. This is essentially a 180-day implementation period. The Commissioner will then also provide a similar implementation period for filing and approving the appropriate applications for the manufacture of Types C and D medicated feed articles from Type B articles.

**C. Type C medicated feed article.** A proposed Type C medicated feed article is also a medicated animal feed bearing or containing a new animal drug. It will be produced by substantially diluting a Type A or Type B medicated feed article with other feed ingredients to a level for a use that is covered by an approved NADA. A Type C article may have two intended uses. It may be further diluted or mixed to produce Type D medicated feed articles, i.e., a complete feed; or it may be fed top dressed, undiluted, or



offered free-choice in conjunction with other animal feed to supplement the animal's total daily ration. The Type C article does not contain the animal's complete source of nutrients. When a proposed Type C article is fed undiluted, or offered free-choice in amounts not less than one-half pound per head per day and with other parts of the ration separately available, e.g., when spread over silage, the article shall not produce residues in food from food-producing animals that are unsafe within the meaning of section 512 of the act. This article is similar to the current "feed supplement," and the manufacture of Type C articles will require a medicated feed application approved under section 512(m) of the act unless otherwise specified, and the use of the new animal drug must be covered by a regulation published in 21 CFR Part 558. Any use approved prior to the effective date of these revised definitions providing for administration of less than one-half pound per head per day must be the subject of a supplemental application revising the conditions of use to conform to the definition of the Type C medicated feed article.

**D. Type D medicated feed article.** A Type D medicated feed article will be essentially identical to the current "complete feed." It will be for administration as the sole ration to an animal. Therefore, Type D medicated feed articles will contain the animal's total supply of essential nutrients (excluding hay and water) in addition to the new animal drug. Type D articles will be manufactured by diluting Types A, B, or C medicated feed articles with basic animal feed to provide the animal feed to provide the animal with its complete ration. The manufacture of Type D articles will require approval of a medicated feed application under section 512(m) of the act (21 U.S.C. 360b(m)), unless otherwise specified, and use of the new animal drug in the finished feed must be covered by a regulation published in 21 CFR Part 558.

### III. PRODUCTION CLASSES AND DEFINITIONS

The Commissioner is also proposing to redefine terms pertaining to the various production classes of animals in the livestock and poultry industries. These industries also have vastly expanded over the past decade as they have developed sophisticated techniques for growing animals faster and more efficiently. The classes listed in 21 CFR 558.3 do not include many of the now common production classes of poultry, swine, and cattle, nor are definitions of the terms consistent with the contemporary meanings. New animal drug applications are filed and approved with labeling directed at the contemporary livestock practices. For

this reason, the Commissioner is proposing to revise the terms and definitions to conform with current livestock and poultry practice (Refs. 7-9).

### V. CONFORMING AMENDMENTS

Revising the definitions of medicated feed articles and production classes of animals has a substantial impact on numerous other regulations in the new animal drug area. Those affected regulations must be amended to permit rational effective regulation in this area.

**A. Section 501.110 Animal feed labeling; collective names for feed ingredients (21 CFR 501.110).** The section, promulgated under section 402(l)(2) of the act (21 U.S.C. 342(l)(2)), permits the use of collective names for feed ingredients in lieu of listing each feed ingredient by its common or usual name and in decreasing order of predominance as required by 21 CFR 501.4. The regulation was promulgated for the convenience of the parties involved and in recognition of the terms of the art used by industry. At present, §501.110 exempts all animal feed intended solely for use in livestock and poultry from the requirements of §501.4 when the feed conforms to other criteria as set forth in §501.110. A proposed Type B medicated feed article may be used only for the manufacture of other Type B, or C, or D articles. The Commissioner has found, however, that full ingredient information on the composition of the Type B articles is necessary for the manufacturers of Type B, C, and D medicated feed articles. He is proposing to amend the regulation to require that Type B articles list all ingredients by their common or usual name in decreasing order of predominance as required by §501.4.

**B. Prior registration.** Under 21 CFR 207.20(c), manufacturers of both new animal drugs and medicated animal feeds must register pursuant to section 510 of the act (21 U.S.C. 360), and the registration is required prior to approval of any NADA's or medicated feed applications. Currently, only manufacturers of new animal drugs and premixes are required to submit a list of the drugs they commercially distribute under 21 CFR 207.20(a); manufacturers of medicated animal feeds are exempt from this requirement by section 510(g)(4) of the act (21 U.S.C. 360(g)(4)). Under the new proposed definitions, the information currently made available through drug listing will no longer be required for Type B articles because they will be medicated animal feeds, but the identical information previously obtained through drug listing will be available through the submission of a medicated feed application (Form FD-1800).

**C. Assays.** The laboratory control section of the current good manufacturing practice regulations for medi-

cated animal feeds (21 CFR 225.58) requires periodic assays for drug content of the medicated animal feeds being manufactured at each feed mill. This was in lieu of the assay requirements that the Commissioner concludes are necessary for assuring the safe manufacture of Type B medicated feed articles. Therefore, the Commissioner is proposing to amend this section to require a more rigorous assay schedule for manufacturers of Type B articles than required for type C and D articles.

**D. Applications.** In 21 CFR 514.1, the formal procedures for filing an NADA under section 512(b) of the act are prescribed. The Commissioner is proposing to amend §514.1 to require that the applicant file all information necessary to determine that a medicated feed article is to be manufactured from a new animal drug covered by an approved NADA and that it will be safe and effective. For this reason, an NADA for a Type A medicated feed article must include representative labeling of medicated feed articles intended to be produced from it. Therefore, he proposes to amend §514.1(b)(3)(v)(b) accordingly.

In addition, a Type B medicated feed article may contain nutrients from a number of sources of concentrated protein, vitamins, and minerals. Because of the possible interactions among the added ingredients and between these ingredients and the new animal drug, the Commissioner has concluded that the stability of the drug must be established in representative formulations of Type B medicated feed articles. Therefore, the Commissioner is also proposing to amend §514.1(b)(5)(x) to require that the NADA include data or commitments to provide stability data covering representative formulations of Type B, C, and D medicated feed articles.

**E. Return of applications.** Section 558.4 (21 CFR 558.4) provides that medicated feed applications will be returned by the agency, i.e., the Bureau of Veterinary Medicine, without review if there is no regulation established in Part 558 that would provide a basis for its approval. The Commissioner is proposing a new section, §514.112 *Return of applications for animal feeds bearing or containing new animal drugs*, which incorporates the provisions of the current §558.4 *Approval of new animal drug applications for medicated feeds*.

**F. New feed terms.** All new animal drugs approved for use in animal feeds are codified in Subpart B of 21 CFR Part 558. The proposed definitions of medicated feed articles will require revision of the regulations to reflect the use of the new feed terms. The Commissioner is proposing to amend this subpart accordingly.

The Commissioner has carefully considered the environmental effects

of the proposed regulation and because the proposed action would not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the FDA environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

### REFERENCES

1. Senate Committee on Labor and Public Welfare, Animal Drug Amendments of 1968, S. Rep. No. 1308, 90th Cong., 2d Sess. (1968).
2. Hearings on H.R. 7655 et al. Before The Subcommittee on Public Health and Welfare of the House Committee on Interstate and Foreign Commerce, 89th Cong., 2d Sess., Ser. No. 89-36 (1966).
3. House Committee on Interstate and Foreign Commerce, Animal Drug Amendments of 1968, H.R. Rep. No. 2188, 89th Cong., 2d Sess. (1966).
4. Hearings on H.R. 3639 Before The Subcommittee on Public Health and Welfare of the House Comm. on Interstate and Foreign Commerce, 90th Cong., 1st Sess., Ser. No. 90-12 (1967).
5. House Committee on Interstate and Foreign Commerce, Animal Drug Amendments of 1967, H.R. Rep. No. 875, 90th Cong., 1st Sess. (1967).
6. Hearing on S. 1600 and H.R. 3639 Before The Subcommittee on Health of the Senate Comm. on Labor and Public Welfare, 90th Cong., 2d Sess. (1968).
7. Ensminger, M. E., "The Stockman's Handbook," Interstate Printers and Publishers, Inc., 3d Ed., 1965.
8. Carl, L. E., "Poultry Production," 10th Ed., 1968.
9. Marsden, S., "Turkey Production," USDA Handbook No. 393 (1971).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Parts 207, 210, 225, 501, 510, 514, and 558 be amended as follows:

### PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

#### § 207.20 [Amended]

1. Section 207.20 *Who must register and submit a drug list* is amended in paragraph (a) by revising the text in the last parenthetical statement to read "(including a Type B, C, or D medicated feed article as defined in § 558.3 of this chapter)".

### PART 210—CURRENT GOOD MANUFACTURING PRACTICES IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; GENERAL

2. In § 210.3, paragraphs (c) (1) and (2) are revised to read as follows:

#### § 210.3 Definitions.

(c) \* \* \*

(1) The term "medicated feed" means any Type B, C, or D medicated feed article as defined in § 558.3 of this chapter. The feed contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated feeds is subject to the requirements of Part 225 of this chapter.

(2) The term "medicated premix" means a Type A medicated feed article as defined in § 558.3 of this chapter. The article contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated premixes is subject to the requirements of Part 226 of this chapter.

### PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

3. In § 225.58, by revising the first sentence of both paragraphs (b)(1) and (b)(2), and by adding paragraph (b)(3), to read as follows:

#### § 225.58 Laboratory controls.

(b) \* \* \*

(1) For Type C and D medicated feed articles requiring approved Medicated Feed Applications (Form FD-1800) for their manufacture and marketing. \* \* \*

(2) For Type C and D medicated feed articles not requiring approved Medicated Feed Applications (Form FD-1800) for their manufacture and marketing. \* \* \*

(3) For all Type B medicated feed articles, assays of the first three batches manufactured, followed thereafter by assay of random representative samples of not less than 5 percent of the annual production of each batch produced. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until five consecutive batches are within limitations. Reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

### PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED PREMIXES

#### § 226.58 [Amended]

4. In § 226.58 *Laboratory controls*, by deleting paragraph (c)(2) and designating it "reserved."

### PART 501—ANIMAL FOOD LABELING

5. In § 501.110, by revising paragraph (a)(1) to read as follows:

§ 501.110 Animal feed labeling; collective names for feed ingredients.

(a) \* \* \*

(1) The animal feed is a Type C or D medicated feed article as defined in § 558.3 of this chapter and is intended solely for animal use.

### PART 510—NEW ANIMAL DRUGS

In § 510.3, by adding new paragraph (m) to read as follows:

#### § 510.3 Definitions and interpretations.

(m) The following terms apply to various production classes of animals:

(1) *In poultry* (i) "Broiler chickens" and "fryer chickens" are synonymous and denote chickens marketed for meat purposes only, usually at 6 to 9 weeks of age.

(ii) "Roaster chickens" are chickens marketed for meat purposes only, usually at 9 to 14 weeks of age.

(iii) "Replacement chickens" are chickens being raised for the purpose of replacing egg-producing chickens only.

(iv) "Laying chickens" are chickens producing eggs for food only.

(v) "Breeding chickens" are chickens producing eggs for hatching purposes only.

(vi) "Fryer-roaster turkeys" are turkeys of either sex marketed for meat purposes only, usually at 12 to 17 weeks of age.

(vii) "Young hen or tom turkeys" are turkeys marketed for meat purposes only, usually at 17 to 26 weeks of age.

(viii) "Replacement turkeys" are turkeys being raised for the purpose of replacing breeding turkeys only.

(ix) "Breeding turkeys" are turkeys producing eggs for hatching purposes only.

(2) *In swine* (i) "Prestarting swine" are swine that weigh between 5 and 10 pounds.

(ii) "Starting swine" are swine that weigh between 11 and 40 pounds.

(iii) "Growing swine" are swine that weigh between 41 and 100 pounds.

(iv) "Finishing Swine" are swine that weigh between 101 pounds and market weight (180 to 250 pounds).

(v) "Growing-finishing swine" is a term that includes the weight ranges of both growing swine and finishing swine.

(vi) "Breeding swine" are swine used for reproductive purposes.

(3) *In ruminants* (i) "Calves" are young bovine animals that have a live weight of less than 450 pounds and are less than 8 months of age.

(ii) "Cattle" are bovine animals over 8 months of age.

(a) "Feedlot cattle" are those that are maintained in feedlots and intended for slaughter.

(b) "Breeding cattle" are those that are intended primarily for breeding purposes.



(c) "Lactating dairy cows" are cows of dairy or dual purpose breeds that produce milk that is intended for human consumption.

(d) "Nonlactating or dry dairy cows" are cows of dairy or dual purpose breeds that temporarily are not producing milk.

(iii) "Lambs" are ovine animals from birth to 14 months of age.

(iv) "Breeding sheep" are ovine animals that are intended primarily for breeding purposes.

#### PART 514—NEW ANIMAL DRUG APPLICATIONS

##### 7. Part 514 is amended:

a. In § 514.1 by revising paragraphs (b)(2)(c)(b) and (b)(5)(x) to read as follows:

##### § 514.1 Applications.

(b) \* \* \*

(3) \* \* \*

(v) \* \* \*

(b) Representative labeling proposed to be used for Type B, C, and D medicated feed articles manufactured from the new animal drug.

(5) \* \* \*

(x) A complete description of, and data derived from, studies of the stability of the new animal drug, including information showing the suitability of the analytical methods used. A description of any additional stability studies underway or planned. Stability data for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple-dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the new animal drug is intended for use in the manufacture of Type B, C, or D medicated feed articles as defined in § 558.3 of this chapter, stability data shall be derived from studies in which representative formulations of the medicated feed articles are used. These formulations include concentrated proteins, vitamins, and/or minerals. If the data indicate that an expiration date is needed to guarantee the identity, strength, quality, and purity of the new animal drug or Type B medicated feed article, the applicant shall propose such expiration date. If no expiration date is proposed, the applicant shall justify its absence.

b. By revising § 514.2 to read as follows:

##### § 514.2 Applications for animal feeds bearing or containing new animal drugs.

(a) Applications to be filed under section 512(m) of the act shall be completed, signed, and submitted in triplicate in the form described in paragraphs (b) and (c) of this section.

(b) Each application for a Type B, C, or D medicated feed article shall be completed to include the following information:

(1) The name and address of the applicant.

(2) The registration number assigned pursuant to section 510 of the act and last date of registration of each mill.

(3) Whether the submission is an original or supplemental application.

(4) Identification of the drug(s) or Type A or B medicated feed article used by name, potency, and manufacturer.

(5) The species of animal(s) for which the feed is intended.

(6) The form of feed to be produced, i.e., mash, meal, crumbles, pellets, liquid, or other specified form.

(7) Whether the feed is to be packaged in bag or bulk.

(8) Whether the feed is for further manufacturing only or for sale or for own use (not for sale).

(9) The brand name of the medicated feed, name and level of the drug(s) in the finished feed, and the amount of Type A or D medicated feed article per ton contained therein.

(10) Identification of the regulation(s) found in Part 558 of this chapter and published pursuant to section 512(l) of the act on which the request for approval of the drug ingredients is based.

(11) The specimen label or labeling, with an indication whether draft or final copy, attached to each copy of the application. This shall consist of bag labels, invoice copy, bulk labels, and placards when applicable.

(12) A commitment to establish and maintain the required program of sampling and assaying to Type C and D medicated feed articles. The program shall include assay of at least three representative samples of medicated feed articles containing each drug or drug combination used in the establishment. These samples shall be collected and assayed by approved official methods at periodic intervals during the calendar year, unless otherwise specified in this chapter. At least one of these assays shall be performed on the first batch using the drug. Additional requirements for Type B medicated feed articles are set forth in paragraph (c)(6) of this section. If a medicated feed article contains a combination of drugs, only one of the drugs needs to be subject to analysis each time, provided the one tested is different from the one(s) previously tested.

(13) A statement of the minimum and maximum assay permitted from the labeled amount of the drug.

(14) A statement of the appropriate fee accompanying the application if it provides for the use of a new animal drug subject to the provisions of section 512(n) of the act as prescribed by § 514.60.

(15) Identification of agent authorized to act on behalf of applicant.

(16) The applicant's name, responsible individual's title and original signature, and date.

(c) If the application requests approval for the manufacture of a Type B medicated feed article, it shall include in addition to the information required by paragraph (b) of this section, the following:

(1) A full list and quantity of each ingredient, i.e., the master formula.

(2) Appropriate specimen labeling of the article providing adequate directions for the manufacture and use of Type B, C, and/or D medicated feed articles.

(3) A description of the facilities used for the manufacture of the medicated feed article, including the following:

(i) A description of the mixing equipment, including name, type (vertical, horizontal, etc.), and capacity.

(ii) A description of the measuring equipment (scales or other metering devices) used, including the name, type, capacity, and accuracy or smallest graduation.

(4) A statement of the mixing time used to assure uniformity of the medicated feed.

(5) A designation of the person for supervision and control of the mixing operation.

(6) A commitment to establish and maintain the required program of sampling and assay. This program shall be in lieu of that required by paragraph (b) (12) of this section. The program shall consist of assays of the first three batches manufactured, followed thereafter by assay of random representative samples of not less than 5 percent of the annual production of each Type B medicated feed article covered by the application. The samples shall be collected and assayed by approved official methods. When any batch does not assay within limitations, each subsequent batch shall be assayed until five consecutive batches are within limitations. Reports of assay shall be kept on the premises for not less than 1 year after the date of shipment of the medicated feed.

(7) A designation of who will be performing the assays required by paragraph (c)(6) of this section, e.g., whether the assays are to be conducted by the applicant in their own laboratory, or the name and address of a designated laboratory.

(d) Upon approval, one copy of the application will be signed by an authorized employee of the Food and Drug

Administration designated by the Commissioner, and it will be returned to the applicant.

c. By adding new § 514.112 to read as follows:

##### § 514.112 Return of applications for animal feeds bearing or containing new animal drugs.

Applications submitted pursuant to § 514.2 will be returned to the applicant if such applications are incomplete or inaccurate or do not contain an identification of the applicable regulation(s). These regulations, published pursuant to section 512(l) of the act, are found in Part 558 of this chapter, and are the basis on which approval of the application relies, as required by § 514.2(b)(10).

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

##### 8. Part 558 is amended:

a. By revising § 558.3 to read as follows:

##### § 558.3 Definitions and general considerations applicable to this part.

(a) Regulations established in this part provide for approved uses of drugs and combinations of drugs in animal feeds. Approved combinations of such drugs are specifically identified or incorporated by cross reference. Unless provided for by the regulations, a combination of two or more drugs is not approved.

(b) The following definitions apply to terms used in this part:

(1) A "Type A medicated feed article" is a new animal drug premix intended solely for use in the manufacture of Type B, C, or D medicated feed articles. It consists of a new animal drug(s), and carrier (e.g., calcium carbonate, rice hull, corn gluten) with or without other inactive ingredients. It must be further diluted before it can be safely administered to animals. Manufacture of a Type A medicated feed article requires an application approved under section 512(b) of the act.

(2) A "Type B medicated feed article" is an animal feed containing a new animal drug(s) and is intended solely for the manufacture of other medicated feed articles (Types B, C, or D), and is not for direct administration to the animal. It is manufactured by substantially diluting either a Type A or another Type B medicated feed article with nutrient ingredients. The Type B article must be further diluted with nutrients to produce either a Type C or Type D medicated feed article. The manufacture of a Type B article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

requirements of such application is included in the Part 558 regulation providing for the use of the drug.

(3) A "Type C medicated feed article" is an animal feed bearing or containing a new animal drug(s). It is produced by substantially diluting a Type A or B medicated feed article with other feed ingredients to a use level that is covered by an approved NADA. A Type C article may be further diluted or mixed to produce another Type C medicated feed article or a Type D article, or it may be fed top dressed, on or offered free-choice in conjunction with other animal feed. It does not contain the animal's complete source of nutrients. When a Type C article is fed undiluted or offered free-choice, in amounts to not less than one-half pound per head per day, the article shall not produce residues in food from food-producing animals that are unsafe within the meaning of section 512 of the act. The manufacture of a Type C article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

(4) A "Type D medicated feed article" is a complete animal feed bearing or containing a new animal drug(s) that is produced by diluting Type A, B, or C medicated feed articles with nutrients. It is intended to be fed as the sole ration to an animal, with or without added roughage. The manufacture of a Type D article must be in accordance with a regulation in Part 558 providing for the use of the drug. Its manufacture must also be the subject of an application approved pursuant to section 512(m) of the act unless a waiver from the requirements of such application is included in the Part 558 regulation providing for the use of the drug.

##### § 558.4 [Revoked]

b. By revoking § 558.4.

c. By republishing Subpart B of Part 558 to reflect the proposed definitions and other considerations, as follows:

#### Subpart B—Specific New Animal Drugs for Use in Animal Feeds

AUTHORITY: Sec. 512(l), 82 Stat. 347 (21 U.S.C. 360b(l)).

##### 558.25 2-Acetylamin-5-nitrothiazole.

(a) *Specifications.* Assay of not less than 96 percent by ultraviolet spectrophotometry.

(b) *Approvals.* (1) Type A medicated feed article: 10 percent to No. 010042 in § 510.600(c) of this chapter.

(c) *Related tolerances in edible products.* See § 556.20 of this chapter.

(d) *Conditions of use.* It is used in Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* 136.2 grams (0.015 percent).

(i) *Indications for use.* Aid in prevention of blackhead (histomoniasis).

(ii) *Limitations.* Administer continuously starting 1 to 2 weeks before outbreaks usually occur; discontinue use 7 days before slaughter; use eggs from medicated birds for hatching purposes only.

(2) *Amount per ton.* 454 grams (0.05 percent).

(i) *Indications for use.* Aid in control of blackhead (histomoniasis).

(ii) *Limitations.* Administer for 2 weeks at first sign of outbreaks; discontinue use 7 days before slaughter; use eggs from medicated birds for hatching purposes only.

##### § 558.35 Aklomide.

(a) *Chemical name.* 2-Chloro-4-nitrobenzamide.

(b) *Specifications.* (1) Minimum melting point 170°C.

(2) Moisture content not to exceed 1 percent.

(3) Purity not less than 98 percent on anhydrous basis.

(c) *Approvals.* Type A medicated feed articles to No. 017210 in § 510.600(c) of this chapter, as follows:

(1) 50 percent aklomide.

(2) 20 percent sulfantran and 25 percent aklomide.

(3) 25 percent aklomide, 20 percent sulfantran, and 5 percent roxarsone.

(4) 50 percent aklomide and 10 percent roxarsone.

(d) *Assay limits.* Type D medicated feed article: 85 to 120 percent of labeled amount.

(e) *Special considerations.* Type D medicated feed articles manufactured from Type C medicated feed articles that contain not more than 0.1 percent aklomide and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Related tolerances.* See § 556.30 of this chapter.

(g) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *Amount per ton.* Aklomide, 227 grams (0.025 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella* and *E. necatrix*.

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption.

(2) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with sulfantran, 181.6 grams (0.02 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, and *E. acervulina*.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter.

(3) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with



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sulfanilic acid, 181.6 grams (0.02 percent) + roxarsone, 22.7-45.4 grams (0.0025-0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

(4) *Amount per ton.* Aklomide, 227 grams (0.025 percent) combined with roxarsone, 22.7-45.4 grams (0.0025-0.005 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. tenella*, and *E. necatrix*; growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to birds laying eggs for human consumption; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.

§ 558.45 Ammonium chloride, feed grade.

(a) *Chemical name.* Ammonium chloride.

(b) *Specifications.* The ammonium chloride conforms to the following:

(1) Assay after drying: 99 percent minimum.

(2) Sodium chloride: 0.6 percent maximum.

(3) Loss on drying: 0.5 percent maximum.

(4) Arsenic (as AS): 3 parts per million maximum.

(5) Heavy metals (as Pb): 10 parts per million maximum.

(c) *Approvals.* Type A medicated feed articles: 99 percent, see Nos.

011462 and 000018 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed articles: 85 to 115 percent of labeled amount.

(e) *Special considerations.* Maximum level permitted in a Type C medicated feed article is 8 percent for administration to cattle and 6 percent for administration to sheep.

(f) *Conditions of use.* It is used in Type C or D medicated feed article for cattle and sheep as follows:

(1) *Amount per day.* 21.3-35.5 grams (0.75-1.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For range cattle.

(3) *Amount per day.* 28.4-42.5 grams (1.0-1.5 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For fattening cattle.

(3) *Amount per day.* 7.1 grams (0.25 oz.) per head.

(i) *Indications for use.* Reduction of the incidence of urinary calculi.

(ii) *Limitations.* For sheep.

§ 558.55 Amprolium.

(a) *Approvals.* (1) Type A medicated feed article: 25 percent to No. 000006 in § 510.600(c) of this chapter for use as in paragraph (e)(1) of this section.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 80 to 120 percent of labeled amount.

(c) *Special considerations.* (1) Do not use in Type B, C, or D articles containing bentonite.

(2) Type D medicated feed articles containing amprolium as the sole drug, processed from Type C medicated feed articles containing not more than 0.05 percent amprolium, and conforming to the requirements of para-

graph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 558.50 of this chapter.

(e) *Conditions of use—(1) Calves.* It is used in Type C or D medicated feed articles as follows:

(i) *Amount.* 227 milligrams per 100 pounds (5 milligrams per kilogram) body weight per day.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria bovis* and *E. zurnii*.

(b) *Limitations.* Administer from a Type C medicated feed article containing from 0.05 to 0.5 percent amprolium with the usual amount of feed consumed in 1 day; feed for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard; withdraw 24 hours before slaughter; as sole source of amprolium.

(ii) *Amount.* 454 milligrams per 100 points (10 milligrams per kilogram) body weight per day.

(i) *Indications for use.* As an aid in the treatment of coccidiosis caused by *Eimeria bovis* and *E. zurnii*.

(b) *Limitations.* Administer from a Type C medicated feed article containing from 0.05 to 0.5 percent amprolium with the usual amount of feed consumed in 1 day; feed for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter; as sole source of amprolium.

(2) *Chickens and turkeys.* It is used in Type D medicated feed articles as follows:

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor																				
(i) 36.3 to 113.5 (0.004 pct. to 0.0125 pct.).		Replacement chickens; development of active immunity to coccidiosis.	Feed as follows																					
			<table><tr><th>Growing conditions</th><th>Up to 5 weeks of age</th><th>From 5 to 8 weeks of age</th><th>Over 8 weeks of age</th></tr><tr><td></td><td>Amprolium grams per ton</td><td>Amprolium grams per ton</td><td>Amprolium grams per ton</td></tr><tr><td>Severe exposure to coccidiosis.</td><td>113.5 (0.0125 pct).</td><td>72.6-113.5 (0.008 pct. to 0.0125 pct).</td><td>36.3-113.5 (0.004 pct. to 0.0125 pct).</td></tr><tr><td>Moderate exposure to coccidiosis.</td><td>72.6-113.5 (0.008 pct. to 0.0125 pct).</td><td>54.5-113.5 (0.006 pct. to 0.0125 pct).</td><td>36.3-113.5 (0.004 pct. to 0.0125 pct).</td></tr><tr><td>Slight exposure to coccidiosis.</td><td>36.3-113.5 (0.004 pct. to 0.0125 pct).</td><td>36.3-113.5 (0.004 pct. to 0.0125 pct).</td><td>36.3-113.5 (0.004 pct. to 0.0125 pct).</td></tr></table>	Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	Over 8 weeks of age		Amprolium grams per ton	Amprolium grams per ton	Amprolium grams per ton	Severe exposure to coccidiosis.	113.5 (0.0125 pct).	72.6-113.5 (0.008 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).	Moderate exposure to coccidiosis.	72.6-113.5 (0.008 pct. to 0.0125 pct).	54.5-113.5 (0.006 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).	Slight exposure to coccidiosis.	36.3-113.5 (0.004 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).	
Growing conditions	Up to 5 weeks of age	From 5 to 8 weeks of age	Over 8 weeks of age																					
	Amprolium grams per ton	Amprolium grams per ton	Amprolium grams per ton																					
Severe exposure to coccidiosis.	113.5 (0.0125 pct).	72.6-113.5 (0.008 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).																					
Moderate exposure to coccidiosis.	72.6-113.5 (0.008 pct. to 0.0125 pct).	54.5-113.5 (0.006 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).																					
Slight exposure to coccidiosis.	36.3-113.5 (0.004 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).	36.3-113.5 (0.004 pct. to 0.0125 pct).																					
Arsanilate sodium 90 (0.01 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter, as sole source of organic arsenic; feed according to subtable in item (i).																						
Arsanilic acid 90 (0.01 pct).	do.....	do.....																						

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Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01 pct.) plus erythromycin 4.6 to 18.5.	do.....	do.....	
	Arsanilic acid 90 (0.01 pct.) plus erythromycin 92.5.	1. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress. 2. Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct.) plus erythromycin 185.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Bacitracin 100 to 200	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or bacitracin zinc. Feed according to subtable in item (i).	
	Chlortetracycline 100 to 200.	Replacement chickens; development of active immunity to coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride. Feed according to subtable in item (i).	
	Erythromycin 4.6 to 18.5.	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate. Feed according to subtable in item (i).	
	Erythromycin 92.5....	1. Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention of infectious coryza. 2. Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 7 to 14 d; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
	Erythromycin 185....	Replacement chickens; development of active immunity to coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter. Feed according to subtable in item (i).	
	Hygromycin B 8 to 12.	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms ( <i>Ascaris Gallii</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ).	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter. Feed according to subtable in item (i).	
	Penicillin 2.4 to 50....	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency.	As procaine penicillin. Food according to subtable in item (i).	
	Penicillin plus streptomycin 90 to 180 (of combination).	Replacement chickens; development of active immunity to coccidiosis; growth promotion, and feed efficiency; improving pigmentation.	Type D article contains 16.7% penicillin; as procaine penicillin; as streptomycin sulfate. Feed according to subtable in item (i).	
(ii) 72.6 to 113.5 (0.008 pct. to 0.0125 pct.).	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct.).	Broiler chickens; prevention of coccidiosis caused by <i>Eimeria tenella</i> only.	Withdraw 5 d before slaughter; as sole source of organic arsenic. Feed according to subtable in item (i).	
	Arsanilate sodium 90 (0.01 pct.).	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct.).	do.....	do.....	
	Bacitracin 100 to 200	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate, or zinc bacitracin.....	
	Chlortetracycline 100 to 200.	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying chickens; as chlortetracycline hydrochloride.	
	Hygromycin B 8 to 12.	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; control of infestations of large roundworms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ).	Feed according to subtable in item (ii).....	
	Penicillin 2.4 to 50....	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; growth promotion and feed efficiency.	As procaine penicillin.....	
	Penicillin plus streptomycin 90 to 180 (of combination).	Treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate.	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct.).	Broiler chickens; prevention of coccidiosis caused by <i>E. tenella</i> only; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	



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Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iii) 113.5 (0.0125 pct).		1. Laying chickens; prevention of coccidiosis.....		
		2. Laying chickens; treatment of coccidiosis.....	For moderate outbreaks of coccidiosis; administer for 2 weeks.	
	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025 to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis; for increased rate of weight gain, improved feed efficiency and improved pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; roxarsone as provided by No. 07210 in sec. 510.600 (c) of this chapter, bambermycins by No. 000039; withdraw 5 d before slaughter.	
(iv) 113.5 to 227 (0.0125 to 0.025 pct).		1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis.		
	Arsanilate sodium 90 (0.01 pct).	2. Turkeys; prevention of coccidiosis.....	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
		1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	
	Arsanilic acid 90 (0.01 pct).	2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	
		1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	do.....	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improved pigmentation.	do.....	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress, withdraw 5 d before slaughter; as sole source of organic arsenic.	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 4 to 50.....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As bacitracin methylene disalicylate.....	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do.....	
	Bacitracin 100 to 200	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	do.....	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin zinc.....	
	Bacitracin 100 to 500	Turkeys; prevention of coccidiosis; treatment of infectious sinusitis, blue comb (mud fever).	do.....	
	Bacitracin plus penicillin 100 to 500 (of combination).	do.....	Type D article contains 50 to 75 pct of bacitracin but not more than 125 g penicillin; as procaine penicillin; as bacitracin zinc.	
	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis), prevention of synovitis.	Not for laying chickens, as chlortetracycline hydrochloride.	
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As erythromycin thiocyanate.....	
	Erythromycin 92.5....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter.	
		2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 7 to 14 d; withdraw 24 h before slaughter	

Amprolium in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Erythromycin 185.....	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
	Hyazromycin B 8 to 12.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; control of infestation of large roundworms ( <i>Heterakis gallinae</i> ) and capillary worms ( <i>Capillaria obsignata</i> ).	Feed according to subtable in item (i).....	
	Penicillin 2.4 to 50....	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	As procaine penicillin.....	
		2. Turkeys; prevention of coccidiosis; growth promotion and feed efficiency.	do.....	
	Penicillin plus streptomycin 90 to 180 (of combination).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate.	
		2. Turkeys; prevention of coccidiosis; treatment of infectious sinusitis, blue comb (mud fever), hexamitiasis.	Type D article contains not less than 2.4 g of penicillin nor less than 12 g of streptomycin; as procaine penicillin; as streptomycin sulfate.	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
		2. Turkeys; prevention of coccidiosis; growth promotion.	do.....	
(v) 227 (0.0025 pct).		Laying chickens; treatment of coccidiosis.....	For severe outbreaks of coccidiosis; administer for 2 weeks.	

## § 558.58 Amprolium and ethopabate.

(a) *Approvals.* Type A medicated feed articles: 0.15 percent amprolium, 0.004 percent ethopabate, and 100 g/ton bacitracin (as bacitracin methylene disalicylate) to No. 047019 in § 510.600(c) of this chapter, amprolium and ethopabate as provided by No. 000006, bacitracin (as bacitracin methylene disalicylate) as provided by No. 046573.

(b) *Assay limits.* (1) Amprolium: Type D medicated feed article: 80 to 120 percent of labeled amount.

(2) Ethopabate: Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing amprolium and ethopabate as the sole drugs, processed from Type C medicated feed articles containing not more than 0.05 percent amprolium and 0.016

percent ethopabate, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act. Do not use in Type B, C, or D articles containing bentonite.

(d) *Related tolerances.* See §§ 556.50 and 556.260 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for chickens as follows:

Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).		Broiler chickens as an aid in the prevention of coccidiosis.	Not for laying hens; as sole source of amprolium.....	
(ii) Amprolium 113.5 (0.0125 pct) and ethopabate 3.6 (0.0004 pct).	Bambermycins 2 to 3 plus roxarsone 22.8 to 34.1 (0.0025 to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis, for increased rate of weight gain, improved feed efficiency, and pigmentation.	Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter, roxarsone by No. 017210, bambermycins by No. 000039; withdraw 5 d before slaughter.	
	Lincomycin 2 to 4.....	Broiler chickens; for increase in rate of weight gain; improved feed efficiency; as an aid in the prevention of coccidiosis.	Not for laying chickens; as lincomycin hydrochloride monohydrate; as sole source of amprolium.	
	Lincomycin 2 to 4 plus roxarsone 45.4 (0.005 pct).	Broiler chickens; for increase in rate of weight gain; improved feed efficiency and; pigmentation; as an aid in the prevention of coccidiosis.	Not for laying chickens; as lincomycin hydrochloride monohydrate; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic.	
		Broiler chickens; to aid in prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur; for increased rate of weight gain in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium; do not use as a treatment for outbreaks of coccidiosis; feed as sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combinations as provided by No. 000006.	
(iii) Amprolium 113.5 (0.015 pct) and ethopabate 36.3 (0.004 pct).		Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur.	Not for chickens over 16 weeks of age.....	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improve pigmentation.	Not for laying hens; withdraw 5 d before slaughter; as sole source of organic arsenic; as erythromycin thiocyanate.	
	Bacitracin 4 to 50.....	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; to aid in prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur; for	Not for chickens over 16 weeks of age; do not feed to laying chickens; as sole source of amprolium; not for use as a treatment for outbreaks of coccidiosis; as bacitracin methylene disalicylate as provided by No. 046573 or bacitracin zinc as provided by No. 012769 in sec.	



Amprolium and ethopabate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		increased rate of weight gain in broiler chickens raised in floor pens.	510.600(c) of this chapter; feed as the sole ration from the time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bacitracin 5 to 35 plus roxarsone 34 (0.00375 pct).	Broiler chickens; for increased rate of weight gain and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; feed as the sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; bacitracin methylene disalicylate as provided by No. 046573 or bacitracin zinc as provided by No. 012769 in sec. 510.600(c) of this chapter; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bacitracin 20 to 35 plus roxarsone 34 (0.00375 pct).	Broiler chickens; for increased rate of weight gain, improved feed efficiency, and as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur in broiler chickens raised in floor pens.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of amprolium and organic arsenic; do not use as a treatment for outbreaks of coccidiosis; feed as the sole ration from time chickens are placed on litter until past the time when coccidiosis is ordinarily a hazard; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; bacitracin methylene disalicylate as provided by No. 046573 in sec. 510.600(c) of this chapter; roxarsone as provided by No. 017210 in sec. 510.600(c) of this chapter; combination as provided by No. 000006 in sec. 510.600(c) of this chapter.	
	Bambermycins 1 to 3	Broiler chickens; as an aid in the prevention of coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur; for increased rate of weight gain, and improved feed efficiency.	Feed continuously as the sole ration; as sole source of amprolium; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; bambermycins as provided by No. 000039 in sec. 510.600(c) of this chapter.	
	Bambermycins 1 to 3 plus roxarsone 22.8 to 34.1 (0.0025 pct to 0.00375 pct).	Broiler chickens; as an aid in the prevention of coccidiosis where severe exposure to coccidiosis from <i>Eimeria acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> is likely to occur; for increased rate of weight gain; improved feed efficiency, and improved pigmentation.	Feed continuously as the sole ration; as source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in sec. 510.600(c) of this chapter; roxarsone by No. 017210, bambermycins by No. 000039. Withdraw 5 d before slaughter.	
	Erythromycin 4.6 to 18.5.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	Not for laying hens; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
(iv) Amprolium 113.5 to 227 (0.0125 to 0.025 pct) and ethopabate 3.6 (0.0004 pct).		For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis.	Not for laying hens	
	Arsanilic acid 90 (0.01 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation. 2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic; not for laying hens.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; withdraw 5 h before slaughter; as sole source of organic arsenic; not for laying hens.	
	Bacitracin 4 to 50.	For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 100 to 200.	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection) and blue comb (nonspecific infectious enteritis). 2. For broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate; not for laying hens.	
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	As zinc bacitracin, not for laying hens	
			As bacitracin methylene disalicylate; not for laying hens; as sole source of organic arsenic; withdraw 5 d before slaughter.	

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	Chlortetracycline 100 to 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not for laying hens; as chlortetracycline hydrochloride	
	Chlortetracycline 200.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease caused by strains of <i>Mycoplasma gallisepticum</i> susceptible to chlortetracycline.	In low calcium Type D article containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; feed continuously as sole ration for not more than the 1st 3 weeks of life; not for laying hens.	
	Erythromycin 92.5.	1. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of chronic respiratory disease during periods of stress. 2. Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention of infectious coryza.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; not for laying hens.	
	Erythromycin 185.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed to 7 to 14 d; withdraw 24 h before slaughter; not for laying hens.	
	Penicillin 2.4 to 50.	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter.	
	Penicillin plus streptomycin 90 to 180 (of combination).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Not for laying hens; as procaine penicillin	
	Roxarsone 22.7 to 45.5 (0.0025 to 0.005 pct).	Broiler chickens and replacement chickens where immunity to coccidiosis is not desired; prevention of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Type D article contains 16.7 pct penicillin; as procaine penicillin; as streptomycin sulfate; not for laying hens.	
(v) Amprolium 136.2 (0.015 pct) and ethopabate 3.6 (0.0004 pct).	Bacitracin 10.	Broiler chickens, as an aid in the prevention of coccidiosis; growth promotion and feed efficiency.	As sole source of organic arsenic; withdraw 5 d before slaughter; not for laying hens.	
			Feed as sole ration; use as sole source of amprolium; do not feed to laying hens as bacitracin methylene disalicylate.	047019

## § 558.60 Arsanilate sodium.

- (a) [Reserved]  
 (b) *Assay limits.* Type D medicated feed article 75 to 125 percent of labeled amount.  
 (c) *Special considerations.* Type D medicated feed articles containing arsanilate sodium as the sole drug and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.  
 (d) *Related tolerances.* See § 556.60 of this chapter.  
 (e) *Conditions of use.* (1) It is used in this Type D medicated feed article for

chickens and turkeys as follows:

- (i) *Grams per ton.* 90 (0.01 percent).  
 (ii) *Indications for use.* For growth promotion and feed efficiency; improving pigmentation.  
 (iii) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.  
 (2) Arsanilate sodium may be used in accordance with the provisions of this section in the combinations provided as follows:  
 (i) Amprolium in accordance with § 558.55.  
 (ii) Zoalene in accordance with § 558.680.

## § 558.62 Arsanilic acid.

- (a) [Reserved]  
 (b) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.  
 (c) *Special considerations.* Type D medicated feed articles containing arsanilic acid as the sole drug and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.  
 (d) *Related tolerances.* See § 556.60 of this chapter.  
 (e) *Conditions of use.* (1) It is used in the Type D medicated feed article for chickens and turkeys as follows:

Arsanilic acid in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
90 (0.01 pct)		1. Chickens; growth promotion and feed efficiency; improving pigmentation. 2. Turkeys; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 4.6 to 18.5.	Chickens; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 92.5.	1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation. 2. Chickens; as an aid in the prevention of infectious coryza; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 2 d before stress and 3 to 6 d after stress; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Erythromycin 185.	Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation.	As erythromycin thiocyanate; feed for 7 to 14 d; withdraw 5 d before slaughter; as sole source of organic arsenic.	
			As erythromycin thiocyanate; feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as sole source of organic arsenic.	

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(2) Arsanilic acid may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) bacitracin zinc in accordance with § 558.78.

(iv) Bacitracin and zoalene in accordance with § 558.680.

(v) Buquinolate in accordance with § 558.105.

(vi) Zoalene in accordance with § 558.680.

§ 558.76 Bacitracin methylene disalicylate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount.

(c) *Special considerations.* (1) The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(2) Type D medicated feed articles containing bacitracin methylene disalicylate and conforming to the requirements of paragraph (e)(1) and (e)(2) are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used as bacitracin methylene disalicylate in the Type D medicated feed article as follows:

Bacitracin methylene disalicylate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4 to 50		Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
(ii) 5 to 20		Quail; not over 5 weeks of age; growth promotion and feed efficiency.		
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency. 2. Chickens; maintaining or increasing egg production.	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	
(iv) 50 to 100		1. Chickens; prevention of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Swine; aid in prevention of bacterial swine enteritis. 3. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs. 2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin. 3. Chickens; prevention of early mortality of chicks due to susceptible organisms. 4. Swine; treatment of bacterial swine enteritis.	For chicks; in starter ration.	
100 of combination.	Penicillin	1. Chickens; maintaining or increasing hatchability of eggs. 2. Swine; treatment of bacterial swine enteritis.	Type D article combination containing 75 g of bacitracin plus 25 g of penicillin; as procaine penicillin. Type D article containing 50 to 75 pct of bacitracin; as procaine penicillin.	
(vi) 100 to 200		1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		
100 to 200 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	Type D article containing not less than 25 g of penicillin nor less than 50 g of bacitracin; as procaine penicillin. do	

(2) It is used as bacitracin methylene disalicylate in Type C or D medicated feed article for cattle as follows:

(i) *Amount.* 70 milligrams per head per day.

(a) *Indications for use.* Feedlot beef cattle; reduction in the number of liver condemnations due to abscesses.

(b) *Limitations.* Administer continuously throughout the feeding period.

(ii) *Amount.* 250 milligrams per head per day.

(a) *Indications for use.* Feedlot beef cattle; reduction in the number of liver condemnations due to abscesses.

(b) *Limitations.* Administer continuously for 5 days then discontinue for subsequent 25 days, repeat the pattern during the feeding period.

(3) It is used as bacitracin methylene disalicylate in accordance with the

provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium with ethopabate in accordance with § 558.58.

(iii) Arsanilic acid with zoalene in accordance with § 558.680.

(iv) Carbarsone (not U.S.P.) in accordance with § 558.120.

(v) Diethylstilbestrol in accordance with § 558.225.

(vi) Hygromycin B in accordance with § 558.274.

(vii) Monensin in accordance with § 558.355.

§ 558.78 Bacitracin, zinc.

(a) *Approvals.* (1) Type A medicated feed article of 50 grams bacitracin per pound granted to No. 046573 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount.

(c) *Special considerations.* (1) The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

(2) Type D medicated feed articles containing bacitracin zinc and conforming to the requirements of paragraph (e) (1) and (2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.70 of this chapter.

(e) *Conditions of use.* (1) It is used as zinc bacitracin in the Type D medicated feed article as follows:

Bacitracin, zinc in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4 to 50		1. Chickens, turkeys, and pheasants; growth promotion and feed efficiency. 2. Chickens, turkeys, and pheasants; for increased rate of weight gain and improved feed efficiency.	Growing chickens, turkeys, and pheasants	016573
(ii) 5 to 20		1. Quail; growth promotion and feed efficiency. 2. Quail; for increased rate of weight gain and improved feed efficiency.	In quail not over 5 weeks of age	016573
(iii) 10 to 50		1. Swine; growth promotion and feed efficiency	Growing quail; feed as Type D article to starting quail through 5 weeks of age.	

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Bacitracin, zinc in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iv) 50 to 100		2. Chickens; maintaining or increasing egg production. 1. Chickens; prevention of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever). 3. Swine; aid in the prevention of bacterial swine enteritis.	Feed 50 g per ton 1st 4 to 6 weeks of egg production; 10 to 50 g per ton for remainder of egg-laying period.	
(v) 100		1. Chickens; maintaining or increasing hatchability of eggs. 2. Chickens; during times of stress, prevention of diseases named in this section caused by organisms susceptible to bacitracin. 3. Swine; treatment of bacterial swine enteritis.		
100 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Chickens; prevention of early mortality of chicks due to susceptible organisms. 3. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	Type D article containing 50 to 75 pct bacitracin; as procaine penicillin.	
(vi) 100 to 500		1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Chickens; prevention of early mortality of chicks due to susceptible organisms. 3. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	For chicks; in starter feed.	
100 to 500 of combination.	Penicillin	1. Chickens; treatment of chronic respiratory disease (airsac infection); blue comb (nonspecific infectious enteritis). 2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).	Type D article containing not less than 50 pct nor more than 75 pct of bacitracin except that it contains not more than 125 g of penicillin; as procaine penicillin. do	

(2) It is used in a Type D medicated feed article for growing cattle, in an amount providing not less than 35 milligrams and not more than 70 milligrams per animal per day to aid in stimulating growth and improving feed efficiency.

(3) Bacitracin zinc is used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium with ethopabate in accordance with § 558.58.

(iii) Arsanilic acid and zoalene in accordance with § 558.680.

(iv) Diethylstilbestrol in accordance with § 558.225.

(v) Hygromycin B in accordance with § 558.274.

(vi) Monensin in accordance with § 558.355.

(vii) Zoalene in accordance with § 558.680.

§ 558.95 Bambergmycins.

(a) *Specifications.* Bambergmycins are the dried fermentation residues produced by the fermentation of *Streptomyces bambergensis*, *Streptomyces ghanaensis*, *Streptomyces edensis*, *Streptomyces geysriensis*, and mutants and variants of these organisms.

(b) *Approvals.* Type A medicated feed article, 2 grams of bambergmycins activity per pound of Type A article, see No. 000039 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type A medicated feed article: 90 to 110 percent of labeled amount of bambergmycins activity. Type D medicated feed article: 70 to 130 percent of the labeled amount of bambergmycins activity.

(d) [Reserved]

(e) *Conditions of use.* (1) *Broiler chicken Type D medicated feed article.* It is used as follows:

(i) *Amount per ton.* 1 to 2 grams.

(a) *Indications for use.* For in-

creased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Bambergmycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur. For increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 000006 in § 510.600(c) of this chapter.

(iii) *Amount per ton.* Bambergmycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis where severe exposure to coccidiosis from *E. acervulina*, *E. maxima*, and *E. brunetti* is likely to occur. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter; roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(iv) *Amount per ton.* Bambergmycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus ethopabate, 36.3 grams (.004 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambergmycins provided by No. 000039 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Bambergmycins, 1 gram plus monensin, 90 to 110 grams plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent).

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before

lium and ethopabate as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(v) *Amount per ton.* Bambergmycins, 1 to 3 grams plus amprolium, 113.5 grams (.0125 percent) plus roxarsone, 22.8 to 34.1 grams (.0025-.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis. For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; as sole source of amprolium and organic arsenic; amprolium as provided by No. 000006 in § 510.600(c) of this chapter, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter. Withdraw 5 days before slaughter.

(vi) *Amount per ton.* Bambergmycins, 1 gram plus monensin, 90 to 110 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambergmycins provided by No. 000039 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Bambergmycins, 1 gram plus monensin, 90 to 110 grams plus roxarsone, 22.7 to 45.4 grams (.0025 to .005 percent).

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; use as sole source of organic arsenic; withdraw 5 days before

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slaughter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as bambermycins provided by No. 000039 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(viii) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent).

(a) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; zoalene as provided by No. 025700 in § 510.600(c) of this chapter.

(ix) *Amount per ton.* Bambermycins, 1 gram plus zoalene, 113.4 grams (0.0125 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(a) *Indications for use.* As an aid in the prevention and control of coccidiosis; for increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* Do not feed to chickens over 14 weeks of age; feed continuously as sole ration; feed as sole source of organic arsenic; withdraw 5 days before slaughter; zoalene as provided by No. 025700, roxarsone as provided by No. 017210 in § 510.600(c) of this chapter.

(2) *Growing-finishing swine Type D medicated feed article.* It is used as follows:

(i) *Amount per ton.* 2 grams.

(ii) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(iii) *Limitations.* Feed continuously as sole ration.

(iv) *Special considerations.* Type D medicated feed articles processed from Type C medicated feed articles that contain up to 40 grams of bambermycins per ton and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act.

§ 558.105 Buquinolate.

(a) *Chemical name.* Ethyl 4-hydroxy - 6, 7 - diisobutoxy - 3 - quinoline-carboxylate.

(b) *Approvals.* Type A medicated feed article: 16.5 and 22 percent, see No. 000947 and § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of the labeled amount.

(d) *Special considerations.* Maximum level permitted in Type D medicated feed article: 0.011 percent (100 grams per ton). Do not use in Type B, C, or D articles containing bentonite.

(e) *Related tolerances.* See § 556.90 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed article as follows:

(1) *Broiler or fryer chickens—(i) Amount per ton.* Buquinolate, 75 grams (0.00825 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*.

(b) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus arsanilic acid, 90 grams (0.01 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus roxarsone, 22.7-45.4 grams (0.0025-0.005 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* Feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iv) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin, 2.4-50 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration; as procaine penicillin.

(v) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus bacitracin, 4-50 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration; as zinc bacitracin or bacitracin methylene disalicylate.

(vi) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus penicillin + bacitracin, 3.6-50 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency.

(b) *Limitations.* Feed continuously as the sole ration; not less than 0.6 gram of penicillin nor less than 3 grams of bacitracin; as procaine penicillin plus bacitracin zinc or bacitracin methylene disalicylate.

(vii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus chlortetracycline, 200 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis); prevention of synovitis.

(b) *Limitations.* In low calcium type D article containing 0.8 percent dietary calcium and 1 percent to 1.5 percent sodium sulfate; to be fed continuously for not more than the first 21 days of life.

(viii) *Amount per ton.* Buquinolate, 75 grams (0.00825 percent) plus lincomycin, 2-4 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*.

(b) *Limitations.* For broiler and fryer chickens; feed continuously as the sole ration.

(ix) *Amount per ton.* Buquinolate, 75-100 grams (0.00825-0.011 percent) plus roxarsone, 22.7-34.0 grams (0.0025-0.00375 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* Feed continuously as sole ration; withdrawn 5 days before slaughter; as sole source of organic arsenic; roxarsone as provided by No. 017210 in § 510.600(c) of this chapter.

(x) *Amount per ton.* Buquinolate, 100 grams (0.011 percent) plus bacitracin, 4-15 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; increased rate of weight gain.

(b) *Limitations.* Feed continuously as the sole ration; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(xi) *Amount per ton.* Buquinolate, 100 grams (0.011 percent) combined with bacitracin, 19-35 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*; increased rate of weight gain and improved feed efficiency.

(b) *Limitations.* For floor raised broiler or fryer chickens, feed continuously as sole ration; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(2) *Broiler, fryer, roaster or replacement chickens—(i) Amount per ton.* 75-100 grams (0.00825-0.011 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*.

(iii) *Limitations.* Feed continuously as the sole ration; do not administer

over 75 grams per ton (0.00825 percent) to replacement chickens over 20 weeks of age.

(3) *Laying or breeding chickens—(i) Amount per ton.* 75 grams (0.00825 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. maxima*, *E. necatrix*, *E. brunetti*, and *E. acervulina*.

(iii) *Limitations.* Feed to caged layers for 2 weeks following caging; feed continuously to layers and breeders kept on floors while in production or until marketed.

§ 558.115 Carbadox.

(a) *Chemical name.* Methyl 3-(2-quinoxalinylmethylene) carbazate-*N,N'*-dioxide.

(b) *Approvals.* Type A medicated feed article: 2.2 percent (10 grams per pound), see No. 000069 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(d) *Related tolerances.* See § 556.100 of this chapter.

(e) *Special considerations.* (1) The manufacturer of Type D medicated feed articles processed from Type C medicated feed articles does not require compliance with the provisions of section 512(m) of the act when they contain:

(i) Not more than 0.055 percent (500 grams/ton) carbadox and used as provided in paragraph (f) (1) or (2) of this section.

(ii) Not more than 0.055 percent (500 grams/ton) carbadox with not more than 0.106 percent (960 grams/ton) pyrantel tartrate when produced from a fixed combination Type C medicated feed article or from individual Type C medicated feed article and used as provided in paragraph (f)(3) of this section.

(2) Do not use in Type B, C, or D articles containing bentonite.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* 10-25 grams (0.0011-0.00275 percent).

(i) *Indications for use.* For increase in rate of weight gain and improvement of feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(2) *Amount per ton.* 50 grams (0.0055 percent).

(i) *Indications for use.* For control of swine dysentery (vibronic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(iii) *Amount per ton.* Carbadox 50 grams (0.0055 percent) plus pyrantel tartrate, 96 grams (0.0106 percent).

(i) *Indications for use.* For control of swine dysentery (vibronic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

tery; control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); increase rate of weight gain and improve feed efficiency.

(ii) *Limitations.* Do not feed to swine weighing more than 75 pounds body weight; do not feed to swine within 10 weeks of slaughter; do not use in Type D medicated feed articles containing less than 15 percent crude protein.

(3) *Amount per ton.* Carbadox 50 grams (0.0055 percent) plus pyrantel tartrate, 96 grams (0.0106 percent).

(i) *Indications for use.* For control of swine dysentery (vibronic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

§ 558.120 Carbarsone (not U.S.P.).

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing carbarsone as a sole drug, processed from Type C medicated feed articles containing not more than 0.225 percent carbarsone and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* (1) It is used in the Type D medicated feed articles for turkeys as follows:

(i) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent).

(a) *Indications for use.* As an aid in the prevention of blackhead.

(b) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(ii) *Grams per ton.* 227 to 340.5 (0.025 to 0.0375 percent) carbarsone plus 10 grams per ton bacitracin from bacitracin methylene disalicylate.

(a) *Indications for use.* As an aid in the prevention of blackhead; for increased rate of weight gain.

(b) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(c) *Amount per ton.* Carbarsone 50 grams (0.0055 percent) plus pyrantel tartrate, 96 grams (0.0106 percent).

(i) *Indications for use.* For control of swine dysentery (vibronic dysentery, bloody scours, or hemorrhagic dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis*); aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) *Limitations.* Do not feed to swine over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

the prevention of blackhead; for increased rate of weight gain.

(b) *Limitations.* Feed continuously beginning 2 weeks before blackhead is expected and continue as long as prevention is needed; withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) Carbarsone (not U.S.P.) may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Zoalene in accordance with § 558.680.

(ii) [Reserved]

§ 558.126 Chlormadinone acetate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.130 of this chapter.

(e) *Conditions of use.* It is used as a Type D medicated feed article in or on feed for beef heifers and beef cows as follows:

(1) *Amount.* 10 milligrams per head per day.

(2) *Indications for use.* Synchronization of estrus (heat).

(3) *Limitations.* Administer in Type D articles for 18 days; do not administer within 28 days of slaughter; do not administer to cows producing milk for food.

§ 558.128 Chlortetracycline.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 70 to 130 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing chlortetracycline and conforming to the requirements of paragraph (e) (1), (2), and (3) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.150 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for cockatoos, macaws, and parrots as follows:

(i) *Amount.* 10 milligrams per gram of mash.

(ii) *Indications for use.* Treatment of psittacine birds suspected or known to be infected with psittacosis.

(iii) *Limitations.* As chlortetracycline hydrochloride.

(2) It is used in the Type D medicated feed articles for laboratory mice as follows:

(i) *Amount.* Not less than 100 grams per ton of feed.

(ii) *Indications for use.* As an aid in reducing the incidence of bacterial diarrhea.

(3) It is used in Type C or D medicated feed articles as follows:

Chlortetracycline Combination in grams in grams per ton	Indications for use	Limitations	Sponsor
(i) 10 to 50	1. Chickens and turkeys; growth promotion and feed efficiency. 2. Swine; growth promotion and feed efficiency	As chlortetracycline hydrochloride	
(ii) 20 to 50	1. Lambs and growing sheep; growth promotion and feed efficiency.		



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PROPOSED RULES

TABLE 1.—In type D medicated feed articles—Continued

Chlortetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iii) 50 to 100		2. Mink; growth promotion and feed efficiency; as an aid in increasing pelt size. 1. Chickens and turkeys; during times of stress, for prevention of diseases named in this section caused by organisms susceptible to the indicated levels of the cycline salt. 2. For chickens; prevention of chronic respiratory disease (air-sac infection). 3. For turkeys; prevention of infectious sinusitis, hexamitiasis. 4. For laying chickens; maintaining or increasing egg production or hatchability of eggs. 5. For chicks; prevention of early mortality due to organisms susceptible to chlortetracycline. 6. Swine; maintenance of weight gain in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; prevention of bacterial swine enteritis; prevention of bacterial swine enteritis during times of stress.	do do do do do do	
(v) 100 to 200		1. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis. 2. For turkeys; treatment of blue comb (nonspecific infectious enteritis, mud fever), infectious sinusitis, hexamitiasis; prevention of synovitis. 3. For chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride. As chlortetracycline hydrochloride	
(v) 200		4. Swine; treatment of bacterial swine enteritis. 1. For chickens; prevention and control of coccidiosis caused by <i>Eimeria necatrix</i> and <i>E. tenella</i> . 2. For chickens; treatment of coccidiosis caused by <i>Eimeria necatrix</i> and <i>E. tenella</i> . 3. For chickens; control of synovitis. 4. For turkeys; control of synovitis. 5. For broiler chickens; treatment of chronic respiratory disease caused by strains of <i>Mycoplasma gallisepticum</i> susceptible to chlortetracycline. 6. Swine; as an aid in reducing spread of leptospirosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride in low-calcium Type D article containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type D article containing 0.40 pct to 0.55 pct dietary calcium, not to be fed continuously for more than 5 d; in low-calcium Type D article containing 0.8 pct dietary calcium and 1 pct to 1.5 pct sodium sulfate, to be fed continuously for not more than the 1st 3 weeks of life. As chlortetracycline hydrochloride Not to be fed to laying chickens; as chlortetracycline hydrochloride in low-calcium Type D article containing 0.8 pct dietary calcium, not to be fed continuously for more than 8 weeks; in low-calcium Type D article containing 0.8 pct dietary calcium and 1.0 pct to 1.5 pct sodium sulfate, to be fed continuously for not more than the first 3 weeks of life. Not to be fed to laying chickens; as chlortetracycline hydrochloride in low-calcium Type D article containing 0.4 pct to 0.55 pct dietary calcium, not to be fed continuously for more than 5 d. Not to be fed to laying chickens; as chlortetracycline hydrochloride. As chlortetracycline hydrochloride In low-calcium Type D article containing 0.8 pct dietary calcium and 1.5 pct sodium sulfate; fed continuously as Type D article for not more than the last 3 weeks of life. Sole medication; as chlortetracycline hydrochloride	
(vi) 200 to 400		For ducks; for the control and treatment of fowl cholera caused by <i>Pasteurella multocida</i> susceptible to chlortetracycline.	Feed in Type D article to provide from 8 to 28 mg per pound of body weight per day depending upon age and severity of disease, for not more than 21 d; as the calcium complex of chlortetracycline equivalent to chlortetracycline hydrochloride.	
(vii) 400		1. For turkey poults not over 4 weeks of age; aid in reducing mortality due to paratyphoid caused by <i>Salmonella typhimurium</i> . 2. Swine; as an aid in reducing shedding of leptospirae; as an aid in reducing the abortion rate of swine and the mortality rate of newborn pigs when leptospirosis is present.	In low-calcium Type D article containing 1 pct total calcium with not less than 0.45 pct calcium from calcium sulfate; as chlortetracycline hydrochloride. To be fed for 14 d as sole medication; as chlortetracycline hydrochloride.	
(viii) 500		For chickens; aid in the reduction of mortality due to <i>E. coli</i> infections susceptible to such treatment.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in Type D article containing 0.8 pct dietary calcium; not to be fed continuously for more than 5 d; withdraw 24 h prior to slaughter.	

TABLE 2.—In Type C or D medicated feed articles

Chlortetracycline	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
Milligrams per pound of body weight per day				
(i) 0.1		For calves up to 250 lb in weight; growth promotion and feed efficiency.	In milk replacers or starter Type C or D articles	
(ii) 0.5		1. For beef cattle over 1,500 lb in weight; aid in prevention of anaplasmosis. 2. For calves up to 250 lb in weight; aid in the prevention of bacterial diarrhea.	Not to be administered within 48 h of slaughter In milk replacers or starter Type C or D articles	
(iii) 5.0		For beef cattle; aid in the elimination of the carrier state of anaplasmosis.	Feed for 60 days; for use in the carrier state only; not to be fed within 10 d of slaughter. Labeling shall include a statement that a positive complement-fixation test at conclusion of a 60-d feeding period does not necessarily establish that anaplasmosis carrier state is still active. To positively establish that the carrier state has been eliminated, inject blood from a suspected carrier into a splenectomized (susceptible) calf.	

PROPOSED RULES

TABLE 2.—In Type C or D medicated feed articles—Continued

Chlortetracycline	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
Milligrams per head per day				
(iv) 25 to 70		For calves; growth promotion and feed efficiency.		
(iv) 70		1. For feedlot cattle; aid in prevention of liver abscesses. 2. For beef cattle up to 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot. 3. For growing cattle; growth promotion and feed efficiency.		
(vi) 85		For horses up to 1 year of age; growth promotion and feed efficiency.	Do not slaughter for food purposes	
(vii) 100		For beef cattle over 700 lb in weight; aid in reduction of bacterial diarrhea; aid in prevention of foot rot.		
(viii) 350		1. For beef cattle; aid in prevention of bacterial pneumonia and shipping fever (hemorrhagic septicemia); aid in reduction of losses due to respiratory infection (infectious rhinotracheitis, shipping fever complex). 2. For beef cattle up to 700 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of slaughter do	
	Sulfamethazine 350..	For beef cattle; aid in the maintenance of weight gains in the presence of respiratory disease such as shipping fever.	Feed for 28 d; withdraw 7 d prior to slaughter	
(ix) 500		For beef cattle 700 to 1,000 lb in weight; aid in prevention of anaplasmosis.	Not to be administered within 48 h of slaughter	
(x) 750		For beef cattle 1,000 to 1,500 lb in weight; aid in prevention of anaplasmosis.	do	

(4) Chlortetracycline may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium plus ethopabate in accordance with § 558.58.

(iii) Buquinolate in accordance with § 558.105.

(iv) Clopidol in accordance with § 558.175.

(v) Decoquinolate in accordance with § 558.195.

(vi) Diethylstilbestrol in accordance with § 558.225.

(vii) Hygromycin B in accordance with § 558.274.

(viii) Robenidine hydrochloride in accordance with § 558.515.

(ix) Roxarsone in accordance with § 558.530.

(x) Zoalene in accordance with § 558.680.

§ 558.145 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic substance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed grade procaine penicillin.

(3) Sulfamethazine is the chemical N-(4,6-dimethyl-2-pyrimidinyl) sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in

terms of the weight of the appropriate antibiotic standards.

(5) Type D medicated feed articles contain in each ton, 100 grams of chlortetracycline, 50 grams of penicillin as procaine penicillin, and 100 grams of sulfamethazine.

(b) *Approvals.* Type A medicated feed articles, 20 grams of chlortetracycline per pound, 4.4 percent of sulfamethazine, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound; see Nos. 000196 and 010042 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed articles: 70 to 130 percent of labeled amount of chlortetracycline and procaine penicillin and 80 to 120 percent of labeled amount of sulfamethazine.

(d) *Special considerations.* Type D medicated feed articles conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.670 of this chapter.

(f) *Conditions of use.* (1) It is administered to swine in a Type D medicated feed article for reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibronic dysentery); prevention of these diseases during times of stress; maintenance of weight gains in the presence of atrophic rhinitis; growth promotion and increased feed efficiency in swine weighing up to 75 pounds.

(2) Withdraw 7 days prior to slaughter.

§ 558.1 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic sub-

stance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Penicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed-grade procaine penicillin.

(3) Sulfathiazole is the chemical N-2-thiazolyl-sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standards.

(b) *Approvals.* (1) Type A medicated feed articles, 20 grams of chlortetracycline hydrochloride per pound, 20 grams of sulfathiazole per pound, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound, see No. 025001 in § 510.600(c) of this chapter.

(2) Type A medicated feed article, 40 grams of chlortetracycline hydrochloride, 40 grams of sulfathiazole, and procaine penicillin equivalent to 20 grams of penicillin per pound, to No. 025001 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 70 to 130 percent of labeled amount of chlortetracycline and procaine penicillin and 80 to 120 percent of labeled amount of sulfathiazole.

(d) *Special considerations.* Type D medicated feed articles conforming to the requirements of this section are exempt from the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 556.150, 556.510, and 556.690 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:



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(1) *Amount per ton.* Chlortetracycline, 100 grams plus penicillin, 50 grams plus sulfathiazole, 100 grams.

(2) *Indications for use.* For increased rate of weight gain and improved feed efficiency in animals up to 6 weeks postweaning. For increased rate of weight gain in animals from 6 to 16 weeks postweaning. Maintenance of weight gains in the presence of atrophic rhinitis; reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibronic dysentery).

(3) *Limitations.* For swine raised in confinement (dry-lot) or on limited pasture; withdraw 7 days prior to slaughter; as procaine penicillin and chlortetracycline hydrochloride, as follows:

Minimum amount of type D medicated feed article which the animal should consume

Type of feed	Approximate body weight in pounds	Minimum feed intake in pounds
Prestarter (up to 6 weeks' postweaning).....	20	1
Starter (up to 6 weeks' postweaning).....	50	1½
Grower (6 to 16 weeks' postweaning).....	80	2
Finisher (6 to 16 weeks' postweaning).....	150	3

§ 558.175 Clopidol.

(a) *Chemical name.* 3,5-Dichloro-2,6-dimethyl-4-pyridinol.

(b) *Approvals.* (1) *Type A medicated feed article of 25-percent clopidol to No.025700 in § 510.600(c) of this chapter.*

(2) *Type A medicated feed article of 0.0345 percent clopidol with or without 0.0138 percent roxarsone to No. 112286 in § 510.600(c) of this chapter.*

(3) *Type A medicated feed article, combinations of clopidol 25 percent, roxarsone 10 percent, and bacitracin methylese disalicylate, 4, 10, 15 or 25 grams per pounds, to No. 025700 in § 510.600(c) of this chapter.*

(c) *Assay limits.* Type D. medicated feed articles: 80 to 120 percent of labeled amount.

(d) *Related tolerances:* See § 566.160 of this chapter.

(e) *Conditions of use.* Is is used in Type D medicated feed articles for animals has follows:

(1) *Broiler chickens—(i) Amount per ton.* Clopidol 113.5 grams (0.0125 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(b) *Limitations.* Do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol, 113.5 grams (0.125 percent) plus roxarsone 45.4 grams (0.005 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*; growth promotion and feed efficiency; improved pigmentation.

(b) *Limitations.* Do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus roxarsone, 45.4 grams (0.005 percent) plus bacitracin, 4-25 grams.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*; growth promotion and feed efficiency; improved pigmentation; increased rate of weight gain.

(b) *Limitations.* Do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic; as bacitracin methylene disalicylate, provided by No. 046573 in § 510.600(c) of this chapter; or as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(iv) *Amount per ton.* Clopidol, 113.5 grams (0.0125%) plus zinc bacitracin, 5 to 25 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(b) *Limitations.* Feed continuously as sole ration. Zinc bacitracin as provided by No. 012769 in § 510.600(c) of this chapter.

(v) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus bacitracin methylene disalicylate, 4 to 50 grams per ton.

(a) *Indications for use.* For increased rate of weight gain; to aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. mivati*, and *E. brunetti*.

(b) *Limitations.* Feed continuously as the sole ration from the time chicks are placed in floor pens until slaughter. Do not feed to chickens over 16 weeks of age. Bacitracin methylene disalicylate as provided by No. 046573 in § 510.600(c) of this chapter.

(vi) *Amount per ton.* Clopidol, 113.5 grams (0.0125 percent) plus lincomycin, 2-4 grams.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. axima*, *E. brunetti*, and *E. mivati*; increase in rate of weight gain and improved feed efficiency.

(b) *Limitations.* As lincomycin hydrochloride monohydrate; do not feed to chickens over 16 weeks of age.

(2) *Broiler chickens and replacement chickens—(i) Amount per ton.* Clopidol, 113.5 or 227 grams (0.0125 or 0.025 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(b) *Limitations.* Feed up to 16 weeks of age if intended for use as caged layers; feed continuously as the sole ration; withdraw 5 days before slaughter if given at the level of 0.025 percent in type D article or reduce level to 0.0125 percent 5 days before slaughter.

(ii) *Amount per ton.* 113.5 grams (0.0125 percent) clopidol with 200 grams chlortetracycline.

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. mivati*, and *E. brunetti*, and infectious synovitis caused by *Mycoplasma synoviae*.

(b) *Limitations.* Feed continuously as sole ration from the time chicks are placed in floor pens, up to 21 days of age.

(3) [Reserved]

(4) *Replacement chickens—(i) Amount per ton.* Clopidol 113.5 grams (0.0125 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(b) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age.

(ii) *Amount per ton.* Clopidol 113.5 grams (0.0125 percent) plus roxarsone 45.4 grams (0.005 percent).

(a) *Indications for use.* Aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*; growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* For replacement chickens intended for use as caged layers; do not feed to chickens over 16 weeks of age; withdraw 5 days before slaughter; as sole source of organic arsenic.

(5) *Turkeys—(i) Amount per ton.* Clopidol 113.5 or 227 grams (0.0125 or 0.025 percent).

(ii) *Indications for use.* Aid in the prevention of leucocytozoonosis caused by *Leucocytozoon smithi*.

(iii) *Limitations.* For turkeys grown for meat purposes only; to be administered continuously in Type D article at 0.0125 or 0.025 percent clopidol as the sole ration depending upon management practices, degree of exposure, and amount of Type D article eaten; withdraw medication 5 days before slaughter.

§ 558.185 Coumaphos.

(a) *Chemical name.* O,O-Diethyl O-3-chloro - 4 - methyl - 2 - oxo - 2H - 1 - benzopyran-7-yl-phosphorothioate.

(b) *Approvals.* (1) type A medicated feed articles: 1.12, 2.0, 11.2, and 50 percent, see No. 000859 in § 510.600(c) of this chapter.

(2) *Type A medicated feed articles:* 1.12 and 11.2 percent for use in accordance with paragraph (f)(1)(ii) of this section; see No. 017800 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* Warning—Coumaphos is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals. Atropine is antidotal.

(e) *Related tolerances.* See 40 CFR 180.189.

(f) *Conditions of use.* It is used in Type D medicated feed articles as follows:

(1) *Beef and dairy cattle—(i) Amount.* Coumaphos 0.00012 lb. (0.054 gram) per 100 lb. body weight per day.

(a) *Indications for use.* As an aid in the reduction of fecal breeding flies through control of fly larvae.

(b) *Limitations.* Feed for the duration of fly season in a Type D medicated feed article containing 0.0033 percent or in a Type C medicated feed article containing not over 0.0066 percent coumaphos; do not feed to animals less than 3 months old; not for use in pelleted Type C or D articles.

(ii) *Amount.* Coumaphos, 0.0002 lb. (0.091 gram) per 100 lb. body weight per day.

(a) *Indications for use.* Control of gastrointestinal roundworms (*Haemonchus* spp., *Ostertagia* spp., *Cooperia* spp., *Nematodirus* spp., *Trichostrongylus* spp.).

(b) *Limitations.* Feed 0.0002 lb.

(0.091 gram) per 100 lb. body weight per day for 6 consecutive days in the normal grain ration to which the animals are accustomed but not in rations containing more than 0.1 percent coumaphos; do not feed to animals less than 3 months old, do not feed to sick animals or animals under stress, such as those just shipped, dehorned, castrated, or weaned within the last 3 weeks; do not feed in conjunction with oral drenches or with Type C or D articles containing phenothiazine. Should conditions warrant, repeat treatment at 30-day intervals.

(2) *Laying chickens—(i) Amount.* Coumaphos 27.2 grams per ton (0.003 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* In Type D medicated feed article; administer continuously as the Type D article for 14 days; when reinfection occurs, treatment may be repeated but not sooner than 3 weeks after the end of the previous treatment; do not feed to chickens within 10 days of vaccination or other conditions of stress; treatment of colored breeds of commercial layers should be avoided while in production since these breeds appear to be more sensitive to coumaphos than white breeds; as sole medication; medications in general should be avoided while birds are approaching peak production; such interruption of normal feeding practices may upset the flock and lower egg production; diagnosis by competent personnel is essential; flock condition and production records should be carefully evaluated prior to treatment.

(3) *Replacement pullets—(i) Amount.* Coumaphos 36.3 grams per ton (0.004 percent).

(ii) *Indications for use.* For control of capillary worm (*Capillaria obsignata*) and as an aid in control of common roundworm (*Ascaridia galli*) and cecal worm (*Heterakis gallinae*).

(iii) *Limitations.* In Type D medicated feed article; administer before the onset of production; diagnosis by competent personnel is essential; administer continuously as Type D article for from 10 to 14 days; do not feed to chickens under 8 weeks of age nor within 10 days of vaccination or other conditions of stress; if birds are maintained on contaminated litter or exposed to infected birds, a second 10 to 14 day treatment is recommended but not sooner than 3 weeks after the end of the previous treatment; as sole medication; if reinfection occurs after production begins, repeat treatment as recommended for laying flocks.

§ 558.195 Decoquinat.

(a) *Chemical name.* Ethyl 6-(decyloxy)-7-ethoxy-4-hydroxy-3-quinoline-carboxylate (C<sub>21</sub>H<sub>33</sub>NO<sub>3</sub>).

(b) *Specifications.* Assay—not less than 98 percent by ultraviolet spectrophotometry; melting-point range—242°-245° C.

(c) *Approvals.* (1) Type A medicated feed article: 6 percent to No. 011801 in § 510.600(c) of this chapter.

(2) Type A medicated feed article: 0.00828 percent to No. 012286 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(e) *Related tolerances in edible products.* See § 556.170 of this chapter.

(f) *Special considerations.* Bentonite should not be used in decoquinat Type B, C, or D medicated feed article.

(g) *Conditions of use.* (1) It is used in Type D medicated feed articles as follows:

Decoquinat in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
27.2 (0.003 pct).....		Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. mivati</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> .	Do not feed to laying chickens.....	011801, 012286
	Bacitracin 10 to 50....	Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. mivati</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> ; for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as zinc bacitracin provided by No. 012769 in sec. 510.600(c) of this chapter.	011801
	Chlortetracycline 200.	Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. mivati</i> , <i>E. maxima</i> , and <i>E. brunetti</i> ; for the treatment of chronic respiratory disease (air-sac infection), prevention of synovitis.	Do not feed to laying chickens; in low calcium Type D articles containing 0.8 pct of calcium; not to be fed continuously for more than 8 week; as chlortetracycline hydrochloride provided by No. 010012 in sec. 510.600(c) of this chapter.	011801
	Roxarsone 45.4 (0.005 pct).	Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. mivati</i> , <i>E. acervulina</i> , <i>E. maxima</i> , and <i>E. brunetti</i> ; growth promotion and feed efficiency; improving pigmentation.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of organic arsenic.	011801
27.2 (0.003 pct).....	Lincomycin 2 .....	Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. maxima</i> , <i>E. mivati</i> , and <i>E. brunetti</i> ; for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; feed as sole ration; as lincomycin hydrochloride monohydrate provided by No. 000009 in sec. 510.600(c) of this chapter.	000009, 011801



## PROPOSED RULES

Decoquinate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Roxarsone 11 to 45 (0.0012-0.005 pct) plus Bacitracin 12 to 50.	Broiler chickens; as an aid in the prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. mivati</i> , <i>E. maxima</i> , and <i>E. brunetti</i> ; for increased rate of weight gain and improved feed efficiency.	Do not feed to laying chickens; withdraw 5 d before slaughter; as sole source of organic arsenic; as zinc bacitracin provided by No. 012769 in sec. 510.600(c) of this chapter; as roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter.	011801
(2) It is used in Type C or D medicated feed articles as follows:				
Decoquinate	Combination in grams per ton	Indications for use	Limitations	Sponsor
22.7 mg per 100 lb of body weight per day (0.5 mg per kilogram.		Cattle; as an aid in the prevention of coccidiosis in ruminating calves and cattle caused by <i>Eimeria bovis</i> and <i>E. zuernii</i> .	Feed for at least 28 d during periods of coccidiosis or when it is likely to be a hazard. Do not feed to breeding animals or cows producing milk for food. Type D medicated feed articles for cattle should be consumed within 7 d of manufacture.	011801

## § 558.205 Dichlorvos.

(a) *Chemical name.* 2,2-Dichlorovinyl dimethyl phosphate.

(b) *Approvals.* Type A medicated feed article: 9.6 percent to No. 011461 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 130 percent of labeled amount.

(d) *Special considerations.* (1) Dichlorvos is to be included in meal or mash or mixed with feed in crumble form only after the crumble Type C or D article has been manufactured. Do not mix in Type C or D medicated feed articles to be pelleted nor with pelleted feed. Do not soak the Type C or D article or administer as wet mash. Type C or D medicated feed article must be dry when administered. Do not use in animals other than swine. Do not allow fowl access to Type C or D medicated feed articles containing this preparation or to feces from treated animals.

(2) Dichlorvos is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals. If human or animal poisoning should occur, immediately consult a physician or a veterinarian. Atropine is antidotal.

(3) Labeling for Type C medicated feed articles must include a statement that containers or materials used in packaging such Type C articles are not to be reused and all such packaging materials must be destroyed after the product has been used.

(4) Type C or D medicated feed articles conforming to the requirements of this section and processed from Type C articles containing not more than 0.768 percent of dichlorvos are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.180 of this chapter.

(f) *Conditions of use.* It is used in Type C or D medicated feed articles for swine as follows:

(1) *Amount per ton.* Dichlorvos, 348 grams (0.0384 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum* sp.), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

(ii) *Limitations.* For swine up to 70 pounds body weight, feed as sole ration for 2 consecutive days. For swine from 70 pounds to market weight, feed as sole ration at the rate of 8.4 pounds of feed per head until the Type D article has been consumed. For boars, open or bred gilts, and sows, feed as sole ration at the rate of 4.2 pounds per head per day for 2 consecutive days.

(2) *Amount per ton.* Dichlorvos, 479 grams (0.0528 percent).

(i) *Indications for use.* For the removal and control of mature, immature, and/or fourth-stage larvae of the whipworm (*Trichuris suis*), nodular worm (*Oesophagostomum* sp.), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) of the gastrointestinal tract.

(ii) *Limitations.* For boars, open or bred gilts, and sows, feed as sole ration at the rate of 6 pounds per head for one feeding.

(3) *Amount per ton.* Dichlorvos, 334-500 grams (0.0366-0.0550 percent).

(i) *Indications for use.* An aid in improving litter production efficiency by increasing pigs born alive, birth weights, survival to market, and rate of weight gain. Treatment also removes and controls mature, immature and/or fourth stage larvae of whipworm (*Trichuris suis*), nodular worm

(*Oesophagostomum* sp.), large roundworm (*Ascaris suum*), and the thick stomach worm (*Ascarops strongylina*) occurring in the gastrointestinal tract of the sow or gilt.

(ii) *Limitations.* For pregnant swine; mix into a gestation feed to provide 1,000 milligrams per head daily during last 30 days of gestation.

## § 558.225 Diethylstilbestrol.

(a) *Approvals.* (1) Dry Type A medicated feed article of 2 grams (0.44 percent) and 10 grams (2.2 percent) of diethylstilbestrol per pound, and liquid Type A medicated feed article of 20 grams (4.4 percent) and 40 grams (8.8 percent) of diethylstilbestrol per pound, for use in manufacturing Type C or D medicated feed articles within the currently approved use levels of 5 to 20 milligrams per head per day; see No. 011801 in § 510.600(c) of this chapter.

(2) Dry Type A medicated feed article of 2 grams (0.44 percent), 4 grams (0.88 percent), and 10 grams (2.2 percent) of diethylstilbestrol per pound for use in manufacturing Type C or D medicated feed articles within currently approved use levels of 5 to 20 milligrams per head per day; see No. 024264 in § 510.600(c) of this chapter.

(3) [Reserved]

(b) *Assay limits.* Type C or D medicated feed articles containing below 0.00022 percent diethylstilbestrol must have 80 to 120 percent of labeled amount. Type C or D medicated feed articles containing over 0.00022 percent diethylstilbestrol must have 85 to 115 percent of labeled amount.

(c) *Special considerations.* Maximum level of diethylstilbestrol permitted in Type C medicated feed article for cattle is 0.0044 percent.

(d) *Related tolerances.* See § 556.190 of this chapter.

(e) *Conditions of use.* (1) It is used in Type C or D medicated feed article as follows:

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Diethylstilbestrol in milligrams per head per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
(I) 2		Fattening of sheep	Sheep; withdraw 7 d before slaughter; do not feed to breeding animals.	
(II) 5 to 20		Fattening of beef cattle	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals; feed not more than 10 mg per head per day to animals under 750 lb body weight.	021264
(III) 10		do	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Bacitracin 70	Fattening of beef cattle; reduction in number of liver condemnations due to abscesses in feedlot beef cattle; as bacitracin methylene disalicylate.	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Feedlot beef cattle; administer continuously throughout the feeding period; withdraw 7 d before slaughter.	
	Bacitracin 250	do	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Feedlot beef cattle; administer continuously for 5 d, then discontinue for subsequent 25 d, repeat the pattern during the feeding period; continue diethylstilbestrol during 25 d period.	
	Bacitracin 35 to 70	Fattening of beef cattle; growth promotion and feed efficiency; as zinc bacitracin.	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 0.5 mg per pound of body weight per day	Fattening of beef cattle; aid in prevention of anaplasmosis.	Beef cattle over 1,500 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 70	1. Fattening of beef cattle; aid in prevention of liver abscesses. 2. Fattening of beef cattle; aid in reduction of bacterial diarrhea; aid in the prevention of foot rot.	Beef cattle and feedlot beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Beef cattle to 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 100	Fattening of beef cattle; aid in reduction of bacterial diarrhea; aid in the prevention of foot rot.	Beef cattle over 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 350	1. Fattening of beef cattle; aid in prevention of bacterial pneumonia and shipping fever (hemorrhagic septicemia); aid in reduction of losses due to respiratory infection (infectious rhinotracheitis, shipping fever complex). 2. Fattening of beef cattle; aid in prevention of anaplasmosis.	Beef cattle; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals. Beef cattle up to 700 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Chlortetracycline 500	Fattening of beef cattle; aid in prevention of anaplasmosis.	Beef cattle 700 lb to 1,000 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding animals.	
	Chlortetracycline 750	do	Beef cattle 1,000 to 1,500 lb in weight; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	
	Oxytetracycline 75 to 90	Fattening of beef cattle; reduction in incidence and severity of liver abscesses.	Beef cattle over 100 lb in weight; as monoalkyl (C <sub>12</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline; feed in not less than 1 lb of feed; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	

## § 558.240 Dimetridazole.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.210 of this chapter.

(e) *Conditions of use.* It is used in the Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* 136 to 182 grams (0.015 to 0.02 percent).

(i) *Indications of use.* For prevention of blackhead (histomoniasis, infectious enterohepatitis), growth promotion and feed efficiency.

(ii) *Limitations.* Feed continuously; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

(2) *Amount per ton.* 544 to 725 grams (0.06 to 0.08 percent).

(i) *Indications for use.* As an aid in the control of blackhead (histomoniasis, infectious enterohepatitis).

(ii) *Limitations.* Feed for not more than 7 days; do not feed to birds producing eggs for human consumption; withdraw 5 days before slaughter; as sole source of dimetridazole.

## § 558.248 Erythromycin thiocyanate.

(a) *Approval.*—(1) Type A medicated feed article: 2.2 percent to No. 043731 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits.*—(1) Type C or D medicated feed articles containing less than 20 grams per ton, 50 to 150 percent of labeled amount.

(2) Type C or D medicated feed articles containing over 20 grams per ton, 75 to 125 percent of labeled amount.

(c) *Special considerations.* (1) The levels of antibiotic listed are expressed in terms of the weight of erythromycin master standard. One gram of erythromycin thiocyanate is equivalent to 0.925 gram of erythromycin master standard.

(2) Type D medicated feed articles for swine, processed from Type A medicated feed articles that contain not more than 10 grams of erythromycin thiocyanate (9.25 grams of erythromycin) per pound and conform to the requirements of this section are not required to comply with the provisions of section 512(m) of the act (21 U.S.C. 360b(m)).

(d) *Related tolerances.* See § 556.230 of this chapter.

(e) *Conditions of use.*—(1) It is used in Type D medicated feed articles as follows:



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PROPOSED RULES

Erythromycin thiocyanate in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 4.6 to 18.5.....	.....	Chickens; growth promotion and feed efficiency.....	.....	.....
(ii) 9.25 to 18.5.....	.....	Turkeys; growth promotion and feed efficiency.....	For turkeys not over 12 weeks of age.....	043731
(iii) 9.25 to 64.75..	.....	Swine; increase in weight gain, improved feed efficiency in starter pigs (9.25 to 64.75) and grower-finisher pigs (9.25).....	Starter ration for animals up to 35 lb body weight.....	.....
(iv) 18.5.....	.....	Laying chickens; aid in increasing egg production..	.....	.....
(v) 92.5.....	.....	1. Chickens; as an aid in the prevention of chronic respiratory disease during periods of stress. 2. Chickens; as an aid in the prevention of infectious corvza. 3. Turkeys; as an aid in the prevention of chronic respiratory disease during periods of stress.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter. Feed for 7 to 14 d; withdraw 24 h before slaughter. Feed for 2 d before stress and 3 to 6 d after stress	.....
(vi) 185.....	.....	1. Chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease. 2. Turkeys; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter. Feed 5 to 8 d; do not use in birds producing eggs for food purposes.	.....

(2) It is used in type C or D medicated feed articles for feedlot beef cattle at 37 milligrams per head per day as an aid in stimulating growth and improving feed efficiency.

(3) Erythromycin thiocyanate may be used in accordance with the provisions of this section in the combinations provided as follows:

(i) Amprolium in accordance with § 558.55.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) Arsanilic acid in accordance with § 558.62.

(iv) Zoalene in accordance with § 558.680.

§ 558.254 Famphur.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Special considerations.* Famphur is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after treatment with or exposure to cholinesterase-inhibiting drugs, pesticides, or chemicals.

(d) *Related tolerances.* See 40 CFR 180.233.

(e) *Conditions of use.* It is used in type D medicated feed articles for cattle as follows:

(1) *Amount.* 1.1 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs and as an aid in control of sucking lice.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 30 days; withdraw from dry dairy cows

and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

(2) *Amount.* 2.3 milligrams per pound body weight per day.

(i) *Indications for use.* For control of grubs.

(ii) *Limitations.* For beef cattle and nonlactating dairy cows; feed for 10 days; withdraw from dry dairy cows and heifers 21 days prior to freshening; withdraw 4 days prior to slaughter.

§ 558.258 Ferrous fumarate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Conditions of use.* It is used in Type D medicated feed articles as a source of iron for the prevention of iron deficiency anemia in baby pigs, in an amount not to exceed that necessary to accomplish its intended effect.

§ 558.262 Furazolidone.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing furazolidone are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.290 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed article for swine as follows:

(1) *Amount per ton.* 150 grams (0.0165 percent).

(i) *Indications for use.* In sows, for prevention of bacterial scours in baby pigs; growth promotion while on medication.

(ii) *Limitations.* Feed 1 week before farrowing and 2 weeks after farrowing.

(2) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications of use.* Prevention of bacterial enteritis (necrotic enteritis, necro) and vibronic (bloody) dysentery; growth promotion while on medication.

(ii) *Limitations.* Feed 100 grams per ton for 5 weeks; or 150 grams per ton for 3 weeks; or 200 grams per ton for 2 weeks.

(3) *Amount per ton.* 300 grams (0.033 percent).

(i) *Indications for use.* Treatment of bacterial enteritis (necrotic enteritis, necro) and vibronic (bloody) dysentery; growth promotion while on medication.

tery; growth promotion while on medication.

(ii) *Limitations.* Feed 10 to 14 days.

§ 558.266 Griseofulvin.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Conditions of use.* It is used in the Type D medicated feed article for chinchillas as follows:

(1) *Amount.* 160 milligrams per pound (0.0353 percent).

(2) *Indications for use.* Prevention, treatment, and control of fungal infections caused by *Trichophyton*, and as an aid in the prevention of fur chewing associated with these fungal infections.

(3) *Limitations.* Administer as sole ration.

§ 558.274 Hygromycin B.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles for chickens containing hygromycin B as sole drug, processed from Type C medicated feed articles containing not more than 32 grams per ton hygromycin B, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.330 of this chapter.

(e) *Conditions of use.* (1) It may be used in Type D medicated feed articles as follows:

Hygromycin B in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 8 to 12.....	.....	Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ).	.....	.....
Bacitracin 100.....	.....	Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As bacitracin methylene disalicylate or zinc bacitracin.....	.....
Bacitracin plus penicillin (100 to 200 of combination).	.....	1. Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis). 2. Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis). 3. Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	Type D articles containing not less than 25 pct of penicillin plus not less than 50 pct of bacitracin; as procaine penicillin plus bacitracin methylene disalicylate. Type D articles containing not less than 50 pct nor more than 75 pct of bacitracin, except that it contains not more than 125 g of penicillin; as procaine penicillin plus zinc bacitracin. Type D articles containing 50 pct to 75 pct bacitracin, but not more than 125 g of penicillin, as procaine penicillin.	.....
do.....	.....	Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis); prevention of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	.....
Chlortetracycline 100 to 200.	.....	Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	As procaine penicillin.....	.....
Penicillin 100.....	.....	Chickens; control of infestation of large roundworms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ); treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis).	.....	.....
Penicillin plus streptomycin (90 to 180 of combination).	.....	do.....	Type D articles containing 18.7 pct of penicillin; as procaine penicillin plus streptomycin sulfate.	.....
(ii) 12.....	.....	Swine; control of infestation of large roundworms ( <i>Ascaris suis</i> ), nodular worms ( <i>Oesophagostomum dentatum</i> ) and whipworms ( <i>Trichuris suis</i> ).	Withdraw 48 h prior to slaughter.....	.....
Chlortetracycline 100 to 200.	.....	Swine; control of infestation of large roundworms ( <i>Ascaris suis</i> ), nodular worms ( <i>Oesophagostomum dentatum</i> ) and whipworms ( <i>Trichuris suis</i> ); treatment of bacterial swine enteritis.	As chlortetracycline hydrochloride; withdraw 48 h prior to slaughter.	.....



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(2) Hygromycin B may also be used in combination with:

(i) Amprolium in accordance with § 558.55.

(ii) Zoalene in accordance with § 558.680.

§ 558.305 Iprnidazole.

(a) *Chemical name.* 2-Isopropyl-1-methyl-5-nitroimidazole.

(b) *Approvals.* Type A medicated feed article containing 12.5 percent of the drug granted; see No. 000004 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article containing 0.00625 percent ipronidazole, 75 to 125 percent of labeled amount. Type D medicated feed article containing 0.025 percent ipronidazole; 80 to 120 percent of labeled amount. Type A medicated feed article: 98 percent to 115 percent of labeled amount.

(d) *Related tolerances.* See § 556.340 of this chapter.

(e) *Special considerations.* Type D medicated feed articles processed from Type C medicated feed articles that contain up to 0.0625 percent ipronidazole and that comply with the provisions of both this paragraph and paragraph (f) of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(f) *Conditions of use.* It is used in Type D medicated feed articles for turkeys as follows:

(1) *Amount per ton.* Iprnidazole, 56.75 grams (0.00625 percent).

(i) *Indication for use.* As an aid in the prevention of blackhead (histomoniasis). For increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food.

(2) *Amount per ton.* Iprnidazole, 56.75 grams (0.00625 percent) plus sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(i) *Indications for use.* As an aid in the prevention of blackhead (histomoniasis) and coccidiosis caused by all *Elmeria* species known to be pathogenic to turkeys, namely, *E. adenoides*, *E. gallopavonis*, and *E. meleagris*; bacterial infections due to *P. multocida* (fowl cholera).

(ii) *Limitations.* Withdraw 5 days before slaughter. Do not feed to turkeys producing eggs for food.

(3) *Amount per ton.* Iprnidazole, 227 grams (0.025 percent).

(i) *Indications for use.* For the treatment of blackhead (histomoniasis) in turkeys.

(ii) *Limitations.* Withdraw 4 days before slaughter. Do not feed to turkeys producing eggs for food. Feed for 7 days at the 0.025 percent level. Follow treatment with the preventive level (0.00625 percent) of ipronidazole.

§ 558.311 Lasalocid sodium.

(a) *Specifications.* Lasalocid sodium is the crystalline substance produced

by the fermentation of *Streptomyces lasaliensis*. A minimum of 90 percent lasalocid sodium activity is derived from lasalocid A sodium.

(b) *Approvals.* Type A medicated feed article: 68 grams per pound of lasalocid sodium activity to No. 000004 § 510.600 (c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(d) *Related tolerance.* See § 556.347 of this chapter.

(e) *Conditions of use.* It is used in feed for broiler or fryer chickens as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(1) 68 (0.0075 pct.) to 113 (0.0125).		For the prevention of coccidiosis caused by <i>Elmeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. brunetti</i> , <i>E. mitis</i> , and <i>E. maxima</i> .	For broiler or fryer chickens only; feed continuously as the sole ration; withdraw 3 d before slaughter.	000004
(2) 08 (0.0075 pct.)	Roxarsone 45.4 (0.005 pct.)	Broiler or fryer chickens; for the prevention of coccidiosis caused by <i>Elmeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. brunetti</i> , <i>E. malavit</i> , and <i>E. maxima</i> and as an aid in the reduction of oocysts and lesions due to <i>E. tenella</i> .	For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 d before slaughter; roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter.	000004
(3) 68 (0.0075 pct.)	Lincomycin 2 (0.00044 pct.)	Broiler or fryer chickens; for the prevention of coccidiosis caused by <i>Elmeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. brunetti</i> , <i>E. malavit</i> , and <i>E. maxima</i> ; for increased rate of weight gain and improved feed efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; withdraw 5 d before slaughter; finished feed must be used within 4 weeks of manufacture; as lincomycin hydrochloride monohydrate.	000000

§ 558.315 Levamisole hydrochloride (equivalent).

(a) *Chemical name.* (-)-2,3,5,6-Tetrahydro-6-phenylimidazo [2,1-b] thiazole monohydrochloride.

(b) *Specifications.* Assay of not less than 98 percent of nonaqueous titration with 0.1N potassium isopropoxide; 1 isomer minimum 95 percent pure by optical rotation.

(c) *Approvals.* Type A medicated feed article: 227 grams per pound to No. 010042 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed article: 85 to 125 percent of labeled amount.

(e) *Related tolerances.* See § 556.350 of this chapter.

(f) *Conditions of use.* It is used in Type C or D medicated feed articles as follows:

(1) *Cattle.*—(i) *Amount per ton.* 0.36–3.6 grams (0.08–0.8 percent).

(ii) *Indications for use.* Treatment of the following gastrointestinal worms and lung worm infections; stomach worms (*Haemonchus*, *Trichostrongylus*, *Ostertagia*), intestinal worms (*Trichostrongylus*, *Cooperia*, *Nematodirus*, *Bunostomum*, *Oesophagostomum*), and lungworms (*Dictyocaulus*).

(iii) *Limitations.* Administer Type C article mixed thoroughly in one-half

the usual amount of morning feed; mixed Type C article should be consumed within 6 hours; when Type C article feed is consumed resume normal feeding; Type C article is to be fed at the rate of 0.36 gram of levamisole hydrochloride (equivalent) per 100 lb. of body weight; conditions of constant helminth exposure may require retreatment within 2 to 4 weeks after the first treatment; do not slaughter for food within 48 hours of treatment; consult veterinarian before using in severely debilitated animals; do not administer to dairy animals of breeding age; for use in pelleted or meal Type C medicated feed articles only; the label shall bear the caution, "Muzzle foam may be observed. However, this reaction will disappear within a few hours. If this condition persists, a veterinarian should be consulted. Follow recommended dosage carefully."

(2) *Swine.*—(i) *Amount per ton.* 0.36 grams (0.08 percent).

(ii) *Indications for use.* Treatment of the following nematode infections; large round worms (*Ascaris suum*), nodular worms (*Oesophagostomum* spp.), lungworms (*Metastrongylus* spp.), intestinal threadworms (*Strongyloides ransomi*).

(iii) *Limitations.* It is recommended that regular feed be withheld overnight and worming feed administered the following morning; feed 1 lb of worming feed per 100 lb. of body weight of pigs to be treated; may be fed as Type D medicated feed article or thoroughly mixed with 1 to 2 parts of regular feed prior to feeding; when Type D article is consumed, resume normal feeding. Pigs maintained under conditions of constant worm exposure may require re-treatment within 4 to 5 weeks after the first treatment due to reinfection; do not slaughter for food within 72 hours of treatment; the label shall bear the caution, "Excessive salivation or muzzle foam may be observed. This reaction is occasionally seen and will disappear in a short time after medication. If pigs are infected with mature lungworms, coughing and vomiting may be observed soon after Type D article is consumed. This reaction is due to the expulsion of worms from the lungs and will be over in several hours."

§ 558.325 Lincomycin.

(a) *Specifications.* Meets the specifications prescribed by § 453.30(a)(1) of this chapter.

(b) *Approvals.* (1) Type A medicated feed article: 4 grams per pound to No. 000009 in § 510.600(c) of this chapter for use as provided in paragraphs (f)(1) and (f)(3) of this section.

(2) Type A medicated feed article: 20 grams per pound to No. 000009 in § 510.600(c) of this chapter for use as provided in paragraph (f)(2) of this section.

(c) *Assay limits.* Type D medicated feed articles: 80 to 130 percent of labeled amount. Type A medicated feed articles: 90 to 115 percent of labeled amount.

(d) *Related tolerances in edible products.* See § 556.360 of this chapter.

(e) *Special considerations.* (1) Type D medicated feed articles for broilers containing lincomycin as the sole drug and conforming to the requirements of paragraph (f)(1) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Type D medicated feed articles containing lincomycin as the sole drug, processed from Type C medicated feed articles that contain up to 2,600 grams of lincomycin per ton, and conforming to the requirements of paragraph (f)(2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(f) *Conditions of use.*

(1) *Broilers.*—It is used in Type D medicated feed articles as follows:

(i) *Amount per ton.* 2 to 4 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

(ii) *Amount per ton.* 2 grams.

(a) *Indications for use.* For control of necrotic enteritis caused by *Clostridium* spp. or other susceptible organisms.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

(2) *Swine.*—It is used in Type D medicated feed articles as follows:

(i) *Amount per ton.* 40 grams.

(a) *Indications for use.* For control of swine dysentery.

(b) *Limitations.* Feed as sole ration; for use in swine on premises with a history of swine dysentery but where symptoms have not yet occurred; not for use in breeding swine; withdraw 6 days before slaughter.

(ii) *Amount per ton.* 100 grams; 40 grams.

(a) *Indications for use.* For treatment and control of swine dysentery.

(b) *Limitations.* Feed 100 grams per ton for 3 weeks or until signs of disease disappear, followed by 40 grams per ton; feed as sole ration; not for use in breeding swine; withdraw 6 days before slaughter.

(iii) *Amount per ton.* 100 grams.

(a) *Indications for use.* For treatment of swine dysentery.

(b) *Limitations.* Feed as sole ration for 3 weeks or until signs of disease disappear; not for use in breeding swine; withdraw 6 days before slaughter.

(3) Lincomycin may also be used for broilers in combination with:

(i) Amprolium, ethopabate, and roxarsone in accordance with §§ 558.58 and 558.530.

(ii) Amprolium and ethopabate in accordance with § 558.58.

(iii) Clopidol in accordance with § 558.175.

(iv) Buquinolate in accordance with § 553.105.

(v) Decoquinolate in accordance with § 558.195.

(vi) Zoalene in accordance with § 558.680.

(vii) Monensin in accordance with § 558.355.

(viii) Robenidine hydrochloride in accordance with § 558.515.

(ix) Roxarsone and monensin sodium in accordance with §§ 558.355 and 558.530.

(x) Lasalocid sodium in accordance with § 558.311.

§ 558.342 Melengestrol acetate.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 70 to 120 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.380 of this chapter.

(e) *Conditions of use.* It is used in or on feed for heifers as follows:

(1) *Amount.* 0.25 to 0.50 milligram per head per day.

(2) *Indications for use.* Use for growth stimulation, improved feed utilization, and suppression of estrus (heat).

(3) *Limitations.* Heifers being fed for slaughter; administer in Type C medicated feed articles; withdraw 48 hours prior to slaughter.

§ 558.355 Monensin.

(a) *Specifications.* Monensin is the substance produced by the fermentation of *Streptomyces cinnamonensis* or the same substance produced by an other means. It is present as monensin or the sodium salt. A minimum of 90 percent of monensin activity is derived from monensin A.

(b) *Approvals.* Type A medicated feed articles containing monensin with diluent or Type B medicated feed articles containing monensin with diluent plus vitamins, minerals, and/or other nutrient ingredients granted to firms as sponsor(s) and identified by sponsor numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section are as follows:

(1) To 000986: 44 or 45 grams per lb., paragraphs (f)(1)(i) and (f)(4) of this section.

(2) To 000986: 110 grams per lb., paragraphs (f)(1) (i), (iii), (iv), (v), (ix) and (x).

(3) To 000986: 44 grams per lb. with 18 grams per lb. of roxarsone, 110 grams per lb. with 45 grams per lb. of roxarsone, paragraph (f)(1)(ii).

(4) To 012286: 303.5 grams per ton, as monensin sodium, with .038 percent roxarsone, paragraph (f)(1)(ii).



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(5) To 011904: 14.67 grams per lb., as monensin sodium, paragraph (f)(1)(i).

(6) To 011904: 11.786 grams per lb., as monensin sodium, with 1.063 percent roxarsone, 22 grams per lb., as monensin sodium, with 1.98 percent roxarsone, paragraph (f)(1)(ii).

(7) To 000986: 20, 30, 45, or 60 grams per lb., as monensin sodium, paragraph (f)(3).

(c) *Assay limits.* (1) Type D medicated feed articles for chickens; 75 to 125 percent of labeled amount of monensin activity.

(2) Type D medicated feed articles for cattle:

(i) Type D articles labeled as containing 5 to 10 grams of monensin activity per ton, 80 to 120 percent of labeled amount of monensin activity.

(ii) Type D articles labeled as containing 10 to 30 grams of monensin activity per ton, 85 to 115 percent of labeled amount of monensin activity.

(2) *Special considerations.* (1) Type D medicated feed articles for chickens containing monensin as the mycelial cake shall bear an expiration date of 90 days after its date of manufacture.

(2) Type D medicated feed articles for cattle, containing 30 grams or less monensin sodium per ton shall bear an expiration date of 30 days after its date of manufacture.

(3) Type D medicated feed articles for cattle, manufactured from Type C medicated feed articles that contain not more than 1,200 grams per ton of monensin and that comply with the provisions of paragraph (f)(3) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(4) Type D medicated feed articles for cattle manufactured from Type A medicated feed articles containing 20 grams per pound of monensin and that comply with the requirements of paragraph (f)(3) of this section are not required to comply with the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.420 of this chapter.

(f) *Conditions of use. It is used as follows:*

(1) *Broiler chickens—(i) Amount per ton.* Monensin, 90-110 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 72 hours before slaughter; as monensin or monensin sodium.

(ii) *Amount per ton.* Monensin, 90-110 grams, plus roxarsone, 45.4 grams (0.005 percent).

(a) *Indications for use.* Growth promotion and feed efficiency, improving

pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati* and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as monensin or monensin sodium.

(iii) *Amount per ton.* Monensin, 90-110 grams plus bacitracin, 5-10 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter; as monensin sodium.

(iv) *Amount per ton.* Monensin, 90-110 grams plus bacitracin, 10 grams.

(a) *Indications for use.* For increased rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter; as monensin sodium.

(v) *Amount per ton.* Monensin, 90-110 grams plus bacitracin, 10-30 grams.

(a) *Indications for use.* For improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter; as monensin sodium.

(vi) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram. See § 558.95(e)(1)(vi).

(vii) *Amount per ton.* Monensin, 90 to 110 grams plus bambermycins, 1 gram plus roxarsone, 22.7 to 45.4 grams (0.025 to .005 percent). See § 558.95(e)(1)(vii).

(viii) *Amount per ton.* Monensin, 90 to 110 grams plus oxytetracycline, 200 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*; and for the control of complicated chronic respiratory disease (CRD or air sac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli*.

(b) *Limitations.* Withdraw 72 hours before slaughter; do not feed to laying

chickens; feed continuously as sole ration; as monensin sodium.

(ix) *Amount per ton.* Monensin, 90-110 grams plus lincomycin, 2 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; to be fed as a sole ration, withdraw 72 hours before slaughter; as monensin sodium.

(x) *Amount per ton.* Monensin, 90-110 grams plus lincomycin, 2 grams and roxarsone, 15-45 grams.

(a) *Indications for use.* For increase in rate of weight gain; as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter; as monensin sodium provided by No. 000986, § 510.600(c) of this chapter; as lincomycin provided by No. 000009, § 510.600(c) of this chapter; as a combination provided by No. 000009, § 510.600(c) of this chapter.

(xi) *Amount per ton.* Monensin, 90 to 110 grams, plus lincomycin, 2 grams and roxarsone, 15 to 30 grams.

(a) *Indications for use.* For increase in rate of weight gain, improved feed efficiency, improved pigmentation, and as an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati* and *E. maxima*.

(b) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter; as monensin sodium provided by No. 000986 in § 510.600(c) of this chapter; as lincomycin provided by No. 000009 in § 510.600(c) of this chapter; as a combination provided by No. 000009 in § 510.600(c) of this chapter.

(2) [Reserved]

(3) *Cattle—(i) Amount per ton.* Monensin, 5-30 grams.

(ii) *Indications for use.* Improved feed efficiency.

(iii) *Limitations.* Feed only to cattle being fed in confinement for slaughter; feed continuously in a Type D medicated feed article at the rate of not less than 50 nor more than 360 milligrams per head per day, as monensin sodium; do not allow horses or other equines access to formulations containing monensin (ingestion of monensin by equines has been fatal).

(4) *Replacement chickens intended for use as cage layers—(i) Amount per ton.* Monensin, 90 to 110 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(b) *Limitations.* Feed continuously as the sole ration; do not feed to chickens over 16 weeks of age.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. necatrix*, *E. tenella*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*.

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 72 hours before slaughter; as monensin sodium; do not feed to chickens over 16 weeks of age.

§ 558.365 Nequinat.

(a) *Chemical name.* Methyl 7-(benzyloxy) - 6 - butyl - 1,4 dihydro - 4 - oxo - 3-quinoline carboxylate.

(b) *Approvals.* (1) Type A medicated feed article: 4 percent nequinat to No. 000046 in § 510.600(c) of this chapter.

(2) Type A medicated feed article: 4 percent nequinat to No. 017800 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount of nequinat.

(d) *Related tolerances.* See § 556.440 of this chapter.

(e) *Special considerations.* Do not use in Type B, C, or D articles containing bentonite.

(f) *Conditions of use. It is used as follows:*

(1) *Broiler or fryer chickens—(i) Amount per ton.* Nequinat, 18.16 grams.

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(b) *Limitations.* Feed continuously as the sole ration.

(ii) *Amount per ton.* Nequinat, 18.16 grams (0.002 percent) plus roxarsone, 45.4 grams (0.005 percent).

(a) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, and *E. mivati*; growth promotion and feed efficiency; for improving pigmentation.

(b) *Limitations.* Feed continuously as sole ration throughout the starting period; withdraw 5 days before slaughter; as sole source of organic arsenic.

(iii) *Amount per ton.* Nequinat, 18.16 grams (0.002 percent) plus oxytetracycline, 200 grams.

(a) *Indications for use.* For control of complicated chronic respiratory disease (air-sac infection), infectious synovitis, and treatment of blue comb (nonspecific infectious enteritis).

(b) *Limitations.* As monoalkyl (C<sub>12</sub>-C<sub>18</sub>) trimethylammonium oxytetracycline as provided by No. 000069 in § 510.600(c) of this chapter.

(2) *Roaster chickens or replacement chickens for caged layers—(i) Amount per ton.* Nequinat, 18.16 grams (0.002 percent).

(ii) *Indications for use.* An aid in the prevention of coccidiosis caused by *E. tenella*, *E. necatrix*, *E. acervulina*, *E. maxima*, *E. brunetti*, and *E. mivati*.

(iii) *Limitations.* Feed continuously as the sole ration; do not feed to chickens over 16 weeks of age.

## PROPOSED RULES

§ 558.366 Nicarbazine.

(a) *Approvals.* Type A medicated feed article: 25 percent of nicarbazine granted to No. 000006 in § 510.600(c) of this chapter.

(b) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(c) *Related tolerances.* See § 556.445 of this chapter.

(d) [Reserved]

(e) *Conditions of use.* It is used in chicken feed as follows:

(1) *Amount per ton.* 113.5 grams (0.0125 percent).

(2) *Indications for use.* As an aid in preventing outbreaks of cecal (*Eimeria tenella*) and intestinal (*E. acervulina*, *E. maxima*, *E. necatrix*, and *E. brunetti*) coccidiosis.

(3) *Limitations.* Feed continuously as the sole ration in a complete feed from the time chicks are placed on litter until past the time when coccidiosis is ordinarily a hazard; do not use as a treatment for outbreaks of coccidiosis; do not use in flushing mashers; do not feed to laying hens; withdraw 4 days before slaughter.

§ 558.376 Nitromide and sulfanilic acid.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: nitromide, 80 to 120 percent of labeled amount; sulfanilic acid, 75 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See §§ 556.220 and 556.680 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanilic acid (0.03 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, and *E. acervulina*.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide and 30 percent sulfanilic acid.

(2) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanilic acid (0.03 percent), plus 45.4 grams per ton roxarsone (0.005 percent).

(i) *Indications for use.* Prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide, 30 percent sulfanilic acid, and 5 percent roxarsone; as sole source of organic arsenic

§ 558.370 Nitrofurazone.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 80 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing nitrofurazone as the sole drug are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

§ 558.415 Novobiocin.

(a) *Specifications.* Novobiocin is the antibiotic substance produced by growth of *Streptomyces niveus* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Type A medicated feed article: 25 grams of novobiocin ac-

(d) *Conditions of use.* It is used in Type D medicated feed articles for mink as follows:

(1) *Amount per ton.* 100 to 200 grams (0.011 to 0.022 percent).

(i) *Indications for use.* Treatment of gray diarrhea.

(ii) *Limitations.* Feed 100 grams per ton for 3 days, then 200 grams per ton for 21 days (amount of active ingredient calculated on Type D article before water added); do not repeat treatment. Discard unused mixed Type D article every 24 hours.

(2) *Amount per ton.* 100 grams (0.011 percent).

(i) *Indications for use.* Control of gray diarrhea.

(ii) *Limitations.* Feed continuously during susceptible period, not to exceed 90 days (amount of active ingredient calculated on Type D article before water added). Discard unused mixed Type D article every 24 hours.

§ 558.376 Nitromide and sulfanilic acid.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: nitromide, 80 to 120 percent of labeled amount; sulfanilic acid, 75 to 125 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See §§ 556.220 and 556.680 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanilic acid (0.03 percent).

(i) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, and *E. acervulina*.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide and 30 percent sulfanilic acid.

(2) *Amount.* 227 grams per ton nitromide (0.025 percent) and 272 grams per ton sulfanilic acid (0.03 percent), plus 45.4 grams per ton roxarsone (0.005 percent).

(i) *Indications for use.* Prevention of coccidiosis caused by *Eimeria tenella*, *E. necatrix*, and *E. acervulina*; growth promotion and feed efficiency; improving pigmentation.

(ii) *Limitations.* Not to be fed to laying chickens; withdraw 5 days before slaughter; from Type A articles containing not more than 25 percent nitromide, 30 percent sulfanilic acid, and 5 percent roxarsone; as sole source of organic arsenic

§ 558.415 Novobiocin.

(a) *Specifications.* Novobiocin is the antibiotic substance produced by growth of *Streptomyces niveus* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Type A medicated feed article: 25 grams of novobiocin ac-



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tivity per pound to No. 000009 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* Type D medicated feed article conforming to the requirements of this section is not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See § 556.460 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles as follows:

(1) *Chickens—(i) Amount.* Novobiocin, 6-7 mgs. per lb. body weight per day.

(a) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin.

(b) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin, 10-14 mgs. per lb. body weight per day.

(a) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infections susceptible to novobiocin.

(b) *Limitations.* Administer, as sole ration, Type D article which contains not less than 350 grams of novobiocin activity per ton; not for laying chickens; feed 5 to 7 days; withdraw 4 days before slaughter.

(2) *Turkeys—(i) Amount.* Novobiocin, 4-5 mgs. per lb. body weight per day.

(a) *Indications for use.* Aid in the treatment of breast blisters associated with staphylococcal infections susceptible to novobiocin.

(b) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; not for laying turkeys; feed 5 to 7 days; withdraw 4 days before slaughter.

(ii) *Amount.* Novobiocin, 5-8 mgs. per lb. body weight per day.

(a) *Indications for use.* Aid in the control of recurring outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin following initial treatment with 7-8 mgs. per pound of body weight per day.

(b) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(iii) *Amount.* Novobiocin, 7-8 mgs. per lb. body per day.

(a) *Indications for use.* Treatment of staphylococcal synovitis and generalized staphylococcal infection susceptible to novobiocin; treatment of acute outbreaks of fowl cholera caused by strains of *Pasteurella multocida* susceptible to novobiocin.

(b) *Limitations.* Administer, as sole ration, Type D article which contains not less than 350 grams of novobiocin activity per ton; feed 5 to 7 days; not for laying turkeys; withdraw 4 days before slaughter.

(3) *Mink—(i) Amount.* 20 mgs. per lb. body weight per day.

(ii) *Indications for use.* For treatment of generalized infections, abscesses, or urinary infections caused by staphylococcal or other novobiocin sensitive organisms.

(iii) *Limitations.* Administer, as sole ration, Type D article which contains not less than 200 grams of novobiocin activity per ton; feed for 7 days.

§ 558.430 Nystatin.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 75 to 125 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing nystatin as the sole drug are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.470 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens and turkeys as follows:

(1) *Amount.* 50 grams per ton.

(i) *Indications for use.* Chickens and turkeys; aid in control of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys.

(2) *Amount.* 100 grams per ton.

(i) *Indications for use.* Chickens and turkeys; treatment of crop mycosis and mycotic diarrhea (*Candida albicans*).

(ii) *Limitations.* Growing and laying chickens; growing turkeys; to be fed for 7 to 10 days.

§ 558.435 Oleandomycin.

(a) *Specifications.* It is the antibiotic substance produced by the growth of *Streptomyces antibioticus* or the same antibiotic substance produced by any other means, and for the purpose of this section refers to oleandomycin or feed grade oleandomycin.

(b) *Approvals.* Type A medicated feed article: 5 grams of oleandomycin activity per pound to No. 000069 in § 510.600(c) of this chapter.

(c) *Assay limits.* (1) Type D medicated feed articles containing up to 11.25 grams of oleandomycin per ton: 70 to 130 percent of labeled amount of product.

(2) Type C medicated feed articles containing more than 11.25 grams of oleandomycin per ton: 75 to 125 percent of labeled amount of product.

(d) *Related tolerances.* See § 556.480 of this chapter.

(e) *Special considerations.* (1) Do not use bentonite in Type B, C, or D medicated feed articles containing oleandomycin.

(2) Type C or D medicated feed articles for swine processed from other Type C medicated feed articles that contain not more than 225 grams of oleandomycin per ton and conforming to the requirements of paragraph (f)(1)(ii) of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Conditions of use.* (1) It is used in Type C and D medicated feed articles as follows:

(i) *Chickens and turkeys—(a) Amount per ton.* Oleandomycin, 1-2 grams.

(b) *Indications for use.* For increased rate of weight gain and improved feed efficiency for floor raised broiler chickens and growing turkeys.

(c) *Limitations.* Not to be used for laying hens.

(ii) *Swine—(a) Amount per ton.* Oleandomycin, 5-11.25 grams.

(b) *Indications for use.* For increased rate of weight gain and improved feed efficiency for confined and pasture raised swine.

(c) *Limitations.* Not to be used for breeding swine.

(2) [Reserved]

§ 558.450 Oxytetracycline.

(a) *Approvals.* (1) Type A medicated feed article equivalent to 10 and 50 grams per pound of oxytetracycline hydrochloride to No. 000069 in § 510.600(c) of this chapter.

(2) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 65 to 135 percent of labeled amount.

(c) *Special considerations.* (1) Type D medicated feed articles containing oxytetracycline only and conforming to the requirements of tables 1 and 2 of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) The amount of oxytetracycline is expressed in terms of an equivalent amount of oxytetracycline hydrochloride.

(d) *Related tolerances.* See § 556.500 of this chapter.

(e) *Conditions of use.* (1) It is used as follows:

TABLE 1.—In Type D medicated feed articles for chickens and turkeys

Oxytetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 50.....		Chickens and turkeys; during times of stress, for prevention of diseases named in this section, caused by organisms susceptible to the named levels of the oxytetracycline salt.	As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline.	
(ii) 50 to 100.....		1. Chickens; prevention of blue comb (nonspecific infectious enteritis). 2. Chickens and turkeys; prevention of early mortality of chicks and poults due to organisms susceptible to the oxytetracycline salt. 3. Turkeys; prevention of hexamitiasis.....	do..... For chicks (1st 2 weeks of life); for poults (1st 4 weeks of life); as mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline. As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline.	
(iii) 100 to 200.....		1. Chickens; prevention of complicated chronic respiratory disease (air-sac infection) and control of complicated chronic respiratory mortality and severity during outbreaks; prevention of fowl cholera. 2. Chickens; treatment of blue comb (nonspecific infectious enteritis); prevention of infectious synovitis; control of complicated chronic respiratory disease (air-sac infection) by lowering mortality and severity of disease during outbreaks; reduction of lesion and mortality due to organisms susceptible to oxytetracycline in the presence of complicated chronic respiratory disease (air-sac infection). 3. Turkeys; control of infectious sinusitis; prevention of infections synovitis. 4. Turkeys; control blue comb (nonspecific infections enteritis, mud fever); treatment of hexamitiasis.....	do..... As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low-calcium Type D article may be fed for a total of 3 to 5 d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens. As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline. do.....	
(iv) 200.....		1. Turkeys; control of infectious synovitis..... 2. Chickens; prevention of avian infectious hepatitis; prevention and control of <i>E. tenella</i> , cause of cecal coccidiosis. 3. Chickens; control of infectious synovitis..... 4. Chickens; control of fowl cholera during periods of outbreaks.	As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline. As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; not to be fed continuously for more than 5 d; low-calcium Type D article may be fed for a total of 35-d periods through the 1st 10 weeks of life with an interim period of 5 d between each low-calcium feeding. Not to be fed to laying chickens. As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline. As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline in low-calcium Type D article containing 0.18 pct to 0.55 pct dietary calcium; for 2 weeks from outbreak of disease, 5 d of low calcium and the remaining period on normal calcium; not to be fed to laying chickens.	000069
	Monensin 90 to 110...	Broiler chickens; for the control of complicated chronic respiratory disease (CRD or air-sac infection) caused by <i>Mycoplasma gallisepticum</i> and <i>Escherichia coli</i> ; and as an aid in the prevention of coccidiosis caused by <i>Eimeria necatrix</i> , <i>E. tenella</i> , <i>E. acervulina</i> , <i>E. brunetti</i> , <i>E. mitis</i> , and <i>E. maxima</i> .	Withdraw 72 h before slaughter; do not feed to laying chickens; feed continuously as sole ration; as monensin sodium.	
	Nequinat 18.16 (p.002 pct).	Broiler or fryer chickens; as an aid in prevention of coccidiosis caused by <i>Eimeria tenella</i> , <i>E. necatrix</i> , <i>E. acervulina</i> , <i>E. maxima</i> , <i>E. brunetti</i> and <i>E. mitis</i> . For control of complicated chronic respiratory disease (air-sac infections) infectious synovitis, and treatment of blue comb (nonspecific infections enteritis).	As mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl ammonium oxytetracycline.	
(v) 500.....		Broiler chickens; as an aid in the reduction of mortality due to air-sacculitis (air-sac infection) caused by <i>Escherichia coli</i> sensitive to oxytetracycline.	Feed for 5 d as sole ration; treat at first clinical signs of disease; do not feed to laying hens; withdraw 24 hr prior to slaughter.	000069

TABLE 2.—In Type D medicated feed articles for cattle

Oxytetracycline in milligrams per head per day	Combination in milligrams per head per day	Indications for use	Limitations	Sponsor
75 to 80.....		Beef cattle; reduction of the incidence and severity of liver abscesses.	For beef cattle weighing over 400 lb; as mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl-ammonium oxytetracycline.	
	Diethylstilbestrol 10.	Fattening of beef cattle; reduction of the incidence and severity of liver abscesses.	For beef cattle weighing over 400 lb; as mono-alkyl (C <sub>1</sub> -C <sub>18</sub> ) trimethyl-ammonium oxytetracycline; feed in not less than 1 lb of Type D article; withdraw 7 d before slaughter; do not feed to breeding or dairy animals.	



TABLE 3.—In Type D medicated feed articles for fish

Oxytetracycline	Combination	Indications for use	Limitations	Sponsor
(i) 250 mg per kilogram of fish per day (11.35 g per 100 lb of fish per day).		Pacific salmon; for marking of skeletal tissue.....	For salmon not over 30 g body weight; administer as sole ration for 4 consecutive days in Type D article containing oxytetracycline hydrochloride or mono-alkyl (C <sub>1</sub> —C <sub>18</sub> ) trimethyl-ammonium oxytetracycline; fish not to be liberated for at least 7 d following the last administration of Type D article.	
(ii) 2.5 to 3.75 g per 100 lb of fish per day.		1. Salmonids; control of ulcer disease caused by <i>Hemophilus piscium</i> , furunculosis caused by <i>Aeromonas salmonicida</i> , bacterial hemorrhagic septicemia caused by <i>Aeromonas liquefaciens</i> , and pseudomonas disease. 2. Catfish; control of bacterial hemorrhagic septicemia caused by <i>Aeromonas liquefaciens</i> and pseudomonas disease.	Administer as mono-alkyl (C <sub>1</sub> —C <sub>18</sub> ) trimethyl ammonium oxytetracycline in Type D article for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of Type D article; do not administer when water temperature is below 9° C (48.2° F). Administer as mono-alkyl (C <sub>1</sub> —C <sub>18</sub> ) trimethyl ammonium oxytetracycline in Type D article for 10 d; do not liberate fish or slaughter fish for food for 21 d following the last administration of Type D article; do not administer when water temperature is below 16.7° C (62° F).	
(2) Oxytetracycline may be used in accordance with the provisions of this section in the combinations provided as follows:				
(i) Robenidine hydrochloride in accordance with § 558.515.				
(ii) [Reserved]				
§ 558.460 Penicillin.				
(a) Specifications. As procaine penicillin G or feed grade procaine penicillin.				
(i) 1.5 to 42.5.....	Streptomycin 7.5 to 48.5.	Swine; growth promotion and feed efficiency.....	Feed not more than 50 g of type D article containing at least 1.5 g of penicillin and at least 7.5 g of streptomycin; as streptomycin sulfate.	
(ii) 2.4 to 38.0.....	Streptomycin 12.0 to 47.6.	Chickens and turkeys; growth promotion and feed efficiency.	Feed not more than 50 g of type D article containing at least 2.4 g of penicillin and at least 12 g of streptomycin; as streptomycin sulfate.	
(iii) 2.4 to 50.....		Chickens, turkeys, and pheasants; growth promotion and feed efficiency.		
(iv) 5 to 20.....		Quail; growth promotion and feed efficiency.....	Quail, not over 5 weeks of age.....	
(v) 10 to 50.....		Swine; growth promotion and feed efficiency.....		
(vi) 22.5 to 50 (of the combination).	Streptomycin.....	Chickens; maintaining or increasing egg production.	Type D article contains 16.7 pct of penicillin; as procaine penicillin; as streptomycin sulfate.	
(vii) 45 to 90 (of the combination).	do.....	Swine; aid in the prevention of bacterial swine enteritis.	do.....	
(viii) 50 to 100.....		1. Chickens; prevention of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis). 2. Turkeys; prevention of infectious sinusitis, blue comb (mud fever).		
(ix) 90 (of the combination).	Streptomycin.....	1. Chickens; prevention of early mortality caused by organisms susceptible to penicillin and streptomycin. 2. Swine; treatment of bacterial swine enteritis.....	For chicks; in starter ration containing 16.7 pct of penicillin; as procaine penicillin, as streptomycin sulfate. Type D article contains 16.7 pct of penicillin; as procaine penicillin; as streptomycin sulfate.	
(x) 90 to 180 (of the combination).	do.....	1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific infectious enteritis). 2. Turkeys; treatment of infectious sinusitis; blue comb (mud fever), hexamitiasis.	do.....	
(xi) 90 to 270 (of the combination).	do.....	Swine; treatment of bacterial swine enteritis.....	Type D article contains 16.7 pct of penicillin; feed not more than 14 d; procaine penicillin; as streptomycin sulfate.	
(xii) 100.....		1. Chickens; treatment of chronic respiratory disease (air-sac infection), blue comb (nonspecific enteritis). 2. Turkeys; treatment of infectious sinusitis, blue comb (mud fever).		
(2) Penicillin may be used in accordance with the provisions of this section in the combinations provided as follows:				
(i) Amprolium in accordance with § 558.55.				
(ii) Amprolium plus ethopabate in accordance with § 558.58.				
(iii) Bacitracin methylene disalicylate in accordance with § 558.76.				
(iv) Bacitracin zinc in accordance with § 558.78.				
(v) Butyrolactone in accordance with § 558.105.				
(vi) Hygromycin B in accordance with § 558.274.				
(vii) [Reserved]				
(viii) Reserpine in accordance with § 558.505.				
(ix) Roxarsone and zoalene in accordance with § 558.680.				
(x) Zoalene in accordance with § 558.680.				
§ 558.464 Poloxalene.				
(a) Specifications. Poloxalene dry Type A medicated feed article and poloxalene liquid Type A medicated feed				
article contain poloxalene meeting the specifications given in § 520.1840 of this chapter.				
(b) Approvals. Dry Type A medicated feed article of 53 percent and liquid Type A medicated feed article of 99.5 percent to No. 000007 in § 510.600(c) of this chapter.				
(c) Conditions of use. (1) For prevention of legume (alfalfa, clover) and wheat pasture bloat in cattle.				
(2) Poloxalene dry Type A medicated feed article and liquid Type A medicated feed article must be thoroughly				

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blended and evenly distributed in feed prior to use. This may be accomplished by preparing a Type B medicated feed article prior to preparing the Type D medicated feed article. Dosage is 1 gram of poloxalene per 100 pounds of body weight daily and continued during exposure to bloat producing conditions. If bloating conditions are severe, the dose is doubled. Treatment should be started 2 to 3 days before exposure to bloat-producing conditions. Repeat dosage if animals are exposed to bloat-producing conditions more than 12 hours after the last treatment. Do not exceed the higher dosage levels in any 24-hour period.

#### § 558.465 Poloxalene liquid Type C medicated feed article.

(a) Specifications. Poloxalene liquid Type C medicated feed article contains poloxalene meeting the specifications given in § 520.1840 of this chapter.

(b) Approvals. Type A medicated feed article of 99.5 percent to No. 000007 in § 510.600(c) of this chapter.

(c) Assay limits. Poloxalene liquid Type C medicated feed article: 85 to 115 percent of labeled amount.

(d) Conditions of use. (1) For control of legume (alfalfa, clover) and wheat pasture bloat in cattle, use 7.5 grams of poloxalene per pound of liquid Type C medicated feed article (1.65 percent weight/weight). Each animal must consume 0.2 pound of Type C article per 100 pounds of body weight daily for adequate protection.

(2) For control of legume (alfalfa, clover) bloat in cattle grazing of prebloom legumes, use 10.00 grams of poloxalene per pound of liquid Type C article (2.2 percent weight/weight). Each animal must consume 0.15 pound of Type C article per 100 pounds of body weight daily for adequate protection. If consumption exceeds 0.2 pound of Type C article per 100 pounds of body weight daily, cattle should be changed to a Type C article containing 7.5 grams of poloxalene per pound.

(3) Poloxalene liquid Type A article must be thoroughly blended and evenly distributed into a liquid Type C article and offered to cattle in a covered liquid Type C article feeder with lick wheels. The formula for the liquid Type C article, on a weight/weight basis, is as follows: Ammonium polyphosphate 2.66 percent, phosphoric acid (75 percent) 3.37 percent, sulfuric acid 1.00 percent, water 10.00 percent, and molasses sufficient to make 100.00 percent, vitamins A and D and/or trace minerals may be added. One free-turning lick wheel per 25 head of cattle must be provided.

(4) The medicated liquid Type C article must be introduced at least 2 to 5 days before legume consumption to accustom the cattle to the medicated

liquid Type C article and to lick wheel feedings. If the medicated feeding is interrupted, this 2- to 5-day introductory feeding should be repeated.

#### § 558.485 Pyrantel tartrate.

(a) Approvals. (1) Type A medicated feed articles: 10.6 and 17.6 percent (48 and 80 grams per pound) to No. 000069 in 21 CFR 510.600(c).

(2) Type A medicated feed articles: 10.6 percent (48 grams per pound) to No. 017800 in 21 CFR 510.600(c).

(b) Assay limits. Type D medicated feed article: 88 to 118 percent of labeled amount.

(c) Related tolerances. See § 556.560 of this chapter.

(d) Special considerations. (1) Consult veterinarian before using in severely debilitated animals.

(2) The manufacture of Type D medicated feed articles processed from Type C medicated feed articles does not require compliance with the provisions of section 512(m) of the act when they contain:

(i) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate and used as provided in paragraph (e) (1) or (2) of this section.

(ii) Not more than 0.106 percent (960 grams/ton) pyrantel tartrate with not more than 0.055 percent (500 grams/ton) carbadox when produced from a fixed combination Type C medicated feed article or from individual Type C articles and used as provided in paragraph (e)(4) of this section.

(3) Do not mix in Type B, C, or D medicated feed articles containing bentonite.

(4) Type D articles processed from Type C articles that contain not more than 0.881 percent of pyrantel tartrate and that comply with the provisions of paragraph (e)(3) of this section are not required to comply with the provisions of section 512(m) of the act.

(5) Complete feeds processed from feed premixes that contain not more than 17.6 percent (80 grams per pound) pyrantel tartrate and comply with the provisions of paragraph (e)(1), (2), or (3) of this section are not required to comply with the provisions of section 512(m) of the act.

(e) Conditions of use. It is used in Type D medicated feed articles for swine as follows:

(1) Amount per ton. 96 grams (0.0106 percent).

(i) Indications for use. Aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) Limitations. Feed continuously as sole ration; withdraw 24 hours prior to slaughter.

(2) Amount per ton. 96 grams (0.0106 percent).

(i) Indications for use. For the removal and control of large roundworm (*Ascaris suum*) infections.

(ii) Limitations. Feed for 3 days as sole ration; withdraw 24 hours prior to slaughter.

(3) Amount per ton. 800 grams (0.0881 percent).

(i) Indications for use. For the removal and control of large roundworm (*Ascaris suum*) and nodular worm (*Oesophagostomum*) infections.

(ii) Limitations. As a single therapeutic treatment in Type D article; feed at the rate of 1 lb. of Type D article per 40 lb. of body weight for animals up to 200 lb. and 5 lb. of Type D article per head for animals 200 lb. or over; withdraw 24 hours prior to slaughter.

(4) Amount per ton. Pyrantel tartrate, 96 grams (0.0106 percent) and carbadox, 50 grams (0.0055 percent).

(i) Indications for use. For control of swine dysentery (vibronic dysentery, bloody scours or hemorrhage, dysentery); control of bacterial swine enteritis (salmonellosis or necrotic enteritis) caused by *Salmonella choleraesuis*; aid in the prevention of migration and establishment of large roundworm (*Ascaris suum*) infections; aid in the prevention of establishment of nodular worm (*Oesophagostomum*) infections.

(ii) Limitations. Do not feed to swine weighing over 75 pounds; do not feed within 10 weeks of slaughter; consult a veterinarian before feeding to severely debilitated animals; feed continuously as sole ration. Do not use in Type D medicated feed articles containing less than 15 percent crude protein.

#### § 558.505 Reserpine.

(a) Chemical name. 3,4,5-Trimethoxybenzoyl methyl reserpate.

(b) Specifications. For the purpose of this section, the term reserpine refers to reserpine or feed grade reserpine; assay 94-102 percent (anhydrous basis).

(c) Approvals. Type A medicated feed article: 0.08 percent to No. 000003 in § 510.600(c) of this chapter.

(d) Assay limits. Type D medicated feed article: 80 to 120 percent of labeled amount.

(e) [Reserved]

(f) Related tolerances. See § 556.570 of this chapter.

(g) Conditions of use. It is used in Type D medicated feed articles for turkeys as follows:

(1) Amount per ton. Reserpine, 0.182 gram (0.00002 percent).

(i) Indications for use. To aid in the prevention of aortic rupture.

(ii) Limitations. For turkeys over 4 weeks of age.

(2)-(4) [Reserved]

(5) Amount per ton. Reserpine, 0.908 gram (0.0001 percent).

(i) Indications for use. To lessen the incidence or aortic rupture.

(ii) Limitations. For turkeys over 4 weeks of age; feed not to exceed 5 days.



## § 558.515 Robenidine hydrochloride.

(a) *Chemical name.* 1,3-Bis(para-chloro - benzylideneamino) - guanidine hydrochloride.

(b) *Approvals.* Type A medicated feed article: 30 grams per pound has been granted to No. 010042 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 80 to 120 percent of labeled amount. Type A medicated feed article: 95 to 115 percent of labeled amount.

(d) *Special considerations.* Type D medicated feed articles containing robenidine hydrochloride must be fed within 50 days from the date of manufacture. Do not use in Type B, C, or D articles containing bentonite.

(e) *Related tolerances in edible products.* See § 556.580 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for chickens as follows:

(1) *For boiler and fryer chickens—*(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*.

(b) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter.

(ii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus roxarsone, 22.5-45.4 grams (0.05 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix* and increased rate of weight gain.

(b) *Limitations.* Do not feed to layers; feed continuously as the sole ration; withdraw 5 days prior to slaughter; as sole source of organic arsenic. Roxarsone provided by No. 017210, § 510.600(c) of this chapter.

(iii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 100 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; as an aid in the control of chronic respiratory disease (CRD) caused by *M. gallisepticum* susceptible to chlortetracycline; as an aid in the control of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline.

(b) *Limitations.* For broiler or fryer chickens only; withdraw 5 days prior to slaughter; do not feed to layers, feed continuously as sole ration; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(iv) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 200 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; as an aid in the treatment of infectious synovitis caused by *M. synoviae* susceptible to chlortetracycline; as an aid in the control of chronic respiratory disease (CRD) caused by *M. gallisepticum* susceptible to chlortetracycline.

(b) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; feed continuously as sole ration; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(v) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus chlortetracycline, 500 grams.

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; as an aid in the reduction of mortality due to *E. coli* susceptible to chlortetracycline.

(b) *Limitations.* Withdraw 5 days prior to slaughter; do not feed to layers; not to be fed continuously for more than 5 days; as chlortetracycline hydrochloride provided by No. 010042, § 510.600(c) of this chapter.

(vi) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus bacitracin, 4 to 50 grams (as zinc bacitracin).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix* and, in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(b) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as zinc bacitracin provided by No. 012769 in § 510.600(c) of this chapter.

(vii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus bacitracin, 4 to 50 grams (as bacitracin methylene disalicylate).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; and, in the presence of 4 to 30 grams per ton of bacitracin, for increased rate of weight gain; in the presence of 27 to 50 grams per ton of bacitracin, for improved feed efficiency.

(b) *Limitations.* Feed continuously as sole ration; do not feed to laying chickens; withdraw 5 days prior to slaughter; as bacitracin methylene disalicylate provided by No. 046573 in § 510.600(c) of this chapter.

(viii) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus lincomycin, 2 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency and as an aid in prevention of coccidiosis caused by *E. mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*.

(b) *Limitations.* Do not feed to laying hens; feed continuously as the sole ration; withdraw 5 days before slaughter; lincomycin as provided by No. 000009, § 510.600(c) of this chapter; approval for this combination granted to No. 000009, § 510.600(c) of this chapter.

(2) *For broiler chickens—*(i) *Amount per ton.* Robenidine hydrochloride, 30 grams (0.0033 percent) plus oxytetracycline, 200 grams.

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria mivati*, *E. brunetti*, *E. tenella*, *E. acervulina*, *E. maxima*, and *E. necatrix*; for the control of complicated chronic respiratory disease (CRD or airsac infection) caused by *Mycoplasma gallisepticum* and *Escherichia coli*.

(iii) *Limitations.* Do not feed to laying chickens; feed continuously as sole ration; withdraw 5 days before slaughter; do not use in Type B, C, or D articles containing bentonite; Type C or D articles must be used within 50 days of date of manufacture; oxytetracycline as provided by No. 000069 of this chapter.

## § 558.525 Ronnel.

(a) *Chemical name.* O,O-Dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate.

(b) *Approvals.* (1) Type A medicated feed article: 18 and 40 percent to No. 025700 in § 510.600(c) of this chapter.

(2) Type C medicated feed article: 5.5 percent in mineral mix to No. 021930 in § 510.600(c) of this chapter.

(c) *Assay limits.* Type C medicated feed article: 80 to 120 percent of labeled amount.

(d) *Special considerations.* (1) Maximum level permitted in a Type C medicated feed article is 6 percent.

(2) The label shall bear adequate directions and warnings for use, which shall also include:

(i) Type C medicated feed articles containing ronnel shall be thoroughly mixed with ground grain for top dressing or with complete ration.

(ii) A statement that ronnel-Type C articles are to be used as sole source of ronnel.

(iii) "Warning-Ronnel is a cholinesterase inhibitor. Do not use this product in animals simultaneously or within a few days before or after exposure to cholinesterase inhibiting drugs, pesticides, or chemicals."

(e) *Related tolerances.* See 40 CFR 180.177.

(f) *Conditions of use.* It is used in Type C medicated feed articles for beef cattle and nonlactating dairy animals as follows:

(1) *Amount.* 0.00078 lb. (0.35 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed 0.00078 lb. (0.35 gram) per 100 lb. of animal weight per day for 14 days in a Type C article containing not over 0.26 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(2) *Amount.* 0.0018 lb. (0.82 gram) per 100 lb. body weight per day for 7 days.

(i) *Indications for use.* Control of grubs; aid in the reduction of cattle lice, when the drug is used for cattle grub control.

(ii) *Limitations.* Feed 0.0018 lb. (0.82 gram) per 100 lb. animal weight per day for 7 days in a Type C article containing not over 6 percent ronnel; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(3) *Amount.* 0.01375 lb. (6.24 gram) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.25 lb. of a mineral Type C article in granular form containing 5.5 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(4) *Amount.* 0.0009 lb. (0.41 gram) per 100 lb. body weight per day for 14 days.

(i) *Indications for use.* Control of grubs.

(ii) *Limitations.* Feed 0.0009 lb. (0.41 gram) per 100 lb. of animal weight per day for 14 days in a Type C article containing 0.3 percent ronnel; withdraw from dairy animals 10 days before calving, if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment; withdraw 10 days prior to slaughter.

(5) *Amount.* 0.012 lb. (5.5 gram) per 100 lb. body weight per month for not less than 75 days.

(i) *Indications for use.* Control of grubs and hornflies.

(ii) *Limitations.* Feed 0.2 lb. of mineral Type C article containing 6 percent ronnel per 100 lb. of animal weight per month for not less than 75 days; withdraw from dairy animals 10 days before calving; if dairy cows or heifers freshen during feeding of a Type C article, or if Type C article has not been withdrawn the required 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

## § 558.526 Ronnel liquid Type C medicated feed article.

(a) *Approvals.* To No. 025700 in § 510.600(c) of this chapter, use of a 20 percent liquid Type A medicated feed article for the manufacture of a 0.72 percent ronnel liquid Type C medicated feed article.

(b) *Assay limits.* Type C medicated feed article: 80 to 120 percent of labeled amount.

(c) *Related tolerances.* See 40 CFR 180.177.

(d) *Conditions of use.* (1) It is used as a 0.72 percent liquid Type C medicated feed article for beef cattle and nonlactating dairy animals for control of grubs.

(2) Both the 7 and 14-day feeding programs require 1.75 pounds of 0.72 percent Ronnel liquid Type C medicated feed article for each 100 pounds of body weight.

(i) Feed for 7 days, 0.25 pound of 0.72 percent liquid Type C medicated feed article added to feed per 100 pounds of body weight per day.

(ii) Feed for 14 days, 0.25 pound of 0.72 percent liquid Type C medicated feed article added to feed per 200 pounds of body weight per day.

(3) Must be evenly top-dressed over the grain portion of the ration or over the mixed total ration.

(4) Treat cattle as soon as possible after heel fly activity ceases, and before grubs reach the backs of the animals. Ronnel is not fully effective during the latter stages of grub development, when grubs have reached the backs of animals.

(5) Treat southern area cattle July through September (7 or 14-day treatment). Treat northern area cattle August through October (7-day treatment) or August through December (14-day treatment).

(6) Dairy animals should be treated early in their dry period but only if the dry period occurs between the end of the adult heel fly season and before grubs reach the back of the animal.

(7) Withdraw from dairy animals 10 days before calving. If animals freshen during feeding of a Type C article, or if Type C article has not been with-

drawn 10 days prior to freshening, milk must not be used for food for 10 days after the last treatment.

(8) Withdraw 10 days prior to slaughter.

(9) Warning—Ronnel is a cholinesterase inhibitor. Do not use simultaneously or within a few days before or after treatment with or exposure to any cholinesterase inhibiting drugs, pesticides, or chemicals.

(10) Use as sole source of ronnel.

(11) Do not feed animals that are sick, under stress (shipping, dehorning, castration), or that have been weaned within the preceding 3 weeks.

(12) Wash hands with soap and water after handling. This material contains a cholinesterase inhibitor. Treat symptomatically. Atropine is an antidote.

(13) This drug is toxic to fish. Keep out of lakes, streams, and ponds. Do not contaminate water by cleaning of equipment or disposal of wastes. Do not reuse empty container; destroy it by burning or burying in noncroplands away from water supplies.

## § 558.530 Roxarsone.

(a) *Approvals.* Type A medicated feed articles; 10, 20, and 50 percent to No. 011801 in § 510.600(c) of this chapter.

(b) *Assay limits.* Type D medicated feed articles: 85 to 120 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles containing roxarsone only and conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.60 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for chickens and turkeys as follows:

(1) *Grams per ton.* Roxarsone 22.7 to 45.4 (0.0025 to 0.005 percent).

(2) *Indications for use.* For increased rate of weight gain, improved feed efficiency, and improved pigmentation.

(3) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(4) *Permitted combinations.* It may be used in accordance with the provisions of this section in the combinations provided, as follows:

(i) Aklomide in accordance with § 558.35.

(ii) Amprolium in accordance with § 558.55.

(iii) Amprolium and ethopabate in accordance with § 558.58.

(iv) Bacitracin methylene disalicylate in accordance with § 558.76.

(v) Bacitracin zinc in accordance with § 558.78.

(vi) Buquinolate in accordance with § 558.105.

(vii) Chlortetracycline in accordance with § 558.128.



(viii) Clopidol in accordance with § 558.175.

(ix) Decoquinat in accordance with § 558.195.

(x) Monensin in accordance with § 558.355.

(xi) Nequinat in accordance with § 558.365.

(xii) Nitromide and sulfaniltran in accordance with § 558.376.

(xiii) Robenidine hydrochloride in accordance with § 558.515.

(xiv) Sulfadimethoxine, ormetoprim in accordance with § 558.575.

(xv) Zoalene in accordance with § 558.680.

(xvi) Penicillin and zoalene in accordance with § 558.680.

(xvii) Bambermycins alone and in combination in accordance with § 558.95.

§ 558.565 Styrylpyridinium chloride, diethylcarbamazine (as base).

(a) *Chemical name.* (1) Styrylpyridinium chloride: 2-(p-Chlorostyryl)-1-methylpyridinium chloride.

(2) Diethylcarbamazine: N,N-Diethyl-4-methyl-1-piperazine-carboxamide.

(b) *Approvals.* Type D medicated feed articles: 0.035 percent styrylpyridinium chloride, and 0.021 percent diethylcarbamazine (as base) to No. 010042 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) It is used for the control of hookworms (*Ancylostoma caninum*) and roundworms (*Toxocara canis*) and for the prevention of heartworm disease (*Dirofilaria immitis*) in dogs.

(2) Type D medicated feed articles containing 0.035 percent styrylpyridinium chloride and 0.021 percent diethylcarbamazine (as base) is administered to dogs as follows: Maximum stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 4. Medium stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 4.5. Low stressed dogs are fed an amount of the Type D article in ounces equal to the dogs body weight in pounds divided by 5. Underweight dogs are fed 10 percent more than the amounts specified in this paragraph. Overweight dogs are fed 10 percent less than the amounts specified in this paragraph, with adjustments made every 7 days until the desired body weight is obtained.

(3) Dogs with established heartworm infections should not be treated with the drug until they have been converted to a negative status. For the prevention of heartworm infestation, the drug should be administered before the mosquito season and as soon as young puppies are born. The drug should be administered continuously during periods of exposure to hookworm, roundworm, and heartworm in-

festations to control recurring burdens of hookworms and roundworms and prevent the maturation of immature heartworms (third stage infective larvae) into adults.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 558.575 Sulfadimethoxine, ormetoprim.

(a) *Chemical names.* (1) Sulfadimethoxine: N'-(2,6-Dimethoxy-4-pyrimidinyl)-sulfanilamide.

(2) Ormetoprim: 2,4-Diamino-5-(6-methylveratryl)pyrimidine.

(b) *Approvals.* Type A medicated feed articles: 25 percent of sulfadimethoxine and 15 percent of ormetoprim to No. 000004 in § 510.600(c) of this chapter.

(c) *Assay limits.* (1) Type D medicated feed articles containing 0.01 percent of combined drug: 75 to no more than 125 percent of ormetoprim and sulfadimethoxine.

(2) Type D medicated feed articles containing 0.02 percent of combined drug: 85 to 115 percent of ormetoprim and sulfadimethoxine.

(d) *Related tolerances.* See §§ 556.490 and 556.640 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed articles for animals as follows:

(1) *Broiler chickens.*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely, *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(b) *Limitations.* Fed as sold ration; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent) plus roxarsone, 22.7 grams (0.0025 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis); and *P. multocida* (fowl cholera); growth promotion and feed efficiency; improving pigmentation.

(b) *Limitations.* Withdraw 5 days before slaughter; as sole source of organic arsenic.

(2) *Replacement chickens.*—(i) *Amount per ton.* Sulfadimethoxine, 113.5 grams (0.0125 percent) plus ormetoprim, 68.1 grams (0.0075 percent).

(ii) *Indications for use.* As an aid in the prevention of coccidiosis caused by

all *Eimeria* species known to be pathogenic to chickens, namely *E. tenella*, *E. necatrix*, *E. acervulina*, *E. brunetti*, *E. mivati*, and *E. maxima*, and bacterial infections due to *H. gallinarum* (infectious coryza), *E. coli* (colibacillosis) and *P. multocida* (fowl cholera).

(iii) *Limitations.* Fed as a sole ration; do not feed to chickens over 16 weeks (112 days) of age; withdraw 5 days before slaughter.

(3) *Turkeys.*—(i) *Amount per ton.* Sulfadimethoxine, 56.75 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoides*, *E. gallopavonis*, and *E. meleagriditis*; and bacterial infection due to *P. multocida* (fowl cholera).

(b) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

(ii) *Amount per ton.* Sulfadimethoxine, 56.5 grams (0.00625 percent) plus ormetoprim, 34.05 grams (0.00375 percent) plus ipronidazole, 56.75 grams (0.00625 percent).

(a) *Indications for use.* As an aid in the prevention of coccidiosis caused by all *Eimeria* species known to be pathogenic to turkeys, namely, *E. adenoides*, *E. gallopavonis*, and *E. meleagriditis*; bacterial infections due to *P. multocida* (fowl cholera); and blackhead (histomoniasis).

(b) *Limitations.* Do not feed to turkeys producing eggs for food; withdraw 5 days before slaughter.

§ 558.579 Sulfathoxyypyridazine.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.650 of this chapter.

(e) *Conditions of use.* It is used in Type C or D medicated feed articles as follows:

(1) *Swine.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of bacterial scours, pneumonia, enteritis, bronchitis, septicemia accompanying *Salmonella choleraesuis* infection.

(iii) *Limitations.* Administer 1,000 grams per ton (0.11 percent) in Type D article for not less than 4 days nor more than 10 days; do not treat within 10 days of slaughter; as sole source of sulfonamide; for use by or on the order of a licensed veterinarian.

(2) *Cattle.*—(i) *Amount.* 25 milligrams per pound body weight per day.

(ii) *Indications for use.* For treatment of respiratory infections (pneumonia, shipping fever), foot rot, calf scours; as adjunctive therapy in septicemia accompanying mastitis and metritis.

(iii) *Limitations.* Administer Type C article as a top dressing or in mixed feed for 4 days; do not treat within 16 days of slaughter; as sole source of sulfonamide; milk that has been taken from animals during treatment and for 72 hours (6 milkings) after the latest treatment must not be used for food; for use by or on the order of a licensed veterinarian.

§ 558.582 Sulfamerazine.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) [Reserved]

(d) *Related tolerances.* See § 556.660 of this chapter.

(e) *Conditions of use.* It is used in Type D medicated feed article for rainbow trout, brook trout, and brown trout as follows:

(1) *Amount.* 10 grams of sulfamerazine per 100 pounds of fish per day.

(2) *Indications for use.* Control of furunculosis.

(3) *Limitations.* Treat for not more than 14 days; do not treat within 3 weeks of marketing or stocking in stream open to fishing.

§ 558.615 Thiabendazole.

(a) *Chemical name.* 2-(4-Thiazolyl)-benzimidazole.

(b) *Specifications.* Conforms to N.F. XII specifications.

(c) *Approvals.* In dry Type A medicated feed articles: 22, 44.1, 66.1 percent. The 66.1 percent level is solely for the manufacture of cane molasses liquid Type C medicated feed article which is mixed in dry feeds. See No. 000006 in § 510.600(c) of this chapter.

(d) *Assay limits.* Type D medicated feed articles containing less than 7 percent thiabendazole: 85-115 percent of labeled amount. Type D medicated feed articles containing 7 percent or more of thiabendazole: 90-110 percent of labeled amount.

(e) *Special considerations.* Maximum level permitted in a Type C medicated feed article: 9.9 percent. Not to be used in Type B, C, or D articles containing bentonite.

(f) *Related tolerances.* See § 556.730 of this chapter.

(g) *Conditions of use.* It is used in Type C and D medicated feed article as follows:

(1) *Cattle.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(a) *Indications for use.* Control of infections of gastrointestinal roundworms (*Trichostrongylus* spp., *Haemonchus* spp., *Ostertagia* spp., *Nematodirus* spp., *Oesophagostomum radiatum*).

(b) *Limitations.* Use 3 grams per 100 lb. body weight at a single dose; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals

within 96 hours (8 milkings) after the latest treatment must not be used for food.

(ii) *Amount.* 5 grams per 100 lb. body weight.

(a) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus* spp., *Haemonchus* spp., *Ostertagia* spp., *Nematodirus* spp., *Oesophagostomum radiatum*); control of infections of *Cooperia* spp.

(b) *Limitations.* 5 grams per 100 lb. body weight at a single dose or divided into 3 equal doses, administered 1 dose each day, on succeeding days; may repeat once in 2 to 3 weeks; do not treat animals within 3 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(2) *Goats.*—(i) *Amount.* 3 grams per 100 lb. body weight.

(a) *Indications for use.* Control of severe infections of gastrointestinal roundworms (*Trichostrongylus* spp., *Haemonchus* spp., *Ostertagia* spp., *Cooperia* spp., *Nematodirus* spp., *Bunostomum* spp., *Strongyloides* spp., *Chabertia* spp., and *Oesophagostomum* spp.).

(iii) *Limitations.* 3 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(3) *Sheep and goats.*—(i) *Amount.* 2 grams per 100 lb. body weight.

(ii) *Indications for use.* Control of infections of gastrointestinal roundworms (*Trichostrongylus* spp., *Haemonchus* spp., *Ostertagia* spp., *Cooperia* spp., *Nematodirus* spp., *Bunostomum* spp., *Strongyloides* spp., *Chabertia* spp., and *Oesophagostomum* spp.); also active against ova and larvae passed by sheep from 3 hours to 3 days after Type C or D article is consumed (good activity against ova and larvae of *T. colubriformis* and *axei*, *Ostertagia* spp., *Nematodirus* spp., *Strongyloides* spp.; less effective against those of *Haemonchus contortus* and *Oesophagostomum* spp.).

(iii) *Limitations.* Use 2 grams per 100 lb. body weight at a single dose; do not treat animals within 30 days of slaughter; milk taken from treated animals within 96 hours (8 milkings) after the latest treatment must not be used for food.

(4) *For swine.*—(i) *Amount.* 45.4-90.8 grams per ton (0.005-0.1 percent).

(ii) *Indications for use.* Aid in the prevention of infections of large roundworms (*genus ascaris*).

(iii) *Limitations.* Administer continuously Type D article containing 0.05-0.1 percent thiabendazole per ton for 2 weeks followed by Type D article containing 0.005-0.02 percent thiaben-

dazole per ton for 8-14 weeks; do not treat animals within 30 days of slaughter.

§ 558.625 Tylosin.

(a) *Specifications.* Tylosin is the antibiotic substance produced by growth of *Streptomyces fradiae* or the same antibiotic substance produced by any other means.

(b) *Approvals.* Type A medicated feed articles containing drug substance with diluent or Type B medicated feed articles containing drug substance with diluent plus vitamins, minerals, and/or other nutrient ingredients granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the specific usage indicated in paragraph (f) of this section:

(1) To 000986: 10, 40 and 100 grams per pound, paragraphs (f)(1)(ii) through (f)(1)(vi) of this section; 40 grams per pound, paragraph (f)(1)(i) of this section.

(2) To 017255: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(3) To 043733: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(4) To 011490: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(5) To 017300: 0.4, 0.8, and 1 gram per pound, paragraph (f)(1)(vi)(a) of this section; 10 grams per pound, paragraph (f)(1)(i) and (vi)(a) of this section; 40 grams per pound, paragraph (f)(1)(i) and (vi)(a) (b) (c), and (d) of this section.

(6) To 018356: 0.66, 1.33, 6.66 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(7) To 017162: 0.4 gram per pound; paragraph (f)(1)(vi)(a) of this section.

(8) To 035369: 4 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(9) To 043727: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(10) To 012286: 0.4, 0.8, and 1.6 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(11) To 017274: 4, 8, or 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(12) To 021930: 2 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(13) To 035393: 0.4 and 2 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(14) To 016968: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(15) To 026186: 4, 10, and 20 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(16) To 023817: 5 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(17) To 021780: 0.8 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.

(18) To 017434: 0.4 and 4 grams per pound; paragraph (f)(1)(vi)(a) of this section.



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(19) To 033999: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (20) To 033071: 0.4 and 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (21) To 043426: 2.0 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (22) To 026282: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (23) To 030804: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (24) To 025796: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (25) To 043743: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (26) To 034418: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (27) To 020275: 8 and 40 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (28) To 034139: 4 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (29) To 043744: 0.4 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (30) [Reserved]  
 (31) To 029341: 5 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (32) To 018597: 0.4 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (33) To 012323: 0.8 and 2 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (34) To 028260: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (35) To 039741: 2 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (36) To 013975: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (37) To 044142: 0.5 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (38) To 011749: 1 or 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (39) To 012518: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (40) To 035955: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (41) To 025066: 0.8 gram per pound; paragraph (f)(1)(vi)(a) of this section.  
 (42) To 010439: 0.4, 0.5, and 2 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (43) [Reserved]  
 (44) To 017180: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (45) To 017139: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (46) [Reserved]  
 (47) To 024761: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (48) To 017790: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (49) To 021533: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (50) To 018083: 4 and 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (51) To 017519: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (52) To 021810: 10 grams per pound; paragraph (f)(1)(vi)(a) of this section.  
 (c) *Assay limits.* Type D medicated feed articles: 75 percent of labeled amount.

(d) *Special considerations.* The manufacture of Type D medicated feed articles containing tylosin phosphate does not require compliance with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act if:

- (1) Processed from Type C articles for:
  - (i) Chickens at not more than 200 grams per ton.
  - (ii) Swine at not more than 500 grams per ton.
  - (iii) Cattle at not more than 360 grams per ton and complying with paragraph (f)(1)(i) of this section.
- (2) Processed from Type A articles which contain not more than 10 grams of tylosin per pound and conforming to the provisions of paragraph (f)(1)(vi)(a) of this section.

(e) *Related tolerances.* See § 556.740 of this chapter.

(f) *Conditions of use.* (1) It is used in Type C and D medicated feed articles as follows:

(i) *For beef cattle—(a) Amount per ton.* 8-10 grams.

(b) *Indications for use.* For reduction of incidence of liver abscesses caused by *Sphaerophorus necrophorus* and *Corynebacterium pyogenes*.

(c) *Limitations.* As tylosin phosphate; each animal must receive not more than 90 milligrams per day and not less than 60 milligrams per day; feed continuously as sole ration.

(ii) *Broiler chickens—(a) Amounts per ton.* Tylosin, 800-1000 grams.

(b) *Indications for use.* To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum*.

(c) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter; administer in Type D article to chickens 0 to 5 days of age, follow with second administration in Type D article for 24 to 48 hours at 3 to 5 weeks of age.

(iii) *Chickens—(a) Amounts per ton.* Tylosin, 4-50 grams.

(1) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(2) *Limitations.* As tylosin phosphate.

(b) [Reserved]

(iv) *Laying chickens—(a) Amount per ton.* Tylosin, 20-50 grams.

(b) *Indications for use.* For improved feed efficiency.

(c) *Limitations.* As tylosin phosphate.

(v) *Replacement chickens—(a) Amount per ton.* Tylosin, 1,000 grams.

(b) *Indications for use.* To aid in the control of chronic respiratory disease caused by *Mycoplasma gallisepticum*.

(c) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter; administer in Type D article to chickens 0 to 5 days of age, follow with second administration in Type D article for 24 to 48 hours at 3 to 5 weeks of age.

(vi) *Swine—(a) Amount per ton.* Tylosin, 10-100 grams.

(1) *Indications for use.* For increased rate of weight gain and improved feed efficiency.

(2) *Limitations.* As tylosin phosphate; continuous use as follows: Grams per ton: 20-100, prestarter or starter; 20-40, grower; 10-20, finisher.

(b) *Amount per ton.* Tylosin, 40-100 grams.

(1) *Indications for use.* Prevention of swine dysentery (vibronic).

(2) *Limitations.* Use 100 grams per ton for at least 3 weeks followed by 40 grams per ton until market weight; as tylosin phosphate.

(c) *Amount per ton.* Tylosin, 40-100 grams.

(1) *Indications for use.* Treatment and control of swine dysentery (vibronic).

(2) *Limitations.* Administer in Type D article as tylosin phosphate after treatment with tylosin in drinking water as tylosin base; 0.25 gram per gallon in drinking water for 3-10 days, 40-100 grams per ton in Type D article for 2-6 weeks.

(d) *Amount per ton.* Tylosin, 100 grams.

(1) *Indications for use.* Maintaining weight gains and feed efficiency in presence of atrophic rhinitis.

(2) *Limitations.* As tylosin phosphate

(2) [Reserved]

§ 556.630 Tylosin and sulfamethazine.

(a) *Specifications.* (1) Tylosin is the antibiotic substance produced by growth of *Streptomyces fradiae* or the same antibiotic substance produced by any other means.

(2) Sulfamethazine is the chemical N-(4, 6-dimethyl-2-pyrimidinyl) sulfanilamide.

(b) *Approvals.* Type A medicated feed articles containing drug substances with diluent, on Type B medicated feed article containing drug substances with diluent plus vitamins, minerals, and/or other nutrient substances, the drug substances being a combination of equal amounts of tylosin and sulfamethazine, granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section:

(1) To 000986: 40 grams per pound each, paragraph (f)(2)(i) of this section.

(2) To 000986, 012190: 10 grams per pound each paragraph (f)(2)(i) of this section.

(3) To 011490, 016968, 017255, 025796, 026186, 034500, 035955, 043743: 10 grams per pound each, paragraph (f)(2)(ii) of this section.

(4) To 021780: 2 grams per pound each, paragraph (f)(2)(ii) of this section.

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(5) To 017800: 40 grams per pound each paragraph (f)(2)(ii) of this section.

(6) To 017139: 4, 10, or 20 grams per pound each, paragraph (f)(2)(ii) of this section.

(c) *Assay limits.* Type D medicated feed articles: 75 to 125 percent of tylosin and 80 to 120 percent of sulfamethazine.

(d) [Reserved].

(e) *Related tolerances.* See §§ 556.670 and 556.740 of this chapter.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* Tylosin, 100 grams plus sulfamethazine, 100 grams.

(2) *Indications for use.* (i) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery (vibronic); control of swine pneumonias caused by bacterial pathogens (*P. multocida* and/or *C. pyogenes*); for reducing the incidence of cervical lymphadenitis (jowl abscesses) caused by Group E Streptococci. Only the sulfamethazine portion of this combination is active in controlling jowl abscesses.

(ii) Maintaining weight gains and feed efficiency in the presence of atrophic rhinitis; lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis; prevention of swine dysentery (vibronic); control of swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*).

(3) *Limitations.* As tylosin phosphate; withdraw 5 days before slaughter.

§ 556.635 Virginiamycin.

(a) *Specifications.* Virginiamycin is the antibiotic substance produced by the growth of *Streptomyces virginiae* or the same antibiotic substance produced by any other means.

(b) Type A medicated feed articles: 2.2 percent virginiamycin activity (10 grams per pound), 11 percent virginiamycin activity (50 grams per pound), and 50 percent virginiamycin activity (227 grams per pound) to No. 000007 in § 510.600 (c) of this chapter.

(c) *Assay limits.* Type D medicated feed article: 70 to 130 percent of the labeled amount of the drug.

(d) *Related tolerances.* See § 556.750 of this chapter.

(e) *Special considerations.* (1) Not for use in breeding swine over 120 pounds.

(2) Dilute Type A article with at least 10 pounds of a feed ingredient prior to final mixing in 1 ton of Type D article.

(3) Type D medicated feed articles for swine, processed from Type C articles that contain up to 2,000 grams of virginiamycin per ton and conform to the requirements of paragraph (f) of this section are not required to comply with the provisions of section 512(m) of the act.

(f) *Conditions of use.* It is used in Type D medicated feed articles for swine as follows:

(1) *Amount per ton.* 100 grams (for 2 weeks).

(i) *Indications for use.* Treatment of swine dysentery in nonbreeding swine.

(ii) *Animal weight.* Over 120 pounds.

(2) *Amount per ton.* 100 grams for 2 weeks, 50 grams thereafter.

(i) *Indications for use.* Treatment and control of swine dysentery.

(ii) *Animal weight.* Up to 120 pounds.

(3) *Amount per ton.* 25 grams.

(i) *Indications for use.* Aid in control of swine dysentery. For use in swine or in swine on premises with a history of swine dysentery but where symptoms have not yet occurred.

(ii) *Animal weight.* Up to 120 pounds.

(4) *Amount per ton.* 10 grams.

(i) *Indications for use.* Increased rate of weight gain and improved feed efficiency (starter and grower Type D articles only).

(ii) *Animal weight.* Weaning to 120 pounds.

§ 556.680 Zoalene.

(a) [Reserved]

(b) *Assay limits.* Type D medicated feed article: 85 to 115 percent of labeled amount.

(c) *Special considerations.* Type D medicated feed articles for poultry containing zoalene as a sole drug, processed from Type C articles containing not more than 0.0375 percent zoalene, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(d) *Related tolerances.* See § 556.770 of this chapter.

(e) *Conditions of use.* (1) It is used in Type D medicated feed articles for chickens and turkeys as follows:

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(i) 36.3 to 113.5 (0.004 to 0.0125 pct).		Replacement chickens; development of active immunity to coccidiosis.	In type D articles only; grower type D article not to be fed to birds over 14 weeks of age; as follows—	
			Growing conditions	Starter type D article
				Grower type D article
			Grams per ton	Grams per ton
			Severe exposure	113.5 (0.0125 pct)
				113.5 (0.0083 to 0.0125 pct)
			Light to moderate exposure	75.4-113.5 (0.0083 to 0.0125 pct)
				75.4 (0.004 to 0.0083 pct)
Arsanilate sodium 90 (0.01 pct).		Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
Arsanilic acid 90 (0.01 pct).		Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	



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Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 2 d before stress and 3 to 6 d after stress; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 11 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	do	2. Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 7 to 14 d; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Replacement chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; growth promotion and feed efficiency; improving pigmentation and development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 5 d before slaughter; as erythromycin thiocyanate; and as sole source of organic arsenic; feed according to subtable in item (i).	
	Arsanilic acid 90 (0.01 pct) plus penicillin 2.4 to 50.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Bacitracin 100 to 500	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); development of active immunity to coccidiosis.	As bacitracin zinc; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Chlortetracycline 100 to 200.	Replacement chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); prevention of synovitis; development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in Type D articles only; grower Type D article not to be fed to birds 14 of age; feed according to subtable in item (i).	
	Chlortetracycline 200.	Replacement chickens; control of synovitis; development of active immunity to coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 4.6 to 18.5.	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 92.5	1. Replacement chickens; as an aid in the prevention of chronic respiratory disease during periods of stress; development of active immunity to coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 92.5	2. Replacement chickens; as an aid in the prevention of infectious coryza; development of active immunity to coccidiosis.	Feed for 7 to 14 d; withdraw 24 h before slaughter; as erythromycin thiocyanate; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Erythromycin 185	Replacement chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; development of active immunity to coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; in Type D articles only (grower Type D article not to be fed to birds over 14 weeks of age); feed according to subtable in item (i).	
	Hygromycin B 8 to 12.	Replacement chickens; development of active immunity to coccidiosis; control of infestation of large round worms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ), and capillary worms ( <i>Capillaria obsignata</i> ).	In Type D articles only; Type D article ration not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Penicillin 2.4 to 50	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; feed according to subtable in item (i).	
	Penicillin 2.4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Replacement chickens; growth promotion and feed efficiency; development of active immunity to coccidiosis; improving pigmentation.	As procaine penicillin; in Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Replacement chickens; development of active immunity to coccidiosis; growth promotion and feed efficiency; improving pigmentation.	In Type D articles only; grower Type D article not to be fed to birds over 14 weeks of age; withdraw 5 d before slaughter; as sole source of organic arsenic; feed according to subtable in item (i).	
(ii) 113.5 (0.0125 pct).		Broiler chickens; prevention and control of coccidiosis.		
	Arsanilate sodium 90 (0.01 pct).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 days before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct).	do	do	
	Arsanilic acid 90 (0.01 pct) plus bacitracin 4 to 50.	do	Withdraw 5 d before slaughter, as sole source of organic arsenic, as bacitracin methylene disalicylate.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 92.5.	1. Broiler chickens; aid in the prevention of chronic respiratory disease during periods of stress; growth promotion and feed efficiency; improving pigmentation; control of coccidiosis.	do	

PROPOSED RULES

Zoalene in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
		2. Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation; aid in the prevention of infectious coryza.	do	
	Arsanilic acid 90 (0.01 pct) plus erythromycin 185.	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; as erythromycin thiocyanate; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct) plus penicillin 2.4 to 50.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As procaine penicillin; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 4 to 50	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As bacitracin methylene disalicylate, or zinc bacitracin.	
	Bacitracin 4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis; improving pigmentation.	As bacitracin methylene disalicylate, or zinc bacitracin; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Bacitracin 100 to 500	Broiler chickens; treatment of chronic respiratory disease (air-sac infection) blue comb (nonspecific infectious enteritis); prevention and control of coccidiosis.	As zinc bacitracin	
	Chlortetracycline 100 to 200.	Broiler chickens; treatment of chronic respiratory disease (air-sac infection); blue comb (nonspecific infectious enteritis); prevention of synovitis; prevention and control of coccidiosis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
	Chlortetracycline 200.	Broiler chickens; prevention and control of coccidiosis; control of synovitis.	Not to be fed to laying chickens; as chlortetracycline hydrochloride.	
	Erythromycin 4.6 to 18.5.	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As erythromycin thiocyanate	
	Erythromycin 92.5	Broiler chickens; aid in the prevention of chronic respiratory disease during periods of stress; prevention and control of coccidiosis.	Feed for 2 d before stress and 3 to 6 d after stress; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
	Erythromycin 185	2. Broiler chickens; as an aid in the prevention of infectious coryza; prevention and control of coccidiosis.	Feed for 7 to 14 d; withdraw 24 h before slaughter; as erythromycin thiocyanate.	
	Hygromycin B (8 to 12).	Broiler chickens; as an aid in the prevention and reduction of lesions and in lowering severity of chronic respiratory disease; prevention and control of coccidiosis.	Feed for 5 to 8 d; do not use in birds producing eggs for food purposes; withdraw 48 h before slaughter; as erythromycin thiocyanate.	
	Lincomycin 2	Broiler chickens; prevention and control of coccidiosis; control of infestation of large round worms ( <i>Ascaris galli</i> ), cecal worms ( <i>Heterakis gallinae</i> ) and capillary worms ( <i>Capillaria obsignata</i> ).		
	Penicillin 2.4 to 50	Broiler chickens; increase in rate of weight gain; improved feed efficiency; as an aid in the prevention and control of coccidiosis.	Do not feed to laying chickens; to be fed as the sole ration; as lincomycin hydrochloride monohydrate provided by No. 000009, see sec. 510.600(c) of this chapter; zoalene provided by No. 0.25700, see sec. 510.600(c) of this chapter.	
	Penicillin 2.4 to 50 plus roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; growth promotion and feed efficiency; prevention and control of coccidiosis.	As procaine penicillin	
	Roxarsone 22.7 to 45.4 (0.0025 pct to 0.005 pct).	Broiler chickens; prevention and control of coccidiosis; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	
(iii) 113.5 to 170.3 (0.0125 to 0.01875 pct).		Turkeys; prevention and control of coccidiosis	For turkeys grown for meat purposes only	
	Arsanilate sodium 90 (0.01 pct).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	For turkeys grown for meat purposes only; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Arsanilic acid 90 (0.01 pct).	do	do	
	Carbarsone (not U.S.P.) 277 to 340.5 (0.025 to 0.0375 pct).	Turkeys; prevention and control of coccidiosis; aid in the prevention of blackhead.	For turkeys grown for meat purposes only; feed continuously beginning 2 weeks before blackhead and coccidiosis are expected to continue as long as prevention of blackhead and prevention and control of coccidiosis is needed; withdraw 5 d before slaughter; as sole source of organic arsenic.	
	Roxarsone 22.7 to 45.4 (0.0025 to 0.005 pct).	Turkeys; growth promotion and feed efficiency; improving pigmentation.	Withdraw 5 d before slaughter; as sole source of organic arsenic.	

(2) Permitted combinations. It may be used in accordance with provisions of this section in the combinations provided as follows:

(i) Bambermycins in accordance with § 558.95.

(ii) Roxarsone in accordance with § 558.530.

Interested persons may, on or before march 20, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written

comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document

does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 9, 1978.

JOSEPH P. HILE,  
Associate Commissioner for Compliance.

[FR Doc. 78-1030 Filed 1-16-78; 8:45 am]



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# Federal register

TUESDAY, JANUARY 17, 1978  
PART III



DEPARTMENT OF  
HOUSING  
AND URBAN  
DEVELOPMENT

Federal Insurance  
Administration

NATIONAL FLOOD  
INSURANCE PROGRAM  
Standard Flood Insurance Program



[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. R-77-497]

PART 1911—INSURANCE COVERAGE AND RATES

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Revision of Parts

AGENCY: Federal Insurance Administration, HUD.

ACTION: Interim rule.

SUMMARY: This rule changes certain provisions of the standard flood insurance policy for insurance coverage effective January 1, 1978, and policies issued or received with effective dates on or after January 1, 1978. Prior to that date, policies were issued by the Department of Housing and Urban Development and member companies of the National Flood Insurers Association. The effect of the amendments is to give insureds direct access to the Federal Insurance Administration which was delegated authority to operate the national flood insurance program within the Department in order to provide more efficient policy administration.

DATES: The effective date of this rule is January 1, 1978. Comment due date: February 15, 1978.

ADDRESS: Send comments to Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll free line 800-424-8872, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Under the authority contained in the National Flood Insurance Act of 1968, ("the Act") as amended (42 U.S.C. 4001 et seq.), the Federal Insurance Administration is amending parts of 1911 and 1912 of Title 24 of the Code of Federal Regulations, effective with all standard flood insurance policies issued, renewed, or in force, on and after January 1, 1978, and for succeeding policy years. Standard flood insurance policies issued and renewed on and after January 1, 1978, are insured solely by the Department of Housing and Urban Development pursuant to

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the Act whereas prior to that date policies were issued by the Department and member companies of the National Flood Insurers Association, located at Suite 1102, 1755 Jefferson Davis Highway, Arlington, Va. 22202.

The amendments to the policy and revised procedures are issued subject to the Act, as amended. The effect of the amendments is to give insureds direct access to the Federal Insurance Administration, which was delegated authority to operate the national flood insurance program within the Department of Housing and Urban Development, in order to provide more efficient policy administration. Questions concerning the revised coverage and procedures should be directed to FIA at the above address.

The amendments are considered beneficial to the insureds or potential insureds since eligibility for coverage is determined solely by reason of proper payment and receipt of premium by FIA and that the insured at the time of application is located in a community participating in the national flood insurance program.

The above amendment is not considered to be substantive and will not adversely effect the policyholder; rather, it is considered to be of benefit to all policyholders.

Any policy or claim authorized by the Act as previously implemented in its agreement dated June 6, 1969, as amended, with the National Flood Insurers Association will be considered to have been issued in accordance with this revision of Parts 1911 and 1912 until the expiration of its normal term. Any policyholder who desires immediate substitution of his present policy may request a copy of the revised policy by sending a notarized copy of his previous policy and premium payment together with name and address to:

EDS Federal Corporation, 6410 Rockledge Drive, Bethesda, Md. 20014, Attn.: Request for new policy, 800-638-6620.

For clarity and convenience, Parts 1911 and 1912 are revised in their entirety.

It has been determined that these amendments do not have a substantial impact upon the quality of the environment. A finding to that effect is included in the formal docket file in the Office of the Rules Docket Clerk and is available for public inspection and copying.

The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act. The Federal Insurance Administration has determined that this document does not contain a major proposal requiring preparations of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

The changes to the standard flood insurance policy set forth in this amendment apply under the terms of HUD's agreement with its fiscal agent for the flood insurance program to all such policies issued or renewed after December 31, 1977. For this reason, the amended provisions of Parts 1911 and 1912 and the sample policy appended thereto must be published in time to permit their adoption for insurance coverage as of January 1, 1978. Therefore, it is impracticable to provide for comment and public procedure before the effective date. Moreover, inasmuch as these provisions benefit policy holders generally and relax existing restrictions, good cause exists for making this amendment effective upon publication. However, interested persons are invited to submit comments with respect to these amendments and all such comments will be considered before a final rule is adopted in this proceeding. Comments should be addressed to the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410. All comments should be received by the Rules Docket Clerk on or before February 15, 1978. Copies of all comments received will be available for inspection and copying at the above address.

Accordingly, 24 CFR Parts 1911 and 1912 are amended as set forth below effective January 1, 1978, until amended or superseded. Regulations previously in effect do not remain in effect but are considered to be superseded by this amendment effective January 1, 1978.

PART 1911—INSURANCE COVERAGE AND RATES

- Sec.
- 1911.1 Purpose of part.
- 1911.2 Definitions.
- 1911.3 Types of coverage.
- 1911.4 Limitations on coverage.
- 1911.5 Special terms and conditions.
- 1911.6 Maximum amounts of coverage available.
- 1911.7 Risk premium rate determinations.
- 1911.8 Applicability of risk premium rates.
- 1911.9 Establishment of chargeable rates.
- 1911.10 Minimum premiums.
- 1911.11 Adding coverage while policy is in force.
- 1911.12 Rates based on a flood protection system involving Federal funds.
- 1911.13 Standard flood insurance policy.
- 1911.14 Standard flood insurance policy interpretations.
- 1911.15 Assumption of liabilities under all outstanding flood insurance policies issued by the National Flood Insurers Association.

AUTHORITY: Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)); sec. 1306, 82 Stat. 575 (42 U.S.C. 4013).

§ 1911.1 Purpose of part.

This part describes the types of properties eligible for flood insurance

coverage under the program, the limits of such coverage, and the premium rates actually to be paid by insureds. The specific communities eligible for coverage are designated by the Administrator from time to time as applications are approved under the emergency program and as ratemaking studies of communities are completed prior to the regular program. Lists of such communities are periodically published under Part 1914 of this subchapter.

§ 1911.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this part.

§ 1911.3 Types of coverage.

Insurance coverage under the program is available for structures and their contents. Coverage for each may be purchased separately. One policy to provide insurance for more than one structure is not available under the program.

§ 1911.4 Limitations on coverage.

(a) All flood insurance made available under the program is subject:

(1) To the Act, the amendments thereto, and the regulations issued under the Act;

(2) To the terms and conditions of the standard flood insurance policy, which shall be promulgated by the Administrator for substance and form and which is subject to interpretation by the Administrator as to scope of coverage pursuant to the applicable statutes and regulations;

(3) To the specified limits of coverage set forth in the application and declarations page of the policy; and

(4) To the maximum limits of coverage set forth in § 1911.6.

(b) Insurance under the program is available only for loss due to flood, as defined in § 1909.1 of this subchapter. The policy also covers damage from a general condition of flooding in the area which results from other than natural causes, such as the breaking of a dam, but does not cover damage which results from causes on the insured's own property or within his control or from any condition which causes damage, which condition is substantially confined to the insured's premises or properties immediately adjacent thereto.

(c) The policy does not cover losses from rain, snow, sleet, hail, or water spray that do not result in a general condition of flooding. It covers losses from freezing or thawing, or from the pressure of weight of ice and water, only where they occur simultaneously with and as a part of flood damage. It covers losses from mudslide (i.e., mudflow) but does not cover damage from landslides or from earthquakes or similar earth movements which are volcanic or tectonic in origin. The policy does not cover erosion which is

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not flood-related, claims resulting from occurrences already in progress at the time of the inception date of the term of the policy, or losses caused by land slippage rather than mudslide (see definition of mudslide/mudflow in § 1909.1 of this subchapter). Damage by seepage and sewer backup may be covered only when directly resulting from a flooding situation. Abnormal erosion caused by high water levels accompanied by violent wave action along a lake or other body of water is considered a flood (see definition of flood-related erosion in § 1909.1 of this subchapter). However, there is no coverage where normal, continuous wave action, accompanied by erosion or the gradual and anticipated wearing away of the land is the proximate cause of property damage.

(d) The policy protects against loss to contents only at the location described in the application, except that contents necessarily removed from the premises for preservation from a flood are protected against loss or damage from flood at the new location, if placed in a fully enclosed building, pro rata for a period of 45 days.

§ 1911.5 Special terms and conditions.

(a) No new flood insurance or renewal of flood insurance policies shall be written for properties declared by a duly constituted State or local zoning or other authority to be in violation of any flood plain, mudslide (i.e. mudflow), or flood-related erosion area management or control law, regulation, or ordinance.

(b) In order to reduce the administrative costs of the program of which the Federal Government pays a major share, payment of the full policyholder premium must be made at the time of application.

(c) Because of the seasonal nature of flooding, refunds of premiums upon cancellation of coverage by the insured are permitted only if the insurer ceases to have an ownership interest in the covered property at the location described in the policy. Refunds of premiums for any other reason are subject to the conditions set forth in § 1912.5 of this subchapter.

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The amount of the deductible for each loss occurrence is: (1) For structural losses, \$200, and (2) for contents losses, \$200.

(e) Payment for a loss under the policy does not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate flood occurrence, but all losses arising out of a continuous or protracted occurrence are deemed to have arisen out of a single occurrence.

(f) The following property and contents for residential structures are not insurable under the program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts, or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other structures located on or partially over water, or personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways, and other paved or poured surfaces outside the foundation walls of the structure;

(4) Animals, birds, fish, aircraft, motor vehicles including parts and equipment (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment, or business property.

(g) The following property and contents for nonresidential structures are not insurable under the program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts, or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other open structures located on or partially over water, personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; underground structures or underground equipment, and those portions of walks, driveways, and other paved or poured surfaces outside the foundation walls of the structures;

(4) Automobiles including parts and equipment, any self-propelled vehicle or machine, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured, watercraft or aircraft.

(h) The policy on an eligible property may be canceled by the insurer only for nonpayment of premium. However, any willful misrepresentation or concealment of any material fact by the insured at any time voids the entire policy as of the date the wrongful act was committed, but does not affect coverage prior to the date of the wrongful act.

(i) The standard flood insurance policy is authorized only under terms and conditions established by Federal statute, the program's regulations, the Administrator's interpretations and the express terms of the policy itself. Accordingly, representations regarding the extent and scope of coverage which are not consistent with the National Flood Insurance Act of 1968, as amended, or the program's regulations, are void, and the duly licensed property or casualty agent acts for the



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insured and does not act as agent for the Federal Government, the Department of Housing and Urban Development, or the servicing agent.

§ 1911.6 Maximum amounts of coverage available.

(a) Pursuant to section 1306 of the

Act, the following are the limits of coverage available under the emergency program and under the regular program.

	Emergency program		Regular program
	First layer	Second layer	Total amount available
Single family residential:			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	35,000	150,000	185,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	50,000	150,000	185,000
Other residential:			
Except in Hawaii, Alaska, Guam, U.S. Virgin Islands	100,000	150,000	250,000
In Hawaii, Alaska, Guam, U.S. Virgin Islands	150,000	150,000	250,000
Small business	100,000	150,000	250,000
Churches and other properties	100,000	100,000	200,000
Contents:			
Residential	10,000	50,000	60,000
Small business	100,000	200,000	300,000
Churches, other properties (per unit)	100,000	100,000	200,000

\*NOTE.—Add to 35,000.  
\*NOTE.—Add to 100,000.

(b) The maximum limits of coverage required under the Act are twice the amounts available under First Layer Coverage.

§ 1911.7 Risk premium rate determinations.

(a) Pursuant to section 1307 of the Act, the Administrator is authorized to undertake studies and investigations to enable him to estimate the risk premium rates necessary to provide flood insurance in accordance with accepted actuarial principles, including applicable operating costs and allowances. Such rates are also referred to in this subchapter as "actuarial rates."

(b) The Administrator is also authorized to prescribe by regulation the rates which can reasonably be charged to insureds in order to encourage them to purchase the flood insurance made available under the program. Such rates are referred to in this subchapter as "chargeable rates." For areas having special flood, mudslide (i.e., mudflow), and flood-related erosion hazards, chargeable rates are usually lower than actuarial rates.

§ 1911.8 Applicability of risk premium rates.

Risk premium rates are applicable to all flood insurance made available for: (a) Any structure, the construction or substantial improvement of which was started after December 31, 1974, or on or after the effective date of the initial FIRM, whichever is later.

(b) Coverage which exceeds the following limits:

(1) For dwelling properties in States other than Alaska, Hawaii, the Virgin Islands, and Guam: (i) \$35,000 aggregate liability for any property containing only one unit, (ii) \$100,000 for any property containing more than one unit, and (iii) \$10,000 liability per unit for any contents related to such unit.

(2) For dwelling properties in Alaska, Hawaii, the Virgin Islands, and Guam: (i) \$50,000 aggregate liability for any property containing only one unit, (ii) \$150,000 for property containing more than one unit, and (iii) \$10,000 aggregate liability per unit for any contents related to such unit.

(3) For churches and other properties: (i) \$100,000 for the structure and (ii) \$100,000 for contents of any such unit.

(c) Any structure or the contents thereof for which the chargeable rates prescribed by this Part would exceed the risk premium rates.

§ 1911.9 Establishment of chargeable rates.

(a) Pursuant to Section 1308 of the Act, chargeable rates per year per \$100 of flood insurance are established as follows for all areas designated by the Administrator under Part 1914 of this subchapter for the offering of flood insurance:

Type of structure	RATES FOR NEW AND RENEWAL POLICIES	
	Rate per year per \$100 coverage on structure	Rate per year per \$100 coverage on contents
(1) Residential	\$0.25	\$0.35
(2) All other (including hotels and hotels and motels with normal occupancy of less than 6 months in duration)	.40	.75

(b) The contents rate shall be based upon the use of the individual premises for which contents coverage is purchased.

§ 1911.10 Minimum premiums.

The minimum premium required for any policy, regardless of the amount of coverage, is \$25. The minimum premium required for any added coverage

or increase in the amount of coverage during the term of an existing policy is \$4, regardless of the unexpired term of the policy at the time of the change.

§ 1911.11 Adding coverage while policy is in force.

(a) Adding new coverage or increasing the amount of coverage in force is permitted during any policy term.

(b) The additional premium for additional coverage or an increase in the amount of coverage shall be calculated pro rata in accordance with the rates currently in force, with a minimum premium of \$4.

(c) The effective date and time of any new or added coverage, or of any increases in the amount of coverage, shall be 12:01 a.m. (standard time) of the 16th calendar day after the date of the application: *Provided*, That this waiting period is waived during the 30-day period following both the date of initial community eligibility in the emergency and regular programs, or during the 30 days after increased limits of coverage are made available by amendment of the Act.

§ 1911.12 Rates based on a flood protection system involving Federal funds.

(a) Where the Administrator determines that a community has made adequate progress on the construction of a flood protection system involving Federal funds which will significantly limit the area of special flood hazards, the applicable risk premium rates for any property, located within a special flood hazard area intended to be protected directly by such system will be those risk premium rates which would be applicable when the system is complete.

(b) Adequate progress in paragraph (a) of this section means that the community has provided information to the Administrator sufficient to determine that substantial completion of the flood protection system has been effected because:

(1) 100 percent of the total financial project cost of the completed flood protection system has been authorized;

(2) At least 60 percent of the total financial project cost of the completed flood protection system has been appropriated;

(3) At least 50 percent of the total financial project cost of the completed flood protection system has been expended;

(4) The flood protection system's physical features are under construction and 50 percent completed as measured by the actual expenditure of the estimated construction budget funds; and

(5) The community has not been responsible for any delay in the completion of the system.

(c) Each request by a community for a determination must be submitted in writing to the Office of Flood Insurance, Federal Insurance Administration, Department of Housing and Urban Development, 451 7th St. SW., Washington, D.C. 20410, and contain a complete statement of all relevant facts relating to the flood protection system, including, but not limited to, supporting technical data (e.g., U.S. Army Corps of Engineers flood protection project data), cost schedules, budget appropriation data and the extent of Federal funding of the system's construction. Such facts shall include information sufficient to identify all persons affected by such flood protection system or by such request: a full and precise statement of intended purposes of the flood protection system; and a carefully detailed description of such project, including construction completion target dates. In addition, true copies of all contracts, agreements, leases, instruments, and other documents involved must be submitted with the request. Relevant facts reflected in documents, however, must be included in the statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the requirements of paragraph (b) of this section, specifying the pertinent provisions. The request must contain a statement whether, to the best of the knowledge of the person responsible for preparing the application for the community, the flood protection system is currently the subject matter of litigation before any Federal, State, or local court or administrative agency, and the purpose of that litigation. The request must also contain a statement as to whether the community has previously requested a determination with respect to the same subject matter from the Administrator, detailing the disposition of such previous request. As documents become part of the file and cannot be returned, the original documents should not be submitted.

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(d) The effective date for any risk premium rates established under this section shall be the date of final determination by the Administrator that adequate progress toward completion of a flood protection system has been made in a community.

(e) A responsible official of a community which received a determination that adequate progress has been made towards completion of a flood protection system shall certify to the Administrator annually on the anniversary date of receipt of such determination that no present delay in completion of the system is attributable to local sponsors of the system, and that a good faith effort is being made to complete the project.

(f) A community for which risk premium rates have been made available under section 1307(e) of the National Flood Insurance Act of 1968, as amended, shall notify the Administrator if, at any time, all progress on the completion of the flood protection system has been halted or if the project for the completion of the flood protection system has been canceled.

§ 1911.13 Standard Flood Insurance Policy.

(a) *Incorporation of forms.* Each of the Standard Flood Insurance Policy forms included in Appendix "A" hereto ("General Property" and "Dwelling Building and Contents") and by reference incorporated herein shall be incorporated into the Standard Flood Insurance Policy.

(b) *Endorsements.* All endorsements to the Standard Flood Insurance Policy shall be final upon publication in the FEDERAL REGISTER for inclusion in Appendix A.

(c) *Applications.* The application and renewal application forms included in Appendix B shall be the only application forms used in connection with the Standard Flood Insurance Policy.

(d) *Waivers.* The Standard Flood Insurance Policy and required endorsements must be used in the Flood Insurance Program, and no provision of the said documents shall be altered, varied, or waived other than through the issuance of an appropriate amendatory endorsement, approved by the Administrator as to form and substance for uniform use.

(e) *Oral and written binders.* No oral binder or contract shall be effective. No written binder shall be effective unless issued with express authorization of the Administrator.

§ 1911.14 Standard Flood Insurance Policy Interpretations.

(a) *Definition.* A Standard Flood Insurance Policy Interpretation is a written determination by the Administrator construing the scope of the flood insurance coverage that has been and is provided under the policy.

(b) *Publication and requests for interpretation.* The Administrator shall, pursuant to these regulations from time to time, issue interpretative rulings regarding the provisions of the Standard Flood Insurance Policy. Such Interpretations shall be published in the FEDERAL REGISTER, made a part of Appendix C to these regulations, and incorporated by reference as part of these regulations. Any policyholder or person in privity with a policyholder may file a request for an interpretation in writing with the Federal Insurance Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

§ 1911.15 Assumption of Liabilities under all Outstanding Flood Insurance Policies issued by the National Flood Insurers Association.

On January 1, 1978, all Standard Flood Insurance Policies issued by the National Flood Insurers Association prior to January 1, 1978, which have their annual policy period extending into the calendar year 1978, shall be considered to be Standard Flood Insurance Policies issued by the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

PART 1912—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

Subpart A—Issuance of Policies

Sec.

- 1912.1 Purpose of Part.
- 1912.2 Definitions.
- 1912.3 Servicing Agent.
- 1912.4 Limitations on sale of policies.
- 1912.5 Premium refund.
- 1912.6 Minimum commissions.
- 1912.7 Notice to Policyholders.

Subpart B—Claims Adjustment and Judicial Review

- 1912.21 Claims adjustment.
  - 1912.22 Judicial review.
- AUTHORITY: Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1306, 82 Stat. 575; (42 U.S.C. 4013).

Subpart A—Issuance of Policies

§ 1912.1 Purpose of part.

The purpose of this part is to set forth the manner in which flood insurance under the Program is made available to the general public in those communities designated as eligible for the sale of insurance under Part 1914 of this subchapter, and to prescribe the general method by which the Administrator exercises his responsibility regarding the manner in which claims for losses are paid.

§ 1912.2 Definitions.

The definitions set forth in Part 1909 of this subchapter are applicable to this part.



## RULES AND REGULATIONS

## § 1912.3 Servicing Agent.

(a) Pursuant to Sections 1345 and 1346 of the Act, the Administrator has entered into an Agreement with a servicing agent to authorize it to assist in issuing flood insurance policies under the Program in communities designated by the Administrator and to accept responsibility for the delivery of policies and payment of claims for losses as prescribed by and at the discretion of the Administrator.

(b) The following company has been contracted to act as a servicing agent for the Federal Insurance Administration:

EDS Federal Corp., 6410 Rockledge Drive, Bethesda, Md. 20014.

(c) The servicing agent will arrange for the issuance of flood insurance to any person qualifying for such coverage under Parts 1911 and 1914 of this subchapter who submits an application to the servicing agent in accordance with the terms and conditions of the contract between the Department and the servicing agent.

(d) Applications and premiums should be mailed to:

National Flood Insurance Program, Federal Insurance Administration, U.S. Department of Housing and Urban Development, P.O. Box 2448, Arlington, Va. 22202

## § 1912.4 Limitations on sale of policies.

(a) The servicing agent shall be deemed to have agreed, as a condition of its contract that it shall not offer flood insurance under any authority or auspices in any amount within the maximum limits of coverage specified in § 1911.6 of this subchapter, in any area the Administrator designates in Part 1914 of this subchapter as eligible for the sale of flood insurance under the Program, other than in accordance with this part, the Agreement, and the Standard Flood Insurance Policy.

(b) The agreement and all activities thereunder are subject to Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and to the applicable Federal regulations and requirements issued from time to time pursuant thereto. No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination under the Program, on the ground of race, color, creed or national origin. Any complaint or information concerning the existence of any such unlawful discrimination in any matter within the purview of this part should be referred to the Administrator.

## § 1912.5 Premium refund.

A Standard Flood Insurance Policyholder whose property has been determined not to be in a special hazard area after the map revision or a Letter

of Map Amendment under Part 1920 of this subchapter may cancel the policy within the current policy year provided (a) he was required to purchase or to maintain flood insurance coverage, or both, as a condition for financial assistance, and (b) his property was located in an identified special hazard area as represented on an effective FHB or FIRM when the financial assistance was provided. If no claim under the policy has been paid or is pending, the full premium shall be refunded for the current policy year, and for an additional policy year where the insured had been required to renew the policy while his request for refund was pending during the period when a revised map was being reprinted.

## § 1912.6 Minimum commissions.

The earned commission which shall be paid to any property or casualty insurance agent licensed in the State in which the insured property is located with respect to each policy or renewal he duly procures for an eligible purchaser shall not be less than \$10. Any refunds of premiums authorized under this subchapter shall not affect a previously earned commission, and no agent shall be required to return that earned commission.

## § 1912.7 Notice to Policyholders.

Pursuant to the National Flood Insurance Program (42 U.S.C. Sections 4001-4128) the servicing agent shall provide a notice in all flood insurance policies issued and renewed containing the following information:

(a) The policy indicated on the reverse side will expire 12 p.m. on the day prior to the renewal date shown. Your policy, when renewed, will be issued by the Federal government, as insurer, rather than by the National Flood Insurers Association, whose contractual relationship with the Department of Housing and Urban Development terminated on December 31, 1977.

(b) To avoid a lapse in coverage your renewal premium for the next annual term must be received prior to the expiration of the current policy term. If you elect the increased amount of insurance shown in B, your renewal premium must be received 15 days prior to the current term expiration date in order for the increased amounts of insurance to take effect on the renewal effective date shown.

(c) If this policy is allowed to expire, the mortgagee of the insured property, if any, will be provided written notice as is provided for under the policy conditions.

(d) If you have any questions, contact your local agent. If you are unable to contact the agent, refer questions to the nearest National Flood Insurance Servicing Center.

## Subpart B—Claims Adjustment and Judicial Review

## § 1912.21 Claims adjustment.

(a) In accordance with the Agreement, the servicing agent shall arrange for the prompt adjustment and settlement and payment of all claims arising from policies of insurance issued under the program. Investigation of such claims may be made through the facilities of its subcontractors or insurance adjustment organizations, to the extent required and appropriate for the expeditious processing of such claims.

(b) All adjustment of losses and settlements of claims shall be made in accordance with the terms and conditions of the policy and Parts 1911 and 1912 of this subchapter.

## § 1912.22 Judicial Review.

(a) Upon the disallowance by the Federal Insurance Administration on the servicing agent of any claim on grounds other than failure to file a proof of loss, or upon the refusal of the claimant to accept the amount allowed upon any such claim, after appraisal pursuant to policy provisions, the claimant within one year after the date of mailing by the Federal Insurance Administration or the servicing agent of the notice of disallowance or partial disallowance of the claim may, pursuant to 42 U.S.C. 4053, institute an action on such claim against the Secretary of Housing and Urban Development in the U.S. District Court for the district in which the insured property or the major portion thereof shall have been situated, without regard to the amount in controversy.

(b) Service of process for all judicial proceedings where a claimant is suing Secretary pursuant to 42 U.S.C. 4071 shall be made upon the appropriate United States Attorney, the Attorney General of the United States, and the Secretary of HUD.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, (34 FR 2680, February 27, 1969) as amended (39 FR 2787, January 24, 1974).)

Issued: January 1, 1978.

JAY JANIS,  
Acting Secretary, Housing  
and Urban Development.

## RULES AND REGULATIONS

## Appendix A (1)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
FEDERAL INSURANCE ADMINISTRATION

## STANDARD FLOOD INSURANCE POLICY

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amending Thereof)

## DWELLING FORM

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM, IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE INSURER DOES INSURE the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located or contained as described in the application and declarations form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy by the Insured is allowed. The Insurer under this Policy is the Department of Housing and Urban Development

## DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudslide (i.e., mudflow), a river or flow of liquid mud proximately caused by flooding as defined in subparagraph A.2 above or by the accumulation of water under the ground.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the anticipated cyclical levels.

## PERILS EXCLUDED

The Insurer shall not be liable for loss:

- A. By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; (3) water, moisture or mudslide (i.e., mudflow) damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures, or equipment) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto, or (4) seepage, backup of water, or hydrostatic pressure not related to a condition of "flood" as defined.
- B. Caused directly or indirectly by (1) hostile or wartime action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (2) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (3) by military, naval or air forces, or (c) by an agent of any such government, power authority or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or wartime action by such a government, power, authority or forces. (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.
- C. By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy.
- D. By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood.
- E. Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against.

F. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy; but, for contents covered herein and subject to the terms of the policy including the limits of liability, the Insurer will reimburse the Insured for reasonable expenses necessarily incurred by him in complying with the requirements of this paragraph, including but not limited to, reasonable expenses for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood.

## PROPERTY COVERED

A. Dwelling: The term "dwelling" shall mean a residential building designed for the occupancy of from 1 to 4 families and occupied principally for dwelling purposes by the number of families stated herein.

When the insurance under this policy covers a dwelling, such insurance shall include additions in contact therewith, also, if the property of the owner of the described dwelling and when not otherwise covered, building equipment, fixtures and outdoor equipment, all pertaining to the service of the described premises and while within an enclosed structure located on the described premises, also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such dwelling or appurtenant private structures on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the dwelling covered under this policy, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described dwelling and additions in contact therewith) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described dwelling, or which are used in whole or in part for commercial, manufacturing or farming purposes.

B. Contents: When the insurance under this policy covers contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a dwelling—except other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by other insurance including the peril insured against in this policy, belonging to the Insured or members of the Insured's family of the same household, or for which the Insured may be liable or, at the option of the Insured, belonging to a servant or guest of the Insured, all while within an enclosed structure located on the described premises.

The Insured may apply up to 10% of the amount of insurance applicable to the contents covered under this policy, not as an additional amount of insurance, as follows:

- (a) If not owner of the described premises, to cover loss to improvements, alterations, and additions to the described dwelling appurtenant enclosed private structures as described above.
- (b) If an individual condominium unit owner of the described premises, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described dwelling and appurtenant enclosed private structures as described above.



**RULES AND REGULATIONS**

ATTACH APPLICATION AND DECLARATIONS FORM HERE

The Insurer shall not be liable for loss in any one occurrence for more than

1. \$500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac).
2. \$500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.

**C. Debris Removal.** This coverage covers expense incurred in the removal of debris of or on the dwelling, appurtenant enclosed private structures or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

**PROPERTY NOT COVERED**

This policy shall not cover:

**A. Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.**

**B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other open structures located on or partially over water, or personal property in the open.**

**C. Land values, lawn trees, shrubs or plants growing crops or livestock, underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure.**

**D. Animals, birds, fish, aircraft and motor vehicles (other than motorized equipment pertaining to the services of the premises and not licensed for highway use) including their parts and equipment, trailers on wheels, watercraft including their furnishings and equipment, and business property.**

**DEDUCTIBLES**

**A.** With respect to loss to the dwelling, appurtenant private structures, and debris removal covered hereunder, the insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of \$200.00.

**B.** With respect to loss to contents or debris removal covered hereunder, or to expenses incurred under paragraph F of "Perils Excluded," the insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of \$200.00.

**REPLACEMENT COST PROVISIONS**

These provisions shall apply only to a Single Family Dwelling covered hereunder. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from the replacement cost coverage.

**A.** If at the time of loss the total amount of insurance applicable to said dwelling is 80% or more of the full replacement cost of such dwelling, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such dwelling is extended to include the full cost of repair or replacement (without deduction for depreciation).

**B.** If at the time of loss the total amount of insurance applicable to said dwelling is less than 80% of the full replacement cost of such dwelling and less than the maximum amount of insurance available under the National Flood Insurance Program, the insurer's liability for loss under this policy shall not exceed the larger of the following amounts:

1. the actual cash value (meaning replacement cost less depreciation) of that part of the dwelling damaged or destroyed; or
2. That portion of the full cost of repair or replacement without deduction for depreciation of that part of the dwelling damaged or destroyed, which the total amount of insurance applicable to said dwelling bears to 80% of the full replacement cost of such dwelling.

If 80% of the full replacement cost of such dwelling is greater than the maximum amount of insurance available under the National Flood Insurance Program, use the maximum amount in lieu of the 80% figure in the application of this limit.

**C.** The insurer's liability for loss under this policy shall not exceed the smallest of the following amounts:

1. The limit of liability of this policy applicable to the damaged or destroyed building.
2. The replacement cost of the dwelling or any part thereof identical with such dwelling on the same premises and intended for the same occupancy and use; or
3. The amount actually and necessarily expended in repairing or replacing said dwelling or any part thereof intended for the same occupancy and use.

**D.** When the full cost of repair or replacement is more than \$1,000 or more than 5% of the whole amount of insurance applicable to said dwelling, the insurer shall not be liable for any loss under paragraph A or subparagraph B 2 of these provisions unless and until actual repair or replacement is completed.

**E.** In determining if the whole amount of insurance applicable to said dwelling is 80% or more of the full replacement cost of such dwelling, the cost of excavations, underground flues and pipes, underground wiring and drains, and brick, stone and concrete foundations, piers and other supports which are below the under surface of the lowest basement floor, or where there is no basement, which are below the surface of the ground inside the foundation walls, shall be disregarded.

**F.** The Named Insured may elect to disregard this condition in making claim hereunder, but such election shall not prejudice the Named Insured's right to make further claim within 180 days after loss for any additional liability brought about by these provisions.

**GENERAL CONDITIONS AND PROVISIONS**

**A. Pair and Set Clause.**—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.

**B. Concealment, Fraud.**—This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

**C. Other Insurance.**—The insurer shall not be liable for a greater proportion of any loss, less the amount deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by the insurer upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

**D. Added and Waiver Provisions.**—The extent of the application of insurance under this policy and of the contribution to be made by the insurer in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of the insurer relating to appraisal or to any examination provided for herein.

**E. Cancellation of Policy or Reduction in Amount of Insurance.**—This policy may be cancelled at any time at the request of the insured, in which case the insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time, provided, however, that the premium paid for the then current policy term shall be fully earned if the insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the insured, in which case the insurer shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by the insurer for non-payment of the premium by giving to the insured a 20-days' written notice of cancellation.

**F. Conditions Suspending or Restricting Insurance.**—Unless otherwise provided in writing added hereto, the insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the insured), when such act or neglect is not within the control of the insured.

**G. Alterations and Repairs.**—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the insured shall protect the property from further damage.

**RULES AND REGULATIONS**

**H. Property of Others.**—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to the insurer. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

**I. Liberalization Clause.**—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of the insurer there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the insured hereunder as though such endorsement or substitution of form had been made.

**J. Statutory Provisions.**—Any terms of this policy which are in conflict with the statutes of the state wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

**K. Loss Clause.**—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence of the peril insured against hereunder; provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.

**L. Mortgage Clause (Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy).**

Loss, if any, under this policy, shall be payable to the aforesaid mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagor or owner of the described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify the insurer of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof, otherwise this policy shall be null and void.

If this policy is cancelled by the insurer, it shall continue in force for the benefit only of the mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the insurer shall have the right, on like notice, to cancel this agreement.

Whenever the insurer shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, the insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities, but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

**M. Mortgage Obligations.**—If the insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

IN WITNESS WHEREOF, the insurer has executed and attested these presents, but this policy shall not be valid unless countersigned by the duly authorized representative of the insurer.

**N. Requirements in Case of Loss.**—The insured shall give written notice, as soon as practicable, to the insurer of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by the insurer, the insured shall render to the insurer, a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, actual cash value of each item thereof and the amount of loss thereof, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The insured, at the option of the insurer, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The insured, as often as may be reasonably required, shall exhibit to any person designated by the insurer all that remains of any property herein described, and submit to examinations under oath by any person named by the insurer, and subscribe the same, and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the insurer or its representative, and shall permit extracts and copies thereof to be made.

**O. Appraisal.**—In case the insured and the insurer shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire, and failing for 15 days to agree upon such umpire, then, on request of the insured or the insurer, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item, and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with the insurer shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

**P. Options.**—It shall be optional with the insurer to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

**Q. Abandonment.**—There shall be no abandonment to the insurer of any property.

**R. When Loss Payable.**—The amount of loss for which the insurer may be liable shall be payable 60 days after proof of loss, as herein provided, is received by the insurer; and ascertainment of the loss is made either by agreement between the insured and the insurer expressed in writing or by the filing with the insurer of an award as herein provided.

**S. Action Against the Insurer.**—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the insurer may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

**T. Subrogation.**—In the event of any payment under this policy, the insurer shall be subrogated to all the insured's right of recovery therefor against any party, and the insurer may require from the insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the insurer. The insured shall do nothing after loss to prejudice such right, however, this insurance shall not be invalidated should the insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

*Patricia Roberts Harris*

Patricia Roberts Harris  
Secretary



# RULES AND REGULATIONS

## Appendix A (2)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
FEDERAL INSURANCE ADMINISTRATION

### STANDARD FLOOD INSURANCE POLICY (Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof) GENERAL PROPERTY FORM

IN CONSIDERATION OF THE PAYMENT OF THE PREMIUM IN RELIANCE UPON THE STATEMENTS IN THE APPLICATION AND DECLARATIONS FORM MADE A PART HEREOF AND SUBJECT TO ALL THE TERMS OF THIS POLICY, THE INSURER DOES INSURE the insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, not in any event for more than the interest of the insured against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located at or contained as described in the application and declarations form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere.

Assignment of this policy by the insured is allowed. The insurer under this policy is the Department of Housing and Urban Development.

#### DEFINITION OF "FLOOD"

Wherever in this policy the term "flood" occurs, it shall be held to mean:

- A. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  1. The overflow of inland or tidal waters.
  2. The unusual and rapid accumulation or runoff of surface waters from any source.
  3. Mudslide (i.e., mudflow), a river or flow of liquid mud proximately caused by flooding as defined in subparagraph A-2 above or by the accumulation of water under the ground.
- B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding the anticipated cyclical levels.

#### PERILS EXCLUDED

The insurer shall not be liable for loss:

- By (1) rain, snow, sleet, hail or water spray; (2) freezing, thawing or by the pressure or weight of ice or water, except where the property covered has been simultaneously damaged by flood; (3) water, moisture or mudslide (i.e., mudflow) damage of any kind resulting primarily from conditions, causes or occurrences which are solely related to the described premises or are within the control of the insured (including but not limited to design, structural or mechanical defects, failures, stoppages or breakages of water or sewer lines, drains, pumps, fixtures, or equipment) or any condition which causes flooding which is substantially confined to the described premises or properties immediately adjacent thereto; or (4) seepage, backup of water, or hydrostatic pressure not related to a condition of "flood" as defined.
- Caused directly or indirectly by (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack; (a) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (b) by military, naval or air forces; or (c) by an agent of any such government, power, authority or forces; if being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such a hostile or warlike action by such a government, power, authority or forces; (2) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence.
- By nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril insured against by this policy.
- By theft or by fire, windstorm, explosion, earthquake, landslide or any other earth movement except such mudslide or erosion as is covered under the peril of flood.
- Caused by or resulting from power, heating or cooling failure, unless such failure results from physical damage to power, heating or cooling equipment situated on premises where the property covered is located, caused by the peril insured against.
- Caused directly or indirectly by neglect of the insured to use all reasonable means to save and preserve the property at the time of and after an occurrence of the peril insured against by this policy but, for contents covered herein and subject to the terms of the

policy including the limits of liability, the insurer will reimburse the insured for reasonable expenses necessarily incurred by him in complying with the requirements of this paragraph, including but not limited to, reasonable expenses for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood.

#### PROPERTY COVERED

**A. Building.** When the insurance under this policy covers a building, such insurance shall include additions and extensions attached thereto, permanent fixtures, machinery and equipment forming a part of and pertaining to the service of the building, personal property of the insured as landlord used for the maintenance or service of the building including fire extinguishing apparatus, floor coverings, refrigerating and ventilating equipment, all while within the described building; also, materials and supplies while within an enclosed structure located on the described premises or adjacent thereto, intended for use in construction, alteration or repair of such building or appurtenant private structures on the described premises.

When the insurance under this policy covers a building used for residential purposes, the insured may apply up to 10% of the amount of insurance, applicable to such building, not as an additional amount of insurance, to cover loss to appurtenant private structures (other than the described building and additions and extensions attached thereto) located on the described premises. This extension of coverage shall not apply to structures (other than structures used exclusively for private garage purposes) which are rented or leased in whole or in part, or held for such rental or lease, to other than a tenant of the described building, or which are used in whole or in part for commercial, manufacturing or farming purposes.

**B. Contents.** When the insurance under this policy covers contents, coverage shall be for either household contents or other than household contents, but not for both.

1. When the insurance under this policy covers other than household contents, such insurance shall cover merchandise and stock, materials and stock supplies of every description, furniture, fixtures, machinery and equipment of every description all owned by the insured, improvements and betterments (as hereinafter defined) to the building if the insured is not the owner of the building and when not otherwise covered, all while within the described enclosed building.
2. When the insurance under this policy covers household contents, such insurance shall cover all household and personal property usual or incidental to the occupancy of the premises as a residence—except animals, birds, fish, business property, other property not covered under the provisions of this policy, and any property more specifically covered in whole or in part by the other insurance including the peril insured against in this policy; belonging to the insured or members of the insured's family of the same household, or for which the insured may be liable, or, at the option of the insured, belonging to a servant or guest of the insured, all while within the described building.

The insured, if not the owner of the described building, may apply up to 10% of the amount of insurance applicable to the household contents covered under this item, not as an additional amount of insurance, to cover loss to improvements and betterments (as hereinafter defined) to the described building.

The insured, if an individual condominium unit owner in the described building, may apply up to 10% of the amount of insurance on contents covered under this policy, not as an additional amount of insurance, to cover loss to the interior walls, floors, and ceilings that are not otherwise covered under a condominium association policy on the described building.

The insurer shall not be liable for loss in any one occurrence for more than

- \$500.00 in the aggregate on paintings, etchings, pictures, tapestries, art glass windows and other works of art (such as but not limited to statuary, marbles, bronzes, antique furniture, rare books, antique silver, porcelains, rare glass or bric-a-brac).
  - \$500.00 in the aggregate on jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, articles of gold, silver or platinum and furs or any article containing fur which represents its principal value.
3. When the insurance under this policy covers improvements and betterments, such insurance shall cover the insured's used interest in improvements and betterments to the described building.
- The term "improvements and betterments" wherever used in this policy is defined as fixtures, alterations, installations, or additions comprising a part of the described building and made, or acquired, at the expense of the insured exclusive of rent paid by the insured, but which are not legally subject to removal by the insured.
  - The word "lease" wherever used in this policy shall mean the lease or rental agreement, whether written or oral, in effect as of the time of loss.
  - In the event improvements and betterments are damaged or destroyed during the term of this policy by the peril insured against, the liability of the insurer shall be determined as follows:
    - (1) If repaired or replaced at the expense of the insured within a reasonable time after such loss, the actual cash value of the damaged or destroyed improvements and betterments.
    - (2) If not repaired or replaced within a reasonable time after such loss, that proportion of the original cost at time of installation of the damaged or destroyed improvements and betterments which the unexpired term of the lease at the time of loss bears to the period(s) from the date(s) such improvements and betterments were made to the expiration date of the lease.
    - (3) If repaired or replaced at the expense of others for the use of the insured, there shall be no liability hereunder.

**C. Debris Removal.** This insurance covers expense incurred in the removal of debris of or on the building or contents covered hereunder, which may be occasioned by loss caused by the peril insured against in this policy.

The total liability under this policy for both loss to property and debris removal expense shall not exceed the amount of insurance applying under this policy to the property covered.

#### PROPERTY NOT COVERED

This policy shall not cover:

- Accounts, bills, currency, deeds, evidences of debt, money, securities, bullion, manuscripts or other valuable papers or records, numismatic or philatelic property.
- Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks, other open structures located on or partially over water, or personal property in the open.
- Land values; lawn, trees, shrubs or plants, growing crops, or livestock, underground structures or underground equipment, and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure.
- Automobiles; any self-propelled vehicles or machines, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured, watercraft or aircraft.
- Contents specifically covered by other insurance except for the excess of value of such property above the amount of such insurance.

#### DEDUCTIBLES

- With respect to loss to the building, appurtenant private structures, and debris removal covered hereunder, the insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of \$200.00.
- With respect to loss to contents or debris removal covered hereunder, or to expenses incurred under paragraph F of "Perils Excluded," the insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of \$200.00.

#### GENERAL CONDITIONS AND PROVISIONS

- Pair and Set Clause.**—If there is loss of an article which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article, but such loss shall not be construed to mean total loss of the pair or set.
- Concealment, Fraud.**—This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.
- Other Insurance.**—The insurer shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of

# RULES AND REGULATIONS

ATTACH APPLICATION AND DECLARATIONS FORM HERE

"excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by the insurer upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

**D. Added and Waiver Provisions.**—The extent of the application of insurance under this policy and of the contribution to be made by the insurer in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of the insurer relating to appraisal or to any examination provided for herein.

**E. Cancellation of Policy or Reduction in Amount of Insurance.**—This policy may be cancelled at any time at the request of the insured, in which case the insurer shall, upon demand and surrender of this policy, refund the excess of paid premiums above the customary short rates for the expired time, provided, however, that the premium paid for the then current policy term shall be fully earned if the insured retains an interest in the property covered at the location described in the application and declarations form.

The amount of insurance under this policy may be reduced at any time at the request of the insured, in which case the insurer shall, upon demand, refund the excess of paid premiums above the customary short rates for the expired time for the amount of the reduction, provided, however, that the premium paid for the then current policy term shall be fully earned to the extent that the insured retains an interest in the property covered at the location described in the application and declarations form.

This policy may be cancelled by the insurer for non-payment of the premium by giving to the insured a 20-days' written notice of cancellation.

**F. Conditions Suspending or Restricting Insurance.**—Unless otherwise provided in writing added hereto, the insurer shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the insured, provided, however, this insurance shall not be prejudiced by any act or neglect of any person (other than the insured), when such act or neglect is not within the control of the insured.

**G. Alterations and Repairs.**—Permission is granted to make alterations, additions and repairs, and to complete structures in course of construction. In the event of loss hereunder, the insured is permitted to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage and provided further that the insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by the peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that in case loss occurs the insured shall protect the property from further damage.

**H. Property of Others (Servants and Guests Only).**—Unless otherwise provided in writing added hereto, loss to any property of others covered under this policy shall be adjusted with the insured for the account of the owners of said property, except that the right to adjust such loss with said owners is reserved to the insurer. Any such insurance under this policy shall not inure directly or indirectly to the benefit of any carrier or other bailee for hire.

**I. Liberalization Clause.**—If during the period that insurance is in force under this policy, or within 45 days prior to the inception date thereof, on behalf of the insured there be adopted under the National Flood Insurance Act of 1968, or any acts amendatory thereof, any forms, endorsements, rules or regulations by which this policy could be extended or broadened, without additional premium charge, by endorsement or substitution of form, then such extended or broadened insurance shall inure to the benefit of the insured hereunder as though such endorsement or substitution of form had been made.

**J. Statutory Provisions.**—Any terms of this policy which are in conflict with the statutes of the state wherein the property is located are hereby amended to conform to such statutes, except that in cases of conflict with applicable Federal law or regulation, such Federal law or regulation shall control the terms of this policy.

**K. Loss Clause.**—Payment of any loss under this policy shall not reduce the amount of insurance applicable to any other loss during the policy term which arises out of a separate occurrence or the peril insured against hereunder, provided, that all loss arising out of a continuous or protracted occurrence shall be deemed to constitute loss arising out of a single occurrence.



RULES AND REGULATIONS

**L. Mortgage Clause** [Applicable to building items only and effective only when policy is made payable to a mortgagee (or trustee) named in the application and declarations form attached to this policy].

Loss, if any, under this policy, shall be payable to the aforesaid as mortgagee (or trustee) as interest may appear under all present or future mortgages upon the property described in which the aforesaid may have an interest as mortgagee (or trustee), in order of precedence of said mortgages, and this insurance, as to the interest of the mortgagee (or trustee) only therein, shall not be invalidated by any act or neglect of the mortgagee (or trustee) or by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy; provided, that in case the mortgagee (or trustee) shall, on demand, pay the premium due under this policy, the mortgagee (or trustee) shall, on demand, pay the same.

Provided, also, that the mortgagee (or trustee) shall notify the Insurer of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee (or trustee) and, unless permitted by this policy, it shall be noted thereon and the mortgagee (or trustee) shall, on demand, pay the premium for such increased hazard for the term of the use thereof, otherwise this policy shall be null and void.

If this policy is cancelled by the Insurer, it shall continue in force for the benefit only of the mortgagee (or trustee) for 30 days after written notice to the mortgagee (or trustee) of such cancellation and shall then cease, and the Insurer shall have the right, on like notice, to cancel this agreement.

Whenever the Insurer shall pay the mortgagee (or trustee) any sum for loss under this policy and shall claim that, as to the mortgagee (or trustee), no liability therefor existed, the Insurer shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may, at its option, pay to the mortgagee (or trustee) the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities, but no subrogation shall impair the right of the mortgagee (or trustee) to recover the full amount of said mortgagee's (or trustee's) claim.

**M. Mortgage Obligations**—If the Insured fails to render proof of loss, the named mortgagee (or trustee), upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions of this policy relating to appraisal and time of payment and of bringing suit.

**N. Loss Payable Clause** [Applicable to contents items only.]—Loss, if any, shall be adjusted with the Insured and shall be payable to the Insured and loss payee as their interests may appear.

**O. Requirements in Case of Loss**—The Insured shall give written notice, as soon as practicable, to the Insurer of any loss, protect the property from further damage, forthwith separate the damaged and undamaged property and put it in the best possible order. Within 60 days after the loss, unless such time is extended in writing by the Insurer, the Insured shall render to the Insurer, a proof of loss, signed and sworn to by the Insured, stating the knowledge and belief of the Insured as to the following: the time and origin of the loss, the interest of the Insured and of all others in the property, actual cash value of each item thereof and the amount of loss thereof, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss. The Insured, at the option of

the Insurer, may be required to furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed, and verified plans and specifications of any building, fixtures or machinery destroyed or damaged.

The Insured, as often as may be reasonably required, shall exhibit to any person designated by the Insurer all that remains of any property herein described, and submit to examinations under oath by any person named by the Insurer, and subscribe the same, and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Insurer or its representative, and shall permit extracts and copies thereof to be made.

**P. Appraisal**—In case the Insured and the Insurer shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire, and failing for 15 days to agree upon such umpire, then, on request of the Insured or the Insurer, such umpire shall be selected by a judge of a court of record in the State in which the insured property is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with the Insurer shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

**Q. Options**—It shall be optional with the Insurer to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

**R. Abandonment**—There shall be no abandonment to the Insurer of any property.

**S. When Loss Payable**—The amount of loss for which the Insurer may be liable shall be payable 60 days after proof of loss, as herein provided, is received by the Insurer and ascertainment of the loss is made either by agreement between the Insured and the Insurer expressed in writing or by the filing with the Insurer of an award as herein provided.

**T. Action Against the Insurer**—No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after the date of mailing of notice of disallowance or partial disallowance of the claim. An action on such claim against the Insurer may be instituted, without regard to the amount in controversy, in the United States District Court for the district in which the property shall have been situated.

**U. Subrogation**—In the event of any payment under this policy, the Insurer shall be subrogated to all the Insured's right of recovery therefor against any party, and the Insurer may require from the Insured an assignment of all rights of recovery against any party for loss to the extent that payment therefor is made by the Insurer. The Insured shall do nothing after loss to prejudice such right; however, this insurance shall not be invalidated should the Insured waive in writing prior to a loss any or all right of recovery against any party for loss occurring to the described property.

IN WITNESS WHEREOF, the Insurer has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized representative of the Insurer.

*Patricia Roberts Harris*

Patricia Roberts Harris  
Secretary

RULES AND REGULATIONS

Appendix B (1)

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
NATIONAL FLOOD INSURANCE PROGRAM

(See Reverse Side for Privacy Statement)

OMB NO. E3-R1602

**R** REGULAR FLOOD  
INSURANCE PROGRAM

**Regular Flood Insurance Program**  
**Application and Declarations Form**  
(For Use Only With the Flood Insurance Policy)

Insurance is provided only (1) against the peril of flood as defined in the policy to which this form is attached, (2) with respect to those items specifically described herein and for which a specific amount of insurance is shown below, and (3) for the policy term specified below; and, unless otherwise provided, all conditions and provisions of this form and of the policy to which it is attached shall apply separately to each item covered.

**Important Notice:** This Policy does not cover loss resulting from a flood or mudslide occurrence already in progress on the date of this application. It is a condition of this insurance that property is not in violation of any Flood Plain Law or Ordinance. This policy is subject to the National Flood Insurance Act of 1968 and any Acts, Amendments, and Regulations issued by the Federal Insurance Administration pursuant to such statute(s).

Space for Agent's Name and Mailing Address (Sticker)

Policy No. FL

Insured's Name and Mailing Address  
Number, Street, City or Town, County, State, Zip Code

RENEWAL: YES ☐ NO ☐  
(If RENEWAL, USE SAME NUMBER)

Policy Term 1 Year, from \_\_\_\_\_ to \_\_\_\_\_

Inception (Mo. Day Yr.) Expiration (Mo. Day Yr.) 12:01 AM, Standard Time at location of the property involved, and thereafter for successive policy terms of 1 year, provided the then current premium payable by the Insured for each successive policy term is paid prior to the expiration of the then current policy term, and if not so paid this policy shall then terminate; provided, however, with respect to any mortgagee (or trustee) named below, this insurance shall continue in force only for the benefit of such mortgagee (or trustee) for 20 days after written notice to the mortgagee (or trustee) of termination of this policy, and shall then terminate.

ITEM NO.	AMOUNT OF INSURANCE	RATES AND PREMIUMS				Description and Location of Property Covered (Location same as mailing address above unless otherwise indicated)
		ACTUARIAL		PAYABLE BY THE INSURED		
		RATES	PREMIUMS Check Box <input type="checkbox"/> If \$15 Expense Constant Included	RATES	PREMIUMS	
a) First Layer				a) Payable		Occupied as _____
b) Second Layer				b) Actuarial		Located at _____
1. Bldg.	a) \$ _____		\$ _____ <input type="checkbox"/>	a) \$ _____	\$ _____ <input type="checkbox"/>	
	b) \$ _____		\$ _____	b) \$ _____	\$ _____	
	\$ _____		\$ _____	\$ _____	\$ _____	On Contents consisting principally of _____
	Total		Total	Total	Total	in the Enclosed Building Described Above <input type="checkbox"/> or _____
2. Conts.	a) \$ _____		\$ _____ <input type="checkbox"/>	a) \$ _____	\$ _____ <input type="checkbox"/>	Located at _____
	b) \$ _____		\$ _____	b) \$ _____	\$ _____	
	\$ _____		\$ _____	\$ _____	\$ _____	Loss Payee (Contents): _____
	Total		Total	Total	Total	
Notes: The Premium for this Policy has been subsidized by the U.S. Government under the National Flood Insurance Act of 1968.				Grand Total Premium Payable By Insured	\$ _____	INSERT NAME(S) AND MAILING ADDRESS(ES)

Mortgagee (Building): Insert name(s) and Mailing Address(es)

Mortgagee pays new and renewal ☐ renewal only ☐

Base Flood Elevation from FIRM = _____	Masonry walls-slab foundation <input type="checkbox"/>	Check only one box
First Floor Elevation — Certify = _____	Masonry walls-other foundation <input type="checkbox"/>	
Diff. Plus (+) or Minus (—) To Nearest Foot = _____	All other walls-slab foundation <input type="checkbox"/>	
Does Insured Qualify as "Small Business?" Yes <input type="checkbox"/> No <input type="checkbox"/>	All other walls-other foundation <input type="checkbox"/>	
Is Structure Single 2-4 Other Family <input type="checkbox"/> Family <input type="checkbox"/> Residential <input type="checkbox"/> All Other <input type="checkbox"/>	Contents Rated as: Residential All Other	
Is This a Motel or Hotel Structure with normal occupancy of less than six (6) Months? Yes <input type="checkbox"/> No <input type="checkbox"/>	All in Basement — <input type="checkbox"/>	
Is this "New Construction or Substantial Improvement"? Yes <input type="checkbox"/> No <input type="checkbox"/>	All on First Floor — <input type="checkbox"/>	
Date New Construction or Substantial Improvement started _____	All on First Two Floors — <input type="checkbox"/>	
Is structure within <input type="checkbox"/> corporate limits or <input type="checkbox"/> unincorporated area of county.	All on First Floor & Basement — <input type="checkbox"/>	
One Story — Basement <input type="checkbox"/> No Basement <input type="checkbox"/>	All on First Two Floors & Basement — <input type="checkbox"/>	
Two or more Stories — Basement <input type="checkbox"/> No Basement <input type="checkbox"/>	All above First Floor — <input type="checkbox"/>	
Split Level — Basement <input type="checkbox"/> No Basement <input type="checkbox"/>	All in Mobile Home on Foundation <input type="checkbox"/>	
Mobile Home on Foundation <input type="checkbox"/>		

DATE OF APPLICATION \_\_\_\_\_ The above statements are correct to the best of my knowledge. I understand that any false statement may be punishable by fine or imprisonment under 18 U.S. Code, Sec. 1001.

TO BE COMPLETED BY F.I.A. SERVICING OFFICE

SERVICING OFFICE NAME AND ADDRESS

COUNTERSIGNATURE DATE

AUTHORIZED REPRESENTATIVE

SIGNATURE OF INSURED OR AGENT

Agent's Tax Number \_\_\_\_\_

Agent Certifies that following matters have been discussed with insured:  
1) That loss already in progress on date of application is not covered;  
2) Advantages of insuring the single family dwelling to at least 80% of the replacement cost of structure, at the time of loss.

INSURED'S COPY



FEDERAL REGISTER, VOL. 43, NO. 11—TUESDAY, JANUARY 17, 1978



2584

## RULES AND REGULATIONS

PRIVACY ACT STATEMENT

The information requested is necessary to process your application for flood insurance. The authority to collect the information is Title 42, U.S. Code, Section 4001 to 4028. It is voluntary on your part to furnish the information. It will not be disclosed outside of the U.S. Department of Housing and Urban Development, except to the servicing office, acting as the government's fiscal agent, and to claims adjusters to enable them to confirm coverage and the location of insured property or as required or permitted by law. Failure by you to provide some or all of the information may result in delay in processing or denial of your application or payment of claim.

[FR Doc. 78-1053 Filed 1-16-78; 8:45 am]

TUESDAY, JANUARY 17, 1978  
PART IV



DEPARTMENT OF  
LABOR

Occupational Safety  
and Health  
Administration

OCCUPATIONAL  
EXPOSURE TO  
ACRYLONITRILE  
(VINYL CYANIDE)

Proposed Standard and  
Notice of Hearing

registered  
proper



## [4510-26]

Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

## Emergency Temporary Standard for Occupational Exposure to Acrylonitrile (Vinyl Cyanide); Notice of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Emergency Temporary Standard; Notice of hearing.

SUMMARY: By this emergency temporary standard (ETS), the Occupational Safety and Health Administration (OSHA) amends its present standard concerning employee exposure to acrylonitrile (AN) (also known as vinyl cyanide) and reduces the permissible exposure level from 20 parts acrylonitrile per million parts of air (20 ppm), as an 8-hour time-weighted average concentration, to 2 ppm, with a ceiling level of 10 ppm for any 15-minute period during the 8-hour day. In addition, the standard includes an action level of 1 ppm as an 8-hour time-weighted average. Provision is also made for specific exemptions in the standard for certain operations involving the processing, use and handling of products fabricated from polyacrylonitrile (PAN). The basis for this ETS is OSHA's determination that laboratory and epidemiological data indicate that continued exposure to acrylonitrile presents a cancer hazard to workers. A grave danger therefore exists for workers exposed to AN, necessitating the issuance of an emergency standard to protect them. In addition, the ETS requires the measurement and control of employee exposure, personal protective equipment and clothing, employee training, medical surveillance, work practices, and recordkeeping. The ETS will be superseded by a permanent standard within six months. A proposed permanent standard for occupational exposure to acrylonitrile is published elsewhere in today's FEDERAL REGISTER.

DATES: The effective date for this ETS is January 17, 1978. The period for receipt of written data and comments on the proposed permanent standard will run through February 21, 1978. Notices of intention to appear at the informal rulemaking hearing on the proposal must be postmarked by February 27, 1978. Documentary evidence and witness statements for the hearing must be received by March 7, 1978. The public hearing on the proposed permanent standard will commence on March 21, 1978.

## FOR FURTHER INFORMATION CONTACT:

Ms. Gail Kleiner, Office of Carcinogen Standards, OSHA, Third Street and Constitution Avenue, NW., Room N-3654, Washington, D.C. 20210, 202-523-9603.

## SUPPLEMENTARY INFORMATION:

## I. APPLICABILITY OF EMERGENCY TEMPORARY STANDARD (ETS)

The accompanying document is an emergency temporary standard issued pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911. The new standard, § 1910.1045, applies to all industries covered by the Act, including "general industry," construction, and maritime.

In addition, pursuant to section 4(b)(2) of the Act, OSHA has determined that this emergency temporary standard is more effective than corresponding standards now applicable to the maritime and construction industries and currently contained in Subpart B of Part 1910, and Parts 1915, 1916, 1917, 1918, and 1926 of Title 29, Code of Federal Regulations. Therefore, those corresponding standards are superseded by the new standard in § 1910.1045.

Pursuant to section 6(c)(3) of the Act, OSHA is commencing a rulemaking proceeding under section 6(b) of the Act, to establish a permanent standard for occupational exposure to acrylonitrile. The proposed permanent standard encompasses those areas of occupational safety and health that are considered appropriate for the permanent regulation of acrylonitrile by OSHA. A hearing is scheduled on the proposed permanent standard, to begin March 21, 1978.

The development of a permanent standard will be conducted pursuant to the rulemaking procedures of section 6(b) of the Act. The Assistant Secretary's decisions on the provisions of the final standard will be based on the entire record developed, including public comments and the informal rulemaking hearing.

## II. EVENTS LEADING TO THE EMERGENCY TEMPORARY STANDARD

Occupational exposure to AN is currently limited by the Occupational Safety and Health Administration (OSHA) to an 8-hour time-weighted average of 20 ppm (or approximately 45 mg/m<sup>3</sup>) as found in Table Z-1 of 29 CFR 1910.1000.

In March 1977, the Manufacturing Chemists Association (MCA) informed OSHA of the interim results after one year of a planned two-year study being conducted by Dow Chemical Co.'s laboratories on the chronic toxicity of ingestion of acrylonitrile by rats. (3)

Sacrifices of some of the animals after one year showed the development of various tumors, including central nervous system (CNS) and ear canal tumors, among the treated animals, but not among the controls. The tumors were found in animals exposed to 100 and 300 ppm, respectively, in their drinking water. Later reports from MCA, in April, indicated that similar tumors had been found in rats in the lowest exposure group in the test, 35 ppm, and that findings after one year of a continuing two-year study of inhalation of AN by rats noted "comparable" CNS tumors in animals inhaling 80 ppm AN. (1)

In May 1977, E. I. duPont de Nemours & Co., Inc. (duPont) informed OSHA of the preliminary results of an epidemiological study demonstrating an excess of cancer among workers exposed to acrylonitrile at a duPont textile fibers plant in Camden, South Carolina. (5) For the cohort of 470 workers first exposed to acrylonitrile in the polymerization operation between 1950 and 1955, a total of 16 cancer cases occurred between 1969 and 1975, as compared with 5.8 expected (based on duPont Company rates). Six of the 16 cases were lung cancers (vs. 1.5 expected), three were cancers of the large intestine (vs. 0.5 expected), and the remaining seven were from seven other primary sites. All of the cancer cases occurred among the approximately 350 workers in the cohort who were first exposed to acrylonitrile during the startup of the plant between 1950 and 1952. Although duPont stresses the preliminary nature of these findings, the company did state that when considered in light of the recent animal tests, "(they) raise a serious suspicion that it (acrylonitrile) may be a human carcinogen."

On June 29, OSHA published a request for information on acrylonitrile in the FEDERAL REGISTER (42 FR 33043) (this document was published again in the FEDERAL REGISTER on July 5, 1977 (42 FR 34326)). In this document, OSHA discussed the new information that had been received from MCA and duPont, and requested specific information on various issues relating to occupational exposure to AN. Interested persons were requested to furnish information by July 29, 1977.

OSHA received 25 replies to the request for information, many of which contained considerable data and technical details on the manufacture and use of acrylonitrile, areas of potential employee exposure, and other relevant material. (9)

Shortly after OSHA's request for information appeared in the FEDERAL REGISTER, on July 1, 1977, the National Institute for Occupational Safety and

Health (NIOSH) issued a "Current Intelligence Bulletin" on acrylonitrile, outlining the information received from MCA and duPont, discussing the other toxic effects of AN exposure, and recommending interim industrial hygiene practices to be implemented in the workplace to help reduce occupational exposure to acrylonitrile. (11)

On September 29, 1977 NIOSH provided recommendations for a revised standard for AN. A permissible exposure level of 4 ppm AN in air as determined by a 4-hour sample collected at a rate of 0.2 liter/minute was suggested. This recommendation was based on what NIOSH considered to be the current analytic limits of the air measurement technique. (12)

A more recent communication from NIOSH dated December 7, 1977 said that "(a)lthough the preliminary results of the duPont epidemiologic study are inconclusive by themselves . . . when viewed in light of the preliminary rat data the conclusion with regard to acrylonitrile is clear—the chemical must be viewed as a proven animal carcinogen and suspect human carcinogen. To do otherwise would be to place the health of exposed workers in jeopardy until more conclusive evidence ultimately surfaces." (13)

## III. REASONS FOR THE EMERGENCY TEMPORARY STANDARD

The Assistant Secretary finds that exposure to acrylonitrile poses a grave danger to humans. This finding reflects the results of the MCA animal studies (which clearly show that acrylonitrile is carcinogenic in animals), and the preliminary results of the duPont human epidemiological study.

The MCA studies show that malignant CNS tumors have been induced in rats by acrylonitrile at all dose levels by the oral route (35, 100, and 300 ppm), and thus far at 80 ppm by the inhalation route. Benign tumors of the stomach were found at the two high-dose levels in the ingestion study (i.e., 100 ppm and 300 ppm) and are also clearly related to the administration of acrylonitrile. Furthermore, the animal studies indicate that AN induces at least two different types of neoplasm in test animals. The interim results of the MCA studies are clear and convincing evidence of the carcinogenicity of acrylonitrile in animals, and therefore, the Assistant Secretary must treat acrylonitrile as posing a potential carcinogenic risk to humans.

Although the results of the duPont epidemiological study of the Camden, S.C. plant are "preliminary", the findings of increased incidence of cancer, particularly cancer of the lung and colon, have been determined to be highly statistically significant. As the company stated in its conclusions,

" . . . persons exposed to acrylonitrile at the textile fibers plant in Camden, S.C., are at greater risk of developing cancer, as compared with company, national, and regional experience." The duPont results are, therefore, highly supportive of the finding of carcinogenicity of acrylonitrile.

There is substantial support for the view that substances shown to cause cancer in animals must be treated as posing a carcinogenic risk to humans. In addition, the best available evidence indicates that no safe level for exposure to a carcinogen, including acrylonitrile, can be established at present.

The scientific determinations underlying the regulation of carcinogens have been the basis for prior policy decisions made, after scientific debate, by OSHA and other government agencies. For example, see the preambles to OSHA's carcinogen standard, applicable to 14 selected substances, 29 CFR 1910.1003-1910.1016 (39 FR 3758) aff'd, "Synthetic Organic Chemical Manufacturers Assn. v. Brennan," 503 F. 2d 1155 (3d Cir. 1974); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892), aff'd, "The Society of the Plastics Industry v. OSHA," 509 F. 2d 1301 (2d Cir.), cert. den., 421 U.S. 992 (1975); the coke ovens emissions proposal (40 FR 32268 (1975)) and final, 29 CFR 1910.1029 (41 FR 46742 (1976)); and the DBCP emergency temporary standard, 29 CFR 1910.1044 (42 FR 45536 (1977)).

OSHA has outlined the agency position on regulation of carcinogens, along with a detailed discussion of the scientific evidence supporting such regulation, in the proposed rules on identification, classification, and regulation of toxic substances posing a potential occupational carcinogenic risk ("Cancer Policy"), which was published in the FEDERAL REGISTER on October 4 (42 FR 54148). In the proposed Cancer Policy, OSHA restates the determination that as a prudent policy matter, in the absence of a demonstrated safe level or threshold for a particular carcinogen, it must be assumed that none exists. " . . . (O)nce a qualitative presumption of carcinogenicity has been established for a substance, any exposure to the substance must be considered to be attended by risk when considering any given population. No exception to this point has yet been demonstrated." (42 FR at 54166.)

That cancer and substances which cause cancer pose a grave danger within the meaning of section 6(c)(1)(A) needs little supportive discussion. The nature of the cancer hazard differs from many other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible, and usually fatal consequences. No symptomatic evidence of the develop-

ment of the cancer may be apparent to the employee during a long latency period of 10-30 years or more. (In the duPont study, this fact was recognized by the investigators, whose determinations of increased cancer incidence were based upon 15 and 20 year latency periods for the cohorts involved.) In some cases, a single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide immediate protection for employees through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

The need for immediate regulation to limit exposure to acrylonitrile is apparent from the above discussion. As a carcinogen, acrylonitrile can pose its life-threatening danger in a very brief period of exposure. Without this emergency temporary standard, employees would continue to be exposed to this threat during the period of time necessary to complete the normal rulemaking process. Issuance of this ETS is, therefore, necessary to protect employees from this grave danger.

## IV. BACKGROUND

## A. PHYSICAL PROPERTIES, MANUFACTURE AND USE OF ACRYLONITRILE

Acrylonitrile (CH<sub>2</sub>=CHCN; CAS #000107131) (AN) is a widely used chemical intermediate in the manufacture of acrylic fibers, synthetic rubbers and plastics. (6) Its use in the manufacture of a number of acrylic fibers and copolymer resins accounts for most of the 1.5 billion pounds of AN produced annually in the United States. (7) AN is a clear, colorless (when pure) or yellowish liquid with a characteristic odor at relatively high concentrations and a molecular weight of 53.06. It is very reactive and polymerizes violently in the presence of strong bases. Pure AN is subject to self-polymerization with rapid pressure development (the commercial product is inhibited and not subject to this reaction). AN is a volatile (vapor pressure 83 mm Hg at 68° F), flammable liquid with a flash point of 30° F (open cup), is easily ignited and may release cyanide gases when burned, especially where the supply of oxygen is limited. Its vapors are heavier than air, and when diffused over a considerable range of concentrations in air (3 percent-17 percent by volume), are highly explosive. Synonyms for AN include acrylon, carbacryl, cyanoethylene, fumigrain, 2-propenenitrile, VCN, ventox, and vinyl cyanide. (8)

AN is produced almost exclusively by the ammoxidation of propylene in the presence of a catalyst. Approximately 1.5 billion pounds of AN were



produced in the United States in 1976. Current producers of AN in the U.S. are American Cyanamid, duPont, Monsanto, and Vistron (SOHIO).

The major use of AN is in the production of acrylic and modacrylic fibers by copolymerization with other monomers such as methyl acrylate, methyl methacrylate, styrene, vinyl bromide, vinyl acetate, vinyl chloride, or vinylidene chloride, individually or in combination. Acrylic fibers are, by definition of the Federal Trade Commission, fibers composed of at least 85 percent (by weight) acrylonitrile units. Fibers composed of at least 35 percent but less than 85 percent acrylonitrile units are referred to as "modacrylic fibers." AN-based synthetic fibers are used in the manufacture of apparel, carpeting, blankets, draperies, and upholstery. Major producers of acrylic and modacrylic fibers include American Cyanamid Co., Dow Badische Co., E. I. duPont de Nemours & Co., Tennessee Eastman Co., and Monsanto Corp. Acrylic and modacrylic fiber production constituted 50% of the total AN consumption in the United States in 1976.

The manufacture of acrylic fibers involves four basic steps. First, the acrylonitrile must be polymerized; second, the polymer must be dissolved in a solvent to form a viscous solution which can be forced through a spinnerette (spinning head); third, the polymer must be spun into fiber; and, fourth, the fibers must be processed, crimped, cut, dried, and baled. The production of acrylic fibers is done by either wet-spinning or dry-spinning. Both methods require that the polymer be dissolved in a suitable solvent. The solvent used may vary from company to company.

The dissolved polymer is extruded through the spinnerette, or spinning head, which is a metal plate with thousands of tiny holes in it. The polymer is extruded through the holes in the spinnerette and coagulated to form the fibers. The solvent and excess, or residual AN monomer are then removed from the fibers. In dry-spinning, the solvent is removed by hot gases. In wet-spinning on the other hand, the fibers are extruded into another liquid bath, which serves to remove the solvent. For both types of spinning, the resulting fibers must be stretched to increase their strength, and then crimped to provide the desired texture and facilitate processing on textile machinery. Where the wet spinning process is used, the fibers are drawn from the coagulation bath through various warm water baths to remove any remaining solvent before they are drawn through the hot water stretching bath. It is during this stage of the wet-spinning process, between the coagulation bath and the hot water stretch, that potential em-

ployee exposure to acrylonitrile is greatest, since residual AN monomer in the fiber is being driven off along with the solvent.

At the drying stage, there is a negligible exposure to AN monomer of persons handling the acrylic fibers for further processing. This is because residual AN levels are usually well below 20 parts per million for all finished fibers and the fibers do not release their residual AN easily. In the dry, cool state the fibers are linear in structure and the polymer units are tightly coiled. At the glass transition temperature the polymer uncoils, allowing the release of anything being held in that coil (e.g., residual monomer or water). Since the fiber has a great affinity for water and water tends to extract the residual AN, removal of residual AN at the wet glass-transition temperature is fairly complete. As the fibers are normally washed at this temperature during processing, little residual AN remains in the final product. Because polymers such as acrylic fibers, which contain long sequences of AN units, tend to cyclize (i.e., form a new polymer with chains of 6-sided rings) at temperatures above 250°C instead of reverting to their component monomers, little, if any acrylonitrile exposure results from decomposition of the fibers.

Other major uses of AN include the manufacture of ABS (AN-Butadiene-Styrene) and San (Styrene-AN) resins and plastics, nitrile elastomers, and latexes (rubbers), and as an intermediate in the production of other chemicals such as adiponitrile and acrylamide.

ABS resins and plastics are produced from three monomers, acrylonitrile, butadiene, and styrene, and have a wide range of uses. They can be processed in many different ways into a variety of fabricated products. In the manufacture of ABS resins butadiene and styrene are copolymerized to form a "spine", or base polymer. Styrene and acrylonitrile chains are then grafted onto this base polymer. In a separate operation, acrylonitrile and styrene are copolymerized to form a resin, and this resin is then mixed with the grafted polymer to produce a latex. The latex is then flocculated (formed into clumps), filtered, washed, and dried.

Potential exposure to acrylonitrile occurs at many points during the ABS resin manufacturing process. This operation involves the conveyance of AN monomer from storage tanks to various process areas and necessarily includes many valves, gaskets, pipes, sampling points, and other areas where AN may be released, either from leaks in the equipment or from the opening of the system, as during sampling. In addition, the blending, flocculation, and drying areas are po-

tential areas of exposure, because the mechanical and heat processing of the polymer latex causes residual AN in the polymer to be released. Since suspension and solution polymerization processes involving latex or slurry usually result in relatively high levels of residual AN, the processing of the polymer can result in a substantial release of AN.

The manufacture of nitrile rubber from acrylonitrile and butadiene also involves the processing of latex and slurry, and therefore, includes similar areas of potential exposure to AN monomer. In addition, the polymerization process for the production of nitrile rubber results in higher employee exposures (both actual and potential), since the polymerization process is not complete when the contents of the reactor, called the "charge", are transferred to the blowdown tank. The latex, therefore, contains a considerable amount of residual monomer when it is moved from the blowdown tank to the distillation tank for "steam-stripping" (steam-stripping involves the removal of residual monomer with steam). Even after stripping, the latex contains enough AN monomer to cause high exposures in the coagulation tank area, and subsequently in the washing and drying areas.

Because of the presence of residual acrylonitrile monomer in virtually all AN-based polymers, it is necessary to discuss the potential for exposure of employees who process acrylic fibers, ABS resins, and other materials.

The low level of residual AN in acrylic fibers, once they are crimped and cut, as well as the degree to which the AN is bound up in the polymer, makes the handling of acrylic fibers an unlikely source of acrylonitrile exposure. In order to release the residual AN from the fibers, it is necessary to heat them to their glass-transition temperatures, which would discolor and spoil the product. In addition, even if such temperatures were to be reached, the low amounts of residual AN which are present in the fibers (less than 20 ppm, from data submitted to the record) would not be expected to result in a significant exposure situation.

Where the intermediate product is a polymer latex or solution, as with polymer polyols, there is a definite possibility of AN exposure of employees involved in the processing of that product into a final product. For example, where the product is processed by heat or pressure, as is done in polyurethane foam fabrication, residual AN monomer in the polymer may be driven off. If the stripping of monomer from the polymer before it is packaged for further processing is incomplete, there may be sufficient monomer left in the polymer to result

in substantial exposures of employees handling it in subsequent processing operations.

The wide use of ABS resins in plastics manufacture provides a major potential source of employee exposure to AN. ABS resins are extremely versatile polymers, and they may be processed into finished parts by almost any of the generally recognized thermoplastic conversion processes, such as injection molding, extrusion, and other basic thermoforming techniques. ABS plastics can also be mechanically formed into parts by blow-molding or cold stamping of sheet plastic for example.

Besides being used alone to make fabricated products, ABS resins can be combined with other resins, such as PVC in various ratios, to produce products with wide-ranging qualities and capabilities.

Thermoplastic processing of ABS resins involves a melting of the polymer, followed by injection into a mold, extrusion of ABS into sheet or pipe, thermoforming of extruded ABS sheet plastic into products, or comparable processes. When the polymer is melted, residual AN monomer may be released into the workplace.

It would appear that in general the higher the residual AN content of the polymer, the higher the resultant levels of AN vapor released into the workplace. However, because of the extremely wide use of ABS resins, and the wide range of uses and processing techniques employed, no precise correlation can be made between the level of residual AN in the ABS resins and AN exposures during thermoplastic processing operations.

A further difficulty connected with ABS resins and plastics involves the phenomenon of "depolymerization." Due to the nature of the polymer chains and grafts in ABS plastics, when they are heated to temperatures well in excess of their melting points, the polymers tend to revert to their component monomers. Although this phenomenon would more likely occur because of an accident or abnormal situation, such as the overheating of an extrusion head, the possibility of its occurrence in any situation involving heat-processing must be considered. (9)

#### B. HEALTH EFFECTS OF EXPOSURE TO ACRYLONITRILE

1. *Carcinogenicity—Evidence in Animals.* In March 1977, Dow Chemical Co. laboratories prepared an interim report on a 2-year rat ingestion study of acrylonitrile, which it is conducting under the auspices of the Manufacturing Chemists Association (MCA), to assess AN's chronic toxicity and potential carcinogenicity. (3) In this study, AN was incorporated in the drinking water of Sprague-Dawley rats at con-

centrations of 0, 35, 100, and 300 ppm. The number of animals at the beginning of the study was approximately 50 animals/sex/group, plus an additional 10/sex/group intended for interim sacrifice after the first year. The interim report issued by Dow contained data on the pathological examination of the sacrificed animals. This report showed an increased incidence of tumors of the stomach, central nervous system (CNS), and Zymbal gland of the ear canal in rats receiving 100 and 300 ppm acrylonitrile. For the combined male and female rats, the incidence of the various tumors was as follows: stomach papillomas were 1 of 20 rats at 100 ppm and 12 of 20 at 300 ppm; CNS tumors were 6 of 20 rats at 100 ppm and 3 of 20 at 300 ppm; and Zymbal gland carcinomas were 2 of 20 at 100 ppm and 2 of 20 at 300 ppm. No such tumors were found in the control rats.

In a letter from MCA on April 11, 1977, it was reported that the same type of CNS tumors as seen in the groups of rats receiving doses of 100 and 300 ppm had been found in two rats at 35 ppm, the lowest test level. (1) The CNS tumors seen at all test levels of this study were microglioma, primarily of the brain and one of the spinal cord. This type of tumor is rare and unusual in the rat, occurring spontaneously at a rate of approximately 1% or less.

In a 2-year study being conducted by Dow involving inhalation exposure of rats to acrylonitrile, male and female rats are being exposed to 0, 20, and 80 ppm acrylonitrile for 6 hours per day, 5 days per week (1) After the first year of the study, 13 rats per sex, per dose were sacrificed, and the following results were reported: 3 rats in the 80 ppm group had tumors of the CNS which were reported to be "comparable" to those reported in the 2-year ingestion study; increased incidences of ear canal tumors and mammary region masses were detected at the 80 ppm level; an apparent increase in the subcutaneous masses of the mammary region was detected in the rats in the 20 ppm group; and no ear canal or CNS tumors were seen in the rats in the 20 ppm group. The finding of similar tumors in the inhalation and ingestion studies gives evidence of the apparently systemic nature of the carcinogenic effect of acrylonitrile after absorption.

With the exception of the mammary gland tumors and ear canal tumors, all types of neoplasms discovered in the treated animals are relatively rare in 18-24 month-old rats, occurring spontaneously at an incidence of approximately 1%.

In his evaluation of the data from the MCA-sponsored animal studies on acrylonitrile, Dr. Robert Squire, a recognized pathologist/oncologist and As-

sociate Professor at the Johns Hopkins University School of Medicine, made the following observations:

Interim or preliminary data is not customarily considered appropriate for carcinogenic evaluation, since the more common tumors which occur with variable incidence in test animals may produce false positive trends which are not supported by final observations.

However, particularly in the case of brain and stomach tumors of this type, immediate concern is warranted by the interim observations. These are rare tumors which do not occur in any rat strain at any age at incidences comparable to those observed in this experiment. Experience in laboratory animal oncology, plus the recent observations of additional tumors in remaining treated animals indicates that the evidence for carcinogenic effect will undoubtedly become more conclusive as the experiments progress.

The conclusions can clearly be drawn that acrylonitrile is carcinogenic under the conditions of this experiment. There is definite indication that malignant neoplasms of the central nervous system were induced at all dose levels by the oral route and at the 80 ppm level in the inhalation study. Benign gastric neoplasms, and preneoplastic epithelial alterations in the stomach are also clearly treatment related.

Although the malignant ear neoplasms and the mammary neoplasms occurred with low incidence in the initial report of interim observation, their numbers still exceeded that in the controls, and that expected according to historic observations. A tentative conclusion must be that these are also treatment related. (10)

In addition, three other Board Certified Pathologists, Drs. David Groth, Choudari Kommineni, and Ralph Yodaiken, all currently employed by NIOSH, examined the rat-tissue sections prepared by Dow and reviewed the results of the MCA studies. Their reports were transmitted to OSHA in a NIOSH memorandum dated December 7, 1977. In his report, Dr. Yodaiken stated that

(d)espite the small number of animals (10 per group) examined thus far, the results are both statistically and biologically significant. Acrylonitrile appears to be responsible for malignant change occurring in the central nervous system; the ceruminous glands of the ear canal, far in excess of any spontaneous tumor incidence; and possibly for the early appearance of mammary gland tumors. The papillomata of the stomach must be considered both directly related to the ingestion of the acrylonitrile and premalignant. In their report, Drs. Groth and Kommineni note that "(i)t is interesting that there is a dose response relationship with the stomach papillomas but not with the brain tumors (incidence being about the same in both high dose groups)" and conclude that "... acrylonitrile is a carcinogen in rats." (13)

*Evidence in humans.* In May 1977, E. I. duPont de Nemours and Co., Inc. (duPont) made available to OSHA the preliminary results of an epidemiologic study of duPont workers at the company's textile fibers plant in Camden, South Carolina (5). The



study indicated excess cancer incidence and cancer mortality as compared with company and national experience. The study included 470 male employees who began working in the polymerization area of the plant between 1950 and 1955 and who were either still actively employed by, or had retired from the company.

The study analyzed data through 1975, allowing for a 20-year latency period for the cohort studied. The company observed an incidence of 16 cancer cases among active employees, as compared with an expected number of 5.8 (based on company rates) or 6.9 (based on national rates). Of the 16, there were six lung cancers (1.5 expected), three colon cancers (0.5 expected), and one cancer in each of seven other primary sites as compared with fractional expected values. The differences between observed and expected cases were statistically significant.

DuPont reported that all cancers found occurred among those employees who were first exposed to AN between 1950 and 1952. This is not surprising in light of the latency period for various forms of cancer which can range up to 20 years or longer. Although there is little or no data available on employee exposures to AN during this period, there is also no safe level currently known for exposure to carcinogens. While it is conceivable that the exposures in question were well above those later achieved in these operations, the duPont study does not indicate the levels to which these employees were exposed, and no direct correlation has been demonstrated between any specific level of exposure and the increased incidence of cancer in this cohort. Even if such direct correlation could be made, this would not establish the level which actually induced the cancers observed. Some of the individual cancers in question may have actually been initiated at exposures well below that particular level. The complexity of carcinogenesis, including the factors of the long latency periods involved and the multitude of conditions relating to individual sensitivities to carcinogens make it difficult at this point in time, to demonstrate that exposure to any specified quantity of AN is, in fact, safe.

DuPont also reported that mortality data for the same cohort showed eight cancer deaths, as opposed to 4.0 (company rates) or 5.1 (national rates for white males in 1970) expected. These differences were also statistically significant. Of the eight cancer deaths, four were from lung cancer (1.5 expected), while the other four were cancers of different primary sites.

DuPont is presently attempting to trace an additional 484 employees who were first exposed to acrylonitrile in

the Camden plant between 1950 and 1955, but who had either been laid off or quit employment with the company.

In a letter accompanying the preliminary results of the study, the corporate medical director for duPont stated that while the company does not consider the study to provide definitive evidence that acrylonitrile is carcinogenic in man, "these findings, when considered together with the results of the animal tests which were reported previously, raise a serious suspicion that it may be a human carcinogen." (5) While these data show a higher frequency of lung and intestinal cancer, these tumor types alone are not entirely responsible for the significant excess of cancer seen in the cohort. Although the variety of primary tumor sites observed is an unusual manifestation of carcinogenic response, this finding is corroborated by a similar pattern shown in the animal ingestion and inhalation studies described above.

In their analysis of the duPont report, NIOSH has stated:

(It is interesting to note that, in addition to these two specific sites, cancer of eight additional sites (prostate, lymphosarcoma, Hodgkins, penis), thyroid, nasopharynx, bladder, and pancreas) occurred among the workers in this cohort. As pointed out by the investigator, this nonspecificity of tumor site is reflected in animal studies in which acrylonitrile was ingested or inhaled.

Interpretation of these results is severely limited by two major factors:

(1) The vital status of a large proportion (36%) of the cohort has not yet been determined, and

(2) complete work histories have not been obtained to provide information on exposure to substances other than acrylonitrile.

However, the excess of lung cancer and cancer of the large intestine in both the morbidity and mortality analysis is clearly suggestive of a cancer problem among acrylonitrile workers." (13)

The influence, if any, of cigarette smoking is relevant when assessing the factors which may contribute directly or indirectly to any excess of lung cancer in humans. The authors noted that the preliminary report did not include the smoking histories of the cohort, but the final analysis is expected to do so.

Finally, duPont's epidemiologist concludes in her report that:

Based on these preliminary findings, it can be concluded that persons exposed to AN at the textile fibers plant in Camden, South Carolina, are at greater risk of developing cancer, as compared with company, national and regional experience. (5)

**2. Mutagenicity.** The detection of carcinogens as mutagens has been shown to be 85-90 percent accurate in the *Salmonella typhurium* assay described by Joyce McCann, et al. (14, 15) It has been shown to have similar

accuracy in identifying noncarcinogenic chemicals, although some carcinogenic mutagens, such as dimethylnitrosamine, first require metabolic conversion to their active form. As yet unpublished research has shown that an assay procedure with *S. cerevisiae* is about 60 percent accurate in the detection of those carcinogens which increase the rate of mitotic recombination. (16) Although the test systems are not 100 percent accurate and neither a positive nor a negative response absolutely proves a chemical to be hazardous or nonhazardous to humans, the use of both assay procedures significantly enhances the probability of detecting potentially hazardous chemicals.

Several researchers employing a variety of methods, have investigated the mutagenic potential of acrylonitrile. AN has been shown to be weakly positive in two separate bacterial mutagenesis tests using the Ames *Salmonella* system. (17) In the presence of a mouse liver homogenate, AN produced mutations in the TA 1535, TA 1538 and TA 978 strains of *Salmonella typhurium* at low atmospheric concentrations (exposures to 57 ppm resulted in mutagenic effects). The use of an exposure chamber facilitated the control of the exposure atmosphere and minimized inaccuracies stemming, in part, from the high volatility of AN.

Another study indicated that AN is weakly mutagenic to TA 1535 metabolically activated with rat liver homogenate. (18) Venitt, Bushell and Osborne found the mutagenic effects of AN on the WP2 series of *E. coli*, to be weak and "reliably demonstrable only within a narrow range of doses when measured by the plate tests." (19) These results were nevertheless statistically significant and highly reproducible. The authors repeated these experiments using the simplified fluctuation test described by Green, et al., which confirmed the results of the plate tests. (20, 21) This procedure also enabled the authors to reliably detect mutagenic activity at levels of AN which were 20 to 40 times lower than those used in the plate tests, thereby minimizing the effects of AN toxicity seen at the higher levels. These same authors were unable to reproduce the positive results reported by either the duPont Co. (18) or Milvy (17) when proceeding without the use of an exposure chamber. More confirmatory evidence of the mutagenicity of AN was provided by McCann, et al. in experiments incorporating the resistance transfer factor pKM 101 plasmid which increases microbial sensitivity to the mutagenic effects of chemicals. (22) As expected, AN was more mutagenic in this system. A limited positive mutagenic response was demonstrated by Brusick and Mayer in a study using the D4 strain of *Saccharomyces* in a

non-activated system, although the authors did not regard these results as significant. (23)

Two studies done on six different strains of *Salmonella* which used neither the fluctuation test nor the exposure chamber methods showed no activity at all. (16, 24)

The wide variation of test results reported in the area of mutagenicity would appear to be closely related to the differences in the laboratory methods used and to the high volatility and toxicity of AN. The tests which gave negative results were done under experimental conditions which made no adjustments for these factors. Without repetition, using appropriately controlled conditions, these experiments could not be said to show that AN is non-mutagenic.

**3. Teratogenicity.** The effects of maternally ingested acrylonitrile on embryonal and fetal development have recently been studied in an attempt to further define the extent to which AN can affect biological systems.

In an evaluation of the teratologic effects of AN, Murray, et al. reported incidences of several significant fetal malformations as well as evidence of embryotoxicity. (4) Doses of 0, 10, 25 and 65 mg of AN/kg/day were given to pregnant Sprague-Dawley rats by gavage on days 6-15 of gestation. The highest dose-level was significantly maternally toxic and produced increases in a variety of malformations among the fetuses in addition to evidence of embryotoxicity. The next lowest dose, 25 mg AN/kg/day, produced less maternal toxicity and a low incidence of the same signs of embryotoxicity and fetal malformations. No evidence of maternal toxicity or effects on the developing embryos or fetuses was apparent at the lowest dose of AN administered (10 mg AN/kg/day). The possibility that maternal toxicity was the sole cause of the malformations seen in this study is discounted by the authors for two major reasons. First, their experience in other studies of this type indicates that the kinds of malformations seen here had historically not increased in incidence in fetuses of pregnant rats subjected to similar or even greater stress. Secondly, the degree of toxicity observed in the dams apparently did not correlate with the occurrence of malformations seen in their respective offspring.

In reproduction studies of a series of nitriles (acrylonitrile, adiponitrile and B.B'-oxydipropionitrile) conducted by Svrbely and Floyd, groups of Holtzman strain Sprague-Dawley rats were given 10, 100 and 500 ppm of the individual nitriles in their drinking water. (25) Data from two first-generation litters showed decreases in the indices of fertility, gestation and viability in the group given the highest doses of AN.

Growth retardation was also seen in the offspring of this high-dose group and in addition, a progressive muscular weakness in the hind limbs of the females at the 500 ppm dose developed unexpectedly 16-19 weeks after the weaning of the second litter (while this study was to be continued through three generations, the data for the succeeding two generations was not made available).

In summary, it should be noted that in their final decision on Acrylonitrile Copolymers Used to Fabricate Beverage Containers, the Food and Drug Administration (FDA) stated that "the available toxicology data demonstrate that acrylonitrile is a teratogen, a mutagen, a tumorigen, and probably a carcinogen" (42 FR 48528 at 48542).

**4. Other toxic effects.** Acrylonitrile (AN) has long been recognized as a highly toxic substance, and its toxicity to humans and other mammals by inhalation, ingestion, skin contact and injection has been shown both clinically and experimentally.

Until recently the toxicity of AN was thought to be primarily due to the inhibition of cellular respiration by the in vivo release of cyanide ions (similar in its action to inorganic cyanide), and producing no permanent physiological damage. (26, 27, 28) There is now considerable evidence indicating that while the in vivo decomposition of AN may release some cyanide within the body, the primary toxic effect of this substance is a result of its own chemical composition. (29, 30, 31, 32)

Human symptoms of exposure to AN have been those associated with the CNS, gastrointestinal, respiratory, and peripheral blood systems. They have included headache, dizziness, abdominal pain and vomiting, fatigue, asthenia (weakness), diarrhea and jaundice as well as some instances of convulsions, chronic effects on enzyme systems and other biochemical disorders. Apart from the above effects which can result from exposures due to absorption through the skin, prolonged or repeated skin contact has been found to cause dermatitis due to the solvent effect of AN on the skin. Irritation and blistering has been reported in instances where AN has been held against the skin, with effects resembling a second degree thermal burn but with little or no accompanying pain.

In addition, acute intoxication resulting in death has been reported in children. Several children died while sleeping in rooms which had been disinfected with AN. (36) Another died four hours after AN was applied to the scalp as a delousing medium. (37)

Several cases of AN poisoning in workers were reported by R. H. Wilson in 1944. (35) The most frequent symptoms included slight jaundice, gastritis, respiratory oppression and fatigue.

In a later study, Wilson reported that workers exposed to 16-100 ppm for 20-45 minutes experienced respiratory and nervous system effects. (34)

In an epidemiologic study of health impairment among acrylonitrile workers in Japan, Sakurai and Kusumoto studied 576 workers exposed to AN in concentrations of less than or equal to 5 ppm and less than or equal to 20 ppm over a 10-year period from 1960 to 1970. (38) The cohort was studied with respect to both age and length of exposure to AN, and subjective complaints as well as objective symptoms were examined. The authors found that increased incidences of subjective complaints including headache, fatigue, nausea and weakness, as well as of abnormal values of some of the objective tests, such as anemia, jaundice, conjunctivitis, specific gravity of whole blood, blood serum and cholinesterase values, urobilinogen, bilirubin, urine protein and sugar. These were found to vary directly with length of exposure to AN and were statistically significant. The authors concluded that AN exposures at these levels caused mild liver injury and a probable cumulative toxic effect.

Orushev and Popovski examined the results of a clinical study conducted on twenty workers exposed to AN vapors and others chemicals in an acrylic fibers plant. (39) The AN concentrations in the workroom air ranged from 3.0 to 20 mg/m<sup>3</sup> (1.38 to 9 ppm), with an average value of 7.5 mg/m<sup>3</sup> (3.4 ppm) of AN in air. Most of the symptoms observed were CNS-related.

The clinical symptomatology reported here is similar to that described by Shustov in workers employed in the production of AN. Shustov speculates that blood disorders detected may be the result of a disturbance of enzyme activity. (40)

In a later study of 390 Russia nitrotrone workers exposed to AN, methyl acrylate and sodium thiocyanate in the synthetic fiber industry, Shustov and Mavrina reported a number of systemic disorders, including changes in the cardiovascular and hematopoietic systems, the gastrointestinal tract and liver. (41) (Nitrotrone is a synthetic fiber made by polymerization of AN or by copolymerization of AN with methyl acrylate in a sodium thiocyanate solvent). Measurements of AN in the workroom air ranged from 0.8 to 1.8 mg/m<sup>3</sup> (0.37 to 0.83 ppm) with some areas reaching 3.75 mg/m<sup>3</sup> (1.73 ppm). Subjective complaints among 340 nitrotrone production workers included headache, dizziness, insomnia, rapid fatigue, emotionality, itching of the skin and burning of the throat. Fifty workers with 3 to 10 years of service in other areas of this plant (e.g., equipment operators, laboratory workers, technicians and spinners) showed evidence of functional disorders of the



central nervous system. The systems most seriously affected were reported to have been the nervous system, the cardiovascular system and the hematopoietic system in addition to significant changes in enzyme systems and the gastrointestinal tract.

In a similar study conducted in two stages between 1965 and 1971, Zotova found exposures in the work-room air ranging from 2.5 to 5 mg/m<sup>3</sup> (1.2 to 2.3 ppm) during the first period of the study and averaging 0.75 mg/m<sup>3</sup> (0.35 ppm) during the second period. (42) The author also reports finding small quantities of residual AN on equipment, handrails, ladders, doors, door knobs, windows and floors as well as accumulations of AN on workers' bodies, shoes, boots and gas masks. Workers exposed to these concentrations were found to have exhibited malaise, headache, insomnia, irritability, chest pain and poor appetite as well as tendencies towards anemia, leukopenia, inhibition of enzymes and disorders of the oxidation-reduction processes as compared to a control group.

Mavrina and Il'ina tested the immunologic reactivity of forty-five 18- and 19-year-old trade school students exposed to AN, Methyl Acrylate and Sodium Thioeyanate before, during and after 3 months of exposure to workroom air concentrations of AN reportedly ranging from 0.8 to 1.8 mg/m<sup>3</sup> (0.37-0.83 ppm). (43) Statistically significant increases in immunologic reactivity were noted, along with development of functional disorders of the nervous system. Changes were also observed in the peripheral blood picture with decreases in numbers of erythrocytes, hemoglobin levels and leukocytes and increases in the number of eosinophils in a fourth of the subjects.

Since the reports of the above-mentioned studies do not, for the most part, include the data collected or much description of the experimental methods or analytical techniques used, critical evaluation of these studies is not possible. Their value is enhanced, however, by the similarities of the findings reported by the various researchers and the correlation of the systems effected with those implicated in the animal studies. Of particular interest is the frequency of CNS-related symptoms in view of the data reported on CNS tumors in both the animal and human studies. The potentially serious nature of possible chronic toxic effects of AN (even at the low levels reported by these authors) must be given due consideration.

The present 20 ppm standard for AN was originally based on a comparison of the toxicities of AN and hydrocyanic acid (HCN) in humans and animals and the assumption that AN is almost completely hydrolyzed to HCN.

In 1942, Dudley and Neal concluded that the toxicity of AN is attributable to a molecular cleavage with production of HCN and separation of the CN group which actively interferes with tissue respiration. (27) Ten years later Brieger, Rieder and Hodes (1952) exposed rats to several concentrations of AN vapors and found small quantities of HCN in the blood of those exposed to 100 ppm of AN vapors while none was detected in rats exposed to lower concentrations. (26) These authors concluded that AN is metabolized to cyanide in vivo while others (Benes and Cerna, 1959; (29) Paulet and Desnos, 1961; (30) Paulet, Desnos and Battig, 1966; (31) and Hashimoto and Kanai, 1965 (32) have since concluded that the toxicity of AN is due to the whole molecule rather than to liberated HCN. The mode of action of AN toxicity remains a debatable issue and is still under investigation.

In 1947, Tullar reported fatalities in the males of different animal species resulting from oral, intraperitoneal or intravenous administration of AN in doses ranging from 36 to 85 mg/kg given at different rates over various periods of time. (44) The author found AN to be relatively toxic and to be very slowly eliminated from the body. Although this two-year feeding study was not specifically designed to investigate the potential carcinogenicity of AN, four of the test rats developed tumor-like growths while none of these were found in the control animals. In addition, no similar growths were found in any of the approximately 400 other rats from the same stock, nor were such tumors found in the breeding stock from which these animals were taken.

Other reported toxic effects of AN in animals include damage to the central nervous system, lungs, liver, kidneys, cardiovascular system and blood elements. In 1971 and 1972, Knobloch, et al. observed acute lesions and edema of the central nervous system (CNS) and evidence of neuronal damage following acute subcutaneous, intraperitoneal or inhalation administration of lethal and sublethal doses of AN in rats. (45, 46) Histological damage to neurons was noted after three weeks of daily intraperitoneal injection of 50 mg/kg and neuronal edema and chromatolysis after 6 months of inhalation of 250 mg/m<sup>3</sup> (115 ppm) AN in air. Biochemical changes in the CNS have also been described in response to acute lethal and sublethal doses of AN. (32)

In 1952, Brieger, et al. noted "breathing difficulties" in dogs inhaling AN vapors at a concentration of 217 mg/l<sup>3</sup> (99.8 ppm) AN in air for a few hours. (26) Dudley and Neal observed weak respiratory effects in rabbits and cats exposed to the same concentration. (27) while Dudley,

Sweeney and Miller found subacute bronchopneumonia, alveolar edema and extravasation of serum and erythrocytes into the alveoli as well as focal centers of lymphocytes and polymorphonuclear leukocytes in guinea pigs, rabbits, rats and cats exposed over a period of 8 weeks to an average concentration of 0.22 mg/l (99 ppm) AN in air. (28) Experiments done by Knobloch in 1971 produced strong irritation of the lungs with production of lesions hyperemia (excess blood), edema (swelling due to an accumulation of excessive fluid) and diapedeses (bleeding through intact blood vessels) in rats having single exposures to 680 ppm (1.5 mg/l) of AN for four hours. (45) Chronic studies done by Knobloch, et al., in 1972 showed a purulent exudate in the lungs of rats inhaling concentrations of 250 mg/m<sup>3</sup> (115 ppm) of AN in air 5 times a week for 6 months. (46)

Pulmonary effects have also been produced in animals exposed to AN by other routes of administration. Benes and Cerna exposed rats and mice to AN perorally, subcutaneously and intraperitoneally and found pulmonary edema in approximately 50 percent of the animals. (29) Knobloch, et al. (1971), found histological changes in the lungs of rats given sublethal doses of AN subcutaneously and intraperitoneally. (45)

The effects of AN on the blood have also been shown by Knobloch, et al. (1971). (45) Ten rats given intraperitoneal doses of AN increasing every four days from 10 to 114 mg/kg over a twenty-day period and eight rats given 50 mg/kg intraperitoneally each day displayed a reduced rate of growth, leukocytosis, an increase in the proportion of neutrophilic leukocytes and a decrease in the proportion of lymphocytes in the blood.

Several authors have also considered possible cumulative toxic effects of AN exposure. Knobloch et al. (1971), describe symptoms such as decreased weight gain, inhibition of normal increase of hemoglobin levels and erythrocyte counts for young rats, leukocytosis and neutrophilia in the peripheral blood, pulmonary inflammation, kidney damage, localized fatty degeneration of the liver and pathological changes in mucosa as well as enlargement of the heart as indications of cumulative effects over a three week series of daily intraperitoneal doses of 50 mg/kg. (45) The authors noted a pronounced difference between the toxic effects of AN and those of inorganic cyanides. The slow development of symptoms of AN intoxication was interpreted as an indication of the possibility of a cumulative toxic effect of AN with repeated doses. In 1960, Komissarov demonstrated the accumulation of a toxic effect on the receptors of the central nerves of the small intestine. (47)

It is interesting to note that the systems affected in studies of acute lethal and sublethal doses of AN in both animals and humans are the same as those which are affected in long-term studies where toxic effects are manifested by the development of tumors in these systems.

#### SUMMARY AND EXPLANATION OF THE STANDARD

The requirements of the emergency temporary standard are those which OSHA considers essential and feasible to protect employees from the grave danger resulting from acrylonitrile exposure until a permanent standard can be promulgated in accordance with sections 6 (b) and (c) of the Act. The following section discusses the significant provisions of the emergency temporary standard for acrylonitrile and the necessity for including these provisions in the ETS.

1. Paragraph (a).—Scope and application. This standard applies to all occupational exposures to acrylonitrile except for the processing, use and handling of certain polyacrylonitrile products, as discussed below.

The principal activities covered by this ETS include the manufacture of acrylonitrile, the production of acrylic and modacrylic fibers, the manufacture of ABS (acrylonitrile-butadiene-styrene) and SAN (styrene-acrylonitrile) plastics and resins, and the manufacture of nitrile rubber, as well as numerous specialty polymers, plastic and polyurethane intermediates, and polymer solutions. The ETS also covers related activities, such as packaging, repackaging, storage, transportation, and disposal of acrylonitrile.

For the purposes of the ETS, the term "polyacrylonitrile", or "PAN", refers to any polymer produced from acrylonitrile alone or in combination with other monomers and additives except for materials which are exempted from the ETS, as discussed below.

Although the scope of the ETS is broad, it does not apply to all operations in which AN is merely present. Rather, it is OSHA's intent to cover in the ETS, those operations with the highest exposures, while reserving judgment for the final rule as to whether or not additional operations should be covered.

OSHA has determined that the highest potential for exposures to AN exists in operations from manufacture of AN through the polymerization process. The provisions of the ETS apply to these types of operations. Moreover, OSHA recognizes that there may be significant quantities of residual AN present in the various types of resins, plastics, and rubbers which are manufactured from the monomer. The processing of many of these products can result in significant exposures to

employees through the release of the residual AN from the product. Therefore such operations are included in the ETS. However, on the basis of information presently available, fabricating and processing operations involving products made from PAN are not subject to the provisions of the ETS where the likelihood of release of significant quantities of AN is remote. The specific conditions for such an exemption are spelled out below. It is anticipated that this exemption will focus employer attention on the most serious problems first, while relieving many downstream employers from the requirements of the ETS.

Operations involving fabricated products made in whole or in part from polyacrylonitrile are exempted from the provisions of the ETS, provided they meet at least one of the conditions set forth in the exemption. Under the first condition, a processor of products fabricated from PAN will be exempted from the ETS if the employer can demonstrate, with objective data, that the product is not capable of releasing AN monomer resulting in airborne concentrations in excess of 1 ppm, under expected conditions of processing, use and handling which will cause the greatest release of AN. This determination need not be based on data generated by the processor but may, for example, be based upon information provided by the manufacturer and reasonably relied upon by the processor. This provision enables fabricators of products such as ABS plastics to avoid the burdens of compliance with the ETS, while providing incentives for the manufacturers of resins and other materials to improve their monomer-stripping techniques and minimize the amounts of residual AN in their products.

Since the range of products made from AN is so wide and varied, OSHA cannot, as a general matter, specify an "acceptable" level of residual AN for all products. There is considerable variability as to the ease with which residual AN is released from different products. OSHA believes that the most effective way of reducing the potential for release of AN in workplaces downstream from the manufacturing operation is for the manufacturer of the material to be processed to reduce the residual AN content of that material.

The second possible condition for the exemption provides that if AN-based plastics or other compounds other than latex and liquid mixtures, will not be heated or melted by the fabricator in the course of processing, that fabricator will not be subject to the provisions of the ETS. This provision recognizes that some AN-based products are not processed in such a way as to result in the release of AN into the workplace in amounts above 1

ppm, regardless of the actual residual content. Operations such as cold stamping of sheet plastic, for example, would be included in this exemption.

In addition to the release of residual AN from polymer, another potential route of AN exposure resulting from the heat processing of AN polymers is thermal decomposition. At temperatures of approximately 250° C and above, ABS resins and plastics, for example, will actually "depolymerize" into their respective component monomers, AN, butadiene, and styrene. This phenomenon is one more cause for concern when AN polymers are melted or otherwise heat-treated. It should be noted, however, that acrylic and modacrylic fibers are not subject to depolymerization and do not present the same hazard of exposure to AN from thermal decomposition, since their structure precludes their depolymerization, under similar conditions of temperature and pressure.

Because of the ease with which AN is released from latex solutions, emulsions, and other liquid mixtures, these products may not be exempted from the standard under the second condition in paragraph (a)(2), regardless of the means of processing or residual AN content. It should be noted that these materials may still be exempt under paragraph (a)(1) if it can be demonstrated that they do not have the potential under expected conditions of processing, use, and handling for the release of air concentration of AN exceeding 1 ppm. There is, therefore, a recognition of the possibility that some latex or liquid mixtures are atypical in their propensity to release AN into the workplace.

Employers whose operations qualify for exemption from the ETS under one of the conditions specified in paragraph (a) are required to maintain records of the objective data upon which they are relying for exemption, and to provide such evidence as required to justify that exemption.

It should be noted that where objective data is not available to satisfy one of the conditions for exemption, the employer is required to perform, at the very least, initial monitoring of employee exposures to AN. If the results of initial monitoring indicate employee exposures are below the action level, the employer may discontinue monitoring for those employees and is relieved of other obligations under the ETS. Thus, even if operations are not specifically exempted from the ETS, exposure levels below 1 ppm will relieve many employers from further duties under the standard, except with respect to training and labelling.

2. Paragraph (b).—Definitions. Because of the many and varied uses, processes, and products which involve acrylonitrile, it is necessary to define several terms as they are used in the standard.



The term "acrylonitrile" refers to the AN monomer, as a liquid or gas, wherever it may be found in the manufacturing or processing of polymers, as well as in the manufacture of the AN itself.

"Polyacrylonitrile" or "PAN", for the purposes of the standard, refers to all polymers having acrylonitrile as either a raw material or a component of the polymer chain, regardless of the percentage, except for materials exempted from the standard under paragraph (a)(2). Since the number of AN units in a polymer may vary widely from product to product, and oftentimes within the same product, OSHA believes that a broad definition is necessary to assure coverage of all potentially exposed employees.

An "action level" of 1 ppm (8-hour time-weighted average), or one-half the permissible exposure limit, is provided in the ETS. The purpose of the action level is to help to relieve the burden on employers by providing a cut-off point for required compliance activities under the standard. The broad scope of the ETS necessarily encompasses many employers whose employees are exposed to levels of AN below the permissible exposure limits. Such employers are required to perform initial monitoring to determine the extent of their employees' exposures to AN. If, on the basis of the results of the initial monitoring, an employer can demonstrate that an employee is exposed to AN below the action level, the employer may then discontinue monitoring and other compliance activities for that employee. The action level concept thus provides an objective means for an employer to determine what further actions are required for compliance with the ETS.

The statistical basis for determining the action level has been discussed in connection with several proposed OSHA health standards (see, for example, Proposed Standard for Trichloroethylene, October 20, 1975, 40 FR 49032). In brief, although all measurements on a given day may fall below the permissible exposure limit, some possibility exists that on unmeasured days the employee's actual exposure may exceed the permissible limit. Where exposure measurements are above one-half of the permissible exposure limit, i.e., the action level, the employer cannot reasonably be confident that his employees may not be overexposed. (Leidel, N. A. et al., "Exposure Measurement Action Level and Occupational Environmental Variability," DHEW, PHS, DCD, NIOSH, DLCK (August 1975)). Therefore, requiring periodic employee exposure measurements to begin at the action level provides the employer with a reasonable degree of confidence in the results of his measurement program.

3. Paragraph (c)—Permissible exposure limits. The ETS establishes a per-

missible airborne exposure limit and a prohibition on eye or skin contact with AN. The eight-hour time-weighted average is set at 2 parts acrylonitrile per million parts of air (2 ppm). A ceiling permissible exposure limit is established at 10 ppm as averaged over any 15-minute period during the workday.

The clear evidence from the animal testing performed for MCA, as well as the serious implications raised by the duPont data, indicate that for the protection of the worker, we must regard acrylonitrile as posing a carcinogenic risk to exposed employees.

OSHA policy, which is based on the best available scientific evidence and which is consistent with the policies and recommendations of nearly all public bodies which have addressed the problem of exposure to cancer-causing substances, has been and is that a substance which causes cancer in animals must be regulated as a human carcinogen, and in the absence of a demonstrated "safe" or "no effect" level for human exposure to a carcinogen, it must be assumed, as a prudent policy matter, that no safe level exists.

Acrylonitrile has long been recognized as a highly toxic material. In the past, industry has endeavored to maintain employee time-weighted averages well below the existing OSHA standard of 20 ppm, based upon its acute toxicity. Whereas the results of the MCA studies, in and of themselves, establish the need to regulate acrylonitrile as posing a carcinogenic risk, the duPont report further substantiates the absence of a demonstrated "safe" or "no effect" level for human exposure to acrylonitrile. As duPont noted in their discussion of their study, and as others have indicated in comments to the record, there is no definitive data available as to the levels of exposure to AN in the Camden plant during the period covered by the study. Many people have assumed that the levels during the start-up period of the plant (i.e., 1950-1952) were much higher than those achieved during later years of operation. Consequently, it is argued that the increased incidence of cancer demonstrated by those employees first exposed to AN during that start-up period must be attributed to those higher levels of exposure to AN. No data is presently available to indicate that any given level of exposure to AN would, in fact, be free of carcinogenic risk to exposed individuals. However, even if specific levels of exposure could be demonstrated to be associated with the incidence of cancer, this could not, in and of itself, establish a safe level for exposure to AN. While specific thresholds to various carcinogens may theoretically exist for some individuals, such thresholds may vary substantially

within any given population at risk as well as with time. Furthermore, the long latency periods involved in carcinogenesis make it difficult to demonstrate that exposure to any specified quantity of a chemical carcinogen was the cause of a specific carcinogenic episode many years later (5-40 years may be required before exposure to a carcinogen might produce detectable cancers.) The Assistant Secretary cannot, therefore, set an exposure level for acrylonitrile based on any "safe" level which will eliminate the cancer hazard.

OSHA recognizes that the setting of an exposure level for acrylonitrile must, therefore, be based on a determination of a level which will immediately minimize the hazard to the greatest extent possible, within the confines of feasibility. Consequently, it is determined that a prudent assessment of all pertinent factors (i.e., the health effects, the technology available for the accurate measurement and analysis of employee exposures, and the means available for reducing employee exposures) directs the establishment of an eight-hour time-weighted average permissible exposure limit to 2 ppm.

OSHA believes this level is attainable through the use of engineering and work-practice controls and respirators. In fact, several employers have already set internal goals for their employees' AN exposures of 2 ppm for an 8-hour TWA, while some are already achieving it for some operations through engineering and work practice controls alone.

In addition to limiting the 8-hour time-weighted average exposures to 2 ppm, the ETS requires that no employee be exposed to acrylonitrile in excess of 10 ppm averaged over any 15-minute period. An 8-hour TWA of 2 ppm contemplates exposures to varying concentrations of acrylonitrile during the course of the workday, with some periods of exposure above 2 ppm and corresponding periods below 2 ppm. OSHA recognizes that in many operations, relatively high excursions may necessarily be encountered by employees for short periods of time. OSHA believes that the uncertainty regarding the concentrations and duration of exposure that may increase carcinogenic risk requires that the magnitude of brief excursions be limited. On the basis of submissions to the record, and in light of the flexibility permitted by the ETS as to methods of compliance, it appears that a 15-minute ceiling of 10 ppm can feasibly be achieved. Consequently, a ceiling limit of 10 ppm averaged over any 15-minute period is established.

It has been OSHA's policy, in dealing with carcinogens to limit employee exposures to such substances to the lowest levels feasible. In keeping with

this policy, OSHA is prepared to establish a permissible exposure limit for AN in the permanent standard based on data which becomes available in the rulemaking which follows.

4. Paragraph (d)—Notification of use. The ETS requires employers to notify the OSHA Area Director of the location of all workplaces where acrylonitrile is present, and to describe the conditions of use and exposure and the protective measures in effect. This will permit OSHA to assemble a better profile of the industry, its capabilities, and the affected workforce, and to more effectively schedule and conduct its enforcement activities.

5. Paragraph (e)—Exposure monitoring. The exposure monitoring provisions require the employer to determine the exposure for each employee exposed to acrylonitrile. This does not require separate measurements for each employee. If a number of employees perform essentially the same job under the same conditions, it may be sufficient to monitor a significant fraction of such employees to thereby obtain data that are representative of the remaining employees.

Because of the nature of the hazard of exposure to AN, it is necessary that the scope of the ETS be as broad as possible to protect potentially exposed employees. However, many employers will be required only to perform initial monitoring to determine employee exposures. If the results of initial monitoring demonstrate that an employee's exposure to AN is below the action level (1 ppm), the employer may discontinue monitoring and other activities under the ETS for that employee. OSHA anticipates that this provision will greatly reduce the burden on employers, while providing them with an objective means of determining whether they must take additional steps for compliance with the ETS.

Where exposure measurements are determined to be above the permissible exposure limit, the employer must monitor monthly. Where exposure measurements are above the action level but below the PEL, monitoring need only be repeated 3 months later. "Exposure" in this connection means the airborne concentration in the employee's breathing zone, with no adjustment for the protection provided by any respirator the employee may be wearing.

The employer is also required to perform monitoring again for a particular job position if any changes in production, processes, control measures, or personnel may result in new or additional exposures to AN.

A primary concern connected with any health standard, particularly when dealing with a carcinogen, is the availability of methods of monitoring and analysis of employee exposures. It is clear from data submitted into the

record that there are several off-the-shelf methods of monitoring for AN which can be implemented by employers, and that many employers are already carrying out periodic monitoring activities. Among methods which have been noted in comments submitted to the record are the use of charcoal tubes, "Poropak" polymer sampling tubes, and personal badge-type dosimeters, as well as Saran bag "grab samples," detector tubes, and fixed point monitoring systems. The ETS does not require the use of one specific monitoring method, but it does specify that whatever method is chosen must meet the criteria for sensitivity and accuracy set forth in the standard.

The ETS requires the employer to notify each employee in writing of his/her exposure within five (5) days of obtaining the results of measurement. This requirement involves a written communication to each employee so that the employee will definitely be advised of his/her exposures.

6. Paragraph (g)—Methods of Compliance. The ETS is flexible and permits a variety of responses to achieve the required reduction in employee exposure. The employer may use feasible engineering controls, work practices, personal protective equipment, and respirators as necessary to achieve the required degree of protection. This is substantially different from the requirement in existing OSHA permanent standards, there is a hierarchy, requiring maximal use of engineering controls, and work practices, and allowing respirators and personal protection only where all other feasible means fail to control exposure.

Some fundamental and easily implemented work practices are specifically prescribed elsewhere in the ETS: i.e., limiting access to work areas to authorized personnel; prohibiting smoking and eating in work areas where there is a potential for exposure to AN above the permissible exposure limits; and housekeeping and maintenance to reduce the amounts of potentially hazardous material that may be present in the workplace.

The ETS also requires employers to prepare a plan for the reduction of employee exposure to the lowest feasible level solely by engineering and work practice methods, within 90 days of the issuance of the ETS. While the ETS will be in effect for only a brief time, and a full public proceeding must precede the issuance of a permanent standard, OSHA believes it is necessary to begin planning now for employee protection in the long term. Because of the general irreversibility of cancer, as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the gravity of the health risk.

7. Paragraph (h)—Respiratory protection. The ETS provides that where respirators are necessary to limit employee exposures to below the permissible exposure limits, the employer must provide, at no cost to the employee, and assure that the employees use respirators. The ETS contains a respirator selection table (Table 1) so the employer will provide the type of respirator which affords the proper degree of protection based on the airborne concentrations of acrylonitrile to which the employee may be exposed for protection against vapors and gases. In addition, the requirements of the table closely parallel the recommendations which have been received in the record from several major companies having considerable experience with AN.

Most companies working with AN have long been aware of the high acute toxicity of this chemical, and many have developed respiratory protection programs to deal with the acute exposure hazard. OSHA has determined, on the basis of information in the record concerning these ongoing respirator programs and recommendations as to appropriate requirements for respiratory protection, that the provisions in the ETS concerning respirators should pose no undue burden to companies in their compliance efforts, particularly in light of the ready availability of the prescribed equipment.

Since AN has no warning properties at concentrations where the use of air-purifying respirators is permitted, and because these respirators have no end-of-service indicator, the ETS requires that the cartridges or canisters be replaced at the end of each workshift in which they are first used. Special care must be taken in their use to assure proper fitting.

The ETS requires that the employee be properly trained to wear the respirator, to know why the respirator is needed, and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform with 29 CFR 1910.134. This section contains the basic requirements for use, cleaning, and maintenance of respirators.

To prevent skin irritation and to minimize the discomfort of respirator use, the ETS requires that employees must be allowed to periodically wash their faces and respirator facepieces to reduce the chance of irritation from the wearing of the facepiece, and to remove any AN which may have accumulated on the facepiece. This provision is included because of the fact that AN is easily absorbed through the skin, and if it is held against the



skin for any prolonged period, it can cause irritation and blistering.

Finally, the ETS requires that respirators and other clothing and equipment required for protection from exposure to AN shall be provided at no cost to the employee. OSHA views this allocation of costs to control employee exposure to AN as being necessary to effectuate the purposes of the Act. The requirement makes explicit an agency position which has long been implicit in health standards proceedings under section 6(b) of the Act.

8. *Paragraph (j)—Protective clothing and equipment.* The ETS requires the employer to provide, at no cost to the employee, and assure that employees who are subject to skin or eye contact with AN use impermeable protective clothing or equipment such as goggles in order to minimize these hazards.

The ETS also requires that the employer clean, launder, or dispose of the required protective clothing to eliminate any potential exposure to AN that might result were the clothing to be laundered by the employee, at home or in a commercial laundry.

The ETS also requires that protective clothing be provided in a clean and dry condition at least weekly. Since skin contact with AN creates a potential for skin absorption and serious irritation and/or dermatitis, OSHA believes that the regular cleaning of contaminated work clothing plays an important part in the prevention of the exposure hazard. The ETS also requires that protective clothing and equipment be maintained and replaced by the employer as needed in order to ensure effectiveness.

In addition, since leather is known to absorb acrylonitrile readily, the protective clothing requirements of the standard will necessarily include the supplying of impermeable shoe covers to employees who may come into contact with liquid AN.

The ETS provides that the employer assure that all protective clothing is removed at the end of each workshift. In addition, whenever protective clothing becomes wet with liquid acrylonitrile the employer shall assure that the employee remove that clothing promptly to avoid skin contact. The employer is also required to assure that the clothing that is to be laundered, cleaned, or disposed of be placed in a closeable container. The purpose of requiring such a container is to prevent the contaminants on the clothing from being released into the ambient air or from being contacted by an individual handling the container.

Finally, the ETS requires employers to inform those who handle the contaminated protective clothing of the potential harmful effects of exposure to acrylonitrile. This provision is designed to make clear the need to use

proper care in handling of the contaminated protective clothing.

9. *Paragraph (k)—Housekeeping.* Removal and prevention of accumulations of liquid acrylonitrile or polymer containing residual acrylonitrile on all surfaces are important requirements in the ETS and are necessary to minimize employee exposure. When AN is in liquid or vapor form, all containers or vessels are required by the ETS to be enclosed to the maximum extent feasible, and tightly covered when not in use. Appropriate measures are to be taken to assure that compliance with this provision does not result in a fire or explosion hazard from AN.

10. *Paragraph (l)—Waste disposal.* For disposal of waste scrap or equipment or debris containing AN monomer, the standard requires that such material be collected and disposed of in sealed or closed containers which prevent the dispersion of AN outside the containers. State environmental protection agencies designate appropriate landfills for the disposal of such waste.

11. *Paragraph (m)—Hygiene facilities and practices.* Section 1910.141 prescribes hygiene facilities and practices required in all workplaces for ordinary sanitary protection. In addition, it includes provisions applicable where toxic substances are handled, for appropriate facilities and practices. While §1910.141 is a separately applicable provision in OSHA regulations, attention is directed to it by specifically referring to it in this ETS.

Change rooms as specified in §1910.141(e) are not required where the employer can demonstrate that such facilities, if not already available, cannot be provided before the expiration of this standard. However, §1910.141(e) requires change rooms wherever personal protective clothing is required. Personal protective clothing has been required in certain industries, such as AN monomer production under sections 1910.132 and 1910.133 for some time. The ETS does not diminish these pre-existing obligations in any way.

12. *Paragraph (n)—Medical surveillance.* The standard requires that each employer institute a medical surveillance program for all employees who are, or will be exposed to AN above the action level. OSHA believes that a medical surveillance program is necessary in dealing with the problem of employee exposure to AN; hence, pursuant to the Act, this standard has prescribed it. The authority, indeed, the requirement, to include medical surveillance in an OSHA standard is found in section 6(b)(7) of the Act:

... where appropriate, any such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or

at his cost, to employees exposed to such employment related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The ETS requires that the medical surveillance program provide each covered employee with an opportunity for medical examination.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician, and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g., taking of a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandated, by reason of section 6(b)(7) of the Act, the medical examinations and procedures required by OSHA Standards be provided at no cost to the employee.

The ETS requires that the medical examination include a work history, a medical history, and a physical examination of the affected employees. The content of the examination is based upon recommendations from NIOSH, and upon procedures followed by several companies at present in their clinical evaluation of employees exposed to acrylonitrile. The purpose of these requirements is to make an initial medical assessment of each employee and to establish a baseline health condition against which future changes in an employee's health may be compared.

The medical surveillance provisions of the ETS contain specific testing requirements, with concentration on the central nervous system, respiratory system, and gastrointestinal system. Based upon the data from the duPont and MCA studies of exposure to AN, these vital sites must be considered to be possible target sites for cancer. OSHA believes that these provisions will enable the examining physician to detect, and hopefully, provide early treatment for any cancers which may develop due to past exposures to AN.

The standard requires that the employer provide the physician with certain information. This includes the following: (1) A copy of the regulation; (2) a description of the affected employee's duties as they relate to the employee's exposure; (3) the results of the employee's exposure monitoring; (4) whether any personal protective equipment has been or will be used; and (5) information from previous

medical examinations of the affected employee to the extent that they are not readily available to the physician. The purpose of making this information available to the physician is to aid in the evaluation of the employee's health in relation to his assigned duties and fitness to wear personal protective equipment when required.

The employer is required to obtain a written opinion from the examining physician containing the following information: (1) The results of the medical tests; (2) the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to AN; (3) any recommended limitations upon the employee's exposure to AN and upon the use of protective clothing and equipment, such as respirators; and (4) a statement that the employee has been informed by the physician in writing of the test results, and of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure. A copy of the opinion must be provided to the affected employee by the employer.

The requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to their occupational exposures.

13. *Paragraph (o).—Employee information and training.* The ETS requires the employer to provide a training program for employees exposed to AN. OSHA believes that an information and training program is essential for the protection of employees, because an employee can do much to protect himself if aware of the nature of the hazards in the workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his or her work environment. For this reason, the employer is required to inform each employee exposed to AN of the nature of the related health problems, the necessity for exposure control, and the medical and industrial hygiene monitoring programs.

The content of the training program is intended to apprise the employees of several factors: (1) The hazards to which they are exposed; (2) the action

they can take to protect themselves, including avoiding exposure, using respiratory protection and taking medical examinations; (3) their role in reducing exposures; and (4) the contents of the standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the standard, therefore, includes such provisions.

The employer is also required to provide upon request, all materials relating to the training program to the Secretary and the Director. This is intended to provide an objective check of compliance with the requirements of the standard.

14. *Paragraph (p).—Signs and labels.* OSHA believes that it is important, and indeed, section 6(b)(7) of the Act provides, that appropriate forms of warnings be used as necessary, to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as to whether or not to work at a job under the particular working conditions in effect. Furthermore, OSHA believes that since control of health and safety problems involves the cooperation of employees, the success of a program is highly dependent upon the employee's understanding of the hazards attendant to his or her job.

In light of the serious nature of the hazard of exposure to AN, OSHA does not believe that periodic training alone will adequately apprise employees of the health hazards of AN. However, OSHA does believe that the training requirements, when coupled with the requirement to post signs and labels, will adequately do so.

The standard requires that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign.

Due to the hazardous nature of exposure to AN, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the standard includes a requirement that caution labels be affixed to all containers containing AN and AN-based polymers, except for products which meet one of the conditions of paragraph (a)(2) of the standard. This requirement is provided not only because of the hazardous nature of such exposure, but because of the necessity for both the employer and employee to know whether the product contains acrylonitrile. The labeling provisions of the standard also require the employer to assure that caution labels are affixed to products containing acrylonitrile when these products leave the employer's workplace. This requirement is designed to protect any

other employees who will be handling, transporting, or using this product. Thus, manufacturers and suppliers of acrylonitrile, intermediate polymers containing acrylonitrile, ABS and SAN plastics and resins, latexes, and other products containing AN would be required to affix caution labels to their products except as noted above. The rationale for this requirement is that the manufacturer or supplier is in the best position to know if the product contains AN and therefore, to warn other employers and their employees of the dangers involved.

15. *Paragraph (q).—Recordkeeping.* Section 8(c)(3) of the Act provides for the promulgation of regulations requiring employers to maintain accurate records of employee exposures to potentially toxic or harmful physical agents which are required to be monitored or measured.

The standard provides that records must be kept to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include the following information: (a) The names, social security numbers, and job classifications of the employees monitored; (b) the dates, number, duration, and results of each of the samples taken, including a description of the representative sampling procedure and equipment used to determine employee exposure where applicable; (c) the type of respiratory protective devices if any, worn by the employee; and (d) a description of the sampling and analytical methods used, and evidence of their accuracy.

The ETS also requires that the employer keep an accurate medical record for each employee who is subject to medical surveillance. Section 8(c) of the Act authorizes the promulgation of regulations requiring any employer to keep such records regarding the employer's activities relating to the Act as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are both necessary and appropriate to both the enforcement of the standard and the development of information regarding the causes and prevention of illness.

As explained above, it is necessary to relate employees' medical conditions with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an individual employee's health. For all of these reasons, medical records have been required in the ETS.

The ETS requires that employees or their designated representatives be provided access to examine and copy



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records of required monitoring. The purpose of this provision is to assure current employees that their exposure is being properly monitored and that they are working in a safe and healthful environment. Section 8(c)(3) of the Act explicitly provides "employees or their representatives with an opportunity to observe . . . and to have access to the records thereof."

The ETS requires that employee medical records be made available upon request for examination and copying by the affected employee or former employee, or a physician by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records which may be useful in the diagnosis of illness.

16. *Paragraph (r)—Observation of monitoring.* Section 8(c)(3) of the Act requires that employers provide employees and their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, the ETS contains provisions for such observation of monitoring of acrylonitrile exposures. To assure that the right to observe is meaningful, observers are entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure, and to record the results obtained.

The observer, whether an employee or a designated representative, must be provided with, and is required to use, any personal protective equipment required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

17. *Paragraph (s)—Effective date.* The ETS becomes effective upon publication. However, certain paragraphs do contain briefly delayed effective dates.

As noted earlier, some employers have already begun to carry out activities which are now to be required under the ETS, such as monitoring and medical surveillance. OSHA recognizes that the ETS might require repetition of steps that were taken only shortly before the standard became effective. To avoid such repetition, OSHA will recognize activities which are conducted within 30 days prior to the ETS as having been carried out under the ETS, if such activities were conducted in substantial compliance with the standard.

The Assistant Secretary determines that all requirements under the new §1910.1045 are feasible. Most affected employers have already obtained, or have access to, the required personal protective equipment, respirators, and

monitoring equipment for compliance with the ETS.

In fact, OSHA has been advised by Enviro Control, Inc., the contractor assessing the economic impact of an AN standard that all equipment, supplies and services expected to be necessary for compliance with the ETS are currently available from suppliers in sufficient quantities.

Several provisions require compliance as soon as possible, but no later than thirty (30) days from the effective date of the standard. This requires employers to take immediate steps to comply with these provisions, but recognizes that some employers may not be able to fully comply immediately. In any event, full compliance must be achieved by the end of the thirty-day time period. Examples of this are the medical surveillance and training sections of the standard. In addition, where specific elements of the medical examination, such as the chest x-ray, have been performed within the six (6) months prior to the effective date of this standard, those elements need not be repeated before the anniversary date. Furthermore, many of the requirements of the new standard are already required by other OSHA standards, such as the eye and face protection required under §1910.133, respiratory protection required under §1910.134, and sanitation requirements of §1910.141. Finally, any feasibility problems concerning the immediate effective date are mitigated by the following factors: (1) The fact that OSHA, in its notice in the FEDERAL REGISTER on June 29, 1977, indicated that the Agency was considering action on acrylonitrile, including the possibility of an emergency temporary standard; (2) the fact that NIOSH, on July 1, 1977, issued its "Current Intelligence Bulletin" on acrylonitrile, in which it recommended that OSHA regulate occupational exposure as a human carcinogen, and suggested work practices and other means of controlling exposures; (3) the fact that industry has been on notice of the interim results of the MCA animal studies since no later than April of 1977; (4) the fact that the duPont preliminary report on the epidemiological study of the Camden, S.C. fiber plant was available in late May of this year; (5) the fact that employers have long known of the hazardous nature of acrylonitrile, as well as its chemical similarities to hydrogen cyanide and vinyl chloride; and (6) the fact that efforts are already underway in many companies manufacturing, processing, or using acrylonitrile to lower employee exposures through engineering and work practice changes and controls. Accordingly, employers have been apprised of the hazardous nature of acrylonitrile for a substantial period of time, and they

have been aware of the need to provide protection, including respirators and other protective equipment.

18. *Paragraph (t)—Appendices.* The ETS includes three appendices: Appendix A, entitled "Substance Safety Data Sheet", Appendix B, entitled "Substance Technical Guidelines", and Appendix C, entitled "Medical Surveillance Guidelines". It should be noted that the appendices are for informational purposes only. None of the statements contained therein should be construed as imposing a mandatory requirement not in the ETS, nor should they be construed as negating any requirement which is included in the ETS.

The information in Appendix A is specifically written for the employee. Appendix B contains additional scientific and technical information to aid the employer in complying with requirements of the standard. Appendix C gives the employer a means of providing the examining physician with an explanation of the potential health effects of exposure to AN and provides information needed by the physician to evaluate the results of the medical examination. Appendix C also lists other types of examinations which are not specifically required by the ETS, but which may assist the physician in making an accurate determination of whether an employee should be exposed or should continue to be exposed to acrylonitrile.

19. *References.* The studies and other data listed below, as well as the additional material referred to in this document, represent the principal sources upon which the Emergency Temporary Standard is based. A complete set of the references is available for examination and copying at the OSHA Technical Data Center, Docket Office Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, between 8:30 am. and 4:30 pm. Monday through Friday, legal holidays excepted.

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## V. PUBLIC PARTICIPATION—NOTICE OF HEARING

Pursuant to section 6(c)(3) of the Act, this ETS as published also serves as a proposal for a permanent rule. A more comprehensive proposed permanent standard on occupational exposure to acrylonitrile has been developed, and is published elsewhere in today's edition of the FEDERAL REGISTER, at page —. The proposal contains additional provisions and some modifications of this emergency temporary standard. The comprehensive proposed permanent standard is based on the emergency standard, but contains provisions which OSHA deems to be more suited to permanent regulation of acrylonitrile. The differences between the ETS and the proposed permanent standard are discussed in detail in the preamble to the proposed permanent standard.

The emergency nature of this proceeding and the requirements of section 6(c) of the Act will necessitate expedited treatment throughout the development of the final standard on acrylonitrile. Therefore, interested parties should begin preparation of their written comments and oral presentations immediately.

Interested persons are invited to submit written data, views, and arguments with respect to this ETS and the proposed permanent standard. These comments must be postmarked on or before February 21, 1978, and submitted in quadruplicate to the Docket Officer, Docket No. H-108, Room S6212, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS and the proposal which are addressed and the position taken with respect to each issue.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard including economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 A.M. on March 21, 1978, in the New Department of Labor Auditorium, New Department of Labor Building, Third Street and Constitution Avenue, NW., Washington, D.C. 20210.



## NOTICES OF INTENTION TO APPEAR

All persons desiring to participate at the hearing must file in quadruplicate a notice of intention to appear, postmarked on or before February 27, 1978, addressed to Mr. Clarence Page, OSHA Division of Consumer Affairs, Docket No. H-108, Room N-3635, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210; telephone 202-523-8024.

The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202-523-7895, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) The capacity in which the person will appear;

(3) The approximate amount of time requested for the presentation;

(4) The specific issues that will be addressed;

(5) A detailed statement of the position that will be taken with respect to each issue addressed; and

(6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

## FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of his testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by March 7, 1978, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be limited to a 15-minute presentation, and may be requested to return for questioning at a later time.

## CONDUCT OF HEARINGS

The hearing will commence at 9:30 A.M. on Tuesday, March 21, 1978, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the emergency nature of this rulemaking proceeding, the hearing will be con-

ducted in as expedited a manner as possible with a full development of the record and the rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any posthearing comment period, the presiding Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposed permanent standard will be reviewed in light of all oral and written submissions received as part of the record, and a permanent standard for occupational exposure to acrylonitrile will be issued, based upon the entire record in this proceeding.

## AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR 1911, Part 1910 of Title 29, Code of Federal Regulations is hereby amended by adding a new § 1910.1045 as set forth below.

In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), the standard in the new § 1910.1045 is determined to be more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918, and 1926 of Title 29 Code of Federal Regulations. Therefore, these corresponding Standards are superseded by the new standard in § 1910.1045. These amendments are effective January 17, 1978.

Signed at Washington, D.C., this 12th day of January, 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore amended as follows:

1. Section 1910.19 is amended by adding a new paragraph (c) as follows:

§ 1910.19 Special provisions for air contaminants.

(c) *Acrylonitrile.* Section 1910.1045 shall apply to the exposure of every employee to acrylonitrile in every employment and place of employment covered by § 1910.12, § 1910.13, § 1910.14, § 1910.15; or § 1910.16, in lieu of any different standard on exposure

to acrylonitrile which would otherwise be applicable by virtue of any of those sections.

§ 1910.1000 [Amended].

2. Section 1910.1000 is amended by deleting the line "Acrylonitrile—20—45" from Table Z-1 of that section.

3. A new 1910.1045, is added, to read as follows:

§ 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposures to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in paragraph (a)(2) of this section.

(2) This section does not apply to the processing, use, and handling of products fabricated from polyacrylonitrile (PAN) where objective data is reasonably relied upon as to one of the following conditions:

(i) That the material to be processed is not capable of releasing AN in airborne concentrations in excess of 1 ppm under expected conditions of processing, use, and handling which will cause the greatest possible release; or

(ii) That the material to be processed is not a latex or other liquid mixture and will not be heated or melted during the fabrication process.

(3) Where the processing, use and handling of products fabricated from PAN are exempted under this paragraph the employer shall maintain records of the objective data supporting that exemption, as provided in paragraph (q) of this section.

(b) *Definitions.* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula  $\text{CH}_2=\text{CHCN}$ .

"Action level" means a concentration of AN of 1 ppm averaged over any eight (8)-hour period.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer and whose duties require the person to be present in areas where AN concentrations exceed the permissible exposure limit and any person entering this area as a designated representative of employees exercising an opportunity to observe employee exposure monitoring under paragraph (r) of this section.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Polyacrylonitrile" or "PAN" means polyacrylonitrile homopolymer or copolymer, except for materials as exempted under paragraph (a)(2) or of this section.

(c) *Permissible exposure limit.*—(1) *Inhalation.*—(i) *Time-weighted average limit (TWA).* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration in excess of 2 parts AN per million parts of air (2 ppm), as an 8-hour time-weighted average.

(ii) *Ceiling limit.* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration in excess of 10 parts AN per million parts of air (10 ppm) as averaged over any 15 minutes during the working day.

(2) *Dermal and eye exposure.* As soon as possible, but no later than thirty (30) days from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN, or with PAN.

(d) *Notification of use.* Within thirty (30) days of the effective date of this section or within fifteen (15) days following the introduction of AN into the workplace, every employer who has a workplace where AN is present shall report the following information to the nearest OSHA Area Office for each such workplace: (1) The address and location of each workplace in which AN is present;

(2) A brief description of each process or operation which may result in employee exposure to AN;

(3) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN.

(e) *Exposure monitoring.*—(1) *General.* Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an 8-hour period. (For the purposes of this section, employee exposure is that which would occur if the employee were not using a respirator.)

(2) *Initial monitoring.* As soon as possible, but not later than thirty (30) days after the effective date of this section, each such employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be ex-

posed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that these determinations are representative of employee exposures.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be below the action level, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee within three months.

(iii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor within three months.

(4) *Additional monitoring.* Whenever there has been a production, process, control, or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and to within plus or minus 35 percent for concentrations between the action level and the permissible exposure limits.

(f) *Regulated areas.* [Reserved]

(g) *Methods of compliance.*—(1) *General.* Employee exposures to AN shall be controlled to or below the permissible exposure limits by any practicable combination of engineering controls, work practices, and personal protective devices and equipment, during the

effective period of this emergency temporary standard.

**NOTE.**—Where engineering controls or work practices can reduce employee exposures to AN, it is recommended that they be implemented where practicable, even where they do not themselves reduce employee exposures to, or below the permissible exposure limits. Work practices which can be implemented by the employer to help reduce employee exposures to AN include limiting access to work areas to authorized personnel, prohibiting smoking and consumption of food and beverages in work areas, and establishing good maintenance and housekeeping practices, including the prompt clean-up of spills and repair of leaks.

(2) *Engineering and work-practice control plan.* (i) Within ninety (90) days of the effective date of this emergency temporary standard, the employer shall develop a written plan describing proposed means to reduce employee exposures to AN to the lowest feasible level solely by means of engineering and work-practice controls.

(ii) Written plans required under this paragraph shall be submitted upon request to the Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, Director, and any affected employee or designated representative.

(h) *Respiratory protection.*—(1) *Required use.* The employer shall assure that respirators are used where required under this section to reduce employee exposure to within the permissible exposure limits, and in emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required or permitted under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table I below, and shall assure that the employee wears the respirator provided. Respirators assigned for higher concentrations may also be used for lower concentrations.

(ii) The employer shall select respirators from among those approved for use with organic vapors by the National Institute for Occupational Safety and Health (NIOSH) under the provisions of 30 CFR Part 11.

TABLE 1.—Respiratory protection for acrylonitrile (AN)

Concentration of AN or condition of use	Respirator type
(a) Less than or equal to 20 p/m.	(1) Any chemical cartridge respirator with organic vapor cartridge and half-mask; or (2) Any supplied air respirator with half-mask.
(b) Less than or equal to 100 p/m.	(1) Any organic vapor gas mask; or (2) Any supplied air respirator with full facepiece; or (3) Any self-contained breathing apparatus with full facepiece.



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TABLE 1.—Respiratory protection for acrylonitrile (AN)—Continued

Concentration of AN or condition of use	Respirator type
(c) Less than or equal to 4,000 p/m.	(1) Supplied air respirator in positive pressure mode with full facepiece, helmet, hood, or suit.
(d) Less than or equal to 20,000 p/m.	(1) Supplied air respirator and auxiliary self-contained full facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentrations or fire fighting.	(1) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(3) **Respirator program.** (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134(b), (d), (e), and (f).

(ii) Where air-purifying respirators (chemical cartridge or canister-type gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the beginning of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) The employer shall allow each employee who uses a filter respirator (cartridge or canister) to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of filter elements for this purpose.

(iv) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.

(i) **Emergency situation.** [Reserved]

(j) **Protective clothing and equipment.**—(1) **Provision and use.** Where eye or skin contact with liquid AN or with PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with §§ 1910.132 and 1910.133 to protect any area of the body which may come in contact with liquid AN or with PAN.

(2) **Cleaning and replacement.** (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that the employee removes all protective

clothing and equipment at the completion of a workshift, and that an employee whose protective clothing becomes wet with liquid AN removes that clothing promptly to avoid skin contact with the liquid AN.

(iii) The employer shall assure that AN-contaminated protective work clothing and equipment is placed and stored in closable containers which prevent dispersion of AN outside the container.

(iv) The employer shall inform any person who launders or cleans AN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section and that such label remains affixed when such containers leave the employer's workplace.

(k) **Housekeeping.**—(1) **Surface.** (i) All surfaces shall be maintained free of accumulations of liquid of AN and of PAN.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where liquid AN and PAN are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable vacuum unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3)(ii) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) **Liquids.** Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(i) **Waste disposal.** AN and PAN waste, scrap, debris, bags, containers or equipment shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labelled as prescribed in paragraph (p)(3)(ii) of this section.

(m) **Hygiene facilities and practices.** Where employees are exposed to air-

borne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided. Change rooms as specified in § 1910.141(c) are not required where the employer can demonstrate that such facilities, if not already available, cannot be feasibly provided before the expiration of this standard. This provision does not in any way diminish pre-existing obligations to provide change rooms.

(n) **Medical surveillance.**—(1) **General.** (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) **Initial examinations.** Within thirty (30) days of the effective date of this section, or thereafter at the time of initial assignment, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or with chronic exposure to AN.

(ii) A physical examination giving particular attention to the central nervous system, gastrointestinal system, respiratory system, skin, and thyroid.

(iii) A 14" x 17" posteroanterior chest X-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood and proctosigmoidoscopy, on all workers 40 years of age or older and to any other affected employees for whom, in the opinion of the physician, such testing would be appropriate.

(3) **Periodic examinations.** [Reserved]

(4) **Interim examinations.** If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(5) **Information provided to the physician.** The employer shall provide the

following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(6) **Physician's written opinion.** (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical test performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) **Employee information and training.**—(1) **Training program.** (i) As soon as possible but no later than thirty (30) days from the effective date of this standard, the employer shall institute a training program for all employees where there is occupational exposure to AN and shall assure their participation in the training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section; and

(E) A review of this standard.

(2) **Access to training materials.** (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

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(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) **Signs and labels.**—(1) **General.**

(i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) **Signs.** (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER  
ACRYLONITRILE (AN)  
CANCER HAZARD  
AUTHORIZED PERSONS ONLY  
RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) **Labels.** (i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN except for those materials for which objective data is provided as to the conditions specified in (a)(2) of this section. The employer shall assure that these labels remain affixed when the AN, PAN and products fabricated from PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER  
CONTAINS ACRYLONITRILE (AN)  
CANCER HAZARD

(q) **Recordkeeping.**—(1) **Objective data for exempted operations.** (i) where the processing, use, and handling of products fabricated from PAN are exempted pursuant to paragraph (a)(2) of this section, the employer shall establish and maintain an accurate record of all objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in paragraph (a)(2) upon which exemption is based;

(B) The source of the objective data;

(C) The results of testing and analysis of the material being processed;

(D) A description of the operation exempted; and

(E) Other data relevant to the operation, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) **Exposure monitoring.** (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(3) **Medical surveillance.** (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n)(6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(4) **Availability.** (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected em-



ployee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(r) *Observation of monitoring.*—(1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:

(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.* This section shall become effective immediately.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligations.

#### APPENDIX A.—SUBSTANCE SAFETY SHEET FOR ACRYLONITRILE

##### I. SUBSTANCE IDENTIFICATION

A. Substance: Acrylonitrile (CH<sub>2</sub>=CHCN).

B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

C. Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13-19 parts AN per million parts of air (13-19 ppm).

F. Permissible Exposure: Exposure may not exceed either:

1. 2 parts AN per million parts of air (2 ppm) averaged over the eight-hour workday; or

2. 10 parts AN per million parts of air (10 ppm) averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

##### II. HEALTH HAZARD DATA

A. Acrylonitrile can affect your body if you inhale the vapor (breathing) if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of Overexposure:

1. Short-term Exposure: Acrylonitrile causes eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term Exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting Signs and Symptoms: You should inform your employer if you develop any signs or symptoms which may be caused by exposure to acrylonitrile.

##### III. EMERGENCY FIRST AID PROCEDURES

A. Eye Exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin Exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before re-using. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the locations of the emergency equipment before the need arises.

F. Special First Aid Procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls (ampules), each containing 0.3 ml, should be main-

tained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

##### IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators: You may be required to wear a respirator for non-routine activities, in emergencies, and while your employer is in the process of reducing acrylonitrile exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily. Reuse of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, the respirator is not working correctly. Go immediately to fresh air. If you experience difficulty breathing while wearing a respirator tell your employer.

B. Supplied-air Suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer should instruct you in their proper use and operation.

C. Protective Clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Replace or repair impervious clothing that has developed leaks. Where protective clothing is required, your employer is required to provide clean garments to you weekly.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with acrylonitrile, and if they do, the clothing should be promptly removed and laundered or discarded, and the shoes should be discarded. Once acrylonitrile penetrates shoe leather, or other leather articles, the article should not be worn again.

D. Eye Protection: You must wear splash-proof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

##### V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. Acrylonitrile is a flammable liquid and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly-closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong

oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any non-impervious clothing that becomes contaminated with acrylonitrile, and this clothing must not be worn until the acrylonitrile is removed from the clothing.

F. Clothing wet with liquid acrylonitrile can be easily ignited. You must promptly remove this clothing, and it must not be worn until the acrylonitrile is removed from the clothing.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials in areas where acrylonitrile is handled, processed, or stored, nor are you permitted to eat or smoke in these areas.

I. If you handle acrylonitrile, you must wash your hands thoroughly with soap or mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

##### VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work-practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee exposure measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least the effective period of this emergency temporary standard.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

#### APPENDIX B.—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE

##### I. PHYSICAL AND CHEMICAL DATA

A. Substance identification:

1. Synonyms: AN; VCN; Vinyl Cyanide; Propenenitrile; Cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula: CH<sub>2</sub>=CHCN.

3. Molecular Weight: 53.1.

B. Physical Data:

1. Boiling Point (760 mm Hg): 77.3° C (171° F).

2. Specific Gravity (water=1): 0.81 (at 20° C or 68° F).

3. Vapor Density (air=1 at boiling point of acrylonitrile): 1.83.

4. Melting Point: -83° F (-117° F).

5. Vapor Pressure at 20° C (68° F): 83 mm Hg.

6. Solubility in Water. Percent by weight at 20° C (68° F): 7.35.

7. Evaporation Rate (Butyl Acetate=1): 4.54.

8. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

##### II. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

A. Fire:

1. Flash Point: -1° C (30° F) (open cup).

2. Autoignition Temperature: 481° C (898° F).

3. Flammable limits in air, Percent by volume: Lower: 3; Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

6. Unusual fire and explosion hazards: Acrylonitrile is a flammable liquid. Its vapors can easily form explosive mixtures with air. All ignition sources must be controlled where acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard. Acrylonitrile vapors are heavier than air and may travel along the ground and be ignited by open flames or sparks at locations remote from the site at which acrylonitrile is being handled.

7. For purposes of compliance with the requirements of 29 CFR 1910.106, acrylonitrile is classified as a Class IB flammable liquid. For example, 7500 ppm, approximately one-fourth of the lower flammable limit, would be considered to pose a potential fire and explosion hazard.

8. For purposes of compliance with 29 CFR 1910.157, acrylonitrile is classified as a Class B fire hazard.

9. For purposes of compliance with 29 CFR 1910.309, locations classified as hazardous due to the presence of acrylonitrile shall be Class I Group D.

B. Reactivity:

1. Conditions contributing to instability: Acrylonitrile will polymerize when hot, and the additional heat liberated by the polymerization may cause containers to explode. Pure AN may self-polymerize with a rapid build-up of pressure resulting in an explosion hazard. Inhibitors are added to the commercial product to prevent self-polymerization.

2. Incompatibilities: Contact with strong oxidizers (especially bromine) and strong bases may cause fires and explosions. Contact with copper, copper alloys, ammonia, and amines may start serious decomposition.

3. Hazardous decomposition products: Toxic gases and vapors (such as hydrogen cyanide, oxides of nitrogen, and carbon monoxide) may be released in a fire involving acrylonitrile and certain polymers made from acrylonitrile.

4. Special precautions: Liquid acrylonitrile will attack some forms of plastics, rubbers, and coatings. Acrylonitrile monomer should be checked at least weekly to determine inhibitor content.

##### III. SPILL, LEAK, AND DISPOSAL PROCEDURES

A. If acrylonitrile is spilled or leaked, the following steps should be taken:

1. Remove all ignition sources.

2. The area should be evacuated at once and re-entered only after thorough ventilation.

3. If liquid acrylonitrile, collect for reclamation or absorb in paper, vermiculite, dry sand, earth, or similar material.

4. If acrylonitrile polymer, collect spilled material in the most convenient and safe manner for reclamation or for disposal.

B. Persons not wearing protective equipment should be restricted from areas of spills or leaks until clean-up has been completed.

C. Waste disposal methods: Waste material shall be disposed of in a manner that is not hazardous to employees or to the general population. Spills of acrylonitrile and flushing of such spills shall be channeled for appropriate treatment or collection for disposal. They shall not be channeled directly into the sanitary sewer system. Containers of AN and PAN wastes shall be appropriately labeled. In selecting the method of waste disposal, applicable local, state, and federal regulations should be consulted.

##### IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The highest of all measurements taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal adsorption tubes or other composition adsorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as detector tubes certified by NIOSH under 42 CFR Part 84, portable direct-reading instruments, or passive dosimeters, as well as by gas and vapor adsorption tubes. The method of measurement chosen should determine the airborne levels of acrylonitrile to an accuracy of plus or minus 25 percent for concentrations of AN at or above the permissible exposure limit, and to within plus or minus 35 percent for concentrations between the action level and the permissible exposure limits.

4. Survey of operations. OSHA suggests that the employer use a direct-reading instrument, such as a portable infra-red ana-



lyzer, or equivalent points-monitoring system, to survey weekly, all operations involving liquid AN to determine points at which AN vapor or liquid may be released into the workplace. A listing of points monitored, together with levels of acrylonitrile detected, if any, shall be prepared from this survey, and the listing shall be displayed prominently in the workplace. As an alternative survey method, grab samples, utilizing vapor collection bags, with subsequent gas chromatographic analysis, can be used for this survey.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

#### V. PROTECTIVE CLOTHING

Employees shall be provided with, and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN or PAN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with the liquid. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, and workshoes or shoe coverings, as appropriate to protect areas of the body which may come in contact with liquid AN or PAN.

Employers should ascertain that the protective garments are impermeable to acrylonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with acrylonitrile. If permeable clothing does become contaminated, it should be promptly removed and not worn again until completely free of the material. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective should be repaired or replaced. Clean protective clothing shall be provided weekly to the employee, and whenever the clothing becomes wet with liquid AN or PAN. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

#### VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition;

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN or PAN may be found;

C. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of acrylonitrile from the skin;

D. Change or dressing rooms with individual clothes-storage facilities should be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

#### VII. MISCELLANEOUS PRECAUTIONS

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area, and take the necessary precautions to avoid an explosion hazard.

B. High exposure to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile. The inhibitor content shall be determined weekly.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impermeable coverings may be necessary to prevent skin contact and provide respiratory protection from with acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

#### VIII. COMMON OPERATIONS

Common operations in which exposure to acrylonitrile is likely to occur include the following: manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS and SAN plastics, resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

#### APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR ACRYLONITRILE

##### I. ROUTE OF ENTRY

Inhalation; skin and absorption; ingestion.

##### II. TOXICOLOGY

Acrylonitrile vapor is an asphyxiant due to its inhibitory action on metabolic enzyme systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported: one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after one year of a planned two-year animal study on the effects of expo-

sure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, South Carolina acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancer among employees exposed to acrylonitrile.

##### III. SIGNS AND SYMPTOMS OF ACUTE OVEREXPOSURE

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin, with the appearance of a second degree thermal burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

##### IV. TREATMENT OF ACUTE OVEREXPOSURE

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

##### V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. As noted above, exposure to acrylonitrile has been linked to increase incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Surveillance and screening. Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level.

The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The duPont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The duPont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumorigenic effects on the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5. *General.* The purpose of the medical procedures outlined in the standard is to es-

tabish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastrointestinal systems, the cardiovascular system, liver and kidney function should also be stressed.

#### APPENDIX REFERENCES

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11. Patty, F. A., "Industrial Hygiene and Toxicology," Volume II: Toxicology (2d Ed., revised), Interscience Publishing Co., New York, 1963, pp. 1992, 2009-2012.

(Secs. 4, 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc. 78-1274 Filed 1-16-78; 11:00 am]



[4510-26]

## DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-108]

OCCUPATIONAL EXPOSURE TO  
ACRYLONITRILE (VINYL CYANIDE)

Proposed Standard and Notice of Hearing

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor

ACTION: Proposed rule and notice of hearing.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA), in today's issue of the *FEDERAL REGISTER* at page —, published an Emergency Temporary Standard (ETS) regulating employee exposure to acrylonitrile (AN) (vinyl cyanide). The basis for the ETS was a determination by the Assistant Secretary, based on animal and human epidemiological data, that exposure to acrylonitrile constitutes a cancer hazard. By this notice, OSHA proposes a permanent standard for the regulation of acrylonitrile. The proposal contains three alternative sets of permissible exposure limits which are among those being considered by OSHA for the permanent standard: 2 parts AN per million parts of air (2 ppm) as an eight (8)-hour time-weighted average (TWA), with a 10 ppm ceiling limit over any 15 minute period during the workshift; 1 ppm TWA with a 5 ppm ceiling; and 0.2 ppm TWA with a 1 ppm ceiling. In addition, the proposal would prohibit eye and skin exposure. An "action level" equal to an eight (8)-hour TWA of one-half the permissible exposure limit, is included in the proposal. The proposed standard contains several conditions upon which operations involving the fabrication of products from polyacrylonitrile (PAN) may be exempted from coverage. The proposal requires, among other things, certain methods of compliance, personal protective equipment, measurement of employee exposures, training, work practices, medical surveillance, signs, labels, and recordkeeping. A permanent standard will supersede the existing ETS at the conclusion of the rule-making.

**DATES:** Comments concerning the proposed permanent standard must be postmarked on or before February 21, 1978. Notices of intention to appear at the informal rulemaking hearing must be postmarked on or before February 27, 1978. Parties requesting more than 15 minutes for their presentations at the hearing, and parties submitting documentary evidence at the hearing must submit the full text of their testimony and all documentary evidence

## PROPOSED RULES

no later than March 7, 1978. An informal public rulemaking hearing is scheduled to begin March 21, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Ms. Gail Kleiner, Office of Carcinogen Standards, OSHA, Third Street and Constitution Avenue NW., Room N-3654, Washington, D.C. 20210, telephone 202-523-9603.

## SUPPLEMENTARY INFORMATION:

## I. BACKGROUND

In today's issue of the *FEDERAL REGISTER*, OSHA has published an Emergency Temporary Standard (ETS) regulating exposure to acrylonitrile (AN) in the workplace (29 CFR 1910.1045). The ETS, and the preamble explaining the reasons therefor, are incorporated herein in their entirety. Pursuant to sections 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), the Secretary of Labor's Order No. 8-76 (41 FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of 29 CFR by revising 29 CFR 1910.1045 (43 FR —).

This proposed permanent standard applies to all employments in all industries covered by the Act, namely "general industry," construction and maritime.

OSHA seeks public comments, information, and evidence on all issues raised in the ETS and the proposal, including the following:

1. Whether the proposed provisions would provide adequate worker protection from all health hazards associated with AN exposure.
2. Whether .2 ppm TWA and 1 ppm ceiling are sufficiently low to adequately protect employees; whether 1 ppm TWA and 5 ppm ceiling will adequately protect employees; whether 2 ppm TWA and 10 ppm ceiling will adequately protect employees; and whether PEL's other than those expressly proposed would adequately protect employees.
3. Whether compliance with a .2 ppm TWA and 1 ppm ceiling is feasible for all affected industries; whether compliance with a 1 ppm TWA and 5 ppm ceiling is feasible for all affected industries; and whether compliance with 2 ppm TWA and 10 ppm ceiling is feasible for all affected industries.
4. Whether eye and skin contact with AN should be prohibited.
5. Whether a weekly survey of operations involving liquid AN to determine points of AN release is appropriate for the standard, and what types of equipment are available for such a survey.
6. Whether the provisions for recordkeeping, methods of compliance, medical surveillance, regulated areas, personal protective equipment, protec-

tive clothing, hygiene facilities and practices are appropriate and feasible.

7. Whether medical removal protection should be provided where, as a result of the medical surveillance program, it is determined that an employee is at an increased risk of material impairment of health from further exposure to AN.

8. Whether the provisions for training, posting and labeling are appropriate and fully apprise employees of the hazards of AN exposure.

9. Whether levels of residual AN can adequately be correlated with employee exposures; and whether quantities of residual AN can feasibly be reduced in acrylonitrile-based polymers and polymer products as a means of controlling employee exposures.

10. Whether the proposed action has any significant adverse environmental impact.

11. What is the economic impact of the proposed actions?

12. What methods are available for monitoring and determining employee exposures to AN, including passive dosimeters, and what are their sensitivities, accuracies, and possible interference?

In the development of this proposal, OSHA has received recommendations and data from the National Institute for Occupational Safety and Health, as well as numerous reference works, studies, case histories, and journal articles, some of which are included in the reference section of the ETS. The discussions in the ETS which conclude that acrylonitrile poses a cancer hazard to humans will not be repeated here.

## II. PERTINENT LEGAL AUTHORITY

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards.

Occupational safety and health standards provide notice of the requisite conduct or exposure level and provide a basis for assuring the existence of safe and healthful workplaces. The act provides that:

The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such a standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations

shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. (Section 6(b)(5).)

Sections 2(b) (5) and (6), 20, 21, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose-response data, may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, standards need only be supported by the best available evidence. The legislative history makes it clear that "It is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Committee on Education and Labor, Report No. 91-1291, 91st Cong., 2d Session, p. 18 (1970). This Congressional judgment is supported by the courts which have reviewed standards promulgated under the Act. In sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that "it remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient." *Society of the Plastics Industry, Inc. v. Occupational Safety and Health Administration*, 509 F. 2d 1301 (2d Cir., 1975), cert. denied, 421 U.S. 992 (1975).

A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia Circuit in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001). The Court stated that:

Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments.

*Industrial Union Department, AFL-CIO v. Hodgson*, 499 F. 2d 467, 474 (C.A.D.C. 1974).

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rept. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *Society of the Plastics Industry, Inc. v. Occupational Safety and Health Administration*, supra, at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to ap-

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prise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe record-keeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c)).

## III. SUMMARY AND EXPLANATION OF ADDITIONS TO OR MODIFICATIONS OF THE ETS

The requirements imposed by OSHA in the ETS are those requirements which OSHA considers to be essential and feasible to meet immediately, pending the development of a permanent standard. The preamble to the ETS explains the purpose and rationale for the provisions of the ETS. The following sections discuss provisions of the proposal which differ significantly from the ETS and which OSHA believes are more appropriate for a permanent regulation of employee exposure to acrylonitrile.

1. *Paragraph (a).—Scope and application.* The proposal, as does the ETS, includes conditions upon which an employer involved in the processing, use, or handling of materials made from polyacrylonitrile (PAN) can obtain exemption from the provisions of the standard. However, because the proposal contains several alternative sets of permissible exposure limits, as will be discussed below, the conditions for exemption in the proposal must be changed to reflect the various alternatives under consideration. The changes that are made in the exemptions as proposed are intended to assure that employees engaged in processing operations will not be exposed above the action level which applies for each alternative set of permissible exposure limits.

The first condition for exemption under the ETS applies if an employer can provide, and establish that he reasonably relied upon, objective data to demonstrate that the material to be processed is incapable of releasing AN resulting in air concentrations above 1 ppm under the expected conditions of use which will cause the greatest release. In the proposal, the level for exemption is maintained at one-half the permissible TWA exposure limit. Thus, for a permissible exposure limit of 2 ppm, materials which are incapable of releasing AN above 1 ppm would be exempted; for a permissible exposure limit of 1 ppm, the exemption level would be 0.5 ppm; and for a permissible exposure limit of 0.2 ppm, the exemption level would be 0.1 ppm.

This should not be confused with the action level concept, which refers to employee exposures rather than to the capability of release above certain levels.

In addition to the two conditions for exemptions contained in the ETS, OSHA is proposing a third condition for exemption from the provisions of the permanent standard, based upon residual AN content of products fabricated from polyacrylonitrile (PAN). Except for latexes and other liquid mixtures, where the material to be processed contains less than a specified amount of residual AN by weight, the processing, handling, and use of that material would be exempted from the standard. At the present time, the proposal does not include a particular level which would qualify for the exemption. The reasons for this action are threefold. First, there is presently no data in the record upon which OSHA can reliably make any definite correlation between residual levels and resulting airborne concentrations of AN during processing. Second, OSHA notes with interest that manufacturers are presently developing more efficient methods for stripping residual monomer from their polymers. The Agency anticipates the receipt of information during the course of this rulemaking as to the techniques employed and the progress being made in improving them. As noted in the ETS, the lower the residual AN levels in PAN the lower the potential for AN exposures to employees working with the PAN in processing operations. Third, the alternative sets of permissible exposure limits in the proposal, together with their respective action levels, provide upper bounds against which any conditions for exemption from the standard must be evaluated. In brief, the lower the exposure limit being considered, the more limited will be the exemption in order to assure that employees who are exempted are not, in fact, being exposed above the action level. Because of the range of exposure limits under consideration, OSHA believes that it is prudent not to propose a specific upper bound for residual AN at this time, but that such a determination should await the submission of comments and data on residual AN levels in various PAN materials, the effectiveness of existing and prospective stripping methods, and correlations between residual AN levels and resulting air concentrations of AN various during processing operations.

The third condition for exemption in the proposal, which concerns PAN materials which are not heated or melted, is unchanged from the ETS. OSHA believes that the processing of PAN (except for latexes and other liquid mixtures) without heating or melting does not present a significant



AN exposure potential to employees.

OSHA welcomes data and information on residual AN levels in AN-based polymers and products, and their relationship to airborne concentrations of AN which may be released during operations where such polymers and products are processed. OSHA also requests data and information on the technology involved in the removal of residual monomer from PAN, and the methods used in determining the amounts of AN remaining in the polymer both before and after stripping.

In exempting operations based upon the residual AN content of materials being processed, OSHA is considering a provision which would lower the maximum allowable residual content by incremental steps during the first year or two years after the final standard becomes effective. As previously noted, the appropriate residual levels have not yet been determined, but will depend upon data and information received in the course of the rulemaking proceedings. Lowering levels of residual AN for the exemption incrementally would allow companies sufficient lead time to develop the methods necessary to reduce the residual monomer content of their products. OSHA invites comments on the steps necessary for reduction of residual AN, the amount of time believed to be necessary to develop the appropriate technology, and the appropriateness of such a phasing-in of a lower residual AN level for the purposes of determining exemptions from the standard.

2. *Paragraph (b).—Definitions.* The definition of "action level" is revised from the ETS to reflect the proposed changes in the permissible exposure limits. Three alternative action levels are provided in order to correspond to the alternative sets of permissible exposure limits as proposed. The proposed action levels are defined as eight (8)-hour time-weighted average concentrations of one-half of the respective permissible exposure limits. The rationale for the action level, the effects of including it in the standard, and the ways in which it reduces the burden of compliance for many employers are all discussed in the preamble to the ETS.

A definition of the term "emergency" is added to the proposed permanent standard. For the purposes of the standard, emergencies are occurrences such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which are likely to, or do, result in unexpected exposure to acrylonitrile or to AN vapor in excess of the ceiling limit.

3. *Paragraph (c).—Permissible exposure limits (PEL).* The permissible exposure limits set forth in the proposal are more stringent than those in the ETS. The proposal provides three alternative sets of permissible exposure

limits for consideration; 2 ppm as an eight (8)-hour time-weighted average (TWA), with a ceiling limit of 10 ppm measured over any 15-minute period during the workshift (2/10 proposal); 1 ppm TWA with a 5 ppm ceiling (1/5 proposal); and 0.2 ppm TWA with a 1 ppm ceiling (0.2/1 proposal). The 2/10 proposal is clearly more stringent than the ETS, which also has exposure limits of 2/10, because of the greater flexibility available under the ETS as to methods of compliance, as discussed below.

The 2/10 exposure limits in the ETS are based upon the data currently in the record, which indicate, as noted in the ETS preamble, that these are the lowest levels attainable during the limited timeframe of the emergency standard. For the purposes of the final rule, however, OSHA believes that it is appropriate to look more closely at the development of improved technology. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry v. OSHA*, *supra*, at 1309. In the present situation, where efforts are already underway to improve existing methods of controlling employee exposures to AN, the proposal anticipates the continuation of such efforts and their expansion under the permanent standard. It is in this context that OSHA is considering lowering the permissible exposure limits.

By including several sets of alternative permissible exposure limits in the proposal, OSHA acknowledges that there is much data and information yet to be gathered as to what constitutes the lowest feasible level of exposure to AN in the affected industries. It should be noted that although OSHA has expressly proposed three alternative sets of permissible exposure limits, the PEL in the final rule will be the lowest feasible levels, based upon the entire record of the proceeding, and may differ from the proposed levels.

As noted in the proposed OSHA Cancer Policy, exposures to a carcinogen should be reduced to the lowest levels feasible, since there is as yet no satisfactory scientific basis for determining a no-effect or threshold level for a carcinogen for any given population (42 FR 54148, at 54174).

OSHA welcomes any and all data available as to the appropriate permissible exposure limits for AN, the feasibility of the proposed exposure limits and any other exposure limits which should be considered by OSHA, as well as other related issues.

In making a preliminary determination as to the feasibility of the proposed standard for AN, OSHA has taken note of the proven ability of the chemical and plastics industries to develop the necessary controls and other

techniques for compliance with the standard on vinyl chloride (VC) exposure (29 CFR 1910.1017). There are many similarities between VC and AN, ranging from their chemical structure through their methods of processing to the final products fabricated from them. Both are monomers, and as such, they are prized for their abilities to form useful and durable polymers, such as PVC and ABS resins, respectively.

The technology needed for the "stripping" of VC monomer from PVC resins was developed by the VC and PVC manufacturers in response to the requirements in the OSHA standards. It is anticipated that similar technological development will be necessary in some cases to achieve the same degree of reduction of AN monomer levels in AN-based resins, latexes, and other polymers. Similarly, new methods of reduction of airborne VC levels in manufacturing and polymerization operations have been forthcoming in the past several years, as have new and more sophisticated techniques of measuring those levels in the workplace. It may well become necessary for these types of innovations to be developed with regard to AN, as well, in the future.

OSHA has noted the capability of the chemical and plastics industries to adapt their operations and make necessary changes to reduce employee exposures to toxic substances and carcinogens. Many of the breakthroughs and improvements brought about in the context of vinyl chloride are relevant to the control of employee exposures to acrylonitrile. Where there are areas in which the control of VC and AN differ, OSHA is confident that the affected companies will continue to demonstrate their innovative abilities to meet the challenge. With regard to vinyl chloride, industry has shown that many problems which were formerly looked upon as unsolvable have now been solved satisfactorily. Although it cannot be said that the control of AN exposures in the workplace will be a simple matter, OSHA is confident that, based upon recent performance by the affected industries, it can be accomplished.

4. *Paragraph (e).—Exposure monitoring. Weekly survey of operations involving liquid AN.* OSHA recognizes that the use of instruments to detect the presence of AN at levels below the permissible exposure limits can be of great benefit in determining potential sources of employee exposure. In addition, it may also assist in pinpointing trouble spots, such as leaks and defective seals, before they become more serious problems. The data submitted into the record to date indicate that there are several methods available, such as the use of infra-red gas analyzers and multi-point sequential sam-

pling systems, which are capable of detecting AN at levels in the range of 0.2 to 0.4 ppm or below. Although there is clearly a difference between detecting AN and measuring employee exposures to AN, OSHA believes that a system for the early detection of fugitive emissions of AN can be of great value in controlling emissions and limiting potential exposures. Therefore, a weekly survey of operations involving liquid AN has been included in the proposed permanent standard.

OSHA has determined that a weekly survey would be of greatest value in operations where the monomer is produced, used, or processed, since it is in such operations that a leak or spill is most likely to occur and to cause the greatest potential for employee exposure to AN above the permissible exposure limits. The proposal would require the employer to survey, on a weekly basis, using an infra-red detector or similar AN detection system, areas of operations where liquid AN is manufactured, used, or processed.

The weekly survey requirement is flexible as to the type of equipment required for measurement of levels of AN. Employers are permitted to use such methods as detector tubes, Saran bag "grab samples", and portable infra-red gas analyzers. In addition, OSHA has learned that several companies either have installed, or are presently in the process of installing, fixed point area monitoring systems with sequential sampling, similar to those developed for detecting vinyl chloride. Such systems would be ideal for developing the kind of data to be obtained from the weekly survey, and are encouraged, but not specifically required, by the proposal. The reasons for flexibility as to the methods used in the weekly survey are twofold. First, OSHA emphasizes that the personal monitoring required by the proposal is the primary method of determining employee exposures. Detailed requirements are included in the standard as to the required precision and accuracy of the methods for determining employee exposure. The weekly survey, on the other hand, is a means of detecting AN levels before they become significant parts of an employee's exposure.

Second, the weekly survey should not be overly time-consuming. By allowing the employer the widest latitude in selecting a method that is most efficient for his/her operations, the provision most adequately assures that the survey will be carried out as required.

5. *Paragraph (f).—Regulated areas.* Where AN concentrations are in excess of permissible exposure limits, the employer must establish a regulated area. The purpose of establishing regulated areas is to limit AN exposure to as few employees as possible.

The burden on the employer is expected to be minimal, since the provisions of the proposed permanent standard require the employer merely to identify and control access to regulated areas and to notify the applicable OSHA Area Office of their existence and the conditions therein.

6. *Paragraph (g).—Methods of Compliance.* The proposed standard would require the employer to institute engineering and work practice controls to reduce employee exposures to or below the permissible limits. In situations where engineering and work practice controls that can be instituted immediately will not reduce exposures to the permissible exposure limits, these controls must nonetheless be used to reduce exposures to the lowest feasible level and be supplemented by the use of respirators. In addition, a compliance program to reduce exposures to within the permissible exposure limits solely by means of engineering and work practice controls must be developed and implemented. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Assistant Secretary, representatives of the Director, or affected employees. These plans must be reviewed and updated periodically to reflect the current status of the program.

Engineering controls are the preferred means of compliance because they reduce exposure hazards in the workplace environment by removing the airborne contaminant. Engineering controls may include the installation of local exhaust ventilation, modification of a process so as to reduce emission of the contaminant into the workplace, or substitution of another substance for acrylonitrile. Work practices are often necessary for the effective operation of engineering controls, and they are also a preferred means of controlling exposures.

Respirators are the least satisfactory means of control because of certain difficulties inherent in their use. Respirators are capable of providing good protection only if they are properly selected for the concentrations of airborne contaminants present, properly fitted to the employee, properly worn by the employee, and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. As a consequence, the protection of employees by respirators is not always effective.

OSHA recognizes that there are certain activities, often involving certain maintenance operations, in which the use of engineering controls to control exposures will not be feasible, regardless of the permissible exposure limits in the standard. Where the employer

can show that the engineering control of such operations is not feasible, respirators shall be permitted as a primary means of control of AN exposures.

7. *Paragraph (h).—Respiratory protection.* The provisions for respirator protection in the proposal differ from those of the ETS in three ways. First, the limits for the appropriate use of the various respirators, as specified in Table I, are adjusted to reflect the alternative permissible exposure limits as provided in the proposal. The conditions of AN exposure and respirator usage are expressed in the proposal as multiples of the permissible exposure limits instead of in terms of ppm of AN, in order to simplify the use of the table for each of the alternative sets of exposure limits. Second, the proposal includes a specific limitation on the use of respirators to comply with the permissible exposure limits. Such a limitation is consistent with the proposed hierarchy of exposure controls provided under paragraph (g) of the proposal. Third, the proposal requires that air-purifying respirators, where permitted by the proposal and the respirator table, be approved by NIOSH for use with AN, rather than generally approved for use with organic vapors, as provided in the ETS. Such specific approval will not be given by NIOSH unless the cartridges or canisters have an end-of-service-life indicator, since AN does not have a low enough odor threshold to permit detection of low level breakthrough by smell. OSHA requests information as to whether there are cartridges or canisters presently available specifically for AN which have such end-of-service-life indicators. In addition, OSHA is considering a provision similar to that in the ETS, permitting the use of cartridges or canisters if replaced before the end of their service life (where indicators exist), or at the beginning of each shift, whichever comes first. OSHA welcomes comments and testimony on the selection of appropriate respiratory protection, the proper limitations for the use of air-purifying respirators with AN, and other factors relevant to an effective respiratory protection program. In addition, OSHA also welcomes comments and testimony as to whether a quantitative fit test should be required wherever canister or cartridge respirators are to be used.

8. *Paragraph (n).—Medical surveillance.* The medical surveillance provisions of the proposed standard are substantially identical with those of the ETS. Both sets of provisions give particular emphasis to the central nervous system, the respiratory system and lower digestive tract. These represent the areas which the relevant animal studies and human epidemiological study indicate to be the major target sites for production of malignancy as a result of AN exposure. The



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physical examination required in the proposed standard will be required annually for all AN-exposed employees. OSHA requests additional information on tests and analyses which may be helpful in the early diagnosis of cancer of the aforementioned systems of the body.

9. *Medical removal protection.* OSHA is seeking public input regarding the appropriateness of including a provision in the final AN standard which would protect employee participation in the medical surveillance program. This provision would extend economic protection to employees who participate in the medical surveillance program and are removed or transferred from their jobs to protect them from material impairment of health. The purpose of this provision would be to encourage employees to participate in the medical surveillance program, which is an important part of OSHA's multifaceted prophylactic approach to occupational health.

The medical surveillance provision of the proposed standard contemplates that employers will limit the exposure of employees who are at increased risk of material impairment of health. Improved engineering controls, work practices, hygiene practices, and respirators must be utilized to reduce employee exposures so that the employee is no longer at increased risk of material impairment of his or her health.

OSHA's primary goal is to assure that no employee suffers material impairment of health or functional capacity. The Agency does not favor transfer or removal as an alternative to controlling the level of a toxic substance in the workplace environment. Moreover, once full compliance with the permissible exposure limits is achieved by engineering controls and work practices, the need to transfer or remove employees from exposure to AN should arise infrequently.

However, it appears that limitation of exposure by transfer or removal of the employees from occupational exposure may, on occasion, be necessary to effectively protect employees from material impairment of health.

Therefore, OSHA is seeking public input as to whether the medical surveillance provisions of the AN standard should include a requirement for medical removal protection and the nature of such protection. This requirement could maintain the rate of pay, seniority, and other rights of an employee for the time period, or a portion thereof, that the employee is transferred or removed from his or her job as a result of an increased health risk from exposure to AN.

A more complete discussion of the various issues and options available in this proceeding regarding medical removal protection may be found in the

OSHA proposed standard on occupational exposure to lead, published at 42 FR 46547 (September 16, 1977).

10. *Paragraph (g).—Recordkeeping.* The proposed standard requires the employer to keep written records of employee exposure measurements and medical examinations. Symptoms of cancer may not appear for many years after exposure to AN. Thus, records of exposure measurement and medical examinations should be retained for a definite period of years even if the employee ceases to work. For this reason, the recordkeeping provisions of the proposal require the employer to retain these records for at least 40 years, or for the duration of employment plus 20 years, whichever is longer.

#### V. TECHNOLOGICAL FEASIBILITY ASSESSMENT AND ECONOMIC IMPACT STATEMENT

In accordance with Executive Order 11949 (42 FR 1017), OSHA has contracted for a technological feasibility assessment and economic impact statement from Enviro Control, Inc., (ECI), of Rockville, Md. ECI is presently evaluating the economic impact of the proposed standard, with emphasis on the three alternative sets of permissible exposure limits set forth in paragraph (e) of the proposal.

When the final document has been prepared and reviewed, the Assistant Secretary will certify that the economic impact of the proposed standard on acrylonitrile has been evaluated in accordance with the Executive Order. When the document is available for inspection and copying, a notice of availability will be published in the FEDERAL REGISTER. OSHA invites comments on the technological feasibility and economic impact of the proposed standard.

#### VI. ENVIRONMENTAL IMPACT ASSESSMENT

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) requires, among other things, that Federal agencies assess their proposed major actions, including proposed rulemaking, to determine whether a significant impact on the quality of the human environment may result. Further, pursuant to Department of Labor regulations (29 CFR Part 1999.3(a)), whenever OSHA is considering a major Federal action, the Director of the Office of Standards shall determine whether an environmental impact statement is required. If the Director determines that such an impact statement is not required, 29 CFR Part 1999.3(e) states that "he shall set forth in writing the decision and the reasons for it, which shall be available for public inspection." In keeping with these regulations, it has been determined that the proposed standard for occupational

exposure to acrylonitrile (AN) does not require the preparation of an environmental impact statement because available evidence does not indicate that it will have any adverse environmental impact for the reasons set forth below:

1. The proposed standard is designed to control employees' exposures to AN within their work facilities, and it is this population which is expected to experience any health or environmental benefit, as outlined in earlier sections of this proposal.

2. Available evidence does not indicate the potential for significant environmental or health effects outside of the workplace environment resulting from this proposal. According to a source assessment of air emissions from acrylonitrile manufacturing operations, prepared by EPA, (Source Assessment: Acrylonitrile Manufacture (Air Emissions), EPA 800/2-76-032, March 1977), current uncontrolled levels of acrylonitrile emissions from monomer manufacturing plants are less than 0.1 ppm (maximum ground level concentration). No data currently exist which relate AN emissions from these manufacturing operations to health problems external to the workplace.

3. Since it is economically desirable to recycle recoverable AN monomer, there is every reason to believe that emissions will decrease (especially if reductions of employee exposure are achieved through increased monomer stripping), as the employer will be motivated to control and recycle any residuals. Reduction of the emission of any nonnaturally-occurring chemical may be considered a beneficial environmental impact. As discussed in paragraph No. 2 above, however, current emissions of AN are already so low that any further reduction will not result in any incremental benefit to the environment external to the workplace.

4. There is no evidence to indicate that the proposed standard will result in any significant change in water quality, solid waste disposal or land use external to the workplace.

5. Potential energy increases and economic impacts of this proposal will be discussed in the Technological Feasibility and Economic Impact Statement, prepared for OSHA by Enviro Control, Inc.

On the basis of the assessment presented above, and the discussion of the proposal presented earlier in this notice, OSHA has determined that the proposed regulation will not significantly adversely affect the quality of the human environment, and that preparation of an environmental impact statement is not required. If, during the period for public comment on this proposal, however, data are received which indicate that significant and quantifiable environmental impacts are likely to occur as a result of this proposal, OSHA reserves the right to reconsider its decision and to proceed with preparation of an environmental impact statement.

Written comments and information on the projected technological, economic, and environmental impacts of the proposed standard on acrylonitrile are solicited from any interested persons or groups during the period for

written comment submissions listed below in the notice.

#### VII. PUBLIC PARTICIPATION—NOTICE OF HEARING

Interested persons are invited to submit written data, views, and arguments with respect to the ETS and this proposed permanent standard. These comments must be postmarked on or before February 21, 1978, and submitted in quadruplicate to the Docket Officer, Docket No. H-108, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room S6212, Washington, D.C. 20210. Written submissions must clearly identify the provisions of the ETS, the proposal, or both, which are addressed, and the positions taken with respect to each issue.

The data, view, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made a part of the record of this proceeding.

Pursuant to section 6(b)(3) of the Act, an opportunity to submit oral testimony concerning the issues raised by the ETS and the proposed standard, including the economic and environmental impacts, will be provided at an informal public hearing scheduled to begin at 9:30 a.m. on March 21, 1978, in the Auditorium, New Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

*Notices of Intention to Appear.* All persons desiring to participate at the hearing must file, in quadruplicate, a notice of intention to appear, postmarked on or before February 27, 1978 with the OSHA Division of Consumer Affairs, Docket No. H-108, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Room N-3633, Washington, D.C. 20210, telephone 202-523-8024. The notices of intention to appear, which will be available for inspection and copying at the OSHA Technical Data Center—Docket Office (Room S6212), telephone 202-523-7894, must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time requested for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

*Filing of Testimony and Evidence Before Hearing.* Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit

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documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by March 7, 1978, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the requirement to provide the complete text of testimony and documentary evidence may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

*Conduct of Hearings.* The hearing will commence at 9:30 a.m. on Tuesday, March 21, 1978, with resolution of any procedural matters relating to the proceeding. The hearing will be conducted in accordance with 29 CFR Part 1911. In view of the ETS and its emergency nature, the hearing will be conducted in as expedited a manner as possible, consistent with a full development of the record and rights of the parties.

The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911. Following the close of the hearing or of any post hearing comment period that might be provided, The Administrative Law Judge will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all oral and written submissions received as part of the record, and a standard will be issued based on the entire record in this proceeding.

#### VIII. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b), 6(b), 6(c) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1596, 1599; 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order No. 8-76 (41FR 25059), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the Code of Federal Regulations by amending section 1910.1045 as set

forth below. In addition, pursuant to section 4(b)(2) of the Act (84 Stat. 1592; 29 U.S.C. 653), OSHA is of the view that the proposed standard is more effective than the corresponding standards now in Subpart B of Part 1910, in Parts 1915, 1916, 1917, 1918 and 1926 of Title 29 of the Code of Federal Regulations. Therefore, these corresponding standards would also be superseded by the new proposed standard.

Signed at Washington, D.C. this 12th day of January, 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.

Part 1910 of Title 29 of the Code of Federal Regulations is therefore proposed to be amended by revising § 1910.1045 to read as follows:

#### § 1910.1045 Acrylonitrile.

(a) *Scope and application.* (1) This section applies to all occupational exposure to acrylonitrile (AN), Chemical Abstracts Service Registry No. 000107131, except as provided in paragraph (a)(2) of this section.

(2) This section does not apply to the processing, use, and handling of products fabricated from polyacrylonitrile (PAN) where objective data is reasonably relied upon as to one of the following conditions:

(i) That the material to be processed is not capable of releasing AN resulting in airborne concentrations in excess of (1.0 ppm; or 0.5 ppm; or 0.1 ppm), under the expected conditions of processing, use and handling which will cause the greatest possible release; or

(ii) That the material to be processed is not a latex or other liquid mixture and does not contain more than (XX) ppm by weight, residual AN; or

(iii) That the material to be processed is not a latex or other liquid mixture and will not be heated or melted during the fabrication process.

Where the processing, use, and handling of products fabricated from PAN are exempted under this paragraph, the employer shall maintain records of the objective data supporting that exemption, as provided in paragraph (q) of this section.

(b) *Definitions.* "Acrylonitrile" or "AN" means acrylonitrile monomer, chemical formula CH<sub>2</sub>=CHCN.

"Action level" means a concentration of AN of (1 ppm; or 0.5 ppm; or 0.1 ppm) averaged over any eight (8)-hour period.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area, or



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any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence, such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment, which is likely to, or does, result in unexpected exposure to AN in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Polyacrylonitrile" or "PAN" means polyacrylonitrile homopolymers or copolymers, except for materials as exempted under paragraph (a)(2) of this section.

(c) *Permissible exposure limits.*—(1) *Inhalation.*—(i) *Time-weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of [two (2) parts; or one (1) part; or two-tenths (0.2) part] acrylonitrile per million parts of air [2 ppm; or 1 ppm; or 0.2 ppm], as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* The employer shall assure that no employee is exposed to an airborne concentration of acrylonitrile in excess of [10 ppm; or 5 ppm; or 1 ppm] as averaged over any fifteen (15)-minute period during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to skin contact or eye contact with liquid AN or PAN.

(d) *Notification of use and emergencies.*—(1) *Use.* Within ten (10) days of the effective date of this standard, or within fifteen (15) days following the introduction of AN into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard, the following information to the OSHA Area Office for each such workplace:

(i) The address and location of each workplace in which AN is present;

(ii) A brief description of each process of operation which may result in employee exposure to AN;

(iii) The number of employees engaged in each process or operation who may be exposed to AN and an estimate of the frequency and degree of exposure that occurs; and

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to AN. Whenever there has

been a significant change in the information required by this paragraph, the employer shall promptly amend such information previously provided to the OSHA Area Office.

(2) *Emergencies and remedial action.* Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.*—(1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to AN over an eight (8)-hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which AN is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of AN to which employees may be exposed. Such monitoring may be done on a representative basis, provided that the employer can demonstrate that the determinations are representative of employee exposures.

(3) *Frequency.* (i) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer may discontinue monitoring for that employee.

(ii) If the monitoring required by this section reveals employee exposure to be at or above the action level but below the permissible exposure limits, the employer shall repeat such monitoring for each such employee at least quarterly.

(iii) If the monitoring required by this section reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personnel change which may result in new or additional exposures to AN, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to AN, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement of employee exposures shall be accurate, to a confidence level of 95 percent, to within plus or minus 25 percent for concentrations of AN at or above the permissible exposure limits, and plus or minus 35 percent for concentrations of AN between the action level and the permissible exposure limits.

(7) *Weekly survey of operations involving liquid AN.* In addition to monitoring of employee exposures to AN as otherwise required by this paragraph, the employer shall survey areas of operations involving liquid AN at least weekly to detect points where AN liquid or vapor are being released into the workplace. The survey shall employ an infra-red gas analyzer calibrated for AN, a multipoint gas chromatographic monitor, or comparable system for detection of AN. A listing of levels detected and areas of AN release, as determined from the survey, shall be posted prominently in the workplace, and shall remain posted until the next survey is completed.

(f) *Regulated areas.* (1) The employer shall establish regulated areas where AN concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to AN.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.

(4) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the lunchrooms, change rooms and showers required under paragraphs (m)(1)–(m)(3) of this section).

(g) *Methods of compliance.*—(1) *Engineering and work practice controls.*

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to AN, to or below the permissi-

ble exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce employee exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to AN above the permissible exposure limits;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) Written plans for such a program shall be submitted upon request to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(iv) The plans required by this paragraph shall be revised and updated at least every (6) six months to reflect the current status of the program.

(h) *Respiratory protection.*—(1) *General.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

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(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table I below and shall assure that the employee wears the respirator provided.

TABLE I.—Respiratory protection for acrylonitrile (AN)

Concentration of AN or condition of use	Respirator type
(a) Less than or equal to 10x permissible exposure limits.	(1) Any chemical cartridge respirator with organic vapor cartridge(s) and half-mask; or (2) Any supplied air respirator with half-mask.
(b) Less than or equal to 50x permissible exposure limits.	(1) Any organic vapor gas mask; or (2) Any supplied air respirator with full facepiece; or (3) Any self-contained breathing apparatus with full facepiece.
(c) Less than or equal to 2,000x permissible exposure limits.	(1) Supplied air respirator in positive pressure mode with full facepiece, hood, or suit.
(d) Less than or equal to 10,000x permissible exposure limits.	(1) Supplied air respirator and auxiliary self-contained full facepiece in positive pressure mode; or (2) Open circuit self-contained breathing apparatus with full facepiece in positive pressure mode.
(e) Emergency entry into unknown concentration of firefighting.	(1) Any self-contained breathing apparatus with full facepiece in positive pressure mode.
(f) Escape.	(1) Any organic vapor gas mask; or (2) Any self-contained breathing apparatus with full facepiece.

(ii) The employer shall select respirators from those approved for use with AN by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(ii) Where air-purifying respirators (chemical cartridge or canister-type gas mask) are used, the air-purifying canister or cartridge(s) shall be replaced prior to the expiration of their service life or at the beginning of each shift, whichever occurs first. A label shall be attached to the cartridge or canister to indicate the date and time at which it is first installed on the respirator.

(iii) The employer shall allow each employee who uses a filter respirator (cartridge or canister) to change the filter elements whenever an increase in breathing resistance is detected and shall maintain an adequate supply of

the filter elements necessary for this purpose.

(iv) Employees who wear respirators shall be allowed to wash their faces and respirator facepieces to prevent potential skin irritation associated with respirator use.

(i) *Emergency situations.*—(1) *Written plans.* (i) A written plan for emergency situations shall be developed for each workplace where AN is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) *Alerting employees.*—(i) *Alarms.* Where there is the possibility of employee exposure to AN in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) *Evacuation.* Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

(j) *Protective clothing and equipment.*—(1) *Provision and use.* Where eye or skin contact with liquid AN or PAN may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with §§ 1910.132 and 1910.133 to protect any area of the body which may come in contact with liquid AN or PAN.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least weekly to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and that an employee whose protective clothing becomes wet with liquid AN or PAN removes that clothing promptly to avoid skin contact with the liquid AN or PAN. Protective clothing shall be removed only in change rooms as required by paragraph (n)(1) of this section.

(iii) The employer shall assure that AN- or PAN-contaminated protective clothing and equipment is placed and stored in closable containers which prevent dispersion of the AN or PAN outside the container.

(iv) The employer shall assure that no employee removes AN- or PAN-contaminated protective equipment or



clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(v) The employer shall inform any person who launders or cleans AN- or PAN-contaminated protective clothing or equipment of the potentially harmful effects of exposure to AN.

(vi) The employer shall assure that containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section, and that such labels remain affixed when such containers leave the employer's workplace.

(k) *Housekeeping*—(1) *Surfaces*. (i) All surfaces shall be maintained free of accumulations of liquid AN and of PAN.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where liquid AN and PAN are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that AN is not reintroduced into the workplace air; and

(B) Portable vacuum units used to collect AN may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3)(ii) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids*. Where AN is present in a liquid form, or as a resultant vapor, all containers or vessels containing AN shall be enclosed to the maximum extent feasible and tightly covered when not in use, with adequate provision made to avoid any resulting potential explosion hazard.

(l) *Waste disposal*. AN and PAN waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of AN outside the container, and labeled as prescribed in paragraph (p)(3)(ii) of this section.

(m) *Hygiene facilities and practices*. Where employees are exposed to airborne concentrations of AN above the permissible exposure limits, or where employees are required to wear protective clothing or equipment pursuant to paragraph (k) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the

employer shall assure that the employees use the facilities provided. In addition, the following facilities or requirements are mandated.

(1) *Change rooms*. The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) *Showers*. (i) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

(ii) In addition, the employer shall also assure that employees exposed to liquid AN and PAN shower at the end of the work shift.

(3) *Lunchrooms*. (i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to AN above the permissible exposure limits.

(ii) In addition, the employer shall also assure that employees exposed to AN above the permissible exposure limits wash their hands and face prior to eating.

(n) *Medical Surveillance*—(1) *General*. (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to AN above the action level. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations*. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history and medical, history with special attention to skin, respiratory, and gastrointestinal systems, and those non-specific symptoms, such as headache, nausea, vomiting, dizziness, weakness, or other central nervous system dysfunctions that may be associated with acute or chronic exposure to AN.

(ii) A physical examination giving particular attention to central nervous system, gastrointestinal system, respiratory system, skin and thyroid.

(iii) A 14" x 17" posteroanterior chest x-ray.

(iv) Further tests of the intestinal tract, including fecal occult blood and proctosigmoidoscopy, on all workers 40 years of age or older, and to any other affected employees for whom, in the opinion of the physician, such testing would be appropriate.

(3) *Periodic examinations*. (i) The employer shall provide examinations

specified in this paragraph at least annually for all employees specified in paragraph (n)(1) of this section.

(ii) If an employee has not had the examinations prescribed in paragraph (n)(2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) *Additional examinations*. If the employee for any reason develops signs or symptoms commonly associated with exposure to AN, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician*. The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(6) *Physician's written opinion*. (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to AN;

(C) Any recommended limitations upon the employee's exposure to AN or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to AN.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training*—(1) *Training program*. (i) The employer shall institute a training program for all employees where there is occupational exposure to AN and

shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of AN and the specific nature of operations which could result in exposure to AN, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (i) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(2) *Access to training materials*. (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels*—(1) *General*. (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) *Signs*. (i) The employer shall post signs to clearly indicate all workplaces where AN concentrations exceed the permissible exposure limits. The signs shall bear the following legend:

DANGER

ACRYLONITRILE (AN)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

RESPIRATORS REQUIRED

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) *Labels*. (i) The employer shall assure that precautionary labels are affixed to all containers of AN, and to containers of PAN and products fabricated from PAN, except for those materials for which objective data is provided as to the conditions specified in paragraph (a) (2) of this section. The

employer shall assure that the labels remain affixed when the AN or PAN are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ACRYLONITRILE (AN)

CANCER HAZARD

(q) *Recordkeeping*—(1) *Objective data for exempted operations*. (i) Where the processing, use, and handling of products fabricated from PAN are exempted pursuant to paragraph (a)(2) of this section, the employer shall establish and maintain an accurate record of objective data reasonably relied upon in support of the exemption.

(ii) This record shall include the following information:

(A) The relevant condition in paragraph (a)(2) upon which exemption is based;

(B) The source of the objective data;

(C) The results of testing and analysis of the material being processed;

(D) A description of the operation exempted; and

(E) Other data relevant to the operations, materials, and processing covered by the exemption.

(iii) The employer shall maintain this record for the duration of the employer's reliance upon such objective data.

(2) *Exposure monitoring*. (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(3) *Medical surveillance*. (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) any employee medical complaints related to exposure to AN;

(C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(4) *Availability*. (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(5) *Transfer of records*. (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(r) *Observation of monitoring*—(1) *Employee observation*. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to AN conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures*. (i) Whenever observation of the monitoring of employee exposure to AN requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring, observers shall be entitled:



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(A) To receive an explanation of the measurement procedures;

(B) To observe all steps related to the measurement of airborne concentrations of AN performed at the place of exposure; and

(C) To record the results obtained.

(s) *Effective date.* This section shall become effective thirty (30) days following publication.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

## APPENDIX A.—SUBSTANCE SAFETY DATA SHEET FOR ACRYLONITRILE

## I. SUBSTANCE IDENTIFICATION

A. Substance: Acrylonitrile ( $\text{CH}_2=\text{CHCN}$ ).  
B. Synonyms: Propenenitrile; vinyl cyanide; cyanoethylene; AN; VCN; acrylon; carbacryl; fumigrain; ventox.

C. Acrylonitrile can be found as a liquid or vapor, and can also be found in polymer resins, plastics, polyols, and other polymers having acrylonitrile as a raw or intermediate material.

D. AN is used in the manufacture of acrylic and modacrylic fibers, acrylic plastics and resins, specialty polymers, nitrile rubbers, and other organic chemicals. It has also been used as a fumigant.

E. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor which can only be detected at concentrations above the permissible exposure level, in a range of 13-19 parts AN per million parts of air (13-19 ppm).

F. Permissible Exposure: Exposure may not exceed either:

1. [Two parts; or one part; or two-tenths part] AN per million parts of air (2 ppm; or 1 ppm; or 0.2 ppm) averaged over the eight-hour workday; or

2. [Ten parts; or five parts; or one part] AN per million parts of air (10 ppm; or 5 ppm; or 1 ppm) averaged over any 15-minute period in the workday.

3. In addition, skin and eye contact with liquid AN is prohibited.

## II. HEALTH HAZARD DATA

A. Acrylonitrile can affect your body if you inhale the vapor (breathing), if it comes in contact with your eyes or skin, or if you swallow it. It may enter your body through your skin.

B. Effects of Overexposure:

1. Short-term Exposure: Acrylonitrile can cause eye irritation, nausea, vomiting, headache, sneezing, weakness, and light-headedness. At high concentrations, the effects of exposure may go on to loss of consciousness and death. When acrylonitrile is held in contact with the skin after being absorbed into shoe leather or clothing, it may produce blisters following several hours of no apparent effect. Unless the shoes or clothing are removed immediately and the area washed, blistering will occur. Usually there is no pain or inflammation associated with blister formation.

2. Long-term Exposure: Acrylonitrile has been shown to cause cancer in laboratory animals and has been associated with higher incidences of cancer in humans. Repeated or prolonged exposure of the skin to acrylonitrile may produce irritation and dermatitis.

3. Reporting Signs and Symptoms: You should inform your employer if you develop

any signs or symptoms and suspect they are caused by exposure to acrylonitrile.

## III. EMERGENCY FIRST AID PROCEDURES

A. Eye Exposure: If acrylonitrile gets into your eyes, wash your eyes immediately with large amounts of water, lifting the lower and upper lids occasionally. Get medical attention immediately. Contact lenses should not be worn when working with this chemical.

B. Skin Exposure: If acrylonitrile gets on your skin, immediately wash the contaminated skin with water. If acrylonitrile soaks through your clothing, especially your shoes, remove the clothing immediately and wash the skin with water. If symptoms occur after washing, get medical attention immediately. Thoroughly wash the clothing before re-using. Contaminated leather shoes or other leather articles should be discarded.

C. Inhalation: If you or any other person breathes in large amounts of acrylonitrile, move the exposed person to fresh air at once. If breathing has stopped, perform artificial respiration. Keep the affected person warm and at rest. Get medical attention as soon as possible.

D. Swallowing: When acrylonitrile has been swallowed, give the person large quantities of water immediately. After the water has been swallowed, try to get the person to vomit by having him touch the back of his throat with his finger. Do not make an unconscious person vomit. Get medical attention immediately.

E. Rescue: Move the affected person from the hazardous exposure. If the exposed person has been overcome, notify someone else and put into effect the established emergency procedures. Do not become a casualty yourself. Understand your emergency rescue procedures and know the location of the emergency equipment before the need arises.

F. Special First Aid Procedures: First aid kits containing an adequate supply (at least two dozen) of amyl nitrite pearls, each containing 0.3 ml, should be maintained at each site where acrylonitrile is used. When a person is suspected of receiving an overexposure to acrylonitrile, immediately remove that person from the contaminated area using established rescue procedures. Contaminated clothing must be removed and the acrylonitrile washed from the skin immediately. Artificial respiration should be started at once if breathing has stopped. If the person is unconscious, amyl nitrite may be used as an antidote by a properly trained individual in accordance with established emergency procedures. Medical aid should be obtained immediately.

## IV. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators: You may be required to wear a respirator for non-routine activities, in emergencies, and while your employer is in the process of reducing acrylonitrile exposures through engineering controls. If respirators are worn, they must have a Mining Enforcement and Safety Administration (MESA) or National Institute for Occupational Safety and Health (NIOSH) approval label. (Older respirators may have a Bureau of Mines approval label.) For effective protection, respirators must fit your face and head snugly. Respirators should not be loosened or removed in work situations where their use is required.

Acrylonitrile does not have a detectable odor except at levels above the permissible

exposure limit. Do not depend on odor to warn you when a respirator cartridge or canister is exhausted. Cartridges or canisters must be changed daily or before the end-of-service-life, whichever comes first. Re-use of these may allow acrylonitrile to gradually filter through the cartridge and cause exposures which you cannot detect by odor. If you can smell acrylonitrile while wearing a respirator, proceed immediately to fresh air. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Supplied-air Suits: In some work situations, the wearing of supplied-air suits may be necessary. Your employer must instruct you in their proper use and operation.

C. Replace or repair impervious clothing that has developed leaks. Protective clothing: You must wear impervious clothing, gloves, face shield, or other appropriate protective clothing to prevent skin contact with liquid acrylonitrile. Where protective clothing is required, your employer is required to provide clean garments to you weekly.

Acrylonitrile should never be allowed to remain on the skin. Clothing and shoes should not be allowed to become contaminated with acrylonitrile, and if they do, the clothing should be promptly removed and laundered or discarded and placed in appropriately labeled containers and the shoes should be discarded. Once acrylonitrile penetrates shoe leather or other leather articles, they should not be worn again.

D. Eye Protection: You must wear splash-proof safety goggles in areas where liquid acrylonitrile may contact your eyes. In addition, contact lenses should not be worn in areas where eye contact with acrylonitrile can occur.

## V. PRECAUTIONS FOR SAFE USE, HANDLING, AND STORAGE

A. Acrylonitrile is a flammable liquid and its vapors can easily form explosive mixtures in air.

B. Acrylonitrile must be stored in tightly-closed containers in a cool, well-ventilated area, away from heat, sparks, flames, strong oxidizers (especially bromine), strong bases, copper, copper alloys, ammonia, and amines.

C. Sources of ignition such as smoking and open flames are prohibited wherever acrylonitrile is handled, used, or stored in a manner that could create a potential fire or explosion hazard.

D. You should use non-sparking tools when opening or closing metal containers of acrylonitrile, and containers must be bonded and grounded when pouring or transferring liquid acrylonitrile.

E. You must immediately remove any non-impervious clothing that becomes contaminated with acrylonitrile, and this clothing must not be worn until the acrylonitrile is removed from the clothing.

F. Clothing wet with liquid acrylonitrile can be easily ignited. You must promptly remove this clothing, and it must not be worn until the acrylonitrile is removed from the clothing.

G. If your skin becomes wet with liquid acrylonitrile, you must promptly and thoroughly wash or shower with soap or mild detergent to remove any acrylonitrile from your skin.

H. You must not keep food, beverages, or smoking materials in areas where acrylonitrile is handled, processed, or stored, nor are you permitted to eat or smoke in these areas.

I. If you handle acrylonitrile, you must wash your hands thoroughly with soap or

mild detergent and water before eating, smoking, or using toilet facilities.

J. Fire extinguishers and quick drenching facilities must be readily available, and you should know where they are and how to operate them.

K. Ask your supervisor where acrylonitrile is used in your work area and for any additional plant safety and health rules.

## VI. ACCESS TO INFORMATION

A. Each year, your employer is required to inform you of the information contained in this Substance Safety Data Sheet for acrylonitrile. In addition, your employer must instruct you in the proper work-practices for using acrylonitrile, emergency procedures, and the correct use of protective equipment.

B. Your employer is required to determine whether you are being exposed to acrylonitrile. You or your representative has the right to observe employee measurements and to record the results obtained. Your employer is required to inform you of your exposure. If your employer determines that you are being overexposed, he or she is required to inform you of the actions which are being taken to reduce your exposure to within permissible exposure limits.

C. Your employer is required to keep records of your exposures and medical examinations. These records must be kept by the employer for at least forty (40) years or for the period of your employment plus twenty (20) years, whichever is longer.

D. Your employer is required to release exposure and medical records to your physician upon your written request.

## APPENDIX B.—SUBSTANCE TECHNICAL GUIDELINES FOR ACRYLONITRILE

## I. PHYSICAL AND CHEMICAL DATA

A. Substance Identification

1. Synonyms: AN; VCN; vinyl cyanide; propenenitrile; cyanoethylene; Acrylon; Carbacryl; Fumigrain; Ventox.

2. Formula:  $\text{CH}_2=\text{CHCN}$ .

3. Molecular Weight: 53.1

B. Physical Data.

1. Boiling Point (760 mm. Hg.): 77.3° C (171° F).

2. Specific Gravity (water=1): 0.81 (at 20° C or 68° F).

3. Vapor Density (air=1 at boiling point of acrylonitrile): 1.83.

4. Melting Point: -83° C (-117° F).

5. Vapor Pressure at 20° F: 83 mm Hg.

6. Solubility in Water, percent by weight at 20° C (68° F): 7.35.

7. Evaporation Rate (Butyl Acetate=1): 4.54.

8. Appearance and Odor: Colorless to pale yellow liquid with a pungent odor at concentrations above the permissible exposure level. Any detectable odor of acrylonitrile may indicate overexposure.

## II. FIRE, EXPLOSION, AND REACTIVITY HAZARD DATA

A. Fire.

1. Flash Point: -1° C (30° F) (closed cup).

2. Autoignition Temperature: 481° C. (898° F).

3. Flammable limits air, percent by volume: Lower: 3, Upper: 17.

4. Extinguishing media: Alcohol foam, carbon dioxide, dry chemical.

5. Special fire-fighting procedures: Do not use a solid stream of water, since the stream will scatter and spread the fire. Use water spray to cool containers exposed to a fire.

## PROPOSED RULES

## IV. MONITORING AND MEASUREMENT PROCEDURES

A. Exposure above the Permissible Exposure Limit:

1. Eight-hour exposure evaluation: Measurements taken for the purpose of determining employee exposure under this section are best taken so that the average eight-hour exposure may be determined from a single 8-hour sample or two (2) 4-hour samples. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee.)

2. Ceiling evaluation: Measurements taken for the purpose of determining employee exposure under this section must be taken during periods of maximum expected airborne concentrations of acrylonitrile in the employee's breathing zone. A minimum of three (3) measurements should be taken on one work shift. The highest of all measurements taken is an estimate of the employee's ceiling exposure.

3. Monitoring techniques: The sampling and analysis under this section may be performed by collecting the acrylonitrile vapor on charcoal absorption tubes or other composition absorption tubes, with subsequent chemical analysis. Sampling and analysis may also be performed by instruments such as detector tubes certified by NIOSH under 42 CFR Part 84, portable direct-reading instruments, or passive dosimeters, as well as by gas and vapor absorption tubes. The method of measurement chosen should determine airborne acrylonitrile levels to an accuracy of plus or minus 25% for concentrations at or above the permissible exposure limits, and plus or minus 35% for concentrations at or above the action level but below the permissible exposure limits. Analysis of resultant samples should be by gas chromatography.

4. Survey of operations. At least on a weekly basis, the employer shall use a direct-reading instrument, such as a portable infra-red analyzer, or equivalent point-monitoring system, to survey all operations involving liquid AN or PAN to determine points at which AN vapor or liquid may be released into the workplace. A listing of points monitored, together with levels of acrylonitrile detected, if any, shall be prepared from this survey, and the listing shall be displayed prominently in the workplace. As an alternative survey method, grab samples, utilizing vapor collection bags, with subsequent gas chromatographic analysis, can be used.

B. Since many of the duties relating to employee exposure are dependent on the results of monitoring and measuring procedures, employers shall assure that the evaluation of employee exposures is performed by a competent industrial hygienist or other technically qualified person.

## V. PROTECTIVE CLOTHING

Employees shall be provided with and required to wear appropriate protective clothing to prevent any possibility of skin contact with liquid AN or PAN. Because acrylonitrile is absorbed through the skin, it is important to prevent skin contact with liquid AN or PAN. Protective clothing shall include impermeable coveralls or similar full-body work clothing, gloves, head-coverings, as appropriate to protect areas of the body which may come in contact with liquid AN or PAN.

Employers should ascertain that the protective garments are impermeable to acry-



lonitrile. Non-impermeable clothing and shoes should not be allowed to become contaminated with liquid AN and PAN. If permeable clothing does become contaminated, it should be promptly removed and not worn again until completely free of the material. If leather footwear or other leather garments become wet from acrylonitrile, they should be replaced and not worn again, due to the ability of leather to absorb acrylonitrile and hold it against the skin. Since there is no pain associated with the blistering, it is essential that the employee be informed of this hazard so that he or she can be protected.

Any protective clothing which has developed leaks or is otherwise found to be defective shall be repaired or replaced. Clean protective clothing shall be provided to the employee at least weekly, and whenever the clothing becomes wet with liquid AN or PAN. Employees are also required to wear splash-proof safety goggles where there is any possibility of acrylonitrile contacting the eyes.

#### VI. HOUSEKEEPING AND HYGIENE FACILITIES

For purposes of complying with 29 CFR 1910.141, the following items should be emphasized:

A. The workplace should be kept clean, orderly, and in a sanitary condition;

B. Dry sweeping and the use of compressed air is unsafe for the cleaning of floors and other surfaces where liquid AN or PAN may be found.

C. Adequate washing facilities with hot and cold water should be provided, and maintained in a sanitary condition. Suitable cleansing agents should also be provided to assure the effective removal of acrylonitrile from the skin.

D. Change or dressing rooms with individual clothes storage facilities should be provided to prevent the contamination of street clothes with acrylonitrile. Because of the hazardous nature of acrylonitrile, contaminated protective clothing should be stored in closed containers for cleaning or disposal.

#### VII. MISCELLANEOUS PRECAUTIONS

A. Store acrylonitrile in tightly-closed containers in a cool, well-ventilated area, and take necessary precautions to avoid any explosion hazard.

B. High exposures to acrylonitrile can occur when transferring the liquid from one container to another.

C. Non-sparking tools must be used to open and close metal acrylonitrile containers. These containers must be effectively grounded and bonded prior to pouring.

D. Never store uninhibited acrylonitrile. The inhibitor content shall be determined weekly.

E. Acrylonitrile vapors are not inhibited. They may form polymers and clog vents of storage tanks.

F. Use of supplied-air suits or other impervious coverings may be necessary to prevent skin contact with and provide respiratory protection from acrylonitrile where the concentration of acrylonitrile is unknown or is above the ceiling limit. Supplied-air suits should be selected, used, and maintained under the immediate supervision of persons knowledgeable in the limitations and potential life-endangering characteristics of supplied-air suits.

G. Employers shall advise employees of all areas and operations where exposure to acrylonitrile could occur.

## PROPOSED RULES

### VII. COMMON OPERATIONS

Common operations in which exposure to acrylonitrile is likely to occur include the following: manufacture of the acrylonitrile monomer; synthesis of acrylic fibers, ABS and SAN plastics and resins, nitrile rubber, surface coatings, specialty chemicals, use as a chemical intermediate, use as a fumigant and in the cyanoethylation of cotton.

#### APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES FOR ACRYLONITRILE

##### I. ROUTE OF ENTRY

Inhalation; skin absorption; ingestion.

##### II. TOXICOLOGY

Acrylonitrile vapor is an asphyxiant due to inhibitory action on metabolic enzyme systems. Animals exposed to 75 or 100 ppm for 7 hours have shown signs of anoxia; in some animals which died at the higher level, cyanomethemoglobin was found in the blood. Two human fatalities from accidental poisoning have been reported; one was caused by inhalation of an unknown concentration of the vapor, and the other was thought to be caused by skin absorption or inhalation. Most cases of intoxication from industrial exposure have been mild, with rapid onset of eye irritation, headache, sneezing, and nausea. Weakness, lightheadedness, and vomiting may also occur. Exposure to high concentrations may produce profound weakness, asphyxia, and death. The vapor is a severe eye irritant. Prolonged skin contact with the liquid may result in absorption with systemic effects, and in the formation of large blisters after a latent period of several hours. Although there is usually little or no pain or inflammation, the affected skin resembles a second-degree thermal burn. Solutions spilled on exposed skin, or on areas covered only by a light layer of clothing, evaporate rapidly, leaving no irritation, or, at the most, mild transient redness. Repeated spills on exposed skin may result in dermatitis due to solvent effects.

Results after one year of a planned two-year animal study on the effects of exposure to acrylonitrile have indicated that rats ingesting as little as 35 ppm in their drinking water develop tumors of the central nervous system. The interim results of this study have been supported by a similar study being conducted by the same laboratory, involving exposure of rats by inhalation of acrylonitrile vapor, which has shown similar types of tumors in animals exposed to 80 ppm.

In addition, the preliminary results of an epidemiological study being performed by duPont on a cohort of workers in their Camden, South Carolina acrylic fiber plant indicate a statistically significant increase in the incidence of colon and lung cancers among employees exposed to acrylonitrile.

##### III. SIGNS AND SYMPTOMS OF ACUTE OVEREXPOSURE

Asphyxia and death can occur from exposure to high concentrations of acrylonitrile. Symptoms of overexposure include eye irritation, headache, sneezing, nausea and vomiting, weakness, and light-headedness. Prolonged skin contact can cause blisters on the skin with the appearance of a second degree burn, but with little or no pain. Repeated skin contact may produce scaling dermatitis.

### IV. TREATMENT OF ACUTE OVEREXPOSURE

Remove employee from exposure. Immediately flush eyes with water and wash skin with soap or mild detergent and water. If AN has been swallowed, and person is conscious, induce vomiting. Give artificial resuscitation if indicated. More severe cases, such as those associated with loss of consciousness, may be treated by the intravenous administration of sodium nitrite, followed by sodium thiosulfate, although this is not as effective for acrylonitrile poisoning as for inorganic cyanide poisoning.

#### V. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. As noted above, exposure to acrylonitrile has been linked to increased incidence of cancers of the colon and lung in employees of the duPont acrylic fiber plant in Camden, S.C. In addition, the animal testing of acrylonitrile has resulted in the development of cancers of the central nervous system in rats exposed by either inhalation or ingestion. The physician should be aware of the findings of these studies in evaluating the health of employees exposed to acrylonitrile.

Most reported acute effects of occupational exposure to acrylonitrile are due to its ability to cause tissue anoxia and asphyxia. The effects are similar to those caused by hydrogen cyanide. Liquid acrylonitrile can be absorbed through the skin upon prolonged contact. The liquid readily penetrates leather, and will produce burns of the feet if footwear contaminated with acrylonitrile is not removed.

It is important for the physician to become familiar with the operating conditions in which exposure to acrylonitrile may occur. Those employees with skin diseases may not tolerate the wearing of whatever protective clothing may be necessary to protect them from exposure. In addition, those with chronic respiratory disease may not tolerate the wearing of negative-pressure respirators.

B. Surveillance and screening.

Medical histories and laboratory examinations are required for each employee subject to exposure to acrylonitrile above the action level. The employer must screen employees for history of certain medical conditions which might place the employee at increased risk from exposure.

1. *Central nervous system dysfunction.* Acute effects of exposure to acrylonitrile generally involve the central nervous system. Symptoms of acrylonitrile exposure include headache, nausea, dizziness, and general weakness. The animal studies cited above suggest possible carcinogenic effects of acrylonitrile on the central nervous system, since rats exposed by either inhalation or ingestion have developed similar CNS tumors.

2. *Respiratory disease.* The duPont data indicate an increased risk of lung cancer among employees exposed to acrylonitrile.

3. *Gastrointestinal disease.* The duPont data indicate an increased risk of cancer of the colon among employees exposed to acrylonitrile. In addition, the animal studies show possible tumor production in the stomachs of the rats in the ingestion study.

4. *Skin disease.* Acrylonitrile can cause skin burns when prolonged skin contact with the liquid occurs. In addition, repeated skin contact with the liquid can cause dermatitis.

5. *General.* The purpose of the medical procedures outlined in the standard is to es-

tablish a baseline for future health monitoring. Persons unusually susceptible to the effects of anoxia or those with anemia would be expected to be at increased risk. In addition to emphasis on the CNS, respiratory and gastro-intestinal systems, the cardiovascular system, liver, and kidney function should also be stressed.

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2. Norris, J. M., "Status Report on the 2-year Study Incorporating Acrylonitrile in the Drinking Water of Rats" (an MCA-sponsored study done by Dow Chemical), dated Jan. 12, 1977.

## PROPOSED RULES

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4. O'Berg, M. T., "Epidemiologic Study of Workers Exposed to Acrylonitrile: Preliminary Results," duPont Company, May 1977.

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6. American Conference of Governmental Industrial Hygienists "Acrylonitrile," Documentation of the Threshold Limit Values for Substances in Workroom Air (3d Ed., 2d printing), Cincinnati, 1974, p. 6.

7. Manufacturing Chemists Association, Inc., Chemical Safety Data Sheet SD-31, "Acrylonitrile," Washington, D.C., 1974, pp. 16-19.

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11. Patty, F. A., "Industrial Hygiene and Toxicology," Volume II: Toxicology (2d Ed., revised), Interscience Publishing Company, New York, 1963, pp. 1992, 2009-2012. (Secs. 4, 6, 8, 84, Stat. 1593, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 29 CFR Part 1911.)

[FR Doc. 78-1275 Filed 1-16-78; 11:00 am]



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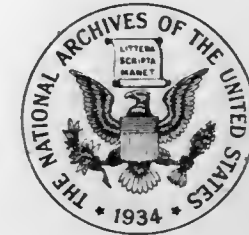
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# Register Federal Paper

TUESDAY, JANUARY 17, 1978  
PART V



## DEPARTMENT OF LABOR

Employment and  
Training Administration

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INTERSTATE  
ARRANGEMENT  
FOR COMBINING  
EMPLOYMENT  
AND WAGES



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RULES AND REGULATIONS

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[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING  
ADMINISTRATION, DEPARTMENT OF LABOR

PART 616—INTERSTATE ARRANGEMENT FOR  
COMBINING EMPLOYMENT AND WAGES

Amendment of Regulations

AGENCY: Employment and Training  
Administration, Labor

ACTION: Final rule

SUMMARY: The Interstate Arrangement for Combining Employment and Wages is a permanent part of the Federal-State Unemployment Compensation Program which is designed to pay unemployment compensation to those individuals whose base period employment was performed and wages were earned in two or more States. The Department of Labor is revising the combined-wage regulations to reflect recent amendments to the laws. The recent amendments require the Virgin Islands to participate in the Interstate Arrangement when it becomes a cooperating State in the Federal-State Unemployment Compensation Program, and change the rules for determining the Federal share of the costs of benefits on claims filed jointly under Federal and State unemployment compensation laws. Amendment of the regulations is necessary to conform them to the amended laws.

EFFECTIVE DATE: February 16, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

SUPPLEMENTARY INFORMATION: Part 616, Chapter V, Title 20 of the Code of Federal Regulations implements the Interstate Arrangement for Combining Employment and Wages, which was created under the Employment Security Amendments of 1970 (Pub. L. 91-373: 84 Stat. 695, 708). These amendments to Part 616 have been developed in consultation with the duly designated representatives of the Interstate Conference of Employment Security Agencies, who pursuant to § 616.2 of Part 616, are recognized by the Secretary of Labor as agents of the State unemployment compensation agencies for the purposes of the consultation required by section 3304(a)(9)(B) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(9)(B)). The amendments to Part 616 reflect recent amendments to pertinent statutes, and were published as a proposal

with opportunity for public participation at 42 FR 57252, on November 1, 1977. No change is made in the amendments as proposed. Although comments were received from three sources, the comments speak to points which are beyond the scope of the proposed amendments. To give consideration to these comments, the same process of consultation with the duly designated representatives of the Interstate Conference of Employment Security Agencies must be undertaken as noted above. Therefore, responses to the comments received will be undertaken in accordance with established procedures.

The published proposal fully explains the substantive changes in the regulations. In summation the amendments include the following significant changes:

1. Section 616.6(a) is changed to make it possible for the Virgin Islands to participate in the Interstate Arrangement for Combining Employment and Wages when the Virgin Islands becomes a cooperating State in the Federal-State Unemployment Compensation Program.

2. Section 616.8(f) is amended by adding paragraph 3. This new paragraph prescribes how benefit costs shall be charged to the United States when the wage credits in a Combined-Wage Claim include wage credits under the Unemployment Compensation Program for Ex-Servicemen and Women and the Unemployment Compensation Program for Federal Civilian Employees.

NOTE.—The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction and control of Lawrence E. Weatherford, Jr., Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone: 202-376-7032.

Accordingly, amendments to Part 616 of Chapter V of Title 20, Code of Federal Regulations, are set forth below.

Signed at Washington, D.C., on January 11, 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

1. In § 616.6, paragraphs (a) and (e)(2) are amended to read as follows:

§ 616.6 Definitions.

(a) "State". "State" includes the States of the United States, the District of Columbia and the Common-

wealth of Puerto Rico, and includes the Virgin Islands effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(e) Paying State.

(2) If the State in which a Combined-Wage Claimant files a Combined-Wage Claim is not the Paying State under the criterion set forth in paragraph (e)(1) of this section, or if the Combined-Wage Claim is filed in Canada or the Virgin Islands, then the Paying State shall be that State where the Combined-Wage Claimant was last employed in covered employment among the States in which the claimant qualifies for unemployment benefits on the basis of combined employment and wages: *Provided*, That, this paragraph (2) shall read as if the Virgin Islands was not referred to therein, effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

2. In § 616.8 paragraph (f) is amended by adding thereto a new subparagraph (3) to read as follows:

§ 616.8 Responsibilities of the paying State.

(f) Statement of benefit charges.

(3) With respect to new claims establishing a benefit year effective on and after July 1, 1977, the United States shall be charged directly by the Paying State, in the same manner as is provided in paragraphs (f)(1) and (f)(2) of this section, in regard to Federal civilian service and wages and Federal military service and wages assigned or transferred to the Paying State and included in Combined-Wage Claims in accordance with this Part and Parts 609 and 614 of this chapter. With respect to new claims effective before July 1, 1977, prior law shall apply.

[FR Doc. 78-1314 Filed 1-16-78; 8:45 am]



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# Federal Register

WEDNESDAY, JANUARY 18, 1978



## highlights

### "THE FEDERAL REGISTER—WHAT IT IS AND HOW TO USE IT"

Reservations for February are being accepted for the free Friday workshops on how to use the FEDERAL REGISTER. The sessions are held at 1100-L Street NW., Washington, D.C. in room 9409 from 9 to 11:30 a.m.

Each session includes a brief history of the FEDERAL REGISTER, the difference between legislation and regulations, the relationship of the FEDERAL REGISTER to the Code of Federal Regulations, the elements of a typical FEDERAL REGISTER document, and an introduction to the finding aids.

FOR RESERVATIONS call: Martin V. Franks, Workshop Coordinator, 202-523-3517.

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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FEDERAL REGISTER, VOL. 43, NO. 12—WEDNESDAY, JANUARY 18, 1978

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and  
codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.  
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each  
month.

[3410-02]

Title 7—Agriculture

CHAPTER XI—AGRICULTURAL MARKETING  
SERVICE (MARKETING AGREEMENTS AND  
ORDERS; MISCELLANEOUS COMMODITIES),  
DEPARTMENT OF AGRICULTURE

PART 1201—TYPE 62 SHADE-GROWN CIGAR-  
LEAF TOBACCO GROWN IN DESIGNATED  
PRODUCTION AREA OF FLORIDA AND  
GEORGIA

Order Terminating Marketing Agreement and  
Order

AGENCY: Agricultural Marketing  
Service, USDA.

ACTION: Order Terminating Market-  
ing Agreement and Order, as amended.

SUMMARY: This order terminates  
marketing agreement and order No.  
195, as amended (7 CFR Part 1201)  
regulating the handling of Type 62  
shade-grown cigar-leaf tobacco grown  
in the designated production area of  
Florida and Georgia.

DATE: January 18, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Leonard J. Ford, Acting Director,  
Tobacco Division, Agricultural Mar-  
keting Service, U.S. Department of  
Agriculture, Washington, D.C. 20250,  
202-447-2097.

SUPPLEMENTARY INFORMATION:  
Prior documents in this proceeding:  
Proposed Rule: Issued September 16,  
1977, published September 22, 1977 (42  
FR 47848).

Pursuant to the applicable provi-  
sions of the Agricultural Marketing  
Agreement Act of 1937, as amended (7  
U.S.C. 601 et seq), hereinafter referred  
to as the "Act," and of the marketing  
agreement and order regulating the  
handling of Type 62 shade-grown  
cigar-leaf tobacco grown in the desig-  
nated production area of Georgia and  
Florida (7 CFR Part 1201), it is hereby  
found and determined that:

(a) The terms and provisions of the  
marketing agreement and order as  
amended and currently effective (Part  
1201, Title 7, Code of Federal Regula-  
tions) do not tend to effectuate the de-  
clared policy of the Act.

On May 19, 1977, the Control Com-  
mittee which was established to ad-  
minister the terms and provisions of  
this order recommended to the Secre-

tary that the order be terminated.  
This recommendation was based upon  
the fact that although the order has  
been in effect since 1962, the program  
has been inactive since June 3, 1973.  
Since that time, There has been a sub-  
stantial reduction in the production  
and in the number of growers and  
handlers in the designated area due to  
rising costs and a decline in the  
demand for natural cigar-leaf wrapper  
tobacco. In view of current marketing  
conditions this marketing agreement  
and order no longer serves the purpose  
for which it was originally promulgat-  
ed and should accordingly be termi-  
nated.

Notice of proposed rulemaking to  
terminate this marketing agreement  
and order was published in the FED-  
ERAL REGISTER (42 FR 47848) on Septem-  
ber 22, 1977. Interested persons were  
afforded an opportunity to file written  
data, views, and arguments thereon.  
No such comments were filed.

After consideration of all relevant  
material, including the recommenda-  
tion of the Control Committee, the  
proposed rule set forth in the afore-  
said notice, and other available infor-  
mation it is hereby found that this  
marketing agreement and order as  
amended, regulating the handling of  
Type 62 shade-grown cigar-leaf tobac-  
co grown in the designated production  
area of Georgia and Florida, as now in  
force and effect, does not tend to ef-  
fectuate the declared policy of the  
Act.

(b) Thirty days notice of the effec-  
tive date hereof is impractical, unnec-  
essary, and contrary to the public in-  
terest because: (1) the termination  
does not require of persons affected  
substantial or extensive preparation  
prior to the effective date; (2) the Con-  
trol Committee has recommended this  
termination, and (3) notice of pro-  
posed rulemaking was given interested  
parties and they were afforded an op-  
portunity to file written data, views or  
arguments concerning this termina-  
tion.

It is therefore ordered, That the  
terms and provisions of Marketing  
Agreement and Order No. 195 as  
amended except § 1201.71 regulating  
the handling of Type 62 shade-grown  
cigar-leaf tobacco grown in the desig-  
nated production area of Florida and  
Georgia (7 CFR Part 1201) are hereby  
terminated effective at midnight Janu-  
ary 31, 1978, subject, however, to the  
following conditions:

(1) That such termination of this  
marketing agreement and order shall  
not affect or waive any right, duty, ob-  
ligation, or liability under this agree-  
ment and order which shall have  
arisen under these provisions or the  
regulations issued thereunder prior to  
February 1, 1978, or release or extin-  
guish any violation of these provisions  
of the regulations issued thereunder,  
or affect or impair any right or reme-  
dies of the Secretary, or any other  
person, with respect to any such viola-  
tion that has arisen or occurred or  
that may arise or occur prior to the  
time that such termination becomes  
effective;

(2) That the provisions of § 1201.71  
of the order relating to proceedings  
subsequent to termination of this  
order shall remain in force and effect  
for the purpose of enabling the Com-  
mittee to continue as trustees for the  
purpose of liquidating the affairs of  
the Committee pursuant to the provi-  
sions of this order;

(3) That the Committee shall, in ac-  
cordance with the applicable provi-  
sions of § 1201.71 continue in this ca-  
pacity and, from time to time, account  
for all funds, receipts, and disburse-  
ments; and

(4) That the Committee continuing  
in such capacity as provided in  
§ 1201.71 shall have all the powers and  
authority that may be necessary or  
proper to carry out the provisions  
thereof, and that the Committee shall  
perform the duties specified therein.

Dated: January 12, 1978.

JERRY C. HILL,  
Deputy Assistant Secretary  
for Marketing Service.

[FR Doc. 78-1354 Filed 1-17-78; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRA-  
TION, DEPARTMENT OF HEALTH, EDUCA-  
TION, AND WELFARE

[Reg. No. 4]

PART 404—FEDERAL OLD AGE, SURVIVORS,  
AND DISABILITY INSURANCE (1950—)

Subpart E—Deductions; Reductions; and Non-  
payment of Benefits Payment of Benefits to  
Aliens While Outside the United States

AGENCY: Social Security Administra-  
tion, HEW.



## ACTION: Final regulation.

**SUMMARY:** This rule updates the list of countries in 20 CFR 404.463 to include Western Samoa, Trinidad, and Tobago, and the Trust Territory of the Pacific Islands (Micronesia). These countries have been found to have a social insurance or pension system that meets the requirements of section 202(t) of the Social Security Act (42 U.S.C. 402(t)). Social security recipients who are citizens of these countries but not citizens of the United States may be paid their benefits while outside the United States regardless of the duration of their absence from the United States.

**DATES:** This amendment to the regulations shall be effective January 18, 1978. Any comments must be submitted by February 7, 1978.

**ADDRESSES:** Send comments to the Commissioner, Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

## FOR FURTHER INFORMATION CONTACT:

Mr. Armand Esposito, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235. Telephone 301-594-7455.

**SUPPLEMENTARY INFORMATION:** Generally, section 202(t) of the Social Security Act (42 U.S.C. 402(t)) provides that no social security benefits are payable to an alien who has been outside the United States for more than 6 months unless such alien meets one of several exceptions to this provision. Section 202(t)(2) excepts citizens of those countries which have in effect a social insurance or pension system of general application in such country and under which:

- (1) Periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and
- (2) Individuals are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of their absence if:

(a) they are citizens of the United States but not citizens of such foreign country, and;

(b) they qualify for such benefits. 20 CFR 404.463(a)(7) lists those countries which have been found to have such a social insurance or pension system. The following countries

have been found to have such a system and Notices to that effect were published as follows:

Trinidad and Tobago, 41 FR 30054, July 21, 1976  
Western Samoa, 41 FR 35755, August 24, 1976  
Trust Territory of the Pacific Islands (Micronesia), 41 FR 56402, December 28, 1976

This amendment is not being published with Notice of Proposed Rule Making as we believe it meets the exemption provided under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)). The Social Security Administration has been administering the social security program as the proposed regulation provides, based on the previous notices published in the *FEDERAL REGISTER* which set out the determinations SSA has made concerning the subject countries. Therefore, no useful purpose would be served by publishing this amendment to the regulations with a Notice of Proposed Rule Making. However, interested individuals are invited to comment on this amendment.

(Secs. 202(t), 205, and 1102, Social Security Act; 70 Stat. 835, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, and 1302.)

(Catalog of Federal Domestic Assistance Programs No. 13.802, Social Security-Disability Insurance; No. 13.803, Social Security-Retirement Insurance; No. 13.804, Social Security-Special Benefits for Persons Aged 72 and Over; No. 13.805, Social Security-Survivors Insurance.)

**NOTE:**—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order No. 11821 (November 27, 1974) as amended by Executive Order 11949 (December 31, 1976) and OMB Circular A-107.

Dated: September 2, 1977.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

20 CFR Chapter III is amended by revising subparagraph (7) of § 404.463(a) to read as follows:

§ 404.463 Nonpayment of benefits of aliens outside the United States; "foreign social insurance system," and "treaty obligation" exceptions defined.

(a) "Foreign social insurance system" exception. The following criteria are used to evaluate the social insurance or pension system of a foreign country to determine whether the exception described in § 404.460(b) to the alien nonpayment provisions applies:

(7) List of countries which meet the social insurance or pension system exception in section 202(t)(2) of the act.—The following countries have been found to have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Act. Unless otherwise specified, each country meets such requirements effective January 1957. The effect of these findings is that beneficiaries who are citizens of such countries and not citizens of the United States may be paid benefits regardless of the duration of their absence from the United States unless for months beginning after June 1968 they are residing in a country to which payments to individuals are being withheld by the Treasury Department pursuant to the first section of the Act of October 9, 1940 (31 U.S.C. 123). Further additions to or deletions from the list of countries will be published in the *FEDERAL REGISTER*.

Argentina (effective July 1968).  
Austria (except from January 1958 through June 1961).  
Barbados (effective July 1968).  
Belgium (effective July 1968).  
Bolivia.  
Brazil.  
Bulgaria (effective February 1971).  
Canada (effective January 1966).  
Chile.  
Colombia (effective January 1967).  
Costa Rica (effective May 1962).  
Cyprus (effective October 1964).  
Czechoslovakia (effective July 1968).  
Denmark (effective April 1964).  
Ecuador.  
El Salvador (effective January 1969).  
Finland (effective May 1968).  
France (effective June 1968).  
Gabon (effective June 1964).  
Guyana (effective September 1969).  
Ivory Coast.  
Jamaica (effective July 1968).  
Liechtenstein (effective July 1968).  
Luxembourg.  
Malta (effective September 1964).  
Mexico (effective March 1968).  
Monaco.  
Netherlands (effective July 1968).  
Norway (effective June 1968).  
Panama.  
Peru (effective February 1969).  
Philippines (effective June 1960).  
Poland (effective March 1957).  
Portugal (effective May 1968).  
San Marino (effective January 1965).  
Spain (effective May 1966).  
Sweden (effective July 1966).  
Switzerland (effective July 1968).  
Trinidad and Tobago (effective July 1975).  
Trust Territory of the Pacific Islands (Micronesia) (effective July 1976).  
Turkey.  
United Kingdom.  
Upper Volta (effective October 1960).  
Western Samoa (effective August 1972).  
Yugoslavia.  
Zaire (effective July 1961) (formerly Congo (Kinshasa)).

[FR Doc. 78-1401 Filed 1-17-78; 8:45 am]

[6560-01]

## Title 21—Food and Drugs

## CHAPTER 1—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

[FRL 843-8; FAP 6H5143/T31]

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## Butachlor

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule extends a feed additive regulation permitting the experimental use of the herbicide butachlor in rice bran and rice hulls. The extension was requested by Monsanto Agricultural Products Co. This rule will permit the marketing of rice bran and rice hulls while further data is collected on the subject pesticide.

**EFFECTIVE DATE:** Effective on January 18, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

**SUPPLEMENTARY INFORMATION:** On April 8, 1977, the EPA announced (42 FR 18620) that in response to a petition (FAP 6H5143) submitted by Monsanto Agricultural Products Co., 800 N. Lindbergh Boulevard, St. Louis, Mo. 63116, 21 CFR 561.55 was being established to permit the use of the herbicide butachlor (*N*-(butoxymethyl)-2-chloro-2',6'-diethylacetanilide) in a proposed experimental program involving application of the herbicide on growing rice with tolerance limitations of 1 part per million (ppm) for residues of the herbicide in rice hulls and 0.5 ppm in rice bran in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program will expire April 1, 1978.

Monsanto Agricultural Products Co. has requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodities rice hulls and rice bran.

The scientific data reported and other relevant material have been

evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in rice hulls and rice bran from the agricultural use provided for in the experimental use permit, the feed additive regulation should be extended along with the tolerance limitations. (A related document concerning the extension of temporary tolerances for residues of the subject pesticide in or on rice and rice straw appears elsewhere in today's *FEDERAL REGISTER*.)

Accordingly, a feed additive regulation is amended as set forth below.

Any person adversely affected by this regulation may, on or before February 17, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on January 18, 1978, 21 CFR 561.55 is amended as set forth below.

Dated: January 10, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

Section 561.55 is amended as follows:

§ 561.55 [Amended]

In § 561.55, the date in the eighth line is changed from "April 1, 1978" to "April 1, 1979."

[FR Doc. 78-1315 Filed 1-17-78; 8:45 am]

[6560-01]

[FRL 844-2; FAP 6H5118/T33]

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## Glyphosate

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule renews a feed additive regulation permitting the experimental use of the herbicide glyphosate in dried citrus pulp. The renewal was requested by Monsanto Co.

This rule will permit the marketing of dried citrus pulp while further data is collected on the subject pesticide.

**EFFECTIVE DATE:** Effective on January 18, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

**SUPPLEMENTARY INFORMATION:** On June 29, 1976, the EPA announced (41 FR 26679) that in response to a petition (FAP 6H5118) submitted by Monsanto Co., 800 N. Lindbergh Boulevard, St. Louis, Mo. 63116, 21 CFR 561.253 was being established to permit the use of the herbicide glyphosate (*N*-phosphonomethyl)-glycine in a proposed experimental program involving application of the herbicide to growing citrus with a tolerance limitation of 0.4 part per million (ppm) for residues of the herbicide and its metabolite aminomethylphosphonic acid in dried citrus pulp, in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program expired June 16, 1977.

Monsanto Co. has requested a one-year renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity citrus.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in dried citrus pulp from the agricultural use provided for in the experimental use permit, the feed additive regulation should be renewed along with the tolerance limitation. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on citrus fruits and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's *FEDERAL REGISTER*.)

Accordingly, a feed additive regulation is renewed as set forth below.

Any person adversely affected by this regulation may, on or before February 17, 1978, file written objections with the Hearing Clerk, EPA, Room 1019, East Tower, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate.



cate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on January 17, 1978, 21 CFR 561.253 is amended as set forth below.

Dated: January 10, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).

Section 561.253 *Glyphosate* is amended as follows:

§ 561.253 [Amended]

In § 561.253, the date at the end of the last line in paragraph (a)(1) is changed from "June 16, 1977" to "January 10, 1979."

[FR Doc. 78-1316 Filed 1-17-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 460—PSRO AREA DESIGNATIONS

AGENCY: Health Care Financing Administration, HEW.

ACTION: Final rule.

SUMMARY: This rule amends the PSRO area designations in order to transfer PSRO review responsibilities for health care services provided in the Forest Haven Treatment Center and the Glenn Dale Hospital, both located in Prince George's County, Md., from Maryland PSRO area IV to the District of Columbia PSRO area. Although the Forest Haven and Glenn Dale facilities are located in Maryland, they are owned, operated, and funded by the District of Columbia government for the exclusive use of District of Columbia patients. The redesignation of these areas will result in PSRO areas which better coincide with the existing medical service areas and will facilitate coordination with the respective medicare and medicaid fiscal agents.

EFFECTIVE DATE: January 18, 1978.  
FOR FURTHER INFORMATION CONTACT:

Arnold Wilson, Public Health Analyst, Health Care Financing Administration, telephone 301-443-5327.

SUPPLEMENTARY INFORMATION: On March 18, 1974, the Department

published regulations designating seven PSRO areas in Maryland and a single PSRO area for the District of Columbia. Maryland PSRO area IV consists of Prince George's county, in which the Glenn Dale and Forest Haven facilities are located.

Under the area designation guidelines (42 CFR 460.2(d)) PSRO areas should, to the extent possible, coincide with existing medical service areas. The Forest Haven and Glenn Dale facilities are totally funded, owned, staffed, and operated by the District of Columbia. Only District of Columbia residents are eligible for admission to the facilities and all patients are referred from or through District of Columbia courts or physicians. As a result, these facilities are more appropriately considered a part of the patient flow and referral patterns of the medical service area included within the District of Columbia PSRO area.

The guidelines further provide that area designations take into account the need for effective coordination with medicare and medicaid fiscal agents (42 CFR 460.2(f)). Both the Forest Haven and Glenn Dale facilities are reimbursed through a medicare intermediary and a medicaid fiscal agent located in the District of Columbia. Transfer of the institutions will thus facilitate coordination with these agencies.

Notice and opportunity for public comment are unnecessary because the change involves only a small number of health care practitioners employed by the District of Columbia in the two facilities. Furthermore, no physicians engaged in active practice in Prince George's county outside the facility would be affected.

42 CFR 460.11 and 42 CFR 460.24 are amended to read as follows:

§ 460.11 District of Columbia.

The District of Columbia and the Glenn Dale Hospital and Forest Haven Treatment Center located in Prince George's County, Md., are designated as a single professional standards review organization area.

§ 460.24 Maryland.

#### AREA IV

Prince George's, except the Glenn Dale Hospital and Forest Haven Treatment Center

(Sec. 1152, Social Security Act, 42 U.S.C. 1320c-1; sec. 1102, Social Security Act, 42 U.S.C. 1302.)

NOTE.—The Health Care Financing Administration has determined that this document does not require preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: December 9, 1977.

ROBERT A. DERZON,  
Administrator, Health  
Care Financing Administration.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 78-1403 Filed 1-17-78; 8:45 am]

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Updating Code of Federal Regulations;  
Miscellaneous Amendments

AGENCY: Office of Education, HEW.  
ACTION: Rule.

SUMMARY: This document amends the Code of Federal Regulations by deleting certain materials. The effect of the amendments will be to update the CFR for the Office of Education.

EFFECTIVE DATE: January 18, 1978.  
FOR FURTHER INFORMATION CONTACT:

Dr. A. Neal Shedd, Office of Education Regulations Officer, 202-245-7091.

SUPPLEMENTARY INFORMATION: The following appendices contained in Parts 118, 124, 162, and 190 in Title 45 of the Code of Federal Regulations are deleted:

PART 118—SUPPLEMENTARY CENTERS AND SERVICES; GUIDANCE, COUNSELING AND TESTING PROGRAMS

Part No. and Title

118 GUIDELINES—ESEA TITLE III, SECTIONS 301-305, 307-308, CHAPTERS I-III

PART 124—FINANCIAL ASSISTANCE FOR DEMONSTRATION PROJECTS FOR REDUCING SCHOOL DROPOUTS

Part No. and Title

124 GUIDELINES, ELEMENTARY AND SECONDARY EDUCATION ACT, TITLE VIII, SECTION 807

PART 162—NATIONAL READING IMPROVEMENT PROGRAM

Part No. and Title

162 APPENDIX A—PART B OF TITLE VII OF PUB. L. 93-380.

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Part No. and Title

190 APPENDIX FOR SUBPARTS C AND D—EXPLANATION FOR CALCULATING FAMILY CONTRIBUTION

APPENDIX FOR SUBPART E—EXPLANATION OF REGULATIONS

NOTE.—The U.S. Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 14, 1977.

ERNEST L. BOYER,  
U.S. Commissioner of Education.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

[FR Doc. 78-1404 Filed 1-17-78; 8:45 am]

[4110-07]

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

Quality Control System—Review Period, Temporary Exemption for Certain Case Errors

AGENCY: Social Security Administration, HEW.

ACTION: Final rule.

SUMMARY: These regulations: (1) Change the 6-month Quality Control (QC) review cycle of January-June and July-December to an April-September and October-March cycle in the Aid to Families with Dependent Children (AFDC) program and the assistance program for the aged, blind, and disabled in Puerto Rico, Virgin Islands, and Guam. The review cycle will then correspond with the fiscal year and the review cycles for the Supplemental Security Income (SSI) and Medicaid programs.

(2) Terminate with December 31, 1977 the temporary exemptions of certain case errors for QC purposes. The case errors involved are those directly attributable to the implementation of the IV-D Child Support Enforcement Program and to new legislation regarding unemployed fathers in the AFDC program. This regulation notifies the States that cases reviewed for periods after this date containing such errors will be counted in determining the error rates.

EFFECTIVE DATE: January 18, 1978.  
FOR FURTHER INFORMATION CONTACT:

John X. Bowes, Division of Quality Control Management, 202-245-0788.

ADDRESSES: Although this rule is being published as a final rule without a prior Notice of Proposed Rule Making, consideration will be given to any data, views, or arguments pertaining to the rule, which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203, within 45 days following publication in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Group, Office of External Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

SUPPLEMENTARY INFORMATION: This change will promote more efficient operation in that the quality control data for AFDC and adult programs will now correspond to the existing review periods for the Supplemental Security Income (SSI) and Medicaid programs, facilitating more effective corrective action planning and comparability of inter-program data, where appropriate.

Instructions will be issued to States concerning the method of sample selection and identification so that transition to April to September and October to March review cycles can be accomplished without a disruption of the review process. Error rates will be generated for the January-June 1978 review cycle as well as for the April to September 1978 review cycle.

The temporary exemption of certain case errors for QC purposes continues through and terminates with December 31, 1977. This exemption applies to errors directly attributable to implementation of Section 507 of Pub. L. 94-566 (enacted October 20, 1976). Section 507 requires that the unemployed father in the Aid to Families with Dependent Children of Unemployed Fathers (AFDC-UF) program apply for and accept any unemployment compensation for which he qualifies and requires the State to subtract such compensation from the amount of the AFDC-UF assistance otherwise payable. These requirements were effective November 1976. The Department alerted the States immediately following enactment of the legislation but has only recently issued implementing regulations at 45 FR 16145 (Mar. 25, 1977).

The temporary exemption of certain case errors for QC purposes is continued through and terminated with December 31, 1977. This exemption applies to errors that are directly attrib-

utable to the implementation of the Title IV-D Child Support Enforcement program and related eligibility requirements.

States experienced significant difficulties in implementing these provisions. The purpose of this change is to notify the States that they are expected to fully implement the cited requirements by December 31, 1977. The basis for the waiver was the Department's belief that to cite case error associated with these new program components would be unreasonable and not in the best interests of the goals of improved management of the AFDC program and uniform national application of Quality Control.

These amendments do not exempt the States from implementing statutory and regulatory program requirements. Cases that contain errors other than those exempted through December 31, 1977 by this regulation will continue to be counted in determining error rates. The Department finds that there is good cause to waive public participation procedures because the amendments benefit State agencies without having any adverse effect on applicants for or recipients of assistance.

(Secs. 407 and 1102 of the Social Security Act, as amended; 75 Stat. 75, as amended; 49 Stat. 647, as amended; 42 U.S.C. 607 and 1302.)

(Catalog of Federal Domestic Assistance Programs No. 13.761—Public Assistance—Maintenance (State Aid).)

NOTE.—The Social Security Administration has determined that this document does not require preparation of an economic impact statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Dated: December 6, 1977.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

In 45 CFR 205.40 paragraphs (b)(2)(iv) and (d) are amended to read as follows:

§ 205.40 Quality control system.

(a) State plan requirements \* \* \*

(2) The State agency shall submit to the Department in such form and at such times as it prescribes:

(iv) A corrective action plan for reducing the case error rates of ineligibility, overpayments, and underpay-



ments, within 90 days of the close of the 6-month sampling period to which they apply (April 1, through September 30, or October 1, through March 31) even after achieving case error rates of:

- (A) 3 percent for ineligibility;
- (B) 5 percent for overpayments; and
- (C) 5 percent for underpayments; and

(d) *Temporary exemption.* The term "case error" shall not, for the purpose of this section, and through the period ending December 31, 1977, include errors that result solely from State's:

- (1) Failure to apply, or improper or incomplete application of the following provisions of the following sections of this chapter:
- (i) 45 CFR 232.10 Furnishing of social security numbers;
- (ii) 45 CFR 232.11 Assignment of rights to support;
- (iii) 45 CFR 232.12 Cooperation in obtaining support;
- (iv) 45 CFR 232.20(a)(3), regarding treatment of unemployment compensation received by unemployed fathers, or
- (v) 45 CFR 232.100(a)(5)(ii), regarding application for, and acceptance of, unemployment compensation.

(2) Treatment of child support collected and distributed under the State IV-D plan and support or contribution income received directly from a legally liable individual by the AFDC family after the recipient has assigned support rights to the State agency.

(FR Doc. 78-1400 Filed 1-17-78; 8:45 am)

#### [4110-12]

#### CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

##### PART 1301—FEE SCHEDULE FOR HEAD START PROGRAM

##### Updating Current Regulations; Miscellaneous Amendments

AGENCY: Office of Human Development Services, HEW.

ACTION: Final rule.

SUMMARY: This document amends the Code of Federal Regulations by deleting an entire part (Part 1301). The amendment is necessary because a specific statutory provision has been superseded. The effect of the amendment will be to update the current regulations of the Office of Human Development Services.

EFFECTIVE DATE: January 18, 1978.

##### FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Drohat, Office of Human Development Services, 2008-E Dono-

#### RULES AND REGULATIONS

hoe Building, Washington, D.C., 20201, A.C. 202-755-7480.

The fee schedule set forth in this part was established pursuant to a statute which has been superseded. Therefore, Part 1301 is removed from Title 45 of the Code of Federal Regulations.

NOTE.—The Office of Human Development Services has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement Under Executive Order 11821 and OMB Circular A-107.

Dated: January 9, 1978.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

(FR Doc. 78-1402 Filed 1-17-78; 8:45 am)

#### [7035-01]

##### Title 49—Transportation

#### CHAPTER X—INTERSTATE COMMERCE COMMISSION

##### SUBCHAPTER B—PRACTICE AND PROCEDURE

##### PART 1100—GENERAL RULES OF PRACTICE

##### Mandatory Style Changes

AGENCY: Interstate Commerce Commission.

ACTION: Notice of mandatory style changes.

SUMMARY: 49 CFR 1100.247(c) requires that applicants seeking authority to operate as motor carriers of property or passengers, brokers, water carriers and freight forwarders prepare caption summaries of the authority sought for submission to the Federal Register. For economy of space purposes, the Commission is changing the format for the caption summaries.

DATE: This new format should be followed in all applications governed by 49 CFR 1100.247 which are filed on or after April 1, 1978.

##### FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7292.

SUPPLEMENTARY INFORMATION: All applications for authority filed under the special rules in 49 CFR 1100.247 require a caption summary to be prepared by the applicant in accordance with the prescribed format and instructions in the application. The caption summary prepared is used by the Commission as the notice of

the filing of the application to competitors and other interested persons in the FEDERAL REGISTER. Recently the FEDERAL REGISTER imposed a fee on space use. To economize on the length of the caption summaries, the Commission has adopted the following style changes, which shall be used by all those parties submitting caption summaries.

1. All references to a State name shall use the following two-letter State abbreviations: Alabama, AL; Alaska, AK; Arizona, AZ; Arkansas, AR; California, CA; Colorado, CO; Connecticut, CT; Delaware, DE; District of Columbia, DC; Florida, FL; Georgia, GA; Hawaii, HI; Idaho, ID; Illinois, IL; Indiana, IN; Iowa, IA; Kansas, KS; Kentucky, KY; Louisiana, LA; Maine, ME; Maryland, MD; Massachusetts, MA; Michigan, MI; Minnesota, MN; Mississippi, MS; Missouri, MO; Montana, MT; Nebraska, NE; Nevada, NV; New Hampshire, NH; New Jersey, NJ; New Mexico, NM; New York, NY; North Carolina, NC; North Dakota, ND; Ohio, OH; Oklahoma, OK; Oregon, OR; Pennsylvania, PA; Rhode Island, RI; South Carolina, SC; South Dakota, SD; Tennessee, TN; Texas, TX; Utah, UT; Vermont, VT; Virginia, VA; Washington, WA; West Virginia, WV; Wisconsin, WI; Wyoming, WY.

These abbreviations shall be used whether the State is referred to by itself, or with a place name. For example: "Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting; paper, from Scranton, PA to points in NJ."

2. All reference to the word "Highway" in route descriptions shall use the abbreviation "Hwy". In addition, all reference to the "thence" in route descriptions shall be replaced by "then". For example: "Between Asheville, N.C. and Knoxville, Tenn.: From Asheville over North Carolina Highway 1 to junction U.S. Highway 2, thence over U.S. Highway 2 to Knoxville, and return over the same route, serving all intermediate points," would be changed to "Between Asheville, NC and Knoxville, TN: From Asheville over NC Hwy 1 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Knoxville, and return over the same route, serving all intermediate points."

3. Where authority is sought to serve a shipper's plantsite, warehouse, or storage facilities, it is sufficient to request authority to serve "the facilities of XYZ, Inc." It is not necessary to specify each portion or type of the facilities. For example: "From the warehouse, plantsite and storage facilities of XYZ, Inc." should be written "From the facilities of XYZ, Inc."

4. Each caption for operating authority generally has the following hearing site request: "If a hearing is deemed necessary, applicant requests

that it be held in Birmingham, Ala." A note will be added to the prefatory language in the FEDERAL REGISTER which precedes the Notice of motor carrier, broker, water carrier, and freight forwarder operating rights applications indicating that if a hearing is deemed necessary in the following cases, the applicant has requested that it be held at the place indicated in parentheses. (Hearing site: )

Therefore in writing captions, it is only necessary to indicate the hearing site desired in parentheses in this manner: (Hearing site: Birmingham, AL).

These style changes are mandatory, and all applications filed on and after April 1, 1978, should be in accordance with these changes.

Decided January 9, 1978.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-1406 Filed 1-17-78; 8:45 am)

#### [4310-55]

##### Title 50—Wildlife and Fisheries

#### CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

##### PART 33—SPORT FISHING

##### Opening of Upper Souris National Wildlife Refuge, N. Dak., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

#### RULES AND REGULATIONS

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to Sport Fishing of Upper Souris National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: May 6, 1978 through March 25, 1979.

##### FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Upper Souris National Wildlife Refuge, RR No. 1, Foxholm, N. Dak. 58738, 701-468-5634.

##### SUPPLEMENTARY INFORMATION:

\$33.5 Special regulations; sport fishing; for individual wildlife refuge areas

Sport fishing is permitted on the Upper Souris National Wildlife Refuge, N. Dak., only on the areas designated by signs as being open to fishing. These areas comprising 12,000 acres are delineated on maps available at the Refuge Headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, P.O. Box 1897, Bismarck, N. Dak. 58501. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

- (1) The refuge is open to fishing between the hours of 5 a.m. and 10 p.m. daily.
- (2) Any boat motor or combination

of boat motors may be attached to boats or other watercraft being used on refuge waters. Only those motors or combination of motors capable of developing a total of 10 horsepower or less may be used.

(4) Ice fishing will be permitted in designated areas from Dam No. 41 south to Baker Bridge and from Mouse River Park north to the refuge boundary. Fish houses and vehicles however will not be permitted to the river below the Lake Darling Dam and north of Mouse River Park.

(5) No open fires are permitted, nor is cutting of trees, taking of minnows and frogs or digging of worms.

(6) Operation of snowmobiles within the refuge boundary is prohibited.

(7) Fish houses must be removed from the refuge no later than March 4, 1979.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 11, 1978.

MAURICE B. WRIGHT,  
Refuge Manager.

(FR Doc. 78-1334 Filed 1-17-78; 8:45 am)



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[4910-22]

### DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 658]

[FHWA Docket No. 77-21]

#### CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Advance Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this advance notice to solicit comments on the effectiveness of the current evaluation method in the area of enforcement of size and weight laws as set forth in Title 23 CFR 658.9. Comments may reflect upon modification of the present requirements or the total revision of the present requirements.

DATES: Comments must be received on or before April 15, 1978.

ADDRESS: FHWA Docket No. 77-21, Federal Highway Administration, Room 4230, 400 Seventh Street SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. David Baldwin, Office of Traffic Operations, 202-426-1993; or Mr. David C. Oliver, Office of Chief Counsel, 202-426-0824, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 a.m. to 4:15 p.m., ET.

SUPPLEMENTARY INFORMATION: This docket is being opened in response to a petition filed by the Professional Drivers Council (PROD); the Oil, Chemical and Atomic Workers International Union; and Save Our Cumberland Mountains and Citizens League to Protect the Surface Rights, requesting amendment of title 23 CFR 658.9. Section 658.9 sets forth the requirements for certification of weight and size enforcement.

The Federal-Aid Highway Amendments of 1974, Pub. L. 93-643 (section

141 of 23 U.S.C.) requires that States certify that they are enforcing the limits on weights and sizes on the Federal-aid system of highways. Prior to this requirement, the FHWA had instituted a system of obtaining weight and size enforcement information from the States. That earlier system was converted into the certification process currently set forth in section 658.9. The information submitted consists of the following items: (1) Copies of any State laws or regulations pertaining to vehicle sizes and weights; (2) the number of fixed scales operated by the State; (3) the number of portable scales operated by the State; (4) the number of vehicles weighed or measured, respectively; (5) the separate number of citations, assessments, unloadings, or arrests, for size and for weight violations, respectively; and (6) the numbers of State oversize and overweight permits issued, respectively, classified according to the duration of their effectiveness.

The intent of this section is to ensure that the States are carrying out an effective enforcement program in order to reduce the incidence of road deterioration as a result of abusive usage by nonlegal overloaded vehicles. The information to be submitted along with the certification statement has been required to permit the monitoring of State enforcement efforts. After review of the first full year's certification data (1976), the information submitted appears to be insufficient to establish whether there are effective enforcement programs underway. More thorough knowledge of the facts concerning enforcement are necessary before a decision to invoke the penalty provided in section 141 can be made.

The methodology to be used in the acquisition of this knowledge is the subject of this notice. The petition of the aforementioned parties requests amendment of the current regulations to restructure the requirements along the lines of an action program submission by the States.

Interested persons are invited to submit comments, including recommendations or suggestions as to how the regulations might be made more effective. Comments should refer to the docket number and should be submitted in triplicate to Federal Highway Administration, Room 4230, 400

Seventh Street SW., Washington, D.C. 20590. Comments received before the close of business on April 15, 1978, will be considered before further action is taken. Comments received will be available for examination by any interested person in Room 4230, both before and after the closing date for comments.

NOTE.—The FHWA has determined that this document does not contain a major proposal requiring preparation of the Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

This advance notice of proposed rulemaking is issued under the authority of 23 U.S.C. 141, 23 U.S.C. 315 and the delegations of authority in 49 CFR 1.48.

Issued on: January 11, 1978.

L. P. LAMM,  
Executive Director.

[FR Doc. 78-1333 Filed 1-17-78; 8:45 am]

[3810-70]

### DEPARTMENT OF DEFENSE

Office of the Secretary

[32 CFR Part 70]

#### DISCHARGE REVIEW BOARDS (DRBs)

Procedures and Standards; Extension of Comment Period

AGENCY: Office of the Secretary of Defense.

ACTION: Extension for comments.

SUMMARY: This document extends the time for comments in this proceeding from January 13, 1978, to January 23, 1978, to accommodate several requests from the public for an extension.

DATES: Comments must now be received by January 23, 1978, vice January 13, 1978.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), the Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Captain E. T. Boywid, JAGC, USN, or LTC G. A. Johnson, USAF, telephone 202-697-9525.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-35794 published in the FEDERAL REGISTER on December 14,

1977 (42 FR 62934), we proposed the issuance of a DOD directive to establish Department of Defense uniform procedures for discharge review to meet statutory requirements.

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 13, 1978.

[FR Doc. 78-1355 Filed 1-17-78; 8:45 am]

[8320-01]

### VETERANS EDUCATION

[38 CFR Ch. I]

#### VETERANS EDUCATION

School Liability Cases

AGENCY: Veterans Administration.

ACTION: Request for public comment on proposed rulemaking.

SUMMARY: This proposal contains revised statements of policy and administrative procedures to be followed by the Veterans Administration and other involved parties when determinations are made as to whether educational institutions can be held liable for overpayments pursuant to section 1785, Title 38, United States Code. These statements expand and set forth in greater detail previous statements of policy and administrative procedures concerning this subject such as those contained in DVB Circular 20-75-54. A fuller statement helps assure that the determinations made will be correct.

DATES: Comments must be received on or before February 16, 1978.

ADDRESSES: Send written comments to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until February 27, 1978.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: The Veterans Administration has not implemented the statements of policy and proposed administrative procedures contained in this proposal. The comments received will be considered in formulating regulations covering this subject.

## PROPOSED RULES

### ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding this document to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until February 27, 1978. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to a VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: January 12, 1978.

MAX CLELAND,  
Administrator.

#### RECOMMENDED PROCEDURE IN SCHOOL LIABILITY CASES

##### I. INITIAL DETERMINATION

Introduction. The terms adjudication officer and finance officer as used in this procedure include the designee of such official. The term school means the highest official of the school, e.g., president, director, chancellor, etc.

A. *Adjudicative action.* An initial report of potential liability will be made by the adjudicator on the basis of a change of status report belatedly submitted by the school, on information adduced by a compliance survey, or on information received from other reliable sources, such as FBI reports, complaints of students, etc. The proposed FL 22-123, Subject: Report of Potential School Liability, and supporting documents, where appropriate, will be prepared and referred, through the unit chief to the adjudication officer, or his designee, not lower than a section chief. As described below, the adjudication officer will determine whether school liability should be assessed.

B. *Adjudication officer—Review for liability.* 1. The adjudication officer will accumulate the FL 22-123 letters for review on a periodic basis. The adjudication officer may convene and ad hoc committee to assist in this review, including a member of the district counsel's office when there is a likelihood of fraud. The review will be based on evidence of record pursuant to 38 U.S.C. 1785. The review will include analysis of individual cases and of school's record as to past reliability in reporting student changes. Compliance survey reports of record will be considered. If circumstances warrant, a compliance survey or liaison visit may be requested by the adjudication officer.

2. If the adjudication officer determines the evidence warrants a finding of potential liability, his memorandum of such determination, and the FL 22-123, revised as warranted by any development, will be forwarded to the finance officer with the supporting record. If liability is not assessed, the school will be advised where appropriate, by the adjudication officer, of the defects found in their program, and requested to take remedial action.

3. If it appears that fraud is indicated, no administrative collection will be pursued, pending a determination by the district counsel, and the Department of Justice, if applicable. The finance officer will be so advised.

##### II. RESPONSIBILITY OF FINANCE OFFICER

A. The finance officer will review the record to determine the amount of liability. Any report found to be inadequate by the finance officer will be returned to the adjudication officer for resolution.

B. When the record is considered adequate, and no fraud is indicated, the finance officer will forward the FL 4-334 and VAF 4-5237 as an attachment to the school by certified mail, return receipt requested. The letter (FL 4-334) will notify the school of the intention to hold the school liable. The attachment (VAF 4-5237) will identify the students overpaid and will set out in each student's case the actions or omissions by the school which resulted in school liability being assessed under 38 U.S.C. 1785. Applicable Federal statutes and regulations will be cited by statute, regulation, and CFR number. The letter should present the school with the option of a hearing or submission of evidence directly to the Committee on School Liability without prior hearing. The letter should also indicate that if the school wishes to exercise its hearing option, a prehearing conference as provided by IV below will be scheduled, unless the school indicates it wishes to waive the prehearing conference. If the school waives the prehearing conference, it must submit its documentary evidence and list of proposed witnesses to the committee by mail. The agency's witness list will be forwarded to the school upon receipt of the school's submission. The notice letter to the school will state that final decision will be made on the evidence of record, if additional evidence or hearing request is not received within 30 days of the date of receipt of FL 4-334 by the school. It shall be required that additional written evidence or hearing request be transmitted to the finance officer by certified mail.

##### III. COMMITTEE ON SCHOOL LIABILITY AND COMMITTEE PANELS

Introduction. A standing Committee on School Liability will be established pursuant to regulation and the committee will make the regional office decision as to liability on the basis of evidence of record and any additional evidence submitted by the school or adduced at a hearing.

If no additional evidence is submitted or hearing requested, the decision will be made by the committee at the end of the 30-day period on basis of evidence of record. A hearing will not be allowed after the Committee decision. If a hearing is requested within the 30-day period, it will be held by the panel designated by the committee chairperson to make the decision as to school liability.

If the school elects to continue to contest liability, it may appeal to the School Liability Appeal Board which will be located in the central office of the Veterans Administration. In such instance, collection action will be deferred until the appeal procedure is completed.

A. *Committee composition.* The Committee on School Liability will be composed of a chairperson who shall have knowledge of requirements governing educational matters, and such number of committee members as



shall be necessary. The chairperson and the committee members shall be designated by the Director of the regional office and shall serve at the discretion of the Director. Neither the chairperson nor any committee member shall be below a GS-9 grade level. There shall be sufficient number of persons with backgrounds in adjudication of education claims to meet the requirements for panel composition as stated below.

**B. Panel composition.** The Committee chairperson shall designate a panel of three members, one of whom shall be designated to chair the panel, to decide cases of school liability. At least two panel members shall be knowledgeable on education procedures and at least one of these two members must be from the Adjudication Division. The third panel member must be from outside the Adjudication Division. No person will serve on a panel who was involved in the investigation or decisionmaking regarding the determination of potential liability or who will be involved in subsequent collection proceedings. This will not prevent adjudicators who have prepared form letters 22-123 from serving on a panel.

**C. Management representative.** An attorney from the district counsel's office of jurisdiction will be present at the prehearing conference and will assist with framing the issues to be heard. He will also present the agency's case at the hearing as the management representative. The attorney shall be notified of the date and time of the prehearing conference at least one week prior thereto and be furnished the complete record at the time of such notification.

#### IV. PREHEARING CONFERENCE

**Introduction.** When a hearing is requested, a prehearing conference will be conducted at the regional office, unless waived by the school.

**A. Purpose.** The requestor will be notified by certified letter, return receipt requested, of the date, time, place, and purpose of such conference. The letter will state that the purpose of the prehearing conference is to give the school and its legal representatives, if any, an opportunity to review and discuss the record upon which the assessment of liability was based, for the purpose of framing the issues; to discover and consider persons whom they wish to call as witnesses at the hearing; and to set a mutually convenient date for the hearing. The lists of such witnesses must be furnished to the VA. The VA likewise will submit to the school a list of witnesses it will call. Each party must list all persons desired as witnesses. At the conclusion of the prehearing conference, a memorandum of understanding will be prepared listing the unresolved issues; witnesses to be called; hearing date; and other pertinent data.

**B. Procedures.** The adjudication officer will designate one person who has knowledge of educational procedures to meet with the school to review and discuss the record upon which liability is based. That person shall not participate in the later committee decision. Since rescission or modification of the initial determination is essentially an adjudicative matter at this state of proceedings, that person shall have authority, subject to adjudication officer approval, to modify or rescind the initial determination in whole or in part.

**C. Challenges to the hearing panel.** At the prehearing conference, the school will be furnished the names and a brief resume of the qualifications of each designated panel

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member. The school will be advised that it has the right to challenge for good cause the composition of the panel, that is the qualifications of any member thereof; that any challenge must be submitted in writing and received by the regional office director before the hearing date; that the challenge and the Director's disposition thereof will be made a part of the record.

#### V. HEARING

**Introduction.** The hearing shall be conducted in accordance with the rules discussed below:

**A. Attendance of witnesses.** Each party shall be responsible for the appearance of witnesses, production of records, and the costs in connection therewith, necessary for the hearing. VA employees called as witnesses shall be required to appear in accordance with existing regulations.

**B. Hearing rules.—Rule 1.** The chairperson shall be in charge and responsible for conducting the hearing including administration of oaths or affirmations, which shall be required of all witnesses, and decisions as to admissibility of evidence.

**Rule 2.** The district counsel representative will serve as management representative and shall present the Government's case.

**Rule 3.** Rules of evidence applicable in judicial proceedings will not apply. Any written or oral testimony deemed to be of probative value will be admissible. Secondary or hearsay evidence will not be excluded on that basis alone. However, evidence or testimony which is irrelevant, immaterial, cumulative or unduly argumentative or repetitious, may be excluded. The chairperson may limit the number of persons appearing as witnesses. Such limitation must be exercised within reason.

**Rule 4.** Any panel member, the school representative or the management representative shall have the right to question any witness called for the hearing. Each party shall have the right to cross-examine any witness.

**Rule 5.** Any objection to a ruling by the chairperson, regarding the inadmissibility of testimony, documentary evidence, or challenge to a witness will be made a matter of record together with the substance, in brief, of the testimony intended or other evidence concerned. Documentary evidence objected to may be accepted for filing and future reference.

**Rule 6.** A verbatim stenographic or recorded report of the hearing shall be made by the agency and the stenographic notes or tapes preserved as part of the record. The report shall become a permanent part of the record, and a copy, if requested, shall be furnished free of cost to the school by certified mail, return receipt requested. The school may utilize a reporter of its choosing, at its expense. If the school wishes its transcript to become part of the record, a copy must be furnished to the agency free of cost.

**Rule 7.** All exhibits shall be identified by the chairperson in the order of introduction (numerically for the agency exhibits and alphabetically for exhibits introduced by the school). All exhibits shall be attached to the original of the transcript. True copies of exhibits shall be made and attached to the copy of the transcript furnished to the school.

**Rule 8.** The hearing shall be conducted in an orderly manner with dignity and decorum. The conduct of committee members shall be characterized by fairness, impartiality, and cooperativeness. The chairperson

shall take such action as may be necessary to maintain decorum. Where there is persistent disregard of the chairperson's rulings, it shall be pointed out that the school is entitled to every possible consideration in order that its case may be presented clearly and fully and that this may be accomplished only through observance of orderly procedures.

**Rule 9.** At the close of the hearing, the chairperson shall inform the school that notice of the decision will be furnished by the finance officer of the regional office and that the school may submit proposed findings of fact and conclusions of law within 10 working days from the date of the conclusion of the hearing. The 10 working days shall not include Saturdays, Sundays, and holidays.

**C. Committee decision.** 1. The evidence, including the hearing transcript when a hearing has been held, will be considered by the committee panel which will decide the issue of school liability, based on the rule of reasonable certainty. This rule dictates that a determination of school liability is not founded merely on conjecture or likelihood or even probability, but rather on circumstances sufficiently strong to warrant a reasonable man to believe the determination is correct. The panel decision shall be by majority. The decision of the committee shall be in writing, and shall either affirm, modify or reverse the findings of school liability.

2. The committee panel must clearly and fully state its findings and conclusions, and the reasons and basis for the decision. Applicable Federal statutes, VA regulations and CFR's will be cited by statute, regulation, and CFR number. The decision will be reviewed by the chairperson of the full committee for the adequacy of factual statements, sufficiency, and clarity of the legal basis for the holding. The decision may be returned to the panel for any proposed corrections, but not for change as to the decision itself.

3. A notice letter to the school will be prepared for signature by the finance officer. A copy will be furnished to the Director of the regional office and the district counsel. If liability is found, the letter will demand payment and will include notice of appellate rights and procedures, stating the 60-day period for such appeal. A copy of the decision must be enclosed. The notice letter will be sent by certified mail, return receipt requested.

4. If the school does not exercise its right of appeal within the appeal period, the panel decision will become the final agency decision. The original notice letter to the school will include this information.

#### VI. APPELLATE PROCEDURES

**A. Right of appeal.** If the school disagrees with the committee decision, appeal may be taken to the School Liability Appeal Board, which shall be located in the central office of the Veterans Administration in Washington, D.C., as a staff element of the Chief Benefits Director's office. The appeal must be received within 60 calendar days from the date of the notice letter to the school. Appeal may be instituted by a letter to the finance officer indicating disagreement with the decision and setting forth the alleged errors of fact and law relied upon as the basis for the appeal. An additional reasonable period, generally not to exceed 30 calendar days may be allowed if requested, within which to perfect the appeal. The fi-

nance officer will review the record prior to submission to the School Liability Appeal Board, and certify that the record upon which school liability is based is complete.

**B. Composition of the School Liability Appeal Board.** The School Liability Appeal Board shall consist of a chairperson and board members appointed by the Chief Benefits Director and other staff as found necessary. Each appeal shall be considered by a panel of two members designated by the chairperson. The chairperson will exercise supervision and control over Board functions and will participate in decisions if the two member panel does not reach a unanimous decision. A Board member will be designated to act in the absence or disqualification of the chairperson.

**C. Appellate procedures.** Review is limited to the issues raised by the school and shall be on the record and not de novo in character. Witnesses will not be permitted to testify on appeal. The school and the Government shall have the right to have a representative appear before the panel and present oral argument regarding their respective positions. The statement of alleged errors of fact and law relied upon by the school may constitute appearance before the Board. Review will be based on the entire record. If the Board perceives error in an area not addressed in the appeal, it shall have authority to correct such error.

**D. Restrictions on powers of the Board.** The Board shall have no authority to decide a challenge to the constitutionality of statutes and regulations which provide the basis for assessment of school liability. However, any other legal question including the legality of any regulation shall be referred to the general counsel for an opinion. All other issues raised by the appeal will be considered and decided by the Board.

**E. Disqualification of members.** A member of the Board shall be disqualified if such member participated or had supervisory responsibility in the office of original jurisdiction prior to appointment as a member of the Board, or where there are other circumstances which give the impression of bias either for or against the appellant. Such disqualification shall be made a part of the record.

**F. Decision on appeal.** The Board will decide each issue on appeal by allowance, denial, or modification of the committee decision in whole or in part, or by remand of the case to the regional office committee if clarification or further development is deemed necessary. The decision shall be in writing, signed by the members who participated in the decision, and shall set forth specifically the issues, findings of fact and conclusions of law, and the reason for the Board's decision, which shall be the final determination of the agency as to school liability. Any dissenting member may decline to sign and may submit a dissenting decision.

**G. Notice of Board decision.** The Board will promptly notify the school of its decision by certified mail, return receipt requested, and will include a copy of its decision with the notice letter. The letter will include a statement that the Board's decision is the final administrative decision of the agency. A copy of the transmittal letter and the Board's decision will be forwarded to the district counsel and the finance officer simultaneously with the release of the decision to the school. The finance officer will then institute collection action, which will be suspended if notice is received that suit has been filed.

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**H. Case on remand.** If the Board remands the case to the Station Committee on School Liability for further clarification or development, the district counsel and the school shall be notified and furnished a copy of the remand. The committee in the office of original jurisdiction shall have the authority to modify or rescind its earlier decision, in whole or in part, on the basis of evidence adduced, including increasing the amount of school liability.

The school will be notified of the decision of the committee and the following actions taken:

(1) Where the decision is affirmed, the case will be returned to the School Liability Appeal Board.

(2) Where the committee rescinds the original decision, the school and the School Liability Appeal Board will be notified that the appeal will be cancelled.

(3) Where the decision partially modifies the liability in the school's favor, the school will be requested to advise the committee within 30 calendar days whether it wishes to continue its appeal.

(4) Where the Committee increases the school's liability, the school shall be entitled to the hearing procedure as provided in the case of initial determinations. Such procedure shall be limited to the issue of increased liability.

Cases returned to the School Liability Appeal Board shall be considered by the original panel, if available, and a decision rendered. If either member of the original panel is not available, a substitute shall be designated by the chairperson.

#### VII. DISPOSITION OF PENDING CASES

1. **General.** There has been a moratorium on the processing of school liability cases since April 14, 1977. The purpose of this section is to provide instructions for handling school liability cases which were at various processing stages at the time of the moratorium.

2. **Cases with final decisions.** The agency will not conduct a general review of central office final decisions, or of regional office decisions where the 60-day period for requesting central office review expired before the beginning of the moratorium, and request for review was not received within the 60-day period. In the event that any of these decisions are alleged by the school, within 30 days from the first demand letter issued after lifting the moratorium, to be erroneous, the allegations of error will be reconsidered by the Station Committee on School Liability. If the school requests a prehearing conference, or a committee hearing, or both, such will be granted and held as prescribed in sections IV and V. A new decision will be issued, with the right of central office review.

3. **Cases with regional office decisions within 60 days of April 14, 1977, but no request for central office review received.** As with the cases in paragraph 2, no general review will be made. Should a request for central office review be received within 30 days from the first demand letter issued after lifting the moratorium, the case will be referred to the School Liability Appeal Board.

4. **Cases with requests for central office review pending.** These cases should be referred to the School Liability Appeal Board and the School so notified.

5. **All other cases.** All school liability cases not covered in paragraphs 2 through 4 above will be handled in accordance with

procedures prescribed in sections I through VI.

[FR Doc. 78-1328 Filed 1-17-78; 8:45 am]

[6560-01]

#### ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 2]

[FRL 827-8]

#### PUBLIC INFORMATION

General Provisions; Confidential Business Information Under Toxic Substances Control Act and Solid Waste Disposal Act

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

**SUMMARY:** This rule makes changes in the Environmental Protection Agency (EPA) procedures for dealing with requests for information under the Freedom of Information Act and adds two new sections to Subpart B to implement modifications in the basic procedures for handling business information obtained under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Toxic Substances Control Act. This rule makes no changes in EPA's policy concerning disclosure of business information that is confidential.

**DATES:** Comments must be received on or before March 20, 1978.

**ADDRESS:** Comments should be addressed to Office of General Counsel, Contracts and General Administration Branch (A-134), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments will be available for public inspection in that office from 8:30 a.m. to 4 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:**

James Nelson, Office of General Counsel, Contracts and General Administration Branch (A-134), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone: 202-755-0794.

**SUPPLEMENTARY INFORMATION:** On September 1, 1976, the Environmental Protection Agency (EPA) published its regulations for handling requests for information under the Freedom of Information Act and for dealing with confidentiality of business information submitted to EPA (41 FR 36902). Those regulations have been in effect for a little over one year. The response to the regulations, and the business confidentiality procedures in particular, has been generally favorable both on the part of people making requests under the Freedom of



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Information Act and on the part of businesses who have submitted information to EPA.

CHANGES IN SUBPART A

As a result of this first year of operating experience, EPA is proposing to make some minor modifications to the provisions of Subpart A of the regulations. First, §§ 2.115 and 2.120 would be modified to reflect the change in the title of the EPA Office of Public Affairs to the Office of Public Awareness. Second, § 2.118 would be modified to reflect a change in the statutory language of the third exemption under the Freedom of Information Act (5 U.S.C. 552(b)(3)). Congress amended this language in the Government in the Sunshine Act (Pub. L. 94-409). Third, § 2.120 would be modified to address the problem of persons who fail to pay the fees assessed by EPA for responding to their requests for information. Under this modification, EPA would not honor any new requests from a person who is more than 60 days late paying fees from a request until payment is tendered. For purposes of this provision a request by a person affiliated with a corporation, association, law firm, or other organization will be deemed to be a request by the organization.

CHANGES IN SUBPART B

EPA is proposing some minor modifications to Subpart B of the regulations. First, §§ 2.211, 2.213, 2.301(c), 2.302(c), 2.303(c), 2.304(c), 2.307(c), 2.308(c), and 2.309(c) would be modified to reflect the addition of four new sections. Second, § 2.213 would be modified to place specific requirements upon the EPA Freedom of Information Officer to notify all Regional Freedom of Information Offices, EPA legal offices, and other EPA offices that may possess information submitted by a business that has designated an address under § 2.213 for correspondence relating to business confidentiality. Because of the many offices and field installations within EPA, it has been difficult to insure that each office that might have reason to correspond with a business under Subpart B has been notified of designated addresses under § 2.213. EPA will make every effort to notify each EPA office of designations under § 2.213, but it is possible that some offices will send correspondence concerning business confidentiality to other addresses. EPA hopes this will not prevent businesses from responding to such correspondence.

There are three other proposed changes of a more substantial nature. First, EPA makes its final confidentiality determinations based largely upon the substantiating information submitted by the affected business. When EPA is sued by a requestor

under the Freedom of Information Act for disclosure of information EPA has determined to be entitled to confidential treatment, EPA must defend in court a decision that is often based upon unverified facts. Frequently, when EPA is sued for disclosure of confidential business information the real interest in defending the suit lies with the affected business rather than EPA. Accordingly, EPA would add a new § 2.214 that would provide for notice to the affected business by EPA if EPA were sued for disclosure of confidential business information. EPA would carry the burden of answering the complaint by setting forth the facts of the case, furnishing a copy of the administrative record, and defending the legal basis of the decision to grant confidential treatment. However, EPA would inform the court that the decision was based in part upon unverified information supplied by the affected business. EPA would then rely upon the business to intervene in the suit to protect its interest in the confidentiality of the information by defending the accuracy of the information used by EPA in making the decision. The affected business might want to intervene on all issues. EPA believes that this approach would be most fair to all parties since it would allow the real parties in interest to meet each other in court. EPA would defend its legal interests in such a suit.

Second, EPA has been faced with the problem of EPA personnel and EPA contractor personnel promising confidential treatment for business information outside of the procedures set forth in Subpart B. This has resulted in broken promises when EPA is forced to make determinations under Subpart B that find information not to be entitled to confidential treatment. Accordingly, proposed § 2.215(a) would make clear that no EPA employee or contractor could enter into any confidentiality agreement or promise confidentiality to any affected business, except to the extent allowed by Subpart B.

In addition, occasions have arisen when EPA has attempted to acquire information from state, local, or Federal agencies but has been unsuccessful because the other agencies would not give the information to EPA absent a pledge of confidentiality. There are situations where either EPA has no statutory authority to compel the information directly from the affected businesses or where the burden on EPA in time or resources would outweigh the utility of acquiring the information. Recognizing that EPA might have to pledge confidentiality to another agency in order to acquire information, proposed § 2.215 (b), (c), and (d) would authorize EPA to enter into confidentiality agreements with other agencies in certain restricted circumstances.

Third, EPA is proposing to modify the language of § 2.301(h) to clarify the procedures to be used when confidential information is given by EPA to an EPA subcontractor for performance of a contract for EPA. The paragraph would be changed to refer to subcontractors as well as contractors since a certain amount of EPA contract work must be done by subcontractors. The same provisions would apply to approval of and restrictions upon subcontractors who would be given confidential business information as apply to contractors. This provision is incorporated by reference into several other sections. When originally promulgated, § 2.301(h) was intended to deal with subcontractors. To clear up confusion about its coverage these modifications are proposed.

CONFIDENTIAL BUSINESS INFORMATION UNDER THE SOLID WASTE DISPOSAL ACT AND THE TOXIC SUBSTANCES CONTROL ACT

The basic rules in Subpart B apply to all confidential business information submitted to EPA. However, because of specific provisions in specific statutes administered by EPA, certain modifications in those basic rules are required. Sections 2.301 through 2.304 and §§ 2.307 through 2.309 contain the special rules under the various statutes administered by EPA. Since promulgation of the rules in Subpart B, two new statutes have been enacted that require modifications in the basic rules of Subpart B.

Proposed § 2.305 would set out special rules for certain business information submitted to EPA under the Solid Waste Disposal Act (SWDA), as amended by the Resource Conservation and Recovery Act of 1976. Section 3007 of SWDA controls information submitted to EPA under subtitle C of SWDA concerning hazardous waste management. Section 3007 requires certain changes in the basic rules in Subpart B. Those changes are reflected in proposed § 2.305 as follows:

(1) The special rules would apply to any information submitted to EPA under section 3007 of SWDA or which could have been required by EPA under section 3007.

(2) No information to which § 2.305 would apply would be voluntarily submitted information because it is all required to be submitted under authority of section 3007 of SWDA.

(3) Information that is otherwise entitled to confidential treatment would be disclosed when relevant to a proceeding under SWDA under rules set out in § 2.301(g).

(4) Information that is otherwise entitled to confidential treatment would be disclosed to authorized representatives of EPA. These would include contractors and State and local government agencies. Disclosures of this type

would be in accordance with the procedures set out in § 2.301(h).

(5) Except for these modifications, all the rules of Subpart B would apply to this information without change.

Section 3007 of SWDA is similar to section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act. The proposed special rules in § 2.305 are almost identical to those in §§ 2.301 and 2.302.

Proposed § 2.306 would set out special rules for business information submitted to EPA under the Toxic Substances Control Act (TSCA). Section 14 of TSCA controls information submitted to EPA under TSCA. Section 14 requires certain changes in the basic rules of Subpart B. Those changes are reflected in proposed § 2.306 as follows:

(1) Some information submitted under TSCA may be confidential if it meets the tests of 5 U.S.C. 552(b)(4). 5 U.S.C. 552(b)(4) is the trade secrets exemption of the Freedom of Information Act. The procedures in Subpart B are designed to enable EPA to make determinations whether information is entitled to confidential treatment under 5 U.S.C. 552(b)(4).

(2) Section 14(b) specifies that "data from health and safety studies" for certain substances and mixtures are not exempt from disclosure under 5 U.S.C. 552(b)(4). Section 2.306 would use the term "health and safety data" to express the same concept.

(3) The special rules would apply to information submitted under TSCA or which could have been required under TSCA.

(4) No information to which § 2.306 would apply would be voluntarily submitted information because it is (or could be) required to be submitted under TSCA.

(5) Information that is otherwise entitled to confidential treatment would be disclosed to Federal employees with duties under any law to protect health or the environment or for specific law enforcement purposes (see TSCA section 14(a)(1)).

(6) Information that is otherwise entitled to confidential treatment would be disclosed when relevant to a proceeding under TSCA under rules set out in § 2.301(g) (see TSCA section 14(a)(4)).

(7) Information that is otherwise entitled to confidential treatment would be disclosed to contractors and subcontractors of the United States doing contract work under TSCA under the rules set out in § 2.301(h) (see TSCA section 14(a)(2)).

(8) Information that is otherwise entitled to confidential treatment would be disclosed when necessary to protect health or the environment against an unreasonable risk of injury (see TSCA section 14(a)(3)). Disclosures of this type would come after advance notice

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of at least 24 hours to the affected business.

(9) The time period for advance notice to the affected business before disclosure of confidential business information would be 30 days as specified in TSCA section 14(c)(2) (except for TSCA section 14(a) disclosures).

(10) Except for these modifications, all the rules of Subpart B would apply to this information without change.

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an economic impact analysis statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 5, 1978.

BARBARA BLUM,  
Acting Administrator.

Therefore EPA proposes to amend 40 CFR Part 2 as follows:

1. By adding new §§ 2.214 and 2.215 to the Table of Sections, Subpart B, and by revising §§ 2.305 and 2.306, to read as follows:

Subpart B—Confidentiality of Business Information Sec.

2.214 Defense of Freedom of Information Act suits; participation by affected business.

2.215 Confidentiality agreements.

2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

2. By revising paragraph (b) of § 2.115 to read as follows:

§ 2.115 Appeal determinations; by whom made.

(b) Whenever the General Counsel has determined under paragraph (a)(3) of this section that a record is exempt from mandatory disclosure but legally may be disclosed and the record has not been disclosed by EPA, the matter shall be referred to the Director of the EPA Office of Public Awareness. If the Director of the EPA Office of Public Awareness determines that the public interest would not be served by disclosure, a determination denying the appeal shall be issued by the General Counsel. If the Director of the EPA Office of Public Awareness determines that the public interest would be served by disclosure, the record shall be disclosed unless the Administrator (upon a review of the

matter requested by the appropriate Assistant Administrator, Regional Administrator, or the Director of a Headquarters Staff Office) determines that the public interest would not be served by disclosure, in which case the General Counsel shall issue a determination denying the appeal.

3. By revising paragraph (a)(3) of § 2.118 to read as follows:

§ 2.118 Exemption categories.

(a) . . .

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552b): *Provided*, That such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

4. By revising § 2.120 by changing the last sentence of paragraph (d) and by adding a new paragraph (e) to read as follows:

§ 2.120 Fees; payment; waiver.

(d) . . . The Director of the EPA Office of Public Awareness, or the Director's designee in an EPA regional office, shall decide such appeals.

(e) The EPA Freedom of Information Officer shall maintain a record of all fees charged requestors for searching for and reproducing requested records under this section. If after the end of 60 calendar days from the date on which request for payment was made the requestor has not submitted payment to the EPA Freedom of Information Officer, the Freedom of Information Officer shall place the requestor's name on a delinquent list. If a requestor whose name appears on the delinquent list makes a request under this part, the EPA Freedom of Information Officer shall inform the requestor that EPA will not process the request until the requestor submits payment of the overdue fee from the earlier request. Any request made by an individual who specifies an affiliation with a corporation, association, law firm, or other organization shall be deemed to be a request by the corporation, association, law firm, or other organization. A requestor shall not be placed on the delinquent list if the request for a reduction or for a waiver is pending under paragraph (d) of this section.

5. By revising paragraph (a) and the first sentence of paragraph (c) of § 2.202 to read as follows:



§ 2.202 Applicability of subpart; priority where provisions conflict; records containing more than one kind of information.

(a) Sections 2.201 through 2.215 establish basic rules governing business confidentiality claims, the handling by EPA of business information which is or may be entitled to confidential treatment, and determinations by EPA of whether information is entitled to confidential treatment for reasons of business confidentiality.

(c) The basic rules of §§ 2.201 through 2.215 govern except to the extent that they are modified or supplanted by the special rules of §§ 2.301 through 2.309.

6. By revising paragraph (e)(4)(viii) of § 2.204 to read as follows:

§ 2.204 Initial action by EPA office.

(viii) Whether the business asserts that disclosure of the information would be likely to result in substantial harmful effects on the business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects; and

7. By revising the first sentence of paragraph (d) of § 2.211 to read as follows:

§ 2.211 Safeguarding of business information; penalty for wrongful disclosure.

(d) Each contractor or subcontractor with EPA, and each employee of such contractor or subcontractor, who is furnished business information by EPA under §§ 2.301(h), 2.302(h), 2.304(h), 2.305(h), 2.306(j), 2.307(h), or § 2.308(i), shall use or disclose that information only as permitted by the contract or subcontract under which the information was furnished.

8. By revising paragraphs (b)(7) and (c) of § 2.213 and adding a new paragraph (d) to read as follows:

§ 2.213 Designation by business of addressee for notices and inquiries.

(7) Notices to affected businesses under §§ 2.301(g) and 2.301(h), and analogous provisions in §§ 2.302, 2.303, 2.304, 2.305, 2.306, 2.307, and 2.308.

(c) The Freedom of Information Officer shall, as quickly as possible, notify all EPA offices that may possess information submitted by the business to EPA, the Regional Freedom of Information Offices, the Office of General Counsel, and the offices of Regional Counsel of any designation received under this section. Businesses making designations under this section should bear in mind that several working days may be required for dissemination of this information within EPA and that some EPA offices may not receive notice of such designations.

9. By adding the following two new sections after § 2.213:

§ 2.214 Defense of Freedom of Information Act suits; participation by affected business.

(a) In making final confidentiality determinations under this subpart, the EPA legal office relies to a large extent upon the information furnished by the affected business to substantiate its claim of confidentiality. The EPA legal office is unable to verify the accuracy of much of the information submitted by the affected business.

(b) If the EPA legal office makes a final confidentiality determination under this subpart that certain business information is entitled to confidential treatment, and EPA is sued by a requester under the Freedom of Information Act for disclosure of that information, EPA will:

(1) Notify the affected business of the suit, and  
(2) Answer the complaint by:  
(i) Setting forth the facts of the case,  
(ii) Furnishing a copy of the administrative record of the case,  
(iii) If applicable, stating that the final confidentiality determination was based upon information submitted by the affected business, the accuracy of which EPA is unable to verify, and  
(iv) Defending the legal basis for the final confidentiality determination.

(c) EPA intends to rely upon the affected business to intervene and defend the accuracy of the unverified information submitted by the business upon which the EPA legal office relied in making its final confidentiality determination.

(d) EPA will defend its legal interests in the lawsuit.

§ 2.215 Confidentiality agreements.

(a) No EPA employee or contractor shall enter into any agreement with any affected business to keep business information confidential unless such agreement is consistent with this subpart. No EPA employee or contractor shall promise any affected business that business information will be kept confidential unless the promise is consistent with this subpart.

(b) If an EPA office has requested information from a state, local, or Federal agency and the agency refuses to furnish the information to EPA because the information is or may constitute confidential information, the EPA office may enter into an agreement with the agency to keep the information confidential, notwithstanding the provisions of this subpart. However, no such agreement shall be made unless the General Counsel determines that the agreement is necessary and proper.

(c) To determine that an agreement proposed under paragraph (b) of this section is necessary, the General Counsel must find:

(1) The EPA office requesting the information needs the information to perform its functions;

(2) The agency will not furnish the information to EPA without an agreement by EPA to keep the information confidential; and

(3) Either:

(i) EPA has no statutory power to compel submission of the information directly from affected businesses, or

(ii) While EPA has statutory power to compel submission of the information directly from the affected businesses, compelling submission of the information directly from the businesses would—

(A) Require time in excess of that available to the EPA office to perform its necessary work with the information,

(B) Duplicate information already collected by the agency and overly burden the affected businesses, or

(C) Would overly burden the resources of EPA.

(d) To determine that an agreement proposed under paragraph (b) of this section is proper, the General Counsel must find that the agreement states—

(1) The purpose for which the information is required by EPA;

(2) The conditions under which the agency will furnish the information to EPA;

(3) The information subject to the agreement;

(4) That the agreement does not cover information acquired by EPA from another source;

(5) The manner in which EPA will treat the information; and

(6) That EPA will treat the information in accordance with the agreement subject to an order of a Federal court to disclose the information.

10. By revising paragraphs (c) and (h)(2) of § 2.301 to read as follows:

§ 2.301 Special rules governing certain information obtained under the Clean Air Act.

(c) Basic rules which apply without change. Sections 2.201 through 2.205,

§ 2.207, § 2.209, and §§ 2.211 through 2.215 apply without change to information to which this section applies.

(h) \* \* \*

(2)(i) A person under contract or subcontract to EPA to perform work for EPA in connection with the Act or regulations which implement the Act may be considered an authorized representative of the United States for purposes of this paragraph (h). Subject to the limitations in this paragraph (h)(2), information to which this section applies may be disclosed to such a person if the EPA program office managing the contract or subcontract first determines in writing that such disclosure is necessary in order that the contractor or subcontractor may carry out the work required by the contract or subcontract.

(ii) No information shall be disclosed under this paragraph (h)(2), unless the contract or subcontract in question provides:

(A) That the contractor or subcontractor's or subcontractor's employees shall use the information only for the purpose of carrying out the work required by the contract or subcontract, shall refrain from disclosing the information to anyone other than EPA without the prior written approval of each affected business or of an EPA legal office, and shall return to EPA all copies of the information (and any abstracts or extracts therefrom) upon request by the EPA program office, whenever the information is no longer required by the contractor or subcontractor for the performance of the work required under the contract or subcontract, or upon completion of the contract or subcontract;

(B) That the contractor or subcontractor shall obtain a written agreement to honor such terms of the contract or subcontract from each of the contractor's or subcontractor's employees who will have access to the information, before such employee is allowed such access;

(C) That the contractor or subcontractor acknowledges and agrees that the contract or subcontract provisions concerning the use and disclosure of business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having an interest in information concerning it supplied to the contractor or subcontractor by EPA under the contract or subcontract.

(iii) Except to the extent that the EPA program office determines in writing that the conduct of EPA activities would be seriously hampered by notifying affected businesses of disclosures proposed to be made under this paragraph (h)(2), no information shall be disclosed under this paragraph (h)(2) until each affected business has been furnished notice of the contemplated disclosure by the EPA program office, and has been afforded a period found reasonable by that office (not less than 5 working days) to submit its comments. Such notice shall include a description of the information to be disclosed, the identity of the contractor or subcontractor, the contract or subcontract number, if any, and the purposes to be served by the disclosure.

(iv) The EPA program office shall prepare a record of each disclosure under this paragraph (h)(2), showing the contractor or subcontractor, the contract or subcontract number, the information disclosed, the date(s) of disclosure, and each affected business. The EPA program office shall maintain the record of disclosure, the determination of necessity prepared under paragraph (h)(2)(i) of this section, and any determination not to notify affected businesses prepared under paragraph (h)(2)(iii) of this section, for a period of not less than 36 months after the date of the disclosure.

11. By revising paragraph (c) of § 2.302 to read as follows:

§ 2.302 Special rules governing certain information obtained under the Federal Water Pollution Control Act.

(c) Basic rules which apply without change. Sections 2.201 through 2.205, § 2.207, § 2.209, §§ 2.211 through 2.215 apply without change to information to which this section applies.

12. By revising paragraph (c) of § 2.303 to read as follows:

§ 2.303 Special rules governing certain information obtained under the Noise Control Act of 1972.

(c) Basic rules which apply without change. Sections 2.201 through 2.205, § 2.207, and §§ 2.209 through 2.215 apply without change to information to which this section applies.

13. By revising paragraph (c) of § 2.304 to read as follows:

§ 2.304 Special rules governing certain information obtained under the Safe Drinking Water Act.

(c) Basic rules which apply without change. Sections 2.201 through 2.205, § 2.207, § 2.209, and §§ 2.211 through 2.215 apply without change to information to which this section applies.

14. By revising § 2.305 to read as follows:

§ 2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976.

(a) Definitions. For purposes of this section:

(1) "Act" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1972, 42 U.S.C. 6901 et seq.

(2) "Person" has the meaning given it in section 1004(15) of the Act, 42 U.S.C. 6903(15).

(3) "Hazardous waste" has the meaning given it in section 1004(5) of the Act, 42 U.S.C. 6903(5).

(4) "Proceeding" means any rule-making, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this part.

(b) Applicability. This section applies only to information provided to or obtained by EPA under section 3007 of the Act, 42 U.S.C. 6927, by or from any person who generates, stores, treats, transports, disposes of, or otherwise handles hazardous wastes. Information will be considered to have been provided or obtained under section 3007 of the Act if it was provided in response to a request from EPA made for any of the purposes stated in section 3007, or if its submission could have been required under section 3007, regardless of whether section 3007 was cited as the authority for any request for the information or whether the information was provided directly to EPA or through some third person.

(c) Basic rules which apply without change. Sections 2.201 through 2.205, § 2.207, and §§ 2.209 through 2.215 apply without change to information to which this section applies.

(d) Special procedures for advance confidentiality determinations. Section 2.206 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(e) Substantive criteria for use in confidentiality determinations. Section 2.208 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(f) [Reserved.]

(g) Disclosure of information relevant to a proceeding. (1) Under section 3007(b) of the Act (42 U.S.C. 6927(b)), any information to which this section applies may be disclosed by EPA because of the relevance of the information to a proceeding under the Act, notwithstanding the fact that the information otherwise might be



entitled to confidential treatment under this subpart. Disclosure of information to which this section applies because of its relevance to a proceeding shall be made only in accordance with this paragraph (g).

(2-4) The provisions of § 2.301 (g)(2), (g)(3), and (g)(4) are incorporated by reference as paragraphs (g)(2), (g)(3), and (g)(4), respectively, of this section.

(h) *Disclosure to authorized representatives.* (1) Under section 3007(b) of the Act (42 U.S.C. 6927(b)), EPA possesses authority to disclose to any authorized representative of the United States any information to which this section applies, notwithstanding the fact that the information might otherwise be entitled to confidential treatment under this subpart. Such authority may be exercised only in accordance with paragraph (h)(2) or (h)(3) of this section.

(2-3) The provisions of § 2.301 (h)(2) and (h)(3) are incorporated by reference as paragraphs (h)(2) and (h)(3), respectively, of this section.

15. By revising § 2.306 to read as follows:

**§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.**

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Toxic Substances Control Act, 15 U.S.C. 2601 et seq.

(2) "Chemical substance" has the meaning given it in section 3(2) of the Act, 15 U.S.C. 2602(2).

(3) "Mixture" has the meaning given it in section 3(8) of the Act, 15 U.S.C. 2602(8).

(4) "Manufacturer" means any person who manufactures, produces, or imports a chemical substance or mixture as defined by section 3(7) of the Act, 15 U.S.C. 2602(7).

(5) "Manufacture for commercial purposes" has the meaning given it in § 710.2(p) of this title.

(6) "Processor" has the meaning given it in section 3(11) of the Act, 15 U.S.C. 2602(11).

(7) "Process for commercial purposes" has the meaning given it in § 710.2(u) of this title.

(8)(i) "Health and safety data" means, with respect to any chemical substance or mixture that has been manufactured or processed for commercial purposes or any chemical substance or mixture for which testing is required under section 4 of the Act (15 U.S.C. 2603) or for which notification is required under section 5 of the Act (15 U.S.C. 2604)—

(A) Any study of any effect of a chemical substance or mixture on health, on the environment, or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical sub-

stance or mixture, and toxicological, clinical, and ecological studies of a chemical substance or mixture;

(B) Any test performed under the Act including but not limited to section 4 (15 U.S.C. 2603), section 5 (15 U.S.C. 2604), section 6 (15 U.S.C. 2605), and section 8 (15 U.S.C. 2607); and

(C) Any data reported to, or otherwise obtained by, EPA from a study described in paragraph (a)(2)(i)(A) of this section or a test described in paragraph (a)(2)(i)(B) of this section.

(ii) Notwithstanding paragraph (a)(2)(i) of this section, no information shall be considered to be "health and safety data" if disclosure of the information would—

(A) In the case of a chemical substance or mixture, disclose processes used in manufacturing or processing the chemical substance or mixture, or

(B) In the case of a mixture, disclose the portion of the mixture comprised by any of the chemical substances in the mixture.

(9) "Proceeding" means any rule-making, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(b) *Applicability.* This section applies to all information submitted to EPA for the purpose of satisfying some requirement or condition of the Act or of regulations which implement the Act, including information originally submitted to EPA for some other purpose and either relied upon to avoid some requirement or condition of the Act or incorporated into a submission in order to satisfy some requirement or condition of the Act or of regulations which implement the Act. Information will be considered to have been provided under the Act if the information could have been obtained under authority of the Act, whether the Act was cited as authority or not, and whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Sections 2.201 through 2.203, § 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

(d) *Initial action by EPA office.* Section 2.204 applies to information to which this section applies, except that the provisions of paragraph (e) of this section regarding the time allowed for seeking judicial review shall be reflected in any notice furnished to a business under § 2.204(d)(2).

(e) *Final confidentiality determination by EPA legal office.* Section 2.205 applies to information to which this section applies, except that—

(1) Notwithstanding § 2.205(i), the General Counsel (or his designee), rather than the Regional Counsel, shall make the determinations and take the actions required by § 2.205;

(2) In addition to the statement prescribed by the second sentence of § 2.205(f)(2), the notice of denial of a business confidentiality claim shall state that under section 20(a) of the Act, 15 U.S.C. 2619, the business may commence an action in an appropriate Federal district court to prevent disclosure.

(3) The following sentence is substituted for the third sentence of § 2.205(f)(2): "With respect to EPA's implementation of the determination, the notice shall state that (subject to § 2.210) EPA will make the information available to the public on the thirty-first (31st) calendar day after the date of the business' receipt of the written notice (or on such later date as is established in lieu thereof under paragraph (f)(3) of this section), unless the EPA legal office has first been notified of the business' commencement of an action in a Federal court to obtain judicial review of the determination and to obtain preliminary injunctive relief against disclosure.";

(4) Notwithstanding § 2.205(g), the 31 calendar day period prescribed by § 2.205(f)(2), as modified by paragraph (e)(3) of this section, shall not be shortened without the consent of the business.

(f) *Special procedure for advance confidentiality determinations.* Section 2.206 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(g) *Substantive criteria for use in confidentiality determinations.* Section 2.208 applies without change to information to which this section applies, except that health and safety data are not eligible for confidential treatment. No information to which this section applies is voluntarily submitted information.

(h) *Disclosure in special circumstances.* Section 2.209 applies to information to which this section applies, except that the following is substituted for § 2.209(c):

"(c) *Disclosure to other Federal Agencies.* EPA may disclose business information to another Federal agency if—

(1) EPA receives a written request for disclosure of the information from a duly authorized officer or employee of the other agency;

(2) The request sets forth the official purpose for which the information is needed;

(3) The official purpose for which the information is needed is in connection with the agency's duties under any law for protection of health or the environment or for specific law enforcement purposes;

(4) EPA notifies the other agency of any unresolved business confidential-

ity claim covering the information and of any determination under this subpart holding that the information is entitled to confidential treatment;

(5) EPA notifies the other agency that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the officers and employees of the other agency to the penalties in section 14(d) of the Act (15 U.S.C. 2613(d)); and

(6) The other agency agrees not to disclose the information further unless—

(i) The other agency has statutory authority both to compel production of the information and to make the proposed disclosure;

(ii) The other agency has obtained the consent of each affected business to the proposed disclosure; or

(iii) The other agency has obtained a written statement from the EPA General Counsel that disclosure of the information would be proper under this subpart."

(i) *Disclosure of information relevant to a proceeding.* (1) Under section 14(a)(4) of the Act (15 U.S.C. 2613(a)(4)), any information to which this section applies may be disclosed by EPA when the information is relevant to a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. However, any such disclosure shall be made in a manner that preserves the confidentiality of the information to the extent practicable without impairing the proceeding. Disclosure of information to which this section applies because of its relevance to a proceeding shall be made only in accordance with this paragraph (i).

(2-4) The provisions of §§ 2.301 (g)(2), (g)(3), and (g)(4) are incorporated by reference as paragraphs (i)(2), (i)(3), and (i)(4), respectively, of this section.

(j) *Disclosure of information to contractors and subcontractors.* (1) Under section 14(a)(2) of the Act (15 U.S.C. 2613(a)(2)), any information to which this section applies may be disclosed by EPA to a contractor or subcontractor of the United States performing work under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Subject to the limitations in this paragraph (j), information to which this section applies may be disclosed to a contractor or subcontractor if the EPA program office managing the contract or subcontract, or (in the case of contractors or subcontractors with agencies other than EPA) the General Counsel, determines in writing that such disclosure is necessary for the satisfactory performance by the contractor or subcontractor of the contract or subcontract.

(2-4) The provisions of §§ 2.301 (h)(2)(i), (h)(2)(iii), and (h)(2)(iv) are incorporated by reference as paragraphs (j)(2), (j)(3), and (j)(4), respectively, of this section.

(5) At the time any information is furnished to a contractor or subcontractor under this paragraph (j), the EPA office furnishing the information to the contractor or subcontractor shall notify the contractor or subcontractor that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the contractor or subcontractor and its employees to the penalties in section 14(d) of the Act (15 U.S.C. 2613(d)).

(k) *Disclosure of information when necessary to protect health or the environment against an unreasonable risk of injury.* (1) Under section 14(a)(3) of the Act (15 U.S.C. 2613(a)(3)), any information to which this section applies may be disclosed by EPA when disclosure is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment. However, any disclosure shall be made in a manner that preserves the confidentiality of the information to the extent not inconsistent with protecting health or the environment against the unreasonable risk of injury. Disclosure of information to which this section applies because of the need to protect health or the environment against an unreasonable risk of injury shall be made only in accordance with this paragraph (k).

(2) If any EPA office determines that there is an unreasonable risk of injury to health or the environment and that the most practicable way to protect health or the environment against the unreasonable risk of injury is to disclose information to which this section applies that otherwise might be entitled to confidential treatment under this subpart, the EPA office shall notify the General Counsel in writing of the nature of unreasonable risk of injury, the extent of the disclosure proposed, how the proposed disclosure will serve to protect health or the environment against the unreasonable risk of injury, and the proposed date of disclosure. Such notification shall be made as soon as practicable after discovery of the unreasonable risk of injury. If the EPA office determines that the risk of injury is so imminent that it is impracticable to furnish written notification to the General Counsel, the EPA office shall notify the General Counsel orally.

(3) Upon receipt of notification under paragraph (k)(2) of this section, the General Counsel shall make a determination in writing whether disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is

necessary to protect health or the environment against an unreasonable risk of injury. The General Counsel shall also determine the extent of disclosure necessary to protect against the unreasonable risk of injury as well as when the disclosure must be made to protect against the unreasonable risk of injury.

(4) If the General Counsel determines that disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury, the General Counsel shall furnish notice to each affected business of the contemplated disclosure and of the General Counsel's determination. Such notice shall be made in writing by certified mail, return receipt requested, at least 15 days before the disclosure is to be made. The notice shall state the date upon which disclosure will be made. However, if the General Counsel determines that the risk of injury is so imminent that it is impracticable to furnish such notice 15 days before the proposed date of disclosure, the General Counsel may provide notice by means that will provide receipt of the notice by the affected business at least 24 hours before the disclosure is to be made. This may be done by telegram, telephone, or other reasonably rapid means.

16. By revising paragraph (c) of § 2.307 to read as follows:

**§ 2.307 Special rules governing certain information obtained under the Federal Insecticide, Fungicide, and Rodenticide Act.**

(c) *Basic rules which apply without change.* Sections 2.201 through 2.203, § 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

17. By revising paragraph (c) of § 2.308 to read as follows:

**§ 2.308 Special rules governing certain information obtained under the Federal Food, Drug and Cosmetic Act.**

(c) *Basic rules which apply without change.* Sections 2.201, 2.202, 2.207, and §§ 2.210 through 2.215 apply without change to information to which this section applies.

18. By revising paragraph (c) of § 2.309 to read as follows:



## PROPOSED RULES

§ 2.309 Special rules governing certain information obtained under the Marine Protection, Research, and Sanctuaries Act of 1972.

(c) Basic rules which apply without change. Sections 2.201 through 2.207, and §§ 2.209 through 2.215 apply without change to information to which this section applies.

(FR Doc. 78-1317 Filed 1-17-78; 8:45 am)

## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

## DEPARTMENT OF AGRICULTURE

## Forest Service

## GEOTHERMAL DEVELOPMENT, BREITENBUSH AREA

## Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Geothermal Development in the Breitenbush Area, USDA-FS-R6-FES(Adm)-77-3.

The environmental statement concerns a proposal to lease approximately 27,058 acres of National Forest land in the Mount Hood and Willamette National Forests for exploration and development of geothermal energy.

The final environmental statement was transmitted to EPA on January 10, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Ore. 97204.

Willamette National Forest, Supervisor's Office, P.O. Box 10607, Eugene, Ore. 97440.

Mount Hood National Forest, Supervisor's Office, 2440 Southeast 195th Avenue, Portland, Ore. 97223.

Mount Hood National Forest, Clackamas Ranger District, Estacada, Ore. 97023.

Willamette National Forest, Detroit Ranger District, Detroit, Ore. 97342.

A limited number of single copies are available upon request to Forest Supervisor, Willamette National Forest, P.O. Box 10607, Eugene, Ore. 97440.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: January 10, 1978.

CURTIS L. SWANSON,  
Regional Environmental Coordinator, Planning, Programming and Budgeting.

(FR Doc. 78-1335 Filed 1-17-78; 8:45 am)

[3410-11]

NATIONAL FOREST MANAGEMENT ACT  
COMMITTEE OF SCIENTISTS

## Meeting

The Committee of Scientists will meet at the U.S. Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C., on February 6-8, 1978 as follows:

## Date, Time, and Room No.

February 6, 1978, 9 a.m. to 12 noon, 2—W Administration Building.

February 7, 1978, 8:30 a.m. to 11 a.m., 2—W Administration Building.

February 8, 1978, 8:30 a.m. to 12 noon, 3109 South Building.

The purpose of this meeting will be to continue review of the proposed regulations for the land management planning process.

This meeting will be opened to the public. Persons who wish to attend and/or furnish written statements should notify Charles R. Hartgraves, Forest Service, Director, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013, area code 202-447-5933.

Dated: January 10, 1978.

CHESTER A. SHIELDS,  
Associate Deputy  
of Administration.

(FR Doc. 78-1357 Filed 1-17-78; 8:45 am)

[3410-16]

## Soil Conservation Service

## BUCK CREEK WATERSHED, ALA.

## Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Buck Creek Watershed, Covington County, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Con-

servationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment, critical area treatment, and land stabilization.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 6, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator  
for Programs.

(FR Doc. 78-1336 Filed 1-17-78; 8:45 am)

[3410-16]

## CITY OF MUNISING, BAYSHORE PARK RC&amp;D MEASURE, MICH.

## Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the City of Munising, Bayshore Park RC&D Measure, Alger County, Mich.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact



statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include critical area planting, land shaping, grading, spreading topsoil, fertilizing, liming, seeding, and mulching on approximately 3 acres. total construction costs are approximately \$12,985; \$9,010 RC&D funds and \$3,975 local funds.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 1405 South Harrison Road, East Lansing, Mich. 48823. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: January 10, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1366 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### EMPIRE CANAL FARM IRRIGATION RC&D MEASURE, COLO.

##### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Empire Canal Farm Irrigation RC&D Measure, Rio Grande, Conejos, and Alamosa Counties, Colo.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert G. Halstead, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for rehabilitation of irrigation structures in Empire Canal. The planned work of improvement include three checks, three headgates, and two measuring devices.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 2490 West 26th Avenue, Denver, Colo. 80217. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: January 10, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1367 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### LAKE GERAR PARK RC&D MEASURE, DEL.

##### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lake Gerar Park RC&D Measure, Rehoboth Beach, Delaware.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Otis D. Fincher, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan to control shoreline erosion and improve fish and wildlife and water-based recreation resources. The planned works of improvement include bulkheading, filling and grading, riprapping, structural protection, and vegetative plantings of grasses, shrubs, and trees.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Treadway Towers, Suite 2-4, 9 East Loockerman Street, Dover, Del. 19901. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: January 10, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1368 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### LINE CREEK WATERSHED, ALA.

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Line Creek Watershed, Montgomery, Macon, and Bullock Counties, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment and combinations of floodwater retarding structures and channel work.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the

preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008)

Dated: January 6, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator  
for Programs.

[FR Doc. 78-1337 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### MOORES CREEK WATERSHED, ALA.

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Moores Creek Watershed, Chambers County, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment and combinations of floodwater retarding structures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 10001-10008).

Dated: January 6, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator  
for Programs.

[FR Doc. 78-1338 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### MOZINGO CREEK WATERSHED, NODAWAY COUNTY, MO.

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Mozingo Creek Watershed, Nodaway County, Mo.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Kenneth G. McManus, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, watershed protection and nonagricultural water management (recreation and municipal and industrial water supply). The planned works of improvement include accelerated land treatment, one multiple-purpose structure and four grade stabilization structural measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Kenneth G. McManus, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Mo. 65201.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566 (16 U.S.C. 1001-1008).)

Dated: January 10, 1978.

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-1369 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### NORTH FORK FORKED DEER WATERSHED, TENNESSEE

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the North Fork Forked Deer Watershed, Gibson County, Tenn.

The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project or measure concerns a plan for erosion and sedimentation control, recreation development, and water quality improvement. The planned works of improvement include gully stabilization, roadbank stabilization, land treatment measures to control erosion, debris basins, and recreation lake and basic facilities.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 U.S. Courthouse, Nashville, Tenn. 37203.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: January 10, 1978.

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-1370 Filed 1-17-78; 8:45 am]

#### [3410-16]

##### SPRING CREEK WATERSHED, ALA.

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental



## NOTICES

Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Spring Creek Watershed, Colbert and Franklin Counties, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment and combinations of floodwater retarding structures and channel work.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 6, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator  
for Programs.

[FR Doc. 78-1339 Filed 1-17-78; 8:45 am]

## [3410-16]

STOCKPORT LAND DRAINAGE RC&D  
MEASURE, OHIOIntent Not To Prepare an Environmental Impact  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Stockport Land Drainage RC&D Measure, Morgan County, Ohio.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national im-

pacts on the environment. As a result of these findings, Mr. Robert E. Quilliam, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project measure concerns a plan for land drainage. The planned works of improvement will be installed to stabilize the outlet of the storm sewer system. The installation will involve installing one structure for water control and seeding any areas disturbed by construction.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Federal Building, Room 522, 200 North High Street, Columbus, Ohio 43215. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 17, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, g).)

Dated: January 10, 1978.

EDWARD E. THOMAS,  
Assistant Administrator  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1371 Filed 1-17-78; 8:45 am]

## [3410-16]

## TALLADEGA CREEK WATERSHED, ALA.

Intent To Prepare an Environmental Impact  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Talladega Creek Watershed, Talladega County, Ala.

The environmental assessment of this Federal action indicates that the project may cause significant local, regional or national impacts on the environment. As a result of these findings, Mr. William B. Lingle, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives being considered are conservation land treatment and various combinations of floodwater retarding structures and channel work.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. William B. Lingle, State Conservationist, Soil Conservation Service, P.O. Box 311, Auburn, Ala. 36830.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 6, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator,  
for Programs.

[FR Doc. 78-1340 Filed 1-17-78; 8:45 am]

## [6320-01]

## CIVIL AERONAUTICS BOARD

[Docket 31360]

## AEROPERU

## Cancellation of Hearing

Notice is hereby given that the hearing in the above-entitled matter, now assigned to be held on January 18, 1978 (43 FR 1813, January 12, 1978), is cancelled.

Dated at Washington, D.C., January 12, 1978.

STEPHEN J. GROSS,  
Administrative Law Judge.

[FR Doc. 78-1392 Filed 1-17-78; 8:45 am]

## [6320-01]

[Docket 31708]

EMPRESA GUATEMALTECA DE AVIACION  
(AVIATECA)

## Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Stephen J. Gross. Future communications should be addressed to Judge Gross.

Dated at Washington, D.C., January 12, 1978.

NAHUM LITT,  
Chief Administrative Law Judge.

[FR Doc. 78-1394 Filed 1-17-78; 8:45 am]

## NOTICES

## [6320-01]

[Docket 31946]

## SINGAPORE AIRLINES LIMITED

## Notice of Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William H. Dapper. Future communications should be addressed to Judge Dapper. Dated at Washington, D.C., January 12, 1978.

NAHUM LITT,  
Chief Administrative Law Judge.

[FR Doc. 78-1393 Filed 1-17-78; 8:45 am]

## [3510-04]

## DEPARTMENT OF COMMERCE

## National Technical Information Service

## GOVERNMENT-OWNED INVENTIONS

## Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

NATIONAL BUREAU OF STANDARDS, Patent Advisor's Office, Room A-419, Admin. Bldg., Washington, D.C. 20234.

Patent application 774,094: Magnetic Resonance Detection Method and Apparatus; filed Mar. 3, 1977.

Patent application 829,381: Six-Port Measuring Circuit; filed Aug. 31, 1977.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 767,233: Aluminum-Chlorine Thermal Battery; filed Feb. 9, 1977.

Patent application 800,985: Diffraction Grating Coupled Optically Pumped Laser; filed May 26, 1977.

Patent application 804,488: Separable Coupling for Plural Pressure Lines; filed June 7, 1977.

Patent application 806,434: Clutch Protection Circuit; filed June 14, 1977.

Patent application 806,437: Flared Sonic End Nozzle Velocity Coupling Test Burner; filed June 14, 1977.

Patent application 817,841: Electronic Indirect Measuring System; filed July 21, 1977.

Patent application 817,857: Hybrid Perfluorooalkylene Ether Thiolimide Ester Monomers; filed July 21, 1977.

Patent application 823,556: Improved Method of Using Embedded Normal Stress Sensors in Propellant Grains; filed Aug. 11, 1977.

Patent application 823,562: Liquid Nitrogen Level Controller; filed Aug. 11, 1977.

Patent application 826,081: A Load Impedance Intrusion Detection System; filed Aug. 19, 1977.

Patent application 826,082: Radar Intrusion Detection System; filed Aug. 19, 1977.

Patent application 826,083: Multiband High Frequency Communication Antenna; filed Aug. 19, 1977.

Patent application 826,084: Double Acting Locking-Unlocking Actuator; filed Aug. 19, 1977.

Patent application 826,106: Method of Joining a Fine Wire Filament to a Connector; filed Aug. 19, 1977.

Patent application 826,107: High Piezoelectric Coupling-Temperature Compensated Berlinitic Substrate Member for Surface Acoustic Wave Devices; filed Aug. 19, 1977.

Patent application 826,108: High Piezoelectric Coupling, Low Diffraction Loss, Temperature Compensated Berlinitic Substrate Members for Surface Acoustic Wave Devices; filed Aug. 19, 1977.

Patent application 826,221: Foil Moderated Radioactive Preionization System for Gas Lasers; filed Aug. 19, 1977.

Patent application 826,226: Improved Durability Flap and Seal Liner Assembly for Exhaust Nozzles; filed Aug. 19, 1977.

Patent 4,039,251: Tapered Crystal Modulator for Lasers; filed Apr. 19, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,043,147: Intershaft Balance Weight; filed June 18, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,377: Method for Casting Metal Alloys; filed Aug. 20, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,043,653: Holographic High Resolution Contact Printer; filed Jan. 8, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,044,316: Stabilized Cavity-Dumped Nd:YAG Laser; filed Apr. 19, 1976; patented Aug. 23, 1977; not available NTIS.

Patent 4,044,397: Integrated Circuit Wiring Bridge Apparatus; filed Aug. 12, 1976; patented Aug. 23, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Branch, General Services Div., Federal Bldg., Agricultural Research Service, Hyattsville, Md. 22161.

Patent application 833,883: Tetrasulfide Extreme Pressure Lubricant Additives; filed Sept. 16, 1977.

Patent application 835,103: Preparation of Isopropenyl Esters of Dicarboxylic Acids; filed Sept. 21, 1977.

Patent 4,039,586: Oxidation of Thiols to Disulfides; filed Aug. 30, 1973; patented Aug. 2, 1977; not available NTIS.

Patent 4,045,554: Process for Preserving Wood Chips During Storage; filed Sept. 30, 1975; patented Aug. 30, 1977; not available NTIS.

U.S. DEPT. OF ENERGY, Assist. General Counsel for Patents, Washington, D.C. 20545.

Patent application 617,126: Adhesive Plasters; filed Sept. 26, 1975.

Patent 3,984,283: Reactor; filed Feb. 21, 1946; patented Oct. 5, 1976; not available NTIS.

Patent 3,993,539: Method and Device for Measuring Fluid Flow; filed Aug. 7, 1975; patented November 23, 1976; not available NTIS.

Patent 3,994,775: Control Rod System Usable for Fuel Handling in a Gas-Cooled Nuclear Reactor; filed Feb. 25, 1976; patented Nov. 30, 1976; not available NTIS.

Patent 3,994,777: Nuclear Reactor Overflow Line; filed Feb. 12, 1976; patented Nov. 30, 1976; not available NTIS.

Patent 3,994,778: Liquid Metal Hydrogen Barriers; filed July 15, 1971; patented Nov. 30, 1976; not available NTIS.

Patent 4,002,912: Electrostatic Lens to Focus an Ion Beam to Uniform Density; filed Dec. 30, 1975; patented Jan. 11, 1977; not available NTIS.

Patent 4,004,250: Laser Action by Optically Depumping Lower States; filed Nov. 26, 1975; patented Jan. 18, 1977; not available NTIS.

Patent 4,008,899: Seal for Permitting Transfer of Tape from One Pressure Region to a Region of Substantially Different Pressure; filed Jan. 27, 1976; patented Feb. 22, 1977; not available NTIS.

Patent 4,011,462: Pulsed Infrared Difference Frequency Generation in CdGeAs sub 2; filed Nov. 26, 1975; patented Mar. 8, 1977; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent 4,045,630: Chin Activated Switch; filed Sept. 8, 1975; patented Aug. 30, 1977; not available NTIS.

Patent 4,045,815: System for Combining Analog and Image Signals Into a Standard Video Format; filed Feb. 4, 1976; patented Aug. 30, 1977; not available NTIS.

U.S. DEPT. OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 754,916: High Input Power Laser Device; filed Dec. 28, 1976.

Patent application 755,710: Calibration Circuit for Expendable Sonobuoys; filed Dec. 30, 1976.

Patent application 784,186: Frequency Independent Acoustic Antenna; filed Apr. 4, 1977.

Patent application 807,863: Transversal Filter Discrete Chirp Frequency Synthesizer; filed June 20, 1977.

Patent application 816,561: A Fiber-Optic Acoustic Array; filed July 18, 1977.

Patent application 819,037: Piezoelectric Polymer Flexural Disc Hydrophone; filed July 25, 1977.

Patent application 821,275: The Improvement of Plaque Dispersing Enzymes as Oral Therapeutic Agents by Molecular Alteration; filed Aug. 3, 1977.



Patent application 823,568: Holographic Lens Binocular System; filed Aug. 11, 1977.

Patent application 823,792: Driver for Reactive Load; filed Aug. 11, 1977.

Patent application 823,907: Single-Slotted Positive Circulation Flap Apparatus for Vectored Thrust Aircraft; filed Aug. 12, 1977.

Patent application 826,280: Folding Fin Assembly Detent; filed Aug. 22, 1977.

Patent application 826,608: Modular Guy-Line Insulator; filed Aug. 22, 1977.

Patent application 829,756: Radio Frequency Signals Analyzer; filed Sept. 1, 1977.

Patent application 830,721: Presettable Integrating Timing Circuit; filed Sept. 6, 1977.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 730,780: Variable Dihedral Shuttle Orbiter; filed Oct. 8, 1976.

Patent application 779,429: Vortex-Lift Roll-Control Device; filed Mar. 21, 1977.

Patent application 814,378: Process for the Preparation of Calcium Superoxide; filed July 11, 1977.

Patent application 817,413: A Complementary DMOS-VMOS Integrated Circuit Structure; filed July 20, 1977.

Patent application 817,415: Low Intensity X-Ray and Gamma-Ray Imaging Device; filed July 20, 1977.

Patent application 820,499: Production of Crystals from Molten Solutions; filed July 29, 1977.

Patent application 823,061: Horizontally Mounted Solar Collector; filed Aug. 9, 1977.

Patent application 823,566: Partial Polarizer Filter; filed Aug. 11, 1977.

Patent application 824,024: A Thermal Energy Transformer; filed Aug. 12, 1977.

Patent application 826,202: An Improved Controller Arm for a Remotely Related Slave Arm; filed Aug. 19, 1977.

Patent application 826,204: An Improved Vehicular Impact Absorption System; filed Aug. 19, 1977.

Patent application 829,314: A Seat Cushion to Provide Realistic Acceleration Cues for Aircraft Simulator Pilots; filed Aug. 31, 1977.

Patent application 829,316: Apparatus for Assembling Space Structure; filed Aug. 31, 1977.

Patent application 829,317: Intra-Ocular Pressure Normalization Technique and Equipment; filed Aug. 31, 1977.

Patent application 829,318: Intra-Ocular Pressure Normalization Apparatus; filed Aug. 31, 1977.

Patent application 831,633: Acoustically Swept Rotor; filed Sept. 8, 1977.

Patent application 831,634: An Improved Free Wing for an Aircraft; filed Sept. 8, 1977.

Patent 4,033,503: Method for Attaching a Fused-Quartz Mirror to a Conductive Metal Substrate; filed Aug. 27, 1976; patented July 5, 1977; not available NTIS.

Patent 4,038,705: Rotational Joint Assembly for the Prosthetic Leg; filed July 30, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,000: Accumulator; filed Dec. 18, 1975; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,347: Method of Preparing Zinc Orthotitanate Pigment; filed June 17, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,754: Speech Analyzer; filed Apr. 9, 1975; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,925: Phase Substitution of Spare Converter for a Failed One of Parallel Phase Staggered Converters; filed June 10, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,039,947: Tachometer; filed Mar. 18, 1976; patented Aug. 2, 1977; not available NTIS.

Patent 4,040,041: Twin-Capacitive Shaft Angle Encoder with Analog Output Signal; filed Oct. 24, 1975; patented Aug. 2, 1977; not available NTIS.

Patent 4,040,750: Real Time Reflectometer; filed May 28, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,041,233: Aldehyde-Containing Urea-Absorbing Polysaccharides; filed Mar. 15, 1976; patented Aug. 9, 1977; not available NTIS.

Patent 4,041,391: Pseudo Noise Code and Data Transmission Method and Apparatus; filed Dec. 30, 1975; patented Aug. 9, 1977; not available NTIS.

Patent 4,042,926: Automated Transponder; filed Mar. 27, 1975; patented Aug. 16, 1977; not available NTIS.

(FR Doc. 78-1341 Filed 1-17-78; 8:45 am)

## [3510-04]

## GOVERNMENT-OWNED INVENTIONS

## Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$4.00 (\$8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,988,692: Nuclear Reactor for Breeding exp 233 U. Filed Dec. 8, 1975.

patented Dec. 21, 1976; not available NTIS.

Patent 3,992,257: Neutron-Absorber Release Device. Filed Aug. 13, 1975, patented Nov. 16, 1976; not available NTIS.

Patent 3,999,067: High Speed Radiation Scanning Technique for Simultaneously Determining the Pitch and Eccentricity of an Encased Coil. Filed Oct. 14, 1975, patented Dec. 21, 1976; not available NTIS.

Patent 4,006,034: Method of Preparing an Electrochemical Cell in Uncharged State. Filed Mar. 11, 1976, patented Feb. 1, 1977; not available NTIS.

Patent 4,008,899: Seal for Permitting Transfer of Tape from One Pressure Region to a Region of Substantially Different Pressure. Filed Jan. 27, 1976, patented Feb. 22, 1977; not available NTIS.

Patent 4,011,372: Method of Preparing a Negative Electrode Including Lithium Alloy for Use within a Secondary Electrochemical Cell. Filed Dec. 9, 1975, patented Mar. 8, 1977; not available NTIS.

Patent 4,011,373: Uncharged Positive Electrode Composition. Filed Apr. 29, 1976, patented Mar. 8, 1977; not available NTIS.

Patent 4,011,374: Porous Carbonaceous Electrode Structure and Method for Secondary Electrochemical Cell. Filed Dec. 2, 1975, patented Mar. 8, 1977; not available NTIS.

Patent 4,012,209: Liquid Film Target Impingement Scrubber. Filed Apr. 5, 1976, patented Mar. 15, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 829,761: 2,3,7,8-Tetraazaspiro-(4,4) nonane, 2,3,7,8-Tetraazaspiro-(4,4) nona-2,7-diene and Derivatives. Filed Sept. 1, 1977.

Patent application 830,241: Quick Disconnect Interconnect Busbar for Deep Submergence Batteries. Filed Sept. 2, 1977.

Patent 4,012,492: Synthesis of Anhydrous Metal Perchlorates. Filed June 10, 1975, patented Mar. 15, 1977; not available NTIS.

Patent 4,017,687: Device for Minimizing Interchannel Crosstalk in High Rate Commutator Multiplexers. Filed Nov. 28, 1975, patented Apr. 12, 1977; not available NTIS.

Patent 4,032,885: Digital Correlator. Filed Mar. 1, 1976, patented June 28, 1977; not available NTIS.

Patent 4,032,922: Multibeam Adaptive Array. Filed Jan. 9, 1976, patented June 28, 1977; not available NTIS.

Patent 4,035,691: Pulsed Laser Excitation Source. Filed Aug. 4, 1975, patented July 12, 1977; not available NTIS.

Patent 4,037,147: Isolation Amplifier for Resistive and Inductive Loads. Filed Feb. 26, 1974, patented July 19, 1977; not available NTIS.

Patent 4,040,060: Notch Fed Magnetic Microstrip Dipole Antenna with Shorting Pins. Filed Nov. 10, 1976, patented Aug. 2, 1977; not available NTIS.

Patent 4,041,580: Separable Link Connector. Filed Jan. 12, 1975, patented Aug. 16, 1977; not available NTIS.

Patent 4,042,430: Temperature Resistant Explosive Containing Diaminodinitrobenzene. Filed Apr. 10, 1972, patented Aug. 16, 1977; not available NTIS.

Patent 4,042,441: Mechanical-Chemical Linkage between Polymer Layers. Filed May 6, 1976, patented Aug. 16, 1977; not available NTIS.

Patent 4,042,449: Method of Making a Reticle-Lens. Filed Sept. 20, 1976, patented Aug. 16, 1977; not available NTIS.

Patent 4,042,829: Frequency Domain Discrimination and Counting Technique. Filed Nov. 4, 1975, patented Aug. 16, 1977; not available NTIS.

Patent 4,042,837: Short Pulse Solid State-Magnetic Modulator for Magnetron Transmitter. Filed Nov. 15, 1976, patented Aug. 16, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 826,203: Process for Removing Sulfur Dioxide from Gas Streams. Filed Aug. 19, 1977.

Patent application 829,390: Aluminum or Copper Substrate Panel for Selective Absorption of Solar Energy and the Method of Producing Said Panel. Filed Aug. 31, 1977.

Patent application 830,382: Stainless Steel Panel for Selective Absorption of Solar Energy and the Method of Producing Said Panel. Filed Sept. 2, 1977.

Patent application 831,632: Reduction of Nitric Oxide Emissions from a Combustor. Filed Sept. 8, 1977.

Patent application 831,633: Acoustically Swept Rotor. Filed Sept. 8, 1977.

Patent application 831,634: An Improved Free Wing for an Aircraft. Filed Sept. 8, 1977.

Patent 4,039,000: Accumulator. Filed Dec. 18, 1975, patented Aug. 2, 1977; not available NTIS.

Patent 4,039,489: Oil and Fat Absorbing Polymers. Filed Apr. 7, 1976, patented Aug. 2, 1977; not available NTIS.

Patent 4,041,910: Combustion Engine. Filed Apr. 2, 1975, patented Aug. 16, 1977; not available NTIS.

(FR Doc. 78-1342 Filed 1-17-78; 8:45 am)

## [3510-04]

## GOVERNMENT-OWNED INVENTIONS

## Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$4 (\$8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

CONF 770,106: Public Colloquium on Mandatory Patent Licensing. Jan. 12, 1977, not available NTIS.

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent application 833,501: Vortex Advisory System. Filed Sept. 15, 1977.

U.S. DEPARTMENT OF ENERGY, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent application 727,560: Isotope Separation. Filed Sept. 29, 1976.

Patent 4,004,890: Method and Means of Reducing Erosion of Components of Plasma Devices Exposed to Helium and Hydrogen Isotope Radiation; filed Feb. 9, 1976, patented Jan. 25, 1977, not available NTIS.

Patent 4,004,993: Electrolytic Trapping of Iodine from Process Gas Streams; filed Feb. 26, 1976, patented Jan. 25, 1977, not available NTIS.

Patent 4,005,178: Method for Converting UF sub 5 to UF sub 4 in a Molten Fluoride Salt; filed July 10, 1975, patented Jan. 25, 1977, not available NTIS.

Patent 4,005,289: Method for Identifying Anomalous Terrestrial Heat Flows; filed Jan. 5, 1976, patented Jan. 25, 1977, not available NTIS.

Patent 4,008,411: Production of 14 Mev Neutrons by Heavy Ions; filed July 8, 1975, patented Feb. 15, 1977, not available NTIS.

Patent 4,010,100: Isotope Separation by Photochromatography; filed Oct. 3, 1975, patented Mar. 1, 1977, not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20014.

Patent application: 804,601: The Synthesis of 6-Amino-4-Methyl-8-(beta-D-Ribofuranosyl)pyrrolo(4,3,2-DE)pyrimido(4,5-C)pyridazine-5-Phosphate as a Novel Compound and Its Utility Against L-1210 Mouse Leukemia; filed June 8, 1977.

Patent application 806,317: Novel Vinblastine and Vincristine Compounds; filed June 13, 1977.

Patent 4,035,150: Test for Occult Blood in an Emulsified Aqueous/Organic System; filed July 7, 1976, patented July 12, 1977, not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent 4,009,649: Mine Ventilation Control Device; filed Apr. 2, 1976, patented Mar. 1, 1977, not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent 3,982,819: Fluid Gap Glan-Laser

Prism; filed May 22, 1975, patented Sept. 28, 1976, not available NTIS.

Patent 4,031,534: Noise Resistant Zone Penetration Detection System; filed June 1, 1976, patented June 21, 1977, not available NTIS.

Patent 4,032,883: Metal Vapor Laser Tube; filed Apr. 19, 1976, patented June 28, 1977, not available NTIS.

Patent 4,037,959: Means for Real-Time Laser Source Characterization; filed Dec. 15, 1975, patented July 26, 1977, not available NTIS.

Patent 4,041,869: Cook-Off Liner Component; filed July 15, 1976, patented Aug. 16, 1977, not available NTIS.

Patent 4,041,871: Shock Buffer for Liquid Propellant Gun Projectile; filed July 15, 1976, patented Aug. 16, 1977, not available NTIS.

Patent 4,042,432: Desensitizer for N-Propyl Nitrate; filed Dec. 13, 1976, patented Aug. 16, 1977, not available NTIS.

Patent 4,042,892: Hypersonic Gas Laser; filed July 22, 1976, patented Aug. 16, 1977, not available NTIS.

Patent 4,042,904: Hydroways; filed Sept. 1, 1976, patented Aug. 16, 1977, not available NTIS.

Patent 4,045,140: Means for Near Real Time C-W Laser Source Characterization; filed Dec. 15, 1975, patented Aug. 30, 1977, not available NTIS.

Patent 4,047,120: Transient Suppression Circuit for Push-Pull Switching Amplifiers; filed July 15, 1976, patented Sept. 6, 1977, not available NTIS.

Patent 4,048,048: Apparatus for Making a Memory Wire; filed Apr. 7, 1976, patented Sept. 13, 1977, not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 744,576: Cesium Thermionic Converters Having Lanthanum Hexaboride Electrodes; filed Nov. 24, 1976.

Patent application 764,245: Bearing Material; filed Jan. 31, 1977.

Patent application 829,315: Closed Loop Spray Cooling Apparatus; Filed Aug. 31, 1977.

Patent application 829,319: Magnetic Heat Pumping; filed Aug. 31, 1977.

Patent application 833,636: Strong Thin Membrane Structure; filed Sept. 15, 1977.

Patent application 833,637: Circuit for Automatic Load Sharing in Parallel Converter Modules; filed Sept. 15, 1977.

Patent application 837,259: Compact Artificial Hand; filed Sept. 27, 1977.

Patent application 837,796: Indicated Mean Effective Pressure Instrument (IMEP); filed Sept. 29, 1977.

Patent application 796,263: Catalytic Trimerization of Aromatic Nitriles and Triaryl-S-Triazine Ring Cross-Linked High Temperature Resistant Polymers and Copolymers Made Thereby; filed May 12, 1977.

Patent 4,043,674: Spatial Filter for Q-Switched Lasers; filed Oct. 2, 1974, patented Aug. 23, 1977; not available NTIS.

Patent 4,044,753: Solar Energy Collection System; filed Apr. 28, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,044,821: Low to High Temperature Energy Conversion System; filed Dec. 27, 1974, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,063: Load Regulating Latch; filed Dec. 18, 1975, patented Aug. 30, 1977; not available NTIS.



Patent 4,045,149: Platform for a Swing Root Turbomachinery Blade; filed Feb. 3, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,247: Thermocouples of Tantalum and Rhenium Alloys for More Stable Vacuum-High Temperature Performance; filed Nov. 6, 1975, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,255: Directionally Solidified Eutectic gamma Plus beta Nickel-Base Superalloys; filed June 1, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,315: Solar Photolysis of Water; filed Feb. 13, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,359: Apparatus for Photon Excited Catalysis; filed Jan. 29, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,728: Direct Reading Inductance Meter; filed Apr. 15, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,792: Analog to Digital Converter for Two-Dimensional Radiant Energy Array Computers; filed Feb. 13, 1976, patented Aug. 30, 1977; not available NTIS.

Patent 4,045,795: Charge-Coupled Device Data Processor for an Airborne Imaging Radar System; filed June 23, 1975, patented Aug. 30, 1977; not available NTIS.

Patent 4,046,012: Fluid Sampling Device; filed Nov. 19, 1976, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,190: Flat-Plate Heat Pipe; filed May 22, 1975, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,262: Anthropomorphic Master/Slave Manipulator System; filed Jan. 24, 1974, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,434: Deformable Bearing Seat; filed July 14, 1975, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,435: Bearing Seat Usable in a Gas Turbine Engine; filed July 14, 1975, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,462: Three-Dimensional Tracking Solar Energy Concentrator and Method for Making Same; filed Apr. 28, 1976, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,529: Regenerable Device for Scrubbing Breathable Air of CO<sub>2</sub> and Moisture Without Special Heat Exchanger Equipment; filed May 21, 1976, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,560: Nickel Base Alloy; filed Dec. 30, 1975, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,617: Method of Crystallization; filed Sept. 5, 1975, patented Sept. 6, 1977; not available NTIS.

Patent 4,046,619: Method of Treating the Surface of a Glass Member; filed May 3, 1976, patented Sept. 6, 1977; not available NTIS.

[FR Doc. 78-1343 Filed 1-17-78; 8:45 am]

#### [3510-04]

##### GOVERNMENT-OWNED INVENTIONS

###### Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Pat-

ents and Trademarks, Washington, D.C. 20231, for \$0.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for \$4 (\$8 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,  
Patent Program Coordinator,  
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, WASHINGTON, D.C. 20314

Patent application 832,708: Environmental Test Chamber System; filed Sept. 12, 1977.

U.S. DEPARTMENT OF ENERGY, ASSISTANT GENERAL COUNSEL FOR PATENT, WASHINGTON, D.C. 20545

Patent 4,024,399: Method and Apparatus for Measuring Vapor Flow in Isotope Separation; filed Jan. 19, 1975; patented May 17, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, ASSISTANT CHIEF FOR PATENTS, OFFICE OF NAVAL RESEARCH, CODE 302, ARLINGTON, VA. 22217

Patent application 771,594: Digital To Graphic Character Generator; filed Feb. 24, 1977.

Patent application 780,571: Dry Cooled Jet Aircraft Runup Noise Suppression System; filed Mar. 23, 1977.

Patent application 809,599: Improved Aluminum Alloy for Primary Alkaline Fuel Cells and Batteries; filed June 24, 1977.

Patent application 818,643: Driver Navigation System; filed July 25, 1977.

Patent application 821,268: Optical Beam Steering System; filed Aug. 3, 1977.

Patent application 825,007: Surface Passivation of IV-VI Semiconductors with As<sub>2</sub>S<sub>3</sub>; filed Aug. 16, 1977.

Patent application 828,509: Pyrotechnic Separation Devices; filed Aug. 22, 1977.

Patent application 827,393: System for Transporting Wastewater by Vacuum; filed Aug. 23, 1977.

Patent application 829,700: Square and Rectangular Electroacoustic Bender Bar Transducer; filed Sept. 1, 1977.

Patent application 833,121: Breakaway Link Assembly for Maintaining a Structural Alignment of Shock-Sensitive Equipment; filed Sept. 14, 1977.

Patent application 833,325: An Automated Flash-Bang Method and Apparatus for Determining Lightning Stroke Distances; filed Sept. 14, 1977.

Patent application 833,798: Narrowband Infrared Detector; filed Sept. 16, 1977.

Patent application 836,255: Pressure-Resistant Housing; filed Sept. 23, 1977.  
Patent application 836,265: Optical Logic Elements; filed Sept. 26, 1977.  
Patent application 840,703: Mean-Level Detector for Multiple Target Environments; filed Oct. 13, 1977.

[FR Doc. 78-1344 Filed 1-17-78; 8:45 am]

#### [3910-01]

##### DEPARTMENT OF DEFENSE

###### Department of the Air Force

###### USAF SCIENTIFIC ADVISORY BOARD

###### Meeting

JANUARY 12, 1978.

The USAF Scientific Advisory Board Aeromedical-Biosciences Panel will hold a meeting on February 2, 1978, from 8:30 a.m. to 4:30 p.m. at Aerospace Medical Division, Brooks AFB, Tex.

The Panel will review the USAF plans to monitor and modify, where possible, the risk factors identified with heart attacks.

The meeting will be open to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

FRANKIE S. ESTEP,  
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc. 78-1372 Filed 1-17-78; 8:45 am]

#### [3810-70]

##### Office of the Secretary

##### DEPARTMENT OF DEFENSE WAGE COMMITTEE

###### Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, March 7, 1978; Tuesday, March 14, 1978; Tuesday, March 21, 1978; and Tuesday, March 28, 1978 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory

Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552 b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552 b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552 b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552 b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552 b. (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

JANUARY 10, 1978.

MAURICE W. ROCHE,  
Director, Correspondence and Directives, OASD (Comptroller).

[FR Doc. 78-1373 Filed 1-17-78; 8:45 am]

#### [3810-70]

##### PRIVACY ACT OF 1974

###### General Routine Use

AGENCY: Department of Defense (DOD).

ACTION: Modification of a General Routine Use Notice.

SUMMARY: The Department of Defense is modifying a general routine use applicable to all systems of records notices of the DOD Components under the Privacy Act because of comments received. The routine use was established so as to permit the DOD to furnish, as a routine use, at the request of the Department of Health, Education, and Welfare (DHEW) personal information on Armed Services members. The modification narrows the scope of the routine use.

DATE: This routine use shall become effective January 18, 1978.

ADDRESS: Send comments to: Executive Secretary, Defense Privacy Board,

Room 5H-023, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20314.

#### FOR FURTHER INFORMATION CONTACT:

Lt. Col. Aurelio Nepa, Jr., USAF, Staff Director, Defense Privacy Board, at the above address or call 202-693-0987.

SUPPLEMENTARY INFORMATION: Investigation has established that some individuals employed by the Federal Government who are recipients of Aid to Families with Dependent Children (AFDC) under the provisions of 42 U.S.C. 601, et seq., may be ineligible for such benefits. In order to determine if this problem exists among military personnel of the DOD, the Department of Health, Education, and Welfare (DHEW) has requested the DOD to furnish on computer tape, the name, rank and social security account number of each member of the Armed Services on active duty.

As a result of comments received on the original proposed new general routine use, published on October 19, 1977 at 42 FR 55837, the routine use is now modified to be applicable only to active military personnel and excluding retired personnel. Further, the information shall be extracted only from pay records and not from employment or retirement records and shall be furnished to the DHEW Inspector General and limited for comparison purposes to only the AFDC program.

Accordingly, under the provisions of 5 U.S.C. 552a(e)(4)(D) of the Privacy Act of 1974, until appropriate DOD Components have an opportunity to amend the specific applicable record systems involved, the DOD, as an interim measure, is modifying the cited published general routine use to the existing blanket routine uses set forth in the preface of each DOD Component system notices published in Part VI of the FEDERAL REGISTER of September 28, 1977 (FR Doc 77-28255) as the DOD Privacy Act Issuances, Annual Publication, beginning with the preface to system notices of the U.S. Army (42 FR 50397), as follows:

##### ROUTINE USE-DISCLOSURE TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The name, rank, and social security account number of each member of the Armed Services on active duty may be disclosed as a routine use to the Department of Health, Education, and Welfare (DHEW). This information shall be extracted from systems of records used for making payments to military personnel on active duty. This information may be submitted to the Inspector General of DHEW upon request of that department only for comparison with appropriate rolls re-

flecting recipients of Aid to Families with Dependent Children (AFDC.)

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 10, 1978.

[FR Doc 78-1410 Filed 1-17-78; 8:45 am]

#### [3128-01]

##### DEPARTMENT OF ENERGY

##### DISCLOSURE OF CONFIDENTIAL INFORMATION TO OTHER AGENCIES OF THE FEDERAL GOVERNMENT

###### Public Hearing To Discuss Alternative DOE Policies

AGENCY: Department of Energy.

ACTION: Notice of Public Hearing.

SUMMARY: The Department of Energy (DOE) (for purposes of this Notice, DOE excludes the Federal Energy Regulatory Commission) routinely collects energy information, including confidential energy data, from a wide range of respondents to fulfill its responsibilities under the law. These data are collected to support the development and implementation of the policies and programs of the Department, including the statistical, analytical, and regulatory functions to carry out statutory responsibilities. The prospective disclosure policy alternatives presented in this Notice would apply to confidential energy data submitted to the DOE that are identifiable as pertaining to a particular respondent and which are not otherwise a matter of public record. The alternatives presented represent extensions of a basic DOE policy to disclose to any legitimate requestor: (i) All data in aggregate form such that the identification of the individual respondents is protected; and (ii) all data which are identifiable as pertaining to a particular respondent where such data are publicly available including that available by operation of law. Records containing such information are available, upon request, not only to other Federal agencies, but to members of the general public.

The proposed disclosure alternatives presented for discussion herein are; in addition, not applicable to data submitted within technical proposals seeking DOE financial involvement; data otherwise precluded from disclosure by the terms of a DOE or other Federal agency contract, grant, or other legal arrangement executed by authorized Federal officials; or, data specifically precluded by statute or Executive Order from being disclosed to other Federal agencies.

The energy data DOE collects or maintains often may be of use to other



Federal agencies carrying out statistical, policy analysis, regulatory, investigative, or prosecutorial functions authorized or required by law. As a part of the Executive Branch and by the provisions of the Department of Energy Organization Act, the DOE has a responsibility to foster and assure competition among parties engaged in the supply of energy and fuels. In order to develop policies and programs which will encourage such competition, data on the structure of the marketplace and the performance of companies within that structure must be gathered and analyzed. Carrying out DOE's responsibility to foster competition may also involve sharing confidential energy data acquired by DOE with other Federal agencies in furtherance of their statutory responsibilities.

A general DOE policy does not now exist with respect to the disclosure of confidential energy data to other Federal agencies. The public hearing announced in this Notice will provide to interested parties the opportunity to offer comments which will help guide the Department of Energy in the development of this policy. Alternative policy proposals are described in the supplement for specific comments.

**DATES:** Written comments by February 17, 1978; 4:30 p.m., requests to speak by February 1, 1978; 4:30 p.m., hearing date: February 9, 1978, 9:30 a.m.

**ADDRESSES:** Written comments and requests to speak to: Office of Regulatory Management, Room 2214, Department of Energy, Box RA, Washington, D.C. 20461; Hearing location: Department of Energy, Room 2105, 2000 M Street NW., Washington, D.C. 20461.

#### FOR FURTHER INFORMATION CONTACT:

Christina L. Rathkopf, Energy Information Administration, Room 6149, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9580.

William D. Luck, Office of General Counsel, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9296.

R. C. Gillette (Hearing Procedures), Office of Regulatory Management, Room 2214, 2000 M. Street NW., Washington, D.C. 20461, 202-254-5201.

#### SUPPLEMENTARY INFORMATION:

- I. Definitions for purposes of this notice.
- II. Applicability.
- III. Background.
- IV. Prior or current disclosure policies of selected Federal agencies.
- V. Comments invited, particularly on certain issues.
- VI. Public hearing and written comment procedures.

#### I. DEFINITIONS FOR PURPOSES OF THIS NOTICE

A. "Department of Energy (DOE)" means the Executive Department created by Title II of the Department of Energy Organization Act, Pub. L. 95-91, and made effective October 1, 1977, by Executive Order 12009, dated September 13, 1977 (42 FR 46267, Sept. 15, 1977). The DOE Act consolidated into the DOE various energy functions, including the prior functions and responsibilities of the Federal Energy Administration, Federal Power Commission, Energy Research and Development Administration, and certain transfers of functions from the Departments of Interior, Housing and Urban Development, Commerce, Navy, and the Interstate Commerce Commission.

While within the DOE, the Federal Energy Regulatory Commission (FERC) is excluded from this discussion of disclosure policy because, in exercising some of its functions, it is an independent entity within the DOE with authority to prescribe its own procedural rules.

B. "Energy data" means all information in whatever form on: (1) Fuel reserves, exploration, extraction, and energy resources (including petrochemical feedstocks) wherever located; (2) production, distribution, and consumption of energy and fuels wherever carried on; and (3) matters relating to energy and fuels, such as corporate structure and proprietary relationships, costs, prices, capital investment, and assets, and other matters directly related thereto, wherever they exist (Department of Energy Organization Act, Section 205(g) and Energy Supply and Environmental Coordination Act of 1974, Section 11(d)).

C. "Confidential energy data" means energy data identifiable as pertaining to a particular respondent which data have been submitted to the Department of Energy and which are not otherwise a matter of public record. This definition is further limited for purposes of this Notice in the Applicability section.

D. "Regulatory data" means any energy data acquired by DOE from persons or entities external to DOE that are necessary for the Economic Regulatory Administration or the Federal Energy Regulatory Commission to fulfill their respective regulatory responsibilities, and not otherwise available from public sources deemed reliable by the appropriate regulatory body, including that data (i) collected for the administration of DOE's price, allocation and other statutory regulatory programs; (ii) collected in connection with particular DOE investigative or enforcement actions; or (iii) submitted by companies requesting regulatory benefits or relief action by the DOE.

E. "Statistical/analytical data" means all energy data, other than regulatory energy data, collected or maintained by the Department of Energy, including energy data obtained as a result of data validation audits undertaken for statistical purposes.

#### II. APPLICABILITY

The policy alternatives outlined herein for discussion regarding DOE disclosure of confidential energy data to other Federal agencies are not applicable to: (a) Any disclosure policy to be established by the Federal Energy Regulatory Commission; (b) disclosure of data submitted within technical proposals seeking DOE financial involvement; (c) disclosure of data otherwise precluded by the terms of a DOE or other Federal agency contract, grant, or other legal arrangement executed by authorized Federal officials; or (d) to data specifically precluded by statute or Executive Order from being disclosed to other Federal agencies.

#### III. BACKGROUND

The Department of Energy is required by law to "continue and improve the effectiveness and objectivity of a central energy data collection and analysis program within the Department." The Secretary of Energy has delegated to the Administrator of the Energy Information Administration (EIA), on a nonexclusive basis, the full authority vested in him by law relating to the gathering, analysis, and dissemination of energy information. Pursuant to this delegation of authority, the EIA collects or maintains most energy data on behalf of the Department. The energy data collected is used for two general purposes within the Department: statistical/analytical and regulatory.

There are statutory provisions which direct the disclosure of certain confidential information collected by the DOE. In particular, the Department of Energy Organization Act (Section 205(f)) specifically states that "The Administrator (of the Energy Information Administration) shall, upon request, promptly provide any information or analysis in his possession pursuant to this section to any other administration, commission, or office within the Department which such administration, commission, or office determines relates to the functions of such administration, commission or office." Pursuant to this section, even confidential energy data must be made available promptly, upon request, to the offices of DOE concerned with regulation and enforcement, specifically, the Economic Regulatory Administration and the Federal Energy Regulatory Commission.

In addition to the use by DOE entities, other agencies of the Federal

Government also have reason to request access to the energy data collected or maintained by DOE for their own statistical, analytical or regulatory purposes. For data collected under the authority of the Energy Supply and Environmental Coordination Act (ESECA) of 1974, disclosure must be made, upon request, to the Secretary of the Interior, Attorney General, Federal Trade Commission, Federal Power Commission, and the General Accounting Office, as well as to the Congress and Committees of the Congress to carry out their responsibilities by law. It should be noted that most of the energy data collected by the DOE or its predecessor agencies have been obtained under authorities other than ESECA.

However, as to disclosures not mandated by statute, the DOE needs to develop a policy on disclosures to other Federal agencies. The general rule limiting public disclosure of confidential information which applies to all Federal agencies is contained in 18 U.S.C. 1905, which specifies criminal penalties and provides for removal from office of any officer or employee who publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to the employee in the course of his employment or official duties. Coverage of this provision includes information concerning or relating to trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association. This law, however, has not been interpreted by DOE to prohibit disclosure of covered information by DOE to any other Federal agency, as long as the disclosure will further statutory responsibilities of the agencies concerned.

Nonetheless, in order to carry out its responsibilities under applicable laws, the DOE must determine the most effective manner in which confidential energy data will be disclosed to or shared with other Federal agencies as well as among entities within the Department of Energy. The final policy adopted should be able to be carried out in a manner which assures the collection and dissemination of energy data, encourages the reduction of duplication of efforts among Federal agencies and reporting burden on respondents. At the same time, this policy should be designed so as not to abrogate prior implied pledges of confidentiality made to respondents or impair future ability to collect needed data in a complete and timely fashion.

Several possibly competing goals should be kept in mind in the discussion of alternative confidential energy data disclosure policies. First, DOE, as

a part of the Executive Branch and under its own statutes, shares a responsibility for strengthening the competitive character of economic and financial markets relative to the energy sector. Some DOE-collected energy data is useful to those DOE entities and other agencies charged with developing regulatory policy and implement regulatory laws through their enforcement, investigative, prosecutorial and exceptions and appeals processes intended to strengthen fair market competition. Second, accurate data are essential to supporting the policy processes and program development of all agencies. Third, providing accurate and timely statistical energy information to the Executive Branch, Congress, and the public is a major responsibility of the Department of Energy through the Energy Information Administration. Thus, providing DOE-collected energy data to other Federal agencies could facilitate the consistency and comprehensiveness of Federal energy-related information. Fourth, interagency sharing of data, particularly where the goals and purpose of the agencies are complementary, tends to reduce the burden on both Government and respondents who would otherwise be involved in multiple requests for the same, or similar, information.

Nonetheless, using statistical/analytical data for regulatory purposes entails the risk of burdening the statistical/analytical functions of all agencies with unacceptable delays and inaccuracies. The central source of difficulty is the likelihood that sharing confidential energy data with other Federal agencies for law enforcement and prosecutorial purposes (for example, with the Department of Justice, Federal Trade Commission (Bureau of Competition), Securities and Exchange Commission, and Internal Revenue Service) could adversely affect the willingness of respondents to report to DOE in a complete and timely fashion, and thereby tend to frustrate the goal of collecting information for statistical/analytical use by the Department, other Federal agencies (including those mentioned above), Congress and the public.

The Federal agencies mentioned above have need for data to fulfill both their policymaking and their law enforcement responsibilities. Using confidential statistical/analytical energy data for particular regulatory purposes could delay or deny the receipt of statistical/analytical data for the particular as well as the general purposes. In designing a disclosure policy, policy choices must be made reflecting an appropriate balance between these competing goals.

Even though DOE has mandatory authority, including subpoena power, to collect the data needed by the De-

partment, cooperation of respondents may be vital to the success of a complete and timely information system, especially when statistical validity is dependent on a high percentage of respondent participation within a specified time period. It has even been asserted that respondents might delay or withhold complete, accurate, and timely responses if they understood that their reported data might be disclosed to agencies for investigatory and prosecutorial purposes. If these were to occur, the primary purpose of the DOE information system would be seriously jeopardized. Exactly relevant experience is not readily available concerning the degree to which disclosures to Federal investigatory or prosecutorial agencies might diminish cooperation by companies requested to submit data to DOE. Some collecting agencies have experienced a reduction in response rate on voluntary reports because of the possibility of such disclosure. In other cases of mandatory reporting, possible use of the data for investigation has been only one factor among many, (e.g., reporting burden, disagreement with the investigation or regulation program) which has caused resistance from respondents. While the DOE does have the authority to compel the submission of data, the lack of exactly parallel experience in this regard leaves an essential doubt about the degree of jeopardy to the information system which would result from a policy of unconstrained disclosure among agencies. This doubt would suggest discounting the future jeopardy argument and adopting a policy of disclosure of any DOE data to prosecutorial and investigatory agencies regardless of the purpose for which the data was collected, and regardless of any implied pledges of confidentiality of the data that may have been made by energy agencies prior to the activation of the DOE.

#### IV. PRIOR OR CURRENT DISCLOSURE POLICIES OF SELECTED FEDERAL AGENCIES

##### FEDERAL ENERGY ADMINISTRATION (FEA)

The disclosure policy of the FEA prior to the activation of the Department of Energy was that confidential energy data would be disclosed to other agencies in conformance with ESECA for information collected under the authority of that statute and on a case-by-case basis for information collected on the basis of other authorizing legislation.

For requests to the FEA for confidential information covered by 18 U.S.C. 1905, the requesting agency was required to provide in writing a description of the information being sought, the legal basis for the request, its ability to obtain the data from the respondent under statutes adminis-



tered by the requesting agency, the intended use of the information, and an assurance that the confidential status of any information provided would be preserved. After receiving a request, the responsible FEA office determined whether the request satisfied six criteria. These included, among others, whether disclosure would tend to restrict the willingness of the respondent to supply data voluntarily or would greatly increase the efforts needed to collect such information in the future (for instance, by necessitating litigation to secure particular submissions). Under these conditions, FEA data was provided to other agencies for statistical/analytical purposes. Other disclosures were not made, however, when the requesting agency was unwilling to agree to continued confidential treatment.

#### OTHER FEDERAL AGENCIES' DISCLOSURE POLICIES

The laws which govern agencies concerning confidentiality of data and disclosure to other Federal agencies vary considerably.

The former Federal Power Commission, with rare exceptions, provided all its collected data to other Federal agencies and the public. Exceptions to this policy included (a) material collected in the course of an investigation where disclosure would hamper the conduct of the investigation, (b) information classified for national security purposes, and (c) certain information collected on natural gas reserves (Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves to the Federal Energy Regulatory Commission (Form 40, Schedule B)).

The Civil Aeronautics Board (CAB) and the Interstate Commerce Commission (ICC), both agencies which, like the former FPC, have regulatory responsibilities, have adopted procedures whereby information submitted in the course of public proceedings may be considered in those proceedings, but, in appropriate cases, need not be disclosed on the public record.

Some statistical agencies, (e.g., the Bureau of the Census and the Bureau of Economic Analysis) are governed by very stringent confidentiality laws which even restrict the disclosure of data in identifiable form to other statistical agencies and provide a defense against subpoena for confidential data. Others (e.g., Bureau of Labor Statistics, Bureau of Mines, and the Reporting Service of the Department of Agriculture) are governed by no specific laws under which they may limit disclosure of confidential data either to other agencies or for specific purposes. These statistical agencies have been consistently strict in their unwillingness to disclose their confidential data to other agencies for non-statistical purposes, on the theory

that such disclosure would jeopardize the future success of their voluntary information collection systems.

#### V. COMMENTS INVITED, PARTICULARLY ON CERTAIN ISSUES

As a general statement of policy, the Department of Energy has determined that:

(1) Energy data which is not identifiable to a particular respondent will continue to be disclosed and shared with other agencies of the Federal Government, Congress, and the public.

(2) Regardless of what disclosure policy is finally adopted the policy must be communicated in advance directly to the respondents in clear language so that they will be aware of (1) the conditions, if any, under which other agencies will have access to their data which is being requested by the DOE; and (2) whether they will be informed of, and permitted to challenge, an intended disclosure in advance of such disclosure. A clear understanding between the Department and its respondents as to the uses of the information provided is essential to the success and credibility of the DOE information system.

(3) Whatever disclosure policy is adopted and implemented will be re-evaluated in two years following the date of implementation. However, confidential energy data acquired during these two years will continue to be disclosed in accordance with the disclosure policy to be adopted now, even after the two year period.

The alternative policies presented for disclosing newly collected data and previously collected data in Parts B and C, respectively, of this section could necessitate new DOE statutory authority in order to implement them. Because the DOE must operate its information systems effectively under current law, Part A presents alternative disclosure policies for newly collected data which could be adopted as the final DOE policy or which could serve at least until such time as current law could be amended if a change in current law is determined to be necessary.

All alternatives are presented specifically for public comments, although comment is invited on all aspects of the disclosure issue including alternatives that are not among those presented here.

#### A. DISCLOSURE POLICIES AVAILABLE UNDER CURRENT LAW

Current law (section 205(f) of the Department of Energy Organization Act, Pub. L. 95-91) requires the Administrator of the EIA to provide promptly any information in his possession, pursuant to that section, which would include confidential energy data, to any other entity within the Department, including the

FERC, upon request, as long as the requesting entity determines that the requested information relates to its functions. Based on this mandate, EIA would so provide any requested confidential energy data to the requesting DOE entity upon specific request. Respondents would be advised of the action as far in advance of the actual disclosure as practicable.

With respect to DOE disclosure of confidential data outside of the Department, the following two alternatives are presented as extensions of this basic EIA intra-Departmental disclosure policy under current law.

#### ALTERNATIVE A1

The disclosure of confidential energy data collection for regulatory purposes by the DOE to other Federal agencies for any lawful purpose specified would be contingent upon the prior disclosure of such confidential data by the EIA to any other DOE regulatory entity; i.e., the Economic Regulatory Administration or the Federal Energy Regulatory Commission.

If disclosure of confidential regulatory data is made by EIA to a DOE regulatory entity, that identical data would therefore also be available to any other Federal agency to carry out its responsibilities under the law, regardless of whether a pledge not to disclose the submitted data was implied prior to original submission. Respondents would be advised of the intended action as far in advance of the actual disclosure as practicable.

Confidential data collected for statistical/analytical purposes, which must be disclosed among DOE entities, would only be disclosed to other Federal agencies if the requesting agency has statutory authority to prohibit further disclosure, pledges non-disclosure, and specifies that the sole purpose for which the confidential data is sought is to carry out statistical/analytical functions.

#### ALTERNATIVE A2

Confidential data collected for regulatory purposes by the DOE would be disclosed to other Federal agencies for any lawful purpose specified, upon specific request. Respondents would be advised of the intended action as far in advance of the actual disclosure as practicable.

Confidential data collected for statistical/analytical purposes would be disclosed to other Federal agencies only if the requesting agency has statutory authority to prohibit further disclosure, pledges non-disclosure, and specifies that the sole purpose for which the confidential data is sought is to carry out statistical/analytical functions.

#### ALTERNATIVE A3

Upon specific request by any Federal agency for any confidential energy

data collected or maintained by the EIA or DOE, the EIA or DOE, respectively, would provide the confidential energy data for any lawful purpose specified. Because the EIA is currently required to disclose confidential data to any DOE entity and because these DOE entities are qualitatively no different from other Federal agencies with regard to performing their statistical/analytical or regulatory functions, sufficient reason may not exist to separate disclosure policy according to organizational entity or purpose for which the data was originally collected.

#### DISCUSSION

Alternatives A1 and A2 are based on the view that confidential data collected for statistical/analytical purposes should not be disclosed outside of DOE for regulatory purposes, while data collected for regulatory purposes should be shared regardless of purpose. Alternatives A1 and A2 are offered as different alternatives on the basis that the regulatory entities within the Department may or may not be thought of as other Federal agencies in the context of disclosure policy interpretation. Since the DOE Organization Act only addresses the specific release of data to other DOE entities by the EIA, Alternative A1 is an extension of a literal interpretation of this statute, triggered only by an intra-DOE disclosure, while Alternative A2 effectively treats all non-DOE agencies of the Federal Government in the same manner in which it treats the regulatory entities of the DOE, without the requirement of any triggering action.

Alternative A3 is based on the theory that confidential data collected for any purpose by one Federal agency should be disclosed to any other Federal agency, since the functions of all agencies of the Federal Government are carried out to further the public interest. Implementation of Alternative 3, however, could place some constraints on the application of any other future disclosure policy (see Part B below), since all requests for confidential data would have been honored fully for the period covered by the policy. This alternative also has the greatest possibility of causing resistance from respondents submitting data on either a mandatory or voluntary basis.

#### B. DISCLOSURE POLICIES REQUIRING LEGISLATIVE AMENDMENT

The next series of alternatives involves disclosure policy of newly collected confidential data submitted on current forms or on new forms. These alternatives would appear to require new legislative authority in order to be implemented.

#### ALTERNATIVE B1

Upon specific request by any Federal agency for any confidential energy data to be used for regulatory, prosecutorial or enforcement purposes, whether from an entity within the Department of Energy (e.g., Economic Regulatory Administration, Federal Energy Regulatory Commission) to the EIA or from another Federal agency or Department (e.g., Department of Justice, Federal Trade Commission, Securities and Exchange Commission, Internal Revenue Service) to the DOE, the EIA or DOE, respectively, would disclose the confidential energy data requested, but only after advance notice to the affected respondents and after a reasonable period of time had elapsed within which the proposed disclosure might be legally challenged.

There are two options for the form in which this part of Alternative B1 could be implemented.

B1a. The requesting agency or DOE entity would submit the request to DOE in writing identifying the specific information or data elements sought and the purpose for which the data is intended. DOE would advise all affected respondents of the specifics of the given request and its intention to disclose the requested information within a specified period of time. The affected respondents would then have an opportunity to seek from an appropriate court an injunction to prohibit the DOE or EIA from disclosing the data requested.

B1b. The requesting agency would have to subpoena the confidential data from DOE, specifying the information sought and the intended use of the data. DOE would advise all affected respondents of the subpoena, the specifics of the request and intended use, and the time period in which disclosure by DOE is required. The respondents might then have the opportunity to move to quash the subpoena in court.

The second part of Alternative B1 is that upon specific request by any Federal agency for any confidential energy data to be used for statistical/analytical purposes, the EIA or DOE would disclose the data requested only if the requesting agency or DOE entity is protected by law from further disclosure and states that the specific confidential energy data requested will be used to carry out statistical/analytical functions only, the applicable statute(s) which would protect the data from further disclosure, and that it pledges non-disclosure.

#### ALTERNATIVE B2

The DOE would prior to requiring the data submissions from the respondents, separately identify energy data to be directly collected or otherwise obtained by the DOE as being either

for (i) regulatory purposes, or (ii) statistical/analytical purposes. The affected respondent universe would therefore be aware, prior to submission of the data, of the purpose and related intended disclosure category and possible use of the data to be submitted, in accordance with the following:

The DOE would make confidential regulatory data available, upon request, to any Federal agency (including the sharing of data among entities within the DOE) for any lawful specified. The agency or DOE entity requesting the data from the DOE or EIA, respectively, would be required to state the specific data requested and the purpose for which it would be used.

Confidential energy data collected for statistical/analytical purposes would be disclosed to other agencies or DOE entities by DOE or EIA, respectively, only to carry out statistical/analytical functions and only if the requesting agency or entity is protected by law from further disclosure either voluntarily or as a result of subpoena action. The requesting agency or entity would, in addition, be required to state the specific data requested, that it would be used for statistical/analytical purposes only, the applicable statute(s) which would protect the data from further disclosure, and that it pledges non-disclosure.

#### DISCUSSION

Both alternatives B1 and B2 could reduce potential reporting burden on respondents since similar data requirements of different agencies could be satisfied by disclosure of the data among agencies. Alternative B1 would also allow respondents a reasonable means of control over the disclosure of submitted data. This alternative has the potential, however, of reducing the timeliness of all requested data because of possible court action on the part of respondents to prevent the disclosure for regulatory purposes.

Alternative B1b has the potential, in addition, of forcing one part of the DOE to subpoena another, since all non-EIA entities within the DOE would be treated as other Federal agencies for purposes of disclosure policy of EIA-collected or maintained data.

Alternative B2 would establish the policy that statistical/analytical data are not to be used for regulatory purposes, disclosure policy, therefore, would not be a factor in impeding data collection efforts for statistical/analytical purposes, although collection of regulatory data might still be impeded because of potential disclosure. The respondents would know the intended purpose of all data at the time of collection, providing assurance that data collected for statistical or analytical



purposes would not be later used for regulatory purposes.

Both Alternatives B1 and B2 would require legislation for implementation in order to: (a) Protect statistical/analytical data from disclosure to internal DOE entities if it is to be used for regulatory purposes; (b) immunize such EIA-held statistical/analytical data from subpoena by other agencies, and (c) extend to recipient statistical/analytical agencies any use immunity and non-disclosure provisions protecting the data while in DOE or EIA's custody.

Alternative B2 may also require some duplication of reporting if the required energy data are to be used for both statistical/analytical and regulatory purposes. However, in such cases, the DOE would make every effort to (a) assure that the definitions of duplicative data elements on regulatory and non-regulatory forms are identical so that the duplicate requests could be satisfied easily, and (b) use regulatory data for statistical purposes. Implementing Alternative B2 would also necessitate a clear, operationally effective definition of regulatory data. This alternative would enable the DOE to respond effectively and in a timely manner to the needs of the regulatory agencies of the Government not only for aggregated data of a statistical/analytical nature, but also for confidential energy data collection for regulatory purposes.

The different treatment given to statistical/analytical and regulatory data could rest, in part, on the premise that the former can and in many cases should be gathered through a scientifically chosen sample. The disclosure of such confidential data collected from respondents randomly chosen to be in the sample could be considered unequal treatment if the data were to be used for purposes of law enforcement or prosecution.

#### C. DISCLOSURE POLICY FOR FUTURE REQUESTS FOR PREVIOUSLY COLLECTED CONFIDENTIAL DATA

The following are proposed alternatives for disclosing confidential energy data already collected by the prior component organizations now within the Department of Energy wherein confidentiality was pledged, either explicitly or implicitly, to the respondents prior to submission of data.

##### ALTERNATIVE C1

Data previously collected to carry out regulatory functions would be treated differently than data previously collected to carry out statistical/analytical functions.

Upon specific request to the DOE by any other Federal regulatory, prosecutorial or enforcement agency or department for confidential regulatory data, the DOE would provide the data

for any lawful purpose specified only after giving advance notice to affected respondents and providing a reasonable period of time had elapsed within which the proposed disclosure might be legally challenged.

The two options concerning the form of implementation for this alternative parallel those outlined under Alternative B1; i.e., after the requesting agency has requested confidential data from the DOE, the respondents may seek an injunction against DOE to prevent disclosure, or, the requesting agency may serve a subpoena upon the DOE in which case the respondent should have an opportunity to seek court action to quash the subpoena.

However, for regulatory data collected by a previous component of the DOE and now, or in the future, collected or maintained by the EIA as a service for the original collecting entity, it is intended that the original collecting entity would continue to have access to that data at its discretion.

Data already collected by the DOE or, formerly, by its constituent agencies for statistical/analytical purposes for which an implied pledge of confidentiality was given would not be disclosed to any other Federal agency, nor would it be made available from one DOE entity to another except in those cases where the requesting agency or DOE entity provides an assurance that the confidential status of the information to be provided would be preserved.

##### ALTERNATIVE C2

The disclosure of confidential energy data already collected by the previous components of the DOE or current components of the DOE to other Federal agencies for any lawful purpose specified would be contingent upon the prior disclosure of such confidential data by the EIA to any other DOE entity, as required under current law, the identical data would therefore also be available to any other Federal agency, upon specific request and upon determination that the requested data relates to the functions of the requesting agency, regardless of whether an implied pledge of confidentiality was made prior to submission of the data, the purpose for which the data was collected or the type of data it is. Respondents would be advised of the intended action as far in advance of the actual disclosure as practicable.

##### ALTERNATIVE C3

Upon specific and detailed request from any Federal agency to the DOE or from any DOE entity to the EIA for any confidential data already collected by the previous components of the DOE or current components of the DOE, regardless of the type of data

collected, the purpose for which it was collected, or whether an implied pledge of confidentiality was given to the respondents prior to submission, the DOE or EIA, respectively, would provide promptly to the requestor the confidential energy data requested. The respondents would not be informed of such action prior to the disclosure, nor after the disclosure occurs.

#### DISCUSSION

Previously collected data present a special problem. Most often FEA data were collected with an implied pledge of confidentiality, based on section 14(b) of the FEA Act. While a careful reading of that section shows that it is silent on interagency disclosures, there may have been an implication of confidential treatment. This implication may well have been reinforced by FEA's pattern and practice, discussed previously, of not disclosing the data unless provided with an expressed pledge of further confidential treatment. Disclosure of these existing data now would violate this implied agreement. To be specific, respondents to previous data collections of the FEA had reason to believe that data submitted for one purpose, (e.g., regulatory) would not be disclosed to another agency for a different, (e.g., prosecutorial) purpose.

Alternative C1 attempts to strike a balance between the legitimate needs and requirements of Federal agencies for regulatory data collected or maintained by the DOE and the need to protect the confidentiality of the statistical/analytical data. This is based upon the theory that respondents who submitted statistical/analytical data had no reason to believe, when they originally submitted the data, that an additional burden might be levied upon them at a future date to challenge the disclosure of the data submitted. It may be unfair to require the respondents to undertake this effort, particularly if an implied pledge of confidentiality of statistical/analytical data was originally pledged. This, of course, would in no way preclude regulatory agencies from resorting to any applicable subpoena authority to acquire such data either from DOE or from the respondents directly.

Alternative C2 is applicable to previously collected data disclosure given the requirements of current law wherein the EIA must disclose confidential energy data within the DOE, but is not required to do so outside the Department. Nevertheless, if specific confidential energy data must be disclosed within the Department where the Departmental entity determines that the disclosed data relates to its function, regardless of the type of data collected or the original purpose for which the data was collected, then there is no

reason to withhold that confidential energy data from other Federal agencies which demonstrate that the data relates to their functions.

Alternative C3 is based on the theory that all data collected by one agency of the Federal Government should be shared with other agencies of the Federal Government in order to perform functions and carry out programs in the public interest. This alternative shares the risk that respondents may delay submission to DOE of requested data or seek court action to deny it as a consequence of inevitable disclosure to other Federal agencies requesting the submitted data. In addition, to now declare that the DOE will routinely make data available to other agencies would be an ex post facto change in the status of data submitted to the DOE's predecessor agencies and may be viewed as an abrogation of an implicit agreement between the Department's predecessor agencies and their respondents.

#### VI. PUBLIC HEARING AND WRITTEN COMMENT PROCEDURES

The February 9, 1978 public hearing is for the purpose of discussing specifically the alternatives outlined above and the problems or issues connected with their implementation. Participants, nevertheless, are invited to comment on any other aspect of the disclosure issue that they choose.

##### A. WRITTEN COMMENTS

Interested persons are invited to participate in this public hearing by submitting data, views, or arguments with respect to the policy alternatives set forth in this notice. Comments should be submitted to the address indicated in the ADDRESSES section of this preamble and should be identified on the outside envelope and on documents submitted with the designation "DOE Confidential Data Disclosure Policies," Box RA, by 4:30 p.m. on February 17, 1978. Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

##### B. PUBLIC HEARING

1. *Request Procedure.* The time and place for the hearing is indicated in the DATES and ADDRESSES sections of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m., of the next business day following the date of the hearing.

Any person who has an interest in, or who is a representative of a group or class of persons that has an interest in, the subject of this public hearing,

may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the DOE before 4:30 p.m., e.s.t., February 3, 1978, and must submit 75 copies of his or her statement to the address indicated in the ADDRESSES section of this preamble before 4:30 p.m., e.s.t., February 7, 1978.

2. *Conduct of the Hearing.* The DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statement will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing to the address indicated above for requests to speak before 4:30 p.m., e.s.t., February 1, 1978. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The DOE or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearings, including the transcript, will be retained by the DOE and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:30 a.m., and 5 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the DOE to cancel the hearing, DOE will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, DOE will notify all persons scheduled to testify at the hearing. However, it is not possible for DOE to give actual notice of cancellations or changes to persons not identified to DOE as participants. Accordingly, persons desiring to attend a hearing are advised to contact DOE on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

Issued at Washington, D.C., on January 13, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

[FR Doc 78-1395 Filed 1-17-78; 8:45 am]

[3128-01]

Bonneville Power Administration

1979 RATE FILING

Intent To Develop Revised Wholesale Power Rates

BPA is now in the initial stages of developing wholesale power rate schedules to be effective December 20, 1979. It is anticipated that the rate schedules to be prepared will be substantially higher than present rate schedules to cover increasing costs of producing and transmitting power. During this planning phase, BPA is seeking comments and recommendations from the public concerning the future BPA rates.

On December 14, 1977, the Department of Energy published in the FEDERAL REGISTER (42 FR 62950) the adopted "Procedure for Public Participation in Marketing Policy Formulation" for the Bonneville Power Administration (BPA). Procedures similar to those outlined in 42 FR 62950 will be followed in affording members of the public an opportunity to participate in the formulation of the wholesale power rates. BPA will invite further comment from the public (1) in the spring of 1978 when it has formulated the proposed rate schedules, (2) in the fall of 1978 during public comment forums on the proposed rate schedules, and (3) in the spring of 1979 when the Administrator formulates BPA's final proposed rate schedules. These final proposed schedules will then be submitted to the Department of Energy's Economic Regulatory Administration for confirmation and approval. BPA will also schedule public information forums during the summer of 1978 to explain the purpose and basis of the proposed rates and to answer questions regarding them. The public comment forums will follow the public information forums.



The existing rate schedules became effective December 20, 1974. The rates now being developed are proposed to become effective December 20, 1979. BPA power sales contracts now contain a provision which limits BPA to one rate adjustment every 5 years. BPA is seeking approval from its customers for more frequent rate adjustments. If BPA's efforts are successful, BPA could again adjust its wholesale power rates on July 1, 1981, and each July 1 thereafter.

If the rates which become effective December 20, 1979, remain in force until July 1, 1981, it is estimated that the increase in revenues will range from 80 to 90 percent with another increase of approximately 20 percent necessary in July 1981. If the rates now being developed are effective for 5 years until December 1984, the required revenue increase for the 1979 filing must be substantially larger than 80 to 90 percent. Both forecasts are preliminary and are based on current estimates of BPA's costs and are subject to change. If costs continue to increase before 1979, revenue increases above the present forecast will be necessary.

The forecasts are in terms of revenue requirements expressed as a percentage increase over the revenues BPA would receive from the existing rates. The amounts by which BPA's various wholesale power rates will have to be increased may be more or less than the amount of revenue increase needed, depending on the rate design employed. All rates will not necessarily be increased by the same percentage across the board. The rates being developed are wholesale rates; increases in utility retail rates could be less because BPA power costs are only a part of a utility's total costs. In 1976, BPA power costs ranged from 6 to 75 percent of the total costs of its firm power distributors with a majority of the distributors in the range of 20 to 45 percent.

In order to develop data and background material which may be useful in designing wholesale power rate schedules for the 1979 filing, BPA is conducting a cost-of-service study for the Federal Columbia River Power System. Although BPA current rate schedules are now based on average cost pricing, other pricing concepts will be investigated and may influence future rate design. Among the factors BPA expects to consider are conservation, environmental protection, consumer understanding and acceptance, ease of administration, and stability and continuity.

For further information, contact Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361. Submit any written recommendations

concerning future BPA wholesale power rates to the preceding address no later than March 1, 1978.

Dated: January 13, 1977.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-1389 Filed 1-17-78; 8:45 am]

[6740-02]

#### DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission  
(Docket No. RM78-17)

TRANSWESTERN PIPELINE CO.

Order Denying Motion for Reconsideration

AGENCY: Federal Energy Regulatory Commission.

ACTION: Denial of Motion for Reconsideration.

SUMMARY: The Commission is denying Transwestern Pipeline Co.'s (Transwestern) September 2, 1977, motion for reconsideration of the Federal Power Commission's (FPC) August 3, 1977 Order denying rehearing of Order No. 566, issued June 3, 1977, in this docket. The motion is denied because the Commission concludes that the FPC did not inject new matter into this rulemaking in its August 3, 1977 Order. The Commission is also denying Transwestern's September 2, 1977, request for leave to intervene out of time because it has determined that sufficient notice was given of the prospective effect of full-scale demonstration project costs in this proceeding.

EFFECTIVE DATE: January 9, 1978.

FOR FURTHER INFORMATION CONTACT:

Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 202-275-4166.

SUPPLEMENTARY INFORMATION: On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted.

All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a) (1) or (2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On September 2, 1977, Transwestern Pipeline Co. (Transwestern) tendered for filing a petition to intervene and an application for rehearing of the FPC's August 3, 1977, order denying rehearing of Order No. 566. By order issued September 30, 1977, the FPC found that a petition for rehearing of an order denying rehearing would not lie and that Transwestern's application should be treated as a petition for reconsideration. On October 13, 1977, Transwestern filed an application for rehearing of the Commission's September 30, 1977, order. For the reasons stated below, the Commission herein denies reconsideration of the FPC's August 3, 1977 order and denies Transwestern's petition to intervene. Transwestern's October 13, 1977 application has been denied by operation of law, and that denial will not be disturbed.

This proceeding commenced with the issuance of a Notice of Proposed Rulemaking (NPRM) on June 17, 1976. In the notice it was announced that the rulemaking would (1) establish sound and comprehensive planning of research programs as the preferred test for granting advance approval of R&D expenditures, (2) recognize participation in full-scale demonstration facilities, under certain conditions, as a justifiable R&D expenditure and (3) assure FPC review and decision at an early planning phase of R&D program development whenever advance approval is requested. NPRM, at 3.

On June 3, 1977, the FPC issued Order No. 566, in which the existing definitions<sup>1</sup> of R&D as established in Order No. 483<sup>2</sup> were amended to in-

<sup>1</sup>"Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment", Docket No. RM76-17, Order No. 566 issued June 3, 1977.

<sup>2</sup>Uniform System of Accounts for Public Utilities and Licensees, 18 CFR Part 101, Definition 27B (1977); Uniform System of Accounts for Natural Gas Companies, 18 CFR part 201, Definition 28B (1977).

<sup>3</sup>Research, Development, Accounting and Reporting, 49 FPC 1065 (1973), reh. den., 49 FPC 1484 (1973).

clude expenditures on full-scale demonstration projects. The word "demonstration" was included in the definitions and the following sentence was added: "This definition includes expenditures for the implementation or development of new and/or existing concepts until operations become technically and economically feasible." Order No. 566, *supra*, at 3. Additionally, the term "R&D" was changed to "RD&D".

On July 5, 1977, the People of the State of California and the Public Utilities Commission of the State of California (California) petitioned for rehearing of Order No. 566. California objected to the expansion of the definitions of research and development to include expenditures on commercial-scale demonstration projects. Secondly, California expressed concern that the inclusion may be applied retroactively.

<sup>4</sup>Definition 28B, *supra*, n. 2, was amended to read as follows:

28. A. . . .

B. "Research, Development, and Demonstration" (RD&D) means expenditures incurred by natural gas companies either directly or through another person or organization (such as research institute, industry association, foundation, university, engineering company, or similar contractor) in pursuing research, development, and demonstration activities including experiment, design, installation, construction, or operation. This definition includes expenditures for the implementation or development of new and/or existing concepts until technically feasible and commercially feasible operations are verified. Such research, development, and demonstration costs should be reasonably related to the existing or future utility business, broadly defined, of the public utility or licensee or in the environment in which it operates or expects to operate. The term includes, but is not limited to: all such costs incidental to the design, development or implementation of an experimental facility, a plant process, a product, a formula, an invention, a system or similar items, and the improvement of already existing items of a like nature; amounts expended in connection with the proposed development and/or proposed delivery of substitute or synthetic gas supplies (alternate fuel sources, for example, and experimental coal gasification plant or an experimental plant synthetically producing gas from liquid hydrocarbons); and the costs of obtaining its own patent, such as attorney's fees expended in making and perfecting a patent application. The term includes preliminary investigations and detailed planning of specific projects for securing for customers non-conventional pipeline gas supplies that rely on technology that has not been verified previously to be feasible. The term does not include expenditures for efficiency surveys; studies of management, management techniques and organization; consumer surveys, advertising, promotions, or items of a like nature. Order No. 566.

Order No. 566, *supra*, n.2, mimeo ed. at 37 (emphasis indicates added material). Definition 27B, *supra*, n.2, was similarly amended.

By order issued August 3, 1977, the FPC denied California's petition for rehearing and retained the expanded definitions of "RD&D". Additionally, the FPC stated unequivocally that the expanded definitions represent a substantive change from the Order No. 483 definitions and that the change was prospective in effect:

The Commission did not intend Order No. 566 to be applied so as to allow retroactive rate base treatment of amounts which would not be accorded such treatment under prior definitions of R&D. Rate base treatment and tracking of costs associated with commercial-scale demonstration projects are to be prospective from June 3, 1977, the date of issuance of Order No. 566.

"Research, Development and Demonstration; Accounting; Advance Approval of Rate Treatment", Docket No. RM76-17, order issued August 3, 1977.

On September 2, 1977, Transwestern tendered its application for rehearing of the FPC's August 3, 1977, order. In accordance with the FPC's September 30, 1977, order, the Commission will regard Transwestern's application as a petition for reconsideration.

In its September 2, 1977, pleading Transwestern objects to the FPC's determination that the inclusion of commercial scale projects costs within the definitions of "RD&D" should be effective prospectively from the date of Order No. 566. Transwestern argues, first, that the FPC went beyond the scope of its June 17, 1976, Notice of Proposed Rulemaking in determining that the inclusion of commercial-scale project costs should be prospective in effect. According to Transwestern, the FPC indicated in its NPRM that it did not intend to change what constituted an "R&D" expenditure which qualified for rate base and tracking treatment but, rather, was only clarifying the definitions of "RD&D". As evidence of this, Transwestern quotes the Commission as saying in the NPRM (at 3):

It is not intended herein to alter the application of current regulations except in cases where application is made for advance assurance of rate treatment for R&D expenditures.

If the FPC was announcing an intent only to clarify the existing definitions of R&D, then, Transwestern argues, since a clarification cannot by its nature be prospective only, the FPC must have been announcing that the inclusion of commercial-scale demonstration project costs within the definitions of R&D would be retroactive. Thus, Transwestern concludes, the FPC acted beyond the scope of its NPRM when it stated in its August 3, 1977, order that the revised definitions would be effective prospectively.

This first argument of Transwestern's overlooks the fact that the FPC announced in its NPRM that one of the three purposes of this rulemaking

was to "recognize participation in full-scale demonstration facilities, under certain conditions, as a justifiable R&D expenditure . . ." NPRM at 3. That was a clear pronouncement of an intent to substantively revise the FPC Regulations to enlarge the class of expenditures which would be allowed "R&D" rate treatment. There was nothing in the NPRM to suggest that the recognition of full-scale demonstration costs as justifiable R&D expenditures would be retroactive. The sentence quoted by Transwestern certainly did not indicate that the FPC intended its recognition of full-scale demonstration project costs to be a mere interpretation of regulations which, as an interpretation, could be retroactive. That sentence, when read in context, was an assurance that rate-base treatment for R&D expenditures would not be precluded to those who did not seek advance approval.

Transwestern argues, secondly, that in Order No. 566 the FPC stated that it was responding to a "request for clarification" in revising the definitions of R&D to include commercial-scale project costs. This, Transwestern contends, is an indication that the FPC was merely "clarifying", i.e., interpreting the existing definitions, and that as an interpretation, the revision of the definition should be retroactive. It should be noted, however, that the Commission was responding to an August 4, 1976, comment filed by the People of the State of California and the Public Utilities Commission of the State of California (California) in which it was pointed out (at 3) that while in its NPRM the Commission stated it intended to include full-scale demonstration projects within the scope of "justifiable R&D expenditures" the Commission has not proposed a concomitant broadening of the definitions of R&D. Additionally, the FPC was responding to a September 1, 1976, comment filed by Tennessee Gas Pipeline Corp. (Tennessee) in which it was similarly noted (at 5) that while in the NPRM the FPC had proposed to recognize expenditures on full-scale demonstration projects as proper for "R&D" treatment, the NPRM did not revise the existing definitions of R&D. Tennessee requested that the Commis-

<sup>5</sup>The paragraph from which the sentence quoted by Transwestern was taken is as follows: "The provisions of this proposed rulemaking augment current regulations dealing with application for advance approval of R&D expenditures, which is an optional procedure offered in § 35.22, Subchapter B, regulations Under the Federal Power Act, and § 154.38(d)(5), Subchapter E, regulations Under the Natural Gas Act. It is not intended herein to alter the application of current regulations except in cases where application is made for advance assurance of rate treatment for R&D expenditures." NPRM, *supra*, at 3 (emphasis indicates the portion quoted by Transwestern).



sion "clarify" its existing R&D definitions so as to reflect the proposed recognition of full-scale demonstration projects. In responding to such "requests for clarification", the Commission was "clarifying" its existing definitions of R&D to make the definition conform to its proposed recognition of full-scale demonstration project costs as being justifiable R&D expenditures. If the recognition of such costs was not to be retroactive, certainly the concomitant revision of the definition to reflect such recognition could not be retroactive.

As a third argument, Transwestern contends that it was "retroactive rulemaking" for the FPC to allow only prospectively rate base treatment and tracking of costs associated with commercial-scale demonstration project costs. To the contrary, it would have been retroactive rulemaking for the FPC to have attempted to apply its revised definition of RD&D to the past so as to retroactively enlarge the rate-paying obligation of certain jurisdictional pipelines' customers.

Fourthly, Transwestern alleges that the FPC's statement in its August 3, 1977, order that it was substantively changing the existing definitions of R&D rather than merely interpreting them was contrary to a plain reading of the definitions. Contrary to Transwestern, however, not only was there no language including commercial-scale project costs in the existing definitions of R&D, but there was no language in Order No. 483 which interpreted the definitions so as to include such costs within them.

Fifthly, Transwestern notes that in "Transwestern Pipeline Company," Docket No. RP75-74, a principal controversy now pending before the Presiding Administrative Law Judge is whether the Order No. 483 definition of R&D encompasses costs associated with Transwestern's WESCO coal gasification project, a project which, according to Transwestern, is a "commercial venture". Transwestern alleges that by making the revised definition set forth in Order No. 566 prospective in effect, the FPC discriminated against Transwestern and denied it due process since, Transwestern contends, Order No. 566 will effectively dispose of the contested R&D issue in Docket No. RP75-74. In response, the Commission observes that insofar as this proceeding involves a rulemaking which is generally applicable there has been no discrimination against Transwestern. Furthermore, just because the substantive revisions of the Order No. 483 definition are effective prospectively, neither Transwestern nor the party opposing it in Docket No. RP75-74 have been denied due process: there has been no change in the definition on the basis

of which the issue in Docket No. RP75-74 is to be decided.

Lastly, Transwestern alleges that the Commission erred in that there is no rational basis for not allowing retroactive rate base treatment of commercial-scale demonstration project expenditures. The basis for the Commission's action, however, is the obvious and implicit one of avoiding retroactivity of a substantive rulemaking. Additionally, the recognition of commercial-scale demonstration project costs as justifiable R&D expenditures was to encourage the construction of such facilities. NPRM, at 6. Making the expansion of the definition of "R&D" retroactive would not contribute to achieving that end.

The Commission concludes that in its September 2, 1977, filing Transwestern does not show good cause for the Commission to reconsider the FPC's August 3, 1977, order in this proceeding. Therefore, Transwestern's September 2, 1977, petition shall be denied.

On October 13, 1977 Transwestern filed an application for rehearing of the FPC's September 30, 1977, order holding that Transwestern's September 2, 1977, application for rehearing would not lie. In its October 13, 1977, filing, Transwestern alleges that new matter was injected into this rulemaking in the FPC's August 3, 1977 order, the "new matter" being, according to Transwestern, the FPC's statement that rate base and tracking treatment of commercial-scale demonstration projects would be effective prospectively. That statement, however, can only be seen as being "new matter" if it is assumed that in announcing the three purposes of this rulemaking, NPRM at 3, the FPC had stated either expressly or by implication that it was intending a rulemaking which would be retroactive in effect. Such an intent cannot be drawn from the Notice of Proposed Rulemaking, however.

The Commission concludes that the FPC did not inject new matter into this rulemaking in its August 3, 1977 order. Transwestern's October 13, 1977, application for rehearing has been denied by operation of law pursuant to § 1.34 of the Commission's rules of practice and procedure, and the Commission finds that good cause does not exist to disturb that denial.

\*The substantive, prospective revision of Definition 28B in Order No. 566 may have the practical effect of clarifying what Transwestern alleges to be the heretofore uncertain scope of the Order No. 483 definition of R&D. The Commission notes, however, that, assuming with Transwestern that the order No. 483 definition was uncertain as to scope, Order No. 566 still cannot be said to deny due process: the retroactive clarification of uncertain law is not unfair. See: 1 K. Davis, Administrative Law Treatise, § 5.09 (1958); K. Davis, Administrative Law Treatise, § 5.09 (Supp., 1970).

On September 2, 1977, Transwestern filed a request for leave to intervene out of time for the limited purpose of tendering its associated September 2, 1977, application for rehearing. In support of the petition, Transwestern alleges that the NPRM in this proceeding implied that the FPC's recognition of full-scale demonstration project costs would be retroactive and that it was not until the FPC's August 3, 1977 order that Transwestern was made aware that the recognition of such costs would be prospective. The Commission has already herein determined that there was sufficient notice of prospective effect. Accordingly, the Commission concludes that Transwestern's request should be denied.

The Commission finds: (1) Good cause exists to deny Transwestern's September 2, 1977 request for reconsideration of the FPC's August 3, 1977, order in this proceeding.

(2) Good cause exists to deny Transwestern's September 2, 1977, request for leave to intervene out of time.

The Commission orders: (A) Transwestern's September 2, 1977, request for reconsideration is hereby denied.

(B) Transwestern's September 2, 1977, request for leave to intervene out of time is hereby denied.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUM, Secretary.

(FR Doc. 78-1358 Filed 1-17-78; 8:45 am)

## [6560-01]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 844-5; OPP-50354]

## ELANCO PRODUCTS CO.

## Issuance of Experimental Use Permit

The Environmental Protection Agency (EPA) has issued an experimental use permit to the following applicant. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

1471-EUP-57. Elanco Products Co., Indianapolis, Ind. 46206. This experimental use permit allows the use of 545 pounds of the herbicide oryzalin on soybeans to evaluate control of annual grasses and broadleaf weeds. A total of 530 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, North Carolina, Ohio, South Carolina, Tennessee, and Virginia. The experimental use permit is effective from November 4, 1977 to November 4, 1978. A permanent tolerance for residues of the active ingredient

in or on soybeans has been established (40 CFR 180.304).

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. This file will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (88 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated January 9, 1978.

DOUGLAS D. CAMPT, Acting Director, Registration Division.

(FR Doc. 78-1319 Filed 1-17-78; 8:45 am)

## [6560-01]

[FRL 844-4; OPP-00067]

## FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

## Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 10 a.m. to 4:30 p.m. daily on Thursday, February 2, and Friday, February 3, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

## FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Continued formal review and conclusion by the Panel on proposed rule-

making relative to the following sections of the Guidelines for Registering Pesticides in the United States: (a) Subpart B, Introduction to the Guidelines; (b) Subpart D, Chemistry Requirements; (c) Subpart E, Hazard Evaluation: Wildlife and Aquatic Organisms.

2. Review of proposed regulations for pesticide enforcement and applicator certification program grants as authorized by section 23 of FIFRA.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Public statements and comments previously submitted to the Panel at earlier meetings on the topics under review will be given full consideration and need not be resubmitted. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of summary no later than January 27, 1978.

Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: January 11, 1978.

EDWIN L. JOHNSON, Deputy Assistant Administrator for Pesticide Programs.

(FR Doc. 78-1318 Filed 1-17-78; 8:45 am)

## [6560-01]

[FRL 843-7]

## INTEGRITY OF WATER SYMPOSIUM PROCEEDINGS

## Notice of Availability

Section 304(a)(2) of the Federal Water Pollution Control Act Amendments of 1972 (Pub. L. 92-500) requires the Administrator to develop and publish information on the factors necessary to restore and maintain the chemical, physical, and biological integrity of navigable waters, ground waters, waters of the contiguous zone, and the oceans. In accordance with those requirements the Agency has published the proceedings of a symposium held on March 10, 11, and 12 of 1975, entitled "The Integrity of Water." Experts from State and Federal governments, academia, environmental groups, industry, and the public were invited to present papers and discuss their views on those fac-

tors necessary to restore and maintain the chemical, physical, and biological integrity of natural waters.

"The Integrity of Water" has been published by the U.S. Government Printing Office. Copies can be obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO order number is 055-001-01068-1 and the cost is \$3.75 for paper-bound editions.

Dated: January 6, 1978.

THOMAS C. JORLING, Assistant Administrator for Water and Hazardous Materials. (FR Doc. 78-1325 Filed 1-17-78; 1:02 pm)

## [6560-01]

[FRL 843-4]

## NORTH DAKOTA DRINKING WATER PROGRAM

## Determination of Primary Enforcement Responsibility

In accordance with the provisions of Section 1413 of the Safe Drinking Water Act of 1974 (SDWA), (88 Stat. 1661; 42 U.S.C. 300f et. seq.) and 40 CFR 142 (41 FR 2918, January 20, 1976), Mr. W. Van Heuvelen, Executive Director of the Division of Water Supply and Pollution Control, North Dakota State Department of Health, has submitted an application for assumption of primary enforcement responsibility under the SDWA to the Environmental Protection Agency (EPA) for approval.

Notice is hereby given that the Regional Administrator of EPA Region VIII has approved this application for primary enforcement authority, to become effective on February 17, 1978. This action was based upon a thorough evaluation of North Dakota's water supply supervision program in relation to the requirements of 40 CFR 142.10. Specifically, the State has adopted and implemented:

1. Primary drinking water regulations which are as stringent as the National Interim Primary Drinking Water Regulations;
2. An inventory of public drinking water systems;
3. A systematic program for conducting sanitary surveys of public drinking water systems;
4. A State program for certification of laboratories performing analyses of drinking water samples;
5. State laboratory procedures, approved by EPA, for drinking water analyses;
6. A plan and construction review program;
7. Statutory and regulatory enforcement authority and procedures;
8. Requirements for suppliers of drinking water to keep appropriate re-



cords and make appropriate reports to the State;

9. Requirements for suppliers of drinking water to give public notice for violation of State drinking water regulations;

10. A system for required State recordkeeping and reporting;

11. A program for issuing variances and exemptions; and

12. A plan for providing safe drinking water under emergency circumstances.

On or before February 17, 1978, any person may request a public hearing to consider the Regional Administrator's determination. If a public hearing is requested and granted, this determination will not become effective until such time, following the hearing, as the Regional Administrator issues an order affirming or rescinding the determination.

Requests for a public hearing shall be addressed to:

Alan Merson, Regional Administrator, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80295.

and shall include the following information:

1. The name, address and telephone number of the individual, organization or other entity requesting a hearing;

2. A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting individual intends to submit at such hearing; and,

3. The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

A complete copy of North Dakota's application for primary enforcement responsibility is available for public inspection, during normal business hours, at the Office of the EPA Regional Administrator, and at the following location in North Dakota:

North Dakota State Department of Health, Division of Water Supply and Pollution Control, 1200 Missouri Avenue, Bismarck, N. Dak. 58505.

Dated: December 5, 1977.

ALAN MERSON,  
Regional Administrator.

[FR Doc. 78-1322 Filed 1-17-78; 8:45 am]

#### [6560-01]

[FRL 844-1; PP 6G1838/T136]

#### PESTICIDE PROGRAMS

##### Extension of Temporary Tolerances for Butachlor

On April 7, 1977, the Environmental Protection Agency (EPA) gave notice (42 FR 18424) that in response to a

pesticide petition (PP 6G1838) submitted to the Agency by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63116, temporary tolerances were established for residues of the herbicide butachlor (*N*-(butoxymethyl) - 2 - chloro - 2',6' - diethylacetanilide) in or on the raw agricultural commodities rice at 0.5 part per million (ppm) and rice straw at 3 ppm. These temporary tolerances are scheduled to expire April 1, 1978.

Monsanto Agricultural Products Co. has requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that an extension of the temporary tolerances will protect the public health. (A related document extending a feed additive regulation for residues of butachlor appears elsewhere in today's *FEDERAL REGISTER*.) Therefore, the temporary tolerances are extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Agricultural Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire April 1, 1979. Residues not in excess of 0.5 ppm remaining in or on rice and 3 ppm remaining in or on rice straw after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St., SW., Washington, D.C. 20460, 202-755-4851.

3. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire January 10, 1979. Residues not in

Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 78-1328 Filed 1-17-78; 8:45 am]

#### [6560-01]

[FRL 844-3; PP 6G1734/T139]

#### PESTICIDE PROGRAMS

##### Renewal of Temporary Tolerances for Glyphosate

On June 29, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 26743) that in response to a pesticide petition (PP 6G1734) submitted to the Agency by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, Mo. 63166, temporary tolerances were established for combined residues of the herbicide glyphosate (*N* - (phosphonmethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity group citrus fruits at 0.2 part per million (ppm) and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.05 ppm. These temporary tolerances expired June 16, 1977.

Monsanto Co. has requested a one-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that is being renewed concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. (A related document establishing a feed additive regulation for residues of glyphosate in dried citrus pulp appears elsewhere in today's *FEDERAL REGISTER*.) Therefore, the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire January 10, 1979. Residues not in

excess of 0.2 ppm remaining in or on citrus fruits and 0.05 ppm remaining in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 202-755-4851.

Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 78-1320 Filed 1-17-78; 8:45 am]

#### [6560-01]

[FRL 843-6]

#### QUALITY CRITERIA FOR WATER

##### Notice of Availability

On Friday, August 6, 1976, notice was given in the *FEDERAL REGISTER* (41 FR 32947) of the availability of the Environmental Protection Agency publication *Quality Criteria for Water*. A limited number of pre-publication copies were made available to the public at that time from the EPA Office of Public Affairs.

The report has been published by the U.S. Government Printing Office and is now available for sale in paper-bound editions at \$3.50 per copy from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO order number is 055-001-01049-4. This publication is the same as the pre-publication document released August 6, 1976.

The Agency will continue to develop water quality criteria as data become available and, from time to time, will publish the results of such efforts as required by section 304(a) of the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977.

Dated: January 6, 1978.

JOHN A. LITTLE,  
Deputy Regional Administrator.

[FR Doc. 78-1324 Filed 1-17-78; 8:45 am]

[FRL 843-5]

#### SCIENCE ADVISORY BOARD ENVIRONMENTAL HEALTH ADVISORY COMMITTEE

##### Notice of Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9 a.m. on February 3, 1978 in Room 3906-08, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The principal purpose of the meeting will be to provide advice and consultation of draft documentation relating to health effects of benzene which the U.S. Environmental Protection Agency has referred to the Committee for review, and specifically on (1) a draft report entitled, "Benzene Health Effects Assessment," External Review Draft, October 1977; (2) a preliminary draft entitled, "Human Exposure to Atmospheric Benzene," Stanford Research Institute, October 1977; and (3) an external review draft entitled, "Carcinogen Assessment Group's Preliminary Report on Population Risk to Ambient Benzene Exposures," undated. The draft documents are intended for utilization, by the Agency, in connection with the listing of benzene as a hazardous air pollutant under section 112 of the Clean Air Act, as amended (42 FR 29332). The Agenda will also include brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. January 27, 1978. Please ask for Mrs. Ilene Stein or Ms. Barbara Robinson. The telephone number is 703-557-7720.

RICHARD M. DOWD,  
Staff Director,  
Science Advisory Board.

JANUARY 11, 1978.

[FR Doc. 78-1323 Filed 1-17-78; 8:45 am]

#### [6560-01]

[FRL 843-3]

#### STATE OF FLORIDA

##### Determination of Primary Enforcement Responsibility

This public notice is issued pursuant to section 1413 of the Safe Drinking Water Act, Pub. L. 93-523 (1974), and §142.10 of the National Interim Primary Drinking Water Regulations published in the *FEDERAL REGISTER* on January 20, 1976.

An application dated September 1, 1977, and supplemented December 16,

1977, has been received from the Secretary of the Department of Environmental Regulation requesting that the State of Florida be granted primary enforcement responsibility for water systems in the State of Florida, in accordance with the provisions of this Act.

In response, I have determined that the State of Florida has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for water systems in the State of Florida. The State:

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) If it permits variances or exemptions from the requirements of its regulations, will issue such variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Department of Environmental Regulation, 2562 Executive Center Circle East, Tallahassee, Fla. 32301.

Regional Administrator, Environmental Protection Agency, Region IV, 345 Courtland Street NE, Atlanta, Ga. 30308.

All interested parties are invited to submit written comments on this determination and may request a public hearing. Written comments and/or a request for a public hearing must be submitted on or before February 17, 1978. A request for a public hearing shall include the following information:

(1) The name, address, and telephone of the individual, organization, or other entity requesting a hearing.

(2) A brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing.

(3) The signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a



substantial request for a public hearing is made on or before February 17, 1978, a public hearing will be held. The Regional Administrator will give further notice in the *FEDERAL REGISTER* and in a newspaper or newspapers of general circulation in the State of Florida of any hearing to be held pursuant to a request submitted by an interested person, or on his own motion. Notice of the hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. In addition to publication as described above, notice will be sent to the person requesting a hearing and to the State. Notice of the hearing will include a statement of the purpose of the hearing, information regarding the time and location for the hearing, and the address and telephone number of an office at which interested persons may obtain further information concerning the hearing.

After receiving the record of the hearing, the Regional Administrator will issue an order affirming or rescinding his determination. If the determination is affirmed, it shall become effective as of the date of this order.

If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective February 17, 1978.

Please bring this notice to the attention of any persons know by you to have an interest in this determination.

Dated: January 11, 1978.

JOHN A. LITTLE,  
Deputy Regional Administrator.

JOHN C. WHITE,  
Regional Administrator, Environmental Protection Agency, Region IV.

[FR Doc. 78-1321 Filed 1-17-78; 8:45 am]

#### [6325-01]

#### FEDERAL PREVAILING RATE ADVISORY COMMITTEE

##### OPEN COMMITTEE MEETINGS

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, February 2, 1978  
Thursday, February 9, 1978  
Thursday, February 16, 1978  
Thursday, February 23, 1978

The meetings will convene at 10 a.m., and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chair-

man, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Civil Service Commission thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Chairman of the Civil Service Commission under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Civil Service Commission, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Secretary, Federal Prevailing Rate Advisory Committee, Room 1338, 1900 E Street NW., Washington, D.C. 20415, 202-632-9710.

JEROME H. ROSS,  
Chairman, Federal Prevailing Rate Advisory Committee.

JANUARY 16, 1978.

[FR Doc. 78-1483 Filed 1-17-78; 8:45 am]

#### [4110-02]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### Office of Education

#### LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

##### Proposed Criteria for Funding Applications for Fiscal Year 1978

1. *General* (a) Notice is hereby given that, pursuant to the authority contained in Title XI of the Higher Education Act of 1965, as amended (20 U.S.C. 1136-1136b), the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to establish the funding criteria set forth below for reviewing applications submitted by accredited law schools for establishing, and/or expanding demonstration projects to provide actual clinical experience to students in those schools in the practice of law, with preference being given to programs providing experience to the extent practicable, in the preparation and trial of cases. These criteria, when adopted, will replace the general criteria for direct project grant and contract programs contained in 45 CFR 100a.26.

(b) The administration of the program will be governed by 45 CFR Parts 100 and 100a, except as noted.

(c) A Fiscal Year 1978 appropriation of \$1.0 million is anticipated to support "one-time demonstration projects" in Law School Clinical Experience Programs. (H. Rept. No. 95-538 (Conference Report), July 28, 1977, at 18.) The statute authorizes the Commissioner to enter into grants or contracts with accredited law schools for the purpose of paying not exceed 90 percent of the cost of establishing or expanding such programs. Costs are limited to such expenditures as are justified for planning, preparation of related teaching materials, and administration; the training of faculty members; payment for the director of supervision and other faculty or attorneys directly involved in supervision; appropriate travel and for other related activities in connection with the program. It is expected that about twenty (20) to twenty-five (25) programs, averaging between \$40,000-\$50,000, will be funded; no program, however, may receive more than \$75,000.

(2) *Review of Applications and Administration of Awards.*—(a) *Funding Criteria for Evaluating Applications and Considerations for Awarding Grants for Fiscal Year 1978.* The U.S. Commissioner of Education shall take into account the following considerations when evaluating applications for grants under the Law School Clinical Experience Programs:

(1) The application will assist in attaining a wider distribution through-

out the United States of higher quality Law Clinical Experience Programs;

(2) The proposed project would provide a demonstration in training of law students by supervised use of legal skills on behalf of varied client groups, and;

(3) The extent to which the proposed project ranks high on the criteria set forth below, with the maximum point score for each criterion as shown:

(i) The proposed project indicates that the law school has a commitment to clinical legal education as demonstrated by the degree to which the institution's regular budget is devoted to continuing an existing program or will be devoted to the establishment of a new program. (15 points)

(ii) The proposed project will either establish for the first time a new program of clinical legal education or expand an existing program in which case these factors will be evaluated: developing new areas of practical experience, increasing the number of participating students, and providing appropriate and improved supervision. (20 points)

(iii) The proposed project will provide actual experience in legal skills such as the preparation and trial of actual cases, including administrative cases and the settlement of cases and controversies outside the courtroom. This experience may include, but not necessarily be limited to, the development of such skills as interviewing witnesses, counseling clients, negotiating compromises, drafting documents, trial preparation, advocacy, and training in professional responsibility. (20 points)

(iv) The law school administration and faculty have sufficient experience, time and resources (including a director) to provide adequate on-the-job supervision to students, while they are learning legal skills in the proposed program of clinical legal education. (15 points)

(v) The proposed program of law school clinical experience provides for the award of appropriate academic credits to participating students. (15 points)

(vi) The proposed project places emphasis on increasing the law school's involvement in clinical legal education while maintaining the quality of the supervision. (10 points)

(vii) The proposed project indicates that the law school plans to incorporate into its curriculum the experience and knowledge gained from the proposed demonstration project. (5 points)

(b) *General Provisions Regulations.* Assistance under this program is subject to the provisions of 45 CFR Parts 100 and 100a (Office of Education General Provisions Regulations), except for the funding criteria set out

at 45 CFR 100a.26(b). (20 U.S.C. 1136-1136b.)

3. *Comment.*—Interested persons are invited to submit written comments, suggestions, or objections regarding this notice to Dr. Donald N. Bigelow, Chief, Graduate Training Branch, Division of Training and Facilities, U.S. Office of Education, Regional Office Building Three, Room 3709, 7th and D Streets SW., Washington, D.C. 20202.

Comments received in response to this notice will be available for public inspection at the above office on Monday through Friday between 8:30 a.m. and 4:30 p.m. All relevant materials must be received on or before February 17, 1978 unless such 30th day is a Saturday, Sunday, or Federal holiday, in which case such material must be received by the next following business day.

For further information contact Donald N. Bigelow at the address listed above. (Telephone: 202-245-2347.)

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.584; Law School Clinical Experience Programs.)

Dated: November 21, 1977.

ERNEST L. BOYER,  
Commissioner of Education.

Approved: January 11, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

[FR Doc. 78-1391 Filed 1-17-78; 8:45 am]

#### [4110-02]

#### NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

##### Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: February 7, 1978, Committee meetings 9 a.m. to 4 p.m.; February 8, 1978, Business meeting 9:30 a.m. to 4 p.m.; and February 9, 1978, Public Hearings 9:30 a.m. to 4:30 p.m.

ADDRESS: Holiday Inn, Halo Room, 1850 South Harbor Blvd., Anaheim, Calif. 92802.

FOR FURTHER INFORMATION CONTACT:

Dr. Gloria V. Becerra, Program Delegate, Office of Bilingual Education, Reporters' Bldg., Room 421, Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-447-9227.

The National Advisory Council on Bilingual Education is established under section 732(a) of the Bilingual Education Act (20 U.S.C. 880b-11) to advise the Secretary of Health, Education, and Welfare and the Commissioner of Education concerning matters arising in the administration of the Bilingual Education Act.

On February 7, 1978, five of the council's standing committees will meet: Committee on Public Hearings; Committee on Legislation; Committee on Budget; Committee on the November 1 Report; and the Committee on Non-Spanish Minority Languages.

The proposed agenda for the Council on February 8, 1978 includes: (1) Committee reports.

(2) Regular council business.

(3) Review of legislative recommendations.

February 9, 1978: Consonant with the Council's charge to provide advice on matters relating to the administration of the Bilingual Education Act, testimony will be heard on the following topics:

(1) Proposed Legislative Changes for Pub. L. 93-380; and  
(2) Serving Diverse Language Groups.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis;

(2) Witnesses shall limit their testimony to twenty minutes: Ten to fifteen minutes of formal presentation followed by five to ten minutes of questioning from Council members;

(3) Two or more persons from the same organization shall designate one person to speak for the group;

(4) Witnesses shall present an oral synopsis of their written testimony. Witnesses who do not provide such a testimony will be heard after all who have written testimony are heard;

(5) Witnesses shall provide fifteen copies of their written testimony;

(6) Witnesses who have testified at previous hearings will be heard after all others;

(7) Witnesses may address the Council in either English or in their native language. The written testimony must be submitted in English;

(8) All testimony shall be tape recorded;

(9) Exceptions to the aforementioned procedures shall be at the dis-



cretion of the Chairman of the Public Hearings Committee.

Records will be kept of all Council proceedings and shall be available for public inspection 14 days after the meeting in Room 421, Reporter's Building, 300 7th Street SW., Washington, D.C. 20202. In the event that the proposed agenda is completed prior to the projected date or time, the Council will adjourn the meeting.

Signed at Washington, D.C., on January 13, 1978.

GLORIA V. BECERRA,  
Program Delegate, NACBE,  
Office of Bilingual Education.

[FR Doc. 78-1382 Filed 1-17-78; 8:45 am]

#### [4110-02]

Office of the Secretary

PRIVACY ACT OF 1974

New Routine Use for Notice of Systems of Records

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notification of New Routine Use for the following guaranteed student loan program systems of records which were last published in the FEDERAL REGISTER, Vol. 42, No. 189, September 29, 1977, pages 51994-52002.

09-40-0021 Guaranteed Student Loan Program—Compliance Files. HEW E.  
09-40-0022 Guaranteed Student Loan Program—Student Complaint File. HEW E.  
09-40-0023 Guaranteed Student Loan Program—Defaulted Loans Submitted to General Accounting Office. HEW E.  
09-40-0024 Guaranteed Student Loan Program—Lender's Report. HEW E.  
09-40-0026 Guaranteed Student Loan Program—Paid Claims File. HEW E.  
09-40-0027 Guaranteed Student Loan Program—Claims and Collections Master File. HEW E.  
09-40-0028 Guaranteed Student Loan Program—Collection Letters. HEW E.  
09-40-0029 Guaranteed Student Loan Program—Inactive Loan Control Master File. HEW E.  
09-40-0030 Guaranteed Student Loan Program—Loan Control Master File. HEW E.  
09-40-0031 Guaranteed Student Loan Program—Pre-Claims Assistance. HEW E.  
09-40-0044 Guaranteed Student Loan Program—Insurance Claim File. HEW E.  
09-40-0045 Guaranteed Student Loan Program—Collection Files. HEW E.

SUMMARY: The Department of Health, Education, and Welfare (DHEW) proposes to establish an additional new routine use applicable to the systems of records listed above under the Privacy Act. The purpose of this proposed routine use is to permit the release of information to verify the identity of the applicant, to determine program eligibility and benefits, to permit servicing or collection of the loan, to counsel the borrower in repayment efforts, to investigate possible

fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower.

DATES: The routine use shall become effective as proposed without further notice on or before February 17, 1978, unless comments are received which would result in a contrary determination.

ADDRESS: Comments should be addressed to Acting Director, Fair Information Practice Staff, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 526-E, Hubert H. Humphrey Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

William A. Wooten, Privacy and Information Rights Officer, Office of Education, Department of Health, Education, and Welfare, Room 3851 Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202, or call 202-472-2655.

SUPPLEMENTARY INFORMATION: The Department of Health, Education, and Welfare has initiated a major project called Project Cross-Check, to reduce the losses currently being sustained by the guaranteed student loan program as administered by DHEW. This project seeks to identify Federal civilian employees who appear to be in default on their guaranteed student loan, and to take action, where appropriate, to accelerate recoveries of these defaulted loans. The project uses as its primary source of information data collected by means of a comparison by computer of the entire Federal civilian workforce—(All active Federal and postal employees) obtained from the Civil Service Commission and the student loan default files of the Office of Education. (The agreement reached on December 23, 1977, with the Civil Service Commission permitting this comparison, will make possible an expansion of the HEW Operation Cross-Check previously used in a similar fashion to identify employees of DHEW who had defaulted on their student loans and to take action to accelerate recoveries of these loans). As soon as the data has been collected for the Federal Project Cross-Check all original source computer tapes will be promptly returned to the source or destroyed. The matching of the Central Personnel Data File (CPDF) tape and the Guaranteed Student Loan default files will be handled with strict regard for considerations of privacy, in the computer center at DHEW headquarters, under the direction of the Audit Agency under the following security procedures: All computer files and printed listings are safeguarded in accordance with the

provisions of the National Bureau of Standards Federal Information Processing Standards 41 and 31, and the HEW Information Processing Standards, HEW ADP Systems Manual, A5-10-3.

The records collected by this process will be immediately transferred to the Deputy Commissioner for Student Financial Assistance within the Office of Education for his follow up action. Copies of these records will not be retained by the Audit Agency. This new routine use proposed for the systems of records guaranteed student loan program will permit the Bureau of Student Financial Assistance (BSFA) to disclose information to Federal employers of defaulters for the purpose of counseling these borrowers in their repayment efforts, to various agencies, organizations and private parties to locate delinquent or defaulted borrowers, and to agency contractors to assist in collections activities. The proposed routine use will facilitate the new initiative Project Cross-Check directed at Federal employee defaulters, as well as facilitate the non-Federal initiative to identify nonfederally employed loan defaulters, and to seek action, where appropriate, to accelerate recoveries on these loans.

With regards to Project Cross-Check, the following procedures will be followed once the records resulting from the above-noted computer comparison have been transmitted to BSFA: Letters will be sent to each defaulter, at the best available address, without the involvement or knowledge of any defaulter's supervisors or associates. The letter will request the defaulters to contact the appropriate DHEW regional office to arrange for repayment. Payroll deductions will be available, if desired. Only in cases where it has not been possible to locate a defaulter or where the defaulter has been located and refused to arrange repayment, will assistance be requested from the employing agency. Any such contacts with the employing agencies will be carried out under established regulations for such procedures.

Accordingly, the Department of Health, Education, and Welfare proposes to add an additional routine use as indicated in the following system of records notice.

CHARLES MILLER,  
Acting Assistant Secretary  
for Management and Budget.

#### PROPOSED ROUTINE USE

The information may be furnished to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, to guarantee agencies, to educational and financial institutions, and to agency contractors, in order to verify the identity of

the applicant, to determine program eligibility and benefits, to permit servicing or collecting of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and verify compliance with program regulations, or to locate a delinquent or defaulted borrower.

[FR Doc. 78-1332 Filed 1-13-78; 9:40 am]

#### [4310-84]

#### DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6655-A through AA-6655-G]

#### ALASKA NATIVE CLAIMS SELECTION

On March 22, 1974, and October 25, 1974, Chignik River, Limited, for the Native village of Chignik Lake, filed selection applications AA-6655-A through A-6655-G under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Chignik Lake area.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

On October 28, 1976, Bristol Bay Native Corp., filed selection applications AA-12415 and AA-12416, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act (85 Stat. 688, 702; 43 U.S.C. 1601, 1613 (Supp. V, 1975)). Section 14(h) and Departmental regulations issued thereunder, provide that the Secretary of the Interior is authorized to withdraw and convey unreserved and unappropriated public lands. Since part of the land encompassed in the subject section 14(h) applications had been properly selected by Chignik River, Limited, under section 12(a), application AA-12416 must be and is hereby rejected as to all lands in T. 43 S., R. 61 W., Seward Meridian except section 7; and application AA-12415 must be and is hereby rejected as to all lands in T. 43 S., R. 62 W., Seward Meridian except sections 9, 10, 13, 14, and 15.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 89,696 acres, is considered proper for acquisition by Chignik River, Limited, and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Lot 2, U.S. Survey 3888, Alaska, situated on the southerly shore of Chignik Lake, Alaska, containing 0.14 acres.

#### SEWARD MERIDIAN, ALASKA (UNSURVEYED)

T. 43 S., R. 61 W.,  
Secs. 3 and 4, all;  
Sec. 5, excluding Native allotments AA-5998 Parcel B and AA-6003 Parcel B;  
Sec. 6, excluding Native allotment AA-5998 Parcel B;  
Sec. 8, excluding Native allotment AA-6003 Parcel B;  
Secs. 9, 10, and 11, all;  
Secs. 13 to 18, inclusive, all;  
Sec. 19, excluding Native allotment AA-6005 Parcel B;  
Sec. 20, excluding Native allotment AA-6005 Parcel B;  
Secs. 21 to 24, inclusive, all;  
Secs. 27 and 28, all;  
Sec. 29, excluding Native allotments AA-6007 Parcel A and AA-8237 Parcel B;  
Sec. 30, excluding Native allotment AA-6003 Parcel A;  
Sec. 31, excluding Native allotments AA-6003 Parcel A and AA-6018;  
Secs. 32 and 33, all.  
Containing approximately 16,882 acres.

T. 44 S., R. 61 W.,  
Sec. 5, excluding Native allotments AA-5999 Parcel B and AA-6006 Parcel B;  
Sec. 6, excluding Native allotments AA-5999 Parcel B, AA-6006 Parcel B, AA-6008 Parcel B and AA-6013 Parcel A;  
Sec. 7, excluding Native allotments AA-5999 Parcel B and AA-6008 Parcel B;  
Sec. 8, excluding Native allotment AA-5999 Parcel B;  
Sec. 13, all;  
Sec. 17, excluding Native allotments AA-5979 Parcel A and AA-6026 Parcel B;  
Secs. 18 and 19, all;  
Sec. 20, excluding Native allotment AA-5989 Parcel B;  
Secs. 23 to 29, inclusive, all;  
Sec. 30, excluding Native allotments AA-5999 Parcel C and AA-6015 Parcel B;  
Sec. 31, all;  
Sec. 32, excluding Native allotments AA-5975 Parcel B, AA-5989 Parcel A and AA-5992;  
Sec. 33, excluding Native allotment AA-5975 Parcel B;  
Secs. 34, 35, and 36, all.  
Containing approximately 14,095 acres.

T. 45 S., R. 61 W.,  
Secs. 1 to 6, inclusive, all;  
Sec. 7, excluding Native allotments AA-5996 Parcel B and AA-6009 Parcel A;  
Secs. 8 to 16, inclusive, all;  
Sec. 17, excluding Native allotment AA-5986 Parcel B;  
Sec. 18, excluding Native allotments AA-5986 Parcel B, AA-6009 Parcel A and Chignik Lake;  
Sec. 19, excluding Native allotments AA-5986 Parcel B, AA-5993 Parcel B, and Chignik Lake;  
Sec. 20, excluding U.S. Survey 576, Native allotments AA-5986 Parcel B, AA-6015 Parcel A, and Chignik Lake;  
Secs. 21 and 22, excluding Chignik Lake;  
Sec. 23, excluding Native allotment AA-5998 Parcel A, and Chignik Lake;  
Sec. 24, excluding Native allotment AA-5998 Parcel A;  
Sec. 25, excluding Native allotments AA-6026 Parcel A and Chignik Lake;  
Sec. 26, excluding lot 1, U.S. Survey 3888, U.S. Survey 4897, and Chignik Lake;  
Sec. 27, excluding Chignik Lake;  
Sec. 29, excluding Native allotments AA-5993 Parcel A, AA-6002 Parcel A, AA-6017, AA-6070, and Chignik Lake;  
Secs. 30 and 31, all;

Sec. 32, excluding Native allotments AA-5993 Parcel A, AA-5995, AA-8110 Parcel B, and Chignik Lake;  
Sec. 33, excluding Native allotments AA-5995, AA-8110 Parcel B, AA-8236, and Chignik Lake;  
Sec. 34, excluding Native allotments AA-5988 Parcel B, AA-5999 Parcel A, AA-6007 Parcel B, and Chignik Lake;  
Secs. 35 and 36, all.  
Containing approximately 18,117 acres.

T. 46 S., R. 61 W.,  
Sec. 3, excluding Native allotments AA-5999 Parcel A and AA-5994 Parcel A;  
Sec. 4, excluding Native allotments AA-5989 Parcel C, AA-5991 Parcel B, AA-5994 Parcel A, AA-5996 Parcel A, AA-6002 Parcel B, AA-8236, and Chignik Lake;  
Sec. 5, all;  
Sec. 8, all;  
Sec. 9, excluding Native allotments AA-5994 Parcels A and B and AA-5997 Parcel A;  
Sec. 10, excluding Native allotments AA-5994 Parcels A and B and AA-5997 Parcel B;  
Sec. 11, all;  
Sec. 15, excluding Native allotment AA-5994 Parcel B;  
Sec. 16, excluding Native allotments AA-5994 Parcel B and AA-5997 Parcel A;  
Sec. 21, all.  
Containing approximately 5,595 acres.

T. 43 S., R. 62 W.,  
Secs. 1, 2, and 3, all;  
Sec. 4, excluding Native allotment AA-6008 Parcel C;  
Sec. 5, excluding Native allotments AA-6008 Parcel C and AA-6009 Parcel B;  
Secs. 6 and 7, all;  
Sec. 8, excluding Native allotment AA-6006 Parcel C;  
Secs. 11 and 12, all;  
Sec. 16, all;  
Secs. 17 to 22, inclusive, all;  
Sec. 23, all;  
Sec. 24, excluding Native allotment AA-6012 Parcel B;  
Sec. 25, excluding Native allotment AA-6012 Parcel B;  
Secs. 26 to 36, inclusive, all;  
Containing approximately 19,582 acres.

T. 44 S., R. 62 W.,  
Secs. 1 to 8, inclusive, all;  
Sec. 9, excluding Native allotment AA-6012 Parcel A;  
Secs. 10 to 16, inclusive, all;  
Sec. 24, all;  
Sec. 25, excluding Native allotment AA-5999 Parcel C.  
Containing approximately 11,425 acres.

T. 45 S., R. 62 W.,  
Sec. 1, excluding Native allotment AA-8237 Parcel A and Chignik Lake;  
Sec. 2, excluding Native allotments AA-5975 Parcel B, AA-5991 Parcel A, AA-5992, AA-8237 Parcel A, and Chignik Lake;  
Sec. 3, excluding Native allotments AA-5991 Parcel A, AA-5992, and Chignik Lake;  
Sec. 4, all;  
Sec. 10, excluding Chignik Lake;  
Sec. 12, excluding Native allotments AA-5996 Parcel B, AA-6004 Parcel A, AA-6009 Parcel A, and Chignik Lake;  
Sec. 13, excluding Native allotments AA-5978, AA-6004 Parcel A, AA-6009 Parcel A, and Chignik Lake;



## NOTICES

Sec. 24, excluding Chignik Lake;  
Sec. 25, all.  
Containing approximately 4,000 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6655-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 D9)—An easement for an access trail fifty (50) feet in width along the left bank of the Chignik River from Black Lake in T. 43 S., R. 61 W., Seward Meridian, south to Chignik Lake in T. 45 S., R. 62 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 2a D9) A site easement upland of the ordinary high water mark in section 17, T. 43 S., R. 61 W., Seward Meridian, on the right bank of the mouth of the Alec River. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The site is for camping and staging with an aircraft and watercraft pullout area.

c. (EIN 2b D9)—A site easement upland of the ordinary high water mark in section 32, T. 43 S., R. 61 W., Seward Meridian, on the left bank of the Chignik River. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The site is for camping and staging with an aircraft and watercraft pullout area.

d. (EIN 2c D9)—A site easement upland of the ordinary high water mark in section 2, T. 45 S., R. 62 W., Seward Meridian, on the left bank of the Chignik River at the head of Chignik lake and the end of trail EIN 1 D9. The site is five (5) acres in size with an additional twenty-five (25) foot wide easement on the bed of the river along the entire waterfront of the site. The site is for camping and staging.

e. (EIN 3 D9)—A fishery management and public use easement upland of the ordinary high water mark in section 7, T. 44 S., R. 61 W., Seward Meridian, on the right bank of the Chignik River. The easement is one-half (1/2) acre in size with an additional twenty-five (25) foot wide extension on the bed of the river along the entire waterfront of the easement. The easement is used for camping, vehicle use, staging, and for fishery management purposes.

f. (EIN 5a D9)—A bush airstrip easement two hundred and fifty (250) feet in width and three thousand (3,000) feet in length, located in section 20, T. 44 S., R. 61 W., Seward Meridian. This size is minimum for public safety. Purpose is to provide public access to the mouth of West Fork Chignik River.

g. (EIN 5b D9)—A bush airstrip easement two hundred and fifty (250) feet in width and three thousand (3,000) feet in length, located in section 32, T. 43 S., R. 61 W., Seward Meridian, on the beach of Black Lake at the terminus of trail EIN 1 D9. This size is minimum for public safety. Purpose is to provide public access and safety.

h. (EIN 6 D9)—An easement for a proposed access trail twenty-five (25) feet in width from the airstrip in section 20, T. 44 S., R. 61 W., Seward Meridian, along the right bank of the West Fork Chignik River to public lands in section 29, T. 44 S., R. 62 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 7 C5)—An easement for an existing access trail twenty-five (25) feet in width from the village of Chignik Lake in section 26, T. 45 S., R. 61 W., Seward Meridian, southwesterly to the southern arm of Chignik Lake in section 4, T. 46 S., R. 61 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 9 D9)—A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks of the navigable portion of the Chignik River from Chignik Lake in section 26, T. 45 S., R. 61 W., Seward Meridian, to the upper reaches of tidal influence. Purpose is to provide for public use of waters having highly significant present recreational use.

k. (EIN 9a D9)—A streamside easement twenty-five (25) feet in width upland of and parallel to the ordinary high water mark on all banks and an easement on the entire bed of the nonnavigable portion of the Chignik River from the outlet on Black Lake in section 31, T. 43 S., R. 61 W., Seward Meridian, to Chignik Lake in section 2, T. 45 S., R. 62 W., Seward Meridian. Purpose is to provide for public use of waters having highly significant present recreational use.

l. (EIN 20 C4 (20a,20b))—Easements for a campsite and a proposed trail to provide access to public lands and waters:

20a. A site easement upland of the ordinary high water mark on the northeast corner of Black Lake in section 5, T. 43 S., R. 61 W., Seward Meridian. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site.

20b. An easement for a proposed access trail twenty-five (25) feet in width from campsite EIN 20a northeasterly to public lands in section 33, T. 42 S., R. 61 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

m. (EIN 22 C4)—An easement for a proposed access trail fifty (50) feet in width from the Chignik River in section 8, T. 44 S., R. 61 W., Seward Meridian, easterly along Chikluktuk Creek to public lands in section 15, T. 44 S., R. 61 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

n. (EIN 23 C4)—An easement for an existing access trail fifty (50) feet in width from

public lands in section 9, T. 43 S., R. 60 W., Seward Meridian, northwesterly to public lands in T. 42 S., R. 61 W., Seward Meridian. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

o. (EIN 24 C5)—The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

p. (EIN 25 C5)—Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate.

Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement: *Provided, however*, That the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1978, shall continue to be in force.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, section 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. Airport lease AA-2046, containing approximately 95 acres, located in sections 26 and 27, T. 45 S., R. 61 W., Seward Meridian, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970)); and

5. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Bristol Bay Native Corporation, Chignik River Limited, and other Bristol Bay village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case

file for Chignik River Limited, serialized AA-6655-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Conveyance of the remaining entitlement to Chignik River Ltd. will be made at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corp. when conveyance is granted to Chignik River Ltd. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies, within the described lands, are considered to be navigable:

Chignik Lake  
That portion of Chignik River which lies between Chignik Lagoon and Chignik Lake

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until February 17, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Chignik River Ltd. or Bristol Bay Native Corp. objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

If an appeal is taken as to the rejection of the section 14(h)(8) applica-

tions, the adverse party to be served with a copy of the notice of appeal is:

Chignik River Ltd., Chignik Lake, Alaska 99504.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements of filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,  
Chief, Branch of Lands  
and Minerals Operations.  
[FR Doc. 78-1363 Filed 1-17-78; 8:45 am]

## [4310-84]

Bureau of Land Management  
CALIFORNIA DESERT CONSERVATION AREA  
ADVISORY COMMITTEE

## Meeting

Notice is hereby given in accordance with Public Laws 92-463 and 94-579 that the California Desert Conservation Area Advisory Committee to the Bureau of Land Management, U.S. Department of the Interior, will meet in San Diego, Calif., February 23-25, 1978. The committee will consider the proposed planning format development for the California desert plan, reports of subcommittees, informational report on State air quality laws and programs, and outdoor recreation on the California desert. The meeting of February 25 will be devoted to a seminar on outdoor recreation on the California desert with the goal of identifying major activities and issues that will effect the outdoor recreation element of the desert plan. Questions from the audience will be invited on recreation and its impact on desert resources and other uses of the public lands of the desert.

The meetings will be held at El Cortez Convention Complex, 7th and Ash Streets, San Diego, Calif. Meetings will begin at 8 p.m., Thursday, February 23; and at 8 p.m., Friday, February 24, and Saturday, February 25. The subcommittee on public participation will meet at 2 p.m., Thursday, February 23, for subcommittee discussion on implementation of the public participation plan and methods of obtaining greater public involvement in the planning program. All meetings of the committee and subcommittees will be open to the public to attend.

Further information, including the meeting agenda, may be obtained from that address or State Director, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Sacramento, Calif. 95825.

Advance notice is also given that the California Desert Conservation Area

Advisory Committee plans to meet in Bishop, Calif., and field locations in the California desert May 12-13, 1978. Detailed notices will be published before the meeting.

Dated: January 11, 1978.

JAMES B. RUCH,  
Acting State Director.  
[FR Doc. 78-1345 Filed 1-17-78; 8:45 am]

## [4310-84]

INM 32481 and 324821

## NEW MEXICO

## Applications

JANUARY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4 1/2-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 S., R. 26 E.,  
Sec. 28, SE 1/4 NW 1/4.

T. 19 S., R. 32 E.,  
Sec. 9, NW 1/4 SE 1/4;  
Sec. 10, SW 1/4 NW 1/4 and NW 1/4 SW 1/4.

These pipelines will convey natural gas across 0.907 of a mile of public lands in Eddy and Lea Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-1346 Filed 1-17-78; 8:45 am]

## [4310-84]

INM 324701

## NEW MEXICO

## Application

JANUARY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 3 1/2-inch and one 4 1/2-inch natural gas pipelines right-of-way across the following land:



## NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 31 E.,  
Sec. 33, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
Sec. 34, E $\frac{1}{4}$ W $\frac{1}{4}$  and NW $\frac{1}{4}$ NW $\frac{1}{4}$ .

These pipelines will convey natural gas across 1.289 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-1347 Filed 1-17-78; 8:45 am]

[4310-84]

(NM 32469)

## NEW MEXICO

## Application

JANUARY 10, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Gas Co. of New Mexico has applied for one 4-inch natural gas pipeline right-of-way across the following land:

## NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 27 E.,  
Sec. 32, NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 33, N $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$  and  
SW $\frac{1}{4}$ SE $\frac{1}{4}$ .

This pipeline will convey natural gas across 0.80 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-1348 Filed 1-17-78; 8:45 am]

## NOTICES

[7555-01]

## NATIONAL SCIENCE FOUNDATION

## AD HOC ADVISORY GROUP FOR FUTURE SCIENTIFIC OCEAN DRILLING

## Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Ad Hoc Advisory Group for Future Scientific Ocean Drilling is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, National Science Foundation (NSF) by the National Science Foundation Act of 1950, as amended, and other applicable law. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. Name of committee: Ad Hoc Advisory Group for Future Scientific Ocean Drilling.

2. Purpose: To evaluate the scientific merit of possible future programs of drilling, and alternatives to drilling, in the deep oceans for scientific purposes in the 1980's and to recommend the best future program with regard to the scientific priorities.

3. Effective date of establishment and duration: The establishment of this Group is effective upon filing the charter with the Director, NSF, and the standing committees of Congress having legislative jurisdiction of the Foundation. The Group will continue for three months from the date of establishment.

4. Membership: Membership of the Group shall be fairly balanced in the terms of the point of view represented and the Group's functions. Membership will consist of approximately 9 persons selected from the scientific community in Earth and Ocean Sciences. There will be no discrimination on the basis of race, color, national origin, religion, age, or sex. Membership will be for the lifetime of the Group (three months).

5. Operation: The Group will operate in accordance with the Federal Advisory Committee Act (Pub. L. 92-463); OMB Circular No. A-63, Revised, and other supplemental guidelines; and NSF Circular Nos. 109, 60, 40, and other applicable issuances.

RICHARD C. ATKINSON,  
Director.

JANUARY 12, 1978.

[FR Doc. 78-1329 Filed 1-17-78; 8:45 am]

[7555-01]

## ADVISORY COMMITTEE FOR SCIENCE EDUCATION MEETING

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

## ADVISORY COMMITTEE FOR SCIENCE EDUCATION

Date: February 2 and 3, 1978.

Time: 9 a.m. each day.

Place: Room 651, 5225 Wisconsin Avenue NW., Washington, D.C.

Type of meeting: Open.

Contact person: Mrs. Frances Watts, Staff Assistant, Science Education Directorate, National Science Foundation, Room W-600, Washington, D.C. 20550, telephone 202-282-7930.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, National Science Foundation, Room 248, Washington, D.C. 20550.

Purpose of advisory committee: To provide advice and recommendations concerning the impact of all Foundation activities (including research, scientific information, and international programs, as well as, specifically, education programs) relating to education in the sciences in U.S. schools, colleges, and universities.

Agenda: Thursday, February 2: Briefing on fiscal year 1979 budget; objectives of NSF program oversight; objectives of oversight in relation to science education; discussion with program staff; advisory committee and subcommittee schedule for the year. Friday: The research planning conference.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 12, 1978.

[FR Doc. 78-1331 Filed 1-17-78; 8:45 am]

[7555-01]

## ERDA/NSF NUCLEAR SCIENCE ADVISORY COMMITTEE (NUSAC)

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: ERDA/NSF Nuclear Science Advisory Committee (NUSAC).

Date and time: January 27, 1978, 9 a.m.-5 p.m.; January 28, 1978, 9 a.m.-3 p.m.

Place: Conference Room, Building 70A, Lawrence Berkeley Laboratory, Berkeley, Calif.

Type of meeting: January 27, 1978—Open: 9 a.m. to 4 p.m.; January 27, 1978—Closed: 4 p.m. to 5 p.m.; January 28, 1978—Open: 9 a.m. to 3 p.m.

Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Room 341, National Science Foundation, Washington, D.C. 20550, telephone: 202-632-4318.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Manage-

## NOTICES

ment, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of committee: To provide advice on a continuing basis to both ERDA and NSF on support for basic nuclear science in the United States.

Agenda:

JANUARY 27, 1978

## OPEN SESSION (9 A.M. TO 4 P.M.)

Introductory remarks and discussion; Discussion of NSF and DOE 1979 Budget requests to Congress; Discussion of Scientific Priorities in Nuclear Science; Recommendations of working groups on Facilities, Instrumentation, Manpower, and Budgetary Realities and discussion thereof.

## CLOSED SESSION (4 P.M. TO 5 P.M.)

Discussion of projects under consideration for funding.

JANUARY 28, 1978

## OPEN SESSION (9 A.M. TO 3 P.M.)

Continuation of previous days' activities; Discussion of Nuclear Theory; Discussion of Activities of the High Energy Physics Advisory Panel (HEPAP) with Dr. S. Drell, Chairman, HEPAP.

Reason for closing: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Justification for late notice: This notice is submitted late due to necessity to await the outcome of interagency discussions regarding certain future activities of NUSAC. A postponement of the meeting is not desirable because it is planned in conjunction with the 1978 Annual Meeting of the American Physical Society and the Super HILAC-Bevalac user group meeting, which will provide enhanced attendance by members of the science community.

Dated: January 13, 1978.

FRED K. MURAKAI,  
Acting Committee  
Management Officer.

[FR Doc. 78-1384 Filed 1-17-78; 8:45 am]

[7555-01]

## MANAGEMENT OF THE BOBCAT, LYNX, AND RIVER OTTER

## Meeting

The biological research resources program of the National Science Foundation is sponsoring a meeting to be held at the Bourbon Orleans Hotel, New Orleans, La., on January 23, 24, and 25, 1978.

The objective of the meeting is to determine as specifically as possible what biological information and management programs will insure that harvest of the above species is not detrimental to their survival or to the species maintaining their normal roles in the environment.

While this meeting is not considered to be a meeting of an advisory committee as defined in section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

The meeting will be chaired by L. David Mech of the North Central Forest Experiment Station, St. Paul, Minn.

Copies of the final report of the meeting will be available through William E. Sievers, Biological Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,  
Program Director, Biological  
Resources Program.

JANUARY 12, 1978.

[FR Doc. 78-1330 Filed 1-17-78; 8:45 am]

[7590-01]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

## Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS subcommittees and working groups and of the full committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in the FEDERAL REGISTER on December 23, 1977. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those subcommittee and working group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (\*). It is expected that the sessions of the full committee meeting designated by an asterisk (\*) will be open in whole or in part to the public. Information as to whether changes have been made in the agenda for the February 9-11, 1978 ACRS full committee meeting can be obtained by a prepaid telephone call to the Office of the Execu-

tive Director of the committee, telephone 202-634-1374, Attn.: Mary E. Vanderholt, between 8:15 a.m. and 5 p.m., e.s.t.

\**Environmental*, January 25-26, 1978, Washington, D.C. The Subcommittee will meet with representatives of the NRC Staff and various industry representatives to discuss measures to keep occupational radiation exposure from the nuclear fuel cycle at low values. Notice of this meeting was published in the FEDERAL REGISTER on January 10, 1978.

\**LaCrosse Boiling Water Reactor (LACBWR)*, January 26, 1978 (rescheduled from January 28, 1978), Washington, D.C. The Subcommittee will review recent fuel failures at LACBWR, plans for reload cycle 5, and fuel surveillance plans. Notice of this meeting was published in the FEDERAL REGISTER on January 10, 1978.

\**Seismic Activity*, January 26-27, 1978, Washington, D.C. The Subcommittee will discuss the problems which have arisen in the application Appendix A, 10 CFR 100, "Seismic and Geologic Siting Criteria for Nuclear Power Plants." Notice of this meeting was published in the FEDERAL REGISTER on January 10, 1978.

\**Reactor Fuel*, January 27, 1978, Washington, D.C. The Subcommittee will review the design of the General Electric Company new fuel and its use in Edwin I. Hatch, Unit No. 2. Notice of this meeting was published in the FEDERAL REGISTER on January 12, 1978.

\**Edwin I. Hatch, Unit No. 2*, January 28, 1978, Washington, D.C. The Subcommittee will review the application of the Georgia Power Company for an operating license for Unit No. 2. Notice of this meeting was published in the FEDERAL REGISTER on January 12, 1978.

\**Fluid/Hydraulic Dynamic Effects*, January 31, 1978, Los Angeles, CA. The Subcommittee will discuss the status of the Mark III Containment Tests, and the effects of blowdown forces on reactor vessel supports. Notice of this meeting was published in the FEDERAL REGISTER on January 17, 1978.

\**Arkansas Nuclear One, Unit No. 2*, February 2, 1978, Washington, DC. The Subcommittee will continue its review of the application of the Arkansas Power and Light Company for a license to operate the reactor. Notice of this meeting was published in the FEDERAL REGISTER on January 17, 1978.

\**Maine Yankee Atomic Power Station*, February 4, 1978, Washington, DC. The Subcommittee will review the request of the Maine Yankee Atomic Power Company for a power level increase for this station.

\**Regulatory Activities*, February 8, 1978, Washington, DC. The Subcommittee will review working papers, future Regulatory Guides and changes



to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

*\*Emergency Core Cooling Systems (ECCS), February 16, 1978, Washington, DC. The Subcommittee will discuss the Westinghouse WRB-1 Heat Transfer Correlation and Westinghouse Thermal Design Margins. Also, there may be a discussion of future ACRS activities related to the ECCS Subcommittee.*

*\*Anticipated Transients Without Scram (ATWS), February 17, 1978, Washington, DC. The Working Group will discuss various issues pertaining to anticipated transients during reactor operations that might take place without the occurrence of reactor scram. Notices regarding this meeting were published in the FEDERAL REGISTER on December 2, 15, and 19, 1977.*

*\*Safeguards and Security, February 22, 1978, Washington, DC. The Working Group will review provisions for and assessments of physical security measures in nuclear facilities.*

*\*Waste Management, February 23, 1978, Washington, DC. The Subcommittee will discuss: 1) the NRC Low-Level Waste Management Program (NUREG-0240), and 2) the preliminary results of the NRC High-Level Nuclear Waste Disposal Classification System.*

*\*Reactor Safety Research, February 23, 1978, Washington, DC. The Working Group will discuss NRC plans for the development of programs that address new and improved safety systems for nuclear power plants. This plan is being developed by the NRC in response to Public Law 95-209 and this meeting will provide ACRS input.*

*\*Indian Point Nuclear Generating Station, Unit No. 3, February 27, 1978, Washington, DC. The Subcommittee will review the request of Consolidated Edison Company for a power level increase for this Unit.*

*\*Regulatory Activities, March 8, 1978, Washington, DC. The Subcommittee will review working papers, future Regulatory Guides and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.*

*\*Davis Besse Nuclear Power Station, Units 2 and 3, March 17, 1978, Washington, DC. The subcommittee will review the application of the Toledo Edison Company for a construction permit for Davis Besse Nuclear power Station, Units 2 and 3.*

*\*Electrical Systems, Control and Instrumentation, March 20, 1978, Washington, DC. The Subcommittee will continue its review of the Combustion Engineering Core Protection Calculator System to be used on the Arkansas Nuclear One, Unit No. 2, Nuclear Power Plant and other Combustion*

Engineering-type nuclear power plants.

*\*Arkansas Nuclear One, Unit No. 2, March 21, 1978, Washington, DC. The Subcommittee will continue its review of the application of the Arkansas Power and Light Company for a license to operate the reactor plant.*

*\*Safety of Operating Reactors, March 22, 1978, Washington, DC. The Working Group will meet with the NRC Staff to discuss the review of requests for operating reactors to operate at "stretch power."*

#### ACRS FULL COMMITTEE MEETINGS

FEBRUARY 9-11, 1978

- A. \*Arkansas Nuclear One, Unit 2—Operating License Review
- B. \*Edwin I. Hatch Nuclear Plant, Unit 2—Operating License Review
- C. \*Maine Yankee Atomic Power Station—Power Level Increase
- D. \*Packages for Air Shipment of Plutonium—Design Approval
- E. \*Decommissioning of Nuclear Facilities—Procedures for Decommissioning.

MARCH 9-11, 1978

Dated: January 16, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1510 Filed 1-17-78; 8:45 am)

[8010-01]

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14364; File No. SR-CSE-77-1]

#### CINCINNATI STOCK EXCHANGE

##### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission revised amendments to a proposed rule change as follows:

#### 1. STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Completely revised Articles of Incorporation, Code of Regulations and Rules are printed in Exhibit A. These revisions have been amended from the proposed rule change published in Release No. 34-13788.<sup>1</sup> The original pro-

<sup>1</sup>The proposed rule change was originally filed on June 30, 1977, and published in Securities Exchange Act Release No. 13788 (July 21, 1977), 42 FR 38447 (July 28, 1977).

posed rule change has been set forth in exhibit A with brackets used to indicate words deleted and italics used to indicate words added by the amendments to the proposed rule changes.

#### 2. PURPOSE OF PROPOSED RULE CHANGE

The purpose of the proposed rule change is to streamline, simplify and better organize all of the rules of CSE to accommodate more easily the new generation of securities market including trading through an electronic mechanism. The purpose of the amendments to the proposed rule change is to retain the class of members known as limited members, increase the quorum requirement for membership meetings, enable the Board of Trustees to adopt rules and regulations, add flexibility to the capital requirements, provide for a unit of trading in bonds, provide for inter-market linkages without specific reference to an in-house system, provide for trading ex-dividend for securities traded dually with the American Stock Exchange, and reorder some proposals for a more logical sequence.

#### 3. BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for adopting the proposed rule change is Section 6 thereof, 15 U.S.C. 78f.

(a) The proposed rule change:

(i) Defines the capacity of the CSE to carry out the purposes of and to comply with the Act (see Article III, Amended Articles of Incorporation; numerous references to section 6 of the Act set forth in the rules); and authorizes the CSE to enforce compliance with the Act and rules and regulations thereunder (see rule 5);

(ii) Authorizes simplified access to exchange facilities (see sections 1.2, 1.3, and 1.4 of the Code of Regulations and Rule 2);

(iii) Provides for broad membership on the Board of Trustees and Committees thereof as well as participation of issuers and investors (see sections 2.1, 3.1, and 3.2 of the Code of Regulations);

(iv) Provides minimum charges for users and issuers (see rule 9.D.2.b.);

(v) (A) See rule 5.

(B) See rule 9.

(C) See rules 9 through 13.

(D) See rules 2, 7, and 8.

(E) See rules.

(vi) See rule 5.

(vii) See rules 2.A., 2.B., and 5.

#### 4. COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

The original proposed rule change eliminated the class of members known as limited members. Limited members objected to this, and so this

class of membership is retained by the enclosed amended proposed rule changes (see sections 1.4, 1.9, 1.11, and 2.1 of the Code of Regulations and rules 1.D. and 2.D.).

A limited member also objected to a provision that one-third of the outstanding members could constitute a quorum at a meeting. Therefore, section 1.8 of the proposed Code of Regulations was changed to require one-half of the outstanding members to constitute a quorum.

#### 5. BURDENS ON COMPETITION

It is not believed that the proposed rule change would impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 8, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 11, 1977.

#### EXHIBIT A.—AMENDED ARTICLES OF INCORPORATION OF THE CINCINNATI STOCK EXCHANGE

ARTICLE I. The name of the Corporation is The Cincinnati Stock Exchange.

ARTICLE II. The principal office of the Corporation is in the City of Cincinnati, Hamilton County, Ohio.

ARTICLE III. The purpose for which the Corporation is formed are:

1. To maintain and provide a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the

functions commonly performed by a stock exchange as that term is generally understood.

2. To engage, in furtherance of the foregoing, in any lawful act or activity for which corporations not for profit may be organized under the law of the State of Ohio.

ARTICLE IV. These Amended Articles of Incorporation supersede the existing Articles of Incorporation of this Corporation.

#### CODE OF REGULATIONS OF THE CINCINNATI STOCK EXCHANGE

##### ARTICLE I

##### Members—Users

Section 1.1. Members—Definitions. The members of this Corporation shall consist of those persons who have complied with the requirements for membership set forth in Section 1.2 of this Article. The terms "broker," "dealer," "person associated with a Member," "person associated with a Member" shall have the meanings ascribed to them by Section 3 of the Securities Exchange Act of 1934.

Section 1.2. Member—Qualification. Subject to the rules and regulations promulgated by the Trustees of this Corporation, any registered broker or dealer or natural person associated with a registered broker or dealer may become a Member by purchasing and owning a certificate of proprietary membership issued by this Corporation representing a pro rata interest in the property of this Corporation and shall thereupon have all rights, privileges and duties of Members provided for herein.

There shall be seventy-five Memberships authorized for issuance of which not less than fifteen shall be issued and outstanding at all times.

Section 1.3. Access Participants. Subject to the rules and regulations promulgated by the Trustees of this Corporation, any registered broker or dealer or natural person associated with a registered broker or dealer may become an Access Participant of this Exchange. Said Access Participant will be selected pursuant to, and have the rights, privileges, and duties established by, the rules and regulations promulgated by the Trustees of the Corporation and this Code of Regulations. Access Participants shall have the rights, privileges and duties of Members unless such rights, privileges and duties are specifically restricted to Members. [The term "Members" shall mean only those Persons who own a certificate of proprietary membership. The term "Users" shall mean both Members and Access Participants.]

Section 1.4. Limited Members. Subject to the rules and regulations promulgated by the Trustees of this Corporation, those persons owning limited memberships as of the effective date of this Code of Regulations may remain Limited Members of this Exchange but no certificates of limited membership shall be issued after that date. Limited Members shall have the rights, privileges and duties of Access Participants and, in addition, the other rights, privileges, and duties established by the Trustees of the Corporation and this Code of Regulations. The term "Members" shall mean only those persons who own a certificate of proprietary membership. The term "Users" shall mean Members, Limited Members, and Access Participants.

Section 1.4.1. Meetings. The annual meeting of the Members and Limited Members shall be held on the [—] second

Monday in [—] May. A time and place for regular meetings of the Members or Members and Limited Members may be established by the Board of Trustees. Special meetings of the Members or Members and Limited Members may be held upon call of the Chairman of the Board of Trustees, the President (or, in case of the President's absence, death or disability, the vice-president authorized to exercise the authority of the president), the Trustees, by action at a meeting or by a majority of Trustees acting without a meeting, or any four (4) Users, at least two of whom shall be Members. Calls for special meetings shall specify the time, place and purposes thereof.

Section 1.5. 1.6. Place of Meetings. All meetings of the Members or Members and Limited Members shall be held at the principal office of the Corporation or at such other place within or without the State of Ohio as may be designated in the notice of the meeting.

Section 1.6. 1.7. Notice of Meetings. Written notice of special meetings of the Members or Members and Limited Members stating the time, place and purposes thereof shall be given to all Users by personal delivery or by mail not less than five (5) days before the date of the meeting.

Section 1.7. 1.8. Quorum. [One-third (1/3) One-half (1/2) of the total of the outstanding Memberships and Limited Memberships of the Corporation entitled to vote shall constitute a quorum at any meeting of the Members or Members and Limited Members of the Corporation.]

Section 1.8. 1.9. Voting. Each outstanding Proprietary Membership shall be entitled to one vote. Access Participants shall not be entitled to vote. Each outstanding Limited Membership shall not be entitled to vote except each one shall be entitled to vote in the election of Trustees as if it were a Proprietary Membership and except that any amendment to the Amended Articles of Incorporation, Code of Regulations, or Rules of this Exchange which reduces the rights herein or therein provided for Limited Membership or increases the liabilities of Limited Membership shall not become effective unless, in addition to any other requirements, it is adopted by a two-thirds vote of the Limited Members. The Members, at a meeting, shall act by majority vote of those Memberships present entitled to vote at any duly called meeting at which a quorum was present.

Section 1.9. 1.10. Proxies. Voting at elections and votes on other matters may be concluded by mail. The holder of any Membership or Limited Membership entitled to vote may cast his vote or may otherwise act by proxy or proxies appointed by a writing signed by such person. A telegram or cablegram appearing to have been transmitted by such person, or a photograph, photostatic or equivalent reproduction of a writing, appointing a proxy is a sufficient writing.

Section 1.10. 1.11. Action Without a Meeting. Any action which may be authorized or taken at a meeting of Members or Members and Limited Members may be authorized or taken without a meeting by the written consent of a majority of the Members entitled to vote, and, in cases in which a Limited Member is entitled to vote, by the written consent of the number of Limited Members required to authorize or take such action, as specified in Section 1.9.



# ARTICLE II Trustees

Section 2.1. Number. The number of the Trustees shall be nine, of whom not less than three shall be Members or be partners, officers or directors of Members, at least one shall be an Access Participant or be a partner, officer or director of an Access Participant, and at least one shall be representative of issuers and investors and not be associated with a User, broker or dealer. No two or more Trustees may be partners, officers or directors of the same person or of an affiliate of such person. *No more than two Trustees may be Limited Members or associates of Limited Members.*

Section 2.2. Election. The Trustees shall be divided into three classes, each of which shall consist of three Trustees. The term of office of the first class shall expire on the day of the next annual election of this Corporation; the term of office of the second class shall expire one year thereafter; and that of the third class two years thereafter. At each annual election after such classification, the number of Trustees equal to the number of the class whose term expires on the day of such election shall be elected for a term of three years and/or until their successors are elected and qualified.

Section 2.3. Vacancies. Any vacancy that may occur in the Board of Trustees caused by death, resignation or otherwise, shall be filled by the Trustees then in office.

Section 2.4. Removal. Any Trustee may be removed from office, either for or without cause, by action of the majority of the Members entitled to vote for the election of Trustees. Such action may be taken in any manner by which the Membership is authorized to act.

Section 2.5. Meetings. The annual meeting of the Trustees shall be held immediately following the annual meeting of Members.<sup>(1)</sup> and Limited Members. A time and place for regular meetings of the Board of Trustees may be established by the Board of Trustees. Special meetings of the Trustees may be held upon call of the Chairman of the Board of Trustees, the President, or any three (3) Trustees. Calls for special meetings shall specify the time, place and purposes thereof.

Section 2.6. Place of Meetings. All meetings of the Trustees shall be held at the principal office of the Corporation or at such other place within or without the State of Ohio as may be designated in the notice of the meeting.

Section 2.7. Notice of Meetings. Written notice of special meetings of the Trustees stating the time, place and purposes thereof shall be given by personal delivery or by mail, telegram or cablegram not less than two (2) days before the date of the meeting.

Section 2.8. Quorum. A majority of the members of the Board of Trustees then serving shall constitute a quorum at any meeting of the Board of Trustees.

Section 2.9. Voting. Each Trustee shall be entitled to one vote. The Board of Trustees, at a meeting, shall act by majority vote of those Trustees present at any duly called meeting at which a quorum was present.

Section 2.10. Action Without A Meeting. Any action which may be authorized or taken at a meeting of the Trustees may be authorized without a meeting by the written consent of all of the Trustees.

## NOTICES

# ARTICLE III Committees

Section 3.1.1 Executive Committee. The Board of Trustees may elect an Executive Committee, to consist of not less than three Trustees, of whom at least one shall be a Member. The Board of Trustees may also appoint one or more Trustees as alternate members of the Executive Committee who shall take the place of any absent member or members at any meeting of such committee. The Executive Committee shall have and may exercise, so far as may be permitted by law, all the powers of the Board of Trustees as may be delegated to it by the board of Trustees except that the Executive Committee shall not have the power to change the membership of, or to fill vacancies in the Executive Committee. The Board of Trustees shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve the Executive Committee. The Executive Committee may hold meetings and make rules for the conduct of its business and appoint such committees and assistants as it shall from time to time deem necessary. A majority of the members of the Executive Committee shall constitute a quorum and either the act of a majority of the members of the Executive Committee present at a meeting thereof or the act of all (Members) members of the Executive Committee evidenced by a writing or writings shall be the act of the Executive Committee. All actions of the Executive Committee shall be reported at the meeting of the Board of Trustees next succeeding such action.

Section 3.2. Other Committees. The Board of Trustees may in its discretion appoint such other committees, to consist of not less than three Trustees, which shall have such powers and perform such duties as from time to time may be prescribed by the Board of Trustees. The membership of such committees shall be chosen in such a way as to assure fair representation of the Users in the administration of the Corporation's affairs. The Board of Trustees may also appoint one or more Trustees as alternate members of such committees who shall take the place of any absent member or members at any meeting of such committee. A majority of the members of any such committee shall constitute a quorum and may determine its action and fix the time and place of its meetings unless the Board of Trustees shall otherwise provide. Such committee may also act by the unanimous written consent of its members. The Board of Trustees shall have power at any time to change the membership of any such committee, to fill vacancies, and to discharge any such committee.

# ARTICLE IV Officers

Section 4.1. Composition. The officers of the Corporation shall be a Chairman of the Board of Trustees, President, Secretary, Treasurer and such other officers or assistant officers as may be appointed by the Board of Trustees. Any person may hold more than one office except that the same person may not hold the office of both President and Chairman of the Board and Secretary.

Section 4.2. Tenure and Election. All officers shall be appointed by the Board of Trustees and shall hold office for one year and/or until their successors are elected and qualified, or for such other period as the Board of Trustees may designate.

Section 4.3. Removal. Any officer may be removed, either for or without cause, by the affirmative vote of a majority of the Trustees at any special meeting of the Board of Trustees called for that purpose or at any regular meeting of the Board of Trustees.

Section 4.4. Vacancies. Vacancies in any office of the Corporation may be filled for the unexpired term by the Board of Trustees at any special meeting of the Board of Trustees called for that purpose or at any regular meeting of the Board of Trustees.

Section 4.5. Powers and Duties. The officers of the Corporation shall each have such powers and duties as generally pertain to their respective offices, and such further powers and duties as from time to time may be conferred by the Board of Trustees or the Executive Committee.

## ARTICLE V

### Executive Director

Section 5.1. An Executive Director may be appointed by the Board of Trustees and, if so appointed, shall be the administrator of the Corporation responsible for carrying out the policies and programs of the Corporation in accordance with the regulations and policies of the Board of Trustees and applicable Federal and State laws and rules and regulations. The Executive Director, if appointed, shall have the authority to employ, assign, supervise and release all employees and staff of the Corporation within the framework and general limitations and policies established by the Board of Trustees.

## ARTICLE VI

### Indemnification of Trustees, Officers and Employees

Section 6.1. The Corporation shall indemnify every person who is or was a trustee, officer, or employee of the Corporation, or who is serving or has served at its request as a director, trustee, officer, or employee of any other corporation, against those expenses and liabilities incurred in connection with any pending or threatened claim, action, suit or proceeding or settlement thereof in which he may be involved or threatened to be involved in his capacity as such, to the maximum extent permitted by law.

Section 6.2. Expenses incurred with respect to any claim, action, suit, or proceeding may be advanced by the Corporation prior to the final disposition thereof upon receipt of an undertaking by the trustee, officer or employee to repay such amount as shall ultimately be determined not to be payable to him hereunder.

Section 6.3. The rights of indemnification provided hereunder shall not be deemed exclusive of other rights to which any such trustee, officer, or employee now or hereafter may be entitled, shall continue as to a person who has ceased to be a trustee, officer, or employee, and shall inure to the benefit of such person's heirs and legal representatives.

Section 6.4. The Corporation, by authorization of the Board of Trustees, may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, or employee of the Corporation, or who is serving or has served at its request as a director, trustee, officer, or employee of any other corporation, against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify

him against such liability under this Article VI.

## ARTICLE VII

### Seal

Section 7.1. The seal of this Corporation shall consist of a flat-faced circular die with the name of the Corporation and the State of its incorporation cut or engraved thereon.

## ARTICLE VIII

### Amendments

Section 8.1. Subject to the provisions of Section 1.9 hereof, [T]hese Regulations may be altered, amended, or repealed and new Regulations may be adopted by action of the Membership.

## ARTICLE IX

### Corporation Rules

Section 9.1. Subject to any applicable provisions of Section 19 of the Securities Exchange Act of 1934, and the rules and regulations issued thereunder, the Board of Trustees, or, as may be prescribed by the Board of Trustees, any committee thereof, may adopt rules or resolutions governing the conduct of business by the Corporation and its Users, and such rules or resolutions may be altered, amended, or repealed and new rules or resolutions may be adopted by action of the Board of Trustees, or, as may be prescribed by the Board of Trustees, any committee thereof.

## RULES OF THE CINCINNATI STOCK EXCHANGE

### RULE 1: DEFINITIONS

A. The term "Exchange" shall refer to The Cincinnati Stock Exchange.

B. The term "Member" shall mean only Members meeting the qualifications established by Section 1.2 of the Code of Regulations of the Exchange; the term "User" shall mean (both) Members, (and) Access Participants, and Limited Members, the latter two terms as defined in Sections 1.3 and 1.4 of the Code of Regulations of the Exchange.

C. The terms "broker," "dealer," "person," "Commission," "person associated with a broker or dealer," "appropriate regulatory agency," "person associated with a Member" and "national securities exchange" as used herein shall have the meanings ascribed to them by Section 3 of the Securities Exchange Act of 1934.

D. The term "person associated with an Access Participant" means any partner, officer, director or branch manager of such Access Participant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by or under common control with such Access Participant or any employee of such Access Participant.

E. The term "person associated with a Limited Member" means any partner, officer, director or branch manager of such Limited Member, (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by or under common control with such Limited Member or any employee of such Limited Member.

[E.] F. The term "registered broker or dealer" means a broker or dealer registered with the Commission pursuant to Section 15 of the Securities Exchange Act of 1934.

[F.] G. The term "registered Member" shall mean a Member who is a registered broker or dealer.

## NOTICES

[G.] H. The term "Act" shall refer to the Securities Exchange Act of 1934.

### RULE 2: MEMBERSHIP—USERS

A. Subject to the provisions of subparagraphs 1 and 2 of this paragraph, any registered broker or dealer or natural person associated with a registered broker or dealer may become a User of the Exchange by application accepted by the Exchange and any person may become a person associated with a Member or an Access Participant.

1. Within ninety days after receipt of an application to become a User the Exchange will accept or reject such application in accordance with the provisions of Section 6 of the Act and the rules and regulations issued thereunder. For the purposes of said Section 6, a person will be considered to meet the standards of training, experience, and competence as are prescribed by the rules of the Exchange, if the person is a registered broker or dealer.

2. The Exchange shall deny Membership to a person who fails to purchase and own a Certificate of Proprietary Membership.

B. In any proceeding by the Exchange to determine whether a person shall not be permitted to become a User, barred from becoming associated with a User, or prohibited or limited with respect to access to services offered by the Exchange or a User thereof, the Exchange shall proceed in the manner prescribed by Section 6 of the Act and the rules and regulations issued thereunder.

C. Certificates of Proprietary Membership shall be sold by the Exchange to qualified persons in connection with their becoming Members at 100% of the value as of the next preceding valuation date computed pursuant to the formula set forth below and shall be purchased by the Exchange from Members after written demand, within sixty days after the next succeeding valuation date at 95% of the value as of such valuation date, computed pursuant to the formula set forth below. Valuation dates shall be January 31, April 30, July 31 and October 31 of each year.

The value of a Certificate of Proprietary Membership shall be computed by dividing the adjusted net capital of the Exchange, by the total number of issued Certificates of Proprietary membership outstanding immediately prior to any purchase or sale. The adjusted net capital of the Exchange is its total Capital as carried on its book and records of account less (1) the net book value of Furniture and Fixtures and Leasehold Improvements, (2) prepaid expenses and any other assets not readily converted to cash, (3) the debit balance of Deferred Federal Income Tax account and (4) the amount actuarially determined for pension obligations that are not recorded on the books of the Exchange. The adjusted net capital shall also reflect any mark-to-market adjustment to the Investment account, net of Federal Income Taxes.

D. Limited Membership is a personal privilege and shall not be salable or transferable except as provided herein.

Any person elected to Limited Membership as a corporate officer of a corporation shall remain a Limited Member only so long as he remains such an officer of such corporation. If a Limited Member who is a partner in a firm dies or retires from such firm and the partners continue the business of such firm without interruption or change, other than such changes as may be occasioned by the death or retirement of such Limited Member, or if a Limited Member who is

elected to Limited Membership as a corporate officer of a corporation ceases to be such an officer of such corporation and such corporation continues to engage in the business of buying and selling securities as brokers or dealers, such firm or such corporation may, within thirty days following such death, retirement and resignation or termination of office, or within such further time as the Board of Trustees may authorize, nominate for Limited Membership a general partner of such firm or a corporate officer of such corporation, who may thereupon be elected to Limited Membership by the Board of Trustees, provided he meets the qualifications set forth in Rule 2.A. If the original nominee is not acceptable to the Board of Trustees and the corporation or firm does not nominate another corporate officer or general partner, as the case may be, who is acceptable to and elected by the Board of Trustees within thirty days after the original nominee has been rejected by the Board of Trustees, the Board may at any time thereafter cancel such Limited Membership. In lieu of transfer of Limited Membership from one member of a firm to another as herein provided, a partner holding a Limited Membership and retiring from the firm may keep his Limited Membership if he continues to engage in the business of buying and selling securities as broker or dealer, either individually or with another firm, provided his former firm consents thereto in writing.

Neither Limited Members nor the firms or corporations of which they are partners or officers shall have any claim or interest in the assets of the Exchange or against the proceeds of the sale of any Proprietary Membership.

A Limited Member who obtains a Proprietary Membership shall be deemed to have resigned his Limited Membership and such Limited Membership shall be cancelled by such election.

In the case of a transfer of a Limited Membership from one partner in a firm to another partner in a firm or from an officer of a corporation to another officer in a corporation, the applicant for Limited Membership (having the qualifications above provided) may be elected a Limited Member by a vote of not less than five members of the Board of Trustees. There shall be charged a transfer fee of \$75.00.

### RULE 3: CAPITAL

Users shall comply with the capital requirements imposed by Rule 15c3-1 adopted by the Commission under the Act; however, in no case shall a User maintain net capital less than that required by Section (a)(1) of Rule 15c3-1 adopted by the Commission under the Act.

Users not complying with the capital requirements of Section (a)(1) of Rule 15c3-1 may execute transactions through the facilities of the Exchange if they have made arrangements with a complying User to clear all transactions on a fully disclosed basis and said clearing broker has acknowledged his responsibilities to the Exchange in the form prescribed by the Board of Trustees.

### RULE 4: BOOKS AND RECORDS

Every User shall furnish, upon request, current copies of any financial information filed with their appropriate regulatory agency, as well as any records or files pertaining to transactions executed on or through the Exchange. Further, the Exchange shall at any time be allowed access



to the books and records of the User in order to obtain or verify information relating to transactions executed on or through the Exchange or activities relating to the Exchange.

#### RULE 5: DISCIPLINE

A. The Exchange shall enforce compliance by its Users and persons associated with Users with the provisions of the Act, the rules and regulations issued thereunder, and the Rules of the Exchange to the extent, and in the manner, required by Sections 6, 17 and 19 of the Act and the rules and regulations issued thereunder.

B. Users and persons associated with Users, shall be appropriately disciplined to the extent, and in the manner, required by Section 6 of the Act and the rules and regulations issued thereunder.

C. It shall be the responsibility of the Membership Committee of the Exchange to carry out the provisions of paragraphs A and B of this Rule 5 by proceeding in accord with paragraphs D and E of this Rule 5 and by acting to relieve the Exchange of the responsibilities of said paragraphs to the extent and in the manner permitted by Section 17 of the Act and the rules and regulations issued thereunder.

D. In any proceeding before Membership Committee to determine whether a User or person associated with a User should be disciplined, the Exchange shall proceed in the manner prescribed by Section 6 of the Act and the rules and regulations issued thereunder.

E. Any action by the Membership Committee to discipline a User or person associated with a User as provided in this Rule 5, shall be subject to review by the Board of Trustees at the written request of the person so disciplined.

F. Should the Exchange be relieved of responsibility pursuant to Section 17(d) of the Act and the rules and regulations thereunder, the Exchange, nevertheless, reserves the right from time to time to examine and review the Users' books and records with the respect to transactions executed through this Exchange.

#### RULE 6: STOCK LIST

A. Securities shall be listed by the Board of Trustees upon acceptance of an application by the issuer and upon receipt by the Board of Trustees of an agreement from the issuer and such information in each case in such form as the Board of Trustees shall prescribe.

Securities may be admitted to unlisted trading privileges upon terms approved by the Board of Trustees. Trading in a listed or an unlisted security may be terminated by action of the Board of Trustees.

B. Any action by the Exchange authorized hereunder shall only be taken in a manner consistent with the due process standards set forth in Section 6 of the Act and the rules and regulations thereunder.

C. No security shall be originally listed on the Exchange and no security shall continue to be listed unless the issuer thereof shall meet the following requirements:

1. Net Tangible Assets of at least \$750,000;
2. At least 75 holders of the issue to be listed; and
3. At least 45,000 units to be listed outstanding.

#### RULE 7: COMMISSIONS

Nothing in the Articles of Incorporation, the Code of Regulations, herein, or in the

practices of this Exchange shall be construed to require or authorize its Users, or any person associated with its Users to agree or arrange, directly or indirectly, for the charging of fixed rates of commission for transactions effected on, or effected by the use of the facilities of, the Exchange.

#### RULE 8: OFFBOARD TRADING

No Rule, stated policy or practice of this Exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any User to effect transactions on any other national securities exchange or over-the-counter in any security which is listed on the Exchange or to which unlisted trading privileges on the Exchange has been extended.

#### RULE 9: SINGLE DEALER AND MULTIPLE DEALER MARKETS

A. *Single Dealer Market.* 1. The Board of Trustees shall in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange to be dealer (herein called "Qualified Dealer") for each listed issue to facilitate trading in this type market by performing the following functions in the Single Dealer Market provided through the Exchange.

a. Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Qualified Dealer.

b. Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is Qualified Dealer.

c. Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is Qualified Dealer.

d. Coordinate trading in the issues for which he is Qualified Dealer in a manner that is posted and is consistently applied to all Users subject however to the requirements set forth in Rule 9A(1)(e) below.

e. Give precedence in trading to all public agency orders shown to him at prices equal to or better than his own bid or offer.

2. *Qualified Dealers in the Single Dealer Market* shall be required to pay to the Exchange \$100.00 per month per issue in which they are acting as Qualified Dealer on the Exchange provided, however, that total charges to all Qualified Dealers in any one month shall not exceed the net expenses of the Exchange as reported by the Executive Director. To the extent an overage occurs, then the monthly charge shall be reduced pro-rata by issue.

B. *Multiple Dealer Market.* 1. Approved Dealers: Four categories of dealers are authorized to input bids and offers into such communication system as shall be approved by the Exchange as appropriate to service its Multiple Dealer Market. The following Approved Dealers may perform market maker functions through Exchange approved facilities by showing bids and offers to Users.

a. *Designated Dealer:* The Board of Trustees shall in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange for each issue traded in this type market (herein called "Designated Dealer") said Member to maintain minimum net capital of at least \$500,000 pursuant to

15c3-1 of the Act. The Designated Dealer shall perform the following functions in the Multiple Dealer Market provided through the Exchange:

(1) Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(2) Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(3) Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is the Designated Dealer.

b. *Specialist:* A recognized specialist on any other national securities exchange may, upon becoming a User of this Exchange, offer his bids and offers through the multiple Dealer Market to other Users in those issues in which he is so registered as a market maker, which are traded on the Exchange.

c. *Registered Market Maker:* Any market maker registered under Securities and Exchange Commission Rule 17a-9 may, upon becoming a Member of this Exchange, offer his bids and offers through the Multiple Dealer Market to other Users in those issues in which he is so registered as a market maker, which are traded on the Exchange.

d. *Contributing Dealer:* Any Member of this Exchange who maintains net Capital of \$500,000 pursuant to 15c-3-1 of the Act may register himself with the Exchange as a Contributing Dealer for particular issues which are traded through the Exchange and may thereafter offer his bids and offers through the Multiple Dealer market to other users in those issues traded on the Exchange for which he is so registered.]

#### RULE [10]: TRADING

A. The hours of trading on the Exchange shall be from 10 a.m. to 4 p.m. local time during normal business days.

Unless otherwise provided for in these Rules, the rules and procedures of the Uniform Practice code of the National Association of Securities Dealers shall govern transactions executed on the Exchange.

B. The unit of trading in stocks on the Exchange shall be one hundred (100) shares[,] and the unit of trading of bonds on the Exchange shall be one thousand (\$1,000) dollars, except, in each case, as otherwise designated by the Board of Trustees of the Exchange.

C. Only Members and Limited Members may maintain employee presence at facilities of the Exchange. Employee presence includes telephone clerks, wire clerks, floor brokers and dealers.

D. Issues listed on the Exchange will be eligible for one of the following three types of trading through facilities offered by the Exchange: Non-Dealer Trading, Single Dealer Trading and Multiple Dealer Trading.

1. *Non-Dealer Trading* is provided through Exchange facilities in listed securities for which there is no Qualified Dealer or Designated Dealer. Bids and offers of Users shall be registered in a book maintained for such purposes by the exchange at its facility located in Cincinnati, Ohio.

2. *Single Dealer Trading* shall be coordinated through the Qualified Dealer who has been approved by the Board of Trustees.

3. *Multiple Dealer Trading* may be accomplished through the mechanism of any communication system operated by the Ex-

change or by others to which the Exchange shall have access, through which bids and offers of competing dealers, as well as public bids and offers, may be consolidated for review and execution by Users. Such system may be the Weeden Holding Automated market (WHAM) whose software disciplines will structure trading as follows:

(a) Bids or offers from brokers will be entered into the WHAM data base (herein called "data base") and be considered resident therein in accordance with the following provisions:

(i) Bids and offers entered into the data base will be grouped by price. Bids at the highest price resident in the data base in a given issue will have priority over other bids should an acceptable offering (at or below highest bid) be shown to the data base. Offerings at the lowest price resident in the data base in a given issue will have priority over other offerings should an acceptable bid (at or above lowest offering) be shown to the data base. Partial execution of a multiple offering with a multiple bid will be allocated to the participants in accordance with a priority (herein called "Trading Priority") based first on price (highest bid—lowest offering) and within price based on time of receipt of the order with absolute priority within price given to public agency orders as against orders for the principal account of a User or other broker or dealer.

(ii) Execution will occur when a bid is received at an equal or higher price than that at which shares are offered or when an offer is made at price equal to or lower than that at which shares are bid, except that an order entered by a Member in those issues in which he is a Designated Dealer, a specialist on any national securities exchange, a registered market maker under the Securities and Exchange Commission Rule 17a-9 or approved as a Contributing Dealer by the Board of Trustees will not be executed against another such order.

The number of shares executed will be the smaller of the amounts bid or offered. Any remainder shares will remain resident in the data base.

(iii) Should a bid be received at a higher price than a resident offer or an offer be received lower than a resident bid, the execution price will be that which is resident in the data base.

(b) A given dealer may maintain a bid for a given issue at only one price and an offer for a given issue at only one price. If a dealer decreases the number of shares of a given issue bid or offered the bid or offer of said shares will retain its Trading Priority. If a dealer increases the number of shares of a given issue bid or offered, the Trading Priority of the increased bid or offer will be determined as if the bid or offer occurred at the time of said increase.

Any bid or offer by a dealer will be considered outstanding and remain resident in the data base until (i) execution of the bid or offer occurs, or (ii) the same dealer submits a new bid or offer for the same issue at the same price or at a different price, or (iii) the bid or offer is cancelled.

(c) A broker may enter orders for any given issue by specifying the issue ordered, the quantity of the issue ordered, the price at which said issue will be purchased or sold, and the time period during which the order will remain outstanding (said orders herein called "limit" orders). Limit orders will be entered into the data base as bids or offers in accordance with the provisions of clause (a) of this subparagraph 3.

(d) All bids and offers must be in one-hundred share units to be entered into the data base. Odd-lot bids, offers, and orders will be handled by the Designated Dealer in the manner the Qualified Dealer handles such matters in Single Dealer trading.

(e) Neither bids nor offers for the account of an Approved Dealer (as defined in paragraph B 1 of Rule 9) may be entered through a broker terminal unless the offeror has and maintains an offsetting limit order for a public account at the same price, quantity, and time period as that entered into data base.

(f) All orders executed on the Exchange in issues traded in the multiple dealer environment will be executed through the mechanism of WHAM or a successor system approved by the Board of Trustees of the Exchange.

(g) A dealer terminal may be acquired and used by any User for the input of bids and offers in those issues in which he is an Approved Dealer at prices and under conditions which shall be posted and consistently applied to all dealers.

A broker terminal may be acquired and used by any User for the input of bids and offers at prices and under conditions which shall be posted and consistently applied to all Users.]

#### 2. Single Dealer Trading.

a. The Board of Trustees shall, in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange to be dealer (herein called "Qualified Dealer") for each listed issue who shall perform the following functions:

(i) Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Qualified Dealer.

(ii) Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is Qualified Dealer.

(iii) Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is Qualified Dealer.

(iv) Coordinate trading in the issues for which he is Qualified Dealer in a manner that is posted and is consistently applied to all Users subject however to the requirements set forth in Rule 9D (2)(a)(v) below.

(v) Give precedence in trading to all public agency orders shown to him at prices equal to or better than his own bid or offer.

b. *Qualified Dealers* shall be required to pay to the Exchange \$100 per month per issue in which they are acting as Qualified Dealer provided, however, that total charges to all Qualified Dealers in any one month shall not exceed the net expenses of the Exchange as reported by the Executive Director. To the extent an overage occurs, the monthly charge shall be reduced pro-rata by issue.

3. *Multiple Dealer Trading* is provided through the mechanism of any communication system operated by the Exchange or by others to which the Exchange shall have access, through which bids and offers of competing dealers, as well as public bids and offers, may be consolidated for review and execution by Users.

a. *Approved Dealers:* The following types of Approved Dealers may enter bids and offers into the Multiple Dealer Trading system utilized by the Exchange and may perform market maker functions by showing

bids and offers to Users through such Exchange approved facilities:

(i) *Designated Dealer:* The Board of Trustees shall in a manner consistent with the due process requirements of Section 6 of the Act and the rules and regulations thereunder, approve not more than one Member of the Exchange for each issue available for Multiple Dealer Trading (herein called "Designated Dealer") said Member to maintain minimum net capital of at least \$500,000 pursuant to 15c3-1 of the Act. The Designated Dealer shall perform the following functions:

(a) Guarantee settlement for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(b) Act as clearing contra-party for all transactions occurring through Exchange facilities in issues for which he is the Designated Dealer.

(c) Provide to all Users during Exchange trading hours, a continuous two-sided market in odd-lots of issues for which he is the Designated Dealer.

(ii) *Specialist:* A recognized specialist on any other national securities exchange may, upon becoming a User of this Exchange, offer his bids and offers for Multiple Dealer Trading to other Users in his specialty issues which are traded on the Exchange.

(iii) *Registered Market Maker:* Any market maker registered under Securities and Exchange Commission Rule 17a-9 may, upon becoming a Member of this Exchange, offer his bids and offers for Multiple Dealer Trading to other Users in those issues in which he is so registered as a market maker which are traded on the Exchange.

(iv) *Contributing Dealer:* Any Member of this Exchange who maintains Net Capital of \$500,000 pursuant to 15c-3-1 of the Act may register himself with the Exchange as a Contributing Dealer for particular issues which are traded through the Exchange and may thereafter offer his bids and offers for Multiple Dealer Trading to other Users in those issues traded on the Exchange for which he is so registered.

b. It shall be the responsibility of all Approved Dealers when trading in round lots to

(i) Give precedence in trading to all public agency limit orders shown to him, whether through this Exchange or otherwise, at prices equal to or better than his own bid/offer when he is trading in the exchange environment.

(ii) File and to the extent practicable, execute through the facilities of the communications system operated by the Exchange or others, all public limit orders entrusted to him.

c. A public agency limit order is defined as having as the ultimate buyer or seller an individual other than a registered broker/dealer.

#### RULE 10: TRADING EX-DIVIDEND ETC.

[E.] A. Prices of bids and offers shall be quoted in accordance with the following standards:

1. All stock issues traded on the Exchange shall be quoted ex-dividend or ex-rights on the fourth full business day preceding the record date set by the corporation or the date of the closing of transfer books, unless otherwise ruled by the Board of Trustees.

2. When a security is quoted "ex-dividend," "ex-distribution," "ex-rights" or "ex-interest" the following kinds of orders shall be reduced by the value of the payment or



## NOTICES

rights, and increased in shares in the case of stock dividends and stock distributions which result in round lots, on the day the security sells ex (proportional procedure):

(i) Open buying orders.  
(ii) Open stop orders to sell (with open stop limit orders to sell, the limit, as well as the stop price shall be reduced).  
Do not reduce the following orders:

(i) Open stop orders to buy.  
(ii) Open selling orders.

Should the disbursement be in an amount other than the fraction in which bids and offers are made, or a multiple thereof, orders shall be reduced by the next higher fraction.

3. Proportional procedure to be followed in reducing the above kinds of orders shall be as follows: Open buy orders and open stop orders to sell shall be reduced by the proportional value of a stock dividend or stock distribution on the day a security sells ex-dividend or ex-distribution. The new price of the order is determined by dividing the price of the original order by 100 percent plus the percentage value of the stock dividend or stock distribution.

If, as a result of this calculation, the price is not equivalent to or is not a multiple of the fraction of a dollar in which bids and offers are made in the particular security, the price should be rounded to the next lower variation.

In reverse splits, all orders (including open sell orders and open stop orders to buy) should be cancelled.

When there is a stock dividend or stock distribution, open buy orders and open stop orders to sell shall be increased in shares as follows:

(i) When there is a stock dividend or stock distribution which results in one or more full shares for each share held, the number of shares in open buy orders and open stop orders to sell shall be increased accordingly.

(ii) When there is a stock dividend or stock distribution of less than a one-for-one basis and thus results in fractional shares, open buy orders and open stop orders to sell shall be increased to the lowest full round lot.

(iii) When there is a stock dividend or stock distribution which results in fractional shares combined with full shares, the number of shares in open buy orders and open stop orders to sell shall be increased to the lowest full round lot.

4. Open orders held by an odd-lot dealer or floor broker prior to the day a stock sells ex-dividend, ex-distribution or ex-rights shall be reduced in price and, if above is applicable, increased in shares by the odd-lot dealer or floor broker by the value of the dividend, distribution of rights, unless he is otherwise instructed by the Users from whom the orders were received. In this regard, a User may enter a Do Not Reduce or "DNR" order if he (or it) does not want the price of an order reduced for cash dividends, or a Do Not Increase or "DNI" order if he (or it) does not want an order increased in shares for stock dividends or stock distributions.

B. When a security traded dually with the American Stock Exchange is quoted "ex" a stock dividend or stock distribution, all open orders, including open orders to sell and open stop orders to buy, shall be reduced by the proportional value of the dividend or distribution. The proportional reduction procedure is identical to current Exchange procedures. In no case should a dual Cincinnati Stock Exchange/American Stock

Exchange issue be automatically increased in size without specific instructions to do so from the firm representing the customer.

## RULE 11: COMPARISON AND SETTLEMENT

A. Users shall name the Qualified Dealer or Designated Dealer as appropriate, for the issues traded as the contra-party (street side) wherever comparison occurs in the Single Dealer or Multiple Dealer Trading. The Qualified Dealer or Designated Dealer shall make available to Users the actual name of the contra-party(s) upon request.

B. Settlement of all transactions in Single Dealer and Multiple Dealer Trading will be with the Qualified Dealer or Designated Dealer as appropriate, who will guarantee settlement of all transactions in his designated issues. If any transaction is not to be settled "regular way" for a "regular way" trade, or when issued for a "when issued" trade, then arrangements for settlement must be made with the Designated Dealer prior to entering the order in either Single Dealer or Multiple Dealer Trading. A "when issued" trade is a trade in an unissued security which will be settled when, as, and if the security is issued. A "regular way" trade is a trade which contemplates delivery of the security traded on the fifth full business day following the day of the trade.

## RULE 12: SHORT SALES

No person shall use any facility of the Exchange to effect a short sale in violation of Section 10 of the Act or the rules and regulations issued thereunder.

## RULE 13: OPTIONS

No User, partner of a User or officer or director of a User, while on the Floor, shall initiate the purchase or sale on the Exchange for his own account, or for any account in which he, his User firm or any partner thereof or his User corporation or any officer or director thereof is directly or indirectly interested, of any stock in which he holds or has granted any put, call, straddle or option, or in which he has knowledge that his User firm or any partner thereof or his User corporation or any officer or director thereof, holds or has granted any put, call, straddle or option; provided, however, that the preceding prohibition shall not be applicable in respect of any option issued by The Options Clearing Corporation that was acquired or granted in a publicly reported transaction. Each person able to initiate the purchase or sale of any stock while on the Floor shall report to the Exchange, in such form and pursuant to such rules as the Exchange adopts, all options that he holds or has granted, or that his User firm or any partner thereof, or his User corporation or any officer or director thereof, holds or has granted.

No User organization acting as an odd-lot dealer, and no partner, officer or director of such User firm or User corporation shall be, directly or indirectly, interested in a pool dealing or trading in the stock in which he or it is an odd-lot dealer, nor shall he or it, directly or indirectly, acquire or grant any option to buy or sell or receive or deliver shares of stock in which such User or User organization is an odd-lot dealer, unless such option is issued by the Options Clearing Corporation and the transaction in which the option is acquired or granted is publicly reported. All option transactions effected pursuant to the preceding sentence must be reported to the Exchange in such form and pursuant to such rules as the Exchange adopts.

## RULE 14: AMENDMENTS

Subject to any applicable provisions of Section 19 of the Act and any rules and regulations issued thereunder, these Rules may be altered, amended, or repealed and new Rules may be adopted by action of the Board of Trustees of the Exchange.

[FR Doc. 78-1353 Filed 1-17-78; 8:45 am]

[8010-01]

[File No. 1-2960]

## NEWPARK RESOURCES, INC.

## Application To Withdraw From Listing and Registration

JANUARY 10, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

The common stock of Newpark Resources, Inc. has been listed for trading on the Amex since July 5, 1946. The New York Stock Exchange, Inc. ("NYSE") approved the Company's application for listing of its common stock on November 29, 1977. Trading in such stock on the NYSE commenced at the opening of business on November 29, 1977, and at the Company's request such stock was then suspended from trading on the Amex. In making this decision to withdraw its common stock from listing on the Amex, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

This application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before January 31, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any

other information furnished by the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1351 Filed 1-17-78; 8:45 am]

[8010-01]

[File No. 1-4743]

## STANDARD MOTOR PRODUCTS, INC.

## Application to Withdraw From Listing and Registration

JANUARY 11, 1978.

The above named issuer has filed an application with the Securities and Exchange Commission, pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Capital stock of Standard Motor Products, Inc. has been listed for trading on the Amex since May 23, 1963. On May 9, 1977, the stock was also listed for trading on the New York Stock Exchange, Inc. ("NYSE"). Concurrently with that listing, the stock was suspended from trading on the Amex. In making the decision to withdraw its capital stock from listing on the Amex, the Company considered the costs and expenses attendant on maintaining the dual listing on both exchanges. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its capital stock.

This application relates solely to the withdrawal from listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE.

Any interested person may, on or before January 31, 1978, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished by the Commission, unless it orders a hearing on the matter.

## NOTICES

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1352 Filed 1-17-78; 8:45 am]

[8025-01]

## SMALL BUSINESS ADMINISTRATION

AMERICAN BUSINESS CAPITAL CORP.  
(Proposed License No. 09/09-02041)

## Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 et seq.), has been filed by American Business Capital Corporation (the Applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.201 (1977).

The proposed officers, directors and principal stockholders of common stock are:

Leonard A. Frankel, President, Treasurer and Director 7139 North 14th Street, Phoenix, Ariz. 85201.  
Joan M. Hermann, Secretary, 1321 West Beridge Lane, Phoenix, Ariz. 85014.  
Dr. Barry R. Kaplan, Director, 1234 East Luke, Phoenix, Ariz. 85014.  
Barry A. Reiss, Director, 4029 East San Miguel, Phoenix, Ariz. 85018.  
Associated Growth Capital, Inc., 100 percent, 3550 North Central Avenue, Suite 520, Phoenix, Ariz. 85012.

Mr. Frankel owns 78 percent of the parent which is essentially a holding company of the SBIC stock.

The Applicant is an Arizona corporation with plans to locate the principal office at 3550 North Central Avenue, Suite 520, Phoenix, Ariz. 85012. The investment policy of the Applicant will, as much as it is practicable, emphasize collateralized loans, with particular attention to growth situations.

Matters involved in SBA's consideration of the application, in view of the particular circumstances involved, include (1) the general business reputation and character of the proposed owners and management, (2) the reasonable prospects for successful operation of the new SBIC under such management (including adequate profitability and financial soundness, in accordance with the Act and Regulations), and (3) whether the proposed licensing action would be in furtherance of the purposes of the Act.

Notice is hereby given that any person may, on or before February 3, 1978, submit to SBA in writing comments on the proposed SBIC to: Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Los Angeles, Calif.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 5, 1978.

PETER F. McNEISH,  
Deputy Associate  
Administrator for Investment.  
[FR Doc. 78-1378 Filed 1-17-78; 8:45 am]

[8025-01]

[License No. 03/04-00761]

## CAPITOL AREA INVESTORS, INC.

## Application for a Transfer of Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to section 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1977)), for the transfer of control of Capitol Area Investors, Inc., 3701 Chain Bridge Road, Fairfax, Va. 22030, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

Capitol Area Investors, Inc. (CAI), was licensed on August 22, 1962. Its present paid-in capital and surplus is \$314,916, with 29,266 shares issued and outstanding, which are held by 25 stockholders. This proposed transfer of control is subject to SBA's approval, and contingent upon full disclosure of all relevant facts.

The applicant, Old Port Co. (OPC) is a limited partnership located at 424 North Washington Street, Alexandria, Va. 22314, consisting of Messrs. Fleming and Hanes as general partners and LLenoco Corp. as the limited partner. OPC is the major stockholder in Inverness Capital Corp., a licensed small business investment company.

OPC is purchasing for cash and notes, a minimum of 80 percent of the issued and outstanding stock of CAI. The remaining 20 percent have not responded to the purchase offer, however, there are no known dissident shareholders at this time.

Subsequent to the date of closing Inverness Capital Corp. will issue its Class A common shares to OPC in exchange for the shares of CAI at which time CAI will enter into a corporate liquidation status and transfer its assets and liabilities to Inverness Capital Corporation.

Matters involved in SBA's consideration of the application are the probability of a successful operation of the surviving company including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may on or before January 30,



1978, submit to SBA in writing, comments on the proposed purchase/merger of the two (2) companies. Any such communication should be addressed to the Deputy Associate Administrator for Investment, 1441 L Street NW., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in the city of Alexandria, Va.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 5, 1978.

PETER F. MCNEISH,  
Deputy Associate  
Administrator for Investment.  
[FR Doc 78-1379 Filed 1-17-78; 8:45 am]

#### [8025-01]

[Declaration of Disaster Loan Area No. 136 Amdt. 1]

##### IDAHO

###### Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 44862) is amended by extending the time for filing applications for physical damage until close of business March 13, 1978, and for economic injury until close of business October 12, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 11, 1978.

PATRICIA M. CLOHERTY,  
Acting Administrator.  
[FR Doc. 78-1380 Filed 1-17-78 8:45 am]

#### [8025-01]

[Declaration of Disaster Loan Area No. 14141]

##### OREGON

###### Declaration of Disaster Loan Area

Tillamook County and adjacent counties within the State of Oregon constitute a disaster area as a result of damage caused by heavy rainstorms, windstorm, and flooding which occurred on December 1, 1977 through December 16, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 10, 1978, and for economic injury until the close of business on October 6, 1978, at:

Small Business Administration,  
District Office,  
Federal Building, Room 676,  
1220 Southwest Third Avenue,  
Portland, Oreg. 97204

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

#### NOTICES

Dated January 6, 1978.

A. VERNON WEAVER,  
Administrator.  
[FR Doc. 78-1381 Filed 1-17-78; 8:45 am]

#### [8025-01]

##### REGION V—REGIONAL EXECUTIVE BOARD

###### Public Meeting

The Small Business Administration Region V Executive Board will hold a public meeting at 1 p.m., Monday, January 23, 1978, in Room 3619, Klucznski Federal Building, 230 South Dearborn Street, Chicago, Ill. 60604, to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Arthur J. Glick, Acting Regional Director, 219 South Dearborn Street, Chicago, Ill. 60604, 312-353-0357.

Dated: January 9, 1978.

K. DREW,  
Deputy Advocate for,  
Advisory Councils.  
[FR Doc. 78-1377 Filed 1-17-78; 8:45 am]

#### [4710-01]

##### DEPARTMENT OF STATE

(Public Notice CM-8/1)

##### SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

###### Meeting

The working group on life saving appliances of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 9:30 a.m. on Monday, January 30, 1978, in Room 8238 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

The meeting's purpose is to review the report of the Eleventh Session and discuss preparations for the agenda of the Twelfth Session of the Intergovernmental Maritime Consultative Organization's (IMCO) Subcommittee on Life Saving Appliances.

Requests for further information on the meeting should be directed to Mr. M. W. Lemley, U.S. Coast Guard (G-MMT-3/83), Washington, D.C. 20590, telephone area code 202-426-1444.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,  
Acting Chairman, Shipping Coordinating Committee.

JANUARY 3, 1978.

[FR Doc. 78-1349 Filed 1-17-78; 8:45 am]

#### [8120-01]

##### TENNESSEE VALLEY AUTHORITY

###### URANIUM MINING IN NEW MEXICO

###### Public Hearing

The Tennessee Valley Authority will conduct a public hearing January 25, 1978, in Crownpoint, N. Mex., concerning the agency's plans to participate in the mining of uranium in New Mexico. The hearing will begin at 10 a.m. in the gymnasium of the Crownpoint Bureau of Indian Affairs Board School in Crownpoint, N. Mex.

A draft environmental statement on the proposed Dalton Pass Uranium Mine was issued in December. The notice of availability of the draft statement was published in the FEDERAL REGISTER on December 2, 1977 (42 FR 61,299). Copies of the statement are available from the TVA Information Office, 400 Commerce Avenue, Knoxville, Tenn. 37902. The statement also is available for inspection at public libraries in Albuquerque, Farmington, Gallup, Grants, and at the New Mexico State Library in Santa Fe, and the University of New Mexico General Library at Albuquerque.

The hearing will be conducted by TVA with participation by the Department of the Interior's U.S. Geologic Survey and Bureau of Indian Affairs. USGS must approve the mining and reclamation plan for this project, and the Bureau of Indian Affairs has certain oversight responsibilities because the mining will take place in part on Navajo Indian lands.

TVA has contracted with United Nuclear Corp. for a 50-percent interest in Dalton Pass uranium properties as one of many activities the agency has undertaken to insure an adequate supply of uranium for its nuclear electric generating plants. Actual mining operations will be carried out by UNC beginning this year. Plans call for the eventual construction of five mining sites including surface facilities, production shafts, and underground facilities for the production of uranium ore. About 20 million pounds of uranium is expected to be mined from the properties over a 23-year period. Exploration is continuing in the area to identify additional uranium reserves.

TVA also has contracted for a 25-percent interest in the neighboring Crownpoint uranium properties from the Mobil Oil Corp. Subject to USGS approval of the mining plan, mining activities also will begin on these properties in 1978. A separate environmental impact statement is being prepared for the Crownpoint project, but the cumulative impacts of both projects are considered in the Dalton Pass draft environmental statement.

The public is invited to attend and comment on TVA's plans. A record will be made of the hearing and com-

ments made will be responded to in the final environmental statement. In addition, the record of the proceeding will be held open through January 30, 1978. All written statements submitted to the following address on or before January 30, 1978, will be included in the record:

Herbert S. Sanger, Jr., General Counsel,  
Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tenn. 37902.

Dated: January 9, 1978.

LYNN SEEGER,  
General Manager.

[FR Doc. 78-1350 Filed 1-17-78; 8:45 am]

#### [4910-06]

##### DEPARTMENT OF TRANSPORTATION

###### Federal Railroad Administration

[FRA Waiver Petition Docket RSOR-77-20]

###### CANADIAN PACIFIC RAILROAD

###### Petition for Waiver of Railroad Operating Rules

As required by 45 U.S.C. 431(c), notice is hereby given that the Canadian Pacific Railroad (CP Rail) has submitted a waiver petition to the Federal Railroad Administration (FRA). The petition requests that CP Rail be granted a permanent waiver of compliance with the safety standards contained in the Railroad Operating Rules (49 CFR Part 218) and the regulation concerning Radio Standards and Procedures (49 CFR Part 220).

Initial Railroad Operating Rules were issued by the FRA on March 15, 1978 (41 FR 10904) and became effective June 1, 1978. FRA has subsequently amended the initial provisions on several occasions. The current regulatory provisions address three distinct railroad operating practices that are of concern to CP Rail. These regulations require that railroads adopt uniform procedures to govern train operations within yard limits (49 CFR 218.35); to define the instances and manner in which flag protection is to be provided (49 CFR 218.37); and to define the instances and manner in which workmen servicing rolling equipment are to be provided with blue signal protection (49 CFR 218.25). In addition, the FRA issued regulations on January 27, 1977 (42 FR 5056) requiring that railroads adopt uniform procedures to govern the use of radio communication in connection with train operation.

CP Rail seeks a waiver of compliance with these regulations for those railroad operations which it conducts in the United States. Those operations are currently restricted to the State of Vermont and the State of Maine. The operations in these two states involve approximately 323 miles of trackage.

CP Rail notes that this trackage normally involves a subdivision of its lines which is partly situated in Canada and partly situated in the United States. Compliance with the existing regulation will require that operations be conducted with two groups of operating rules and practices with the attendant potential for confusion as well as the burden for the carrier to assure compliance based on geographic location. The current operating rules and practices employed by CP Rail are, in its judgment, as restrictive or more restrictive than those required by FRA. Consequently, CP Rail indicated that granting the requested waiver will be consistent with railroad safety.

Interested persons are invited to participate in this proceeding by submitting written comments or views. The FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, the FRA will provide an opportunity for oral comment if requested to do so by any interested party. Such requests must be in writing and must be submitted to the FRA before January 24, 1978.

All communications concerning this proceeding should identify the Docket Number, Waiver Petition Docket Number RSOR-77-20, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before February 14, 1978, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

(Sec. 202, Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; §1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C., on January 11, 1978.

ROBERT H. WRIGHT,  
Acting Chairman,  
Railroad Safety Board.

[FR Doc. 78-1360 Filed 1-17-78; 8:45 am]

#### [8320-01]

##### VETERANS ADMINISTRATION

###### MEDICAL RESEARCH SERVICE MERIT REVIEW BOARD

###### Reestablishment

Notice is hereby given of a determination by the Administrator of Veter-

#### NOTICES

ans Affairs to reestablish the following Medical Research Service Merit Review Boards which terminated on August 27, 1977. This determination follows consultation with the Committee Management Secretariat, pursuant to the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

Merit Review Board For Basic Science Programs  
Merit Review Board For Behavioral Science Programs  
Merit Review Board For Cardiovascular Programs  
Merit Review Board For Clinical Pharmacology, Alcoholism and Drug Dependence Programs (formerly Alcoholism and Drug Dependence Programs)  
Merit Review Board For Endocrinology Programs  
Merit Review Board For Gastroenterology Programs  
Merit Review Board For Hematology Programs  
Merit Review Board For Immunology Programs  
Merit Review Board For Infectious Disease Programs  
Merit Review Board For Nephrology Programs  
Merit Review Board For Neurobiology Programs  
Merit Review Board For Oncology Programs  
Merit Review Board For Respiration Programs  
Merit Review Board For Surgery Programs

These Boards evaluate scientific merit of research conducted by Veterans Administration investigators working in VA hospitals and clinics. Each Board covers a different professional specialty or program area. Their assessment provide impartial, technical critiques that guide program improvement and funding at both the national and local levels. Since comprehensive expert reviews are beyond the capacity of local health care facilities, due both to the limited number of experts in any given field and to problems of bias and conflict of interest, there is a compelling need for the existence of the Merit Review Boards.

Dated: January 11, 1978.

MAX CLELAND,  
Administrator.

[FR Doc. 78-1327 Filed 1-17-78; 8:45 am]

#### [7035-01]

##### INTERSTATE COMMERCE COMMISSION

[Notice No. 567]

###### ASSIGNMENT OF HEARINGS

JANUARY 13, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does



not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

- MC 3419 (Sub 11), The Cleveland, Columbus & Cincinnati, Inc., now being assigned January 24, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.
- AB 12 (Sub 53), Southern Pacific Transportation Co. Abandonment Bonita Junction and Seagoville in Nacogdoches, Rusk, Cherokee, Anderson Henderson, Kaufman, and Dallas, Counties, Tex., now assigned March 6, 1978, at Jacksonville, Tex., will be held in the City Council Chambers, 3rd Floor Municipal Bldg.
- MC 143065, Mack D. Weatherford, d.b.a. Weatherford Transit, now assigned January 23, 1978, at Columbia, S.C., is postponed indefinitely.
- MC 116915 (Sub-No. 32), Eck Miller Transportation Corp., now assigned February 24, 1978, at Dallas, Tex., is postponed indefinitely.
- MC 1934 (Sub 40), The Arrow Line, Inc., now assigned January 30, 1978, at Boston, Mass., is cancelled.
- No. 36781, Rate restructuring, December 1977, R.M.M.T.B., now assigned February 27, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- I & S M 29710, General Increase, December 1977, C.S.M.F.T.A., now assigned March 7, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.
- MC 113855 (Sub-No. —), International Transport, Inc., now assigned February 22, 1978, at Omaha, Nebr., will be held in Room 618, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.
- MC 25869 (Sub-No. 135), Nolte Bros. Truck Line, Inc., now assigned February 23, 1978, at Omaha, Nebr., will be held in Room 618, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.
- MC 113382 (Sub-No. 18), Nelsen Bros., Inc., now assigned February 27, 1978, at Omaha, Nebr., will be held in Room 618, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.
- MC-F 13284, Mid-America Express, Inc., Purchase (Portion), Sooner Express, Inc., now assigned February 28, 1978, at Omaha, Nebr., will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.
- MC 115826 (Sub-No. 269), W. J. Digby, Inc., now assigned March 2, 1978 at Omaha, Nebr., will be held in Room 618, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.
- MC 114211 (Sub-No. 304), Warren Transport, Inc., now assigned February 23, 1978, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 95084 (Sub-No. 117), Hove Truck Line, now assigned February 24, 1978, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 35358 (Sub-No. 39), Berger Transfer & Storage, Inc., now assigned February 27,

- 1978, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 123272 (Sub-No. 14), Fast Freight, Inc., now assigned February 22, 1978, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 123475 (Sub-No. 7), Lightning Supply, Inc., now assigned February 23, 1978, at Chicago, Ill., will be held in Room 280, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 124511 (Sub-No. 33), John F. Oliver, now assigned February 27, 1978, at Chicago, Ill., will be held in Room 280, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 139360 (Sub-No. 7), Raemarc, Inc., now assigned February 22, 1978, at Chicago, Ill., will be held in Room 280, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.
- MC 114211 (Sub-No. 314), Warren Transport, Inc., now assigned February 15, 1978, at Dallas, Tex., is being advanced to February 28, 1978, (3 days) at Dallas, Texas, and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.
- MC 113689 (Sub-No. 124), Overland Express, Inc., now assigned January 24, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 113689 (Sub-No. 125), Overland Express, Inc., now assigned January 26, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 133689 (Sub-No. 130), Overland Express, Inc., now assigned January 30, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 114457 (Sub-No. 310), Dart Transit Co., now assigned January 30, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 117940 (Sub-No. 224), Nationwide Carriers, Inc., now assigned February 3, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 4483 (Sub-No. 22), Monson Dray Line, Inc., now assigned February 22, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 114457 (Sub-No. 309), Dart Transit Co., now assigned February 1, 1978, at St. Paul, Minn., and will be held in Courtroom 584, Federal Building, 316 North Street.
- MC 105375 (Sub-No. 70), Dahlen Transport, Inc., now assigned January 31, 1978, at St. Paul Minn., and will be held in courtroom 584, Federal Building, 5th Floor, 316 North Robert Street.
- MC 12870 (Sub-No. 27), Redlehs Interstate, Inc., now being assigned February 15, 1978 (3 days), for hearing in Dallas, Tex., will be held in room 5A15-17, Federal Bldg., 1100 Commerce Street.
- H. G. HOMME, Jr.,  
Acting Secretary.  
[FR Doc. 78-1398 Filed 1-17-78; 8:45 am]

## [7035-01]

(Ex Parte No. 241, Rule 19, 7th Rev. Exemption 241)

## MANDATORY CAR SERVICE RULES

## Seventh Revised Exemption No. 123

It appearing, that railroads named herein own numerous plain flat cars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain flat cars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 405, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "FM", and having less than 200,000 lbs. carrying capacity, and bearing reporting marks assigned to railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

The Atchison, Topeka & Santa Fe Railway Co.

Reporting marks: ATSF.  
Missouri-Kansas-Texas Railroad Co.  
Reporting marks: BKTU-MKT-MKTT.  
[Deleted.]  
Southern Railway Co.  
Reporting Marks: AEC-CG-NS-SOUTA&G.

Effective January 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 9, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

[FR Doc. 78-1397 Filed 1-17-78; 8:45 am]

## [7035-01]

(I.C.C. Order No. 42 Under Revised Service Order No. 1252)

## STRAITS FERRY CAR SERVICE CORP.

## Rerouting of Traffic

The Straits Ferry Car Service Corp., is unable currently to transport all traffic routed via its line between St. Ignace, Mich., and Mackinaw City, Mich., because of the limited capacity of its railroad car ferry. This limitation has caused in excess of four hun-

<sup>1</sup>Missouri Pacific Railroad Company deleted.

dred cars to accumulate north and west of St. Ignace awaiting movement across the Straits of Mackinac by the ferry.

It is ordered, That:

(a) *Rerouting traffic.* The Straits Ferry Car Service Corp., being unable currently to transport all traffic routed via its line between St. Ignace, Mich., and Mackinaw City, Mich., because of limited capacity of its railroad car ferry, that carrier and its connections are authorized to divert and reroute such traffic over any available route to expedite the movement regardless of the routing shown on the waybill. The billing covering all such cars rerouted shall carry a reference to this order. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) This order shall apply only to traffic routed via the ferry for interchange between the Soo Line Railroad Co., and the Detroit and Mackinac Railway Co., or the Michigan Northern Railway Co., which was billed from origin or from a diversion, reconsigning or reshipping point on or before January 10, 1978.

(c) *Traffic which may not be rerouted.* (1) This order shall not apply to cars billed from origin or from a diversion, reconsigning, or reshipping point

after January 10, 1978.

(2) This order shall not apply to cars destined to a local station on the lines of the Detroit and Mackinac Railway Co., or to a local station on the lines of the Michigan Northern Railway Co.

(d) *Concurrence of receiving roads to be obtained.* The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(e) *Notification to shippers.* Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(f) Inasmuch as the diversion or rerouting of traffic by said Agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(g) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during

the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(h) *Effective date.* This order shall become effective at 11 a.m., January 11, 1978.

(i) *Expiration date.* This order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 11, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

[FR Doc. 78-1396 Filed 1-17-78; 8:45 am]



## sunshine act meetings

This section of the Federal Register contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

### CONTENTS

Item	
1	Commodity Futures Trading Commission
2	Federal Deposit Insurance Corporation
3	Federal Energy Regulatory Commission
4	Federal Maritime Commission
5	Harry S. Truman Scholarship Foundation
6	Indian Claims Commission
7	Parole Commission
8	Railroad Retirement Board

#### [6351-01]

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 20, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-111-78 Filed 1-16-78; 2:21 pm]

#### [6714-01]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

#### NOTICE OF CHANGE IN SUBJECT MATTER OF AGENCY MEETINGS

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 11 a.m. on Friday, January 13, 1978, the Corporation's Board of Directors voted, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), to withdraw Case No. 43,299-NR (Addendum), regarding the liquidation of Assets acquired by the Corporation from United States National Bank, San Diego, Calif., from the agenda for the open meeting scheduled for 11:30 a.m. the same date and to consider the case in the closed meeting then in session. The Board further determined

that (1) its deliberations with respect to the case where authorized to be exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(9)(B) and (c)(10) thereof (5 U.S.C. 552b (c)(9)(B) and (c)(10)); and (2) the public interest did not require consideration of the case in a meeting open to public observation. At that same closed meeting, the Board also voted, on motion of Chairman LeMaistre, with Director Heimann seconding the motion, to withdraw Case No. 43,357-SR, regarding the liquidation of assets acquired by the Corporation from Franklin Bank, Houston, Tex., from the agenda for consideration at that meeting.

At its open meeting held at 11:30 a.m. on Friday, January 13, 1978, the Board determined, on motion of Director Heimann, that, in view of the imminent retirement of Mr. Paul F. Gastrock, a long-time employee of the Corporation, Corporation business required the Board's adoption, on less than seven days' notice to the public, of a resolution expressing its appreciation for his loyal and efficient services. At that same open meeting, the Board voted to defer action on proposed amendments to section 337.3 of the Corporation's rules and regulations, relating to insider transactions, for additional staff consideration.

In voting for the changes, the Board determined that no earlier notice of the changes in the subject matter of the meetings was practicable.

Dated: January 13, 1978.

For the Federal Deposit Insurance Corporation.

HOYLE L. ROBINSON,  
Assistant Executive Secretary.

[S-108-78 Filed 1-16-78; 11:22 am]

#### [6740-02]

#### FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 13, 1978, 43 FR 20451.

"PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 18, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

#### Item No., Docket No., and Company

M-2.—RM74-16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40.

RP-5.—RP77-140, Consolidated Gas Supply Corp.

RP-6.—RP72-149 (PGA77-10), Mississippi River Transmission Corp.

CI-7.—CI77-718, South Louisiana Production Co., Inc. (Operator), et al.

LOIS D. CASHELL,  
Acting Secretary.

[S-113-78 Filed 1-16-78; 4:04 pm]

#### [6730-01]

#### FEDERAL MARITIME COMMISSION.

TIME AND DATE: January 25, 1978-10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Notation items disposed of during December, 1977.

2. Report on times shortened for submitting comments on section 15 agreements pursuant to authority delegated to the Secretary.

3. Report on applications for admission to practice approved during the month of December, 1977, pursuant to authority delegated to the Secretary.

4. Assignment of informal dockets pursuant to authority delegated to the Secretary.

5. Agreement No. 10137-5: Modification of the Barber-Blue Sea Line Joint Service Agreement to permit the use of a different trade name and define "multi-purpose vessels."

6. Agreements Nos. 10027-5 and 10029-4: Requests for two-month extension of two pooling agreements in the northbound Brazil Trades.

7. Docket No. 73-64: Proposed revisions to Commission General Order 7 providing for new self-policing requirements.

8. Agreement No. 5660-23: Modification of the Marseilles, north Atlantic, U.S.A. Freight Conference revising self-policing procedures; defining voting requirements; and making other administrative changes.

9. Dockets Nos. 76-33: *Transoceanic Terminal Corp. v. Ceres Marine Termi-*

*nals, Inc.*; and 76-44: *Ceres Marine Terminals, Inc. v. Transoceanic Terminal Corp. and Calumet Barge Terminal, Inc.*—Report on possible violations of sections 15, 16, and 17, Shipping Act, 1916.

10. Docket No. 76-48: Independent Ocean Freight Forwarder License No. 161—J. T. Steeb & Co., Inc.—Consideration of discontinuance of proceeding.

11. Special Docket No. 542: *Alcoa International, Inc. v. Gulf European Freight Association*—Consideration of initial decision.

Portion closed to the public:

1. Docket No. 76-35: Cancellation of the Consolidation Allowance Rule published in the Freight Tariffs of the Conferences and the Rate Agreement operating from United States Atlantic ports to ports in the United Kingdom, Ireland, the Scandinavian Peninsula, and Continental Europe—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727

[S-112-78 Filed 1-16-78; 2:21 pm]

#### [6115-02]

#### HARRY S. TRUMAN SCHOLARSHIP FOUNDATION.

TIME AND DATE: 10 a.m., Monday, Jan. 23, 1978.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Review of Board actions since July 1, 1977.

2. Proposed work-experience program for Scholars.

3. Discussion of award ceremony.

### SUNSHINE ACT MEETINGS

2687-2699

CONTACT PERSON FOR MORE INFORMATION:

Dr. Robert E. Cleary, Executive Secretary, telephone 202-395-4831.

ROBERT E. CLEARY,  
Executive Secretary.

Approved:

JOHN W. SNYDER,  
Chairman, Board of Trustees.

[S-110-78 Filed 1-16-78; 11:37 am]

#### [7030-01]

#### INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., January 25, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public. Docket 229, *Navajo*.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-109-78 Filed 1-16-78; 11:37 am]

#### [4410-01]

#### UNITED STATES PAROLE COMMISSION.

TIME AND DATE: Wednesday, January 25, 1978, 2:30 p.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: 1. Method of communication with certain groups of inmates and relevant

issues. 2. Approval of minutes of closed meeting of September 27, 1977.

CONTACT PERSONS FOR MORE INFORMATION:

M. E. Malin Foehrkolb, 202-724-3117, Washington, D.C.

[S-106-78 Filed 1-16-78; 10:29 am]

#### [7905-01]

#### U.S. RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:30 a.m., January 23, 1978.

STATUS: The entire meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

(1) Petition of Alice L. Palmer to reopen decision to set earlier beginning date of award made to her.

(2) Appeal of denial of waiver of recovery of overpayment, Ilene S. Barnett.

(3) Appeal from referee's denial of child's insurance annuity application, Leslie W. Connell.

(4) Appeal from referee's denial of disability annuity application, Billy J. Derryberry.

(5) Appeal from referee's denial of disability annuity application, Melvin D. Keller.

(6) Appeal from referee's denial of lump-sum death benefit and residual lump-sum benefit, Katherine M. Brown, Mary Flores, widow, Salvador Rivera, et al.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board, COM No. 312-751-4920, FTS No. 387-4920.

[S-107-78 Filed 1-16-78; 11:04 am]



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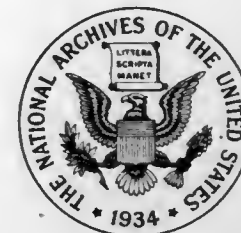
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# Federal register

WEDNESDAY, JANUARY 18, 1978  
PART II



DEPARTMENT OF  
THE INTERIOR  
Geological Survey

■  
FINALIZED NORTH  
ATLANTIC OUTER  
CONTINENTAL SHELF  
(OCS) AREA ORDER NOS.  
2, 5, 7 AND 12



[4310-31]

## DEPARTMENT OF THE INTERIOR

## Geological Survey

FINALIZED NORTH ATLANTIC AREA ORDERS  
NOS. 2, 5, 7, 12

## Approved Issuance

Notice is hereby given that, pursuant to Title 30 CFR, Part 250.11, the Acting Chief, Conservation Division, U.S. Geological Survey, has approved the issuance of the finalized North Atlantic Outer Continental Shelf (OCS) Area Order Nos. 2, 5, 7, and 12 as set forth below. These Orders will be effective on January 1, 1978.

A Notice was published in the FEDERAL REGISTER on July 22, 1976, Vol. 41, No. 142, stating that the existing Mid-Atlantic OCS Orders were draft North Atlantic OCS Area Orders, and public comments were solicited. For the purposes of these Orders, the North Atlantic Area shall include those lands subject to Federal oil and gas leasing on the OCS between 40° N. and 42° N. latitude.

The final revisions to these Orders have been made as a result of a substantive review of these Orders. Paragraphs now incorporate the decimal numbering system and have been reorganized for clarity. All comments have been reviewed, and appropriate suggestions have been included in these finalized Orders.

Comments were received from the following organizations:

Amoco, Inc.  
California State Lands Commission  
Chevron Oil Co.  
Conservation Law Foundation of New England, Inc.  
Continental Oil Co.  
Environmental Protection Agency  
Exxon Company, U.S.A.  
Gulf Energy and Minerals Co.—U.S.  
Mobile Oil Corp.  
Offshore Operators Committee  
Shell Oil Co.  
Skelly Oil Co.  
State of Maine  
State of Massachusetts

We have published below a summary of the comments received, our rationale for accepting or rejecting the suggestions of the commenters, and the final version of the Orders.

For further information, contact Mr. George Brown, Eastern Region Conservation Manager, Conservation Division, U.S. Geological Survey, 1725 K Street NW., Washington, D.C. 20006, 202-254-7870. The primary authors of this document are Mr. Dwayne E. Hull and Mr. Larry Ake of the Atlantic Area Office.

Copies of the finalized North Atlantic OCS Area Orders and the U.S. Geological Survey OCS Standards, which are referenced in Order No. 2, are available from:

## NOTICES

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street NW., Washington, D.C. 20006.

NOTE.—1. It has been determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

2. It has also been determined that issuance of these North Atlantic Orders is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. One of the primary functions of the Orders is the mitigation of potential environmental impacts. The manner in which this is accomplished is discussed in the Final Environmental Statement for OCS Sale No. 42, North Atlantic Area. The North Atlantic Orders are based on similar Orders for other OCS areas. All modifications are designed to incorporate technological advances and improvements and regulator changes. No revisions have been made which would lessen the Orders' mitigatory impact.

W. A. RADLINSKI,  
Acting Director.

## SUMMARY OF COMMENTS, USGS RATIONALES, AND FINAL NORTH ATLANTIC ORDER NOS. 2, 5, 7, AND 12

## NORTH ATLANTIC OCS ORDER NO. 2

Paragraph 1. *Drilling Platforms and Vessels.* This paragraph was reorganized to separate the requirements for platforms from those for mobile drilling units.

It was suggested that, for clarity, the term "mobile drilling units" be used rather than vessels. This was done as it also conforms with the wording used in a Memorandum of Understanding between the Department of the Interior and the Department of Transportation.

A commenter suggested that a requirement for a site survey of the planned drilling location be added. Although this is standard USGS procedure, no mention has been made of this requirement in the Orders. Therefore, subparagraph 1.1.3, "Well Site Surveys," was added to the Order.

A recommendation was made that the Order include a description of the worst anticipated oceanographic, meteorologic, and seismic conditions to be expected in the North Atlantic Area. This was rejected as the Orders are not an appropriate place to list parameters which will change as more data is gathered.

It was suggested that the type and amount of oceanographic, meteorological, and performance data to be collected be specified in the Order. The Order now reflects that these requirements will be set by the Supervisor.

Several commenters suggested that the United States Geological Survey (USGS) require an American Bureau of Shipping Classification or U.S. Coast Guard Certificate of Inspection for mobile drilling units. This com-

ment was adopted as both of these items are based on similar criteria of design and construction.

One commenter recommended that the USGS stay abreast of U.S. Coast Guard regulations and intentions so that there would be no duplication or conflict of regulations. The USGS and U.S. Coast Guard are working together on OCS regulations and have recently published a Memorandum of Understanding regarding the regulation of mobile drilling units.

A recommendation was made that the wording of the Order be changed to indicate the USGS predrilling inspection of the platform or unit would pertain only to drilling equipment. Rather than list the items to be inspected, the Order will remain general. More specific information can be found in the Memorandum of Understanding between the USGS and U.S. Coast Guard regarding mobile drilling units.

Several commenters suggested that once a mobile drilling unit had been approved for use in an Area, it need not be reapproved for subsequent work in the same Area. A sentence was added to subparagraph 1.2 which will normally prevent the operator from having to resubmit rig drawings, specifications, and performance data.

Paragraph 2. *Well Casing and Cementing.* One commenter suggested that if there were indications of improper cementing, a cement bond log should be run to aid in planning the remedial action. Then, after remedial cementing had been accomplished, a second cement bond log should be run. The Order was not revised. The Order is intended to allow the operator and the Supervisor flexibility in dealing with cases of improper cementing. The type of log to be run was not specified due to the interpretive nature of these logs. The operator has the option of running a log or a survey before attempting the repairs.

A suggestion was made that the sentence requiring casing to conform to the specifications contained in API Specification 5A be altered since Specification 5A lists only four API-acceptable grades of casing. The Order was revised to conform to the suggestions. Casing must still meet the quality of API Standards.

It was suggested by one commenter that both conductor and surface casing be solidly cemented to the ocean floor. The Order was revised to make conductor-casing cementing requirements more rigid. Provisions for the cementing of surface casing will remain the same, however. Placing surface-casing cement a minimum of 60 meters into the conductor casing will provide adequate protection and safety.

This commenter further suggested that both the intermediate and pro-

duction casing be cemented a minimum of 1200 feet into the next larger casing string. The Order was not revised. The Order currently requires that a quantity of cement be used which will cover and isolate all hydrocarbon-bearing zones and all abnormal-pressure intervals. By reviewing the available data, the Supervisor can determine the quantity of cement needed to safely cement the well.

A reduction in the allowed casing-setting depths was recommended by one commenter. The comment was justified by the use of average-fracture and pore-pressure gradients to show that setting depths, more in line with those of the Pacific Area, were called for. The Order was not revised. As presently written, the Order makes it clear that the Supervisor has the authority to prescribe casing-setting depths and to require documentation explaining any proposed casing string. Pacific Area casing limitations are based, in part, on shallow faults and shallow reservoirs.

Another comment suggested that cement shall not be drilled out until the bottom 500' of annular cement fill has sufficient time to reach a compressive strength of 500 psi. This revision was added to the Order.

Paragraph 3. *Directional Surveys.* Several commenters suggested that an average of 3 be the limiting deviation for a vertical well and that directional surveys be taken every 1,000' rather than 500'. The Order was not revised. These two requirements provide a closer control on the location of the bottom of the well. We believe that in a frontier drilling area, this closer control is justified.

Paragraph 6. *Blowout-Prevention Equipment.* Several commenters stated that this paragraph on blowout-prevention equipment was poorly written and was subject to different interpretations. The Order was revised. Tabulations were added to the Order to clarify the requirements for surface- and subsurface-BOP stacks.

In response to a comment, the subparagraph on BOP accumulators was rewritten to make it clear that the backup system must have a source of power independent from the primary system.

A variety of commenters disagreed with the USGS requirements for the types and the placement of chokes in a choke manifold. The Order was revised to refer to the API Recommended Practice No. 53 on choke-manifold equipment.

Subparagraph 4.1.3, "Subfreezing Operations," was added to the Order because of the severe climate of the North Atlantic Area.

A commenter disagreed with the practice of allowing the choke and kill lines to be used for diversion when the blowout preventer is on the ocean

floor. The requirement has been modified to allow the use of the choke and kill lines for diversion, only when specifically approved by the Supervisor.

A recommendation was made that a safety program be developed and included in the Order for drilling the conductor hole, running and cementing the conductor and surface casing when the drilling riser is removed, and pilot-hole drilling in shallow formations. The Order was not revised. A pilot hole is currently required for drilling to conductor setting depth in exploratory wells. When drilling from a mobile unit and the formation competency is inadequate to permit the circulation of drilling fluids from the structural casing setting depth, a safety-procedure program must be submitted to the Supervisor. Problems have not surfaced in the areas of running and cementing conductor and surface casing when the riser is removed.

Several commenters pointed out that the Order required that all seismic data gathered be made available to the Supervisor with the Application for Permit to Drill. This was changed so that only seismic data relating to shallow hazards need be submitted.

A commenter disagreed with the minimum BOP requirement on the conductor casing. A suggestion was made that the BOP requirements for surface casing be applied at depths below 1,500'. The Order was not revised. When drilling from the conductor casing shoe to the surface casing setting depth, it would be useless to require a blowout-preventer stack which was rated for pressures significantly higher than the internal yield point of the conductor casing.

One commenter noted that the proposed Order referred to the "working pressure of the casing" when specifying the pressure at which to test blowout preventers. Since this terminology is not used by industry, the Order has been reworded to refer to minimum internal yield.

A suggestion was made that subsea blowout-preventer stacks carry a minimum of two annular and four ram-type preventers. Since history has not shown a need for this added requirement, the Order was not revised.

One commenter suggested that during BOP pressure tests, the BOP's be tested at low pressures of 200-300 psi. This requirement has been added to detect low-pressure leaks.

Daily visual inspection of the marine riser and blowout preventers was suggested by one commenter. Subparagraph 4.8 was added to the Order to require daily visual inspection and maintenance in accordance with the manufacturer's recommended procedures.

One commenter suggested that BOP drills be conducted daily for each drill-

ing crew until each member is proficient in his emergency duties. The Order was not changed substantially. Requiring daily BOP drills, until each crew member becomes proficient, would be a very subjective requirement. The wording of subparagraph 4.9, "Drills," was altered to remove the impression that weekly drills are always sufficient.

Paragraph 5. *Mud Program.* Many comments were received which pointed out that the mud-storage requirements in the proposed Order were excessive. The Order was revised to make the mud-storage and the inventory requirements more realistic and flexible while still maintaining adequate safety.

One commenter suggested that all mud systems should be equipped with a mud-gas separator for handling gas cut and for safely venting the gas away from the rig or facility. The Order has been changed, and a mud-gas separator will be required.

Paragraph 6. *Supervision, Surveillance, and Training.* One commenter stated that a reference to future training standards for all members of the drilling crew would be placed in a separate subparagraph rather than in C(2), "Well Control Methods and Procedures." This sentence was deleted during the reorganization of this paragraph, and a reference was made to the U.S. Geological Survey Outer Continental Shelf Standard No. T 1 entitled "Training and Qualifications of Personnel in Well-Control Equipment and Techniques for Drilling on Off-shore Locations."

A comment was made that this paragraph should make USGS inspections of drilling facilities mandatory. This was rejected since it was directed at internal USGS policy and would not properly be included in an OCS Order.

Paragraph 8. *Critical Operations & Curtailment Plans.* Several commenters expressed the opinion that this paragraph should not be included in the final Order. They stated that such plans would be voluminous and would restrict the flexibility of onsite personnel. Other commenters felt that this paragraph needed extensive revision. The Order was not changed. The requirement for submission of documented critical operations and curtailment plans were made a part of the Order in order to insure adequate planning on the operator's part and to provide the Supervisor with the necessary information to assist and coordinate emergency actions.

It was suggested that the following should be added to the list of factors in developing curtailment plans:

- (1) Spawning times and locations.
- (2) Migratory patterns of wildlife.
- (3) Seasonal trajectory patterns for oil spills.
- (4) Existence of endangered species.

## NOTICES



(5) Areas of special biological significance.

The Order was not revised. Curtailment of operations will be required when physical conditions magnify the possibility of an accident occurring during a critical operation. A new requirement has been placed in North Atlantic OCS Order No. 7 to require operators to include provisions taken to protect biologically-sensitive areas in their Oil-Spill Contingency Plans.

A commenter suggested that the removal of subsurface-safety valves (SSSV) be added to the list of critical operations. This was not done since Critical Operations and Curtailment Plans are required only for operations conducted during drilling. Subsurface-safety valves are production-oriented safety systems. Flowing wells may not be left unattended when the SSSV is removed.

Several of the comments received were very general in nature or did not seem applicable to this Order No. 2. One suggestion was that the language of the Order be clarified to state that all equipment employed in the operations must be capable of performing in a manner consistent with all established biological and resource standards. The Order was not revised because it was felt that no such clarification was needed. Other comments suggested ensuring that temporary or permanent abandonments do not become sea-floor obstacles. These subjects are covered adequately in National OCS Order No. 1.

DEPARTMENT OF THE INTERIOR,  
GEOLOGICAL SURVEY, CONSERVATION  
DIVISION  
EASTERN REGION, ATLANTIC AREA, AND NORTH  
ATLANTIC

OCS Order No. 2 Effective January 1, 1978  
Drilling Procedures

This Order is established pursuant to the authority prescribed in 30 CFR 250.11. All exploratory and development wells drilled for oil and gas shall be drilled in accordance with 30 CFR 250.34, 250.41, 250.91, and the provisions of this Order which shall continue in effect until field drilling rules are issued. When sufficient geologic and engineering information is obtained through exploratory drilling, operators may make application or the Supervisor may require an application for the establishment of field drilling rules. After field drilling rules have been established by the Supervisor, development wells shall be drilled in accordance with such rules.

All wells drilled under the provisions of this Order shall have been included in an exploratory or development plan for the lease as required under 30 CFR 250.34. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor. Each Application for Permit to Drill (Form 9-331C) shall include all information required under 30 CFR 250.91 and shall include a notation of any proposed departures from the requirements of this Order. All departures

from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. Drilling Platforms and Mobile Drilling Units.

1.1 General Requirements for Fixed and Mobile Drilling Units. The requirements applicable to fixed and mobile drilling units are contained in subparagraphs 1.1.1 through 1.1.6.

1.1.1 Fitness of Drilling Unit. All drilling platforms and mobile drilling units shall be capable of withstanding the oceanographic and meteorological conditions for the proposed area of operations. The operator shall furnish evidence of the fitness of the drilling platform or mobile drilling unit to perform the planned drilling operation.

1.1.2 Pre-Drilling Inspection. Prior to commencing operations in an OCS area, all drilling platforms and mobile drilling units shall be given a complete inspection by the Area Supervisor to insure compliance with OCS Orders and Regulations.

1.1.3 Well-Site Surveys. Operators or lessees shall conduct a shallow geological hazards survey, and other surveys as required by the Supervisor, and furnish the District Supervisor with the results of the survey(s) of the proposed well site, prior to the approval of drilling operations.

1.1.4 Drawings, Specifications, Performance Data. Drawings, specifications, and performance data of all drilling equipment, drilling safety systems, and pollution-prevention equipment associated with the drilling operation, and a schematic of the mobile drilling unit, should be submitted to the District Supervisor.

1.1.5 Oceanographic, Meteorological, Performance Data. Operators shall collect and report oceanographic, meteorological, and performance data during the period of operations as required by the Supervisor.

1.1.6 Subfreezing Operations. Operators shall furnish evidence that the drilling equipment, drilling safety systems, and other associated equipment are conditioned to assure proper operation under subfreezing conditions where operations will take place over winter months in areas which experience these conditions.

1.2 Mobile Drilling Units. Applications for drilling from mobile drilling units shall include the following:

a. Maximum environmental design criteria, operational criteria, and a critical operations plan as described in paragraph 8 of this Order.

b. Anticipated maximum wave height, wind, and current values expected to be encountered based on an average recurrence interval of 100 years.

c. Current American Bureau of Shipping Classification or U.S. Coast Guard Certification of Inspection with operational limitations.

Unless required by the Supervisor, after a mobile drilling unit has been approved for use in an area, the information detailed in 1.1.4 above need not be resubmitted unless there are changes in equipment or performance data.

1.3 Fixed Drilling Platforms. Applications for placement of fixed drilling platforms or structures shall be submitted in accordance with OCS Order No. 8.

2. Well Casing and Cementing. All wells shall be cased and cemented in accordance with the requirements of 30 CFR 250.41(a)(1). The Application for Permit to Drill shall include the casing design safety factors for collapse, tension, and burst, in

cases where cement has filled the annular space back to the ocean floor, the cement may be washed out or displaced to a depth not exceeding 12 meters (39 feet) below the ocean floor to facilitate casing removal upon well abandonment. For the purpose of this Order, the several casing strings in order of normal installation are drive or structural, conductor, surface, intermediate, and production casing.

For the surface, intermediate, and production casing strings, if there are indications of improper cementing such as lost returns, cement channeling, or mechanical failure of equipment, the operator shall recement or make the necessary repairs and run a temperature or cement bond log to verify that the casing has been adequately cemented.

The design criteria for all wells shall consider all pertinent factors for well control, including formation fracture gradients and pressures and casing setting depths. The Operator shall utilize appropriate drilling technology and state-of-the-art methods, such as drilling-rate evaluation, shale density analysis, or other appropriate methods in order to enhance the evaluation of conditions of abnormal pressure, and to minimize the potential for the well to develop a flow or kick.

All casing, except drive pipe or structural casing, shall be new pipe which meets American Petroleum Institute (API) quality standards or reconditioned use pipe that has been tested to insure that it will meet API quality standards for new pipe.

2.1 Drive or Structural Casing. This casing shall be set by drilling, driving, or jacking to a minimum depth of 30 meters (98 feet) below the ocean floor or to such greater depth, approved by the District Supervisor, required to support unconsolidated deposits and to provide hole stability for initial drilling operations. If this portion of the hole is drilled, the drilling fluid shall be of a type that is in compliance with the liquid disposal requirements of OCS Order No. 7, and a quantity of cement sufficient to fill the annular space back to the ocean floor shall be used.

2.2 Conductor and Surface Casing Cementing Requirements. These casing strings shall be cemented as follows:

2.2.1 Conductor Casing. This casing shall be cemented with a quantity of cement sufficient to fill the calculated space back to the ocean floor. Cement fill to the ocean floor shall be verified by the observation of cement returns. In the event that observation of cement returns is not feasible or possible, an excess volume of cement shall be used to assure fill to the ocean floor. The excess volume shall be approved by the District Supervisor.

2.2.2 Surface Casing. This casing shall be cemented with a quantity of cement sufficient to protect all freshwater sands and provide well control until the next string of casing is set and sufficient to fill the calculated annular space to at least 60 meters (197 feet) inside the conductor casing or as approved by the District Supervisor. After drilling a maximum of 30 meters (98 feet) below the surface casing shoe, a pressure test shall be obtained to aid in determining a formation fracture gradient either by testing to formation leak-off or by testing to a predetermined equivalent mud weight. The results of this test and any subsequent tests of the formation shall be recorded on the driller's log and used to determine the depth and maximum mud weight of the intermediate hole.

2.2.3 Conductor and Surface Casing Setting Depths. Casing design and setting depths shall be based upon all engineering and geologic factors including the presence or absence of hydrocarbons or other potential hazards and water depths. These strings of casing shall be set at the depth specified below subject to approved variation to permit the casing to be set in a competent bed or through formations determined desirable to be isolated from the well by pipe for safer drilling operations; provided, however, that the conductor casing shall be set immediately prior to drilling into formations known to contain oil or gas, or, if unknown, upon encountering such formations.

These casing strings shall be run and cemented prior to drilling below the specified setting depths. For those wells which may encounter abnormal pressure or conditions and for the initial wells in an area, the District Supervisor may prescribe the exact setting depths. Conductor casing setting depths shall be between 91 meters (298 feet) and 305 meters (1,000 feet) TVD below ocean floor, and surface casing setting depths shall be between 305 meters (1,000 feet) and 1,400 meters (4,592 feet) TVD below ocean floor.

Engineering, geophysical, and geologic data used to substantiate the proposed setting depths of the conductor and surface casings (such as estimated fracture gradients, pore pressures, shallow hazards, etc.) shall be furnished with the Application for Permit to Drill.

2.3 Intermediate Casing. One or more strings of intermediate casing shall be set when required by anticipated abnormal pressure, mud weight, sediment, and other well conditions. The proposed setting depth for intermediate casing shall be based on the pressure tests of the exposed formation below the surface casing shoe or on subsequent pressure tests. After drilling a maximum of 30 meters (98 feet) below the intermediate casing shoe, a pressure test shall be obtained to aid in determining a formation leak-off or to test a predetermined equivalent mud weight.

A quantity of cement sufficient to cover and isolate all hydrocarbon zones and to isolate abnormal pressure intervals from normal pressure intervals shall be used. Sufficient cement shall be used to provide annular fill-up to a minimum of 150 meters (492 feet) above the zones to be isolated or 150 meters (492 feet) above the casing shoe in cases where zonal coverage is not required. If a liner is used as an intermediate string, it shall be lapped a minimum of 30 meters (98 feet) into previous casing string, and the cement shall be tested by a fluid entry or pressure test to determine whether a seal between the liner top and the next larger string has been achieved. The test shall be recorded on the driller's log. When such liner is used as production casing, it shall be extended to the surface and cemented to avoid surface casing being used as production casing.

2.4 Production Casing. This string of casing shall be set before completing the well for production. It shall be cemented in a manner necessary to cover or isolate all zones which contain hydrocarbons. But in any case, a calculated volume sufficient to fill the annular space at least 150 meters (492 feet) above the uppermost producible hydrocarbon zone must be used. When a liner is used as production casing, it shall be lapped a minimum of 30 meters (98 feet) into the previous casing string, and the test-

ing of the seal between the liner top and the next larger string shall be conducted as in the case of intermediate liners. The test shall be recorded on the driller's log.

2.5 Pressure-Testing of Casing. Prior to drilling the plug after cementing, all casing strings, except the drive or structural casing, shall be pressure-tested as shown in the table shown. The test pressure shall not exceed the internal yield pressure of the casing. The surface casing shall be tested with water in the top 30 meters (98 feet) of the casing. If the pressure declines more than 10 percent in 30 minutes, or if there is other indication of a leak, the casing shall be recemented, repaired, or an additional casing string run, and the casing tested again. The above procedures shall be repeated until a satisfactory test is obtained.

Casing	Minimum surface pressure
Conductor	1,400 kilopascals (kPa) (203 lb/in <sup>2</sup> )
Surface	6,900 kPa (1,000 lb/in <sup>2</sup> )
Intermediate, liner, and production	10,400 kPa (1,508 lb/in <sup>2</sup> ) or 5 kPa/m (0.22 lb/in <sup>2</sup> /ft), whichever is greater.

After cementing any of the above strings, drillings shall not be commenced until a time lapse of 8 hours under pressure for the conductor casing string or 12 hours under pressure for all other strings. Cement is considered under pressure if one or more float valves are employed and are shown to be holding the cement in place or when other means of holding pressure is used. All casing pressure tests shall be recorded on the driller's log.

In all cases, sufficient time must elapse to allow the bottom 153 meters (500 feet) of annular cement fill, or total length of annular cement fill, if less, to attain a compressive strength of at least 3,448 kPa (500 psi) before drilling commences. The typical performance data for the particular cement mix used in the well shall be used to determine the time lapse required.

3. Directional Surveys. Wells are considered vertical if inclination does not exceed three degrees from the vertical. Inclination surveys shall be obtained on all vertical wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling.

Wells are considered directional if inclination exceeds three degrees from the vertical. Directional surveys giving both inclination and azimuth shall be obtained on all directional wells at intervals not exceeding 150 meters (492 feet) during the normal course of drilling and at intervals not exceeding 30 meters (98 feet) in all angle change portions of the hole. On both vertical and directional wells, directional surveys giving both inclination and azimuth shall be obtained at intervals not exceeding 150 meters (492 feet) prior to, or upon, setting surface or intermediate casing, liners, and at total depth.

Composite directional surveys shall be filed with the District Supervisor. The interval shown will be from the bottom of conductor casing, or, in the absence of conductor casing, from the bottom of drive or structural casing to total depth. In calculating all surveys, a correction from true north to Universal Transverse Mercator Grid north or Lambert Grid north shall be made after making the magnetic to true north correction.

4. Blowout-Preventer (BOP) Equipment Requirements.

4.1 General Requirements. Blowout preventers and related well-control equipment shall be installed, used, and tested in a manner necessary to insure well control.

4.1.1 BOP Equipment. Blowout-preventer equipment shall consist of an annular and the specified number of ram-type preventers. The pipe rams shall be of proper size to fit the drill pipe in use. The working pressure of any blowout preventer shall exceed the maximum anticipated surface pressure to which it may be subjected. Information submitted with the Application for Permit to Drill shall include the maximum anticipated surface pressure and the criteria used to determine this pressure. All blowout-preventer systems shall be equipped with:

a. A hydraulic-actuating system that provides sufficient accumulator capacity to close all BOP equipment units with a 50 percent operating fluid reserve at 8,300 kPa (1,204 psi). An accumulator backup system, driven by a source of power independent from the primary system, shall be provided with sufficient capacity to close all blowout preventers and hold them closed. Locking devices shall be provided on the ram-type preventers. The method of BOP actuation, such as hydraulic, acoustic or other methods, shall be described and included in the Application for Permit to Drill.

b. At least one operable remote blowout-preventer-control station in addition to the one on the drilling floor.

c. A drilling spool with side outlets, if side outlets are not provided in the BOP body, to provide for a kill line and choke line.

d. A kill line with a master valve located adjacent to the BOP. This valve shall not be used for normal opening or closing on flowing fluids. The kill line shall have at least one control valve in addition to the master valve.

e. A choke manifold equipped in accordance with American Petroleum Institute Recommended Practice entitled "Blowout-Prevention Equipment Systems," API RP 53, First Edition, February 1978, Sections 3A and 3B, or subsequent revisions thereto approved by the Supervisor.

f. A fill-up line.

g. Valves, pipes, and fittings upstream of an including the choke manifold that can be exposed to pressure from the wellbore, with a pressure rating at least equal to that of the blowout-preventer equipment.

4.1.2 Auxiliary Equipment. The following auxiliary equipment shall also be provided:

a. A top Kelly cock shall be installed below the swivel, and an essentially full-opening Kelly cock of such design that it can be run through blowout preventers shall be installed at the bottom of the Kelly.

b. An inside blowout preventer and an essentially full-opening drill string safety valve in the open position shall be maintained on the rig floor at all times while drilling operations are being conducted. Such valves shall be maintained on the rig floor to fit all connections that are in the drill string.

c. A safety valve shall be available on the rig floor assembled with the proper connection to fit the casing string that is being run in the hole at the time.

4.1.3 Subfreezing Operations. The blowout preventers and related control equipment must be equipped and conditioned to assure proper operation under subfreezing conditions when operations will be conducted over winter months in areas likely to experience these conditions.



4.2 *Subsea BOP Requirements.* The minimum requirements for drilling below the casing strings for subsea blowout-preventer stacks are tabulated below:

Subsea BOP Stacks	
Drive pipe .....	1—Annular or pressure rotating pack-off head. <sup>1</sup>
Conductor .....	1—Annular and diverter. <sup>2</sup>
Surface .....	1—Annular.
	2—Pipe rams.
Intermediate .....	1—Blind shear ram.
	1—Annular.
	2—Pipe rams. <sup>3</sup>
	1—Blind shear ram.

<sup>1</sup>To be installed on top of the marine riser.

<sup>2</sup>The diverter system shall provide as a minimum two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

<sup>3</sup>When a tapered drill string is in use, the BOP stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

**NOTE.**—The working pressure of all blowout preventers shall exceed the maximum anticipated surface pressure to which they may be subjected.

Subsea blowout-preventer stacks shall be equipped with blind-shear rams. A subsea accumulator system is required to provide fast closure of the preventers and for cycling all critical functions in case of loss of connection to the surface. A fail-safe design shall be incorporated into the blowout-preventer system and shall include dual pod control systems and fail-safe valving on critical lines and outlets. Prior to the removal of the marine riser for installing casing, the riser shall be displaced with sea water. The operator shall insure that sufficient hydrostatic head exists within the well bore to compensate for the reduction in head and maintain a safe well condition. If repair or replacement of the blowout-preventer stack is necessary after installation, this work will be accomplished after casing has been cemented prior to drilling out the shoe or by setting a cement or bridge plug to insure safe well conditions.

4.3 *Surface BOP Requirements.* The minimum requirements for drilling below the casing strings for conventional surface blowout-preventer stacks are tabulated below:

Minimum BOP requirements	
Surface BOP stacks	
Drive pipe .....	1—Annular or pressure rotating pack-off head.
Conductor casing .....	1—Annular and diverter. <sup>1</sup>
Surface casing .....	1—Annular.
	2—Pipe rams.
Intermediate casing .....	1—Blind ram.
	1—Annular.
	2—Pipe rams. <sup>2</sup>
	1—Blind ram.

<sup>1</sup>The diverter system shall provide, as a minimum, two 15-centimeter (6-inch) internal diameter lines and full-opening valves.

<sup>2</sup>When a tapered drill string is in use, the BOP stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

**NOTE.**—The working pressure of all blowout preventers shall exceed the maximum anticipated surface pressure to which they may be subjected.

4.4 *Drive Pipe or Structural Casing BOP Requirements.*

4.4.1 *Surface BOP.* Before drilling below this string, at least one remotely controlled,

annular-type blowout preventer or pressure-rotation, pack-off-type head and related equipment shall be installed for circulating the drilling fluid to the drilling structure or vessel.

4.4.2 *Subsea BOP.* When the blowout-preventer system is on the ocean floor, the choke and kill lines or equivalent vent lines, equipped with necessary connections and fittings, can be used for diversion, if approved by the Supervisor, or an annular preventer or pressure-rotation, pack-off-type head, equipped with suitable diversion lines, shall be installed on top of the marine riser. The diverter system shall be equipped with automatic, remotely-controlled valves which open, prior to shutting in the well. Lines venting in different directions to permit downwind diversion shall be provided. A schematic diagram and operational procedure for the diverter system shall be submitted with the Application for Permit to Drill (Form 9-331C) to the District Supervisor for approval.

4.4.3 *Floating Drilling Operations.* In drilling operations where a floating or semi-submersible type of drilling vessel is used and formation competency at the structural casing setting depth is not adequate to permit circulation of drilling fluids to the vessel while drilling conductor hole, a program which provides for safety in these operations shall be described and submitted to the District Supervisor for approval. This program shall include all known pertinent and relevant information, including seismic and geologic data, water depth, drilling-fluid hydrostatic pressure, schematic diagram from rotary table to proposed conductor-casing seat, and contingency plan for moving off location. In all areas where shallow hazards or hydrocarbons are unknown, seismic data shall be obtained, and a small-diameter initial pilot hole from the bottom of drive or structural casing to proposed conductor-casing seat shall be drilled to aid in determining the presence or absence of these hazards. All seismic data relating to shallow hazards shall be made available to the Supervisor, and an analysis of the geologic hazards shall be furnished with the Application for Permit to Drill.

4.5 *Conductor Casing.* Before drilling below this string, at least one remotely-controlled, annular-type blowout preventer, a diverter system as described in subparagraph 4.4 above, and equipment for circulating the drilling fluid to the drilling structure or vessel shall be installed.

4.6 *Surface and/or Intermediate Casing.* Before drilling below this string, the blowout-preventer equipment shall include a minimum of:

a. Four remotely-controlled, hydraulically-operated blowout preventers with a working pressure which exceeds the maximum anticipated surface pressure, including at least two equipped with pipe rams, one with blind rams, and one annular type. (Subsea blowout-preventer stacks used with floating drilling vessels shall be equipped with one set of blind-shear rams.)

b. In addition to the above, when a tapered string is used for drilling intermediate casing hole, the BOP stack shall be additionally equipped with a minimum of one set of pipe rams to fit the smaller size(s) drill pipe.

c. A drilling spool with side outlets, if side outlets are not provided in the blowout-preventer body.

d. A choke line and manifold.

e. A kill line separate from the choke line.

f. A fill-up line.

4.7 *Testing.*

4.7.1 *BOP Controls.* A minimum of one operable remote blowout-preventer control station shall be provided, in addition to the primary blowout-preventer control station on the drilling floor. Accumulators or accumulators and pumps shall maintain a pressure capacity reserve at all times to provide for repeated operation of hydraulic blowout preventers.

4.7.2 *Pressure Tests.* Ram-type blowout preventers and related control equipment shall be tested at the rated working pressure of the BOP stack assembly, or at 70 percent of the minimum internal yield pressure of the casing, whichever is the lesser. Annular-type preventers shall be tested at 70 percent of the applicable above pressure test requirements. All preventers shall first be tested at low pressures of 1,400 to 2,000 kPa (203 to 290 psi).

All preventers shall be tested:

a. When installed.

b. Before drilling out after each string of casing has been set.

c. Not less than once each week alternating between control stations.

d. Following repairs that require disconnecting a pressure seal in the assembly.

4.7.3 *Actuation.* While drill pipe is in use, the following actuation procedures shall be performed, as a minimum, to determine the proper functioning of the blowout preventers and control stations:

a. Pipe Rams—Actuated daily.

b. Blind/Shear Rams—Actuated while drill pipe is out of the hole, once each trip, but not more than once each day.

c. Tapered Drill String Pipe Rams—The smaller size pipe rams shall be actuated on the appropriate drill pipe size once each trip.

d. Annular-Type Preventer—Actuated on the drill pipe, in conjunction with the pressure test, once each week.

e. Control Stations—Actuated while drill pipe is out of the hole, once each trip, but not more than once each day.

4.8 *Inspection and Maintenance.* All blowout-preventer systems and marine risers and associated equipment shall be inspected and maintained in accordance with the manufacturer's recommended procedures. The blowout preventers and marine risers shall be visually inspected during each trip and in no event less than once each day. Inspection of subsea installations may be accomplished by the use of television equipment.

4.9 *Drills.* All drilling personnel shall be indoctrinated in blowout-preventer procedures and be familiar with the blowout-preventer equipment before starting work on the well. A blowout-preventer drill shall be conducted at least weekly for each drilling crew to insure that all equipment is operational and that crews are trained properly to carry out emergency duties. These drills shall be performed during various drilling operations such as drilling, running and pulling the drill string, and when out of the hold. All blowout-preventer tests and crew drills shall be recorded on the driller's log. The operator shall furnish current schedules of drills to the District Supervisor so that a U.S. Geological Survey representative may witness any drill. Such a drill may be required by a U.S. Geological Survey representative at any time during the drilling operation. The drill shall include as a minimum:

a. Sounding of a warning signal sometimes actuated by pit-level indicator or other automatic device.

b. Withdrawing the kelly.

c. Stopping the pump.

d. Observing flow of mud from the well.

e. Actuation of the blowout preventers.

(In order to prevent damage to the rams, complete closure of the rams on drill pipe is not required on float drilling vessels.)

5. *Mud Program.* The characteristics, use, and testing of drilling mud and the conduct of related drilling procedures shall be such as are necessary to prevent the blowout of any well. Quantities of mud materials sufficient to insure well control shall be maintained readily accessible for use at all times.

5.1 *Mud Control.* Before starting out of the hole with drill pipe, the mud shall be properly conditioned. Proper conditioning requires either circulation with the drill pipe just off bottom to the extent that the annular volume is displaced or proper documentation in the driller's log prior to pulling the drill pipe that:

a. There was no indication of influx of formation fluids prior to starting to pull the drill pipe from the hole.

b. The weight of the returning mud is not less than the weight of the mud entering the hole.

c. Other mud properties recorded on the daily drilling log are within the specified ranges at the stage of drilling the hole to perform their required functions.

In those cases when the hole is circulated, the driller's log shall be so noted.

When coming out of the hole with the drill pipe, the annulus shall be filled with mud before the mud level drops 30 meters (98 feet). A mechanical device for measuring the amount of mud required to fill the hole shall be utilized, and any time there is an indication of swabbing or influx of formation fluids the necessary safety devices and action shall be employed to control the well. The mud shall not be circulated and conditioned, except on or near bottom, unless well conditions prevent running the drill pipe back to the bottom. The mud in the hole shall be circulated or reverse-circulated prior to pulling drill-stem test tools from the hole.

The hole shall be filled by accurately measured volumes of mud. The number of stands of drill pipe and drill collars that may be pulled between the times of filling the hole shall be calculated and posted. The number of barrels and pump stroke required to fill the hole for this designated number of stands of drill pipe and drill collars shall be posted. For each casing string, the maximum pressure which may be applied to the blowout preventer before controlling excess pressure by bleeding through the choke shall be posted near the driller. Drill pipe pressure shall be monitored during the bleeding procedure for well control.

A mud gas separator and degasser shall be installed in the mud system prior to the commencement of drilling operations and shall be maintained for use throughout the drilling and completion of the well.

5.2 *Mud Test Equipment.* Mud test equipment shall be maintained on the drilling rig at all times, and mud tests shall be performed once each tour or more frequently as conditions warrant. Such tests shall be conducted in accordance with procedures outlined in API RP 13B, "Recommended Practice for Standard Procedure for Testing Drilling Fluids," Sixth Edition, April 1976, or subsequent revisions as approved by the

Supervisor, and the results recorded and maintained at the drill site. The following mud-system monitoring equipment shall be installed (with derrick floor indicators) and used at the point in the drilling operation when mud returns are established and throughout subsequent drilling operations:

a. Recording mud pit level indicator to determine mud pit volume gains and losses. This indicator shall include a visual and audio warning device.

b. Mud volume measuring device for accurately determining mud volumes required to fill the hole on trips.

c. Mud return indicator to determine that returns essentially equal the pump discharge rate.

d. Gas-detecting equipment to monitor the drilling mud returns.

5.3 *Mud Quantities.* The operator shall include, with his Application for Permit to Drill a tabulation of well depth versus minimum quantities of mud material including weighting material to be maintained at the drill site for emergency use. The minimum quantities of mud material required shall be based on the criteria listed in a and b below taking into account the availability of the mud capacity storage of the drilling vessel. When the mud quantity required exceeds the storage capacity of the vessel, the operator must demonstrate that the mud inventories on hand are sufficient to maintain well control until additional quantities can be delivered to the well site.

a. The quantity of the mud material shall be based on twice the volume of the calculated capacity of the active downhole and surface mud system.

b. The quantity of the weighting material shall be based on the amount required to overcome the highest anticipated formation pressure.

Daily inventories of mud materials, including barite, shall be recorded to provide a basis for comparison with the tabulation of well depth versus minimum quantities of mud material. Drilling operations shall be suspended in the absence of minimum quantities of mud material specified in the table.

6. *Supervision, surveillance, and training.*

6.1 *Supervision.* A representative of the operator shall provide onsite supervision of drilling operations on a 24-basis.

6.2 *Surveillance.* From the time drilling operations are initiated and until the well is completed or abandoned, a member of the drilling crew or the toolpusher shall maintain rig floor surveillance continuously unless the well is secured with blowout preventers or cement plugs.

6.3 *Training.* Company and drilling contractor supervisory personnel including drillers shall be trained in and qualified for present-day well control. Records of such training and qualification shall be maintained at the drill site. Training shall include but is not limited to:

a. Abnormal pressure detection methods.

b. Well-control methods and procedures.

Such training shall be given in addition to the required weekly blowout-prevention drills. Written verification of compliance with these provisions shall be filed with the Supervisor. Such training shall be in accordance with the U.S. Geological Survey Outer Continental Shelf Standard No. T1 (GSS-OCS-T1), first edition, December 1977, entitled "Training and Qualification of Personnel in Well Control Equipment and Techniques for Drilling on Offshore Locations," and subsequent revisions thereto. Compliance shall be considered a prerequisite to approval of any drilling operation.

7. *Hydrogen sulfide.* When drilling operations are undertaken to penetrate reservoirs known or expected to contain hydrogen sulfide (H<sub>2</sub>S), or, if unknown, upon encountering H<sub>2</sub>S, the preventive measures and operating practices set forth in the U.S. Geological Survey Outer Continental Shelf Standard No. 1, "Safety Requirements for Drilling Operations in a Hydrogen Sulfide Environment (GSS-OCS-1)," February 1976, or subsequent revisions thereto, shall be followed.

8. *Critical operations and curtailment plans.* Certain operations performed in drilling are more critical than others with respect to well control, fire, explosion, oil spills, and other discharges or emissions. These operations may occur during drilling, running casing, logging, drill-stem testing, well completion, or wireline operations.

Each operator shall file with the Supervisor for approval of a critical operations and curtailment plan, for the lease, which shall contain:

a. A list or description of the critical drilling operations that are likely to be conducted on the lease. Such list or description shall specify the operations to be ceased, limited, or not to be commenced under given circumstances or conditions. The list shall include operations such as:

(1) Drilling in close proximity to another producing well.

(2) Drill-stem testing.

(3) Running and cementing casing.

(4) Cutting and recovering casing.

(5) Logging or wireline operations.

(6) Well-completion operations.

(7) Moving the drilling vessel off location in an emergency, repositioning the vessel on location, and reestablishing entry into the well.

b. A list or description of circumstances or conditions under which such critical operations shall be curtailed. This list or description shall be developed from all the factors and conditions relating to the conduct of operations on the lease and shall consider, but not necessarily be limited to, the following:

(1) Whether the drilling operations are to be conducted from mobile drilling units or fixed platforms.

(2) The availability and capability of containment and cleanup equipment.

(3) Abnormal or unusual characteristics expected to be encountered during drilling operations.

(4) Spill-control system response time.

(5) Known or anticipated meteorological or oceanographical conditions.

(6) Availability of personnel and equipment for the particular operation to be conducted.

(7) Other factors peculiar to the particular lease under consideration.

c. When any such circumstance or condition listed or described in the plan occurs or other operational limits are encountered, the operator shall notify the Supervisor and shall curtail the critical operations as set forth under 8(a) above.

d. Any deviations in the plan shall require prior approval by the Supervisor except in case of an emergency in which event the Supervisor shall be notified as soon as possible.

e. The operator shall review the plan at least annually. Notification of the review and any amendments or modifications to the plan shall be filed with the Supervisor.

NORTH ATLANTIC OCS ORDER NO. 5

PARAGRAPH 1. *Installation.* Several commenters suggested that surface-



controlled subsurface-safety devices be required only on wells with shut-in tubing pressures of less than 4,000 psig. Their rationales were based, in part, on the limited availability of high-pressure, surface-controlled subsurface valves, or equipment limitations. It is believed that the added safety factor of surface-controlled subsurface-safety devices warrant the requirement for their use. The comments pertaining to pressure criteria and the limited availability of surface-controlled subsurface-safety devices do not justify the use of subsurface-controlled valves. The reliability and ease of maintenance of surface-controlled subsurface-safety devices is the overriding consideration.

A commenter suggested that down-hole check valves be allowed in injection wells and that water injection wells be controlled by surface-safety devices. It is felt that antipollution and safety requirements would not be honored if surface-controlled subsurface-safety valves were not installed in injection wells. Injection wells, regardless of their history of activity, often contain residual volumes of oil and/or entrained gas. These residual volumes collect in the well bore when injection is terminated, and the injection well is then capable of flowing oil or gas. High salinity water is also a pollutant.

PAR. 2. *Design testing and inspection.* The testing frequency for surface-controlled subsurface-safety valves (SCSSV's) was questioned by one commenter who believed that testing should be maintained on a monthly basis. The testing frequency outlined in the Order serves two purposes. By frequently testing the SCSSV when first installed, it is determined if the valve is properly installed and functioning as predicted. By decreasing the testing frequency, after 6 months, to quarterly rather than monthly testing, excessive wear on the SCSSV is avoided.

PAR. 4. *Additional protective equipment.* Several commenters pointed out that this paragraph used the term "measured top of cement" although there had been no requirement to make such a measurement. The words "or calculated" were added to the sentence.

DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA AND NORTH ATLANTIC

OCS Order No. 5, Effective January 1, 1978  
Subsurface-Safety Devices

This order is established pursuant to the authority prescribed in 30 CFR 250.11, 30 CFR 250.12(a), 30 CFR 250.45, 30 CFR 250.46, and in accordance with 30 CFR 250.41(b). The operator shall be responsible for compliance with the requirements of this Order in the installation and operation of all platforms and structures and all facilities

installed thereon including those facilities not operated or owned by the operator. All applications for approval under the provisions of this Order shall be submitted to the appropriate District Supervisor. All departures from the requirements specified in this order shall be subject to approval to 30 CFR 250.12(b).

1. *Technological improvement.* As technological research, progress, and product improvement result in increased effectiveness of existing safety devices or the development of new devices or systems, such devices or systems may be required or used upon application, justification, and approval. Applications for routine use shall include evidence that the device or system has been field-tested at least once each month, for a minimum of 6 consecutive months, and that each test indicated proper operation.

2. *Subsurface-safety devices.*  
2.1 *Installation.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a subsurface-safety device unless, after application and justification, the well is determined to be incapable of flowing. The device is to be installed at a depth of 30 meters (98 feet) or more below the ocean floor. These installations shall be made within 2 days after stabilized production is established. The well shall not be left unattended while open to production until a subsurface-safety device is installed.

2.2 *Design, testing, and inspection.* Subsurface-safety devices shall be designed, adjusted, installed, and maintained to insure reliable operation. During testing and inspection procedures, the well shall not be left unattended while open to production unless a properly operating subsurface-safety device has been installed in the well.

2.3 *Surface-controlled subsurface-safety devices.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones shall be equipped with a surface-controlled subsurface-safety device, except as specified in subparagraph 2.4 below. The surface controls may be located onsite or remotely.

2.3.1 *Quality assurance and performance.* Subsurface-safety devices installed after July 1, 1979, shall conform to the following standards, or subsequent revisions thereto, as approved by the Supervisor:

a. American Petroleum Institute, "Specification for Subsurface Safety Valves," API Spec 14A, second edition, November 1977, as amended by Supplement 1, January 1978.

b. American National Standards Institute/American Society of Mechanical Engineers Standard, "Quality Assurance and Certification of Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME OCS-1-1977.

c. American National Standards Institute/American Society of Mechanical Engineers Standard, "Accreditation of Testing Laboratories for Safety and Pollution Prevention Equipment Used in Offshore Oil and Gas Operations," ANSI/ASME OCS-2-1977.

2.3.2 *Installation and testing.* The operator shall comply with the minimum recommended practices set forth in API recommended practice, RP14B, first edition, October 1973, "Design, Installation, and Operation of Subsurface-Safety Valve Systems," or revisions thereto as approved by the Supervisor which contain procedures for design calculations, safe installation, and operating and testing. Each surface-controlled or other remotely-controlled subsurface-safety device installed in a well shall be

tested in place for proper operation when installed, or reinstalled, at least monthly for the next 6 months and quarterly thereafter. If the device does not operate properly, it shall be promptly removed, repaired, and reinstalled or replaced and tested to insure proper operation.

2.4 *Shut-in wells.* A tubing plug shall be installed in lieu of, or in addition to, other subsurface-safety devices if a well has been shut in for a period of 6 months. Such plugs shall be set at a depth of 30 meters (98 feet) or more below the ocean floor. All retrievable plugs installed after the date of this Order shall be of the pump-through type. All wells perforated and completed, but not placed on production, shall be equipped with a subsurface-safety device or tubing plug within 2 days after completion. A surface-controlled subsurface-safety device of the pump-through type may be used as a pump-through tubing plug for the purpose of this subparagraph, provided the surface control has been rendered inoperative.

2.5 *Injection Wells.* Surface-controlled subsurface-safety devices shall be installed in all injection wells unless, after application and justification, it is determined that the well is incapable of flowing.

2.6 *Tubing Plugs.* A shut-in well equipped with a tubing plug shall be inspected for leakage by opening the well to possible flow at intervals not exceeding 6 months. No sustained liquid flow or gas leakage is allowed. In the event leakage is detected, the plug shall be removed, repaired, and reinstalled, or an additional tubing plug may be installed in lieu of removal and repair.

2.7 *Temporary Removal for Routine Operations.* Each wireline- or pumpdown-retrievable subsurface-safety device may be removed, without further authorization or notice, for a routine operation which does not require the approval of a Sundry Notice and Report on Wells (Form 9-331) for a period not to exceed 15 days. The well shall be clearly identified as being without a subsurface-safety device and shall not be left unattended while open to production unless approved by the District Supervisor. The provisions of this subparagraph are not applicable to the testing and inspection procedures specified in subparagraph 2.2 above.

2.8 *Additional Protective Equipment.* All tubing installations in which a wireline- or pumpdown-retrievable subsurface-safety device is to be installed shall be equipped with a landing nipple, flow couplings, or other protective equipment, above and below, to provide for setting of the subsurface-safety device. All wells in which a subsurface-safety device or tubing plug is installed shall have the tubing-casing annulus packed off above the uppermost open casing perforations and at least 30 meters (98 feet) below the measured or calculated top of cement of the production string or the intermediate string. The control system for all surface-controlled subsurface-safety devices shall be an integral part of the platform shut-in system.

2.9 *Departures.* All applications for departures shall include a detailed statement of the well conditions, efforts made to overcome any difficulties, and proposed alternate safety measures.

2.10 *Emergency Action.* All tubing installations open to and capable of producing from hydrocarbon-bearing zones and not equipped with a subsurface-safety device as permitted by subparagraph 2.7 of this Order shall be clearly identified as not being so equipped, and a subsurface-safety device or

tubing plug shall be available at the field location. In the event of an emergency, such as an impending storm, such device or plug shall be promptly installed with due consideration being given to personnel safety.

2.11 *Records.* The operator shall maintain the following records for a minimum period of 1 year for each subsurface-safety device and tubing plug installed, and these records shall be available to any authorized representative of the Geological Survey.

2.11.1 *Field Records.* Individual well records shall be maintained at or near the field and shall include, as a minimum, the following information:

a. A record which will give design and other information: i.e. make, model type, spacers, beam and spring size, pressure, etc.  
b. Verification of assembly by a qualified person in charge of installing the device, and the installation date.

c. Verification of setting depth and all operational tests as required in this Order.

d. Removal date, reason for removal, and reinstallation date.

e. A record of all modifications of design in the field.

f. All mechanical failures or malfunctions, including sand cutting of such devices, with notation as to cause or probable cause.

g. Verification that failure report was submitted.

2.11.2 *Other Records.* The following records, as a minimum, shall be maintained at the operator's office:

a. Verified design information of subsurface-safety devices for the individual well.

b. Verification of assembly and installation according to design information.

c. All failure reports.

d. All laboratory analysis reports of failed or damaged parts.

e. Quarterly failure-analysis report.  
2.12 *Reports.* Well completion reports (Form 9-330) and any subsequent reports of workover (Form 9-331) shall include the type and the depth of the subsurface-safety devices and tubing plugs installed.

To establish a failure-reporting and corrective-action program as a basis for reliability and quality control, each operator shall submit a quarterly failure-analysis report to the Supervisor identifying mechanical failures by lease and well, make and model, cause or probable cause of failure, and action taken to correct the failure. The report shall be submitted within 30 days following the periods ending December 31, March 31, June 30, and September 30 of each year.

#### NORTH ATLANTIC OCS ORDER NO. 7

Paragraph 1. *Pollution Prevention.* One commenter suggested that the regulatory authority for pollution prevention and waste disposal be included in the Order. A Memorandum of Understanding is currently being proposed by the Environmental Protection Agency (EPA) and the Department of the Interior. The Order will be revised in the future to allow for this.

Several commenters wanted commercial fishing mentioned as one of the other users of the OSC which should not be affected by waste disposal. This addition was made to the Order.

A statement that no liquids may be disposed of in the ocean unless dispos-

al is consistent with EPA guidelines was requested by one commenter. Present requirements state that all discharges from fixed structures must conform to EPA guidelines. Mobile drilling units must obey USGS regulations which prohibit disposal of waste materials into the oceans creating conditions which will adversely affect the public health, life or property, aquatic life or wildlife, etc.

Shunting of drilling muds to a point near the ocean floor during disposal was requested. Shunting will be covered by a lease stipulation to North Atlantic Lease Sale No. 42.

Several commenters wanted the Order to specifically prohibit the dumping of equipment and to require that all material that could become a potential hazard to commercial fishing be indelibly marked with the name of the lessee. Subparagraph 1.2.3, "Equipment," was added to the Order. Marking will be addressed in a lease stipulation to North Atlantic lease Sale No. 42.

One commenter noted the apparent disappearance of the third subparagraph from paragraph 1.B.(3). This section spoke of sewage and was more properly placed under liquid disposal.

Another commenter suggested that the disposal of gas into the ocean by means of "bubbling off" should be prohibited so that toxic substances would not be released. Natural gas may only be discharged under special circumstances as approved by the Supervisor. Such gas is normally flared, although it may be discharged through subsurface lines for safety reasons.

One commenter questioned the reference to incineration of solid-waste material made in the Order. All references to incineration were deleted from the final North Atlantic OCS Orders. However, at locations where air standards are not adversely affected, this is one method by which operators may dispose of solid-waste materials.

At least biweekly pollution-control inspections by USGS personnel for each offshore facility were recommended by one commenter. This comment addresses internal USGS policy and is a subject which should not be included in the Orders.

Paragraph 2. *Personnel, Inspection and Reports.* A recommendation was made that a training program be established for oil-industry personnel on the avoidance of conflicts with the commercial fishing industry. Although the USGS will attempt to minimize conflicts between the two industries, the North Atlantic OCS Orders are not considered a proper vehicle for this effort.

A commenter suggested that the Order should specifically state the purpose of the facility pollution in-

spection such as the detection of minor leaks, oil spills, etc. The paragraph was broadly reworded to state that facilities will be inspected to determine if pollution is occurring. This is considered preferable to attempting to list each potential source of pollution.

Many commenters expressed concern over the schedule and size of oil spills that were to be reported. One also commented on the discontinuation of Form 9-1880 entitled "Pollution Report" and asked what new form would be used. The Order was revised to reflect the concern expressed by commenters on prompt and detailed notification of oil spills. The "Pollution Report" form was abolished due to the government-form reduction program. Spills must still be reported, both orally and in writing, and the reports will be available for public inspection.

Paragraph 3. *Pollution-Control Equipment and Oil-Spill Contingency Plan.* A commenter suggested that this paragraph set performance standards for oil-cleanup equipment and require offshore storage of sufficient equipment to clean up minor spills. By reviewing the operator's oil-spill contingency plan, the Supervisor evaluates the adequacy of the pollution equipment. Offshore storage of equipment would be more properly and more precisely addressed in an OCS Notice to Lessees and Operators.

The use of sinking agents for oil-spill control was objected to by one commenter. The Order was amended to refer to the National Oil and Hazardous Substances Pollution Contingency Plan. No chemical dispersants will be permitted for pollution-control purposes without EPA approval. Chemical dispersants may be necessary to prevent fire hazards.

One commenter suggested that adjacent states and interested federal agencies be allowed to comment on the Oil Spill Contingency Plan before the Supervisor gives his approval of the plans. Also, disposal of oil waste should be covered in the plan. North Atlantic OCS Order No. 12 lists the Oil Spill Contingency Plan as an item available for public inspection. A provision was added to North Atlantic OCS Order No. 7 to ensure that disposal of spill material is covered in the contingency plan.

DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION

EASTERN REGION, ATLANTIC AREA, AND NORTH ATLANTIC

OCS Order No. 7, Effective January 1, 1978  
Pollution Control and Waste Disposal

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.43. The operator shall comply with the following re-



requirements. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. **Pollution Prevention.** In the conduct of all oil and gas operations, the operator shall prevent pollution of the ocean. Furthermore, the disposal of waste materials into the ocean shall not create conditions which will adversely affect the public health, life or property, aquatic life or wildlife, recreation, navigation, commercial fishing or other uses of the ocean.

1.1 **Liquid Disposal.**

1.1.1 **Oil-Cut Drilling Mud.** Drilling mud containing free oil shall not be disposed of into the ocean.

1.1.2 **Drilling-Mud Components.** The operator shall submit as a part of the Application for Permit to Drill (Form 9-331C) a detailed list of drilling-mud components including the common chemical or chemical trade name of each component, a list of the drilling mud additives anticipated for use in meeting special drilling requirements, and the proposed method of drilling-mud disposal. Disposal of drilling mud shall be by methods which will minimize the adverse effects to marine life. Approval of drilling-mud disposal into the ocean must be obtained from the District Supervisor; each request will be site specific and decided on a case-by-case basis.

1.1.3 **Hydrocarbon-Handling Equipment.** All production facilities such as separators, tanks, treaters, and other hydrocarbon-handling equipment shall be designed and operated in a manner necessary to prevent pollution. Maintenance or repairs as are necessary to prevent pollution of the ocean shall be undertaken immediately.

1.1.4 **Curbs, Gutters, and Drains.** Curbs, gutters, and drains shall be installed in all deck areas in a manner necessary to collect all contaminants in a closed sump or in a sump pile, unless drip pans or equivalent are placed under equipment and piped to a closed sump or sump pile which will automatically maintain the oil at a level sufficient to prevent discharge into the ocean. All walking and working surfaces shall be kept free of all liquid accumulations. Sump piles shall not be used as a processing device to treat or skim liquids but shall be used to collect treated produced water, treated sand, liquids from drip pans and deck drains, and as a final trap for hydrocarbon liquids in the event of equipment upsets.

1.1.5 **Fixed-Structure Discharges.** Discharges from fixed structures including sanitary waste, produced water, and deck drainage are subject to the Environmental Protection Agency's permitting procedures pursuant to the Federal Water Pollution Control Act as amended.

1.1.6 **Mobile Drilling-Unit Discharges.** Discharges from mobile drilling units including produced water and deck drainage shall contain no free oil and shall not cause a sheen to form on the surface of the ocean. Marine sanitation devices for mobile drilling units shall meet Coast Guard Type I specifications.

1.2 **Solid Material Disposal.**

1.2.1 **Well Solids.** Drill cuttings, sand, and other well solids containing oil shall not be disposed of into the ocean unless all of the free oil has been removed.

1.2.2 **Containers.** Containers and other similar solid-waste materials shall not be disposed of into the ocean.

1.2.3 **Equipment.** Disposal of equipment into the ocean is prohibited except under

emergency conditions. The location and description of any equipment so discharged shall be reported to the District Supervisor.

2. **Personnel, Inspections, and Reports.**

2.1 **Personnel.** The operator's personnel shall be thoroughly instructed in the techniques of equipment maintenance and operation for the prevention of pollution. Non-operator personnel providing services offshore shall be informed in writing, prior to executing contracts, of the operator's obligations to prevent pollution and of the provisions of this Order.

2.2 **Pollution Inspections.**

2.2.1 **Manned Facilities.** Manned drilling and production facilities shall be inspected daily to determine if pollution is occurring. Such maintenance or repairs as are necessary to prevent pollution of ocean waters shall be immediately undertaken and performed.

2.2.2 **Unattended Facilities.** Unattended facilities, including those equipped with remote control and monitoring systems, shall be inspected daily or at intervals prescribed by the District Supervisor and necessary maintenance or repairs immediately made thereto.

2.3 **Pollution Reports.** All spills of oil and liquid pollutants shall be reported orally to the District Supervisor and confirmed in writing. The reports shall include the cause, location, ocean state, meteorological conditions, size and appearance of slick, volume of spill, and action taken.

2.3.1 **Spills.** Spills shall be reported orally as follows:

- Less than 1.0 cubic meters (6.3 barrels) within 12 hours.
- 1.0 to 5.0 cubic meters (6.3 to 31.5 barrels) within 4 hours.
- More than 5.0 cubic meters (31.5 barrels) without delay.

2.3.2 **Observed Malfunctions.** Operators shall notify each other upon observation of equipment malfunction or pollution resulting from another's operation.

3. **Pollution-Control Equipment and Oil-Spill Contingency Plan.**

3.1 **Equipment.** Standby pollution-control equipment and materials shall be maintained by, or shall be available to, each operator at an offshore location or at such location as required by the Supervisor. This shall include containment booms, skimming apparatus, cleanup materials, and chemical agents which shall be available prior to the commencement of operations. The use of chemicals shall be permitted only after approval by the Supervisor in accordance with Annex X, National Oil and Hazardous Substances Pollution Contingency Plan. The equipment and materials shall be inspected monthly and maintained in good condition for use. The results of the inspections shall be recorded and maintained at the site.

3.2 **Oil-Spill Contingency Plan.** The operator shall submit an oil-spill contingency plan for approval by the Supervisor prior to approval of an application for a permit to conduct operations. This plan shall contain the following:

a. Provisions to assure that full resource capability is known and can be committed during an oil-discharge situation including the identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, both committed and uncommitted, and the time required for deployment.

b. Provisions for varying degrees of response effort depending on the severity of the oil discharge.

c. Provisions for protecting areas of special biological sensitivity.

d. Establishment of procedures for the purpose of early detection and timely notification of an oil discharge including a current list of names, telephone numbers, and addresses of the responsible persons and alternates on call to receive notification of an oil discharge, as well as the names, telephone numbers, and addresses of regulatory organizations and agencies to be notified when an oil discharge is discovered.

e. Provisions for well-defined and specific actions to be taken after discovery and notification of an oil discharge including:

- (1) Specification of an oil-discharge response operating team consisting of trained, prepared, and available operating personnel.
- (2) Predesignation of an oil discharge response coordinator who is charged with the responsibility and delegated commensurate authority for directing and coordinating response operations.
- (3) A preplanned location for an oil discharge response operations center and a reliable communications system for directing the coordinated overall response operations.
- (4) Provisions for disposal of recovered spill material.

4. **Drills and Training.** Drills and training classes for familiarization with pollution-control equipment and operational procedures shall be held by the operator at locations approved by the Supervisor. The drills shall be realistic and shall include deployment of the equipment. A drill schedule acceptable to the Supervisor shall be set by the operator and a copy shall be sent to the District Supervisor in sufficient time for U.S. Geological Survey personnel to witness any of the drills or training classes. All equipment need not be deployed at each drill. Records of the drills shall be kept and made available to U.S. Geological Survey personnel. Where drill performance and results are deemed inadequate by the District Supervisor, the operator shall increase the frequency of the drills until satisfactory results are achieved.

5. **Spill Control and Removal.** Immediate corrective action shall be taken in all cases where pollution has occurred. Corrective action taken under the operator's Oil-Spill Contingency Plan shall be subject to modification when directed by the Area Supervisor. The primary jurisdiction to require corrective action to abate the source of pollution and to enforce the subsequent cleanup by the lessee or operator shall remain with the Supervisor pursuant to the provisions of this Order and the Memorandum of Understanding between the Department of Transportation (U.S. Coast Guard) and the Department of the Interior (U.S. Geological Survey) dated August 16, 1971.

6. **Contingency Plan Review.** Contingency plans shall be reviewed annually. All modifications and the results of the review shall be submitted to the Supervisor for approval.

NORTH ATLANTIC OCS ORDER NO. 12

Paragraph 1. **Availability of Records.**

One commenter interpreted this paragraph to read that the location of a well is proprietary information. The geographic location of a well is public information. The Order says that the subsurface location of the top production interval is considered proprietary information and is not divulged until the commencement of production. A commenter questioned the practice of

releasing some information immediately and some following the commencement of production. Through rules such as this, the U.S. Geological Survey attempts to promote a diligent search for hydrocarbons by all leaseholders. Several commenters requested that the 5-year time period for keeping proprietary certain items of information on Form 9-330, "Well Completion Report and Log," be suspended during periods when the courts or the Secretary suspends operations. This suggestion was adopted since recent events have shown a need for this provision on the Atlantic OCS.

Paragraph 3. **Availability of Inspection Records.** A commenter suggested that this paragraph list the numerous reports available to the public which are filed by the lessees. This paragraph now contains a noncomprehensive list of items available for inspection. The Department of the Interior will make records available to the public, to the greatest extent possible, in keeping with the spirit of the Freedom of Information Act.

DEPARTMENT OF THE INTERIOR GEOLOGICAL SURVEY, CONSERVATION DIVISION  
EASTERN REGION, ATLANTIC AREAS AND NORTH ATLANTIC

OCS Order No. 12, Effective January 1, 1978

Public Inspection of Records

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.97 and 43 CFR Part 2. Requests for information made under the Freedom of Information Act, 5 U.S.C. 552, will be governed by the provisions of 43 CFR Part 2 (40 FR 7304, February 19, 1975). All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. **Filing of Reports.** All reports on Forms 9-152, 9-330, 9-331, 9-331C, 9-1869, 9-1870 and the forms used to report the results of multi-point back-pressure tests shall be filed by the operator in accordance with the following:

a. All reports submitted on these forms shall include a copy with the words "Public Information" shown on the lower right-hand corner. This copy of the form shall be made available for public inspection.

b. All items on the form not marked "Public Information" shall be completed in full, and such forms and all attachments thereto shall not be available for public inspection.

c. The copy marked "Public Information" shall be completed in full except that the items described in subparagraphs 2.1 through 2.4 below and the attachments relating to such items may be excluded.

2. **Availability of Records.** It has been determined that certain records pertaining to leases and wells in the Outer Continental Shelf and submitted under 30 CFR Part 250 shall be made available for public inspection, as specified below, in the Area office. Certain other portions of these records have been determined to be exempt from disclosure. The reason for these exemptions is discussed in paragraph 3 of this Order.

2.1 **Form 9-152—Monthly Report of Operations.** All information contained on this

form shall be available except the information required in the Remarks column.

2.2 **Form 9-330—Well-Completion or Re-completion Report and Log.**

2.2.1 **Prior to Commencement.** Prior to commencement of production, all information contained on this form shall be available except:

- Item 1a, Type of Well.
- Item 4, Location of Well, at top production interval and at total depth.
- Item 22, If Multiple Completion, How many?
- Item 24, Producing Interval.
- Item 26, Type Electric and Other Logs Run.
- Item 28, Casing Record.
- Item 29, Liner Record.
- Item 30, Tubing Record.
- Item 31, Perforation Record.
- Item 32, Acid, Shot, Fracture, Cement Squeeze, etc.
- Item 33, Production.
- Item 37, Summary of Porous Zones.
- Item 38, Geological Markers.

2.2.2 **After Commencement of Production.** After commencement of production, all information shall be available except Item 37, Summary of Porous Zones, and Item 38, Geological Markers.

2.2.3 **5 Years Elapsed Time.** If production has not commenced after an elapsed time of 5 years from the date of filing Form 9-330 as required in 30 CFR 250.38(b), excluding the total of such time that operations and production are suspended by direction of the Secretary of the Interior or his duly authorized representative, and further excluding the total of such time that operations and production are stopped or prohibited by Court order, all information contained on this form shall be available except Item 37, Summary of Porous Zones, and Item 38, Geological Markers. Within 90 days prior to the end of the 5-year period, exclusive of exceptions noted above, the lessee or operator shall file a Form 9-330 containing all information requested on the form, except Item 37, Summary of Porous Zones, and Item 38, Geological Markers, to be made available for public inspection. Objections to the release of such information may be submitted with the completed Form 9-330.

2.3 **Form 9-331—Sundry Notices and Report on Wells.**

2.3.1 **"Request for Approval to."** When used as a "Request for Approval to:" conduct operations, all information contained on this form shall be available except Item 4, Location of Well, at top production interval and at total depth, and Item 17, Describe Proposed or Completed Operations.

2.3.2 **"Subsequent Report of."** When used as a "Subsequent Report of:" operations, and after commencement of production, all information contained on this form shall be available, except information under Item 17 as to subsurface locations and measured and true vertical depths for all markers and zones not placed on production.

2.4 **Form 9-331C—Application for Permit to Drill, Deepen, or Plug Back.** All information contained on this form and the attached location plat shall be available except Item 4, Location of Well at Proposed Production Zone, and Item 23, Proposed Casing and Cementing Program.

2.5 **Form 9-1869—Quarterly Oil-Well-Test Report.** All information contained on this form shall be available.

2.6 **Form 9-1870—Semi-Annual Gas-Well-Test Report.** All information contained on this form shall be available.

2.7 **Multi-point Back-Pressure-Test Report.** All information contained on this form used to report the results of required multi-point back-pressure-test of gas wells shall be available.

2.8 **Sales of Lease Production.** Information contained on monthly U.S. Geological Survey computer printout showing sales volumes, value, and royalty of production of oil, condensate, gas and liquid products by lease shall be made available.

2.9 **Availability of Inspection Records.** All accident-investigation reports, pollution incident reports, facilities-inspection data, and records of enforcement actions are also available for public inspection.

2.10 **Availability of Data and Information Submitted by Lessees as a Requirement of OCS Orders and Notices.** It has been determined that much information submitted by lessees as a result of OCS Orders and OCS Notices to Lessees and Operators is non-proprietary in nature and will be made available for public inspection.

This will include:

a. Notices of support activity.

b. Oceanographic, meteorological, and performance data collected from drilling and production facilities during the period of operations.

c. Results of site surveys required prior to drilling or placement of structures except for those portions which the lessee shall designate, with the Supervisor's approval, as trade secrets and commercial or financial information which are privileged or confidential.

d. Drawings, maximum environmental design criteria, and performance data of mobile-drilling units and structures.

e. Oil spill contingency plans.

f. Critical operations and curtailment plans.

3. **Information Exempt from Public Inspection.** The requirements of this paragraph are applicable to leases issued after June 11, 1976. It has been determined that certain information as discussed in paragraph 1 and subparagraphs 2.1 through 2.4 of this Order is exempt from disclosure under exemption No. 9 of the Freedom of Information Act (5 U.S.C. 552(b)(9) and 43 CFR 2.13 subparagraph (c) "Statutory Exemptions" (9)). This information has been determined to qualify as "Geographical and geophysical information and data including maps concerning wells." In accordance with 30 CFR 250.97, "Public Inspection of Records," subparagraph (a), geophysical data shall not be available for public inspection without the consent of the lessee so long as the lease remains in effect or for a period of 10 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area. Subparagraph (b) requires that geological data shall not be made available for public inspection without the consent of the lessee as long as the lease remains in effect or for a period of 2 years after the date of submission, whichever is less, unless the Supervisor, with the approval of the Director, determines that earlier release of such information is necessary for the proper development of the field or area.

[FR Doc. 78-1359 Filed 1-17-78; 8:45 am]



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WEDNESDAY, JANUARY 18, 1978  
PART III



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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant  
Secretary for  
Community Planning  
and Development

■  
**COMMUNITY  
DEVELOPMENT  
BLOCK GRANTS**

Loan Guarantees



## [4210-01]

Title 24—Housing and Urban Development

## CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-498]

## PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

## Loan Guarantees

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

**SUMMARY:** The Secretary is revising regulations that govern loan guarantees under Section 108 of the Housing and Community Development Act of 1974, as amended in 1977 ("Section 108"). The revision affects present loan guarantee regulations regarding: (1) The eligibility of applicants and activities; (2) application requirements; and (3) loan requirements. The revision also incorporates various provisions of other regulations pertaining to the community development block grant program under Title I of the Housing and Community Development Act of 1974, as amended (the "Act").

**DATES:** Effective January 18, 1978. Comments are due on or before March 1, 1978.

**ADDRESS:** All comments should be sent to: Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

## FOR FURTHER INFORMATION CONTACT:

Paul D. Webster, Financial Analyst, Office of Community Development Programs, HUD/Community Planning and Development, Room 7178, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6326.

**SUPPLEMENTARY INFORMATION:** On June 9, 1975, the Secretary published in the FEDERAL REGISTER (40 FR 24692) consolidated rules governing the community development block grant program under Title I of the Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633. This Subpart M (formerly designated as Subpart H) of Part 570 sets forth revised provisions regarding loan guarantees for eligible acquisitions of real property, eligible rehabilitation of publicly owned real property and payment of certain related expenses. For each eligible applicant, section 108 authorizes a loan guarantee of up to three times the amount of the Community Development Block Grant approval for the applicant pursuant to

section 106 of the Act—an important factor in the formulation of Community Development Programs, plans, and applications under the Act. Therefore, this revision is being promulgated as an interim rule effective upon publication in order that eligible applicants can be notified of the revision and can consider it in preparing their 1978 applications pertaining to the community development block grant program. Since applicants are now preparing those applications and will be required to follow the same developmental and review process as is required for the community development block grant program, promulgation of this revision as an interim rule at this time will have the added benefit of saving most eligible applicants from the burden of preparing amendatory applications and meeting the various requirements for local approvals of such applications. Such promulgation will also avoid the additional work for HUD field offices of processing such amendatory applications and the corresponding delays in carrying out the objectives of the program resulting from the necessity of such processing. It is therefore essential that this revision be promulgated as quickly as possible in order to permit it to become an integral part of the applicants' overall planning. It is therefore impracticable to provide for comment and public participation before the effective date of this rule. However, interested persons are invited to submit views and comments with respect to this rule on or before March 1, 1978, and all comments received by that date will be considered in the development of the final rule. All comments should be addressed to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410, and copies of comments received will be available for public inspection and copying at the above address. There follows a discussion of the revisions set forth in Subpart M.

## ELIGIBLE APPLICANTS

Section 570.700 specifies that loan guarantees under section 108 of the Act will be extended only to applicants (metropolitan cities and urban counties) eligible for entitlement grants under the Act, or public agencies designated by such applicants. This limitation is deemed necessary because the primary security for such guarantees will be pledges of current and future entitlement grants by applicants.

A unit of general local government may apply for a loan guarantee of notes issued by a designated local public agency provided that the local government pledges current and future entitlement block grants as the primary security for repayment of the loan.

## ELIGIBLE ACTIVITIES

Section 570.701 sets forth three purposes for which loan guarantee assistance may be used: (1) Acquisition of real property where such acquisition is otherwise eligible for block grant assistance; (2) rehabilitation of publicly owned or acquired real property where such rehabilitation is otherwise eligible for block grant assistance; and (3) payment of related expenses of interest, demolition, relocation, and site improvements.

It should be noted that there is no longer a requirement that the real property which is to be acquired serve in carrying out eligible block grant activities identified in the grant application. Removal of the requirement for such complementary acquisition is authorized by the 1977 amendments of the Act.

## APPLICATION REQUIREMENTS

HUD will require that an application for loan guarantee assistance be made as part of an application for grant assistance or as a Community Development Program amendment. This is necessary to ensure that block grant funds applied to loan repayment are used, and approved for use, in a manner consonant with the statutory and administrative requirements that would apply if the block grant funds were used directly. Further, pledging of entitlement grants as security, which is required as a condition to receiving loan guarantee assistance, is subject to the grant application process since such pledges represent a contingent claim on future grants. Accordingly, the application requirements of Subpart D must be complied with except to the extent they are augmented or modified by section 570.702. These modifications are as follows.

Section 570.702(a) enumerates three additional submission requirements. An applicant shall be required to submit, in addition to the documentation required to be submitted with a grant application, the following items: (1) A schedule for repayment of the loan which identifies the sources of repayment; (2) a proposed instrument effecting a pledge of grants, accompanied by an opinion of counsel for the applicant as to the applicant's legal authority to make such pledge; and (3) when real property is to be acquired, certification that the applicant or a local public agency does not own property suitable for the purpose for which the loan guarantee is being requested.

Section 570.702(b) requires that activities to be undertaken with loan guarantee assistance shall be so identified in the applicant's Community Development Program.

Section 570.702(c) specifies that the Secretary will make no economic feasibility determination with respect to

the project financed with loan guarantee assistance. The section emphasizes that in determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee is not to be construed as indicating that HUD has agreed to the feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

Section 570.702(d) describes the HUD review and approval process. The application shall first be reviewed by the HUD Area Office for compliance with the application requirements contained in Subpart D and this subpart. The Area Office shall then forward the application to HUD Headquarters with its recommendation for approval or disapproval of the requested loan guarantee. The loan guarantee request will be approved unless: (1) One or more of the criteria for disapproval described in § 570.306(b)(2) are met; (2) it is determined that the schedule for repayment cannot be met or adequate security has not been furnished pursuant to § 570.703(b); or (3) the guarantee exceeds the maximum amount permitted pursuant to § 570.703(a). The applicant will be notified in writing that the loan guarantee request has either been approved or disapproved. In the event of disapproval, the applicant shall be informed of the reasons for such action. If the request is approved, the Secretary will issue an offer of commitment to guarantee the obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe.

Section 570.702(e) specifies that the applicant shall comply with the environmental review and clearance requirements of 24 CFR Part 58. There is also a requirement that the environmental assessment of a multiyear project must encompass the entire multiyear scope of activities.

## MAXIMUM LOAN AMOUNT

Section 570.703(a) specifies that the applicant's total outstanding notes or obligations guaranteed under this subpart (including principal and interest thereon) cannot exceed three times the amount of the entitlement grant approved for the applicant pursuant to § 570.102. However, this maximum is to be reduced by the amount of any grant funds required by HUD to be applied to loan repayment pursuant to § 570.802.

## SECURITY REQUIREMENTS

Section 570.703(b) lists three conditions for receiving loan guarantee assistance: (1) Entering into a contract for repayment of notes or other obligations guaranteed pursuant to this

subpart; (2) pledging any grant approved or for which the applicant may become eligible under this Part; and (3) furnishing such other security as may be deemed appropriate by the Secretary, including tax increments or disposition proceeds from the sale of land or rehabilitated property.

## USE OF GRANTS FOR LOAN REPAYMENT

Section 570.703(c) specifically authorizes the use of block grants and program income in payment of principal and interest on guaranteed notes or obligations. Further, it makes it clear that HUD may apply grants pledged as security to any repayment due as a result of loan guarantees made pursuant to this subpart.

## DEBT OBLIGATIONS

Section 570.703(d) requires that notes or other obligations guaranteed pursuant to this subpart be in the form and denominations prescribed by HUD. Further, the notes or obligations guaranteed by HUD shall be issued and sold exclusively to the Federal Financing Bank subject to such conditions as HUD and the Federal Financing Bank may prescribe.

## TAXABLE OBLIGATIONS

Section 570.703(e) incorporates the requirement added by legislative amendment that HUD guarantees shall be limited to taxable obligations. Although a subsidy of up to 30 percent of the net interest cost was authorized by legislative amendment, there is currently no appropriation for that purpose. An applicant must therefore bear the full cost of interest; however, as provided in § 570.701(c)(1), interest is an eligible expense which may be defrayed directly from block grant funds.

## LOAN REPAYMENT PERIOD

Section 570.703(f) establishes the general rule that a repayment period shall not be authorized for more than six years. A longer repayment period may be permitted, however, in special cases where it is deemed necessary to achieve the purposes of this Part.

## FEDERAL GUARANTEE

Although the Federal guarantee is unchanged, it has been placed in § 570.704 as part of the reorganization of this subpart.

## APPLICABILITY OF RULES AND REGULATIONS

Section 570.705 makes the provisions of other Subparts (A, B, C, D, F, G, and J) applicable to this subpart except to the extent they are specifically modified or augmented by the contents of this subpart.

A Finding of Inapplicability with respect to Environmental Impact has

been prepared in accordance with HUD Handbook 1390.1. In addition, a Finding of Inapplicability with respect to Inflation Impact has been prepared in accordance with Executive Order 11821. Copies of the Findings are available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR Part 570 is revised by: (1) deleting the present content of Subpart H, and reserving that subpart for future use; and (2) adding a new Subpart M to read as follows:

## Subpart M—Loan Guarantees

Sec.

- 570.700 Eligible applicants.
- 570.701 Eligible activities.
- 570.702 Application requirements.
- 570.703 Loan requirements.
- 570.704 Federal guarantee.
- 570.705 Applicability of rules and regulations.

**AUTHORITY:** Title I, Housing and Community Development Act of 1974 (Pub. L. 93-383, 88 Stat. 633).

## Subpart M—Loan Guarantees

## § 570.700 Eligible applicants.

(a) Units of general local government entitled to receive basic grant amounts under § 570.102 (metropolitan cities and urban counties) may apply for loan guarantee assistance under this subpart. Loan guarantee assistance will be limited to such entitlement recipients in order to assure a reasonably certain source of repayment.

(b) Public agencies may be designated by eligible units of general local government to receive a loan guarantee on notes or other obligations issued by the public agency in accordance with this subpart. In such case the applicant unit of general local government shall be required to pledge its current and future entitlement grants as security for the notes or other obligations issued by the public agency.

## § 570.701 Eligible activities.

Loan guarantee assistance may be provided only for the following activities which are eligible under Subpart C:

(a) Acquisition of real property (including improvements thereon) including acquisition for economic development purposes.

(b) Rehabilitation of real property owned or acquired by the unit of general local government.

(c) Payment of the following related expenses and activities:

(1) Interest on obligations guaranteed under this subpart.

(2) Relocation payments and assistance for individuals, families, businesses, nonprofit organizations, and



## RULES AND REGULATIONS

farm operations displaced by activities financed with loan guarantee assistance. Further information regarding relocation costs is set forth in § 570.602.

(3) Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites.

(4) Acquisition, construction, reconstruction, rehabilitation, or installation of publicly owned site improvements related to the development and disposition of the property acquired pursuant to this subpart and on which such improvements are to be situated.

#### § 570.702 Application requirements.

An application for loan guarantee shall be made as a part of an application for grant assistance or as a Community Development Program amendment. Except as provided in the following paragraphs, the applicant shall comply with the application requirements outlined in Subpart D.

(a) *Other submission requirements.* In addition to the documentation required to be submitted with a grant application, an application for loan guarantee shall include the following:

(1) A schedule for repayment of the loan which identifies the sources of repayment;

(2) A proposed instrument effecting a pledge of grants, as will be required under § 570.703(b)(2), accompanied by an opinion of counsel for the applicant as to the applicant's legal authority to make such pledge; and

(3) When the proceeds of the loan are to be used for acquisition of real property, a certification providing assurance that real property already owned by the applicant or a local public agency is not suitable for the intended use of the land to be acquired, and a brief statement of the reasons why the existing land inventory is inadequate.

(b) *Community development program.* The project summary shall specify those activities that will be financed with loan guarantee assistance. Proceeds from guaranteed loans shall be identified as an anticipated resource in the community development budget.

(c) *Economic feasibility and financial risk.* The Secretary will make no determination with respect to the economic feasibility of projects proposed to be funded with the proceeds of guaranteed loans; such determination is the responsibility of the applicant. In determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider the applicant's current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee under this subpart is not to be construed, in any way, as indicating that HUD has agreed to the

feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

(d) *HUD review and approval of applications.* The Area Office shall review the application for compliance with application requirements specified in Subpart D and this subpart, and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

The Secretary will approve the loan guarantee request unless:

(1) One or more of the criteria for disapproval specified in § 570.306(b)(2) are applicable.

(2) The Secretary determines that the schedule for repayment cannot be met or the applicant has not furnished adequate security pursuant to § 570.703(b).

(3) The guarantee requested exceeds the maximum loan amount specified under § 570.703(a).

The Secretary will notify the applicant in writing that the loan guarantee request has either been approved or disapproved. If the request is disapproved the applicant shall be informed of the specific reasons for disapproval. If the request is approved, the Secretary shall issue an offer of commitment to guarantee obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe, including the conditions for release of funds described in paragraph (e).

(e) *Environmental review.* (1) The applicant shall comply with HUD Environmental Review Procedures (24 CFR Part 58) leading to certification for the release of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities, and procedures governing the carrying out of environmental review responsibilities of applicants. For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of notes or other obligations by the Secretary.

(2) The environmental assessment of a multiyear project financed with loan guarantee assistance shall encompass the entire multiyear scope of activities. Upon certification that the applicant has completed the environmental requirements for a multiyear project, HUD may issue its release of funds for the entire project. The continued authority of an applicant to commit funds to a project, after completion of environmental requirements and HUD release of funds, shall be subject to the continued relevance and completeness of the environmental assessment performed. The applicant shall, prior to any further commitment of funds to the project, complete the requirements of 24 CFR Part 58 relating to

the updating of environmental clearances in the event that:

(i) There is any significant or substantial change in the nature, magnitude or extent of the project;

(ii) There is any significant or substantial change in the environment affecting the project; or

(iii) Previously conducted environmental reviews are insufficient due to changed circumstances, including the availability of additional data or advances in technology.

#### § 570.703 Loan requirements.

(a) *Maximum loan amount.* No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the applicant's total outstanding notes or obligations guaranteed under this subpart (including principal and interest thereon) would thereby exceed an amount equal to three times the amount of the entitlement grant approval for the applicant pursuant to § 570.102; however, this maximum amount is to be reduced by the amount of any grant funds required by HUD to be applied to the repayment of urban renewal temporary loans pursuant to § 570.802.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this subpart and as a condition for receiving loan guarantee assistance, the applicant (or the applicant and designated public agency, where appropriate) shall:

(1) Enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge any grant approved or for which the applicant may become eligible under this Part; and

(3) Furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Part or disposition proceeds from the sale of land or rehabilitated property.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this Part:

(1) Grants allocated to an applicant under this Part (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be authorized by the Secretary) on the notes or other obligations guaranteed pursuant to this subpart.

(2) The Secretary is authorized to apply grants pledged pursuant to paragraph (b)(2) of this section to any repayment due the United States as a result of guarantees made under this subpart.

(d) *Debt obligations.* Notes or other obligations guaranteed pursuant to

## RULES AND REGULATIONS

this subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this subpart shall be subject to Federal taxation as provided in Section 108(j) of the Act.

All applicants issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* As a gen-

eral rule, the repayment period for a loan guaranteed under this subpart shall be limited to six years. However, a longer repayment period may be permitted in special cases where it is deemed necessary to achieve the purposes of this Part.

#### § 570.704 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this subpart. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with re-

spect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

#### § 570.705 Applicability of rules and regulations.

The provisions of Subparts A, B, C, D, F, G, and J shall apply to this subpart, except to the extent they are specifically modified or augmented by the provisions of this subpart.

ROBERT C. EMBRY, JR.,  
Assistant Secretary for Community Planning and Development.

(FR Doc. 78-1409 Filed 1-16-78; 8:50 am)



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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
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rules and regulations

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[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 426, Navel Orange Reg. 425, Amendment 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 20-26, 1978, and increases the quantity of such oranges that may be so shipped during the period January 13-19, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective January 20, 1978, and the amendment is effective for the period January 13-19, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 17, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recom-

mended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. § 907.726 Navel Orange Regulation 426.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 20, 1978, through January 26, 1978, are established as follows:

- (1) District 1: 800,000 cartons;
  - (2) District 2: 150,000 cartons;
  - (3) District 3: unlimited movement.
- (b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) (1), (2), and (3) in § 907.725 Navel Orange Regulation 425 (43 FR 1785), is hereby amended to read:

- (1) District 1: 800,000 cartons;
- (2) District 2: unlimited movement;
- (3) District 3: unlimited movement.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 18, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-1833 Filed 1-18-78; 11:27 am]

[1505-01]

Title 10—Energy

CHAPTER 1—NUCLEAR REGULATORY COMMISSION

Amendments to Chapter To Revoke or Revise Certain Reporting Requirements

Correction

In FR Doc. 77-25074 appearing in the issue of Thursday, September 1, 1977 on page 43965, paragraph "2" near the bottom of the 3rd column should read as follows:

§ 20.403 [Amended]

2. Paragraph (a)(4) of § 20.403 is amended by deleting "\$100,000" and substituting therefor "\$200,000".

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-WE-40-AD; Amdt. 39-3127]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes Model 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires initial and repetitive inspections and rework of the tail rotor control pedals on Hughes Model 269 Series helicopters. The AD is needed to prevent failure of the tail rotor control pedals which could result in loss of tail rotor control.

DATE: Effective January 24, 1978.

Compliance schedule as prescribed in the body of the AD.

ADDRESSES: The applicable service information notice may be obtained from: Hughes Helicopters, Centinela and Teale Streets, Culver City, Calif. 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591; or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.



# FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

**SUPPLEMENTARY INFORMATION:** There have been reports of failures of the tail rotor control pedals, arms, and sockets that could result in loss of tail rotor control. These cracks and failures have occurred on both the pilots and copilots pedals and the failures have usually occurred during flight training under opposing instructor and student pedal forces.

Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires initial and repetitive inspections and rework of the tail rotor control pedals on Hughes Model 269 Series helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

## DRAFTING INFORMATION

The principal authors of this document are James R. Haynes, Aircraft Engineering Division, and Frederick C. Woodruff, Office of the Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, section 39.13 of Part 39 of the Federal Aviation Regulation (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

**HUGHES HELICOPTERS.** Applies to Model 269 Series helicopters, certificated in all categories including Model TH-55A.

Compliance is required as indicated, unless already accomplished.

To prevent failure of the tail rotor control pedals, accomplish the following:

(a) Within the next 100 hours time in service from the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 100 hours time in service perform the following:

(1) On all models visually inspect the pilots' pedal arms P/N 269A7336 for cracks and corrosion in accordance with service information notice (SIN) N-121.1, Part I, Paragraph (b).

(i) If visual inspection reveals evidence of incipient cracks, further inspect with dye penetrant and if confirmed replace with a serviceable pedal arm P/N 269A7336 before further flight.

(ii) If corrosion is found, remove the corrosion in accordance with SIN N-121.1 before further flight.

(iii) After corrosion removal of (1)(ii) above, inspect the wall thickness of the

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pedal arm in the areas of corrosion removal. If the wall thickness in the cylindrical section is less than .10 inch replace the pedal arm P/N 269A7336 with a serviceable pedal arm before further flight. If the corrosion removal on the pedal arm above the cylindrical section exceeds .005 inch in depth replace the pedal arm P/N 269A7336 with a serviceable pedal arm before further flight.

(2) On Models 269A, A-1, and TH-55A, visually inspect the copilots' pedal arms P/N 269A7336 in accordance with paragraph (a)(1) above.

(3) On Models 269 B and C, remove the copilots' pedal arms P/N 269A7330 from the pedal sockets P/N 269A9973 or P/N 269A7334 and visually inspect for cracks and corrosion in accordance with SIN N-121.1, Part I, Paragraph (d).

(i) If visual inspection reveals evidence of incipient cracks, further inspect with dye penetrant in accordance with SIN N-121.1 and if confirmed replace with a serviceable part or parts before further flight.

(ii) If corrosion is found, remove the corrosion in accordance with SIN N-121.1 before further flight.

(iii) After corrosion removal of (3)(ii) above, inspect the wall thicknesses in the areas of corrosion removal. If the wall thickness of the pedal arm is less than .13 inch replace the pedal arm P/N 269A7330 before further flight. If the wall thickness of the socket is less than .10 inch replace the socket P/N 269A9973 or P/N 269A7334 before further flight.

(b) Within the next 100 hours time in service, from the effective date of this AD unless already accomplished, and thereafter at intervals not to exceed 100 hours time in service, torque the pedal arm and/or socket bushing nuts to the limits specified by SIN N-121.1.

(c) On the 269B and 269C helicopters only, within the next 100 hours time in service, from the effective date of this AD unless already accomplished, measure the copilots' pedal arm wall thickness above the quick release pin hole. If the wall thickness is less than 0.130 inch replace the pedal arm P/N 269A7330 before further flight.

(d) On all Models except 269C, within the next 100 hours time in service, from the effective date of this AD unless already accomplished, rework the pilots' and copilots' left hand pedal arm and/or sockets in accordance with SIN N-121.1 Part II.

(e) Hughes service information notice (SIN) N-121.1, dated October 3, 1977, or later FAA approved revisions shall be used for compliance where indicated in this AD except for alternate inspection and rework methods approved under Paragraph (f).

(f) Equivalent inspections, and reworks may be approved by Chief, Aircraft Engineering Division, FAA Western Region, Los Angeles, Calif.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles on January 9, 1978.

ROBERT H. STANTON,  
Director,  
FAA Western Region.

(FR Doc. 78-1385 Filed 1-18-78; 8:45 am)

## [4910-13]

(Docket No. 17547; Amdt. No. 159-161)

## PART 159—NATIONAL CAPITAL AIRPORTS

Distribution of Written or Printed Matter

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This amendment revokes a provision in the Federal Aviation Regulations that pertains to the posting, distributing, or displaying of written or printed matter on Washington National and Dulles International Airports. This action is necessary since that provision was declared unconstitutional by a Federal court.

**EFFECTIVE DATE:** January 19, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

John C. Curry, Legal Counsel, Metropolitan Washington Airports, Hangar 9, Washington National Airport, Washington, D.C. 20001; telephone 202-557-8123.

**SUPPLEMENTARY INFORMATION:** On July 9, 1974, in *Aviation Consumer Action Project v. Butterfield*, Civil Action No. 2085-73, the United States District Court for the District of Columbia ruled that § 159.93 of the Federal Aviation Regulations is unconstitutional. The court also enjoined the FAA from applying that section to restrict plaintiff's distribution of information sheets at Washington National and Dulles International Airports. However, it observed that the Administrator could reasonably limit such distribution to remove substantial interference with the operation of those airports.

In light of this decision, the FAA considers it appropriate to revoke § 159.93.

Since this amendment relates to public property, notice and public procedure thereon are not required, and it may be made effective in less than 30 days.

The principal authors of this document are John C. Curry, Metropolitan Washington Airports, and Danvers E. Long, Office of the Chief Counsel.

Accordingly, Part 159 of the Federal Aviation Regulations is amended, effective January 19, 1978, by revoking and reserving § 159.93, as follows:

§ 159.93 [Reserved]

(Sec. 2, Act of June 29, 1940, as amended (Administration of Washington National

# RULES AND REGULATIONS

Airport, 54 Stat. 688); Sec. 4, Act of September 7, 1950, as amended (Second Washington Airport Act, 64 Stat. 771); Sec. 1.47(a), Regulations of the Office of the Secretary of Transportation (49 CFR 1.47(a)).

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 12, 1978.

LANGHORNE BOND,  
Administrator.

(FR Doc. 78-1239 Filed 1-18-78; 8:45 am)

## [1505-1]

Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

(T.D. 7508)

## PART I—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Minimum Participation Standards

Correction

In FR Doc. 77-27175 appearing on page 47192 in the issue for Tuesday, September 20, 1977, on page 47197, at the top of the 1st column, the section heading should read:

§ 1.410 (a)-6 Amendment of break in service rules; transition period.

## [1505-01]

SUBCHAPTER A—INCOME TAX

(T.D. 7516)

## PART I—INCOME TAX: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Requirement of Returns for Political Organizations

Correction

In FR Doc. 77-31738 appearing in the issue of Friday, November 2, 1977 on page 57312, the middle column, the statutory authority, the 5th line should read,

"Sec. 10 (b) and (f), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2119) \* \* \*"

§ 1.6012-6(a) should read as follows:

§ 1.6012-6 Returns by political organizations.

(a) *Requirement of return.*—(1) In general. For taxable years beginning after December 31, 1974, every political organization described in section 527(e)(1), and every fund described in section 527(f)(3) or section 527(g), and every organization described in section 501(c) and exempt from taxation

under section 501(a) shall make a return of income within the time provided in section 6072(b), if a tax is imposed on such an organization or fund by section 527(b).

## [1505-01]

Title 29—Labor

## CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

## PART 2610—INTERIM REGULATION ON VALUATION OF PLAN BENEFITS

Amendment Adopting Additional PBGC Rates

Correction

In FR Doc. 77-33466 appearing at page 59753 in the issue for Monday, November 21, 1977, on page 59754, in the amendment to Appendix B of 29 CFR Part 2610, under "I—Interest Rate for Valuing Immediate Annuities", in the third line "Gr" should have read "Gy".

## [4310-05]

Title 30—Mineral Resources

## CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

## SURFACE MINING RECLAMATION AND ENFORCEMENT PROVISIONS

Final Rules: Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Corrections.

**SUMMARY:** This document corrects final rules that begin on page 62639 of the FEDERAL REGISTER of December 13, 1977, FR Doc. 77-35049.

**EFFECTIVE DATE:** January 19, 1978.

**ADDRESS:** Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:**

Paul Reeves, 202-343-4237.

**SUPPLEMENTARY INFORMATION:** Except as noted below, this document corrects typographical errors. Item 2 corrects the statement of applicability of the performance standards to new mines on Federal lands so that the operative date is the date of permit approval rather than the date operations commence. This is consistent with the applicability of the initial performance standards to new mines under State permits. Item 6 corrects a misuse of the word "length" by substituting

the word "height" which correctly appeared in the proposed regulations in § 715.15(b)(4). Item 10 deletes paragraph (j)(5) from § 715.17. The paragraph was inadvertently retained from an early draft of the final regulations. Section 715.17(j)(4) correctly states the law with regard to exchange of Federal coal leases or fee lands in alluvial valley floors, and as noted in item 55 on page 62656 of the preamble to the final regulations, "Detailed regulations implementing the exchange provisions will be developed."

## DRAFTING INFORMATION

The principal authors of these corrections are: Michael Bradley, Office of Surface Mining, and Edward Clair, Office of the Solicitor, Department of the Interior.

Dated: January 13, 1978.

WALTER N. HEINE,

Director, Office of Surface Mining Reclamation and Enforcement.

The following corrections are made:

## PART 700—GENERAL

1. On page 62676, § 700.5 definition of Regulatory authority, line 5, "regulatory" is corrected to read "regulatory".

## PART 710—INITIAL REGULATORY PROGRAM

2. On page 62679, § 710.11(c)(1), lines 3 and 4, "that commence operations" is corrected to read "under a permit approved".

3. On page 62679, § 710.12, the section heading "Special exemption for small operators on State lands." is corrected to read "Special exemption for small operators."

## PART 715—GENERAL PERFORMANCE STANDARDS

4. On page 62681, § 715.13(c)(10), line 3, "primarily" is corrected to read "primarily".

5. On page 62681, § 715.13(d)(7), line 1, "use of" is corrected to read "use or".

6. On page 62683, § 715.14(i) line 1, "regarding" is corrected to read "regarding" and on line 4, "regarded" is corrected to read "regarded".

7. On page 62684, § 715.15(b)(8), line 4, "length" is corrected to read "height."

8. On page 62685, "§ 715.17(a) Water quality standards and effluent limitations." is corrected to read "(a) Water quality standards and effluent limitations."

9. On page 62685, in the chart labeled Effluent Limitations, in Milligrams Per Liter, "consecutiv" in the third column heading is corrected to read "consecutive".

10. On page 62686, § 715.17(e)(6)(iii), line 3 "quotient of H + 35/5" is corrected to read "quotient of H+35/5."



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11. On page 62688, § 715.17(j) is corrected by deleting paragraph (j)(5).
12. On page 62690, § 715.19(e)(ii), line 4, "lighting" is corrected to read "lightning".

## PART 716—SPECIAL PERFORMANCE STANDARDS

13. On page 62694, § 716.7(e)(5), line 5, "regarding" is corrected to read "regrading".
14. On page 62695, § 716.7(g)(2), line 7, "will not" is corrected to read "will not".

## PART 722—ENFORCEMENT PROCEDURES

15. On page 62701, in the table of sections under heading part 722—Enforcement Procedures, "Sec. 722.11 Imminent hazards." is corrected to read "Sec. 722.11 Imminent dangers and harms.", and "Sec. 722.12 Non-imminent hazard violations." is corrected to read "Sec. 722.12 Non-imminent dangers and harms."
16. On page 62701, middle column, the section heading, "§ 722.12 Non-imminent danger or harm." is corrected to read "§ 722.12 Non-imminent dangers or harms."

## PART 740—GRANTS FOR PROGRAM DEVELOPMENT AND ADMINISTRATION AND ENFORCEMENT

17. On page 62707, § 740.11(c)(1)(ii), line 2, strike the comma between "period" and "for".
18. On page 62708, § 740.16(b), line 2, "agreements" is corrected to read "agreement".

## PART 830—PROTECTION OF EMPLOYEES

19. On page 62712, § 830.11(a)(1)(i), line 1, "allege" is corrected to read "alleged".

[FR Doc. 78-1430 Filed 1-18-78; 8:45 am]

## [6820-22]

## Title 34—Government Management

## CHAPTER II—GENERAL SERVICES ADMINISTRATION

## SUBCHAPTER C—PROPERTY MANAGEMENT

## PART 235—ESTABLISHMENT AND USE OF THE INVENTORY OF FEDERAL LABORATORIES

## Deletion of Part

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule removes certain GSA regulations concerning space utilization in Federal laboratories of 10,000 square feet or more in area. GSA has determined that these regulations are no longer necessary and should be removed from the Code of Federal Regulations.

EFFECTIVE DATE: January 19, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Wallace J. McCoy, Office of Space Planning and Management, Public Buildings Service, General Services Administration, Washington, D.C. 20405, 202-566-1025.

SUPPLEMENTARY INFORMATION: GSA has determined that the policies and procedures in Federal Management Circular 75-3, Establishment and Use of the Inventory of Federal Laboratories, are no longer necessary. Therefore, FMC 75-3 is canceled. These provisions were codified as 34 CFR Part 235.

Accordingly, Part 235 of Title 34 is hereby deleted and reserved.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order 11717.)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 10, 1978.

JAY SOLOMON,  
Administrator of General Services.

[FR Doc. 78-1425 Filed 1-18-78; 8:45 am]

## [8320-01]

## Title 38—Pensions, Bonuses, and Veterans' Relief

## CHAPTER I—VETERANS ADMINISTRATION

## PART 14—LEGAL SERVICES, GENERAL COUNSEL

## Federal Tort Claims

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: These amendments redelegate Veterans Administration General Counsel's delegated authority to compromise and settle claims asserted under the Federal Tort Claims Act to all Veterans Administration District Councils, where the amount of settlement does not exceed \$25,000. The General Counsel has determined that differences in delegated authority between District Councils is an administrative burden and no longer serves a useful purpose; and that uniformity in supervision and in actions upon appeals from denials can more equitably be exercised by the General Counsel.

EFFECTIVE DATE: October 1, 1977.

## FOR FURTHER INFORMATION CONTACT:

Mr. James P. Kane, Deputy Assistant General Counsel (389-2252 or 2153).

SUPPLEMENTARY INFORMATION: Under current VA Regulations certain District Councils are delegated au-

thority to settle claims asserted under the Federal Tort Claims Act in an amount not exceeding \$25,000, and to exercise appellate and supervisory authority over the remaining District Councils, who have been granted authority to settle such claims in an amount not exceeding \$10,000.

Compliance with the required notice of proposed regulatory development and delayed effective date is unnecessary and would serve no purpose since the amendments proposed are internal in nature.

Approved: January 12, 1978.

By direction of the Administrator.

RURUS H. WILSON,  
Deputy Administrator.

1. In § 14.602, paragraphs (c) and (d) are revised to read as follows:

§ 14.602 Scope and authority to consider claims.

(c) Pursuant to the authority delegated to General Counsel by § 2.6(e) of this chapter to redelegate his authority to act on claims filed under the Federal Tort Claims Act, as amended, all District Councils are authorized to settle such tort claims in an amount not to exceed \$25,000, where in the view of the respective District Councils, liability exists.

(d) Where it is determined that liability on the part of the Government does not exist, the District Council who initially received the claim will deny liability regardless of the amount claimed or the potential value if liability existed. If liability is questionable, the District Council will refer the claim for final determination to the General Counsel.

2. In § 14.608, paragraphs (a) and (b) are revised to read as follows:

§ 14.608 Disposition of claims.

(a) *Disallowance and appeal.* Where a determination is made that there is no liability on the part of the United States, the District Council or the General Counsel, as appropriate, will notify the claimant (or claimant's attorney or legal representative) by certified or registered mail. Notification of final denial may include a statement of reasons for the denial. Denial of a tort claim by any District Council will include appropriate notice of the appellate rights of the claimant. The claimant shall be advised in the denial letter that he or she may appeal the denial within the Veterans Administration, and that such appeal, if made, should be addressed to and received by the General Counsel within 6 months of the mailing date of the denial letter. The denial letter shall also in-

clude a statement that, if the claimant is dissatisfied with the agency action, and/or does not wish to exercise the right to appeal the denial to the General Counsel, suit in an appropriate United States District Court may be instituted not later than 6 months after the date of mailing of the notice of final denial.

(b) *Statute of limitations.* Prior to the commencement of suit and prior to the expiration of the 6-month period provided in 28 U.S.C. 2401(b), a claimant, or claimant's duly authorized agent, or legal representative, may file a written request with the agency for an appeal from denial of a claim issued under paragraph (a) of this section. Upon the timely filing of an appeal, the agency shall have 6 months from the date of filing in which to make a final disposition of the claim, and the claimant's option under 28 U.S.C. 2675(a), shall not accrue until 6 months after the filing of an appeal. Final agency action on an appeal shall be effected by the General Counsel. If the previous denial decision is upheld, the notice shall be by certified mail and will include advice as to the right to bring suit within 6 months.

[FR Doc. 78-1519 Filed 1-18-78; 8:45 am]

## [4310-10]

## Title 43—Public Lands: Interior

## SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

## PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Revision of Procedures for Processing Coal Mine Health and Safety Discrimination Cases

AGENCY: Office of Hearings and Appeals, Department of the Interior.

ACTION: Final rules.

SUMMARY: The purpose of these rules is to provide for greater latitude in the filing of discrimination actions by miners under § 110(b) of the Federal Coal Mine Health and Safety Act of 1969 (hereinafter the Act). This latitude in filing, plus the investigation by the Mining Enforcement and Safety Administration (MESA) of each action filed, is designed to afford greater protection for miners who have been discriminated against for notifying MESA of alleged violations or dangers or engaging in other activity protected by § 110(b).

MESA's active participation in these discrimination cases will encourage the reporting of discriminatory acts as well as assist the Office of Hearings and Appeals in making the findings of fact required by § 110(b).

EFFECTIVE DATE: January 19, 1978.

## RULES AND REGULATIONS

## FOR FURTHER INFORMATION CONTACT:

W. Michael Hackett, Trial Attorney, Office of the Solicitor, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-235-1171, or Kate O'Beirne, Attorney-Advisor, Board of Mine Operations Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203, 703-557-9037.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of these rules by a notice of proposed rulemaking published in the FEDERAL REGISTER on September 29, 1977 (42 FR 51626). Due consideration has been given to all comments received in response to the notice, as discussed below insofar as they relate to matters within the scope of the notice. After reviewing the comments received, it has been determined that the proposed rules shall be adopted with only one additional change.

One commentator suggested insufficient information had been provided in the notice of proposed rulemaking as to the purpose of the amendments to 43 CFR Part 4, and, thus § 553 of the Administrative Procedure Act (APA) (5 U.S.C. § 551) had not been followed. Section 553 of the APA provides that after the notice of proposed rulemaking has been published, written comments received, and relevant matters considered "the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose." Here, the notice of proposed rulemaking and final rules clearly set forth the basis and purpose of these amendments.

Several commentators have objected to a MESA investigation of each discrimination case filed, as required by § 4.564, and suggested variously that MESA is not qualified to conduct such investigations, that the provision for such investigations is actually an amendment to the Act, that such investigations are unnecessary and will only serve to delay the processing of the discrimination cases, and that the investigations should be discretionary rather than mandatory. Section 110(b) of the Act requires investigation of applications for review by the Secretary of the Interior. By conducting these investigations, MESA will be able to provide information to the Administrative Law Judges to assist them in making the required findings of fact. MESA has trained investigators who are capable of conducting these investigations. Time should actually be saved through the investigation process, since the investigation should help to narrow the issues involved in the cases, and, in some instances, encourage settlement. MESA's participation in each case will assure that all the relevant facts are presented.

One commentator indicated that the proposed regulations did not deal adequately with the situation where an operator fails or refuses to cooperate with MESA investigators thereby frustrating the intent of the investigation, i.e., to provide a complete and objective statement of the facts and issues surrounding the alleged act of discrimination. Paragraph (b) has been added to proposed regulation § 4.560a to reflect the intent of MESA to vigorously pursue the facts surrounding a § 110(b) act of alleged discrimination and require an Administrative Law Judge to permit the initiation of discovery procedures by MESA, as a part of its investigative program, where the need for or awareness of such discovery does not arise until after the 20-day limitation following filing of the initial complaint prescribed in 43 CFR § 4.583a(a).

Comments were also received which questioned MESA's right to intervene in discrimination cases under § 4.560a, suggesting that these cases are labor management disputes in which MESA has no direct interest, and that there has been no showing of any need for MESA to intervene. It was also suggested that MESA be required to show cause when it desires to intervene, at least on the basis of its investigation, and that MESA should only participate as an intervenor consistent with the results of its investigation. Under the Act, the Secretary obviously has an interest in encouraging the reporting of unsafe mining conditions, and preventing retaliation against those individuals who engage in such reporting or other protected activity. Congress mandated Secretarial involvement under the Act regardless of remedies which might otherwise be available to a miner in addition to those specified in § 110(b). These rules recognize MESA's need to intervene to provide full disclosure of the facts. MESA's absolute right of intervention is established so that it may fully participate in discovery procedures and the presentation of evidence. It should be understood that MESA is not required to participate fully in each and every hearing scheduled under § 110(b) of the Act. Rather, MESA will be allowed full status as a party with the flexibility of involvement such status entails. The presumption is that MESA will participate fully throughout the investigation of each case of alleged discrimination; however, the determination of MESA's formal involvement in the hearing will be made on a case-by-case basis taking into consideration such factors as the merits of the case and manpower limitations. MESA's participation should facilitate the narrowing and trial of the issues and, therefore, assure an equitable and expeditious decision on the merits by the Secretary and, in some in-



stances, actually enhance the potential for settlement of the issues.

Some comments were made concerning the 30-day time period for filing actions under § 110(b). Commentators objected that § 4.561(a) could not extend the 30-day period because it was jurisdictional, the Secretary had no authority to permit an extension, and, if such extension were permissible, the same opportunity should be extended to coal mine operators under § 105 of the Act. A recent decision of the Board of Mine Operations Appeals, *Baker v. North American Coal Co.*, 8 IBMA 164, decided September 30, 1977, made it clear that the 30-day period is not jurisdictional, but a statute of limitations. As such, this period is not automatically extended, but can be if the proper extenuating circumstances exist, as determined by the Administrative Law Judge or the Board. The Department believes it is proper to encourage miners to file § 110(b) actions, even after the 30-day period expires, particularly where the miner may have been misled concerning his right to file an action or where other extenuating circumstances exist. It was also felt that if a miner has initiated a grievance-arbitration proceeding or filed a complaint involving the same general subject matter with another agency within 30 days, the miner has indicated his intent to contest the validity of the action taken by the operator and, if the miner acts within 30 days after the other proceeding or complaint is resolved, should be allowed to pursue his action under § 110(b). Moreover, § 4.561(a) encourages the miner to pursue his grievance or seek his remedy in another forum which may make the relief sought by the miner under § 110(b) unnecessary. Concerning the comparison of the time periods in the Act, because these rules deal only with § 110(b) of the Act, it would be inappropriate to make any comment concerning their applicability to the time period set forth in § 105 of the Act.

Some objections were raised concerning a duplication of functions within the Department. These rules establish, however, a distinct separation of function. The investigative process will be primarily performed by MESA. The fact finding process is within the purview of the Office of Hearings and Appeals. An Administrative Law Judge within that office will conduct the administrative hearing and render the initial decision. While some commentators expressed concern about increased costs to the coal mine operators and to the agency itself, any additional expenditures should be minimal. For example, MESA already has personnel doing investigative work who will be utilized to conduct the § 110(b) investigations. It is intended that the investigative interviews be

conducted with a minimum of inconvenience and cost to the operators, consistent with the goal of obtaining a complete and objective statement of the facts surrounding each alleged act of discrimination.

While an objection has been made to the Solicitor's Office receiving copies of the applications filed under § 110(b), the purpose of this provision in § 4.562 is to facilitate MESA's conduct of the investigation, to allow the investigation to be initiated in the shortest possible time, and, therefore, the provision will be retained.

The report of the investigation is to be submitted to the Administrative Law Judge prior to the hearing as an aid in narrowing the issues involved in the case and to provide information to the Administrative Law Judge concerning the facts involved. Because the hearing provides to all parties the right to cross-examine those individuals whose statements are contained in the report and present relevant evidence, there will be no denial of due process by virtue of the inclusion of the investigative report as part of the record, as one commentator suggested.

It is not intended that these regulations have retroactive effect, as proposed by one commentator. It is recognized, however, that MESA can conduct investigations in those § 110(b) cases filed prior to the effective date of these rules, where MESA deems it advisable or necessary to conduct such investigations. The question of MESA's status as an intervenor in any discrimination cases filed before the effective date will be left to the discretion of the Administrative Law Judges.

Several commentators suggested promulgation of the amended regulations be deferred until the procedures under the new Federal Mine Safety and Health Amendments Act of 1977 go into effect. Recognizing, however, that there is a delay of 120 days in the effective date of the 1977 Act, the amendments will be operative during this interim period, until such time as the provisions of the 1977 Act and its regulations become effective. It is appropriate that MESA's functions to investigate and participate be guaranteed in the amendments, as they will be guaranteed in the 1977 Act. Regarding the contention that these changes be postponed until certain cases now being considered are decided, it should be noted that these rules will have no effect on the decisions in those cases.

Because the Federal Mine Safety and Health Amendments Act of 1977 has been signed into law by President Carter on November 9, 1977, to become generally effective in March of 1978, and because this new Act makes substantial changes in the procedures which will be utilized in processing mine health and safety discrimination cases, it should be under-

stood that nothing in these final rules is intended to conflict with any provisions in the new Act. It is intended that these rules will be in effect only until such time as the substantive regulations implementing the Federal Mine Safety and Health Amendments Act of 1977 can be properly published in final form.

#### DRAFTING INFORMATION

The principal persons responsible for preparation of these final rules are: W. Michael Hackett, Trial Attorney, Office of the Solicitor, and Kate O'Belrne, Attorney-Adviser, Board of Mine Operations Appeals.

Dated: January 11, 1978.

LEO M. KRULITZ,  
Acting Secretary of the Interior.

1. By revising the last sentence in § 4.513 to read:

§ 4.513 Intervention.

... The Administrative Law Judge or the Board of Mine Operations Appeals may grant or deny petitions for intervention or may permit intervention limited to a particular stage of the proceeding except as provided in § 4.560a for intervention by the Mining Enforcement and Safety Administration as a matter of right.

2. By adding § 4.560a to read:

§ 4.560a Intervention by the Mining Enforcement and Safety Administration under § 110(b) of the Act.

(a) Notwithstanding § 4.513, the Mining Enforcement and Safety Administration may intervene at any time in any proceeding brought to review an alleged discriminatory discharge or other act of discrimination pursuant to section 110(b) of the Act. Such intervention shall be deemed to be a matter of right and the Mining Enforcement and Safety Administration shall not be required to obtain permission to intervene from the Administrative Law Judge or the Board of Mine Operations Appeals. Such right of intervention shall include the right of the Mining Enforcement and Safety Administration to participate in discovery procedures to the same extent as would be allowed any party.

(b) *Provided, however,* That notwithstanding the time limitation set forth in 43 CFR 4.583a(a), and upon formal notification by the Mining Enforcement and Safety Administration that an operator currently under investigation pursuant to § 110(b) of the Act refuses to cooperate with the investigation by declining or failing to provide documents, data, witnesses, interviews, statements, or other information considered necessary for proper conduct of the investigation, an Administrative Law Judge shall permit the initiation of discovery procedures by the Mining

Enforcement and Safety Administration.

3. By revising § 4.561 to read:

§ 4.561 When to file.

(a) An application for review of an alleged discriminatory discharge or other act of discrimination shall be filed within 30 days after the alleged discriminatory activity has occurred. However, where the Administrative Law Judge or the Board of Mine Operations Appeals find extenuating circumstances exist, or where the applicant has, within the 30-day period resorted to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency, an application may be filed after the 30-day period, but shall be filed within 30 days after the completion of such other proceeding or the resolution of such complaint.

(b) An application for compensation shall be filed within 45 days after the date of issuance of the withdrawal order which gives rise to the claim.

4. By adding new § 4.561a to read:

§ 4.561a Where to file.

(a) An application for review of an alleged discriminatory discharge or other act of discrimination shall be filed with the Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203. Such application may be delivered to any office of the Mining Enforcement and Safety Administration or to the Associate Solicitor, Division of Mine Health and Safety, which shall promptly forward the application to the Office of Hearings and Appeals for filing. Delivery to any designated office other than the Office of Hearings and Appeals shall operate to toll the 30-day period.

(b) An application for compensation shall be filed with the Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203.

5. By adding paragraphs (c) and (d) to § 4.562 to read:

§ 4.562 Contents of application.

(c) Copies of all pleadings and papers filed shall be served by the parties on each other and upon the U.S. Department of the Interior, Office of the Solicitor, Associate Solicitor, Division of Mine Health and Safety, 4015 Wilson Boulevard, Arlington, Va. 22203.

(d) In the event the Office of Hearings and Appeals receives an application filed under § 110(b) of the Act which does not show distribution to the Associate Solicitor, Division of Mine Health and Safety, a copy of the application shall promptly be provided

by that office to the Associate Solicitor, Division of Mine Health and Safety.

6. By adding § 4.564 to read:

§ 4.564 Investigation and report in § 110(b) cases.

Within 60 days after service of an application for review of an alleged discriminatory discharge or other act of discrimination, or within such other period of time as may be designated by the Administrative Law Judge or the Board of Mine Operations Appeals, the Mining Enforcement and Safety Administration shall investigate the facts and circumstances surrounding the alleged discriminatory discharge or other act of discrimination and file a report of the investigation with the Office of Hearings and Appeals. Such report of investigation shall be included as part of the official record in the proceeding. Copies of the report shall be served on each of the parties.

(Sec. 508, Pub. L. 91-173; 83 Stat. 803 (30 U.S.C. 957).)

[FR Doc. 78-1550 Filed 1-18-78; 8:45 am]

[7035-01]

#### Title 49—Transportation

#### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS [Amendment No. 1 to Service Order No. 1270]

#### PART 1033—CAR SERVICE

Chesapeake and Ohio Railway Co. Authorized To Operate Over Tracks Abandoned by Grand Trunk Western Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1270).

SUMMARY: Service Order No. 1270 authorizes The Chesapeake and Ohio Railway Company to operate over approximately 0.6 miles of track authorized to be abandoned by the Grand Trunk Western Railroad, between Ferrysburg, Michigan, and Grand Haven, Michigan. The trackage involved is owned by the Grand Trunk Western but is used as an integral part of The Chesapeake and Ohio's line between Holland, Michigan, and Muskegon, Michigan. The order also authorizes The Chesapeake and Ohio to operate over an additional 0.2 miles of tracks abandoned by the Grand Trunk Western in order to provide continued rail service to a shipper located adjacent to those tracks. The amendment extends the order for an additional six-month period.

DATES: Effective 11:59 p.m., January 15, 1978. Expires 11:59 p.m., July 15, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840. Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the INTERSTATE COMMERCE COMMISSION, Railroad Service Board, held in Washington, D.C., on the 13th day of January, 1978.

Upon further consideration of Service Order No. 1270 (42 F.R. 38379), and good cause appearing therefore:

It is ordered, that: Service Order No. 1270 is amended by substituting the following paragraph (c) for paragraph (c) thereof:

§ 1033.1270 Service Order 1270.

*The Chesapeake and Ohio Railway Company authorized to operate over tracks abandoned by Grand Trunk Western Railroad Company.*

(c) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

This order shall become effective at 11:59 p.m., January 15, 1978.

(49 U.S.C. 1(10-17).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1542 Filed 1-18-78; 8:45 am]



[7035-01]

## SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 36645]

## PART 1203—EXPRESS COMPANIES

## PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT

## Elimination of USOA for Express Companies

AGENCY: Interstate Commerce Commission.

ACTION: Report and order.

SUMMARY: The present Uniform System of Accounts for Express Companies (USOA), was developed by the former express company REA Express, Inc. (REA), and adopted by the Commission after appropriate modification on July 27, 1973. REA was the sole user of the USOA and only express company subject to Commission regulation until it was adjudicated a bankrupt by the U.S. District Court for the Southern District of New York on November 6, 1975.

A successor company to REA has yet to emerge in the express industry and prospects for the emergence of a successor company in the immediate future are doubtful. If a successor company should emerge, substantial modification of accounting rules would be required to accommodate the management information needs of the successor company. Therefore, the Commission has decided to delete the USOA and related reporting system for express companies, Parts 1203 and §1241.31 respectively, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations.

Part 1203 of 49 CFR is deleted:

## PART 1203—[DELETED]

Section 1241.31 of 49 CFR Part 1241 is deleted:

§1241.31 [Deleted.]

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James B. Thomas, Jr., Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone: 202-275-7565.

Issued at Washington, D.C. January 3, 1978, by the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1543 Filed 1-18-78; 8:45 am]

## RULES AND REGULATIONS

[4310-55]

## Title 50—Wildlife and Fisheries

## CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 33—SPORT FISHING

## Opening of Swan Lake National Wildlife Refuge, Missouri, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Swan Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: March 1, 1978, through September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Alfred O. Manke, P.O. Box 68, Sumner, Missouri 64681, Telephone: 816-856-3323.

## SUPPLEMENTARY INFORMATION:

§33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Swan Lake National Wildlife Refuge, Missouri, only on the areas designated by signs as being open to fishing. These areas comprising 10,500 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver, Colo. 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. During daylight hours only.
2. Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.
3. Travel is permitted on all roads except those posted with "Road Closed" signs.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 11, 1978.

ALFRED O. MANKE,  
Refuge Manager.

[FR Doc. 78-1520 Filed 1-18-78; 8:45 am]

[3510-22]

## CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

## PART 611—FOREIGN FISHING

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Errata sheet.

SUMMARY: These amendments are a miscellaneous group of corrections to the comprehensive 1978 foreign fishing regulations which were published on November 28, 1977 (42 FR 60682).

EFFECTIVE DATE: These corrections will become effective on January 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, 202-634-7454.

SUPPLEMENTARY INFORMATION: The foreign fishing regulations for 1978, which were published under authority of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801, et seq., as amended, on November 28, 1977, contained a number of minor errors. Some of these errors were typographical; some stemmed from small oversights. These amendments are intended to correct those errors, and in that sense, this list should be viewed as an errata sheet. None of the errors which are corrected is substantive in character.

Signed at Washington, D.C., this 13th day of January 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

The telephone number given in the preamble under the heading, "FOR FURTHER INFORMATION CONTACT," is incorrect. That number should be 202-634-7454.

On Page 60682, correct Subpart A §611.3 on page 60682 by inserting word "foreign" between words "for" and "fishing", so it reads "Permits for foreign fishing."

On Page 60683, the heading for 611.93 in Subpart G should be changed to reflect corrected title: "Bering Sea and Aleutian Islands Trawl, Longline, and Herring Gillnet Fishery."

The heading for §611.94 in Subpart G should be changed to reflect correct title: "Directed Fishery for Sablefish (Blackcod) in the Gulf of Alaska."

In §611.2(f) correct Latin name for lobster in Crustacea column is "Homarus", not "Homarcus."

## RULES AND REGULATIONS

(1)(2) Strike "with", substitute "within".

(v) Strike "south", substitute "southern".

In §611.3(d) at beginning of the second sentence, strike the words "To allow time for review, comment and processing applications should . . ." and substitute the following: "To allow time for review and comments by the public, the involved governmental agencies, and appropriate fishery management councils, and the necessary processing, applications should . . ."

In §611.4 Table I, line 3, correct spelling of "California".

In §611.4 footnote frequencies for Table II should be corrected as follows:

Carrier Frequencies (kHz) as follows:

Letter	Shore transmit	Ship transmit
A.....	4428.7	4134.3
B.....	6506.4	6200.0
C.....	6765.4	8241.5
D.....	13113.2	12342.4
E.....	17307.3	16534.4

In §611.9(d)(3), line 13, and (e)(1), line 6. Change §611.20(d) to §611.21.

In §611.9(d)(4). Delete the word "Ocean" after the words "Northeast Pacific."

In §611.9 Appendix I, "Principal Groundfish (except Flatfishes)."

Delete footnote 1 from listing for red hake.

"Other Groundfish" column 1 change Latin name for Northern Puffer from "Sphoeroides" to "Sphaeroides."

"Other Fish" change Latin name for Rainbow smelt from "mardax" to "mordax."

"Invertebrates"—(Code 509) Both Latin names for squids (NS) should be capitalized.

"Species codes—Pacific Ocean"—(Code 003) Correct Latin spelling for flounders, other than yellowfin sole is "Pleuronectiformes."

In §611.9, Appendix II. Retitle charts on pages 60688 and 60689 by deleting the word "Divisions" from all three and changing the word "Area" to "Areas."

In §611.9, Appendix III. In the fifth paragraph, strike §611.20 and substitute §611.21.

In §611.9, Appendix IV, subparagraph (1)(D), line four. Insert "1/2 of a" between the word "nearest" and the word "metric," also in Appendix IV subparagraph (1)(E), third paragraph, line 5, strike §611.20(d), substitute §611.21.

Subparagraph (1)(E), fourth paragraph, line 1, strike words "Northwest Pacific Ocean," substitute "Northeast Pacific."

Subparagraph (2), line 11. "State" should be "state."

In §611.9, first table on page 60691 "Address" column changes as follows:

1. The ZIP code for the Director, Northwest Region should be 98109.

2. Strike fourth paragraph which begins "Director, Southeast Region;" substitute: "Director, Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida 33149."

3. Address for Alaska Director should read: "Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99801."

"Report Received by" column, line four. Add word "period" so that line reads "reporting period."

In §611.12(b), line 5. "An" should be "any."

In §611.15(c), end of second line. "Nation" should read "nation(s)."

In §611.50(b)(3)(ii), line 3. The word "billfish" should be changed to "all billfishes." This subparagraph should be further corrected by inserting the words "Atlantic herring" between "Atlantic cod" and "Atlantic menhaden;" "pollock" between "haddock" and "scup;" and insert between "Continental Shelf fishery resources" and the period at the end of the sentence the words "and other invertebrates except squids allocated in Table II."

In §611.50(c)(2). In second line insert word "pelagic" between words "any" and "rawl."

In §611.50(d)(1)(iii). Insert number "100" between "nearest" and "kilogram," add "s" at end of word "kilogram."

In §611.50(e)(2) fifth line, strike "327 MHz," substitute "472 kHz."

Add at end of subparagraph: "Broadcast is also made on 8502 kHz via simultaneous keying when necessary."

In §611.50(e)(2). In eighth line, strike "350 G.M.T.," substitute "1350 G.M.T."

In §611.70(b)(2). Subparagraph designators are incorrect. Should read (i) and (ii) respectively instead of (a) and (b).

In §611.70(b)(1), Table I under column headed "Rockfishes including Pacific Ocean Perch." The number "890" should read "710."

In §611.70(f)(1)(iii). Correct spelling of "starting."

In §611.70(f)(3). On last full line in subsection, number "611.70" should be inserted between "in" and "(f)."

In §611.80. Title of subpart should be corrected to read "Seamount Groundfish Fishery."

In §611.80(e)(2)(ii). Strike the words "in paragraph (a) of this section," substitute "in §611.2(f) of this Part."

In §611.80(e)(4). In lines 2 and 3, strike "Part 3.0 above," substitute "subsection (b)(4) above."

In §611.90(c)(2)(ix). Delete "to" in third line.

In §611.92, Table I, last column heading add an "s" on "Species."

In §611.92(b)(2), lines 2 and 3 change "area" to "areas." Line 4. Change "includes" to "include."

In §611.92(b)(3)(i)(A), line 2. Change the first latitude from "50°57'" to "56°57'."

In §611.92(b)(3)(i)(B), line 7. Change "50°30'" to "56°30'."

In §611.92(b)(3)(i)(C), line 2, last latitude. Change "56°44'U" to "56°44'N." on line 3, change longitude from "153° W. long." to "153°00' W. long."

In §611.92(b)(3)(i)(E), line 3. Change "150°00'" to "150°57'."

In §611.92(b)(3)(iii), second line. Change "fishing" to "trawling."

In §611.92(b)(3)(iv), line 3. Change "May 15" to "May 31."

In §611.92(b)(3)(v), line 4. The first word "December" should be changed to "November."

In §611.92(c), line 16. Insert the word "squid," between the words "mackerel;" and "any."

In §611.93. Change title to read: "Bering Sea and Aleutian Islands Trawl, Longline, and Herring Gillnet Fishery."

In §611.93, Table I on page 60698 requires three changes:

1. Title of Table should read: "Bering Sea and Aleutian Islands Trawl, Longline, and Herring Gillnet Fishery . . ."

2. The species column headed by the word "Pacific" between "Sablefish" and "Herring" should read "Pacific cod."

3. The initial TALFF for "Other Flounders" should be 139,000 instead of 105,000.

In §611.93(b)(1)(iii)(B). Delete the words "by means of trawling or gillnetting" in the third and fourth lines. Substitute "(as defined in §611.2(p)(1))."

Line 11, insert after "fishery" the words "for other allocated species."

In §611.93(b)(2), line 3. Change "area" to "areas."

Line 4, change "includes" to "include."

In §611.93(b)(2)(ii)(A), line 2. Change "and" to "to."

In §611.93(b)(2)(iii)(C), line 1. Delete "C" after "176," and substitute "00."

In §611.93(b)(3)(i)(A). At the beginning insert "From January 1, 1978 to December 31, 1978, inclusive."

In §611.93(b)(3)(i)(B)(1) At the end add: "(From Cape Sarichef Light to 54°00' N. lat., 170°00' W. long.; then due south along 170°00' W. long. to the Aleutian Islands)."

In §611.93(b)(3)(i)(B)(2) and (3) After "Area E" insert "(From Cape Newenham at 58°39' N. lat., 162°10'25' W. long.; to 57°15' N. lat., 170°00' W. long.; to Cape Sarichef light)."

In §611.93(b)(3)(B)(4) After "Area A" insert "(From Cape Sarichef light at 54°36' N. lat., 164°55'42' W. long.; to 54°00' N. lat., 170°00' W. long.; to 57°15' N. lat., 170°00' W. long.; to Cape Sarichef light)."



## RULES AND REGULATIONS

In § 611.94(a), line 3. Change as follows: " \* \* \* *plopoma fimbria*) by foreign \* \* \* "

In § 611.95(d), line 7. First word in line should be "month" instead of "mouth".

[FR Doc. 78-1399 Filed 1-18-78; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01]

NUCLEAR REGULATORY  
COMMISSION

[10 CFR Part 100]

SEISMIC AND GEOLOGIC SITING CRITERIA FOR  
NUCLEAR POWER PLANTS

## Reassessment of Current Criteria

On November 13, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 1271) amendments to its regulations which adopted Appendix A, "Seismic and Geologic Siting Criteria for Nuclear Power Plants," to 10 CFR Part 100, "Reactor Site Criteria," as a rule to be effective December 13, 1973. In view of the experience gained in the application of the procedures and methods set forth therein, the difficulties encountered, and the rapid advancement in the state-of-the-art of earth sciences, the staff of the Offices of Standards Development and Nuclear Reactor Regulation of the U.S. Nuclear Regulatory Commission have initiated a reassessment of the appendix to determine the need for its revision.

To aid the staff in this reassessment, all interested persons are invited to submit information, comments, and suggestions. The staff is particularly interested in finding out about problems that have arisen in the application of Appendix A. Commenters are invited to state the nature of the problems encountered and describe them in detail. Corrective actions should also be recommended.

After comments, information, and suggestions have been received and considered, the staff will publish the results of its reassessment as a preliminary value/impact statement and, if appropriate, recommend to the Commission that rulemaking be initiated.

Interested persons should send information, comments, and suggestions by March 1, 1978 to Mr. Leon L. Beratan, Chief, Site Safety Standards Branch, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Copies of the comments received will be available for examination in the NRC Public Document Room, 1717 H Street NW., Washington, D.C.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director, Office of  
Standards Development.

[FR Doc. 78-1426 Filed 1-18-78; 8:45 am]

[3128-01]

FEDERAL ENERGY ADMINISTRATION<sup>1</sup>

[10 CFR Parts 205 and 303]

ADMINISTRATIVE PROCEDURES AND  
SANCTIONS

## Appeal From Interpretations

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy ("DOE") hereby gives notice of a proposal to amend its petroleum price and allocation procedural regulations to eliminate administrative appeal of formal interpretations issued by the Office of the General Counsel or Regional Counsels pursuant to 10 CFR Part 205, Subpart F, while preserving the right to seek modification or rescission of an interpretation at any time under Subpart F of Part 205. The DOE also proposes to revise the procedural regulations to permit applications for reconsideration of an interpretation to be submitted to the General Counsel of the DOE within thirty days of the issuance of the interpretation. A parallel change in the procedural regulations applicable to the coal program at 10 CFR Part 303, Subpart G, is also proposed.

DATES: Written comments by February 22, 1978, 4:30 p.m., e.s.t.

ADDRESSES: Written comments to Department of Energy, Office of Regulations Management, Room 2214, Box RG, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION  
CONTACT:

Deanna Williams (DOE Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

<sup>1</sup>EDITORIAL NOTE.—Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

Charles Cope (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 1119, Washington, D.C. 20461, 202-566-9070.

## SUPPLEMENTARY INFORMATION:

## A. BACKGROUND

The procedures which govern the issuance of formal interpretations by the DOE General Counsel or Regional Counsels, relating to the petroleum price and allocation regulations, are found in 10 CFR Part 205, Subpart F. These procedures include a provision, § 205.86, permitting administrative appeals to be taken from such interpretations in accordance with the general administrative appeals provisions found in 10 CFR Part 205, Subpart H. In addition, modification or rescission of such an interpretation may be sought under Subpart F (§ 205.85(d)) or, based on changed circumstances, pursuant to the general administrative modification or rescission provisions in Subpart J of Part 205.

Parallel procedures applicable to formal interpretations issued by the General Counsel under the coal program are found in 10 CFR Part 303. Subpart G of Part 303 establishes the procedures for issuance of such interpretations; Subpart H sets forth the procedures for administrative appeals generally, including appeals of interpretations issued under Subpart G; and Subpart K establishes the procedures for the filing of an application for modification or rescission of certain administrative actions including interpretations issued under Subpart G of Part 303.

Appeals of formal interpretations are heard at present by the Office of Administrative Review, Economic Regulatory Administration, DOE, the successor to the Office of Exceptions and Appeals, Federal Energy Administration (FEA).

B. DISCUSSION<sup>2</sup>

The DOE regards administrative appeal of formal interpretations unnecessary and inappropriate for the reasons outlined below. Therefore, it is proposed that such appeals be eliminated from DOE procedural regulations.

It appears inappropriate to permit internal appeal to an administrative appeals office concerning a matter which in most cases relates solely to a legal judgment rendered by the DOE's Office of the General Counsel con-



PROPOSED RULES

cerning the meaning of DOE regulations. Allegations of error or omission in the factual basis of an interpretation, as well as allegations of error in law, may be reviewed by the General Counsel under existing interpretations procedures at any time (§§ 205.85(d) and 303.95(d)). Administrative appeal as presently authorized under 10 CFR Part 205, Subpart H, and 10 CFR Part 303, Subpart H, is therefore inappropriate or unnecessary, or both.

It should be noted in this connection that no such administrative appeal of rulings (also issued by the General Counsel) is permitted under existing regulations. See §§ 205.154 and 303.154. DOE interpretations and rulings are both "interpretive rules" under the Administrative Procedures Act, 5 USC 551, et seq. A DOE ruling is an interpretation of general applicability whereas an interpretation under 10 CFR Part 205, Subpart F, or 10 CFR Part 303, Subpart G, is an interpretive rule of particular applicability. A ruling may affect the rights and interests of a particular firm as much as, or more than, a specific interpretation issued to that firm. The fundamental nature of a ruling—to provide a legal interpretation of what one or more DOE regulations mean in various contexts—is also the essence of DOE interpretations.

C. PROPOSED AMENDMENTS

The amendments proposed today would essentially delete various references to interpretations in DOE's appeals regulations (Subpart H of Part 205 and Subpart H of Part 303) and provide, as in the case of rulings, that no administrative appeal of an interpretation may be taken.

In addition, in order to provide appropriate flexibility with respect to the issuance of interpretations in the first instance and reconsideration of an interpretation in certain instances by the Office of General Counsel within the framework of interpretations procedures, it is proposed to amend the definition of "Interpretation" in §§ 205.2 and 303.2 to provide that an interpretation may be issued by the DOE General Counsel or his delegate. It is presently contemplated that the Assistant General Counsel for Interpretations will exercise this delegated authority in most cases. Conforming changes to §§ 205.80(a), 205.85(a), 303.90(a), and 303.95(a) are also proposed.

The proposed amendments also delete references to modification or rescission of interpretations in 10 CFR Part 205, Subpart J, and 10 CFR Part 303, Subpart K (i.e., applications for modification or rescission of an interpretation, based on significantly changed circumstances, filed with the Office of Administrative Review). DOE does not intend by this proposed

change to bar such applications. Rather, it is intended that petitions for modification or rescission will be submitted to and reviewed by the Office of the General Counsel pursuant to the procedures set forth in §§ 205.85(d) and 303.95(d). In addition, DOE also proposes to add a new § 205.85(f) and § 303.95(f) to provide for the filing of a petition for reconsideration of an interpretation with the General Counsel of the DOE within 30 days of the date of service of that interpretation. Any petition for reconsideration of such an interpretation will be reviewed by the General Counsel and will only be considered if it is determined that a prima facie showing has been made that the interpretation was erroneous or was issued in an arbitrary or capricious manner. It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

D. WRITTEN COMMENT PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to the Office of Regulations Management, Department of Energy. Comments should be identified on the outside envelope and on documents submitted to DOE Office of Regulations Management with the designation "Appeal of Interpretations," Box RG. Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

E. OTHER MATTERS

Since the proposed regulation is not a regulation affecting the quality of the environment, the provisions of section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to this proposal.

NOTE.—It has also been determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Pursuant to section 404 of the DOE Organization Act, Pub. L. 95-91, these

proposed regulations were referred to the Federal Energy Regulatory Commission.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing it is proposed to amend Parts 205 and 303 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 13, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

1. The definition of "Interpretation" in § 205.2 is amended to read as follows:

§ 205.2 Definitions.

"Interpretation" means a written statement issued by the General Counsel or his delegate or Regional Counsel, in response to a written request, that applies the regulations, rulings, and other precedents previously issued, to the particular facts of a prospective or completed act or transaction.

2. Section 205.80(a) is revised to read as follows:

§ 205.80 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request. Responses, which may include verbal or written responses to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or his delegate or a Regional Counsel, are not interpretations and merely provide general information.

§ 205 [Amended]

3. In § 205.82 the words "or his delegate" are added after the words "General Counsel."

4. Section 205.85(a) is revised to read as follows:

§ 205.85 Decision and effect.

(a) An interpretation may be issued after consideration of the request for interpretation and other relevant in-

formation received or obtained during the proceeding.

5. Section 205.85 is amended by adding a new paragraph (f) to read as follows:

§ 205.85 Decision and effect.

(f) (1) Any person aggrieved by an interpretation issued by the General Counsel or his delegate or by a Regional Counsel may submit a petition for reconsideration to the General Counsel within 30 days of service of the interpretation from which the reconsideration is sought. There has not been an exhaustion of administrative remedies until a period of 30 days from the date of service of the interpretation has elapsed without receipt by the General Counsel of a petition for reconsideration or, if a petition for reconsideration of the interpretation has been filed in a timely manner, until that petition has been acted on by the General Counsel.

(2) A petition for reconsideration may be summarily denied if: (i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

(3) The General Counsel may deny any petition for reconsideration if the petitioner does not establish that:

(i) The petition was filed by a person aggrieved by an interpretation;

(ii) The interpretation was erroneous in fact or in law; or

(iii) The interpretation was arbitrary or capricious. The denial of a petition shall be a final order of which the petitioner may seek judicial review.

6. Section 205.86 is revised to read as follows:

§ 205.86 Appeal.

There is no administrative appeal of an interpretation.

§ 205.100-§ 205.103 [Amended]

7. The words "or interpretation" and references to Subpart F, are deleted wherever they appear in §§ 205.100 and 205.101.

8. In § 205.102(a) the words "or an 'Appeal of Interpretation,'" are deleted.

9. Section 205.103(c) is deleted in its entirety.

§ 205.105 [Amended]

10. The words "or interpretation" are deleted wherever they appear in § 205.105.

PROPOSED RULES

§ 205.107 [Amended]

11. In § 205.107(a) the words "or interpretation" are deleted.

§ 205.130-§ 205.135 [Amended]

12. In §§ 205.130, 205.132(a), 205.132(b), and 205.134(a) the words "or interpretation" are deleted.

13. In § 205.135(b) the words "or interpretation" are deleted wherever they appear.

14. The definition of "Interpretation" in § 303.2 is amended to read as follows:

§ 303.2 Definitions.

"Interpretation" means a written statement issued by the General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued, to the particular facts of a prospective or completed act or transaction.

15. Section 303.90(a) is revised to read as follows:

§ 303.90 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request. Responses, which may include verbal or written responses, to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or his delegate, are not interpretations and merely provide general information.

§ 303.92 [Amended]

16. In § 303.92, the words "or his delegate" are added after the words "General Counsel."

17. Section 303.95(a) is revised to read as follows:

§ 303.95 Decision and effect.

(a) An interpretation may be issued after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

18. Section 303.95 is amended by adding a new paragraph (f) to read as follows:

§ 303.95 Decision and effect.

(f) Any person aggrieved by an interpretation issued by the General Counsel or his delegate or by a Regional Counsel may submit a petition for reconsideration to the General Counsel within 30 days of service of the interpretation from which the reconsideration is sought. There has not been an exhaustion of administrative remedies until a period of 30 days from the date of service of the interpretation has

elapsed without receipt by the General Counsel of a petition for reconsideration or, if a petition for reconsideration of the interpretation has been filed in a timely manner, until that petition has been acted on by the General Counsel.

[FR Doc. 78-1486 Filed 1-16-78; 8:45 am]

[4810-33]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

BANK INDEBTEDNESS: LEASING TRANSACTIONS

Notice of Proposed Rulemaking

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed interpretive ruling.

SUMMARY: The proposed interpretive ruling states the circumstances under which leases involving national banks as lessees will be considered indebtedness for purposes of the limits imposed by 12 U.S.C. 82. The Comptroller believes that a new interpretive ruling is necessary because of recent changes in financial accounting standards and because existing interpretive rulings do not address the application of 12 U.S.C. 82 to such transactions.

DATE: Comments must be received by March 20, 1978.

ADDRESSES: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:

Burton Barnes, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1886.

SUPPLEMENTARY INFORMATION: In November, 1976, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 13, Accounting for Leases (FAS 13). FAS 13 describes the manner in which a lessee and lessor should record leases for financial reporting purposes. On November 11, 1977, through Banking Circular No. 95, the Comptroller incorporated FAS 13 by reference into the "Instructions for Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations," effective with the December 31, 1977, reports.

FAS 13 lists four criteria for determining if a particular leased asset and related obligation must be capitalized



## PROPOSED RULES

## PROPOSED AMENDMENT

The Comptroller of the Currency proposes to amend 12 CFR Part 7 by adding a new § 7.7520 to read as follows:

**§ 7.7520 Bank indebtedness; leasing transactions.**

(a) *Lease obligations considered as indebtedness for 12 U.S.C. 82 purposes.* Capital lease obligations which are required to be reported as liabilities in call reports filed with the Comptroller of the Currency because they transfer ownership of the leased property by the end of the lease term, or include a bargain purchase option, or otherwise satisfy economic life or present value criteria, as described more fully in Statement of Financial Accounting Standards No. 13, Accounting for Leases, November, 1976, will be considered indebtedness subject to the limitations imposed by 12 U.S.C. 82, to the extent of the capitalized amount.

(b) *Leases not considered as indebtedness for 12 U.S.C. 82 purposes.* Operating leases, as defined in Statement of Financial Accounting Standards No. 13, Accounting for Leases, November, 1976, do not result in any indebtedness for the purposes of 12 U.S.C. 82.

Dated: December 23, 1977.

JOHN G. HEIMANN,  
Comptroller of the Currency.  
(FR Doc. 78-1533 Filed 1-18-78; 8:45 am)

[4810-33]

[12 CFR Part 7]

**INVESTMENT IN BANK PREMISES OR STOCK OF A CORPORATION HOLDING PREMISES**

**Notice of Proposed Rulemaking**

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Proposed Amendment of interpretive ruling.

SUMMARY: This proposed amendment would amend 12 CFR 7.3100, an interpretive ruling relating to national bank investments in bank premises or in the stock of a corporation holding bank premises. The proposal states the circumstances under which leases involving national banks as lessees will be considered investment in bank premises for purposes of the limits imposed by 12 U.S.C. 371d. This proposal also changes the criteria by which Regional Administrators allow banks to invest in bank premises in amounts in excess of their capital stock. The Comptroller believes that this amendment is necessary because of recent changes in financial accounting standards and because of the inadequacy of the present interpretive ruling in dealing with investment in bank premises.

**DRAFTING INFORMATION**

The principal drafter of this document was Burton Barnes, Staff Attorney.

DATE: Comments must be received by March 20, 1978. Comments should be addressed to Mr. John Shockey, Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219.

**FOR FURTHER INFORMATION CONTACT:**

Burton Barnes, Staff Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, 202-447-1886.

**SUPPLEMENTARY INFORMATION:** In November 1976, the Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 13, Accounting for Leases (FAS 13). FAS 13 describes the manner in which a lessee and lessor should record leases for financial reporting purposes. On November 11, 1977, through Banking Circular No. 95, the Comptroller incorporated FAS 13 by reference into the "Instructions for Preparation of Consolidated Reports of Condition and Reports of Income by National Banking Associations," effective with the December 31, 1977, reports.

FAS 13 lists four criteria for determining if a particular leased asset and related obligation must be capitalized by the lessee. In general these criteria are: (a) the lease transfers ownership of the property to the lessee by the end of the lease term; (b) the lease contains a bargain purchase option; (c) the lease term is equal to 75 percent or more of the estimated economic life of the leased property; and (d) the present value of the lease payments equals 90 percent of the fair value of the property to the lessor.

**CAPITAL LEASES**

In the past, the Comptroller's staff has issued opinion letters which have indicated that when a lessee bank becomes the ultimate owner of the leased property at the expiration of the lease term or when a bank's lease contains a bargain purchase option, the lease obligation as shown on the bank's books must be included as an investment in bank premises for 12 U.S.C. 371d purposes. Prior to the adoption of FAS 13 there was no requirement that leases be capitalized because of economic life or present value criteria. Thus the Comptroller had no occasion to consider whether such leases should also be treated as investment in bank premises under 12 U.S.C. 371d.

The proposed ruling will continue the current practice of recognizing as an investment in bank premises for 12 U.S.C. 371d purposes any lease which results in a transfer of ownership or which contains a bargain purchase option. In addition, the Comptroller proposes to recognize as a 12 U.S.C. 371d investment any lease which would be capitalized under FAS 13 on

economic life or present value criteria. This is because in capital leases based on these criteria, the lease term is fixed and noncancelable and the leases transfer substantially all the benefits and risks incident to the ownership of property. In effect there appears to be no significant economic distinction between such lease obligations and other 12 U.S.C. 371d investments.

Operating leases will not be considered as investment in bank premises for 12 U.S.C. 371d purposes. This represents no change in present Office policy.

**APPROVAL OF REGIONAL ADMINISTRATOR**

The approval of the Regional Administrator must be obtained before a bank can invest in bank premises in an amount exceeding its capital stock. In the past, the Regional Administrator ordinarily approved an investment in fixed assets in an amount up to 50 percent of capital stock, surplus and undivided profits where a reasonable need for such investment was shown. However this formula has proved inadequate. Condition, earnings, capital structure, need, and other relevant measures should be considered. The standard which the Comptroller is proposing takes these factors into account.

The Administrative Procedure Act does not require notice and solicitation of comments in connection with interpretive rulings (5 U.S.C. 553(b)) and permits interpretive rulings to become effective upon publication (5 U.S.C. 553(d)). However, the Comptroller has elected to invite comment on the proposed ruling.

**DRAFTING INFORMATION**

The principal drafter of this document was Burton Barnes, Staff Attorney.

**PROPOSED AMENDMENT**

The Comptroller of the Currency proposes to amend 12 CFR Part 7, by amending § 7.3100 as follows:

(1) Paragraph (d) is redesignated paragraph (e) a new paragraph (d) is added and paragraph (e) is redesignated as (f) and revised, as amended § 7.3100 reads as follows:

§ 7.3100 Investment in bank premises or stock of a corporation holding premises.

(d) *Leases as investment in bank premises.—(1) Capital leases.*

Capital lease obligations which are required to be reported as liabilities in call reports filed with the Comptroller of the Currency because they transfer ownership of the leased property by the end of the lease term, or include a bargain purchase option, or otherwise

## PROPOSED RULES

satisfy economic life or present value criteria, as described more fully in Statement of Financial Accounting Standards No. 13, Accounting for Leases, November 1976, will be considered as investment in bank premises subject to the limitations imposed by 12 U.S.C. 371d, to the extent of the capitalized amount.

(2) *Operating leases.*—Operating leases, as defined in Statement of Financial Accounting Standards No. 13, Accounting for Leases, November 1976, do not result in any investment in bank premises for the purposes of 12 U.S.C. 371d.

(f) The approval of the Regional Administrator of National Banks shall be obtained before the consummation of any plans under which the bank's investment in bank premises will be increased to an amount exceeding its capital stock. The Regional Administrator of National Banks will consider capital structure, earnings, the bank's condition, future need and other pertinent factors in determining the aggregate limit the bank can invest in fixed assets.

Dated: December 29, 1977.

JOHN G. HEIMANN,  
Comptroller of the Currency.  
(FR Doc. 78-1527 Filed 1-18-78; 8:45 am)

[1505-01]

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

[14 CFR Part 39]

[Docket No. 78-NE-1]

**AIRWORTHINESS DIRECTIVES**

Pratt & Whitney Aircraft JT3D Engines

**Correction**

In FR Doc. 78-781 appearing on page 1801 in the issue of Thursday, January 12, 1978, the text following the paragraph, SUPPLEMENTARY INFORMATION was inadvertently transposed. The text should read as follows:

The FAA has determined that forging laps, which are caused by folding over of metal during the blade forging process, have contributed to 16 first stage fan blade failures on JT3D turbofan engines. Nine of these failures were non-contained. Since this condition is likely to exist on other engines of the same type design, the proposed AD would require a one-time Blue Etch-Anodize inspection of the first stage fan blades to detect the presence of forging laps on all JT3D model engines. Since the time in service of indi-

vidual fan blades is not recorded, a compliance time based on usage is impractical. Therefore, a calendar date compliance was selected based on safety, availability of replacement blades and capability of the industry to affect the inspection.

**DRAFTING INFORMATION**

The principal authors of this document are Daniel P. Salvano, Propulsion Section, Engineering and Manufacturing Branch, and George L. Thompson, Office of the Regional Counsel, New England Region.

**THE PROPOSED AMENDMENT**

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

PRATT & WHITNEY AIRCRAFT. Applies to all Pratt & Whitney Aircraft JT3D turbofan engine models.

Compliance required not later than October 1, 1979, unless already accomplished.

To preclude failures of first stage fan blades due to forging laps, which could result in aircraft damage, perform a one-time Blue Etch-Anodize inspection of the blades in accordance with the procedures given in Pratt & Whitney Alert Service Bulletin 4733, dated May 5, 1977, or later FAA approved revision, and Special Instruction 2F-77 dated January 28, 1977, or later FAA approved revision.

Fan blades that exhibit blue etch linear indications in the inspection areas shown in Figure 1, of ASB 4733, must be reworked or scrapped in accordance with the forging lap repair limits established in Figure 2, of ASB 4733, dated May 5, 1977, or later FAA approved revision.

NOTE.—The AD does not change the present fan blade blend limits given in the JT3D engine manual.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt & Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA headquarters, 800 Independence Avenue SW., Washington, D.C.



## [1505-01]

Federal Aviation Administration  
[14 CFR Part 73]  
[Airspace Docket No. 77-SO-53]  
TEMPORARY RESTRICTED AREAS  
Proposed Establishment  
Correction

In FR Doc. 77-35643, appearing at page 63181 in the issue of Thursday, December 15, 1977, make the following changes on page 63182:

1. In column two, the fourth line of the first description of a restricted area should read, "Long. 65°59'20" W.; to Lat. 18°07'00" N."

2. In column three, the sixth line of the fifth description of a restricted area should read, "17°48'00" N., Long. 66°30'00" W.; thence".

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1201]

## ARCHITECTURAL GLAZING MATERIALS

Proposed Testing Program and Certification Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Change in date of oral presentations.

SUMMARY: The Commission changes the date of the oral presentations on the proposed testing program and certification requirements for architectural glazing materials from February 15, 1978 to March 1, 1978. The end of the written comment period is not affected by this change and remains March 16, 1978. This action is being taken at the request of the Flat Glass Marketing Association whose national meeting conflicts with the date of the oral presentations.

DATES: *Written comments.*—Written comments should be received on or before March 16, 1978.

*Oral presentation.*—An opportunity for an oral presentation of data, views, and arguments on the regulation will be provided on March 1, 1978. Persons desiring to make an oral presentation must notify Richard Danca of the Office of the Secretary, 202-634-7700, 1111 18th Street NW., Washington, D.C. 20207, not later than February 13, 1978. A summary or outline of each oral presentation must be filed with Mr. Danca no later than February 20, 1978.

ADDRESS: Written comments should be sent to: The Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

## PROPOSED RULES

## FOR FURTHER INFORMATION CONTACT:

Allen F. Brauninger, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6629.

## SUPPLEMENTARY INFORMATION:

In the FEDERAL REGISTER of December 16, 1977, 42 FR 63586, the CPSC proposed a testing program and certification requirements for architectural glazing materials subject to the Safety Standard for Architectural Glazing Materials, 16 CFR 1201. That standard became effective on July 6, 1977. It was announced in that notice that an opportunity for an oral presentation of data, views, and arguments on the proposed regulation would be held on February 15, 1978. By letter dated December 21, 1977, the Commission was notified by Counsel to the Flat Glass Marketing Association (FGMA), whose members are distributors, retailers and contract glaziers of architectural glazing materials; that the date of the Commission's oral presentations on the proposed regulation conflicted with the annual national meeting of FGMA. FGMA's counsel also pointed out that manufacturers of glazing materials would have representatives at FGMA's national meeting and they would be prevented from attending the February 15, 1978 Commission meeting.

In view of the foregoing, the Commission has rescheduled the date of the oral presentations on the proposed testing requirements and certification regulation from February 15, 1978 to March 1, 1978. The closing date for the receipt of written comments remains March 16, 1978.

All persons desiring to make oral presentations must notify Richard Danca of the Office of the Secretary, 202-634-7700, not later than the close of business on February 13, 1978. A summary or outline of each oral presentation must be filed with the Office of the Secretary by close of business February 20, 1978.

Written comments and any accompanying materials should be submitted, preferably in five copies, to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Comments received in response to this proposal will be available for public inspection in the Office of the Secretary, 3rd Floor, 1111 18th Street NW., Washington, D.C., during working hours, Monday through Friday.

Dated: January 13, 1978.

SADYE E. DUNN,  
Deputy Secretary, Secretary,  
Consumer Product Safety  
Commission.

[FR Doc. 78-1429 Filed 1-18-78; 8:45 am]

## [4910-22]

## DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 625]

[FHWA Docket No. 77-4]

## DESIGN STANDARDS FOR HIGHWAYS

Withdrawal of Advance Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) is withdrawing its present action on its proposal for amending geometric design standards for resurfacing, restoration, and rehabilitation (R-R-R) projects. This withdrawal is based on substantial adverse comments on the design guide upon which two of the proposed changes were founded.

EFFECTIVE DATE: January 19, 1978.

## FOR FURTHER INFORMATION CONTACT:

Seppo Sillan, Highway Design Division, Office of Engineering, 202-426-0321; Lee Burstyn, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.s.t., Monday-Friday.

## SUPPLEMENTARY INFORMATION:

An advance notice of proposed rulemaking (ANPR) for establishing guidance on geometric design criteria for R-R-R types of projects was published in the FEDERAL REGISTER at 42 FR 42876 (August 25, 1977). The original due date for comments was October 25, 1977. That date was extended to November 22, 1977, by a notice published in the FEDERAL REGISTER at 42 FR 56751 (October 28, 1977).

All suggestions and proposals for establishing such criteria were requested. Additionally, three specific alternatives were offered for comment.

The first alternative provided for continued operation within the provisions of existing Part 625 of the regulation. This provides for exceptions to existing design standards on an individual project basis.

The second alternative would have incorporated by reference the American Association of State Highway and Transportation Officials' (AASHTO) "Geometric Design Guide for Resurfacing, Restoration and Rehabilitation (R-R-R) of Highways and Streets," as the acceptable criteria for Federal-aid R-R-R work.

The third alternative provided for the State highway officials and the FHWA Division Administrators to develop individual State criteria by using the "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets," AASHTO 1977, and other guides, policies, and standards referred to in existing Part 625. Approximately 200 responses were received on the ANPR. Essentially all of the individuals and groups responding simply indicated a preference or criticized the three alternatives proposed without offering any substitute criteria. It can be concluded that the comments in total indicate that current criteria or procedures are not desirable and that some change is needed. However, it is believed that the number of severely adverse comments made on the specific criteria contained in the AASHTO "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets," which is a part of alternatives two and three, precludes its adoption for use on Federal-aid projects and, consequently, the adoption of either of those alternatives as such.

Review of the legislative background indicates that the inclusion of "resurfacing, restoration, and rehabilitation" in the definition of Federal-aid highway construction was intended to provide greater flexibility in the use of Federal-aid highway funds for improving existing highways. The physical need for R-R-R projects is indicated by the fact that the existing highways are wearing out faster than they can be reconstructed. Since the funding levels are not now nor are they expected in the future to be sufficient to reconstruct all the highways to the current standards before they deteriorate beyond reasonable usefulness, some other intermediate level of improvement is needed. To assure that all factors, especially safety, are considered adequately and uniformly nationwide, some geometric design criteria, separate from existing criteria for new construction are needed.

Therefore, recognizing the apparent intent of the legislation and the need for separate national geometric design criteria for R-R-R projects, the FHWA has decided to take the following actions at this time.

(1) Because of some of the severe comments on the specific criteria contained therein, the FHWA has decided not to adopt the AASHTO "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (R-R-R) of Highways and Streets," 1977, in its present form for Federal-aid projects.

(2) Using comments received in response to the ANPR, and other available information, FHWA will develop geometric design criteria for Federal-aid R-R-R projects.

(3) Until such time as separate FHWA criteria are promulgated, R-R-R projects will be handled under the

## PROPOSED RULES

current procedures contained in existing 23 CFR 625. These existing procedures permit the needed flexibility in the geometric design of R-R-R projects through approval of exemptions on a project-by-project basis. Although not considered an adequate long-term solution, this interim procedure can be used immediately to provide the latitude needed for implementing Federal-aid R-R-R projects.

(4) Emphasis will be given to the evaluation of the R-R-R program. Criteria that will be developed per item 2 above will be made available for review and comment by publication in the FEDERAL REGISTER according to normal rulemaking procedures. However, pending such publication, this docket is hereby withdrawn.

Issued on: January 13, 1978.

WILLIAM M. COX,  
Federal Highway Administrator.  
[FR Doc. 78-1555 Filed 1-18-78; 8:45 am]

## [1505-01]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3691]

## NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Boxborough, Middlesex County, Mass.

## Correction

In FR Doc. 77-34510, appearing at page 61814 in the issue of Tuesday, December 6, 1977, the second entry in the last column of the table on page 61815 should read, "276".

## [3910-01]

## DEPARTMENT OF DEFENSE

Department of the Air Force

[32 CFR Part 832]

## EMPLOYMENT OF CIVIL AIR PATROL

Proposed Rulemaking

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Civil Air Patrol is provided support by the Air Force under Title 10 statute (section 9441). This statute directs the Secretary of the Air Force to prescribe regulations applicable to the employment authorized for Civil Air Patrol. Air Force Regulation 46-5 is the updated regulation on Civil Air Patrol employment.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Mail comments to: Special Assistant for Civil Air Patrol Affairs, The Pentagon, Washington, D.C. 20330.

## FOR FURTHER INFORMATION CONTACT:

Lt. Col. Hettinger, The Pentagon, Room BF655, Washington, D.C., 202-697-2463.

SUPPLEMENTARY INFORMATION: The Department of the Air Force proposes to revise Subpart A of Part 832 of 32 CFR, Employment of Civil Air Patrol. This subpart explains the use of Civil Air Patrol (CAP) services employed on Air Force noncombat missions. It applies to Air Force activities only and does not dictate or limit the private activities of CAP. This revision updates the Air Force agencies that employ CAP and types of missions involved, revises the reimbursement procedures, and identifies the revised accounting needs for reimbursing CAP. Interested persons are invited to participate in this rulemaking by submitting comments to the above contact person.

The legal authority for this subpart is 10 U.S.C. 8012, 9441. The revised subpart is proposed to read as follows:

## PART 832—CIVIL AIR PATROL

## Subpart A—Employment of Civil Air Patrol

- Sec. 832.1 Purpose.
- 832.2 Use of CAP services by the Air Force.
- 832.3 CAP mission employment by the Air Force.
- 832.4 Use of Air Force funds.
- 832.5 CAP accidents or incidents.
- 832.6 Procedures for reimbursing CAP.
- 832.7 Accounting procedures for reimbursement funding.
- 832.8 Cost estimates for CAP reimbursement.
- 832.9 Training and evaluation of CAP members.

AUTHORITY: 10 U.S.C. 8012, 9441.

## Subpart A—Employment of Civil Air Patrol

## § 832.1 Purpose.

This subpart explains the use of Civil Air Patrol (CAP) services employed on Air Force noncombat missions. It applies to Air Force activities only and does not dictate or limit the private activities of CAP.

## § 832.2 Use of CAP services by the Air Force.

Use of CAP services to support Air Force noncombat missions is provided for by law. CAP participates in these missions on a voluntary basis; therefore, the use of CAP services must be formally requested by a specific Air Force agency.



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PROPOSED RULES

§ 832.3 CAP mission employment by the Air Force.

CAP members and their available equipment can perform light aircraft operations and provide mobile ground team support and local or long range radio communications from a mobile or stationary site. CAP resources are primarily used on these types of missions:

(a) *Search and Rescue.* CAP voluntarily supports the National Search and Rescue Plan. The Aerospace Rescue and Recovery Service (ARRS), Air Force commanders in Alaska and Hawaii and the Commander, CAP-USAF may request the assistance of CAP for search and rescue missions. These agencies authorize, coordinate, and assist CAP in the conduct of such missions.

(b) *Disaster Relief.* CAP resources may be used to assist in the relief of disasters that occur in the United States and Puerto Rico. CAP services are requested and coordinated by one of the numbered air force headquarters within the Air Force Reserve.

(c) *Civil Defense.* CAP resources may be used in the event of a Civil Defense Emergency. Tasks are assigned by Civil Defense agencies to CAP under the guidelines in Civil Defense Emergency plans. Examples of these tasks are: (1) Air radiological monitoring, (2) air surveillance and reconnaissance, (3) light air transport, (4) courier service, and (5) radio communications.

(d) *Test Missions.* The ability of CAP to perform search and rescue, disaster relief, or civil defense tasks is evaluated through test missions. These missions are requested by the Commander, CAP-USAF, and conducted by Air Force liaison members assigned to CAP.

(e) *Other Missions for CAP.* An Air Force commander who may need CAP services for other than search and rescue, disaster relief, or civil defense activities must coordinate the use of CAP services through HQ CAP-USAF/DO before any mission activity by CAP members. This is to insure that the requesting major command (MAJCOM) is fully aware of the policies, procedures, and limitations that apply to CAP when performing Air Force missions.

(f) *Basic Requirements for CAP Missions.* An Air Force agency that authorizes the use of CAP services on any Air Force mission must provide at least this information: (1) Written authority for the specific mission, (2) scope of CAP activity, (3) assignment of mission number or designator, (4) date and time of start and mission length, (5) Air Force point of contact for CAP mission coordinator, (6) CAP wings involved, and (7) release of information to news media.

§ 832.4 Use of Air Force funds.

(a) Air Force appropriated funds are authorized only to furnish or reimburse CAP for:

(1) Aviation and automotive fuel and lubricants used to perform an Air Force authorized mission.

(2) Communications expenses used to alert or control CAP resources involved with an authorized mission.

(b) Air Force appropriated funds are not authorized to:

(1) Reimburse CAP for depreciation of privately owned equipment.

(2) Set up indemnity provisions for damage to equipment, or for personal injury or death of CAP members as a result of participation on an Air Force mission.

(3) Set up indemnity claims for equipment or facilities used by CAP or its members that are obtained from private owners by loan, lease, contract, or otherwise.

(4) Pay for personal services or expenses of CAP members engaged in Air Force missions, except as identified in this subpart.

§ 832.5 CAP accidents or incidents.

A CAP accident or incident that occurs on an authorized Air Force mission and that results in damage to or loss of property, or personal injury or death, is reported to the Air Force liaison officer for the CAP wing performing the mission. Part 832 of this chapter, Claims Manual, explains the CAP provisions in these situations.

§ 832.6 Procedures for reimbursing CAP.

CAP members who participate on an authorized Air Force mission are reimbursed for aviation and automotive fuel and lubricants as well as the cost of communications used on such missions. If CAP members are not able to purchase fuel or lubricants during a mission, a local vendor may be used to provide fuel and lubricants to CAP and receive reimbursement by the Air Force.

(a) CAP Form 108, Reimbursement Document, is used to identify all claims for reimbursement by CAP members or vendors. AFM 177-102, Commercial Transactions at Base Level, paragraph 20844, states the certifications needed on any CAP claim for reimbursement. The statement from the CAP wing commander is entered and signed after the last entry on the CAP Form 108.

(b) CAP members or vendors submit all reimbursement claims to the Air Force liaison office that serves the CAP wing participating on the mission. The liaison officer reviews all claims and fills out a Standard Form (SF) 1034, Public Voucher for Purchases and Services Other Than Personnel, as outlined in AFM 177-102, paragraph 20884.

(c) The liaison officer sends SF 1034 and supporting documents for search

and rescue, disaster relief, or civil defense missions, as well as test exercises for these types of missions, to 375 AAW/ACFM, Scott AFB IL 62225 for payment. CAP reimbursement claims for other missions are forwarded to the accounting and finance office specified by the MAJCOM that requested and authorized the mission.

§ 832.7 Accounting procedures for reimbursement funding.

(a) The Military Airlift Command (MAC) is responsible for CAP reimbursement funding on search and rescue, disaster relief, or civil defense missions, as well as test exercises for these types of missions. The following procedures apply:

(1) *Search and Rescue Missions.* When the ARRS requests a CAP wing to perform a mission, ARRS provides a cost estimate to HQ MAC/ACB. This data includes: The CAP wing, mission number, mission purpose, and estimated cost by category of expense. When a mission is closed or suspended, a letter of authorization for the mission is sent to the CAP wing commander, with copies to HQ MAC/ACB and 375 AAW/ACFM.

(2) *Disaster Relief or Civil Defense Missions.* When an Air Force Reserve numbered air force headquarters authorizes a CAP mission, it uses the same procedures and data as for a search and rescue mission.

(3) *Test or Exercise Missions.* The Commander, CAP-USAF may task a CAP wing to perform an exercise or test mission to evaluate its ability to conduct an actual search and rescue, disaster relief, or civil defense mission. HQ CAP-USAF/DO requests funds to support these missions from HQ MAC/ACB, who provides the available funding by category of expense to HQ CAP-USAF/DO and 375 AAW/ACFM. HQ CAP-USAF, as the CAP mission manager, provides the same data as required for actual missions to HQ MAC/ACB and 375 AAW/ACFM.

(b) The Air Force liaison officer enters the proper accounting classifications on the SF 1034. The account classification for MAC-reimbursed missions is:

57(FY)3400 30(FY)6591 (RC/CC)  
09(EEIC)S25300

(1) Fiscal Year (FY)—use 8 for FY 78, 9 for FY 79, etc.

(2) Responsibility Center/Cost Center code (RC/CC).

RC/CC	Description
190901	Actual search and rescue missions.
190902	Actual disaster relief or civil defense missions.
190903	Search and rescue or disaster relief or civil defense test missions.

(3) Element of Expense Investment Code (EEIC).

EEIC	Description
49510	Official toll calls.
601	Aviation fuel and lubricants.
612	Automotive fuel and lubricants.

(c) Other MAJCOMS which use CAP services for noncombat missions must ensure enough funds are available to reimburse CAP for fuel, lubricants, and communications costs used on these missions. The using MAJCOM must also provide an account classification to HQ CAP-USAF/DO for liaison officers to complete an SF 1034 for the mission.

§ 832.8 Cost estimates for CAP reimbursement.

HQ CAP-USAF submits these estimates annually to HQ MAC/ACB soon enough for them to be included in the MAC budget request. The estimates identify the number of actual and test missions, their purpose, and projected cost by expense category.

§ 832.9 Training and evaluation of CAP members.

(a) Training for CAP members is the responsibility of CAP commanders and supervisors; however, the Commander, CAP-USAF, through the liaison program for CAP, may give training assistance to CAP members or coordinate training assistance from other Air Force organizations.

(b) The Commander, CAP-USAF, may authorize test missions or exercises as needed to evaluate the ability of the CAP to perform Air Force-requested missions.

FRANKIE S. ESTEP,  
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-1464 Filed 1-18-78; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 3]

VETERANS BENEFITS

Character of Discharge

AGENCY: Veterans Administration.

ACTION: Proposed rulemaking.

SUMMARY: The Veterans Administration is amending its regulations concerning eligibility for benefits based on character of discharge or release from service. These changes are necessary in order to implement a new law, enacted October 8, 1977. The intended effect of these changes is fivefold. First, benefits cannot continue to be paid or granted based solely on an upgraded honorable or general discharge issued by a service department

PROPOSED RULES

discharge review board under one of the special discharge upgrade programs announced by Presidents Ford and Carter. However, this prohibition does not apply if the service department concerned states that the discharge would have been upgraded as a result of an individual case review under uniform published standards historically consistent with determining honorable service, and which do not contain any criterion for automatically granting or denying an upgraded discharge. Second, a service person who received an other than honorable discharge from service and was absent without official leave for a continuous period of at least 180 days is barred from receiving VA benefits unless there are compelling circumstances warranting the prolonged absence. No overpayments will be created when benefits currently being paid are terminated as a result of either of the foregoing provisions. Third, the decision of a discharge review board may no longer remove a statutory bar to benefit entitlement. Fourth, benefits may be granted to persons who honorably completed a period of service equal to the period of their initial obligation when they were not discharged or released at that time because of an intervening reenlistment which terminated under dishonorable conditions. Fifth, medical care may be furnished to certain former service persons with less than honorable discharges.

DATES: Comments must be received on or before February 21, 1978. It is proposed to make these changes effective October 8, 1977, the date of enactment of the new law, designated as Pub. L. 95-126, 91 Stat. 1106.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until February 28, 1978.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle, (211B), 202-389-3005.

SUPPLEMENTARY INFORMATION: The new law (Pub. L. 95-126, enacted Oct. 8, 1977), provides that no Veterans Administration benefits should be granted based solely on an honorable or general discharge issued by a service department discharge review board under the criteria set forth in any of the following programs:

(1) The President's directive of January 19, 1977, initiating further action with respect to Presidential Proclamation 4313 of September 16, 1974; or

(2) The Department of Defense's special discharge review program effective April 5, 1977; or

(3) Any discharge review program implemented after April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under less than honorable conditions. (Note: no such program now exists.)

These programs will be subsequently referred to as "the special discharge review programs."

This law also provides that effective October 8, 1977, the date of enactment, no Veterans Administration benefits shall be granted on an honorable or general discharge issued by a discharge review board unless the following conditions are met:

(1) The discharge is upgraded as a result of an individual case review; and

(2) The discharge is upgraded under uniform published standards which are historically consistent with criteria for determining honorable service and which do not include any criterion for automatically granting or denying an upgraded discharge.

These conditions will be subsequently referred to as "the new discharge upgrade criteria."

Pub. L. 95-126 directs the service departments to review every honorable or general discharge issued under one of the special discharge review programs to determine if the upgraded discharge would have been issued under the new discharge upgrade criteria. If the upgraded honorable or general discharge would have been issued under the new discharge upgrade criteria, then Veterans Administration benefits would be payable based on the upgraded discharge assuming that the 180-day (prolonged unauthorized absence) AWOL bar, discussed below, does not apply. If the upgraded honorable or general discharge would not have been issued under the new discharge upgrade criteria, then Veterans Administration benefits can not be granted or continued.

The Veterans Administration has sent to the service departments concerned the names of all persons who have received, are receiving, or are claiming benefits based on an upgraded honorable or general discharge issued by a discharge review board under one of the special discharge review programs. This will enable the service departments to promptly inform the Veterans Administration whether the upgraded discharge would have been issued under the new discharge upgrade criteria.

The new law adds another bar to those listed in 38 U.S.C. 3103(a); 38 CFR 3.12(c). Effective October 8, 1977, no Veterans Administration benefits may be granted based on a period of service terminated under other than honorable conditions if during that period of service the service person



was AWOL for a continuous period of at least 180 days unless the Administrator determines there are compelling circumstances to warrant such prolonged unauthorized absence. This bar applies to all other than honorable discharges issued on or after October 8, 1977. It also applies to all discharges issued under the special discharge review programs. This is true even though a discharge review board determined that the upgraded discharge would have been issued under the new discharge upgrade criteria. In addition, the 180-day AWOL bar applies to anyone who had not established basic eligibility to receive Veterans Administration benefits prior to October 8, 1977.

The law allows the Veterans Administration to determine what constitutes compelling circumstances. It is the belief of the Veterans Administration that two factors should be of utmost importance in making this decision comport with Congressional intent.

The first concerns the length and quality of service exclusive of the period of prolonged AWOL. The period of service exclusive of the AWOL period should be of such quality and length that it can be characterized as honest, faithful, and meritorious. The Nation must have received some significant benefit from the actual service performed before making an exception to the 180-day AWOL bar.

The second is the reason why the person went AWOL. The explanation furnished by the Claimant for going AWOL, e.g., terminal illness of family member, change in family responsibilities assumed by the service person, illness or other family problems, is going to be evaluated in terms of the claimant's age, cultural background, educational level and judgmental maturity. The Veterans Administration believes that consideration should be given to how the situation appeared to the person himself or herself. We are going to give consideration to the unfortunate individual who, for example, went AWOL to be with a terminally ill close relative.

In determining whether compelling circumstances exist the Veterans Administration believes that great weight should be given to overseas service, combat wounds or other types of service-incurred disability in evaluating the person's state of mind at the time the prolonged unauthorized absence (AWOL) began.

To assure that the criteria for determining whether the 180-day AWOL bar are applied uniformly and compassionately the Central Office of the Veterans Administration will review every case in which the Veterans Administration field office of jurisdiction holds that the 180-day AWOL bar is

for application. This review will continue until the Administrator of Veterans Affairs is assured that the 180-day AWOL bar criteria are being properly applied.

Another important change made by Pub. L. 95-126 limits the effect of action of discharge review boards under 10 U.S.C. 1553. Effective October 8, 1977, and upgraded honorable or general discharge based on the new discharge upgrade criteria removes only a bar to Veterans Administration benefit entitlement imposed by 38 CFR 3.12(d). Such an upgraded discharge no longer removes a specific statutory bar imposed by 38 U.S.C. 3103(a). No change was made in the authority of a board for correction of records. A decision of a board for correction of records under 10 U.S.C. 1552 still removes any bar to entitlement.

It is proposed to implement the foregoing provisions of Pub. L. 95-126 by the addition and/or amendment of 38 CFR 3.12(c)(6), (f), (g), and (h).

Proposed effective dates for termination of benefits now payable based on upgraded discharges which would not have been upgraded under the new discharge upgrade criteria are set forth in 38 CFR 3.12(i).

The statute provides that these benefits will be terminated the earliest of the following dates:

(a) The day on which a final determination is made by the service department that the upgraded discharge would not have been issued under the new discharge upgrade criteria.

(b) The day following the expiration of 90 days after a preliminary determination has been made by the service department that the discharge would not be upgraded under the new discharge upgrade criteria.

(c) April 7, 1978.

The proposed regulation does not follow the exact wording of the statute for two reasons. First, the Department of Defense cannot promulgate the new discharge criteria much sooner than 90 days after enactment (i.e., October 8, 1977). Thus, termination based on a preliminary service department determination cannot generally be made prior to April 7, 1978. Second, another character of discharge decision under 38 CFR 3.12(d) will have to be made since these claims involve other than honorable discharges, and due process procedures (i.e., notice and hearing) are applicable which will require additional time. However, the payment of benefits cannot be extended under the law beyond April 7, 1978.

Proposed effective dates for termination of benefits payable when the 180-day AWOL bar is for application are set forth in 38 CFR 3.12(j).

It sometimes happens that a service person reenlists for another period of service before completing the period

of service that the person was initially obligated to serve. In this situation the character of the whole period of service has been determined by the character of the final discharge or release. For example, service person enlists for 3 years on January 18, 1971. On February 2, 1972, the service person reenlists for 4 more years. On December 10, 1975, the service person is given a dishonorable discharge. In this example the character of the whole period of service was determined by the dishonorable discharge.

Under Pub. L. 95-126 the Veterans Administration will consider the service person to have been discharged on January 17, 1974, the date of completion of the initial period of obligation. If the person would but for the intervening reenlistment, have been eligible for discharge or release under conditions other than dishonorable at that time. This change will, therefore, permit granting of Veterans Administration benefits based on the satisfactory completion of the initial period of obligation.

The proposed addition of 38 CFR 3.13(c) will implement this change.

Pub. L. 95-126 extends medical care eligibility to certain former service persons with less than honorable discharges. The law provides that medical care can be furnished for any disability incurred in or aggravated during active service in line of duty. Medical benefits may not be furnished, however, for a disability incurred or aggravated during a period of service that was terminated by a bad conduct discharge or for one of the reasons in 38 U.S.C. 3103(a); 38 CFR 3.12(c). A dishonorable discharge is issued by sentence of a general court-martial and discharge by sentence of a general court-martial is one of the bars listed in 38 U.S.C. 3103(a); 38 CFR 3.12(c).

The proposed addition of 38 CFR 3.360 will implement this change in law.

#### ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until February 28, 1978. Any persons visiting the Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in Room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in the Central Office and fur-

nished the address and the above room number.

APPROVED: January 13, 1978.

By direction of the Administrator.

RUFUS H. WILSON,  
Deputy Administrator.

1. In § 3.12, paragraphs (c) (6), (g), (h), (i) and (j) are added and paragraphs (c)(5) and (f) are revised so that the revised and added material reads as follows:

#### § 3.12 Character of discharge.

(c) Benefits are not payable where the veteran was discharged or released under one of the following conditions:

(5) As an alien during a period of hostilities, where it is affirmatively shown that the veteran requested his or her release. See 3.7(b).

(6) By reason of an other than honorable discharge if during the period of service so terminated the person was absent without official leave (AWOL) for a continuous period of at least 180 days. This bar to benefit entitlement does not apply if there are compelling circumstances to warrant the prolonged unauthorized absence. This bar applies to any person awarded an honorable or general discharge prior to October 8, 1977, under one of the programs listed in paragraph (h) of this section, and to any person who prior to October 8, 1977, had not otherwise established basic eligibility to receive Veterans Administration benefits. The term "established basic eligibility to receive Veterans Administration benefits" means either a Veterans Administration determination that an other than honorable discharge was issued under conditions other than dishonorable, or an upgraded honorable or general discharge issued prior to October 8, 1977, under criteria other than those prescribed by one of the programs listed in paragraph (h) of this section, provided the bar in paragraph (c)(2) of this section is not for application. The following factors will be considered in determining whether there are compelling circumstances to warrant the prolonged unauthorized absence.

(i) Length and character of service exclusive of the period of prolonged AWOL. Service exclusive of the period of prolonged AWOL should generally be of such quality and length that it can be characterized as honest, faithful and meritorious and of benefit to the Nation.

(ii) Reasons for going AWOL. Reasons which may be given consideration when offered by the claimant may include family emergencies or obligations, or similar types of obligations or

duties owed to third parties. The reasons for going AWOL should be evaluated in terms of the person's age, cultural background, educational level and judgmental maturity. Consideration should be given to how the situation appeared to the person himself or herself, and not how the adjudicator might have reacted. Hardship or suffering incurred during overseas service, or as a result of combat wounds or other service-incurred or aggravated disability, is to be carefully and sympathetically considered in evaluating the person's state of mind at the time the prolonged AWOL period began.

(38 U.S.C. 3103(a).)

(f) Prior to October 8, 1977, an honorable or general discharge issued under authority other than that listed in paragraph (h)(1), (2) and (3) of this section by a discharge review board established under 10 U.S.C. 1553 set aside any bar to benefits imposed under paragraph (c) or (d) of this section except the bar contained in paragraph (c)(2) of this section.

(g) Effective October 8, 1977, an honorable or general discharge issued through a discharge review board established under 10 U.S.C. 1553 sets aside any bar to benefits imposed under paragraph (d) of this section when the following conditions are met:

(1) The discharge is upgraded as a result of an individual case review, and

(2) The discharge is upgraded under uniform published standards which are historically consistent with criteria for determining honorable service and which do not include any criterion for automatically granting or denying an upgraded discharge.

(h) An honorable or general discharge awarded under one of the following programs removes any bar to benefits imposed by paragraph (d) of this section but not paragraph (c) of this section only when a discharge review board established under 10 U.S.C. 1553 determines on an individual case basis, subsequent to October 8, 1977, that an honorable or general discharge would be awarded under the standards in paragraph (g)(1) and (2) of this section. These programs are:

(1) The President's directive of January 19, 1977, initiating further action with respect to Presidential Proclamation 4313 of September 16, 1974, or

(2) The Department of Defense's special discharge review program effective April 5, 1977, or

(3) Any discharge review program implemented after April 5, 1977; and not made applicable to all persons administratively discharged or released from active military, naval, or air service under less than honorable conditions.

(i) No overpayments shall be created as a result of payments made after October 8, 1977, based on an upgraded honorable or general discharge issued under one of the programs listed in paragraph (h) of this section which would not be awarded under the standards set forth in paragraph (g) of this section. Accounts in payment status on or after October 8, 1977, shall be terminated the end of the month in which it is determined that the original other than honorable discharge was not issued under conditions other than dishonorable following notice from the appropriate discharge review board that the discharge would not have been upgraded under the standards set forth in paragraph (g) of this section, or April 7, 1978, whichever is the earliest. Accounts in suspense (either before or after October 8, 1977) shall be terminated on the date of last payment or April 7, 1978, whichever is the earliest.

(j) No overpayment shall be created as a result of payments made after October 8, 1977, in cases in which the bar contained in paragraph (c)(6) of this section is for application. Accounts in payment status on or after October 8, 1977, shall be terminated at the end of the month in which it is determined that compelling circumstances do not exist, or April 7, 1978, whichever is the earliest. Accounts in suspense (either before or after October 8, 1977) shall be terminated on the date of last payment, or April 7, 1978, whichever is the earliest.

2. In § 3.13, paragraph (b) is revised and paragraph (c) is added so that the revised and added material reads as follows:

#### § 3.13 Discharge to change status.

(b) Subject to the exception in paragraph (c) of this section the entire period of service under the circumstances stated in paragraph (a) of this section constitutes one period of service and entitlement will be determined by the character of the final termination of active service except that, for death pension purposes, § 3.3(d)(3) is controlling as to basic entitlement when the conditions prescribed therein are met.

(c) A service person shall be considered to have been discharged or released from active military, naval, or air service at time of completion of the original period of obligation when the following conditions are met:

(1) The service person served in the active military, naval, or air service for the period of initial obligation at the time of entry into service;

(2) The service person was not discharged or released from the service at the time of completion of the period



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of initial obligation due to an intervening enlistment or reenlistment; and

(3) The service person would have been eligible for discharge or release from service under conditions other than dishonorable at time of completion of the initial period of obligation except for the intervening enlistment, or reenlistment.

3. Section 3.360 is added to read as follows:

§ 3.360 Determinations of medical care eligibility for certain persons discharged under dishonorable conditions.

(a) *General.* Medical care and related benefits authorized by chapter 17 of title 38, United States Code may be provided to certain former service persons with less than honorable discharges. These benefits may be furnished for any disability incurred or aggravated during active military, naval, or air service in line of duty.

(b) *Discharge categorization.* With certain exceptions medical care and related benefits may be furnished for any disability incurred or aggravated during a period of service terminated by an other than honorable discharge determined by the Veterans Administration to have been issued under dishonorable conditions. Specifically, they may not be furnished for any disability incurred or aggravated during a period of service terminated by a bad conduct discharge or for one of the reasons listed in § 3.12(c).

(c) *Eligibility criteria.* In making determinations of medical care eligibility the same criteria will be used as is now applicable to determinations of service incurrence and in line of duty when there is no character of discharge bar.

[FR Doc. 78-1518 Filed 1-18-78; 8:45 am]

## [4110-35]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 405]

FEDERAL HEALTH INSURANCE FOR THE AGED  
AND DISABLED

Fiscal Intermediaries

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department plans to issue proposed regulations to establish standards and criteria for evaluating the performance of Medicare intermediaries. The proposal will also establish hearing procedures on provider assignments and reassignments made by the Secretary.

The regulations are required by Section 14 of the Medicare-Medicaid Anti-

Fraud and Abuse Amendments (Pub. L. 95-142).

FOR FURTHER INFORMATION,  
CONTACT:

John W. Jansak, Division of Contractor Operations, Medicare Bureau, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-8431.

Dated: December 27, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1558 Filed 1-18-78; 8:45 am]

## [4110-35]

[42 CFR Part 405]

FEDERAL HEALTH INSURANCE FOR THE AGED  
AND DISABLED

Payment for Durable Medical Equipment

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Department will propose to amend current Medicare regulations to require purchase (on a lease purchase or other basis) of an item of durable medical equipment when purchase would be less costly or more practical than rental. The purchase requirement could be waived when it would be inconsistent with the purposes of title XVIII of the Social Security Act (Medicare) or if it would create an undue hardship on the individual who will use the item. The proposal will also provide for waiver of the 20 percent coinsurance for purchase of used equipment if the purchase price is at least 25 percent less than the reasonable charge for comparable new equipment.

The regulations are necessary to implement Section 16 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142). Prior to enactment of Pub. L. 95-142, Medicare beneficiaries had the option of either renting or purchasing durable medical equipment.

These regulations will help reduce undue expenses to the Medicare program and to beneficiaries who must pay annual deductibles and coinsurance when equipment is rented over an extended period of time.

FOR FURTHER INFORMATION,  
CONTACT:

Paul Riesel, Medicare Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, 190 East Building, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-9595.

Dated: December 27, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1560 Filed 1-18-78; 8:45 am]

## [4110-35]

[42 CFR Part 449]

## MEDICAL ASSISTANCE PROGRAM

Timely Processing of Medicaid Claims

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: This regulation will require States administering the Medicaid program under title XIX of the Social Security Act to provide in their State plans for claims payment procedures that will insure that States process 90 percent of provider claims within 30 days of receipt and 99 percent within 90 days. The new requirement applies to claims received in acceptable form for processing. This new State plan requirement will supersede the current regulation that prohibits Federal matching of claims paid by States more than 24 months after the date of medical services.

The regulation change is required by Section 2 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142).

Timely payment of provider claims will result in less use of factors by providers and reduce instances of fraudulent claims.

FOR FURTHER INFORMATION,  
CONTACT:

Charles Gardner, Medicaid Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, 330 C Street SW., Washington, D.C. 20201, 202-245-8811.

Dated: December 27, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1559 Filed 1-18-78; 8:45 am]

## [4110-35]

[42 CFR Part 450]

## MEDICAL ASSISTANCE PROGRAM

Assignment of Rights to Medical Payments

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: This rule will revise current Medicaid regulations on pay-

ments for medical care by a third party to: 1. Prohibit Federal matching funds for State Medicaid expenditures for an individual whose private insurer would otherwise pay for care but does not because the individual is eligible for or was provided Medicaid services.

2. Provide that, as a condition of eligibility, a State may require an individual receiving Medicaid to assign to the State his rights to medical care payments by a third party.

States may use child support enforcement agencies for medical support collection efforts. States and localities may be eligible for an incentive payment of 15 percent of amounts collected on behalf of other States or localities.

The rule is required by Section 11(a) and (b) of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142). Section 11(a) and (b) is effective January 1, 1978.

FOR FURTHER INFORMATION,  
CONTACT:

Arthur J. Muller, Division of Policy and Standards, Medicaid Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, 330 C Street SW., 202-245-0701.

Dated: December 27, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1558 Filed 1-18-78; 8:45 am]

## [4110-35]

[42 CFR Part 450]

## MEDICAL ASSISTANCE PROGRAM

Medicaid Claims Processing Systems Use of  
Explanation of Benefit Notices

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: Current Medicaid regulations will be amended to eliminate the requirement that States receiving 75 percent Federal matching for management information systems must send notices containing an explanation of benefits to all Medicaid recipients. The amendments will also prohibit the inclusion of information on confidential services in these notices.

Use of the notices will be on a sampling basis, thus permitting more widespread adoption by States of automated systems.

The regulations will implement Section 10 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142). Section 10 is effective on January 1, 1978.

FOR FURTHER INFORMATION,  
CONTACT:

## PROPOSED RULES

Estelle Seldowitz, Medicaid Bureau, Health Care Financing Administration, Department of Health, Education, and Welfare, 330 C Street SW., Washington, D.C. 20201, 202-245-0233.

Dated: December 27, 1977.

WILLIAM D. FULLERTON,  
Acting Administrator, Health  
Care Financing Administration.

[FR Doc. 78-1557 Filed 1-18-78; 8:45 am]

## [4910-60]

## DEPARTMENT OF TRANSPORTATION

Office of Hazardous Materials Operations

[49 CFR Part 178]

[Docket No. HM-156; Notice No. 78-2]

## SHIPPING CONTAINER SPECIFICATIONS

Flattening Test Requirement for Seamless  
Cylinders

AGENCY: Materials Transportation Bureau (MTB), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would amend the regulations in Title 49, Code of Federal Regulations, pertaining to flattening tests by deleting the requirement that certain seamless cylinders be hydrostatically tested prior to the flattening test and by requiring that the longitudinal axis of the cylinder be perpendicular to the knife edges during flattening testing. This proposed amendment is needed to eliminate the necessity of performing the hydrostatic test before the flattening test, since data indicates the order in which the tests occur is not a significant safety consideration. Modification of the flattening tests is needed merely to clarify the procedure used in that test. This proposed amendment would allow flexibility as to when the sample may be selected, and would assure uniformity in the procedures used in flattening tests.

DATES: Comments by March 20, 1978.

ADDRESS COMMENTS TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Alan I. Roberts, Director, Office of Hazardous Materials Operations, 2100 2nd Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: This petition is based in part on a petition from the Pressed Steel Tank Co., Inc. (PST), requesting that the regula-

tions be relaxed by allowing the performance of a flattening test at any time after heat treatment for DOT 3A, 3AX, 3AA, 3AAX, and 3HT cylinders. The MTB believes the petition has merit based on the fact that the test data submitted by PST revealed no discernible difference in the results obtained from cylinders that had flattening tests performed before and after hydrostatic testing. This data indicates that hydrostatic testing produces no significant change on the useful material characteristics required for a completed DOT cylinder.

The proposal to align the longitudinal axis of the cylinder at approximately right angles to the knife edges is being proposed by the MTB to assure uniformity in the flattening test requirements for DOT specification seamless cylinders. This procedure is consistent with present industry practice.

Since the petition addressed only three specifications, only these specifications are being considered in this notice.

These proposals would not significantly affect the cost of regulatory enforcement, nor would additional costs be imposed on the private sector, consumers or Federal, State, or local governments. Primary drafters of this document are Jose Pena, Technical Services Branch, Office of Hazardous Materials Operations, and Douglas A. Crockett, Office of the Chief Counsel, Research and Special Projects Directorate.

In consideration of the foregoing, it is proposed to amend Part 178 of Title 49, Code of Federal Regulations as follows:

1. In § 178.36, § 178.36-15 would be revised to read as follows:

§ 178.36 Specification 3A; seamless steel cylinders or 3AX; seamless steel cylinders of capacity over 1,000 pounds water volume.

§ 178.36-15 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to 1/4-inch radius; test 1 cylinder taken at random out of each lot of 200 or less cylinders. Axis of the cylinder must be at approximately a 90-degree angle to knife edges.

2. In § 178.37, § 178.37-15 would be revised to read as follows:

§ 178.37 Specification 3AA; seamless steel cylinders made of definitely prescribed steels or 3AAX; seamless steel cylinders made of definitely prescribed steels of capacity over 1,000 pounds water volume.



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PROPOSED RULES

§ 178.37-15 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to 1/2-inch radius; test 1 cylinder taken at random out of each lot of 200 or less cylinders. Axis of the cylinder must be at approximately a 90-degree angle to knife edges.

<sup>1</sup> Editor note: See title 49; section 178 Code of Federal Regulations.

3. In § 178.44, § 178.44-17 would be revised to read as follows:

§ 178.44 Specification 3HT: Inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 178.44-17 Flattening test.

Between knife edges, wedge shaped, 60-degree angle, rounded to 1/2-inch radius; test 1 cylinder taken at random out of each lot of 200 or less cylinders.

Axis of the cylinder must be at approximately a 90-degree angle to knife edges.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a)(4) of App. A to Part 102.)

Issued in Washington, D.C., on January 11, 1978.

ALAN I. ROBERTS,  
Director, Office of  
Hazardous Materials Operations.  
[FR Doc. 78-1476 Filed 1-18-78; 8:45 am]

2743

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01]

ACTION  
FOSTER GRANDPARENT AND SENIOR  
COMPANION PROGRAMS  
Income Eligibility Levels

This notice revises the schedule of income eligibility levels for individuals and families for the Foster Grandparent Program and the Senior Companion Program published in the FEDERAL REGISTER of June 20, 1977 (42 FR 31178). The revised schedule is based on (1) the Community Services Administration (CSA) Income Poverty Guidelines effective May 25, 1977, increased by (2) the percentage of increase in the Consumer Price Index between May and November 1977, plus (3) the amount which individual States have added to the Federal Supplemental Security Income (SSI) Summary dated September 12, 1977. Addition of the State SSI supplement to the CSA Poverty Income Guideline prevents ineligibility of low-income applicants to serve as Foster Grandparents or Senior Companions because they receive State SSI supplemental payment.

These ACTION programs are authorized pursuant to section 211 of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 402. Pursuant to section 421(4) of Pub. L. 93-113, 87 Stat. 414, the income eligibility levels are determined by the currently applicable guideline published by CSA pursuant to section 625 of the Economic Opportunity Act of 1974, as amended (42 U.S.C. 2971(a)), and increased by the amounts individual States supplement the Federal Supplemental Security Income, permitting ACTION, in accordance with sec. 421(4) of Pub. L. 93-113, to take into consideration existing poverty guidelines as appropriate to local situations. Section 625 permits the CSA poverty guideline to be adjusted for cost-of-living changes.

The income eligibility levels will be reviewed at least once a year, and similar schedules will be prepared to reflect any changes required as a result of that review.

Pursuant to section 420 of Pub. L. 93-113, this policy will become effective on February 21, 1978.

ACTION SCHEDULE OF INCOME ELIGIBILITY  
LEVELS FOR FOSTER GRANDPARENTS OR SENIOR  
COMPANIONS

State	Individuals	Family of 2	Family of 3
Alabama	\$3,050	\$4,460	\$5,410
Alaska	5,935	6,075	9,305
Arizona	3,050	4,035	4,985
Arkansas	3,050	4,035	4,985
California	4,470	7,520	8,470
Colorado	3,495	5,995	6,945
Connecticut	4,110	4,760	5,710
Delaware	3,050	4,035	4,985
District of Columbia	3,050	4,035	4,985
Florida	3,050	4,035	4,985
Georgia	3,050	4,035	4,985
Hawaii	3,705	4,940	6,070
Idaho	3,830	4,700	5,650
Illinois	3,135	4,035	4,985
Indiana	3,050	4,035	4,985
Iowa	3,050	4,035	4,985
Kansas	3,050	4,035	4,985
Kentucky	3,050	4,035	4,985
Louisiana	3,050	4,035	4,985
Maine	3,170	4,215	5,165
Maryland	3,050	4,035	4,985
Massachusetts	4,475	6,255	7,205
Michigan	3,360	4,495	5,445
Minnesota	3,460	4,565	5,515
Mississippi	3,050	4,035	4,985
Missouri	3,050	4,035	4,985
Montana	3,050	4,035	4,985
Nebraska	4,130	5,165	6,115
Nevada	3,345	5,095	5,995
New Hampshire	3,075	4,035	4,985
New Jersey	3,315	4,160	5,110
New Mexico	3,050	4,035	4,985
New York	3,780	4,945	5,895
North Carolina	3,050	4,035	4,985
North Dakota	3,050	4,035	4,985
Ohio	3,050	4,035	4,985
Oklahoma	3,495	4,865	5,815
Oregon	3,195	4,155	5,105
Pennsylvania	3,440	4,620	5,570
Rhode Island	3,430	4,745	5,695
South Carolina	3,050	4,035	4,985
South Dakota	3,050	4,035	4,985
Tennessee	3,050	4,035	4,985
Texas	3,050	4,035	4,985
Utah	3,050	4,035	4,985
Vermont	3,435	4,560	5,510
Area 1	3,435	4,795	5,745
Area 2	3,050	4,035	4,985
Virginia	3,050	4,035	4,985
Washington:			
Area 1	3,535	4,570	5,520
Area 2	3,325	4,180	5,130
West Virginia	3,050	4,035	4,985
Wisconsin	3,965	5,465	6,415
Wyoming	3,290	4,515	5,465
Guam	3,050	4,035	4,985
Puerto Rico	3,050	4,035	4,985
Virgin Islands	3,050	4,035	4,985

For families of more than three persons in the household, add the appropriate supplement for each member over three as follows:

In the 48 contiguous states—\$960 per person  
Alaska—\$1,200 per person  
Hawaii—\$1,100 per person

Revision based on Community Services Administration Income Poverty

Guidelines effective May 25, 1977, increased by the percentage of increase in the Consumer Price Index between May and November 1977, plus the DHEW Supplemental Security Income Summary dated September 12, 1977.

SAM BROWN,  
Director.

[FR Doc. 78-1390 Filed 1-18-78; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

MINERAL PROSPECTING IN THE BEAVER CREEK  
WILDERNESS

Notice of Availability of Final Environmental  
Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Mineral Prospecting in the Beaver Creek Wilderness, Daniel Boone National Forest, USDA-FS-R8-FES (ADM.) 77-03.

The Forest Service proposes to acquire private interests belonging to Greenwood Land and Mining Co., on National Forest lands within and adjacent to Beaver Creek Wilderness located in McCreary County, Ky. The concerns of the Forest Service are to resolve conflict between public and private rights in the management of the Beaver Creek Wilderness.

This final environmental statement was transmitted to EPA January 10, 1978. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue, SW., Washington, D.C. 20250.

USDA, Forest Service, 1720 Peachtree Street NW., Room 804, Atlanta, Ga. 30309.  
U.S. Forest Service, Daniel Boone National Forest, 100 Vaught Road, Winchester, Ky. 40391.

A limited number of single copies are available upon request to Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Ky. 40391.



Dated: January 10, 1978.

ROBERT F. WILLIAMS,  
Regional Environmental  
Coordinator.

[FR Doc. 78-1441 Filed 1-18-78; 8:45 am]

[1505-01]

**CIVIL AERONAUTICS BOARD**

[Order 77-11-107]

**CALGARY TRANSPORTATION AUTHORITY,  
ET AL**

**Certificates of Public Convenience and Necessity; Order on Reconsideration of Petition and Applications**

*Correction*

In FR Doc. 77-34332 appearing at page 60935 in the issue for Wednesday, November 30, 1977, the bracketed heading should read as set forth above.

[6320-01]

[Order 78-1-41; Docket 21070, 31462]

**EASTERN AIR LINES, INC.**

*Order*

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 11th day of January, 1978.

By application filed October 3, 1977, Eastern Air Lines requests the amendment of its certificate for Route 71 so as to delete Binghamton, N.Y.<sup>1</sup> (Docket 31462). Eastern has filed a petition requesting that the deletion be accomplished through show cause procedures. Finally Eastern requests renewal of its authority to suspend service at Binghamton, N.Y., with certain modifications, until 90 days after final decision on its deletion application. This suspension authority, together with the replacement agreement, expired December 8, 1977.

Answers to Eastern's petition have been filed by the New York State Department of Transportation and by Commuter Airlines, Eastern's replacement in the Binghamton-Washington market. New York State DOT asserts that the application does not provide a sufficient basis for analysis and requests that a hearing be scheduled.

<sup>1</sup> Binghamton is an intermediate point on Segment 1 of Route 71. Segment 1, as it now appears in the certificate, reads: "Between the intermediate points Syracuse and Binghamton, N.Y., Scranton-Wilkes-Barre and Allentown-Bethlehem-Easton, Pa., and (a) beyond Allentown-Bethlehem-Easton, the terminal point Philadelphia, Pa.-Camden, N.J., and (b) beyond Allentown-Bethlehem-Easton, the intermediate point Baltimore, Md., and the terminal point Washington, D.C."

**NOTICES**

Commuter supports the grant of Eastern's petition, noting that the carriers intend to continue joint-fare agreements which benefit Binghamton travelers. We have decided to issue an order to show cause why Eastern's application to delete Binghamton, N.Y., should not be granted. We tentatively find that the public convenience and necessity require the amendment of Eastern's certificate for Route 71 so as to delete Binghamton for the reasons discussed below.

Eastern has not served Binghamton since 1969, when we found that Agreement 21074, providing for the substitution of Commuter Airlines, Inc. in the Binghamton-Washington market, was in the public interest. Order 69-12-39 determined that Eastern's services had been uneconomic; that the market was unsuited to trunk operations; and that Commuter could, given financial support by Eastern as provided under the agreement, responsibly serve the market with better economic results. Commuter's operations have not required financial assistance since the first year of operations under the agreement, and it now operates five nonstop weekday round trips in the Binghamton-Washington market, two more than required in the agreement. In addition, Colgan Airways also provides two weekday nonstop flights in this market in competition with Commuter. Binghamton also receives certificated airline service from Allegheny Airlines, with nonstop flights to Pittsburgh, Elmira, and New York City and one-stop jet service to Chicago. Other commuter carriers operate services between Binghamton and Buffalo, Rochester, Ithaca, Poughkeepsie, White Plains, Albany, New York City, Boston, and Allentown.

We can see no reason to force Eastern to reinstate a service it does not want to provide, absent a strong showing of public need. Here there is frequent and reliable commuter service in the principal markets of concern. The return of Eastern to these markets would lessen the financial viability of the commuters without providing a measurable increase in service. Eastern could not possibly provide the frequency of departures now available to and from both National and Dulles airports. It could not provide significant improvements in single-plane service, since most Binghamton traffic traveling south of Washington uses the more convenient Pittsburgh and New York gateways. Finally, it could not achieve a significant reduction in fares since the joint fare agreements between Eastern and Commuter already provide these benefits, and the carriers have indicated that their joint fare agreements will be continued.

Given, therefore, that we would not force Eastern back into the market, the question becomes whether any

public benefit can be achieved by retaining Eastern's suspended authority. We are aware of none. In the early years of the replacement service we desired Eastern's Binghamton authority as insurance against the possible demise of Commuter Airlines. However, given the financial success of Commuter's service and the support exhibited by the market, we tentatively conclude that Eastern's backup authority is no longer required. There are now two commuter carriers in the Binghamton-Washington market, and one in the Binghamton-Allentown market. Allegheny Airlines holds one-stop Binghamton-Washington and nonstop Binghamton-Allentown authority. With this assurance that significant disruption of service at Binghamton seems unlikely, we tentatively conclude that deletion of Binghamton from Eastern's certificate is in the public interest.

We have also decided to grant Eastern's request for renewal of its suspension authority, with modifications, until 90 days after final decision in Docket 31462. Since this authority would otherwise have expired December 8, 1977, we wish to maintain the status quo until the issue of Eastern's deletion at Binghamton is resolved.

As part of its request, Eastern desires that its suspension no longer be conditioned on the provision of replacement service by Commuter Airlines. In view of the high level of service provided by two carriers in the Binghamton-Washington market and the number of commuters serving other Binghamton markets, this request seems reasonable. Commuter has established its viability and Commuter and Eastern have stated their intention to maintain interline fare agreements. We will also grant Eastern's request to be relieved of the requirement under the agreement to submit data under either Part 205 or Part 213 of the Board's regulations.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and amending the certificate of public convenience and necessity of Eastern Air Lines, Inc. for Route 71 so as to delete Binghamton, N.Y., from segment 1;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions or certificate amendments set forth in this order shall, within 30 days of the date of adoption of this order, file with the Board and serve upon all persons listed in paragraph 8 a statement of objections together with a summary of testimony, statistical data and other evidence ex-

pected to be relied upon to support the stated objections;

3. Answers to such objections shall be filed 10 days thereafter;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections, together with any answers timely filed, before action is taken by the Board;

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth in this order;

6. The authority granted in Order 73-2-95 be vacated;

7. Eastern's authority to serve Binghamton, N.Y., on segment 1 of Route 71 be suspended under section 401(j) until 90 days after a final decision is issued in Docket 31462; and

8. A copy of this order shall be served on Eastern Air Lines; Mayor, City of Binghamton, N.Y.; Colgan Airways; Commuter Airlines; Allegheny Airlines; New York State Department of Transportation; Counsel to the Commissioner of Transportation; Broome County Executive; Broome County Chamber of Commerce; Broome County Department of Aviation; Honorable Warren Anderson; and the U.S. Postal Service.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.\*

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1531 Filed 1-18-78; 8:45 am]

[3510-25]

**DEPARTMENT OF COMMERCE  
CONNECTICUT VISUAL HEALTH CENTER, INC.,  
ET AL**

**Applications for Duty-Free Entry of Scientific Articles**

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of

\*Since provision is made for filing of objections, no petitions for reconsideration of this order will be entertained.

\*All Members concurred.

**NOTICES**

Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before February 8, 1978.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5 p.m., Monday through Friday, in Room 6886C of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00016. Applicant: Connecticut Visual Health Center, Inc. (CVHC), 1177 Broad Street, Bridgeport, Conn. 06604. Article: Friedman Visual Field Analyser. Manufacturer: Clement Clarke International Ltd., United Kingdom. Intended use of article: The article is intended to be used to identify extent of visual fields under various conditions in a mass study of patients to detect abnormalities. The objectives of the investigation is to identify patients with ocular diseases so that treatment programs can be instituted as early as possible to prevent blindness. Periodic seminars on Glaucoma Detection will be conducted in which the article is a principle diagnostic tool. In addition, the article will be used daily in a clinical environment to teach the intern population at CVHC how to use the equipment and how to interpret its data. Application received by Commissioner of Customs: December 13, 1977.

Docket No. 78-00073. Applicant: The Oklahoma College of Osteopathic Medicine & Surgery, 1111 West 17th, P.O. Box 2280, Tulsa, Okla. 74101. Article: Nihom Kohden Model PC-3A, Continuous Recording Oscilloscope Camera with digital numbering unit, with accessories. Manufacturer: Nikon Kohden Kogyo Co. Ltd., Japan. Intended use of article: The article is intended to be used to record medical-biophysiological phenomena during research in neurophysiology. Such Neurological information as the electroencephalogram, electromyogram, electrocardiogram and single unit nerve activities will be recorded in the course of various physiological experiments. Investigations are planned in the areas of heart disease (myocardial infarction research), autonomic nervous system regulation of body temperature and blood flow, and viscerosomatic reflex studies. Application received by Commissioner of Customs: December 8, 1977.

Docket No. 78-00074. Applicant: University of California at Davis, University of California, School of Medicine, Department of Human Anatomy, Davis, Calif. 95616. Article: Electron Microscope, Model EM 400 HMG with High Magnification Gonimeter and Accessories. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article:

The article is intended to be used for research in the following projects: (1) Studies of the nature of the placental surface and the cytology of placental function; (2) Studies of the interaction of trophoblast and uterine luminal epithelial cells at implantation; (3) Distribution of receptor groups on the surface of the trophoblast; (4) Studies on carcinogenesis, specifically, ones involving possible viral contribution to carcinogenesis in mouse and woman, and the nature of the interaction of macrophages and melanoma cells; (5) Studies on the basis of formation and modification of basal lamina, both in the developmental process and in disease processes, such as glomerular nephritis; and (6) Studies on the interactions of bacteria and cells, specifically the interaction between Nocardia and alveolar and peritoneal macrophages. The objectives to be pursued in the course of the investigations are those of basic biomedical sciences: To understand the mechanisms of both normal and abnormal cell growth and development; To interrelate cell structure with the function in normal and dysfunctional situations and in cases of carcinogenesis and infection; To elucidate the cellular mechanisms of normal cell function in order to better understand control mechanisms. Application received by Commissioner of Customs: December 12, 1977.

Docket No. 78-00075. Applicant: Institute of Forest Genetics, North Central Forest Experiment Station, USDA-Forest Service, Box 898, Rhineland, Wis. 54501. Article: Electron Microscope, Model H-300 and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: The article will be used to study two problems of seed production in jack pine and white spruce. Specifically, the article will be used to compare the normal development of apical meristems with those treated by various chemical agents, such as gibberellic acid, that induce flowering. Through morphological, anatomical, and ultrastructural studies, a comparison of normal and aborting reproductive structures will be conducted so that the timing and causes of abortion can be identified. These studies include the relationship of the vasculature to the position of sterile and fertile regions of the flower and the relationship of pollination and fertilization to ovule and see abortion. Application received by Commissioner of Customs: December 12, 1977.

Docket No. 78-00077. Applicant: Denver Technical Support Center, MESA, Building 55, Denver Federal Center, P.O. Box 25367, Denver, Colo. 80225. Article: Electron Microscope, Model EM 400 HTG with High Tilt Gonimeter Stage and Accessories. Manufacturer: Philips Electronics Instruments NVD, the Netherlands. Intended use of article: The article is in-



tended to be used for studies of rock and mineral dust generated in mining and milling activities and consisting of any type of naturally occurring silicate, oxide, sulfide, carbonate, sulfate, halide, or other type of mineral. The size and shape, crystal structure orientation, grain growth and microstructure, defect structure and chemical composition properties of the materials will be investigated. The objective of the investigations is the identification of toxic minerals, such as asbestos and the identification of materials containing toxic elements such as arsenic in airborne dust in support of the enforcement of health and safety standards in the nation's mines and mills. Application received by Commissioner of Customs: December 15, 1977.

Docket No. 77-00372. Applicant: USDA-ARS-SR Tobacco Research Laboratory, Route 2, Box 16G, Oxford, N.C. 27565. Article: Particulate Matter Prediction Metering Equipment. Manufacturer: WD & HO Wills, United Kingdom. Intended use of article: The article is intended to be used in experiments to reduce tar levels in flue-cured tobacco. The objectives of the investigations being conducted is to reduce health hazards associated with tobacco by reducing tar levels. Application received by Commissioner of Customs: December 20, 1977.

Docket No. 77-00373. Applicant: North Carolina State University/Raleigh School of Agriculture & Life Sciences, Department of Crop Science, Box 5155, Raleigh, N.C. 27607. Article: Particulate Matter Prediction Metering Equipment. Manufacturer: WD & HO Wills, United Kingdom. Intended use of article: The article is intended to be used in experiments to reduce tar levels in flue-cured tobacco. The objectives of the investigations being conducted is to reduce health hazards associated with tobacco by reducing tar levels. Application received by Commissioner of Customs: December 20, 1977.

Docket No. 78-00076. Applicant: University of Hawaii, High Energy Physics Group, Watanabe Hall, 2505 Correa Road, Honolulu, Hawaii 96822. Article: Model 1 Sweepnik System and Accessories. Manufacturer: Lasen-Scan Ltd., United Kingdom. Intended use of article: The article is intended to be used for bubble chamber experiments which involve bombarding the 15' bubble chamber with multibillion volt neutrinos produced by the highest energy accelerator in the world. The purpose of these experiments is to discover new particles, examine the properties of a class of particles called "quarks," and to understand a new and strange property possessed by certain elementary particles whimsically called "charm." Specifically, the article will be used to measure the trajec-

tories to charged particles produced by neutrinos in the bubble chamber to an accuracy of 2 millionths of a meter on the 70 mm film. Application received by Commissioner of Customs: December 12, 1977.

Docket No. 78-00078. Applicant: Carnegie-Mellon University—Mellon Institute of Science, 4400 Fifth Avenue, Pittsburgh, Pa. 15213. Article: LKB 2128-010/Ultratome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for biological studies of cultured mammalian cells, their virus transformed derivatives and tumors derived from small animals. Experiments will be designed to determine the function of cytoplasmic fibers in normal, virus-transformed and tumor cell motility. The objectives of these investigations determine which ultrastructural entities function in controlling normal cells behavior and how these functions are altered in virus-transformed and tumor cells. The article will also be used in the training of graduate students and for demonstrations in undergraduate laboratory and lecture courses entitled "Introduction to Cellular and Molecular Biology." Graduate students will be trained in methods involved in the study of mammalian cell ultrastructure, which will of course involve the preparation of thin sections. Application received by Commissioner of Customs: December 22, 1977.

Docket No. 78-00079. Applicant: The University of Texas Medical Branch, Department of Pathology, Galveston, Tex. 77550. Article: LKB 14800-1 Cryokit Complete and with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is an accessory to an existing ultramicrotome which allows it to be used to section frozen tissues at ultra low temperatures so that sites of sodium, potassium, calcium and phosphorus accumulation in tissues are not disturbed. The materials to be studied are mammalian—liver, heart, kidney and parts of cells derived therefrom. The article is intended to be used to train graduate and medical students in biomedical research in the courses Pathology 6x97—Research and Pathology 6x98—Thesis. Application received by Commissioner of Customs: December 22, 1977.

Docket No. 78-00080. Applicant: College of Medicine and Dentistry of New Jersey, P.O. Box 10146, Newark, N.J. 07101. Article: LKB 2128-010 Ultratome IV Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the following investigations: ultrastructural studies on normal and pathologic plant and animal tissues, developmental studies on normal and path-

ologic plant and animal tissues, developmental studies on fungal systems, cyto- and histo-chemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective of these studies is to further basic knowledge on cell and tissue ultrastructure and to reveal at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. In addition, the article will be used in courses entitled Ultrastructure and Cytochemistry which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: December 20, 1977.

Docket No. 78-00081. Applicant: College of Medicine and Dentistry of New Jersey—New Jersey Dental School, 100 Bergen Street, Newark, N.J. 07103. Article: LKB 2128-010 Ultratome IV Ultramicrotome and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for the studies of human biopsy material, animal and microbial specimens. Investigations will include ultrastructural studies on normal and pathologic tissues, developmental studies on dental plaque systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective of the investigations is to further basic knowledge on cell and tissue ultrastructure and to reveal, at the ultrastructural level, the enzyme localization and distribution in cells and tissues developing under normal and pathological conditions. In addition, the article will be used in courses entitled "Ultrastructure and Cytochemistry" which will involve a study of general principles on techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commission of Customs: December 20, 1977.

Docket No. 78-00082. Applicant: VA Hospital, Highway 6, Iowa City, Iowa 52240. Article: High Resolution Gonimeter Stage for Elmiskop 101 and Accessories. Manufacturer: Siemens Corp., West Germany. Intended use of article: The article is an accessory to an existing electron microscope which

will be used to study ultrathin sections of: tooth dentin and enamel; endothelial, pericyte, and smooth muscle cells cultured from the blood vessels of the retina, optic disc, and optic nerve; and junctional complexes of hepatocytes. The properties to be investigated include: the geometry of early crystalline phases in dentin and enamel; the formation and differentiation of junctional complexes in cultured retinal endothelial cells, particularly the resolution of differences between tight and gap junctions. The permeability and structure of liver cell tight junctions will also be examined. Application received by Commissioner of Customs: December 20, 1977.

Docket No. 78-00083. Applicant: Howard University College of Medicine, 520 W Street NW., Washington, D.C. 20059. Article: Electron Microscope, Model EM 10 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in demonstrating teratogenic effects of drugs in living organisms that have been exposed to mycotoxins or pathogen fungi. The objectives pursued in the course of this investigation are:

- (1) To determine the in-vivo effects of the sytochalasins.
- (2) To see what tissues are affected due to the administration of mycotoxins.
- (3) To study the molecular mechanism of action of the pathogenic fungi and mycotoxins in development.
- (4) To see if foods, normally parasitized by fungi that produce mycotoxins when fed to laboratory animals, will cause teratogenesis.

The article will also be used in the course "Introductory Electron Microscopy" which involves fixation techniques to demonstrate different subcellular organelles. Application received by Commissioner of Customs: December 20, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory  
Import Programs Staff.

[FR Doc. 78-1413 Filed 1-18-78; 8:45 am]

### [3510-25]

#### DUKE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public

review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00327. Applicant: Duke University, Durham, N.C. 27710. Article: LKB 2127-001 and 2127-021 Tachophor complete with Tachofrac complete, with Power Supply Unit equipped with Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of spinal fluid samples from patients with neurological diseases, especially multiple sclerosis. Proposed studies will attempt to: (1) Define further the specificity of the nucleotide-rich material (NRM); (2) determine whether the NRM contains DNA, RNA, or nucleoprotein; (3) determine whether the NRM exists in the cerebrospinal fluid free or complexed to IgG; and (4) isolate the NRM from CSF or tissues. The major objective of the studies will be to determine whether the NRM is derived from host tissues or from foreign elements, such as a virus.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability for counter flow isotachophoresis. The Department of Health, Education, and Welfare advises in its memorandum dated November 8, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended research, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.  
[FR Doc. 78-1414 Filed 1-18-78; 8:45 am]

### [3510-25]

#### Industry and Trade Administration

#### HEW—CENTER FOR DISEASE CONTROL

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific

article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-99339. Applicant: HEW, PHS, Center for Disease Control, 255 East Paces Ferry Road NE, Atlanta, GA. 30305. Article: Gamma-cell 220 High Dose Rate Laboratory Irradiator and Accessories. Manufacturer: Atomic Energy of Canada Ltd., Canada. Intended use of article: The article is intended to be used to study live viruses; specifically, live hemorrhagic fever viruses will be studied in the hope that gamma irradiation will inactivate these and make useable for standard laboratory diagnostic procedures. Gamma irradiation of the viruses under study will permit transport to field operations area so that diagnosis can be done in the field. Various animal models will be given wholebody irradiation to permit studies in the immunological aspects of these hemorrhagic fever viruses. Dose response investigations will be conducted in order to determine what dosages or irradiation will inactivate the viruses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides exposure dose rates up to  $2.0 \times 10^4$  roentgens per hour at the midpoint of the irradiation chamber with a nominal source loading of 24,000 curies of Cobalt-60. The Department of Health, Education, and Welfare advises in its memorandum dated November 8, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended uses and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.



(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**RICHARD M. SEPPA,**  
Director, Statutory  
Import Programs Staff.

[FR Doc. 78-1415 Filed 1-18-78; 8:45 am]

### [3510-25]

#### RUTGERS, THE STATE UNIVERSITY

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00315. Applicant: Rutgers, The State University Nuclear Physics Laboratory, Frelinghuysen Road, Piscataway, N.J. 08854. Article: Compressor Sextupole and Accessories. Manufacturer: ANAC Inc., New Zealand. Intended use of article: The article is intended to be used to investigate spins, parities, energy levels, and energy-level gross structure in atomic nuclei being studied. elastic and inelastic proton and deuteron scattering experiments will be carried out with angular distributions, angular correlations, and excitation functions being measured. The experiments will be conducted to study the spin-dependent effects of nuclear forces and those properties of nuclear states which require the use of atomic beams. The article will also be used in a research program by graduate students working for the Ph. D. degree and will be used to meet the dissertation requirement for that degree.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is capable of enhancing the atomic beam intensity by refocusing magnetically separated neutral ions into the analyzer producing approximately 50 microamperes of proton beam in direct current operation. The National Bureau of Standards advises in its memorandum dated November 7, 1977 that (1) the specification of the article described

### NOTICES

above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**RICHARD M. SEPPA,**  
Director, Statutory  
Import Programs Staff.

[FR Doc. 78-1416 Filed 1-18-78; 8:45 am]

### [3510-25]

#### SANDIA LABORATORIES

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00326. Applicant: Sandia Laboratories, Kirtland AFB, East Albuquerque, N. Mex. 87115. Article: Transistorized Power Source—For Tungsten Inert Gas Welding. Manufacturer: The Welding Institute, United Kingdom. Intended use of article: The article is intended to be used in a wide range of applications including but not limited to the following materials: (a) austenitic stainless steel; (b) Fe-Ni-Co alloys; (c) molybdenum and its alloys; (d) tungsten and its alloys; (e) high strength alloy steel; and (f) aluminum alloys. Experimentation will involve study of a wide range of pulse forms in order to manipulate weld pool solidification and dendritic spacing. In particular, the dependence of the fracture toughness of welds on the microstructures will be investigated. Also, the control of solidification to avoid hot cracking will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides an A.C. wave capability in the range, 200-800 Hertz. The National Bureau of Standards advises in its memorandum dated November 29, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended uses and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**RICHARD M. SEPPA,**  
Director,  
Statutory Import Programs Staff.

[FR Doc. 78-1417 Filed 1-18-78; 8:45 am]

### [3510-25]

#### UNIVERSITY OF KANSAS

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00358. Applicant: University of Kansas, 2095 Ave. A—Campus West, Lawrence, Kans. 66044. Article: Flow Microcalorimeter. Manufacturer: Technepne Inc., Canada. Intended use of article: The article is intended to be used to study the thermodynamics of bile and micellar solution, and to determine the variation of these properties with the structure of bile salt. The enthalpy and heat capacity of these complex micellar solutions will be measured as a function of temperature, bile salt structure and added electrolyte. These investigations are conducted to obtain a better understanding of the nature of bile salt—lecithin solutions and their role in the dissolution of lipids, cholesterol and drug substances. The article will also be used in "Undergraduate Research in Pharmaceutical Chemistry," "Doctoral Dissertation" and "Postdoctoral Research in Pharmaceutical Chemistry" to train students to do independent research.

### NOTICES

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article provides a sensitivity of  $1 \times 10^{-4}$  degrees centigrade in the flow heat mixing mode. The Department of Health, Education, and Welfare advises in its memorandum dated November 28, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article that is in commercial production.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**RICHARD M. SEPPA,**  
Director,  
Statutory Import Programs Staff.

[FR Doc. 78-1018 Filed 1-18-78; 8:45 am]

### [3510-25]

#### UNIVERSITY OF MICHIGAN

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00342. Applicant: University of Michigan, 1024 Chemistry, North University, Ann Arbor, Mich. 48109. Article: ASL A-7 fully automated AC Bridge. Manufacturer: Automated Systems Lab. Ltd., United Kingdom. Intended use of article: The article is intended to be used for the study and understanding of the energetic spectrum of matter; the chemical thermodynamic properties of matter including the entropy, enthalpy, tempered Gibbs energy function, etc.; the electronic, structural, as well as the molecular disordering and librational freedom of molecules are both imme-

diately and indirectly objectives. The materials to be studied include the following:

Actinide pnictides (e.g., ThSb<sub>3</sub>), chalcogenides (e.g., UOS), halides (e.g., UCl<sub>3</sub>), Lanthanide trihydroxides (e.g., Gd(OH)<sub>3</sub>), Transition element pnictides (e.g., Cu<sub>3</sub>As, S, d<sub>3</sub>urleite), Molecular crystals (e.g., paraterphenyl, thiourea, etc.), Ionic crystals (e.g., PbF<sub>2</sub>), Vitreous materials (e.g., B<sub>2</sub>O<sub>3</sub>).

The article will also be used for educational purposes in the courses Postdoctoral Research, Doctoral Research in Chemistry, and Honors Research in Chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. REASONS: The foreign article is capable of automatically or manually measuring temperature to 0.1 millikelvin using a platinum thermometer of 25 ohms nominal value at a current of 1 milliamperes. The National Bureau of Standards advises in its memorandum dated December 2, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestically manufactured Precision Resistance Bridge of equivalent scientific value to the foreign article for the applicant's intended purpose.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

**RICHARD M. SEPPA,**  
Director,  
Statutory Import Programs Staff.

[FR Doc. 78-1419 Filed 1-18-78; 8:45 am]

### [3510-25]

#### UNIVERSITY OF NEBRASKA

##### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in

Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00308. Applicant: University of Nebraska, Lincoln, Nebr. 68588. Article: THR-1500 1.5 Meter Double Pass Czerny-Turner Monochromator. Manufacturer: Jobin-Yvon, France. Intended use of article: The article is intended to be used in the development of a stress modulation spectroscopy specifically adapted for the study of molecular crystals. Several problems will be surveyed to demonstrate the capabilities of the method. These will involve experiments to determine the critical points in the joint densities of states for the first singlet systems of naphthalene, anthracene and tetracene. Dye crystals having very strong coupling will be studied with the goal of locating the critical points in the metallic reflecting region. Piezomodulated luminescence studies will be made to determine the effect of strain upon the migration and lifetime of triplet excitons, in order to prove the nature of lattice relaxation processes. The effect of strain on the fluorescence polarization ratio will be determined for both piezoemission and piezoaction spectra. To ascertain the effect of stress upon So and Sn the piezoemission and Kramers-Kronig transformed piezoreflection spectra will be obtained and compared. Study on the interaction of strain with surface exciton states will be initiated. The emission studies also will be used to determine the effect of strain on defect emission and excimer emission. Known piezochromic and triboluminescent systems will be studied in an effort to locate the microscopic origin of these effects and to obtain more quantitative data. Application of uniaxial modulated stress to a cubic inorganic crystal in order to make assignment of electronic states by breaking degeneracies will also be undertaken. The dependence of the spectra of hydrogen-bonded crystals upon stress modulation will also be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 77-00023 which was denied without prejudice to resubmission on March 31, 1977 for informational deficiencies. The foreign article provides a combination of a resolution of at least 300,000, a high throughput (F14), mechanical stability of 0.01 Angstroms (A) and reproducibility or repeatability of 0.1A. The National Bureau of Standards advises



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in its memorandum dated November 28, 1977 that (1) the combination of capabilities of the article described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic assistance program No. 11.105, Importation of Duty-Free Educational and Scientific materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

[FR Doc. 78-1420 Filed 1-18-78; 8:45 am]

## [3510-25]

## WESLEYAN UNIVERSITY

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00344. Applicant: Wesleyan University, Hall Atwater & Shanklin Laboratories, Lawn Avenue, Middletown, Conn. 06457. Article: LKB 2107-010 Batch Microcalorimeter and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to determine the heats of binding of small molecules to single sites on the allosteric enzyme aspartate transcarbamylase. Enthalpies of binding derived will be correlated with binding data obtained spectroscopically or by equilibrium dialysis or gel filtration. These measurements are needed to establish thermodynamic criteria which can be used to define the regulatory mechanism of this protein. In addition, the article will be used occasionally in a course in Biomedical Techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article,

for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capabilities for operation in a differential mode and a sensitivity of one microcalorie. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated November 8, 1977, that the capabilities of the article described above are pertinent to the applicant's intended purposes. HEW further advises that (1) domestic instruments do not provide equal sensitivity or operate in a differential mode, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

[FR Doc. 78-1421 Filed 1-18-78; 8:45 am]

## [3510-03]

## Maritime Administration

## DETERMINATION OF OPERATING-DIFFERENTIAL SUBSIDY FOR WAGES OF OFFICERS AND CREWS AND SUBSISTENCE OF OFFICERS AND CREWS OF PASSENGER VESSELS

## Amendments To the Manual of Procedures

In FR Doc. 77-31603, appearing in the FEDERAL REGISTER on November 1, 1977 (42 FR 57152), notice was given that the Assistant Secretary of Commerce for Maritime Affairs and the Maritime Subsidy Board have under consideration a complete revision of part I (Wages of Officers and Crews) and part II (Subsistence of Officers and Crews of Passenger Vessels) of the Manual of General Procedures for Determining Operating-Differential Subsidy for liner vessels.

Interested parties were invited to file written comments with the Secretary, Maritime Subsidy Board, Maritime Administration, Washington, D.C. 20230, not later than December 2, 1977.

By notice published in the FEDERAL REGISTER on November 29, 1977 (42 FR 60778), the date for submission of comments was extended to close of business on January 23, 1978.

Upon request made and good cause shown by the Council of American-Flag Ship Operators, the date for submission of comments is hereby further

extended to close of business on March 1, 1978.

Dated: January 16, 1978.

By order of the Maritime Subsidy Board and Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 78-1532 Filed 1-18-78; 8:45 am]

## [3910-01]

## DEPARTMENT OF DEFENSE

## Department of the Air Force

## USAF SCIENTIFIC ADVISORY BOARD

## Meeting

JANUARY 12, 1978.

The USAF Scientific Advisory Board Aerospace Vehicles Panel will hold a meeting on February 14-15, 1978, at Wright-Patterson AFB, Ohio, from 8 a.m. to 5 p.m., on February 14, and 8 a.m. to 12 noon on February 15.

The Panel will receive classified briefings and conduct classified discussions on the engine comparison study. The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,  
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-1442 Filed 1-18-78; 8:45 am]

## [3810-70]

## AIR UNIVERSITY BOARD OF VISITORS

## Consolidation of Committees

In accordance with the provisions of Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given that the consolidation of the Air University Board of Visitors and the Air Force ROTC Advisory Panel has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget concurs with the consolidation. The consolidated committee will be known as the Air University Board of Visitors.

The nature and purpose of the Air University Board of Visitors is to provide the Air Force with advice and recommendations on the performance of its educational mission from members of the educational, professional, public

affairs, business, and industrial communities.

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 13, 1978.

[FR Doc. 78-1443 Filed 1-18-78; 8:45 am]

## [3810-70]

## Office of the Secretary

## Defense Science Board Task Force on Command and Control Systems Management

## Meeting; Correction

We refer to our Notice published in the FEDERAL REGISTER on January 9, 1978 (43 FR 1379) advising that the Defense Science Board Task Force on Command and Control Systems Management will meet in closed session on February 6-7, 1978, in the Pentagon, Room 1E801 No. 5.

We are hereby correcting the dates to read: February 6-8, 1978.

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

JANUARY 16, 1978.

[FR Doc. 78-1444 Filed 1-18-78; 8:45 am]

## [3810-70]

## Office of the Secretary of Defense

## PRIVACY ACT OF 1974

## Deletion of Record Systems

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Notice of systems of records deletions.

SUMMARY: The Office of the Secretary of Defense (OSD) systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER on September 28, 1977, at 42 FR 50730, and on December 22, 1977, at 42 FR 64334. The Office of the Secretary of Defense is deleting three systems of records subject to the Privacy Act of 1974. These systems of records are being deleted from the OSD inventory because the function and responsible activity for the systems have been realigned with the Defense Logistics Agency (DLA). The systems shall continue in effect under the Defense Logistics Agency's inventory of records but will be identified as Defense Logistics Agency systems of records. The effected systems are identified below.

FOR FURTHER INFORMATION CONTACT:

James S. Nash, Chief, Records Man-

## NOTICES

agement Branch, ODASD(A), the Pentagon, Washington, D.C. 20301, telephone 202-695-0970.

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 16, 1978.

The following Office of the Secretary of Defense (OSD) systems of records are deleted:

## DM&amp;RA 04.0

System name: Reenlistment Eligible File (RECRUIT). (42 FR 50762, September 28, 1977)

Reason: This system is deleted from the OSD record systems inventory and being added to the Defense Logistics Agency (DLA) inventory and reidentified as S322.20DLA-LZ. The system contents remain unchanged.

## DM&amp;RA 13.0

System name: Survey Data Base. (42 FR 50766, September 28, 1977)

Reason: This system is deleted from the OSD record systems inventory and being added to the Defense Logistics Agency (DLA) inventory and reidentified as S322.10DLA-LZ. The system contents remain unchanged.

## DM&amp;RA 14.0

System name: MARDAC Data Base. (42 FR 50766, September 28, 1977)

Reason: This system is deleted from the OSD record systems inventory and being added to the Defense Logistics Agency (DLA) inventory and reidentified as S322.10DLA-LZ.

[FR Doc. 78-1465 Filed 1-18-78; 8:45 am]

## [3620-01]

## Defense Logistics Agency

## PRIVACY ACT OF 1974

## Addition of Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of systems of records additions.

SUMMARY: The Defense Logistics Agency (DLA) is adding three systems of records to its record systems inventory subject to the Privacy Act. These systems were formerly contained in the Office of the Secretary of Defense (OSD) inventory. As the organization and function, Manpower Research and Data Analysis Center (MARDAC) is now reassigned to DLA, the applicable record systems of the organization are now added to and reidentified as DLA record systems. There are no changes in the record system notice contents, which are republished below in their

entirety, other than the reidentification.

DATES: These systems of records are effective January 19, 1978.

ADDRESS: Send any comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. William A. Smith, Chief, Administrative Management Division, DLA-XA, Defense Logistics Agency, HQS DLA, Cameron Station, Alexandria, Va. 22314, telephone 202-274-6005.

## SUPPLEMENTARY INFORMATION:

The Defense Logistics Agency's systems of records notice recompilation inventory as prescribed by the Privacy Act of 1974, 5 U.S.C. 552 a(e)(4), have been published in the FEDERAL REGISTER (FR Doc 77-28255) on September 28, 1977, at 42 FR 51388. DLA proposes to add three record systems to its inventory which were formerly assigned to the Office of the Secretary of Defense. These record systems are not considered new systems within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda Nos. 1 and 3 dated September 30, 1975 and May 17, 1976 respectively, which provide supplemental guidance of Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

The three affected systems with their old and their new identification are as follows:

Old	New
DM&RA 04.0 (42 FR 50762)....	S322.20DLA-LZ
DM&RA 13.0 (42 FR 50766)....	S322.35DLA-LZ
DM&RA 14.0 (42 FR 50766)....	S322.10DLA-LZ

MAURICE W. ROCHE,  
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

JANUARY 16, 1978.

System name:

Reenlistment Eligible File (RECRUIT).

System location:

W. R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93940.

Back-up file—Department of Defense Manpower Research and Data Analysis Center, 7th Floor, 300 N. Washington St., Alexandria, VA 22314.

Back-up file—Department of Defense Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, CA 93940.



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**Categories of individual covered by the system:**

Former enlisted personnel of the military services who separated from active duty during the immediately preceding forty-eight months and who are eligible for immediate reenlistment.

**Categories of records in the system:**

Social Security Account Number, Name, Service, Date of Birth, and Date of Separation.

**Authority for maintenance of the system:**

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system is to assist recruiters in reenlisting prior-service personnel.

Department of Defense Manpower Research and Data Analysis Center, used to provide to recruiters in the military service and the Coast Guard information on individuals eligible for immediate reenlistment; for statistical analyses of prior-service reenlistment trends and of demographic characteristics of applicants for reenlistment; such analyses may require merging with other record systems.

Any individual records contained in the system might be transferred to any component of the Department of Defense having a need to know in the performance of official business.

Any record may be disclosed to law enforcement or investigatory authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Most recent thirty-six months separation stored on magnetic disc; full forty-eight months stored on magnetic tape.

**Retrievability:**

Retrievable by Social Security Account Number.

**Safeguards:**

DISC File is protected by password access and hard-wire system.

Alexandria, Virginia location has tape storage areas in locked room accessible only to authorized personnel; building is locked after hours.

Monterey, California location has tape storage area in locked room accessible only to authorized personnel; building is locked after hours.

Recruiters making telephone inquiries must have valid recruiter identification and call back number.

**NOTICES****Retention and disposal:**

Records more than forty-eight months old are purged from the system.

**System manager(s) and address:**

Director, Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, California 93940.

**Notification procedure:**

Information may be obtained from:

Manager, RECRUIT system, Manpower Research and Data Analysis Center, 300 N. Washington St., 7th Floor, Alexandria, VA 22314, Telephone: Area Code 703/325-0490.

**Record access procedures:**

Requests from individuals should be addressed to: Manager, RECRUIT System, Manpower Research and Data Analysis Center, 300 N. Washington Street, Alexandria, VA 22314.

Written request for information should contain the full name, current address, telephone number, Social Security Account Number, and date of separation of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license.

**Contesting record procedures:**

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

**Record source categories:**

The data contained in the system are obtained from the Army, Navy, Air Force, Marine Corps, and Coast Guard.

**Systems exempted from certain provisions of the act:**

NONE.

S322.35DLA-LZ

**System name:**

Survey Data Base.

**System location:**

Primary Location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, California 93940.

Decentralized locations for back-up files—Department of Defense, Manpower Research and Data Analysis Center, 7th Floor, 300 N. Washington St., Alexandria, Virginia 22314 and 2nd Floor, 550 Camino El Estero, Monterey, California 93940.

**Categories of individuals covered by the system:**

Individuals who selected at random for survey administration and who

completed survey forms. Survey data is collected on a periodic basis. Current data were collected at selected Armed Forces Entrance and Examining Stations (AFES), during September 1974, May 1975, or since January 1975; additional data were collected by Gilbert Youth Organization (civilian contractor) in nation-wide surveys during May or November 1973, or May or November 1974.

**Categories of records in the system:**

SSAN and responses to survey items dealing with attitudes toward the military.

**Authority for maintenance of the system:**

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the file is to sample attitudes toward enlistment in the military and determine reasons for enlistment decisions.

Manpower Research and Data Analysis Center—used to analyze trends in enlistment motivation, attitudes toward military service, attractiveness of various enlistment incentives; survey files are linked with military personnel inventory, gain, and loss files to statistically relate survey data to later advancement, attritions, and reenlistment patterns.

Any individual record in the system may be transferred to any component of the Department of Defense having the need to know in the performance of official business.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

**Storage:**

Magnetic Computer Tape

**Retrievability:**

Records can be retrieved by Service of accession, period of survey, race, sex, education level, or Social Security Account Number.

**Safeguards:**

Tapes stored at the primary location are kept in a locked storage cage in a controlled access area; tapes stored at the back-up locations are kept in locked storage areas in buildings which are locked after hours.

**Retention and disposal:**

Records are permanent. Survey answer sheets which are opscanned to create tape are destroyed after tape is created.

**System manager(s) and address:**

Director, Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, California 93940.

**NOTICES**

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**Notification procedure:**

Information may be obtained from:

Chief, Market and Survey Research Division, Manpower Research and Data Analysis Center, 300 N. Washington St., 7th Floor, Alexandria, Virginia 22314, Telephone: Area Code 703/325-0490.

**Record access procedures:**

Requests from individuals should be addressed to: Chief, Market and Survey Research Division, Manpower Research and Data Analysis Center, 300 N. Washington St., Alexandria, VA 22314.

Written requests for information should contain the full name, Social Security Account Number, and current address and telephone number of the individual. In addition, the approximate date and location where the survey was completed should be provided.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other ID card.

**Contesting record procedures:**

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

**Record source categories:**

The survey information is provided by the individual; additional data which are linked to survey data as described in the routine uses section, are obtained from the military services.

**Systems exempted from certain provisions of the act:**

NONE.

S322.10DLA-LZ

**System name:**

MARDAC Data Base

**System location:**

Primary location: W.R. Church Computer Center, Navy Postgraduate School, Monterey, CA 93940.

Back-up locations for processing: Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. 20330.

U.S. Army Management Systems Support Agency, Room BD972, The Pentagon, Washington, D.C. 20310.

National Military Command Systems Support Center, Room BE685, The Pentagon, Washington, D.C. 20331.

Back-up files maintained at two offices of the DoD Manpower Research and Data Analysis Center—7th Floor, 300 N. Washington St., Alexandria, VA 22314 and 2nd Floor, 550 Camino El Estero, Monterey, CA 93940.

Selected historic files are maintained at Air Force Data Services Center, Room 1D167, The Pentagon, Washington, D.C. pursuant to court order in IBM anti-trust case. These files will be withdrawn from current location when legally permissible.

Decentralized segments—military personnel research centers, and military personnel centers of the services; selected civilian contractors with research contracts in manpower area; other Federal agencies.

**Categories of individuals covered by the system:**

All officer and enlisted personnel who served on active duty from July 1, 1968 and later; or who have been a member of a reserve component since July 1975; or are retired reservists; participants in Project 100,000 and Project Transition and the evaluation control groups for these programs; all individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later; DoD civilian employees or civilian employees separated since January 1, 1971; all veterans who have utilized Vietnam-era GI Bill education and training entitlements, who visited a State Employment Service office since July 1, 1971, or who participated in a Department of Labor special training program since July 1, 1971; all individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute, all individuals who participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969, individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the DHEW, Office of Education and Longitudinal Survey.

**Categories of records in the system:**

Name, Service Number, Selective Service Number, Social Security Account Number, demographic information such as home town, age, sex, race, and educational level; civilian occupational information, military personnel information such as rank, length of service, military occupation; aptitude scores, post-service education, training, and employment information for veterans; participation in various in-service education and training programs.

**Authority for maintenance of the system:**

10 U.S.C. 136.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The purpose of the system of records is to provide a longitudinal statistical analysis capability for assessing military manpower trends and

evaluation programs impacting of military personnel, potential enlistees, and veterans.

Manpower Research and Data Analysis Center—used to analyze accession patterns and trends, promotion and occupation patterns and trends, loss patterns and trends, qualification rates, effectiveness of recruiting programs, participation in education and training programs, force characteristics, post-service experiences of veterans, evaluation of military special pays and bonuses; evaluation of special programs affecting military personnel; to select sample population for surveys; to provide statistical data to OMB, GAO, the Military Services, DoD civilian contractors, educational institutions and other Federal agencies.

Personnel Research and Personnel Management activities of the Military Services—uses are same as those specified above.

Veterans Administration, Management Sciences Staff, Reports and Statistics Service, Office of the Comptroller—used to select sample for surveys asking veterans about the use of veterans benefits and satisfaction with VA services.

Office of Research and Statistics, Social Security Administration—used for statistical analyses of impact of military service and use of GI Bill benefits on long term earning.

DoD Civilian Contractors—used by contractors performing research on manpower problems for statistical analyses.

Aggregate data and/or individual records contained in the record system may be transferred to other Federal agencies having legitimate use for such information and applying appropriate safeguards to protect data so provided.

Records may be disclosed to the Civil Service Commission concerning pay, benefits, retirement deductions; and other information necessary for the Commission to carry out its Government-wide personnel management functions.

Any record contained in the system of records may be transferred to any other component of the Department of Defense having the need-to-know in the performance of official business.

Name and address information of former military personnel obtained from the Veterans Administration or the Military Department may be released to a number of DoD Components for use in attempting to recruit and reenlist prior service personnel through direct contact methods.

These components are as follows: U.S. Army Recruiting Command; U.S. Army Forces Command; Navy Recruiting Command; Chief of Naval Personnel; Chief of Naval Reserve; U.S. Air Force Recruiting Service; U.S. Air Force Tactical Air Command; Head-



## NOTICES

quarters Air Force Reserve; National Guard Bureau; Headquarters, U.S. Marine Corps; District Directors, U.S. Marine Corps; Commanding General, 4th Marine Division; Commanding General, 4th Marine Air Wing; Commandant, U.S. Coast Guard.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

## Storage:

Magnetic computer tape.

## Retrievability:

Retrievable by name, SSAN, age, occupation, or any other data element contained in system.

## Safeguards:

Primary location—at W.R. Church Computer Center, tapes are stored in a locked cage in machine room, which is a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

At back-up locations in Alexandria, VA and Monterey, CA tapes are stored in rooms protected with cypher locks, buildings are locked after hours, and only properly cleared and authorized personnel have access.

The Air Force Data Services Center, the U.S. Army Management Systems Support Agency, and the National Command Systems Support Center are all TOP SECRET facilities.

## Retention and disposal:

Files constitute a historical data base and are permanent.

## System manager(s) and address:

Director, Department of Defense Manpower Research and Data Analysis Center (MARDAC), 550 Camino El Estero, Monterey, CA 93940.

## Notification procedure:

Information may be obtained from: Director, Department of Defense Manpower Research and Data Analysis Center, 550 Camino El Estero, Monterey, CA 93940. Telephone: Area Code 408/646-2951.

## Record access procedures:

Requests from individuals should be addressed to Director, MARDAC, 550 Camino El Estero, Monterey, CA 93940.

Written requests for information should contain the full name, Social Security Account Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license, or military or other ID card.

## Contesting record procedures:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSTEM MANAGER.

## Record source categories:

The Military Services, the Veterans Administration, the Office of Education of the Department of HEW, from individuals via survey questionnaires, the Department of Labor.

Systems exempted from certain provisions of the act:

NONE.

[6360-01]

## DELAWARE RIVER BASIN COMMISSION

## APPROVAL OF WATER PROJECTS

## Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 25, 1978, commencing at 2 p.m. The hearing will be held in the Hall of Flags East of the Sheraton Hotel, 17th and Kennedy Blvd. in Philadelphia. The subject of the hearing will be application for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to section 3.8 of the Compact.

1. *Flying Hills Water Co. (D-77-94 CP)*. A well water supply project to provide water service at the Flying Hills housing development in Cumru Township, Berks County, Pa. A new well No. 2 and a modified well No. 1 will be utilized to provide a combined yield of approximately 500,000 gallons per day.

2. *Magnolia Sewerage Authority (D-77-106 CP)*. An interim package sewage treatment plant to augment existing treatment facilities in the Borough of Magnolia, Camden County, N.J. The project will be abandoned when Camden County regional sewerage service becomes available. The package plant will provide for removal of 90 percent of BOD, from a sewage flow of 250,000 gallons per day. Treated effluent will discharge to Otter Brook, a tributary of North Branch Big Timber Creek.

3. *Cranberry Hill Corp. (D-77-109 CP)*. A well water supply project to serve the Penn Estates residential development in Stroud Township, Monroe County, Pa. The new facility is expected to yield 120,000 gallons per day.

4. *Poconos Sewer Co. (D-78-1 CP)*. Expansion of the company's sewage

treatment plant serving the Hideout development in Salem Township, Wayne County, Pa. The expanded facility will provide treatment to a sewage flow of 50,000 gallons per day and removal of 95 percent of BOD, and suspended solids. Treated effluent will discharge to Ariel Creek, a tributary of the Lackawaxen River.

5. *MRB Enterprises (D-77-13)*. A sewage treatment project at Springton Manor and the proposed residential development known as Kimberwick in West Brandywine Township, Chester County, Pa. Approximately 58,000 gallons per day will pass through a sewage treatment plant providing removal of 85 percent of BOD, and suspended solids. Ultimate disposal will be to a nine-acre spray irrigation site.

6. *GAF Corp. (D-77-32)*. An existing cooling water discharge at the company's plant in Whitehall Township, Lehigh County, Pa. Approximately 90 percent of BOD, and 99 percent of suspended solids will be removed from a wastewater flow of 1.9 gallons per day. Treated effluent will discharge to the Lehigh River.

7. *Synthane Taylor Corp. (D-77-62)*. A cooling water discharge at the company's facilities in Upper Providence Township, Montgomery County, Pa. Non-contact cooling water will be retained in an earthen lagoon prior to discharge in order to reduce water temperatures. Approximately 80,000 gallons per day of cooling water will discharge to Crossmans Run, a tributary of the Schuylkill River.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to notify the Secretary prior to the date of the hearing.

W. BRINTON WHITALL,  
Secretary, 609-883-9500.

JANUARY 13, 1978.

[FR Doc. 78-1521 Filed 1-18-78; 8:45 am]

[3128-01]

## DEPARTMENT OF ENERGY

## CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 16 Through December 23, 1977

Notice is hereby given that during the week of December 16 through December 23, 1977, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file

with the DOE written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the

date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Ad-

ministration, Department of Energy, Washington, D.C. 20461.

Dated: January 11, 1978.

MELVIN GOLDSTEIN,  
Director, Office of  
Administrative Review.

## APPENDIX—List of cases received by the Office of Administrative Review

Week of December 16 through December 23, 1977

Date	Name and location of applicant	Case No.	Type of submission
Sept. 20, 1977	Oahu Gas Service, Inc., Honolulu, Hawaii. If granted: The National Office of Administrative Review has elected to consider a Sept. 13, 1977 Appeal which Oahu Gas Service filed from an Order issued to it on Aug. 7, 1977 by the Federal Energy Administration region IX Office.	FEA-1469	Appeal of the Aug. 7, 1977 Decision and Order issued by FEA region IX.
Dec. 19, 1977	Copano Co., Houston, Tex. If granted: The Dec. 1, 1977 remedial order issued by DOE region VI would be rescinded and Copano Co. would not be required to refund overcharges made in its sales of crude oil to Exxon Corp.	DRA-0078 and DRS-0078	Appeal of the Dec. 1, 1977 remedial order issued by DOE region VI. Stay request.
Do	Harvey W. Jones & Associates, Natchez, Miss. If granted: The Nov. 29, 1977 remedial order issued by DOE region IV would be rescinded and Harvey W. Jones & Associates would not be required to refund overcharges made in its sales of crude oil.	DRA-0081 and DRS-0081	Appeal of the Nov. 29, 1977 remedial order issued by DOE region IV. Stay request.
Do	Petroleum Management, Inc., Laurel, Miss. If granted: Petroleum Management, Inc. would receive a stay of the remedial order issued by DOE region IV pending a final decision on the appeal of that order which it intends to file.	DRS-0080	Stay of the remedial order issued by DOE region IV.
Do	Spatt Oil Co., Inc. If granted: The Remedial Order issued by DOE region III would be rescinded and Spatt Oil Co. would not be required to refund overcharges in its sales of motor gasoline.	DRA-0079	Appeal of the remedial order issued by DOE region III.
Do	Suburban Propane Gas Corp., Morristown, N.J. If granted: Suburban Propane Gas Corp. would be permitted to calculate its cost of product in inventory prior to May 1, 1976 on the basis of separate inventories.	DEE-0412	Exception to separate inventories amendment (sec. 212.93).
Do	Sun Co., Inc., Dallas, Tex. If granted: Sun Co., Inc. would receive an extension of the exception relief granted in the June 30 and Dec. 12, 1977 decisions and orders to permit it to increase its prices to reflect non-product cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Markham and Mayfield plants.	DXE-0415 and DXE-0416	Extension of the relief granted in <i>Sun Co., Inc.</i> , Case No. FKE-4819 (decided December 12, 1977) (unreported decision). <i>Sun Co., Inc.</i> , Case No. FKE-4299 (decided June 30, 1977) (unreported decision).
Do	Superior Oil Co., Thomas, Okla. If granted: Superior Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Thomas Plant.	DEE-0414	Price exception (sec. 212.165).
Do	Tosco Corp., Washington, D.C. If granted: Tosco Corp would receive a stay of its entitlement purchase obligations pending a final determination on an application for exception which the firm has filed.	DEX-0022	Supplemental order.
Do	Union Oil Co. of California, Los Angeles, Calif. If granted: Union Oil Co. of California would receive an extension of the relief granted in the FEA's Aug. 16, 1977 decision and order to permit the firm to sell the crude oil produced from the Point Conception Field at upper tier ceiling prices.	DXE-0413	Extension of the relief granted in <i>Union Oil Co. of California</i> , 6 FEA par. 83,057 (Aug. 16, 1977).
Do	Vickers Dividend Oil Co., Denver, Colo. If granted: The Nov. 8, 1977 assignment order issued by DOE region VIII would be rescinded and Vickers Dividend Oil Co. would be assigned a supplier of motor gasoline for its retail station located at 2485 S. University Boulevard, Denver, Colo.	DEA-0082	Appeal of the assignment order issued by DOE region VIII.
Dec. 20, 1977	Leonard E. Belcher, Inc., Alexandria, Va. If granted: An FEA decision and order issued to Belcher on Sept. 16, 1977 would be modified.	DMR-0011	Request for modification of decision and order in <i>Leonard E. Belcher, Inc.</i> , 6 FEA par. 87,033 (Sept. 16, 1977).
Do	Midland Cooperatives, Inc., Washington, D.C. If granted: The DOE's Nov. 21, 1977 decision and order would be modified to adjust Midland Cooperative's entitlements obligations using the standards established in <i>Southland Oil Co.</i> , 1 DOE — (Oct. 14, 1977).	DMR-0010	Request for modification of <i>Midland Cooperatives, Inc.</i> , 1 DOE — (Nov. 21, 1977).
Do	Newhall Refining Co., Inc., Dallas, Tex. If granted: Newhall Refining Co., Inc. would receive an extension of the relief granted in the FEA's Aug. 12, 1977 decision and order which would relieve the firm of its obligations to purchase entitlements.	DXE-0418	Extension of the relief granted in <i>Newhall Refining Co.</i> , 6 FEA par. 83,055 (Aug. 12, 1977).
Do	O'Brien Oil Co., Middletown, N.Y. If granted: O'Brien Oil Co. would not be required to file certain reports with the Department of Energy.	DEE-0417	Exception to the reporting requirements.
Do	Texas American Oil Corp., Midland, Tex. If granted: A Nov. 14, 1977 remedial order issued by DOE region VI would be rescinded and Texas American Oil Corp. would not be required to refund overcharges made in sales of crude oil produced from the Todd Federal 26 Lease.	DRA-0083	Appeal of the Nov. 14, 1977 remedial order issued by DOE.

## NOTICES



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APPENDIX—List of cases received by the Office of Administrative Review—Continued

Date	Name and location of applicant	Case No.	Type of submission
Dec. 21, 1977	Alice-Sidney Oil Co., El Dorado, Ark. If granted: The Dec. 9, 1977 remedial order issued by DOE region VI would be rescinded and Alice-Sidney Oil Co. would not be required to refund overcharges made in its sales of crude oil.	DRA-0084	Appeal of the Dec. 9, 1977 remedial order issued by DOE region VI.
Do	Como Gas Sales Co., Inc., Duluth, Minn. If granted: The Nov. 4, 1977 remedial order issued by DOE region V would be rescinded and Como Gas Sales Co., Inc. would not be required to refund overcharges made in its sales of propane.	DRA-0085	Appeal of the Nov. 4, 1977 remedial order issued by DOE region V.
Do	Monsanto Co., Houston, Tex. If granted: Monsanto Co. would be permitted to sell the crude oil produced from the Hendrick "A" and Hendrick "C" well located in Winkler County, Tex., at upper tier ceiling prices.	DEE-0422 and DEE-0423	Price exception (212.73).
Do	Sun Co., Inc., Dallas, Tex. If granted: Sun Co., Inc. would receive an extension of the exception relief granted in the FEA's June 30 and Aug. 3, 1977 decisions and orders which would permit it to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Carney, Concho, and Jameson plants.	DXE-0419 through DXE-0421	Extension of the relief granted in Sun Co. Case Nos. FKE-4376 and FKE-4377 (decided June 30, 1977) (unreported decision). Sun Co., FEE-4372 (decided Aug. 3, 1977) (unreported decision).
Do	Wallace & Wallace Fuel Oil Co., Inc., and Wallace & Wallace Chemical & Oil Corp., Washington, D.C. If granted: Wallace & Wallace Fuel Oil Co., and Wallace & Wallace Chemical & Oil Corp. would receive a stay of the regulations pending a determination on their application for exception.	DES-0388	Stay request.
Do	Whitco, Inc., Dallas, Tex. If granted: The provisions of 10 CFR 211.25 (the supplier substitution rule) would be stayed with respect to Sun Co.'s base period supply obligations to Whitco, Inc. pending a final determination of Whitco's exception application.	DEX-0023	Supplemental order.
Dec. 22, 1977	Sheldon Leon Bierman, Washington, D.C. If granted: The DOE's Dec. 4, 1977 information request denial would be rescinded and Sheldon Leon Bierman would receive access to the names and project titles of the contractors, employees, and consultants listed in the bid he requested.	DFA-0086	Appeal of DOE's information request denial dated Dec. 4, 1977.
Do	Continental Oil Co., Houston, Tex. If granted: Conoco requests that exceptions proceedings involving the sequence of recovery of increased nonproduct costs during the period Jan. 1, 1975 through Jan. 31, 1978 be stayed pending the issuance of a final order in <i>Phillips Petroleum Co., et al. v. Department of Energy et al.</i> No. 77-90 (D. Del., filed Mar. 14, 1977). In the alternative, Conoco requests that the DOE consolidate all exceptions applications involving issues of gross inequity for resolution in a single proceeding. Conoco further requests a modification of the decision and order issued in <i>Consumer's Union of the United States, Inc., v. FEA</i> par. 87,014 (Mar. 17, 1977), in which the FEA (now DOE) provided for its participation in the exceptions proceedings involving Conoco and Exxon Co., U.S.A.	DMR-0012 and DES-0021	Stay request.
Do	Davison Oil Co., Inc., Mobile, Ala. If granted: The DOE's Nov. 7, 1977 information request denial would be rescinded and the Davison Oil Co., Inc. would receive access to additional documents in connection with Davison and Pride Terminals.	DFA-0087	Appeal of the DOE's information request denial dated Nov. 7, 1977.
Do	Laketon Asphalt Refining, Inc., Evansville, Ind. If granted: Laketon Asphalt Refining, Inc. would receive an extension of the entitlements relief granted in the DOE's Aug. 12, 1977 decision and order.	DXE-0424	Extension of exception relief granted in <i>Laketon Asphalt Refining, Inc.</i> , 6 FEA par. 83,054 (Aug. 12, 1977).
Do	Lamar Oil Co., Lamar, Colo. If granted: The Lamar Oil Co. would be granted a stay of the provisions of an Oct. 5, 1977 special report order issued to the firm by DOE region VIII.	DES-0018	Request for stay.
Do	Natrogas, Inc., Minneapolis, Minn. If granted: The DOE's Dec. 6, 1977 decision and order would be modified.	DMR-0013	Request for modification of decision and order in <i>Natrogas, Inc.</i> 1 DOE par. — (Dec. 6, 1977).
Do	Petroleum Management, Inc., Laurel, Miss. If granted: The DOE's Dec. 2, 1977 remedial order would be rescinded and Petroleum Management, Inc. would not be required to refund overcharges made on sales of crude oil.	DRA-0080	Appeal of DOE's remedial order issued Dec. 2, 1977.
Do	Romaco, Inc., Montgomery Ala. If granted: Romaco, Inc. would be reimbursed for costs incurred in attending a Dec. 19, 1977 conference convened by the Office of Administrative Review concerning the Sept. 2, 1977 special report order issued to the firm.	DSG-0009	Request for special redress.
Do	Saber Refining Co., Houston, Tex. If granted: The Saber Refining Co. would be granted an exception to the provisions of sec. 211.67 to permit it to receive entitlements sales revenues to offset reduced production which it will experience during the construction of additional refining capacity.	DEE-0425	Exception to entitlement program (sec. 211.67(e)(1)(2)).
Do	Texaco, Inc., Houston, Tex. If granted: Texaco, Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Crossett, Floodway, Kittle, Levelland, Mabec, Maurice, Montebello, and Putnam-Oswego plants.	DEE-0426 through DEE-0433	Price exception (sec. 212.165).
Do	United Independent Oil Co., Washington, D.C. If granted: The United Independent Oil Co. would be granted a stay of the provisions of sec. 211.67(b) of the entitlement program pending a final determination of its application for exception.	DES-0019	Request for stay.

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APPENDIX—List of cases received by the Office of Administrative Review—Continued

Date	Name and location of applicant	Case No.	Type of submission
Dec. 22, 1977	W. E. Shrider Co., Columbus, Ohio. If granted: The W. E. Shrider Co. would be granted a stay of the provisions of DOE's Oct. 21, 1977 decision and order pending a final determination of the firm's appeal of that order which it intends to file in the U.S. District Court for the Southern District of Ohio, Eastern Division.	DES-0020	Do.
Do	Young Refining Corp., Douglasville, Ga. If granted: The Young Refining Corp. would be granted a temporary stay of the provisions of sec. 211.67 (the entitlements program) pending a final decision on an application for exception.	DST-0002	Request for temporary stay.

NOTICES OF OBJECTION RECEIVED

Week of December 16 through December 23, 1977

Date and name and location of applicant	Case No.
Dec. 19, 1977, Armstrong Gas, Inc., Ft. Myers, Fla.	DRC-0008
Dec. 22, 1977, Eastern Shore Gas Co., Philadelphia, Pa.	DRC-0009

[FR Doc. 78-1358 Filed 1-18-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CS77-752, etc.]

BRANCH T. ARCHER, ET AL.

Applications for "Small Producer" Certificates; Correction

JANUARY 5, 1978.

In FR Doc. 77-30814, issued October 14, 1977, and published at 42 FR 56524, October 26, 1977, in the tabulation, on page 56524, column 3, Docket No. CS77-853, Louis Arrington, under column headed "Date Filed" change "9/28/77" to read "9/26/77," opposite Docket No. CS77-853.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1460 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket No. E-9811]

COLUMBUS WATER & LIGHT DEPARTMENT v. WISCONSIN POWER & LIGHT CO.

Complaint; Correction

DECEMBER 22, 1977.

In FR Doc. 77-33712, issued November 15, 1977, and published at 42 FR 60003, November 23, 1977, in paragraph 1, line 3, "City of Columbus, Ohio" should read "City of Columbus, Wisconsin".

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1457 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket Nos. CI77-224, etc.]

EXXON CORP., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Correction

JANUARY 5, 1978.

In FR Doc. 77-33032, issued November

ber 9, 1977, and published at 42 FR 59402, November 17, 1977, in the tabulation, on page 59403, Docket No. CI77-695 *South Louisiana Production*, under column headed "Docket No. and Date Filed" change "C" to read "A" under Docket No. CI77-695.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1461 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket No. CP77-71, 118, 125]

NATURAL GAS PIPELINE COMPANY OF AMERICA ET AL.

Order Granting Rehearing and Establishing Procedures; Correction

JANUARY 3, 1978.

In FR Doc. 78-353, issued December 30, 1977, and published at 43 FR 1395, January 9, 1978, on page 1395, 3rd full paragraph, last sentence, please change December 20, 1977, to January 20, 1978.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1459 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket No. ER78-97]

NORTHERN STATES POWER CO.

Supplemental No. 1 to the Municipal Resale Electric Service Agreement; Correction

DECEMBER 22, 1977.

In FR Doc. 77-36027, issued December 13, 1977, and published at 42 FR 63452, December 16, 1977, in paragraph 1, line 3 and 4, "September 22, 195" should read "September 22, 1965".

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1456 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket Nos. CI72-692, etc.]

POGO PRODUCING CO., ET AL.

Applications for Certificates, Abandonment of Service, and Petitions To Amend Certificates; Correction

JANUARY 11, 1978.

In FR Doc. 77-33725, issued November 16, 1977, and published at 42 FR 60211, November 25, 1977, on page 60212, change footnote 8 to read:

\* Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1463 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket Nos. ER77-422, ER78-20, and ER78-49]

PUBLIC SERVICE CO. OF OKLAHOMA

Order Accepting for Filing and Suspending Settlement Agreements, Ordering Filings, and Terminating Proceedings; Correction

DECEMBER 28, 1977.

In FR Doc. 77-35226, issued November 30, 1977, and published at 42 FR 62192, Friday, December 9, 1977, substitute for the five designations and description listed for Oklahoma Gas & Electric Co., Docket No. ER78-49, the following single designation:

Designation and description	Other party
FERC No. 101 (supersedes FPC No. 119).	Southwestern Power Administration.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1458 Filed 1-18-78; 8:45 am]

[6740-02]

[Docket Nos. CS73-392, etc.]

ZOLLER & DANNEBERT, INC. ET AL.

Applications for "Small Producer" Certificates; correction

JANUARY 5, 1978.

In FR Doc. 77-18085, issued June 15, 1977, and published at 42 FR 32586, June 27, 1977, on Page 32587, Docket No. CS77-576, Under Column headed "Applicant" change "Kentucky Rover Coal Corporation" to read "Kentucky



River Coal Corporation," opposite Docket No. CS77-576.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1462 Filed 1-18-78; 8:45 am]

# [6714-01]

## FEDERAL DEPOSIT INSURANCE CORPORATION

### JOINT POLICY CONCERNING IMPROPER PAYMENTS BY BANKS AND BANK HOLDING COMPANIES

CROSS REFERENCE: For a document issued jointly by the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Corporation, see FR Doc. 78-1509 appearing under the Federal Reserve System in the notices section of this issue. Refer to the table of contents in the front of this issue under "Federal Reserve System" to find the correct page number.

# [7615-01]

## FEDERAL ELECTION COMMISSION

[Notice 1978-1]

### MULTICANDIDATE POLITICAL COMMITTEES

#### Index

The Federal Election Commission today publishes a comprehensive Index of "Multicandidate Political Committees," which is defined by 2 U.S.C. 441a(a)(4) of the Federal Election Campaign Act of 1971, as amended.

"... registered under Section 433 for a period not less than 6 months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office."

This Multicandidate Committee Index contains two sections—Party-Related Committees and Non-Party Related Committees—and has been derived from a review of the reports and statements filed with the Commission, the General Accounting Office, the Clerk of the House, and the Secretary of the Senate since April 7, 1972. Please note that all committees which had met the qualifications for Multicandidate Committee status prior to January 1, 1975, are determined to have been qualified as of January 1, 1975, the effective date of the 1974 amendments to the Federal Election Campaign Act.

In addition, 11 CFR § 100.4 states affiliated committee to include "all committees established, financed and maintained or controlled by the same ... including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated." There-

## NOTICES

fore, committees have been included in this Index specifically identifying their connected or affiliated organization(s) as reported by each committee.

The Commission is publishing this notice of an Index as prescribed by 2 U.S.C. § 438(a)(6), requiring periodic publication in the Federal Register of an Index of Multicandidate Committees, including the date of registration of such committees and the committees' dates of qualification under 2 U.S.C. § 441a(a)(4). Updates to this Index will be published on a monthly basis during the 1978 election year. Copies of this Index are available upon written request from the Commission's Office of Public Records for \$1 per copy or by calling toll free 800-424-9530.

Any person who believes that a committee not included on this Index has, in fact, met the qualifications for multicandidate status, should so advise the Commission in writing and provide documentation as appropriate, so that the Commission can correct or update its records.

#### PARA PERSONA DE HABLAR ESPANOL

Si usted tiene dificultades en entender el indice, escriba a Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463.

Dated: January 13, 1978.

JOAN D. AIKENS,  
Vice Chairman,

Federal Election Commission.

[FR Doc. 78-1439 Filed 1-18-78; 8:45 am]

# [6720-01]

## FEDERAL HOME LOAN BANK BOARD

[H.C. No. 235]

### MATAGORDA COUNTY SAVINGS ASSOCIATION GROUP

Receipt of Application for Permission To Retain Control of

JANUARY 16, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Matagorda County Savings Association Group, Bay City, Tex., for approval of retention of control of Matagorda County Savings Association, Bay City, Tex., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. section 1730(a)(e)), and section 584.4. of the regulations for savings and loan holding companies, acquisition of control having been effected through the purchase of 69 percent of the outstanding common stock of Matagorda County Savings Association. Comments on the proposed acquisition should be submitted to the Director, or Deputy Direc-

tor, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before February 21, 1978.

RONALD A. SNIDER,  
Assistant Secretary,  
Federal Home Loan Bank Board.

[FR Doc. 78-1517 Filed 1-18-78; 8:45 am]

# [6730-01]

## FEDERAL MARITIME COMMISSION

### SECURITY FOR THE PROTECTION OF THE PUBLIC; FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

#### Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Dellan Artemis Cruises, Inc. and Delian Cruises S.A. (Carras Cruises/Dellan Cruises), c/o Carras Cruises, One Maritime Plaza, Suite 2160, San Francisco, Calif. 94111.

Dated: January 13, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-1515 Filed 1-18-78; 8:45 am]

# [6730-01]

### SECURITY FOR THE PROTECTION OF THE PUBLIC; FINANCIAL RESPONSIBILITY TO MEET LIABILITY INCURRED FOR DEATH OR INJURY TO PASSENGERS OR OTHER PERSONS ON VOYAGES

#### Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Kommandittselskapet Royal Viking Sea A/S, Ruselokkvn. 14, Oslo 2, Norway.

Dated: January 13, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-1516 Filed 1-18-78; 8:45 am]

## NOTICES

# [6210-01]

## FEDERAL RESERVE SYSTEM

### BANKS AND BANK HOLDING COMPANIES

#### Joint Policy Concerning Improper Payments

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, and Federal Deposit Insurance Corporation.

ACTION: Policy statement.

SUMMARY: The policy statement reflects the judgment of the bank supervisory agencies that certain questionable payment practices as have been disclosed by a few banks and bank holding companies, may, in addition to their possible illegality, constitute unsafe and unsound banking practices. Notification is given that the agencies intend both to take appropriate steps under the law to deal with such practices where found to exist, and to adopt additional examination procedures to evaluate the effectiveness of individual institutions' controls for insuring that improper and illegal payments are not undertaken.

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

C. Keefe Hurley, Jr., Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3269; Robert B. Serino, Director of Enforcement and Compliance, Comptroller of the Currency, 202-447-1847; or Gerald F. Lamberti, Projects and Planning Specialist, Federal Deposit Insurance Corporation, 202-389-4483.

SUPPLEMENTARY INFORMATION: This policy statement is issued pursuant to the Financial Institutions Supervisory Act, 12 U.S.C. 1818, and supervisory authority of the Board of Governors of the Federal Reserve System with respect to member banks, bank holding companies, Edge and Agreement Corporations; the Comptroller of the Currency with respect to national banks; and the Federal Deposit Insurance Corporation with respect to nonmember insured banks.

#### STATEMENT OF POLICY CONCERNING IMPROPER AND ILLEGAL PAYMENTS BY BANKS AND BANK HOLDING COMPANIES

In recent years a number of U.S. corporations have disclosed that they have engaged in certain questionable practices with respect to foreign and domestic payments. These practices have included improper and illegal political contributions, bribes, kickbacks, etc., and have taken place, in some instances, with the knowledge, consent and even the participation of senior corporate management. Many of the foreign payments, legal under U.S. law

at the time they were made, would, as a result of the recently enacted Foreign Corrupt Practices Act of 1977, Pub. L. No. 95-213, 91 Stat. 1494 (1977), be illegal if made today. In addition, under Federal and State laws, certain political contributions and other types of payments are illegal.

Recently, a few banks and bank holding companies have disclosed that, over a period of time, they also have engaged in questionable payment practices either directly or through subsidiary banks. Of the questionable payment practices disclosed to date, most have consisted of domestic political contributions. While information presently available does not indicate any significant involvement by banks or bank holding companies in any of the other types of questionable payment practices disclosed by other United States corporations, the agencies recognize that the circumstances in which questionable domestic and foreign payments were made by corporations may influence banks and bank holding companies. Thus, although the available information indicates that the number of banking firms that have engaged in improper payment practices is small, federal bank supervisory agencies are concerned that such practices, if permitted to continue, would come to reflect adversely on the banking system as a whole. It is the judgment of the agencies that the practice of making political contributions and certain other payments, in addition to their possible illegality, may constitute an unsafe or unsound banking practice.

The devices used by banking organizations to make political payments have included compensatory bonuses to employees, improperly designated expense accounts, excessive fees or salaries paid to officers, and low or zero interest rate loans. In addition, political contributions have been made by providing equipment and services without charge to candidates for office. Many of these devices involved clear departures from acceptable accounting practices. Consequent lack of corporate accountability raises serious questions regarding the effectiveness of an institution's own internal audit procedures. For banking organizations to engage in illegal or unethical activities and to attempt to conceal those activities by the use of irregular accounting practices could only serve to undermine public confidence in the banking system.

All banks and bank holding companies subject to the Federal supervisory authority of the Board, the Comptroller of the Currency and the FDIC are expected not only to conduct their operations in accordance with applicable laws but to refrain from making payments that may constitute unsafe and unsound banking practices. Where vio-

lations of law or unsafe and unsound banking practices result from improper payments, the appropriate agency will exercise its full legal authority, including cease and desist proceedings and referral to the appropriate law enforcement agency for further action, to ensure that such practices are terminated. In appropriate circumstances, the fact that such payments have been made may reflect so adversely on an organization's management as to be a relevant factor in connection with the consideration of applications submitted by the organization.

In the near future, the agencies expect to institute additional procedures in conjunction with their general and specialized examinations of banks and bank holding companies designed to evaluate individual institutions' controls for ensuring adherence to provisions of law prohibiting unsafe or unsound practices, including the making of contributions to or corporate expenditures on behalf of candidates for elective office, officials of foreign or domestic governments, and others. Banks and bank holding companies are urged to review their own corporate policies and accounting practices to ensure that the funds of the institution are applied for proper purposes only.

Dated: January 9, 1978.

THEODORE E. ALLISON,  
Secretary of the Board.

Dated: January 11, 1978.

JOHN G. HEIMANN,  
Comptroller of the Currency.

Dated: January 13, 1978.

GEORGE A. LEMAISTRE,  
Chairman, FDIC.

[FR Doc. 78-1509 Filed 1-18-78; 8:45 am]

# [6210-01]

## BROWNING BANCSHARES

### Formation of Bank Holding Company

Browning Bancshares, Browning, Mo., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.8 percent or more of the voting shares of Citizens Savings Bank of Browning, Browning, Mo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 2, 1978.



Board of Governors of the Federal Reserve System, January 12, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 78-1508 Filed 1-18-78; 8:45 am]

[6820-24]

# **GENERAL SERVICES ADMINISTRATION**

[Intervention Notice 50; Formal Case No. 57639]

## **CALIFORNIA PUBLIC UTILITIES COMMISSION; SOUTHERN CALIFORNIA GAS CO.**

Proposed Intervention in Rate Increase  
Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the California Public Utilities Commission concerning an application of the Southern California Gas Co. for an increase in its tariffed rates for intrastate utility services. The Administrator of General Services represents the interests of the executive agencies of the U.S. Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before February 21, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4).)

Dated: January 10, 1978.

JAY SOLOMON,  
Administrator of General Services.  
[FR Doc. 78-1422 Filed 1-18-78; 8:45 am]

[4110-35]

# **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Health Care Financing Administration  
PHARMACEUTICAL REIMBURSEMENT  
ADVISORY COMMITTEE

## **Charter Renewal**

The original charter of the Pharmaceutical Reimbursement Advisory Committee which expired on October 9, 1977, was renewed by Secretary Califano on October 7, 1977, with a termination date of December 1, 1977. The charter was then again temporarily renewed by Secretary Califano on December 1, 1977, and will expire on

## **NOTICES**

March 1, 1978. In accordance with 45 CFR 11—Committee Management, copies of the renewed charter have been sent to the appropriate standing committees by the Senate and House of Representatives and to the Library of Congress.

Dated: January 16, 1978.

PETER RODLER,  
Acting Executive Secretary,  
Pharmaceutical Reimbursement,  
Advisory Committee.

[FR Doc. 78-1552 Filed 1-18-78; 8:45 am]

[4110-12]

Office of Human Development Services  
[Program Announcement No. 13629-781]

## **REHABILITATION SHORT-TERM TRAINING PROJECTS OF NATIONAL SCOPE**

### **Announcement of Grants for Fiscal Year 1978**

The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted until March 10, 1978, from State vocational rehabilitation agencies and other public or non-profit agencies and organizations, including institutions of higher education, wishing to compete for grants in fiscal year 1978 under the rehabilitation short-term training grant program of national scope authorized by section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations governing rehabilitation short-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

Scope of this program announcement: This program announcement identifies the general program objectives and funding priorities of the rehabilitation short-term training program of national scope for fiscal year 1978.

A. *Program purpose.* The purpose of short-term training grants in vocational rehabilitation is to improve the professional practice skills of vocational rehabilitation workers serving the physically and mentally disabled, especially those who are severely disabled.

B. *Eligible applicants.* Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

C. *Available funds.* An estimated \$1 million is available for rehabilitation

short-term training grants of national scope in fiscal year 1978. All projects to be funded are new and Federal funding is limited to projects which will extend no more than 12 months. It is expected that approximately 35 grants will be awarded and the amount of the grants will range from \$15,000 to \$100,000.

D. *Program objectives and priorities for funding.* 1. Rehabilitation short-term training of national scope includes proposals for the support of a workshop, institute, seminar, or other short-term training course conducted in order:

(a) To demonstrate curriculum, or other training modules appropriate for general use in rehabilitation agencies throughout the country and related to: (1) The provision of vocational rehabilitation services to specific groups of handicapped individuals, or (2) the improved performance of vocational rehabilitation practitioners in carrying out specific functional responsibilities.

(b) To provide special training of national significance at a single training setting, or, on a coordinated basis, at a number of different training settings.

There are no geographical restrictions for trainees participating in short-term training courses of national scope.

2. In fiscal year 1978 the following program priorities, not in order of priority, have been identified for short-term training of national scope:

(a) Eligibility determination in vocational rehabilitation;

(b) Alternative methods for accelerating the delivery of client services;

(c) Rehabilitation of clients with muscular dystrophy and other chronic degenerative disabilities;

(d) Rehabilitation of individuals with hemophilia;

(e) Rehabilitation of individuals with arthritis, rheumatism, and metabolic diseases;

(f) Training the trainers of personnel providing physical and mental restoration services;

(g) Expanded use of self-employment as a vocational goal for the severely handicapped;

(h) Job placement of the severely disabled;

(i) The use of job forecasting, job development, job engineering, and job analysis in vocational rehabilitation;

(j) Vocational rehabilitation, special education, vocational education interagency cooperation in the rehabilitation of severely handicapped youth;

(k) Rehabilitation of the aging disabled;

(l) The provision of supportive vocational rehabilitation services;

(m) The provision of post-employment services in vocational rehabilitation;

(n) The role of self-help organizations in the vocational rehabilitation of the severely handicapped;

(o) Legal rights of the handicapped;

(p) Independent living rehabilitation;

(q) The use of similar benefit resources by State vocational rehabilitation agencies;

(r) Forward planning in vocational rehabilitation: Performance projection and goal setting;

## **NOTICES**

(s) The use of case review survey forms as an element in quality assurance in vocational rehabilitation;

(t) The recruitment, training, and employment of handicapped individuals and persons from minority groups in vocational rehabilitation;

(u) Rehabilitation counseling and bilingual severely disabled persons;

(v) State vocational rehabilitation agency rehabilitation facility specialist training;

(w) State vocational rehabilitation agency staff development specialist training;

(x) State vocational rehabilitation agency medical consultant training;

(y) New directions in the delivery of vocational rehabilitation services;

(z) The use of telecommunications in rehabilitation training; and

(aa) The management of rehabilitation program resources.

Applications in areas other than those listed above will also be reviewed and evaluated but will be considered only to the extent that funds are available after applications submitted under priority training areas have been considered.

E. *Grantee share of project.* It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other nonprofit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project.

F. *The application process.*—A-95 clearinghouse notice. Applicants for rehabilitation short-term training grants are not routinely required to notify the State and areawide A-95 clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures circular A-95 to include training grants. If the applicant's State has extended the coverage of circular A-95 to this program, however, the clearinghouse procedures must be observed.

State vocational rehabilitation agency review. Applicants are advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under this program are not expected to have State vocational rehabilitation agency approval before submission to the Rehabilitation Services Administration. State vocational rehabilitation agencies are requested to review and comment on the application after formal submission.

Application submission. In order to be considered for a rehabilitation short-term training grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commis-

sioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the rehabilitation short-term training program.

One signed original and two copies of the grant application, including all attachments, are required. The original and the two copies of all completed applications should be submitted to the Division of Grants and Contract Management, Office of Human Development Services, Room 1427, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201.

Application consideration. The Commissioner, Rehabilitation Services Administration, determines the final action to be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Commissioner takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, the HEW regional offices and the Rehabilitation Services Administration central office program office, in reaching a decision on each competing application.

After the Commission has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

Grant awards. The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the notice of grant awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated.

G. *Criteria for review and evaluation of grant application.* All applications received in response to this announcement will receive a technical review by qualified experts. Applications are evaluated against the following criteria:

1. The relevance of the content of the proposed short-term training to the administratively established objectives of the public rehabilitation program, the objectives of the Rehabilitation Act of 1973, as amended, the objectives of the rehabilitation short-term training program of national scope, and the fiscal year 1978 prior-

ities for rehabilitation short-term training;

2. The qualifications of the instructional staff and the facilities and resources of the applicant organization;

3. The reasonableness of the budget in relation to the proposed project and the anticipated results;

4. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;

5. The financial and other resources of the applicant for accomplishing the objectives of the training project and how much the applicant plans to contribute to the total cost of the project;

6. The criteria to be used for the selection of individuals to whom traineeships are to be awarded;

7. Evidence that the training institution is architecturally accessible to the handicapped;

8. Where appropriate, evidence of current accreditation by the designated accrediting agency;

9. The extent to which application instructions are adequately addressed, including both the narrative statement and budget justification;

10. The extent to which the proposal provides for an evaluation methodology, including the manner in which such methodology will be employed to measure the achievement of the objectives of the training program;

11. The evidence of a working relationship with an appropriate State vocational rehabilitation agency and other agencies providing vocational rehabilitation services; and

12. The extent to which the proposal is of a national scope.

H. *Closing date for receipt of applications.* Applications are due by close of business on March 10, 1978. Applications will be judged on time if:

1. The application was sent by registered or certified mail not later than March 10, 1978, as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, the Office of Human Development Services or the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business March 10, 1978, in any case.

I. *Late applications.* Applications received after the closing date are not accepted and applicants are notified accordingly.

J. *Availability of application forms.* Application kits which contain the



prescribed application forms and information for the applicant, including the fiscal year 1978 general plan for rehabilitation short-term training of national scope, may be obtained by writing to the Division of Grants and Contract Management, Office of Human Development Services, Room 1427, 330 C Street SW., Washington, D.C. 20201.

(29 U.S.C. 763.)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training.)

Dated: November 28, 1977.

ROBERT R. HUMPHREYS,  
Commissioner, Rehabilitation  
Services Administration.

Approved: January 13, 1978.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.  
(FR Doc. 78-1455 Filed 1-18-78; 8:45 am)

#### [4110-02]

##### Office of Education TITLE I AUDIT APPEAL

###### Acceptance of Application for Appeal

Notice is hereby given that, pursuant to the Notice establishing the Title I Audit Hearing Board (37 FR 23002, October 27, 1972, as amended by 41 FR 28568, July 12, 1976), an application for an appeal before the Board has been received from the State of Utah and it has met the jurisdictional requirements of section 5 of the Notice establishing the Board.

The appeal involves the allowability of specified expenditures of funds under Title I of the Elementary and Secondary Education Act during the period of September 1, 1967, through August 31, 1972, by the State Education Agency and the local school districts of San Juan, Daggett, Murray, Weber, and Iron.

The total amount involved in this audit appeal is \$112,244. The Audit Control Number is 60001-08, and the Docket Number is 15-(30)-76.

The Prehearing Conference will be held at 10:30 a.m. on February 22, 1978, in Room 3000, 400 Maryland Avenue SW., Washington, D.C.

Section 7 (c) of the Notice setting up the Board provides:

(c) Intervention by third parties. (1) Interested third parties may, upon application to the Board Chairman, intervene in proceedings conducted under this notice. Such application must indicate to the satisfaction of the Board Chairman that the intervenor has information relative to the specific issues raised by the final audit determination and that such information will be useful to the Hearing Panel in resolving those issues.

(2) When third parties are given leave to intervene in accordance with subparagraph (1) above, such parties shall be afforded the same opportunities as other parties to present written materials, to participate in informal conferences, to call witnesses, to cross-examine other witnesses, and to be represented by counsel.

All such applications for intervention will be considered if received on or before February 1, 1978.

(Catalog of Federal Domestic Assistance number 13.428, Educationally Deprived Children—Local Educational Agencies.)

(20 U.S.C. 241a, 1232c.)

Dated: January 10, 1978.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 78-1411 Filed 1-18-78; 8:45 am)

#### [4110-02]

##### Office of Education

##### VOCATIONAL EDUCATION GRADUATE LEADERSHIP DEVELOPMENT PROGRAM

###### Approved List of Institutions of Higher Education Selected Under the Vocational Education Graduate Leadership Development Program

Notice is hereby given that the Commissioner of Education has approved the leadership development programs at forty institutions of higher education as required by Part B, Subpart 2, Section 172 of the Education Amendments of 1976, Pub. L. 94-482 (20 U.S.C. 2402). Individual applicants are to select their first, second and third choice of institutions for the Vocational Education Graduate Leadership Development Program (CFDA 13.503) from the forty approved. To facilitate this requirement, a list of these approved institutions will be included in all individual application packets. The list of approved institutions are:

##### ALABAMA

Auburn University, Dr. E. L. Kurth, Director, 5024 Haley Center, Auburn, AL 36830.  
University of Alabama, Dr. David E. Sawyer, Director, Box 2846, University, AL 35488.

##### CALIFORNIA

University of California, Dr. Lawrence Erickson, Director, c/o Graduate School of Education, Los Angeles, CA 90024.

##### COLORADO

Colorado State University, Dr. Duane Blake, Director, C-109 Social Science Bldg., Fort Collins, CO 80523.  
University of Northern Colorado, Dr. Robert F. Barnes, Director, Greeley, CO 80639.

##### CONNECTICUT

University of Connecticut U-93, Dr. Richard Whinfield, Director, Storrs, CN 06268.

##### FLORIDA

Florida State University, Dr. Dolores Robinson, Director, 202 South Woodward Street, Tallahassee, FL 32306.

##### GEORGIA

Georgia State University, Dr. Harmon Fowler, Director, University Plaza, Atlanta, GA 30303.  
University of Georgia, Dr. George O'Kelly, Jr., Director, 628 Aderhold Hall, Athens, GA 30602.

##### HAWAII

University of Hawaii, Dr. Lawrence Zane, Director, c/o College of Education, 2444 Dole Street, Honolulu, HI 96822.

##### IDAHO

University of Idaho, Dr. James Blikle, Director, c/o College of Education, Moscow, ID 83843. Cooperating with: Washington State University, Pullman, WA 99163.

##### ILLINOIS

University of Illinois, Dr. J. J. Kamerer, Director, c/o Dept. of Voc. Tech. Education, 345 Education Building, Urbana, IL 61801.  
Southern Illinois University, Dr. Wayne Ramp, Director, Carbondale, IL 62901.

##### INDIANA

Purdue University, Dr. P. K. Lowe, Director, c/o Department of Education, West Lafayette, IN 47907. Cooperating with: Ball State University, Muncie, IN 47306; Indiana State University, Terre Haute, IN 47802; and University of Indiana, Bloomington, IN 47401.

##### KENTUCKY

University of Kentucky, Dr. Harold Binkley, Director, Lexington, KY 40506.

##### MARYLAND

University of Maryland, Dr. Donald Maley, Director, College Park, MD 20742.

##### MASSACHUSETTS

University of Massachusetts, Dr. Kenneth Ertel, Director, c/o School of Education, Amherst, MA 01003.

##### MICHIGAN

Michigan State University, Dr. John Fuzok, Director, East Lansing, MI 48824.  
University of Michigan, Dr. Madge Atwood, Director, c/o School of Education, 610 East University, Rm. 4208, Ann Arbor, MI 48109.

##### MINNESOTA

University of Minnesota, Dr. Jerome Moss, Jr., Director, c/o Dept. of Voc. & Tech. Ed., 125 Peik Hall, Minneapolis, MN 55455.

##### MISSISSIPPI

Mississippi State University, Dr. James Shill, Director, c/o College of Education, Drawer DX, Mississippi State, MS 39762.

##### MISSOURI

University of Missouri, Dr. Richard C. Erickson, Director, College of Education—PAVTE, 103 Industrial Ed. Bldg., Columbia, MO 65201.

##### NEBRASKA

University of Nebraska, Dr. Hazel Crain, Director, 105 Bancroft Hall, Lincoln, NB

88588. Cooperating with: Iowa State University, Ames, IA 50010; and Kansas State University, Manhattan, KS 66506.

##### NEW JERSEY

Rutgers University, Dr. Carl Schaefer, Director, 10 Seminary Place, New Brunswick, NJ 08903.

##### NEW YORK

New York University, Dr. Ronald Todd, Director, c/o Dept. of Tech. & Ind. Ed., 28 Stuyvesant St., Rm. 309, New York, NY 10003.

##### NORTH CAROLINA

East Carolina University, Dr. Villa Rosenfeld, Director, c/o Dept. of Home Economics, Greenville, NC 27834.  
North Carolina A&T State University, Dr. A. P. Bell, Director, 312 North Dudley St., Greensboro, NC 27411.  
North Carolina State University, Dr. Durwin Hanson, Director, P.O. Box 5096, Raleigh, NC 27601.

##### OHIO

Ohio State University, Dr. A. J. Miller, Director, 1314 Kinneck Rd., Columbus, OH 43212.

##### OKLAHOMA

Oklahoma State University, Dr. Lloyd Wiggins, Director, 413 Classroom Bldg., Stillwater, OK 74074.

##### OREGON

Oregon State University, Dr. Joel Galloway, Director, Vocational Tech. Ed., 100 Batcheller Hall, Corvallis, OR 97331.

##### PENNSYLVANIA

Pennsylvania State University, Dr. Robert E. Andreyka, Director, Division of Occupational & Voc. Ed., 207 Old Main St., University Park, PA 16802.  
Temple University, Dr. C. J. Cotrell, Director, c/o Dept. of Voc. Ed., Philadelphia, PA 19122.

##### TENNESSEE

University of Tennessee, Dr. Walter Cameron, Director, 110 Henson Hall, Knoxville, TN 37916.

##### TEXAS

East Texas State University, Dr. Billy Pope, Director, P.O. Box 1300, Commerce, TX 75428. Cooperating with: North Texas State University, Denton, TX 75080; and Texas Woman's University, Denton, TX 75080.  
Texas A&M University, Dr. Katy Greenwood, Director, c/o College of Education, College Station, TX 77843.

##### UTAH

Utah State University, Dr. Ted Ivarie, Director, c/o Vocational Ed. Council UMC-35, Logan, UT 84322.

##### VIRGINIA

Virginia Polytechnic Institute and State University, Dr. Samuel Morgan, Director, 301 Lane Hall, Blacksburg, VA 24061.

##### WISCONSIN

University of Wisconsin—Madison, Dr. Merle Strong, Director, c/o Vocational Studies Center, Madison, WI 53706.

University of Wisconsin—Stout, Dr. Harold Halfin, Director, c/o Center for VTA Education, Menomonie, WI 54751.

(Catalog of Federal Domestic Assistance Program NO. 13.503, Vocational Education Graduate Leadership Development Program.)

Dated: January 16, 1978.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 78-1601 Filed 1-18-78; 8:45 am)

#### [4110-02]

##### VOCATIONAL EDUCATION GRADUATE LEADERSHIP DEVELOPMENT PROGRAM

###### Extension of Closing Date for Individual Applications

Notice is given that the February 6, 1978 deadline for filing applications under the Vocational Education Graduate Leadership Development Program, as authorized by Part B, Subpart 2, Section 172 of the Education Amendments of 1976, Pub. L. 94-482, (20 U.S.C. 2402), published in the FEDERAL REGISTER on October 12, 1977, is extended to March 7, 1978.

(a) *Application forms and information.* Application forms and program information packages will be sent to all previous requests received and to requests resulting from this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* Applications sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.503B, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail (a) not later than March 2, 1978 for individual applications as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from individuals to receive Leadership Development Awards for the program. Potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. The combined institutional support and individual stipend and dependency allowances will be approximately \$11,344 per individual for a total of approximately \$1,650,000. It is estimated that there will be approximately 145 individual awards and 24 institutional awards. All grants will be new awards. Leadership Development Awards will be made for a period not to exceed 36 months, and payments to individuals after the first year of the award period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(e) *List of approved institutions.* A list of institutions whose leadership development programs have been approved is published in this issue of the FEDERAL REGISTER. Each individual applying for an award must indicate the first, second, and third choice of institution on the individual application form. A copy of the approved list will be included in the application package.

(f) *Individual applications.* Applications from individuals for Leadership Development Awards must be received in the U.S. Office of Education, Application Control Center in Washington, D.C. on or before March 7, 1978. The applicant must submit one copy of the application to the State board for vocational education for the State in which the applicant is a resident, on or before February 20, 1978. The State board for vocational education must review each application, collect advice as to the merits of each application, and forward all applications and statements of advice to the Vocational Education Graduate Leadership Development Program (see address in paragraph (g) below), postmarked on or before March 4, 1978.

(g) *For further information and forms contact.* Vocational Education Graduate Leadership Development Program, Vocational Education Personnel Development, Division of Research and Demonstration, Bureau of Occupational and Adult Education, U.S. Office of Education, 400 Maryland Avenue SW., (Room 5652, ROB No. 3), Washington, D.C. 20202.



(h) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Vocational Education Graduate Leadership Development Program Regulation (45 CFR Part 105, Sections 301-312) which is included in the application package.

(20 U.S.C. 2402; 45 CFR Part 105, Sections 301-312.)

(Catalog of Federal Domestic Assistance Program No. 13.503, Vocational Education Graduate Leadership Development Program.)

Dated: January 16, 1978.

ERNEST L. BOYER,  
Commissioner of Education.  
(FR Doc. 78-1800 Filed 1-18-78; 8:45 am)

#### [4110-12]

##### Office of the Secretary

#### OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION

##### Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part A of the statement of organization, functions, and delegations of authority of the Department of Health, Education, and Welfare, Office of the Secretary, by modifying certain portions of Chapter AE, "Office of the Assistant Secretary for Planning and Evaluation" (41 FR 47275, dated 10/18/76). The Office of the Deputy Under Secretary for Intergovernmental Affairs of the Office of the Secretary and the Office of State and Community Affairs of the Office of Human Development Services now perform most of the functions of the Division of Intergovernmental Systems of the Office of the Assistant Secretary for Planning and Evaluation. This Notice abolishes the Division of Intergovernmental Systems and transfers the residual functions to a Division of Intergovernmental Policy in the Office of Program Systems, as follows:

##### Section AE.10 Organization:

Delete D1 "Division of Intergovernmental Systems".

Add A4 "Division of Intergovernmental Policy".

##### Section AE.20 Functions:

Delete D1.

Add 4 The Division of Intergovernmental Policy is responsible for conducting and coordinating the necessary policy planning, program analysis, research and evaluation on the implications of alternative departmental policies on State and local governments. Functions include: conduct of policy planning and analysis when such policies have particular impact on State and local governments, review of proposed policies for such impact to ensure that views of other

governments are included in the consideration of proposed policies, and oversight of evaluation and research in areas having intergovernmental significance.

Dated: January 9, 1978.

CHARLES MILLER,  
Assistant Secretary for  
Management and Budget.  
(FR Doc. 78-1553 Filed 1-18-78; 8:45 am)

#### [4110-12]

##### OFFICE OF FACILITIES ENGINEERING

##### Statement of Organization, Functions, and Delegations of Authority

This notice amends Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare by changes to Chapter AMF "Office of Facilities Engineering" (42 FR 36308, July 14, 1977). The changes result in the abolition of two offices, the consolidation of the functions with other offices, and the change in title of two other offices. Also, the statement deletes reference to the personal property program because that program is now the responsibility of the General Services Administration. Otherwise, the revised statement is a consolidation and clarification of the statement previously published. The new Chapter AMF replaces the present chapter and reads as follows:

Sec. AMF.00 Mission. The mission of the Office of Facilities Engineering (OFE), to be performed for and in cooperation with the Principal Operating Components (POCs) of the Department and the Office of the Secretary staff, is to provide architectural/engineering policy recommendations, direction and services for both direct Federal and Federally assisted construction activity; to manage and integrated facilities engineering system for all DHEW owned or occupied real property; to accomplish maximum utilization of Federal surplus real property; and to manage the Department's safety and occupational health program.

Sec. AMF.10 Organization. The Office of Facilities Engineering (OFE) reports through the Deputy Assistant Secretary for Management (DAS/M), to the Assistant Secretary for Management and Budget (ASMB), and consists of:

- Office of the Director.
- Office of Planning and Special Projects.
- Office of Technical Services.
- Office of Real Property.
- Office of Safety and Occupational Health.

##### Sec. AMF.20 Functions:

A. The immediate staff of the Director and the Executive Staff constitute

the Office of the Director and perform the following functions:

1. Administers, directs, and supervises all OFE activities and personnel resources.

2. Serves as the principal technical advisor to ASMB and other Departments for HEW facilities master planning, energy conservation related to facilities, and compliance activities associated with facilities accessibility and architectural barriers.

3. Reviews POC architectural/engineering manpower and budgetary requirements and makes recommendations to ASMB for evaluation under the Department's staff resource management program.

4. Provides Departmentwide functional management in the functional areas of facilities engineering and safety.

5. Recommends HEW-OFE policies and regulations affecting both HEW-wide and internal OFE/Regional Operations for Facilities Engineering and Construction (ROFEC) operations, and coordinates with POCs, staff offices, and other Federal Departments and agencies. Develops and supervises the OFE/ROFEC policy, procedure, and publication management system, as well as correspondence control system.

6. Serves as the principal OFE contact with the Office of General Counsel and the Office of the Assistant Secretary for Legislation for legal and legislative matters, and serves as principal contact with the Office of Personnel and Training on OFE labor-management activities.

7. Designs, implements, and operates internal engineering management information and performance evaluation systems in coordination with OFE Office heads. Advises on changes in procedures and priorities in all matters relating to internal OFE and HEW-wide facility engineering operations. Designs, implements, and operates the OFE manpower management, program control, and work planning systems.

8. Provides ADP operations and technical ADP support to system users within HEW and GSA for the Facilities Management Information System (FMIS), Facilities Engineering Automated Management System (FEAMS), and Safety Management Information System.

B. Office of Planning and Special Projects. The Office of Planning and Special Projects performs the following functions:

1. Manages and coordinates those designated activities that cut across functional responsibilities within the Office of Facilities Engineering. Such designations are Special Projects. Examples are: (a) the development and recommendation of energy conservation actions for HEW owned facilities

and HEW facility related programs; (b) the development and recommendation of HEW policy and procedures for providing physical accessibility in the area of architectural barriers; and (c) the development and maintenance of a working procedure and process for HEW facilities master planning.

2. Provides technical facilities planning consulting services as appropriate.

C. Office of Technical Services. The Office of Technical Services performs the following functions:

1. Manages and provides technical assistance for design, construction, and contracting matters for Direct Federal special-purpose facilities funded and operated by HEW.

2. Provides technical assistance in coordination with the POC staffs for design and construction of Federally assisted facilities funded by HEW and other Departments in the form of grants and loans, or other special types of funding assistance.

3. Recommends policy and develops procedures and technical guidance, and coordinates the publication of regulations for HEW-wide use in contracting, design and construction of HEW-owned and operated facilities, and for Federally assisted construction activity.

4. Provides technical and management evaluation of architectural/engineering services rendered by the POCs, staff offices, Regional Offices, and field installation staffs.

5. Provides technical services and assistance to Department staff offices and POCs for planning, cost estimating, design, and construction of the Department's facility projects.

6. Manages and coordinates OFE/Regional conferences, ROFEC work plans, work projections and validation, and technical inspections of ROFECs.

7. Directs and coordinates the HEW nationwide natural disaster engineering activity to service the Office of Education and the Department of Housing and Urban Development/Federal Disaster Assistance Administration Programs.

8. Develops the requirements for an information system to monitor construction project schedules, costs, trends, and progress, and annual manpower resources need.

9. Manages the Department construction wage rate (Davis-Bacon) and Labor Standards Program, and coordinates with the Department of Labor in resolving construction contractor violations.

D. Office of Real Property. The Office of Real Property performs the following functions:

1. Formulates policies and develops procedures and standards for the acquisition, management, maintenance, operation and disposal of all real property or space owned and/or occupied by HEW.

2. Formulates policies and develops procedures for the management and operation of the Federal Real Property Assistance Program in accordance with sections 203 (k) and (n) of the Federal Property and Administrative Services Act of 1949, as amended.

3. Formulates policy relating to the facility planning and budget process. Manages the formulation of the annual Department budget estimates for GSA assigned space and reimbursable costs (SLUC).

4. Acts as the HEW principal contact with other Federal agencies, including GSA, and agencies of the Department on real property policy and procedure matters.

5. Provides technical assistance and consultation to POCs, PROs, and ROFECs, in matters relating to the acquisition, management, operations, and disposal of real property.

6. Manages both the HEW-owned real property and GSA-assigned property inventory systems, and collects, analyzes, and publishes management data related to real property functions for all HEW components.

7. Represents the Department on the President's Economic Adjustment Committee which functions to offset adverse economic impacts caused by military installation closures or curtailment.

8. Prescribes necessary reporting requirements and manages a Departmentwide information system to identify emerging problems, monitors Departmentwide activity, and provides a basis for management appraisal and evaluation of performance in all areas of real property.

9. Reviews and evaluates the continuing effectiveness of policy and practice, in headquarters and in the field, relating to real property and initiates changes or corrective actions where appropriate.

E. Office of Safety and Occupational Health. The Office of Safety and Occupational Health performs the following functions:

1. Recommends Departmentwide Safety and Occupational Health Program policy and operating concepts, including procedures for conducting training, work place inspections, abatement plans, and employee complaints and appeals.

2. Develops the requirements for and manages a Departmentwide Safety Management Information System to analyze causal factors of accidents, injuries, and illnesses to determine problem areas and requirements for program emphasis.

3. Evaluates the Safety and Occupational Health Program effectiveness at all organization levels, to determine program effectiveness and conformance with Department policy.

4. Promulgates safety and occupational health standards for use within

the Department, including the review of standards and procedures recommended by other HEW offices.

5. Provides technical guidance and consultation to OS, POCs, Agencies, and Regions in the area of safety engineering, industrial hygiene, and fire safety.

6. Provides assistance to OS staff offices, POCs, and Regions in identifying resource requirements for safety and occupational health.

7. Represents HEW with other Federal agencies and private organizations in support of the Department's safety and occupational health program.

Sec. AMF.30 Delegations of Authority. The Office of Facilities Engineering has been delegated:

1. The authorities vested in the Secretary by law (or delegated to the Secretary from the Administrator of General Services) relating to real property management, engineering, and facility planning and construction, including Federal contracting officer responsibilities required in support of these authorities (exclusive of the financial management authority retained by the Assistant Secretary for Management and Budget).

2. All authorities with respect to direct Federal special purpose construction activities.

3. The authority to recommend such general policies and procedures as may be necessary to govern the functions, personnel, funds, and property in order to establish and administer the Office of Facilities Engineering.

4. Authority vested in the Secretary by section 203 (k) and (n) of the Federal Property and Administrative Services Act of 1949, as amended, as well as authority to redelegate.

5. Authority to recommend and interpret policies, procedures, and regulations for implementing the Uniform Relocation Act, Pub. L. 91-646.

6. Authority as the Department's Safety and Occupational Health Official pursuant to Executive Order 11807.

Dated: January 12, 1978.

CHARLES MILLER,  
Acting Assistant Secretary  
for Management and Budget.  
(FR Doc. 78-1554 Filed 1-18-78; 8:45 am)

#### [4310-84]

#### DEPARTMENT OF THE INTERIOR

##### Bureau of Land Management

##### Alaska

##### Notice of Segregation of Lands

Notice is hereby given that pursuant to the act of May 24, 1928 (49 U.S.C. 211-214), the State of Alaska, Department of Transportation and Public Facilities, has applied for an airport lease for the following land:



That certain real property located in protracted sections 19 and 20, T. 48 S., R. 76 W., Seward Meridian, Alaska, lying and being within the Aleutian Islands Recording District, Third Judicial District, State of Alaska, more particularly described as follows:

Commencing at meander corner No. 1 of U.S. Survey No. 662, Alaska, proceed north a distance of 134.34 feet along a portion of line 1-2 of said survey to the true point of beginning from which U.S.L.M. No. 498 bears S. 11°32'32" E. a distance of 2,034.66 feet; thence N. 84°40'11" W. a distance of 359.16 feet to a point; thence N. 5°19'49" E. a distance of 910 feet, more or less, to a point on the meanders of Bristol Bay; thence northeasterly along the meanders of Bristol Bay a distance of 330 feet, more or less, to a point; thence S. 84°40'11" E. a distance of 4,750 feet, more or less, to a point on the meanders of Nelson Lagoon; thence southwesterly along the meanders of Nelson Lagoon a distance of 2,295 feet, more or less, to a point on line 2-3 of U.S. Survey No. 663, Alaska, from which meander corner No. 3 of said survey bears south a distance of 75 feet more or less; thence north along a portion of line 3-2 of U.S. Survey No. 663 a distance of 755 feet, more or less, to a point common to corner No. 2 of said survey; thence west along line 2-1 of U.S. Survey No. 663 a distance of 660 feet to a point common to meander corner No. 1 of said survey; thence south along a portion of line 1-4 of U.S. Survey No. 663 a distance of 640 feet, more or less, to a point from which meander corner No. 4 of said survey bears south a distance of 111 feet, more or less; thence westerly along the meanders of Nelson Lagoon a distance of 1,470 feet, more or less, to a point on line 3-4 of U.S. Survey No. 662 from which meander corner No. 4 of said survey bears south a distance of 53 feet, more or less; thence north along a portion of line 4-3 of U.S. Survey No. 662 a distance of 445 feet, more or less, to a point which is common to meander corner No. 3 of said survey; thence S. 89°45'39" W. along line 3-2 of U.S. Survey No. 662 a distance of 792.00 feet to a point which is common to meander corner No. 2 of said survey; thence south along a portion of line 2-1 of U.S. Survey No. 662 a distance of 369.90 feet to the true point of beginning.

This tract having an area of 88.1 acres, more or less.

(The parcel described above is designated as Tract I on the State of Alaska, Department of Transportation and Public Facilities (formerly the Department of Public Works, Division of Aviation) Nelson Lagoon Airport Property Plan dated May 3, 1977, unrevised.)

The purpose of this notice is to inform the public that the filing of this application segregates the described land from all other forms of use or disposal under the public land laws. The lands herein described have been segregated since the date the application was filed on September 2, 1977.

Interested persons desiring to express their views should promptly send their name and address to the State Director, Alaska State Office,

Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

CURTIS V. McVEE,  
State Director.

[FR Doc. 78-1445 Filed 1-18-78 8:45 am]

## [1505-01]

Bureau of Land Management

[AA-6707-A]

ALASKA

Alaska Native Claims Selection

Correction

In FR Doc. 77-36214 appearing on page 63822 in the issue of Tuesday, December 20, 1977, the 3rd column, paragraph (c), the date next to the last line should read, "March 3, 1996".

## [4310-84]

Bureau of Land Management

[Serial No. AR 016724 and AR 018777]

ARIZONA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

Notices of applications of the U.S. Fish and Wildlife Service, Department of the Interior, Serial Nos. AR 016724 and AR 018777 for withdrawal and reservation of lands for the purpose of enlarging the boundary of the Havasu Lake National Wildlife Refuge were published as FR Doc. No. 57-7083 on page 6974 of the issue for August 29, 1957, and FR Doc. 59-1380 on pages 1218 and 1219 of the issue for February 17, 1959, respectively. The subject applications have previously been cancelled in part; the applicant agency has now cancelled the applications in their entirety. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091.25, upon publication of this notice in the FEDERAL REGISTER, the lands described below will be relieved of the segregative effect of the above-mentioned applications. However, portions of the lands herein involved are included in application A 10342, filed by the Fish and Wildlife Service, for withdrawal and reservation of the lands for use as the Bill Williams Unit of the Havasu National Wildlife Refuge and will remain segregated as provided in the notice of proposed withdrawal and reservation of lands published in the FEDERAL REGISTER, Document No. 77-36432, pages 64150 and 64151, of the issue for December 22, 1977.

The lands involved in this notice of termination are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

(AR 016724)

T. 11 N., R. 17 W.,  
Sec. 17, All;  
Sec. 18, Lots 1, 2, 3, and 4, E½W½, E½;  
Sec. 19, Lots 1, 2, 3, and 4, E½W½, E½;  
Sec. 20, E½, E½NW½, NE½SW½,  
S½SW½;  
Sec. 21;  
Sec. 28, N½, SW½.

(AR 018777)

T. 11 N., R. 18 W.,  
Sec. 4, Lots 1, 2, S½NE½, SE½;  
Sec. 10, N½;  
Sec. 11 and 12;  
Sec. 13, NE½, S½;  
Sec. 22, 23, and 24;  
T. 12 N., R. 18 W.,  
Sec. 19, Lots 1, 2, 3, and 4, E½, E½W½;  
Sec. 29;  
Sec. 30, Lot 1, NE½, E½NW½, N½SE½,  
SE½SE½;  
Sec. 32, Lot 1, N½, E½SW½, SE½;  
T. 12 N., R. 19 W.,  
Sec. 5, Lots 1, 2, 3, and 4, S½;  
Sec. 6, Lots 1, 2, 3, 4, and 5, E½SW½,  
SE½;  
Sec. 8, Lots 1, 2, and 4, NE½NE½;  
Sec. 9, Lot 1, N½, E½SW½, SE½;  
Sec. 10;  
Sec. 14, W½;  
Sec. 15, Lot 1, N½, N½SW½, SE½SW½,  
SE½;  
Sec. 16, E½NE½;  
Sec. 22, E½NE½NE½, NE½SE½NE½;  
Sec. 23, Lots 2, 3, and 4, N½;  
Sec. 24, N½, N½SW½, SE½SW½, SE½;  
T. 13 N., R. 19 W.,  
Sec. 30, Lots 3, 4, E½SW½, SE½;  
Sec. 31, Lots 1, 2, and 4, NE½, E½NW½,  
N½SE½, SE½SE½;  
Sec. 32;  
T. 13 N., R. 20 W.,  
Sec. 4, E½E½;  
Sec. 9, SW½NE½NE½, W½SE½NE½,  
E½SE½;  
Sec. 10, SW½;  
Sec. 14, SW½;  
Sec. 15, NE½SW½NW½, SW½SW½NW½,  
NW½SE½NW½, S½SE½NW½,  
NE½NE½SW½, NW½NW½SE½,  
S½NW½SE½, SE½SE½;  
Sec. 23, Lot 1, E½, NW½NW½,  
SE½NW½, NW½NW½SE½,  
SE½NW½SE½, E½SE½SE½;  
Sec. 24, SW½;  
Sec. 25, Lot 3, S½SW½NE½,  
SW½NE½NW½, W½NW½NW½,  
SE½NW½NW½, S½NW½, NW½SE½,  
SW½SE½SE½.

The areas described aggregate approximately 15,419.45 acres in Yuma and Mohave Counties, Ariz.

Dated: January 10, 1978.

MILDRED C. KOZLOW,  
Acting Chief, Branch of  
Lands and Minerals Operations.

[FR Doc. 78-1522 Filed 1-18-78; 8:45 am]

## [4310-84]

[SAC 047049]

CALIFORNIA

Termination of Proposed Withdrawal and  
Reservation of Land—Correction

JANUARY 11, 1978.

In FR Doc. No. 77-27666, appearing on page 47881 of the Thursday, September 22, 1977, issue, the thirty-seventh line of the second paragraph, reading "Sec. 30, E½NE½" is corrected to read "Sec. 30, E½NW½." The forty-first line of the second paragraph, reading "Sec. 36, SE½NW½, NE½NW½," is corrected to read "Sec. 36, SE½NW½, NE½SW½."

JOAN B. RUSSELL,  
Chief, Lands Section Branch of  
Lands and Minerals Operations.  
[FR Doc. 78-1524 Filed 1-18-78; 8:45 am]

## [4310-84]

[C-25079]

COAL LEASE OFFERING BY SEALED BID

U.S. Department of the Interior, Bureau of Land Management, Colorado State Office, 700 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Notice is hereby given that certain coal resources in the lands hereinafter described in Delta County, Colo., will be offered for lease by sealed bid of \$25 per acre minimum to the qualified bidder of the highest cash amount per acre or fraction thereof. The sale will be held at 2 p.m., February 22, 1978 in Room 708, Colorado State Bank Building, Denver, Colo. At that time all sealed bids from qualified bidders will be read, and the highest bid will be announced. The successful high bidder will be notified in writing after the State Director has made his determination. No bids received after 2 p.m., February 22, 1978 will be considered. Sealed bids may not be modified or withdrawn unless such modification or withdrawal is received before the date, time and place set for opening of such bids. The Department of the Interior reserves the right to reject any and all bids and also the right to offer the lease to the next highest qualified bidder if the successful bidder fails to obtain the lease for any reason. If any bid is rejected, the deposit made on the day of the sale will be returned. Payment of the bonus shall be on a deferred basis, one-fifth due on the day of the sale, and the balance in equal annual installments on the first four anniversary dates of the lease. The successful bidder is obligated to pay for the newspaper publications of this notice.

Qualified bidder. In addition to the qualification requirements in 43 CFR

3502, a qualified bidder, if other than the applicant who has previously met the short term criteria, will have to meet short-term criteria pursuant to the decision in *Natural Resources Defense Council, et al. v. Royston C. Hughes, et al.*, Civil Action No. 75-1749, in the U.S. District Court for the District of Columbia, dated September 27, 1977. The documents presented to support meeting the short-term criteria must be enclosed with the sealed bid.

Warning to bidders. In accordance with the Federal Coal Leasing Amendments Act of 1975, it will be necessary that the high bidder, as a prospective lessee, disclose the nature and extent of his coal holdings to the Department of Justice before issuance of the lease. A lease will not be issued to a bidder who holds or controls more than 46,080 acres of Federal coal leases in any one State or 100,000 acres of Federal coal leases in the United States.

Coal offered. The coal resources to be offered is limited to 1,966,667 tons to be mined from the "D" seam, as described in U.S. Bureau of Mines Technical Paper No. 721, 1949, in the following described tract located approximately three miles northwest of the town of Paonia, Delta County, Colo.

T. 13 S., R. 92 W., 6th P.M.  
Sec. 24, Lots 1, 2, 3, 4, 5, 6, 8, 9.

Containing 310.51

The successful bidder's coal sales contract or agreement in effect on September 27, 1977, will be attached to the lease as appendix I or the successful bidder's annual production from the existing mine as reflected on September 27, 1977, will be used to establish the rate of production from the leased lands. The coal to be mined will be mined only on the advance in accordance with an approved mining plan.

Rental and royalty. A lease issued as a result of this offering will provide for payment of an annual rental of \$3 per acre or fraction thereof and a royalty payable to the United States at the rate of 12½ percent for coal mined by strip-mining methods, and 8 percent for coal mined by underground methods of the value of coal as defined in 30 CFR 211.63.

Public comments. The public is invited to submit written comments and any recommendations concerning the fair market value of the "D" seam coal to the Bureau of Land Management for its consideration of fair market value and for U.S. Geological Survey consideration of resource economic evaluation. Public comments will be sent to the State Director, (CO-946A), Bureau of Land Management, Room 700, Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202, to arrive no later than February 13, 1978.

Notice of availability. All case file documents and written comments sub-

mitted by the public on fair market value or royalty rates except those portions identified as proprietary by the commenter and meeting exemptions stated in the Freedom of Information Act will be available for public inspection at the Bureau of Land Management, Room 701, Colorado State Bank Building, 1600 Broadway, Denver, Colo. Copies of the detailed statement and proposed coal lease are available in Room 700.

JACK G. LORTS,  
Chief,

Division of Technical Services.

[FR Doc. 78-1525 Filed 1-18-78; 8:45 am]

## [4310-84]

[M-39381]

MONTANA

Notice of Proposed Withdrawal and  
Reservation of Lands

JANUARY 11, 1978.

The Forest Service, U.S. Department of Agriculture, has filed application, M 39381, for the withdrawal of national forest lands described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land for a trailhead facility access into the Selway-Bitterroot Wilderness.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Mont. 59107.

The Department's regulations (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.



## NOTICES

The determination of the Secretary on the application will be published in the **FEDERAL REGISTER**. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA.

LOLO NATIONAL FOREST

South Fork Lolo Creek

T. 11 N., R. 21 W.,  
Sec. 6, Lots 3, 4, and 5.

The area described contains 113.37 acres within Missoula County, Mont.

ROLAND F. LEE  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-1526 Filed 1-18-78; 8:45 am]

## [4310-84]

NORTH ATLANTIC OUTER CONTINENTAL  
SHELF OIL AND GAS LEASE SALE NO. 42

## Clarification of Notice

Attention is invited to the Notice of Sale for oil and gas lease sale No. 42, published in 42 FR 65285 on December 30, 1977. In an effort to clarify the intent of the Department with regard to the terms under which the "higher royalty tracts" specified in Paragraph 5 are offered, it is hereby stated that it has been the policy and intent of this Department to take no more than 16% percent of the production saved, removed or sold from the leased area as royalty in amount except as provided in Section 6(c) of the lease form. This policy and intent will also apply to the "higher royalty tracts" specified in Paragraph 5 which are offered on a cash bonus bidding basis.

GEORGE TURCOTT,  
Acting Director,  
Bureau of Land Management.

JANUARY 11, 1978.

Approved: January 13, 1978.

JAMES A. JOSEPH,  
Acting Secretary  
of the Interior.

[FR Doc. 78-1412 Filed 1-18-78; 8:45 am]

## [1505-01]

OUTER CONTINENTAL SHELF, SOUTH  
ATLANTIC

Proposed Oil and Gas Lease Sale—No. 43; Oil  
and Gas Leasing

## Correction

In FR Doc. 77-35438 appearing on page 62978 in the issue of Wednesday, December 14, 1977 on page 62980, the

40th entry in the table in the 1st column should read:

Tract No.	Block	Descriptions	Hectares
43-54	888	All	2304

On page 62983 the forms should have appeared as set out below:

## OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No.	Percent royalty bid expressed to maximum of 5 decimals	Amount of fixed cash bonus submitted with bid
-----------	---	---

Proportionate Interest of Company(s) Submitting  
Bid

Qualification No. \_\_\_\_\_ % \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_  
(Please type signer's name under signature)

## OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per Hectare	Amount of cash bonus submitted with bid
-----------	------------------------	-----------------------	---

Proportionate Interest of Company(s) Submitting  
Bid

Qualification No. \_\_\_\_\_ % \_\_\_\_\_  
Company \_\_\_\_\_  
Address \_\_\_\_\_  
Signature \_\_\_\_\_  
(Please type signer's name under signature)

## JOINT BIDDER'S STATEMENT

I hereby certify that \_\_\_\_\_ (entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature \_\_\_\_\_  
(Please type signer's name under signature.)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

Notary Public \_\_\_\_\_  
State of \_\_\_\_\_  
County of \_\_\_\_\_

## [4310-84]

[CA 568]

## SIX RIVERS NATIONAL FOREST

Notice of Opportunity for Public Hearing and  
Republication of Notice of Proposed With-  
drawal

JANUARY 11, 1978.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 568 on July 31, 1973, for a withdrawal in relation to the following described lands:

HUMBOLDT MERIDIAN, CALIFORNIA

SIX RIVERS NATIONAL FOREST

T.3 S., R. 7 E.,  
Sec. 16, Lot 2.

The area described aggregates 40.16 acres in Trinity County, Calif.

The applicant desires that the land be reserved for and made a part of Six Rivers National Forest.

A notice of the proposed withdrawal was published in the **FEDERAL REGISTER** on September 13, 1973, FR Doc. 73-19461, pages 25457 and 25458.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the undersigned, Bureau of Land Management, E-2841, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825, on or before February 21, 1978. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before February 21, 1978.

The above-described lands are temporarily segregated from the operation of the public land laws. The proposed action, when consummated, will transfer jurisdiction to national forest status, subject to all laws and regulations applicable to national forest lands. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Man-

## NOTICES

agement Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with the pending withdrawal application should be addressed to the undersigned.

JOAN B. RUSSELL,  
Chief, Lands Section, Branch of  
Lands and Minerals Operations.

[FR Doc. 78-1523 Filed 1-18-78; 8:45 am]

## [4310-55]

## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Botanical Garden, University of California, Berkeley, Calif. 94720.

The application is for an Endangered Species permit, authorizing an unlimited number of transactions involving the exchange, loan, or donation of herbarium specimens, seeds, and live plants of endangered plants over a 2 year period for the purpose of scientific research.

Documents and other information submitted with this application available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1719. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1492 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Denver Wildlife Research Center, Federal Center, Building 16, Denver, Colo. 80225.

The applicant requests a permit to import peregrine falcon (*Falco peregrinus anatum*) addled eggs, molted feathers, and any dead birds found during studies conducted in Mexico, for the purpose of scientific research.

Documents and other information submitted with this application available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing

to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1754. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1493 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Craig A. Hendee, 1624 Sunset Rider Road, Glenview, Ill. 60025.

The applicant requests a permit to purchase in interstate commerce, two pairs of captive-bred white-eared pheasants (*Crossoptilon crossoptilon*) from Charles Sivelle of New York for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1780. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1494 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Dr. Clark Hubbs, Department of Zoology, the University of Texas at Austin, Austin, Tex. 78712.

The applicant requests a permit to take up to 50 Clear Creek gambusia (*Gambusia heterochir*) from Clear Creek, Menard county, Tex. for electrophoretic analysis for the purpose of scientific research and to enhance the survival of the species.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1707. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1495 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Los Angeles Zoo, 5333 Zoo Drive, Los Angeles, Calif. 90027.

The applicant seeks a permit to import two female jaguars (*Panthera onca*) from the Morelia Zoo, Morelia, Michoacan, Mexico, for enhancement of propagation. These animals are the result of captive breeding. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1732. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1496 Filed 1-18-78; 8:45 am]

## [4310-55]

## Fish and Wildlife Service

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Alfred R. Anacker, R.R. 1 Box 37A, Butterfield, Minn. 56120.

The applicant wishes to apply for a Captive Self Sustaining Population permit authorizing the purchase and



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sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1525. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1487 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Bonnie J. McDonald, 4233 92nd S.E., Mercer Island, Wash. 98040.

The applicant requests a permit to purchase in interstate commerce, three pairs of masked Bobwhite quail (*Colinus virginianus ridgwayi*) from breeders in Ohio and California as specified in application for the purpose of enhancement of propagation.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street N.W., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1784. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1498 Filed 1-18-78; 8:45 am]

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Col. Clarence K. Darling, 141 Fox Run, San Antonio, Tex. 78233.

The applicant wishes to apply for a Captive Self-Sustaining Population

## NOTICES

permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1742. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1488 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Harold H. Polk, 2953 Fairchild, Wayzata, Minn. 55391.

The applicant requests a permit to purchase in interstate commerce from Mr. Charles Sivilie, Dix Hills, N.Y., one pair of captive-bred white-eared pheasants (*Crossoptilon crossoptilon*) for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1763. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1501 Filed 1-18-78; 8:45 am]

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Mason's Exotic Hatchery, P.O. Box 271, 29545 13th Street, Nuevo, Calif. 92387.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1574. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1490 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Minnesota Zoological Garden, 12101 Johnny Cake Ridge Road, Apple Valley, Minn. 55124.

The applicant requests a permit to purchase in interstate commerce, one captive-bred female clouded leopard (*Neofelis nebulosa*) from the Rare Feline Breeding Compound, Center Hill, Fla., for enhancement of propagation and zoological exhibition. Humane consideration has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1821. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1498 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: National Zoological Garden, Smithsonian Institution, Washington, D.C. 20008.

The applicant requests a permit to export one pair of surplus captive-bred golden-lion tamarins (*Leontideus rosalia rosalia*) to the Jersey Wildlife Preservation Trust, Channel Islands, Great Britain, for enhancement of propagation.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1753. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1499 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Oklahoma City Zoo, Route 1, Box 1, Oklahoma City, Okla. 73111.

The applicant requests a permit to export one captive-bred snow leopard (*Panthera uncia*) to the Ruhr Zoo, Gelsenkirchen, Germany, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1769. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February

## NOTICES

21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1500 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, Calif. 92112.

The applicant requests a permit to import two pairs of captive-bred wood bison (*Bison bison athabasca*) from Elk Island National Park, Alberta, Canada, for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1755. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1502 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: San Diego Zoological Garden, P.O. Box 551, San Diego, Calif. 92112.

The applicant requests a permit to export one pair of captive-bred ring-tailed lemurs (*Lemur catta*) to the Singapore Zoo for enhancement of propagation. Humane considerations have been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1756. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the

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above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1503 Filed 1-18-78; 8:45 am]

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Shigeml Ogata, 151 Malaal Road, Hilo, Hawaii 96720.

The applicant wishes to apply for a Captive Self Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1731. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1491 Filed 1-18-78; 8:45 am]

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Ted D. Harkey, 11033 East Lake Road, Charlotte, N.C. 28215.

The applicant wishes to apply for a Captive Self Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1561. Interested persons may comment on this applica-



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tion by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1489 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: University Herbarium, Department of Botany, University of California, Berkeley, Calif. 94720.

The application is for an Endangered Species permit, authorizing an unlimited number of transactions involving the exchange, loan, or donation of herbarium specimens over a two year period, for the purpose of scientific research.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1735. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1505 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: William A. Sumner, D.V.M., 6015 High Point Road, Greensboro, N.C. 27407.

The applicant requests a permit to purchase in interstate commerce, one pair of captive-bred Hawaiian geese (*Branta sandvicensis*) from Dr. Michael Dam of Haines City, Fla., for the purpose of enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing

to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1000. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1504 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Woodland Park Zoological Garden, 5300 Phinney Avenue North, Seattle, Wash. 98103.

The applicant requests a permit to import one captive-bred female Brazilian tapir (*Tapirus terrestris*) from the Metropolitan Toronto Zoo for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1758. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1506 Filed 1-18-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Woodland Park Zoological Garden, 5300 Phinney Avenue North, Seattle, Wash. 98103.

The applicant requests a permit to purchase in interstate commerce, one male Madagascar radiated tortoise (*Geochelone = (Testudo) radiata*) from the Gladys Porter Zoo, Brownsville, Tex., for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1790. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 21, 1978. Please refer to the file number when submitting comments.

Dated: January 16, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.  
[FR Doc. 78-1507 Filed 1-18-78; 8:45 am]

## National Park Service

## MIDWEST REGIONAL ADVISORY COMMISSION

## Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Midwest Regional Advisory Committee will be held February 6 and 7, 1978, at the Granada Royale Homotel, 7270 Cedar Street, Omaha, Nebr. The February 6 meeting will begin at 9 a.m. (CST) and the February 7 meeting at 8:30 a.m.

The committee was established pursuant to Pub. L. 91-393 to provide for free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from the public on programs and problems pertinent to the Midwest Region of the National Park Service.

The members of the Advisory Committee are as follows:

Honorable Robert W. Berry III (Chairman)  
Mr. Wallace C. Dayton  
Mr. John J. Franke, Jr.  
Mr. Fred D. Hartley  
Mr. William L. Lieber  
Mr. Erwin D. Sias

The committee will hear reports related to regional operations and programs for the coming year.

The meeting is open to the public, and any member of the public may file with the committee a written statement concerning matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Bill W. Dean, Executive Assistant to the Regional Director, Midwest Regional office at Area Code 402, 221-3481. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Midwest Region, 1709 Jackson Street, Omaha, Nebr.

## NOTICES

Dated: January 10, 1978.

MERRILL D. BEAL,  
Regional Director,  
Midwest Region.

[FR Doc. 78-1454 Filed 1-18-78; 8:45 am]

## [4310-10]

Office of Hearings and Appeals  
[Docket No. M 78-34]

## BETHLEHEM MINES CORP

Petition for Modification of Application of  
Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Bethlehem Mines Corp., Room 1871 Martin Tower, Bethlehem, Pa. 17016, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Mine No. 116, located in Butler County, Pa. The substance of Petitioner's statement is as follows:

1. Petitioner seeks modification of that portion of 30 CFR 75.305 which requires a certified person to make a weekly examination of the 7th Left secondary intake airway. Massive roof falls in certain locations in the area in question, as well as other adverse conditions, prevent persons from traveling the area in question in accordance with 30 CFR 75.305, and constitute a diminution of safety to persons exposed to such conditions while carrying out the requirements of 30 CFR 75.305.

2. Petitioner proposed an alternate method for achieving the result contemplated by 30 CFR 75.305, and such alternate method will at all times guarantee no less than the same protection afforded by such standard. This alternate method also eliminates the hazards encountered in traveling the area in question.

(a) Two monitoring stations have been established on the intake airway in question; these monitoring stations are used to conduct examinations for hazardous conditions and for the purpose of complying with mandatory health and safety standards. Air and methane readings are also made at these monitoring stations to assure the air flow is in its proper course and usual volume. One monitoring station is located in close proximity to the Montcoal Fan, and the second monitoring station is located in the area where the 7th Left secondary intake airway joins 2nd West Main.

(b) Methane and air readings are made by a certified, competent person on a weekly basis, if not more frequently.

(c) Methane will not be permitted to accumulate in the air course beyond legal limits.

(d) Both access to and the measuring stations themselves will continue to be kept in safe condition.

(e) A date board is located at each measuring station, and air quantity and methane readings are taken and recorded, including the initials of the certified person taking such readings, as well as the date and time the readings are taken. Duplicate records are also kept on the surface and are available to all interested persons. A comparison is made with readings obtained the preceding day, and the direction of the air flow is posted at the stations.

(f) All employees required to perform measurements at the underground stations will be certified for such work on the basis of state examinations.

## REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.  
[FR Doc. 78-1446 Filed 1-18-78; 8:45 am]

## [4310-10]

[Docket No. 78-29]

## CONSOLIDATION COAL CO.

Petition for Modification of Application of  
Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Consolidation Coal Co., Box 537, Moundsville, W. Va. 26041, has filed a petition to modify the application of 30 CFR 75.305, weekly examinations for hazardous conditions, to its Ireland Mine, located in Marshall County, W. Va.

The substance of Petitioner's statement is as follows:

1. A notice of violation of section 75.305 was issued December 6, 1977 (1-JAM), stating: the weekly examinations for hazardous conditions by a certified person in at least one entry of the return air course from No. 2 fan to 2 South and 2 North to 1 North were not being conducted due to roof falls and unsupported top making travel inaccessible. We wish to request modification of section 75.305 (section 303(f)) of the Federal Coal Mine Health and Safety Act; for the return air course from No. 2 fan to 2 South

and 2 North to 1 North at the Ireland Mine.

2. To provide no less than the same measure of protection as required by section 301(c), the following alternate method is proposed: Additional daily checkpoint stations (12 and 13) shall be established at locations shown on the accompanying map.<sup>1</sup> Established check stations (7-8-9-10-11) are currently being examined daily subject to prior approval of Petition for Modification (Docket No. M 75-27) Ireland Mine (May 14, 1975).

## REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.  
JANUARY 10, 1978.  
[FR Doc. 78-1447 Filed 1-18-78; 8:45 am]

## [4310-10]

[Docket No. 78-26]

## FIRE CREEK COAL CO.

Petition for Modification of Application of  
Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Fire Creek Coal Co., c/o Mr. Krushenski, P.O. Box 3447, Oak Ridge, Tenn. 37840, has filed a petition to modify the application of 30 CFR 77.1605(k), berms and guardrails, to its Fire Creek No. 1 Mine, located in Anderson County, Tenn.

The substance of Petitioner's statement is as follows:

1. Providing berms or guardrails as required by 77.1605(k) for this mine will create more safety hazards than presently exist at the mine in its present condition.

2. The mine operator will, upon investigation by the Department of the Interior, show that an alternative method of achieving the specific result of Safety Standard 77.1605(k) does exist, which will in fact at all times guarantee no less than the same measure of protection afforded the miners of Fire Creek Coal Co., No. 1 Mine, by such safety standard.

<sup>1</sup>The enclosed map is available for inspection at the address listed in the last paragraph of this petition.



3. Present safety rules in effect at the mine have prevented accidents from occurring at the mine and the measures already taken will be of more benefit than the implementation of Mandatory Safety Standard 77.1605(k).

#### REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.

JANUARY 10, 1978.

[FR Doc. 78-1448 Filed 1-18-78; 8:45 am]

#### [4310-10]

[Docket No. M 78-28]

#### INDUSTRIAL GENERATING CO.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Industrial Generating Co., P.O. Box 1111, Rockdale, Tex. 76567, has filed a petition to modify the application of 30 CFR 77.1710(e), protective clothing; requirements, to its Sandow Strip Surface Mine, located in Milam County, Tex.

The substance of Petitioner's statement is as follows:

1. The contractors acquire their forces through the various building trade union halls. These crafts could be employed for a period of months, weeks or even for a day. The craft unions do not require their members to wear hard-toed shoes when they are assigned to a job, nor is such requirement an industry-wide practice in field construction. The contractors generally experience a fairly high turnover rate by the employees due to the men leaving the project for another construction site or being laid off for lack of productivity or poor workmanship. It would almost be impossible for a contractor to purchase steel-toed shoes for his employees because of the length of some jobs and the large turnover in the construction field.

2. The steel erection ironworkers generally wear a soft leather shoe or boot with crepe soles and essentially no heels. This type of shoe or boot enables the ironworker to feel any slight imbalance and provides flexibility in

the toe portion of the shoe so that he can "coon" or climb the steelwork. A steel-toed shoe cannot be bent in this manner for climbing steel and does not provide the ability for the ironworker to feel the steelwork. Therefore, a steel-toed shoe would be more hazardous than a soft-toed shoe.

3. When the MESA rules and regulations were promulgated the primary intent was for the safety and health of underground and surface miners and no consideration was given to contractors' employees because OSHA ruled the construction field. The miners are usually permanent employees and work for the operators permanently until retirement and the health and safety rules can be adhered to and enforced more consistently as opposed to construction workers because they are primarily temporary employees at the mine site.

4. Since the beginning of the expansion program through November 3, 1977, the contractors have worked a total of 56,842 manhours and they have not had one accident involving a foot injury to any employee because of a soft-toed shoe. This fine record speaks for itself.

5. Therefore, Petitioner submits a petition to modify the mandatory standard. In its opinion, if section 77.1710(e) is waived for the contractors' employees, it will not result in a diminution of safety to the miners.

#### REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.

JANUARY 10, 1978.

[FR Doc. 78-1449 Filed 1-18-78; 8:45 am]

#### [4310-10]

[Docket No. M 78-32]

#### NATIONAL MINES CORP.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), National Mines Corp., P.O. Box 12022, Lexington, Ky. 40579, has filed a petition to modify the application of 30 CFR 77.803, fall safe ground check circuits, etc., to its National Pocahontas Mine, located in Wyoming County, W. Va.

The substance of Petitioner's statement is as follows:

1. The Welch Road fan substation is served by a 13,200 volt aboveground open wire pole mounted distribution line. The source transformers are located in a substation adjacent to the National Pocahontas office. The source transformers are resistively grounded through a 25 ampere continuous rated resistor. This particular circuit extends approximately 1½ miles above ground where three substations are served. This line is protected by an approved high voltage air circuit breaker with ground fault, phase overload, and short circuit, and ground monitoring protection. The fall safe ground check circuit extends to within approximately 100 yards of each of the three substation loads. The Petitioner respectfully submits that a modification of 30 CFR 77.803 be granted on this circuit from the point where the existing fall safe ground check circuit now ends to the three substations served by this particular circuit. In support of its petition, the Petitioner states that the existing installation now exceeds the safety standards set forth in 77.803.

2. All outdoor type transformers served by the Welch Road 13.2 kv distribution line are designed in such a manner that high voltage components are located at a minimum of 8 feet above ground level.

3. All substations are enclosed by a substantially constructed fence 6 feet in height.

4. An approved insulated high voltage hot stick shall be kept at all times at the Welch Road fan substation.

5. Two separate grounding conductors are installed from the point where the monitor circuit now terminates to each of the served substations.

6. Separate ground fields shall be established for each substation served by the Welch Road 13.2 kv distribution line. This ground field will be in addition to the double ground conductors from the source ground. All metal frames in each substation shall be grounded not only to the source ground conductor but also to the ground fields established at each substation. These ground fields will be located a minimum of 25 feet from existing lightning arrester grounds. Since the fan installation is required to be examined by a certified individual on a daily basis, a procedure will be established whereby this examination includes a visual inspection of the grounding conductors from the point where the monitor circuit ends to each of the served substations.

7. Safe electrical work procedures shall be posted at the entrance of each of the high voltage substations served by the Welch Road 13.2 kv distribution line. These procedures are as follows:

(a) No work shall be performed on any high voltage power circuit until that circuit has been deenergized by a qualified person.

(b) All phases of the affected high voltage circuit where work shall be performed shall be connected to an approved grounding medium with the use of ground clamps.

(c) All high voltage circuits which are deenergized shall be tagged and locked out. The tag and lock shall only be removed by a qualified person who actually installed them or by other such persons qualified and authorized to do so by the qualified individual who originally tagged the circuit out.

(d) Proper equipment shall be used for all repairs on deenergized circuits. Energized high voltage disconnect switches will not be deenergized while under load and such switches will be opened by a qualified individual wearing approved high voltage gloves.

(e) Disconnect or cut out switches used on high voltage surface lines shall be operated only with approved high voltage insulated hot sticks or other devices which are adequately insulated and maintained to protect the operator from the voltage to which he is exposed.

(f) The superintendent of maintenance or another qualified individual shall coordinate and supervise all trouble shooting of the surface high voltage system. All individuals working on the high voltage system shall receive their instructions and directions through this coordinator.

8. The Petitioner avers that neither the installation of a large capacity isolation transformer nor the installation of a series grounding system to the substations served by the 13.2 kv distribution line would make the electrical system safer than the system as proposed above. A major isolation transformer substation that is not needed for the operation of the power system would add other potential areas for accident or injury. The use of a series grounding medium could possibly permit nuisance tripping of the protective high voltage circuit breakers resulting in deenergization of the Welch Road fan which provides ventilation for the gaseous Poca No. 3 seam.

#### REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va.

22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.

JANUARY 10, 1978.

[FR Doc. 78-1450 Filed 1-18-78; 8:45 am]

#### [4310-10]

[Docket No. 78-33]

#### THE YOUGHIOGHENY & OHIO COAL CO.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), the Youghiogheny & Ohio Coal Co., 4614 Prospect Avenue, Cleveland, Ohio 44103, has filed a petition to modify the application of 30 CFR 75.1403-5(g), belt conveyors, to its Cadiz Portal, located in Harrison County, Ohio.

The substance of Petitioner's statement is as follows:

1. In the design and layout of three belt conveyors of the Cadiz Portal coal handling system, less than 24 inches of clearance has been provided along the side of the conveyor opposite the clearance side.

2. These conveyors are: (a) surge slope conveyor; (b) slope conveyor; (c) stock pile reclaim conveyor.

3. Petitioner's drawing No. 1001 Sheet 4 at a ¼"=1' scale and sketch showing the reclaim tunnel at ¼"=1' scale show the location of the conveyor structure within the opening in which it is installed.

4. In each case, the clearance side of the conveyor is on the right side looking toward the tail of the conveyor. In all cases, the conveyor center line was moved to the left to provide additional clearance on the right or clearance side for better access for men and material, on this side.

5. Access to the left sides of these conveyors at the drive and tail ends, where at walkway level, will be screened off and permanent signs "NO CLEARANCE" will be attached to the screens.

6. During repair or maintenance work on these conveyors, the controls will be "locked out" to prevent accidental start up during such repairs or maintenance.

#### REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before February 21, 1978.

<sup>1</sup>The enclosed drawing is available for inspection at the address listed in the last paragraph of this notice.

February 21, 1978. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,  
Director, Office of  
Hearings and Appeals.

JANUARY 10, 1978.

[FR Doc. 78-1451 Filed 1-18-78; 8:45 am]

#### [7020-02]

#### INTERNATIONAL TRADE COMMISSION

[332-92]

#### TELEPHONE TERMINAL AND SWITCHING EQUIPMENT INDUSTRY

#### Notice of a Baseline Study

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under the authority of section 332(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(b)), to study factors affecting competition in the telephone equipment industry.

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Daiker or Mr. Harold Graves, Machinery and Equipment Division, United States International Trade Commission, 701 E Street N.W., Washington, D.C. 20436, telephone 202-523-0353, 523-0360, respectively.

SUPPLEMENTARY INFORMATION: In response to a request by the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, received on December 14, 1977, the U.S. International Trade Commission instituted the above-captioned investigation.

The investigation will be concerned with, among other things, the effects of imports, government regulations, and technology on domestic production and employment. In order to study the effects of these factors, the study will focus on certain key products to be selected from telephone terminal and switching equipment which transmits, distributes, receives and/or displays information.

The imported articles which are within the scope of this investigation are provided for in parts 4 and 5 of schedule 6 of the Tariff Schedules of the United States.

At the completion of its investigation, the Commission shall transmit a report to the Committee on Ways and Means of the U.S. House of Representatives. The report will be released to



the public (consistent with the treatment afforded confidential business information).

**Written submissions.** Interested persons may submit written statements. Any commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential business information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the commission, written statements should be submitted at the earliest practicable date, but not later than May 15, 1978. All such submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

**Request for a hearing.** Any interested person who believes that a public hearing should be held in connection with this investigation may, on or before February 21, 1978, submit a request in writing to the Secretary of the Commission that a public hearing be held. All such requests should state the reasons for such request and be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the commission.

Issued: January 18, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-1551 Filed 1-18-78; 8:45 am]

[4410-01]

#### DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

#### VOLUNTARY DEPARTURE FOR OUT-OF-STATUS NONIMMIGRANT H-1 NURSES

Many foreign nurse graduates were admitted to the United States temporarily under section 101(a)(15)(H)(i) of the Immigration and Nationality Act in order to practice their profession in this country. Their eligibility for such nonimmigrant status was based upon their being able to secure temporary licenses to work as professional nurses immediately following their entry and pending their taking and passing State examinations for permanent licensure. It has been brought to the attention of the INS that many of these nonimmigrant nurses have failed these examinations for permanent licensure, have had their temporary licenses

expire, and have therefore been unable to continue working in a professional capacity. Since they were admitted to the United States solely to work as professional nurses and lacking a license are now not permitted to do so, they no longer have lawful nonimmigrant status and routinely should depart from the United States. Representations have been made, however, that these out-of-status nurses could pass the licensure examinations if given the time and opportunity to do so, free of the anxiety of being imminently required to depart. There is nothing in law or regulation that would require the grant of any further time in the United States to any of these nurses. In view of the representations made, however, and the imminence of an officially acceptable test to screen visa applicants abroad and before they are permitted to come to the United States (which it is expected will largely eliminate the problem), it has been decided to give this group of out-of-status nurses until December 31, 1978, to apply for extended voluntary departure (deferred departure) under the conditions stated below. This notice is effective immediately.

#### CONDITIONS FOR THE GRANT OF VOLUNTARY DEPARTURE TO THE OUT-OF-STATUS H-1 NURSE, IN ORDER TO AFFORD FURTHER OPPORTUNITY TO TAKE AND PASS THE LICENSURE EXAMINATION AS PROFESSIONAL NURSE

1. The nurse's lack of lawful immigration status shall be due only to the nurse's having changed employer without authority, or to his/her having failed the licensure examination. Refusal to take any such examination will be disqualifying for grant of extended voluntary departure.

2. The nurse must have taken the first available licensure examination after arrival in the United States, and have taken consecutively each such examination thereafter.

3. The nurse must show evidence (e.g., a cancelled check) that he/she has been registered to take the next licensure examination offered by the State.

4. A prior change of employer without INS authorization shall not disqualify the nurse from the grant of voluntary departure.

5. The nurse who meets the above conditions shall be given extended voluntary departure status in six-month increments up to a total that does not exceed three years from date of arrival in the United States.

6. The nurse already in the United States in excess of three years who meets the above conditions shall be given a further six-month period of voluntary departure for the purpose of again taking the licensure examinations.

7. During any period of authorized voluntary departure, the nurse shall

be permitted to work in a lesser capacity than professional nurse.

8. The nurse who is successful in passing the examination, and is issued a license to practice professional nursing, may upon the approval by INS of an H-1 visa petition filed by an employer, be restored to H-1 nonimmigrant status.

9. The Nation Alliance for Fair Licensure of Foreign Nurse Graduates, for the benefit of intending applicants for H-1 visas in the future, will undertake to publicize to foreign nurse graduates abroad the information that they must pass State licensure examinations in the United States, and that they may not work as professional nurses after failing such examinations.

10. The nurse already under deportation proceedings shall be eligible for extended voluntary departure as provided above, if those proceedings are based on grounds which arose solely by reason of the nurse's having changed employer without authority, or by reason of his/her previous inability to pass the licensure examination. If such nurse is successful thereafter in passing the examination and achieving licensure, the Service will move to terminate the deportation proceedings with a view to restoring him/her to lawful H-1 status as provided above.

11. The period during which the out-of-status nurse may make application for the above benefit shall expire December 31, 1978.

Dated: January 13, 1978.

LEONEL J. CASTILLO,  
Commissioner of Immigration  
and Naturalization.

[FR Doc. 78-1431 Filed 1-18-78; 8:45 am]

[7532-01]

#### NATIONAL COMMISSION ON NEIGHBORHOODS

##### RESCHEDULED MEETING

ACTION: Rescheduling of meeting.

SUMMARY: This notice, required under the Federal Advisory Committee Act (5 U.S.C. Appendix I) reschedules a meeting announced in the FEDERAL REGISTER on January 12, 1978.

TIME AND DATE: 8 p.m. (eastern standard time) on Friday, February 3, 1978 and 4 p.m. (eastern standard time) on Saturday, February 4, 1978.

PLACE: (February 3 meeting)—Church Hall of United Evangelical Church of Christ, East Avenue at Dillon Avenue, Baltimore, Md. (February 4 meeting)—Gymnasium of Wyman Park Multipurpose Center, 501 West 30 Street, Baltimore, Md.

AGENDA: February 3 meeting—1. Consideration of staff reports. 2. Discussion of future hearings.

February 4 meeting—1. Opportunity for citizen testimony from: (a) organized neighborhood groups, (b) public officials, and (c) interested individual citizens.

STATUS: Open to the public.

CONTACT PERSON:

Ms Frances Phipps, Deputy Director, 202-632-5200.

JONATHAN STEIN,  
Administrative Officer.  
[FR Doc. 78-1669 Filed 1-18-78; 8:45 am]

[7555-01]

#### NATIONAL SCIENCE FOUNDATION

##### ADVISORY COUNCIL TASK GROUP NO. 4

##### Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

TASK GROUP NO. 4 OF THE NSF ADVISORY COUNCIL

Place: Room 1145, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date and time: February 9 and 10, 1978; 9 a.m. to 5 p.m.

Type of meeting: Open.  
Contact person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550, telephone 202-632-4384.

Purpose of task group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, National Science Foundation, Room 248, 1800 G Street NW., Washington, D.C. 20550.

Agenda: To assess the need for and potential benefits from increased scientific cooperation between the U.S. and Western European countries, and to suggest scientific areas, modes, and institutional mechanisms best suited for such cooperation.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-1544 Filed 1-18-78; 8:45 am]

[7555-01]

#### SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

##### Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Founda-

tion announces that the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.

Date and time: February 9 and 10, 1978; 9 a.m. to 5 p.m. each day.

Place: National Science Foundation, Room 628 for closed meetings; Room 642 for open meeting.

Type of meeting: Part Open—February 9—9 a.m. to 3 p.m.—Closed, February 9—3 p.m. to 5 p.m.—Open, February 10—9 a.m. to 5 p.m.—Closed.

Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.

Summary of minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research and history and philosophy of science.

Agenda: Closed Session: To review and evaluate research proposals and projects as part of the selection process for awards. Open Session: Suggestions and general discussion by Panel members of research topics which may deserve special emphasis.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act. Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-1545 Filed 1-18-78; 8:45 am]

[7555-01]

#### SUBCOMMITTEE ON GENETIC BIOLOGY

##### Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Genetic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology. Date and time: February 9-11, 1978; 9 a.m. to 5 p.m. Place: Room 643, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.  
Contact person: Dr. Philip D. Harriman, Program Director, Genetic Biology Pro-

gram, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5985.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in genetic biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act. Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.  
[FR Doc. 78-1546 Filed 1-18-78; 8:45 am]

[7555-01]

#### SUBCOMMITTEE ON REGULATORY BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR & MOLECULAR BIOLOGY

##### Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Regulatory Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and Time: February 8, 9, 10, 1978; 9 a.m. to 6 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Betty M. Twarog, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4298.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act. Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated



the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-1547 Filed 1-18-78; 8:45 am]

#### [7555-01]

##### SUBCOMMITTEE ON MOLECULAR BIOLOGY

###### Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Molecular Biology, Group B, of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: February 6 and 7, 1978; 9 a.m. to 5 p.m. each day.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Frederick I. Tsuji, Program Director, Biochemistry Program, Room 330, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4260.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-1548 Filed 1-18-78; 8:45 am]

#### [7555-01]

##### SUBCOMMITTEE ON NEUROBIOLOGY

###### Notice of Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Neurobiology of the Advisory Committee for Behavioral and Neural Sciences.

#### NOTICES

Date and time: February 6, 7 and 8, 1978; 9 a.m. to 5 p.m. each day.  
Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Janett Trubatch, Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-4036.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

Dated: January 16, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-1549 Filed 1-18-78; 8:45 am]

#### [7590-01]

##### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-302]

##### FLORIDA POWER CORP., ET AL

###### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-72, issued to the Florida Power Corp., City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Fla. The amendment is effective as of the date of issuance.

The amendment deletes the requirement to submit Non-Routine Reports regarding unplanned radioactive releases if the release rate is no greater than 10 percent of the allowable instantaneous release rate. All un-

planned releases will continue to be reported in the Semiannual Operating Report.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR §51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 11, 1977, and (2) Amendment No. 10 to license No. DPR-72. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Crystal River Public Library, Crystal River, Fla. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-1512 Filed 1-18-78; 8:45 am]

#### [7590-01]

[Docket No. 50-289]

##### METROPOLITAN EDISON CO., ET AL

###### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-50, issued to Metropolitan Edison Co., Jersey Central Power & Light Co. and Pennsylvania Electric Co. (the licensees), which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit No. 1 (the facility) located in Dauphin County, Pa. The amendment is effective as of its date of issuance.

#### NOTICES

The amendment revises the definition of containment integrity with respect to airlock maintenance, repair or modification and adds surveillance requirements for the interlock systems of airlocks.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 28, 1977, (2) Amendment No. 36 to License No. DPR-50, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pa. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-1513 Filed 1-18-78; 8:45 am]

#### [7590-01]

##### REGULATORY GUIDE

###### Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evalu-

ating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.124, Revision 1, "Service Limits and Loading Combinations for Class 1 Linear-Type Component Supports," delineates acceptable levels of service limits and appropriate combinations of loadings associated with normal operation, postulated accidents, and specified seismic events for the design of Class 1 linear-type component supports as defined in subsection NF of section III of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code. This guide applies to light-water-cooled reactors. Revision 1 reflects public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director, Office of  
Standards Development.

[FR Doc. 78-1427 Filed 1-18-78; 8:45 am]

#### [7590-01]

##### RISK ASSESSMENT REVIEW GROUP

###### Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two-day open meeting of the Risk Assessment Review Group of the U.S. Nuclear Regulatory Commission (NRC), to be held at 8:30 a.m., on February 6 and 7, 1978, in Room 1046 of the Matomic

Building, 1717 H Street NW., Washington, D.C. The purposes of this meeting are to continue the review of the final report of the Reactor Safety Study (WASH-1400) and the peer comments thereon, to obtain information on developments in the field of risk assessment methodology and to discuss subjects that might be included in the report of the Review Group.

The Risk Assessment Review Group is an independent group established by the NRC (42 FR 34955) for the purpose of providing advice and information to the Commission regarding the final report of the Reactor Safety Study, WASH-1400 (NUREG-75/014), and the peer comments on the Study, advice and recommendations on developments in the field of risk assessment methodology and courses of action which might be taken on future development and use of risk assessment methodology. This advice and information will assist the Commission in establishing policy regarding the use of risk assessment in the regulatory process. It will also clarify the achievements and limitations of the Reactor Safety Study. The Review Group will submit a report to the Commission on or before July 1, 1978.

In carrying out these assignments, it is anticipated that a number of working sessions will be scheduled at different locations, with notification to the public well in advance of each meeting. With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 10 readily reproducible copies to the Review Group at the beginning of the meeting. Comments should be limited to areas within the Group's purview. Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than January 30, 1978, to Dr. John H. Austin, Office of Policy Evaluation, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting. Of course, comments not received in time for this meeting will be circulated to the members of the Review Group for consideration at a future meeting. Comments should pertain to the field of risk assessment methodology or should be based on the final report of the Reactor Safety Study, copies of which are available for public inspection at:

1. The NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.
2. The NRC's five Regional Offices of Inspection and Enforcement:
  - Region I—631 Park Avenue, King of Prussia, Pa. 19406.
  - Region II—Suite 1217, 230 Peachtree Street, Atlanta, Ga. 30303.
  - Region III—799 Roosevelt Road, Glen Ellyn, Ill. 60137.
  - Region IV—Suite 1000, 611 Ryan Plaza Drive, Arlington, Tex. 76012.
  - Region V—Suite 202, 1890 North California Boulevard, Walnut Creek, Calif. 94596.

Copies of the Final Report may be obtained from: U.S. Nuclear Regulatory Com-



mission, Office of Nuclear Regulatory Research, Probabilistic Analysis Staff, Attn.: Melea S. Fogle, telephone 301-492-8377, 7735 Old Georgetown Road, Bethesda, Md. 20014.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The time allotted for such statements will be at the discretion of the Chairman. The Review Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on February 3, 1978, to the Office of Policy Evaluation, telephone 202-254-5184, Attn.: John Austin, between 8:15 a.m. and 5 p.m. e.d.t.

(d) Questions may be asked only by members of the Review Group.

(e) Statements of views or expressions of opinion made by members of the Review Group at open meetings are not intended to present final determinations or beliefs.

(f) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(g) A copy of the minutes of the meeting will be available for inspection on or after April 28, 1978, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated at Washington, D.C., January 16, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc. 78-1511 Filed 1-18-78; 8:45 am]

[4910-58]

# NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-3]

## ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

### Availability and Receipt

**Aircraft Accident Report.**—The National Transportation Safety Board reports that a twin-engine Piper Cheyenne operated by the State of Pennsylvania was improperly loaded when it crashed last February 24 killing nine persons, including the State's Secretary of Transportation. Two crewmembers and six passengers died when the plane plunged into a street in Bressler, Pennsylvania, shortly after takeoff from Capitol City Airport, New Cumberland, Pennsylvania. The ninth victim died when the wrecked

plane sled across a road and struck a house, setting it afire.

The investigation report, officially approved on January 9, indicates that the Safety Board determines the probable cause of the accident was the flightcrew's failure to insure that the aircraft was loaded properly and that its center of gravity was within certificated limits. As a result, the aircraft's control characteristics were degraded significantly by a center of gravity position well aft of the certificated limits. This imbalance led to the pilot's inability to control a longitudinally unstable aircraft during a climbing turn in instrument meteorological conditions.

When loading an aircraft, the flightcrew must keep the center of gravity within prescribed limits so that the aircraft will be properly balanced and not beyond either its aft center of gravity limits, or its forward center of gravity limits—both of which are expressed as "inches" along an imaginary line drawn through the nose to the tail of the aircraft. The approved maximum aft center of gravity for the Piper PA-31T Cheyenne was 138 inches.

Copies of the report are being processed for release to the public in the near future.

**Aircraft Accident Report.**—The Safety Board announces the availability of printed copies of its report of investigation into the crash of a Texas International Airlines Douglas DC-9-14 at Stapleton International Airport, Denver, Colorado, November 16, 1976. The report, No. NTSB B-AAR-77-10, was officially approved by Members of the Safety Board last October 27.

Investigation revealed that the aircraft crashed after rejecting a takeoff from runway 8 right at Stapleton. The takeoff was rejected when the stall warning stickshaker activated after the aircraft had rotated for takeoff. When the pilot was unable to stop the aircraft within the confines of the runway, it overran the runway, traversed drainage ditches, struck approach light stanchions, and stopped. Eighty-one passengers and five crewmembers evacuated the aircraft, which had been severely damaged by impact and fire; 14 persons were injured.

The Safety Board determines that the probable cause of this accident was a malfunction of the stall warning system for undetermined reasons which resulted in a false stall warning and an unsuccessful attempt to reject the takeoff after the aircraft had accelerated beyond refusal and rotation speeds. The decision to reject the takeoff, although not consistent with standard operating procedures and training, was reasonable in this case, based upon the unusual circumstances in which the crew found themselves,

the minimal time available for decision, and the crew's judgment concerning a potentially catastrophic situation.

As a result of investigation of this accident, the Safety Board last May 23 recommended that the Federal Aviation Administration (1) give flight attendants recurrent evacuation training in the use of tail cone emergency exits (A-77-26); (2) require that passenger information cards carry data regarding the tail cone exits (A-77-27); and (3) designate the DC-9 tail cone exit as a "required exit" (A-77-28); and (4) issue an airworthiness directive to require that an emergency light be located in proximity to the DC-9 tail cone exit release handle, or that the handle be self-illuminating (A-77-29). In response on August 10 FAA said that Texas International Airlines has made changes in its flight attendant training program designed to conform to the Board recommendations. The FAA also said it has acted on the Board recommendation concerning the tail cone exit on the DC-9. (See 42 FR 28194 and 44045, June 2 and September 1, 1977, respectively.)

Earlier, last April 20, the Safety Board urged that FAA amend 14 CFR 139.45 to require, after a reasonable date, that extended runway safety area criteria be applied retroactively to all certificated airports (A-77-16), and expedite the retrofit of ALS structures with frangible materials and fittings by allocating additional fundings or by increasing the priority of the existing program so that it can be completed within 3 to 5 years (A-77-17). FAA's response of July 11, while indicating nonconcurrence in recommendation A-77-16, agreed that the retrofit program should be implemented as rapidly as resources permitted. (See 42 FR 21676 and 38443, April 28 and July 28, 1977, respectively.)

**Aircraft Accident Reports, Brief Format, U.S. Civil Aviation, Issue Number 5 of 1976 Accidents.**—The Safety Board last week also released its latest compilation of 1976 accident briefs. The current publication, report No. NTSB-BA-77-3, includes the pertinent facts and probable cause, in synopsis form, of 533 general aviation accidents. As in past reports, Issue No. 5 contains accidents which were easily preventable through adequate pre-flight planning.

**NOTE.**—The brief reports of accidents in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 25¢ per page for printed matter, \$1.50 per page for black-and-white photographs, and \$4.00 per page for color photographs, plus postage. Minimum reproduction charge is \$1.00; an additional \$4.00 user-service charge will be made for each order. Re-

quests should be directed to the Public Inquiry Section, National Transportation Safety Board, Washington, D.C. 20594. The requester is asked to provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue Number 5 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

**Railroad/Highway Accident Report.**—A Federal program to identify and protect railroad-highway grade crossings where inadequate warnings do not permit the prudent and careful driver to cross without risk of injury or death has been called for by the Safety Board. This was one of six recommendations issued by the Safety Board following investigation of the collision of an Amtrak/Atchison, Topeka and Santa Fe Railway train and a tractor-cargo tank semitrailer near Marland, Oklahoma, December 15, 1976. The truckdriver and two train crewmembers were killed; 11 other persons on the train were injured. Property damage was estimated to be \$880,700.

The investigation report on this accident was officially approved by the Board on December 15. Copies of the report will be made available to the public within a few weeks.

The Safety Board determined that the probable cause of this accident was the lack of adequate warning of the approach of a high-speed train to enable the truckdriver to ascertain when it was safe to enter the crossing. Contributing to the accident was the crossing's unsuitability for joint use by high-speed trains and heavily loaded trucks.

There were no automatic signals at the crossing, but investigation showed that the truckdriver did stop short of the track and then moved onto the grade crossing in low gear. As the train approached the crossing the engineer, who was not required to reduce speed because of restricted visibility, sounded his whistle. But because of the fog, the train reached a point about 700 feet, or 5 seconds from the crossing before the engineer was able to see the tank truck. When the train—traveling at 89.6 miles per hour—collided with the truck, the locomotive's nose compartment doors were blown off and the cab windows broke, permitting a massive entry of flaming oil into the engine cab.

As a result of its investigation of this accident, the Safety Board on January 10 issued the following safety recommendations:

To the Federal Railroad Administration—

Require all head-end locomotive units to be designed to prevent serious injury to crewmembers from penetration of flammable substances into control compartments. (R-77-37)

In cooperation with the States, identify those grade crossings where inadequate warnings do not permit the prudent and careful driver to cross without risk of injury or death. (R-77-38)

Undertake a program to protect the crossings which have been so identified. Consideration should be given to adequate protection or reduction of train speeds in conditions of reduced visibility and/or signals that meet real train movement situations. (R-77-39)

To the National Railroad Passenger Corporation—

Strengthen and improve its locomotive units' operating compartments so that they effectively resist impact forces and deter entry of flammable liquids into locomotive cabs. (R-77-40)

To the Oklahoma Department of Transportation—

Initiate studies of those railroad/highway grade crossings in Oklahoma that are used by high-speed trains as well as vehicles transporting oil, gas, and other hazardous materials, to establish whether such joint use is safe in view of existing crossing characteristics and protection. (H-77-33)

Enlarge its grade crossing safety criteria to include use by trucks carrying flammable oil and gas, and other hazardous materials. (H-77-34)

**Highway Safety Recommendations.**—Now under investigation by the Safety Board is the collision of a Midas Mini Motor Home and an automobile, the accident occurring last July 14 on U.S. Route 69 north of Atoka, Oklahoma. The southbound automobile went out of control on wet pavement, crossed the centerline sideways, and collided with the northbound motor home. All six persons in the automobile were killed; the driver and right front passenger in the motor home were also killed, and the six other occupants of the motor home were injured.

The two-lane, two-way section of highway at the accident site was posted at 55 mph and had an average daily traffic volume of 5,000 vehicles, 30 to 36 percent commercial. More than 5 miles of the road had recently been overlaid with 1 inch of asphalt/concrete Oklahoma type-C mix. The "job mix formula" for the project—State-aid Project No. MC3(75)—called for 5 percent asphalt with 93 percent and 44 percent passing through the ¾-inch and No. 8 sieves, respectively. The project was completed June 29, 1977, and a final inspection made on July 5. There were no deficiencies noted and the project was accepted by the State.

The Safety Board notes that comparison of the specifications of the Oklahoma type-C mix with the latest information from the Asphalt Institute and the American Association of State Highway and Transportation Officials (AASHTO) "Guidelines for Skid Resistant Pavement Design," (1976) indicates that the Oklahoma type-C

mix is a dense graded mix with relatively little coarse texture. AASHTO's guide emphasizes that the coarse aggregates in a mix provide the major skid resistance at high speeds.

At the request of the Safety Board, the Oklahoma Department of Highways on July 18 and 28, and again on September 1, conducted locked-wheel skid tests on the 5.3-mile resurfaced section of U.S. Route 69 with emphasis on the vicinity of the accident. Although the effect of the pavement surface on this accident has not been established, these skid tests clearly indicate that the coefficient of friction on the resurfaced road section is well below minimum recommendations for skid resistance.

Pending completion of its investigation, the Safety Board on January 10 recommended that the Oklahoma Department of Transportation—

Post warning signs conforming to the requirements of the Manual on Uniform Traffic Control Devices on the resurfaced 5.3-mile section of U.S. Route 69 to advise motorists that the surface is slippery when wet. These signs should be maintained until the skid resistance on the overlay surface is increased. (H-77-35)

Evaluate the pavement design and construction practices used on this project in order to eliminate any possibility for this condition to reoccur. (H-77-36)

Expedite the application of necessary materials to remedy the low skid resistance condition on the 5.3-mile resurfaced section of U.S. Route 69. (H-77-37)

Recommendation H-77-35 is designated Class I—Urgent Action; the other two recommendations are designated Class II—Priority Action.

## RESPONSES TO SAFETY RECOMMENDATIONS

**Aviation: A-77-9 and 10.**—Letter of December 16 from the Federal Aviation Administration is in further response to recommendations issued following investigation of the September 13, 1976, collision between a Cessna 414 and a U.S. Air Force F-4E Phantom II fighter near Brighton, Fla.

The recommendations called for establishment of direct lines of communication between appropriate air traffic control facilities and military tactical operations so that essential tactical information can be relayed to military flight crews while they are being afforded instrument flight rules separation in positive control airspace (A-27-9), and assurance of ultrahigh frequency guard transmitting and receiving capability at all control positions where air traffic control services are provided routinely to military tactical flights (A-77-10).

FAA's December 16 letter indicates that its original position concerning these recommendations, as stated in its April 26 letter (42 FR 24132, May 12, 1977), has not changed. FAA has asked the Air Force what action they



planned to take to implement A-77-9 and was informed that any required implementation plans should be initiated between local FAA and military units; i.e., local FAA facility/military unit requirements/problems will determine the need to establish land lines. In February, a land line was installed between Avon Park gunnery range and the Miami Center. The line is used primarily to relay IFR clearances to flights departing the range, FAA states.

FAA reports that last May each FAA region was asked to evaluate its recommendation to configure one Backup Emergency Communication (BUEC) controller station per center's area of specialization (where there is a significant military activity) to cycle to 243.0 MHz, rather than the sector discrete frequency. Should any region decide that the recommendation was not feasible, FAA asked to be informed of alternative plans to accommodate recommendation A-77-10.

FAA further reports that all of the regions are developing plans to significantly increase coverage on 243.0 MHz, using various combinations of the following approaches to implement A-77-10:

1. Change crystals on the standby Tactical Special Use Frequency transceivers to 243.0 MHz.
2. Reconfigure some share guard outlets so that ARTCC's can share 243.0 MHz with either flight service stations or towers.
3. Reconfigure some BUEC transceivers to cycle 243.0 MHz.
4. Install fixed tune/single channel transceivers on 243.0 MHz at select long range radar sites and/or remote communications air/ground facilities.

All of the regional plans should be implemented within the next year and should result in a significant increase in coverage on 243.0 MHz, according to FAA.

**Highway: H-77-28.**—Letter of January 4 from the Federal Highway Administration is an interim response to the recommendation developed after investigation of the July 1, 1976, accident in which five persons were killed when their automobile was struck by a freight train near Des Moines, Iowa. The automobile failed to stop for flashing signal lights at the grade crossing. (See 42 FR 60237, November 25, 1977.) The recommendation asked FHWA to actively participate and support the National Safety Council (NSC) in the development, implementation, and evaluation of a nationwide "Operation Lifesaver" railroad/highway grade crossing safety program.

FHWA, in indicating its support for the concept of this program with NSC serving as the focal point and coordinator, suggests a meeting with the Safety Board, the NSC, and the various other agencies from which the Safety Board has solicited support and

participation on a nationwide basis. At that time, the NSC should be prepared to outline a definitive program to which the various agencies can respond, according to FHWA. FHWA promises a formal response to recommendation H-77-28 shortly after such a meeting takes place.

**Railroad: R-76-18 and 19.**—Letter of December 22 from Auto Train Corporation is a followup to response of May 20, 1976 (41 FR 22428, June 3, 1976) to recommendations which resulted from investigation of an auto-train derailment near Jarratt, Virginia, on May 5, 1976.

Pursuant to recommendation R-76-18, the Corporation is maintaining a program to check all wheels on locomotives, auto carrying cars, and passenger carrying cars by the following actions:

1. Complete inspection utilizing ultrasonic sound wave machines, dye penetrant inspection, magnetic particle inspection, and daily visual inspection of all operating equipment wheels.

2. Maintaining a policy in excess of the requirements of the Association of American Railroads requiring the scrapping of wheels with 1-inch surface metal remaining by establishing a 1 1/4-inch minimum requirement for wheel removal.

3. Removing from further service all on-tread brake wheels with manufacturer's rim stamped identification having a depth of 3/8".

4. Purchasing only Class BR, rim treated wheels for passenger and auto carrying equipment utilizing on-tread clasp brakes because of superior resistance to shelling and thermal cracks.

Pursuant to recommendation R-76-19, the Corporation has proceeded with three field tests to determine a systematic source of excessive wheel heating. Those tests are now completed and results indicate that the policies established on May 20, 1976, were correct to eliminate systematic conditions affecting wheels under Auto-Train equipment:

1. Tempil-stik paint is applied to all wheel rim fronts of cars and locomotives equipped with on-tread type brakes. Visual inspection will indicate when temperatures in excess of 400° F. are generated in service requiring a wheel set to be removed from service.

2. All carriers now in service are equipped with ABD or ABDW brake valves.

3. Followup to recommendations from the Federal Railroad Administration have been accepted and implemented, as indicated in a letter to the National Transportation Safety Board of November 16, 1977 (copy attached).

4. Field tests indicate that implementation of a two-consist service is not the only method of guaranteeing a comfortable ride. Consists up to 50 cars can be handled with assurance of comfort to passengers and efficient equipment utilization; however, experience indicates that a 42-43 car consist can be consistently run with optimum benefits.

As a result of the above actions, Auto-Train has taken the following steps with its operating railroads to

assure the most comfortable ride with no sacrifice to equipment condition, the Corporation states.

1. Required operating crews when making a minimum brake pipe reduction to reduce pipe a minimum of 12 pounds to assure complete release.

2. Voluntarily limited length of consist to 43 cars.

3. Initiated the use of dynamic brakes to reduce reliance of crews on automatic brakes for all speed reductions and the subsequent wear on braking systems.

4. Increased train speed to a maximum of 79 mph where allowed by operating railroads.

5. Specified to the operating railroad supplying Auto-Train with wheel sets not to put in service new or used wheels destined for use in on-tread brake equipped cars if rim stamped markings are 3/8" or deeper.

**Note.**—The above notice summarizes Safety Board documents publicly released last week and recommendation response letters recently received.

The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of \$4.00 for service and 10¢ per page for reproduction.

Single copies of aircraft accident report NTSB-AAR-77-10 may be obtained from the Safety Board without charge; multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Notice will be given in the *Federal Register* when copies of the other accident reports referenced above are available.

All requests to the Board for copies must be in writing, identified by the report or recommendation number and the date of publication of this notice in the *Federal Register*. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,  
Federal Register Liaison Officer.

JANUARY 16, 1978.

(FR Doc. 78-1529 Filed 1-18-78; 8:45 am)

[3190-01]

#### OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

##### TRADE POLICY STAFF COMMITTEE

#### Generalized System of Preferences: Information on Imports During First Ten Months of 1977

This notice is for information only, and has no legal effect. It is provided in order to inform the public of certain import statistics covering the period of January through October, 1977. These statistics are relevant to the "competitive-need" limits set forth in section 504(c) of the Trade Act of

1974 (19 U.S.C. 2464(c)), pertaining to the Generalized System of preferences (GSP). Those limits provide, in effect, that any GSP beneficiary country that exported to the United States during the most recent calendar year a quantity of any one GSP-eligible article in excess of (1) \$25 million, adjusted annually to reflect changes in the U.S. Gross National Product, or (2) 50 percent of total U.S. imports of the article, is to cease receiving duty-free treatment under GSP for such article not later than 60 days after the close of that calendar year.

Based on preliminary data, subject to revision, the dollar limit cited in the preceding sentence is expected to be approximately \$33.8 million for calendar year 1977.

An Executive order will be issued on or before March 1, 1978, making the adjustments that are required by section 504(c) of the Trade Act, on the basis of official data covering all of calendar year 1977. Such data are not currently available. It should be emphasized that the information set forth below covers only the first ten months of 1977. While this is not the complete information on which adjustments will be based, it is being published now in order to provide the maximum possible advance indication as to adjustments that may be made to meet the requirements of section 504(c) of the Trade Act.

List I below shows how the "competitive-need" list of countries ineligible to receive GSP benefits for particular articles might look if that list were based on data covering the period January through October, 1977. In fact, the "competitive-need" list that will be issued and become effective on or about March 1 will be based on data for the full twelve months of 1977, so that List I below is indicative only and is subject to changes.

List II below shows countries which, on the basis of data for the first ten months of 1977, were close to exceeding the "competitive-need" limits for particular articles, but which had not actually exceeded those limits.

The column headed "TSUS" in the Lists below sets forth item numbers of the Tariff Schedules of the United States (19 U.S.C. 1202), representing categories of imported articles.

##### LIST I

GSP eligible articles for which a beneficiary country supplied—

- (a) 50 percent or more of U.S. imports in January-October 1977, or
- (b) imports valued at \$33.8 million or more during that period.

TSUS and country	Percent	Dollars in millions
107.45 Brazil	55	
112.94 Republic of Korea	50	
113.50 Republic of China	69	
114.05 Republic of Korea	51	
121.52 India	89	
130.35 Argentina	60	
130.40 Mexico	63	
131.35 Hong Kong	100	
131.80 Mexico	100	
135.51 Republic of China	91	
135.80 Nicaragua	69	
135.90 Mexico	95	
138.00 Dominican Republic	85	
138.80 Mexico	50	
138.91 Mexico	93	
138.92 Mexico	65	
138.98 Dominican Republic	58	
137.40 Mexico	53	
137.71 Mexico	96	
137.75 Costa Rica	82	
138.05 Mexico	58	
140.09 Thailand	74	
140.14 Thailand	90	
140.25 Peru	95	
141.35 Turkey	66	
141.55 Dominican Republic	90	
141.70 Republic of China	98	
141.77 Mexico	55	
145.52 Portugal	64	
145.53 Turkey	50	
145.60 Republic of China	76	
146.44 Philippine Republic	78	
147.21 Hong Kong	80	
147.33 Jamaica	82	
147.80 Dominican Republic	83	
147.85 Brazil	69	
148.72 Chile	93	
148.77 Republic of Korea	94	
149.15 Honduras	60	
149.50 Dominican Republic	59	
152.43 Dominican Republic	89	
153.02 Dominican Republic	96	
153.08 Brazil	53	
153.28 Portugal	50	
155.20 Guatemala	7	57
155.20 Dominican Republic	18	138
155.20 Peru	4	35
155.20 Brazil	5	40
155.20 Philippine Republic	24	190
155.35 Barbados	52	
156.40 Brazil	23	38
156.45 Brazil	72	
156.47 Costa Rica	57	
161.75 Mexico	91	
162.07 Yugoslavia	55	
168.30 Israel	58	
168.15 Trinidad	68	
178.15 Brazil	79	
178.33 Malaysia	67	
178.70 Mexico	83	
177.72 Cayman Islands	53	
182.10 India	100	
182.90 Panama	64	
184.65 Republic of China	50	
186.20 Brazil	77	
186.40 Mexico	100	
188.34 Mexico	62	
190.68 Mexico	70	
192.85 Mexico	70	
202.62 Mexico	99	
203.20 Republic of China	70	
206.45 Philippine Republic	51	
206.47 Republic of China	64	
206.60 Mexico	72	
206.98 Republic of China	58	
220.10 Portugal	82	
220.15 Portugal	95	
220.20 Portugal	78	
220.25 Portugal	69	
220.35 Portugal	98	
220.37 Portugal	85	
220.41 Portugal	90	
220.48 Portugal	64	

TSUS and country	Percent	Dollars in millions
222.10 Hong Kong	73	
222.34 Philippine Republic	59	
222.44 Philippine Republic	52	
222.62 Philippine Republic	53	
240.02 Philippine Republic	79	
240.10 Panama	69	
240.16 Honduras	56	
240.38 Philippine Republic	63	
240.40 Republic of Korea	98	
254.63 Mexico	94	
256.60 Republic of Korea	61	
256.85 Mexico	94	
304.04 Philippine Republic	100	
304.44 Brazil	93	
304.48 Haiti	89	
305.22 India	57	
305.28 India	87	
305.30 Thailand	68	
306.52 Peru	61	
306.53 Peru	100	
306.71 Mexico	100	
308.30 Brazil	99	
308.50 Republic of Korea	53	
308.51 Republic of Korea	63	
308.80 Republic of Korea	86	
319.01 India	96	
319.03 India	93	
319.05 India	99	
319.07 India	95	
335.50 India	84	
347.30 India	76	
355.04 Mexico	80	
360.35 India	80	
370.17 Portugal	63	
389.61 Hong Kong	65	
403.40 Mexico	52	
403.58 Israel	93	
403.79 Mexico	62	
405.45 Romania	86	
407.12 Romania	55	
408.75 Romania	81	
416.05 Mexico	82	
417.20 Guyana	99	
418.78 Chile	52	
419.00 Republic of Korea	100	
420.02 Israel	87	
420.70 Hong Kong	100	
420.82 Israel	90	
422.76 Mexico	97	
425.84 Netherlands Antilles	88	
426.08 Chile	72	
426.12 Republic of China	82	
427.60 Mexico	79	
437.16 India	90	
437.64 Brazil	75	
446.10 Malaysia	54	
460.35 Republic of China	65	
460.70 Brazil	67	
461.15 Bermuda	82	
465.70 Argentina	100	
466.05 Jamaica	79	
470.15 Israel	62	
473.52 Mexico	99	
473.56 Mexico	99	
473.62 Mexico	90	
473.78 Mexico	76	
473.82 Republic of Korea	78	
490.30 Republic of China	100	
493.21 Republic of China	90	
494.40 Cayman Islands	73	
511.31 Mexico	92	
511.51 Hong Kong	55	
512.44 Mexico	51	
514.11 Dominican Republic	88	
514.44 Republic of China	69	
514.54 Mexico	87	
515.54 Mexico	61	
516.24 Republic of China	50	
516.24 India	80	
516.71 India	92	
516.73 India	92	
516.74 India	92	



## NOTICES

TSUS and country	Percent	Dollars in millions
518.76 India.....	91	
517.21 Sri Lanka.....	69	
517.24 Malagasy.....	65	
518.41 Mexico.....	81	
520.35 Thailand.....	68	
533.26 Romania.....	81	
535.31 Mexico.....	63	
540.47 Mexico.....	70	
545.37 Republic of China.....	50	
545.53 Mexico.....	56	
545.95 Mexico.....	87	
545.81 Republic of China.....	55	
545.85 Republic of China.....	50	
546.23 Republic of China.....	54	
547.41 Hong Kong.....	56	
602.30 Philippine Republic.....	63	
603.45 Chile.....	60	
603.50 Botswana.....	75	
612.03 Chile.....	99	
612.03 Mexico.....	72	
612.06 Peru.....	10	38
612.06 Chile.....	19	75
612.06 Zambia.....	19	75
612.15 Mexico.....	66	
612.60 Chile.....	80	
612.63 Yugoslavia.....	76	
613.04 Mexico.....	54	
613.15 Peru.....	79	
624.40 Mexico.....	100	
624.42 Mexico.....	100	
624.50 Yugoslavia.....	100	
628.50 Peru.....	76	
629.26 Israel.....	55	
644.28 Portugal.....	60	
646.04 Hong Kong.....	100	
646.86 Hong Kong.....	55	
646.88 Republic of China.....	58	
646.96 Mexico.....	96	
647.10 Republic of China.....	59	
648.89 Republic of China.....	65	
649.71 Republic of China.....	54	
649.75 Republic of China.....	60	
649.89 Hong Kong.....	95	
650.79 Hong Kong.....	66	
650.87 Hong Kong.....	90	
651.01 Hong Kong.....	57	
651.33 Hong Kong.....	60	
651.45 India.....	60	
651.49 Republic of Korea.....	60	
652.84 Mexico.....	61	
652.93 Republic of China.....	56	
653.02 Mexico.....	68	
653.30 Hong Kong.....	51	
653.70 Hong Kong.....	86	
653.85 Republic of China.....	77	
657.90 Mexico.....	63	
660.44 Mexico.....	26	43
662.18 Republic of Korea.....	93	
662.35 Mexico.....	55	
672.10 Hong Kong.....	72	
676.23 Hong Kong.....	63	
676.52 Hong Kong.....	13	51
683.80 Hong Kong.....	91	
684.50 Hong Kong.....	31	43
685.24 Republic of Korea.....	6	34
685.24 Hong Kong.....	26	128
685.24 Republic of China.....	6	41
678.50 Republic of China.....	6	39
685.25 Republic of China.....	6	40
685.90 Mexico.....	17	57
686.30 Republic of China.....	61	
688.10 Republic of China.....	68	
688.12 Mexico.....	61	
688.20 Yugoslavia.....	68	
688.40 Hong Kong.....	29	40
690.15 Mexico.....	95	
692.27 Mexico.....	14	106
696.35 Republic of China.....	59	
700.54 Hong Kong.....	57	
702.15 Republic of China.....	68	
702.25 Republic of China.....	53	
702.40 Republic of China.....	64	

## LIST II

GSP beneficiary countries which supplied—  
(a) 47 percent or more, but less than 50

percent, of U.S. imports of a GSP eligible article in January-October 1977, or  
(b) imports of a GSP eligible article valued at \$31 million or more, but less than \$33.6 million, during that period.

TSUS and country	Percent	Dollars in million
702.45 Mexico.....	98	
703.20 Brazil.....	100	
703.65 Mexico.....	72	
703.75 Mexico.....	75	
704.34 Republic of China.....	84	
710.34 Hong Kong.....	100	
711.30 Hong Kong.....	63	
713.15 Mexico.....	56	
713.17 Hong Kong.....	64	
713.19 Mexico.....	94	
721.10 Hong Kong.....	61	
723.32 Republic of China.....	55	
725.20 India.....	56	
726.70 Mexico.....	53	
727.48 Republic of China.....	50	
728.20 Portugal.....	76	
730.25 Turkey.....	86	
730.27 Philippine Republic.....	69	
730.29 Brazil.....	57	
730.41 Brazil.....	99	
730.77 Brazil.....	66	
734.10 Republic of China.....	86	
734.25 Hong Kong.....	76	
734.30 Hong Kong.....	83	
734.34 Hong Kong.....	62	
734.42 Republic of China.....	72	
734.51 Republic of China.....	81	
734.54 Republic of Korea.....	57	
734.56 Haiti.....	78	
734.60 Republic of China.....	89	
734.75 Republic of Korea.....	59	
734.87 Republic of China.....	68	
735.11 Republic of China.....	70	
737.25 Republic of Korea.....	55	
737.30 Republic of Korea.....	51	
737.50 Hong Kong.....	70	
737.60 Hong Kong.....	63	
740.30 Hong Kong.....	58	
741.20 Hong Kong.....	89	
741.50 Hong Kong.....	61	
745.08 Hong Kong.....	96	
748.12 India.....	56	
748.20 Hong Kong.....	52	
750.05 Hong Kong.....	52	
750.32 Republic of China.....	76	
750.35 Republic of China.....	76	
751.05 Republic of China.....	65	
751.10 India.....	75	
751.20 Republic of China.....	57	
760.65 Republic of China.....	84	
772.03 Hong Kong.....	77	
772.35 Republic of China.....	64	
772.97 Hong Kong.....	65	
773.10 Hong Kong.....	65	
774.60 Hong Kong.....	25	45
790.39 Republic of China.....	76	
790.61 Republic of China.....	71	
790.70 Republic of Korea.....	89	
791.20 Columbia.....	63	
791.70 Republic of Korea.....	60	
791.76 Republic of Korea.....	35	46
791.80 Republic of China.....	92	
792.30 Republic of Korea.....	67	
792.50 Philippine Republic.....	72	
792.60 Hong Kong.....	84	
792.75 Hong Kong.....	89	

WILLIAM B. KELLY, Jr.,  
Chairman.

[FR Doc. 78-1361 Filed 1-18-78; 8:45 am]

## [7910-01]

RENEGOTIATION BOARD  
EXCESSIVE PROFITS AND REFUNDS

## Interest Rate

Notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such act, to the period beginning on January 1, 1978 and ending on June 30, 1978, is 8 1/4 per centum per annum.

Dated: January 16, 1978.

GOODWIN CHASE,  
Chairman.

[FR Doc. 78-1534 Filed 1-18-78; 8:45 am]

## [4710-01]

DEPARTMENT OF STATE  
[CM-8/2]

## ADVISORY COMMITTEE ON THE LAW OF THE SEA

## Partially Closed Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) as amended by Pub. L. 94-409 section 5(c), notice is hereby given that the Advisory Committee on the Law of the Sea will meet in closed session on Thursday, March 2 and in both open and closed sessions on Friday, March 3, 1978. The open session of the meeting will convene on Friday at 2 p.m. in the Loy Henderson Conference Room (formerly the International Conference Room), U.S. Department of State, 21st and C Streets, NW., Washington, D.C.

The purpose of the closed meeting is to discuss specific conference issues and formal planning and policy preparations for the U.S. Delegation to the 1978 Geneva Session of the Third United Nations Conference on the Law of the Sea. During these closed sessions, documents classified under the provisions of Executive Order 11652 will be discussed.

These documents relate to the issues which the United States will be negotiating at the Conference, the documents are exempt under 5 U.S.C. 552 (b) (1), and are required to be withheld from disclosure in the public interest.

The issues cover such subjects as freedom of navigation on the high seas and in international straits, national security interests, the nature of a deep seabeds mining regime and proposed deep seabeds mining legislation, the breadth of the continental margin, the juridical status of the economic zone, fisheries, vessel source pollution, scientific research, dispute settlement, and other related topics involving U.S. national security matters. Premature disclosure of the contents of these documents could adversely affect our foreign relations interests and jeopardize the chances of obtaining a timely and satisfactory Law of the Sea Treaty.

The open session of the Advisory Committee meeting will discuss all principal agenda issues to be considered during the Third United Nations Conference on the Law of the Sea, including those issues stated above, but will not examine the classified items discussed during the closed session.

The Advisory Committee on the Law of the Sea represents a broad cross-section of industries, professions, academic disciplines and other public groups. As such, it will comprehensively review the proposals which will come before the Conference.

At the open session, beginning at 2 p.m. March 3, the general public at-

tending may participate in the discussion subject to instructions of the Chairman.

As entrance to the State Department is controlled, members of the public who wish to attend the open session should contact Mr. Peter Bernhardt by February 15 and provide their name and affiliation to facilitate their attendance. Mr. Bernhardt's telephone number is 202-632-9616.

Dated: December 23, 1977.

ALAN BERLIND  
Director, Office of the  
Law of the Sea Negotiations.

FR Doc. 78-1452 Filed 1-18-78; 8:45 am]

## [4910-14]

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## [CGD 78-001]

## ADVISORY COMMITTEES

## Applicants for Membership

The Coast Guard is seeking applicants who are interested in being appointed as a member on one of the following technical advisory committees:

1. Chemical transportation industry advisory committee (CTIAC). CTIAC advises a high level Coast Guard council (Marine Safety Council) on rule-making matters relating to the carriage of hazardous materials on vessels, the transfer of these materials between the vessels and shore, and waterfront facilities over which these materials move.

2. Rules of the road advisory committee (RRAC). RRAC advises the Marine Safety Council on the formulation and/or modification of the international and inland Rules of the Road which govern the navigation of vessels. Emphasis in the immediate future will be on the development of unified rules to replace the current inland rules.

In order to acquire the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is particularly interested in receiving applicants from minorities, women, and public interest representatives. Selection will be based upon expertise in the subjects under consideration.

Each committee meets once or twice a year at a location selected by the sponsor. Members serve at their own expense and receive neither travel nor per diem allowances.

Interested persons should write to Commandant (G-CMC/81), U.S. Coast Guard, Washington, D.C. 20590, prior to February 20, 1978, identifying which committee they wish to apply for. Supplemental information will then be forwarded. Appointments will

be announced next summer effective 1 July 1978.

G. H. PATRICK BURSLEY,  
Rear Admiral, U.S. Coast Guard  
Chairman, Marine Safety  
Council.

[FR Doc. 78-1528 Filed 1-18-78; 8:45 am]

## [4910-14]

## Coast Guard

DESIGN AND INSTALLATION OF DOOR  
CLOSING HARDWARE FOR FREIGHT  
CONTAINERS

## Meeting

AGENCY: U.S. Coast Guard.

ACTION: Notice of public meeting.

SUMMARY: An informal public meeting will be held at the Department of Transportation Nassif Building, Room 8332, 400 Seventh Street SW., Washington, D.C. 20590, at 1 p.m., Tuesday, January 31, 1978. The meeting will discuss design and installation of door closing hardware for freight containers as required for certification under the Customs Convention of 1956 and the TIR Convention of 1959.

FOR FURTHER INFORMATION CONTACT:

Mr. M. H. Allen, U.S. Coast Guard,  
G-MHM-2/83, Washington, D.C.  
20590, 202-426-1577.

SUPPLEMENTARY INFORMATION: White Welding and Manufacturing Co. of Kenosha, Wis., has requested an opportunity to discuss a ruling that requires the Customs Seal arm pivot rivet head be placed on the door side of the arm and of such dimensions that it cannot be removed without breaking the Customs seal or leaving evidence of tampering. It is expected that representatives of the U.S. Customs Service and of the Approval Authorities will be present. Other interested parties are invited to attend.

Dated: January 17, 1978.

H. G. LYONS,  
Captain, U.S. Coast Guard,  
Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 78-1604 Filed 1-18-78; 8:45 am]

## [4810-31]

## DEPARTMENT OF THE TREASURY

## Bureau of Alcohol, Tobacco and Firearms

## [Notice No. 78-1]

## CLOSED MEETINGS

## Public Availability of Reports

Pursuant to the provisions of the Federal Advisory Committee Act 5 U.S.C. App. I (Pub. L. 92-463), the Advisory Committees of the Bureau of



Alcohol, Tobacco and Firearms, which held closed meetings through December 31, 1977, have prepared summary reports on activities of those meetings. Copies of the reports have been filed and are available for public inspection at two locations:

The Library of Congress, Room 256, Main Building, 10 First Street SE., Washington, D.C.

The Bureau of Alcohol, Tobacco and Firearms, Federal Building, 12th and Pennsylvania Avenue NW., Room 8233, Washington, D.C.

Dated: January 16, 1978.

REX D. DAVIS,  
Director.

[FR Doc. 78-1433 Filed 1-18-78; 8:45 am]

#### [4810-33]

Comptroller of the Currency

#### JOINT POLICY CONCERNING IMPROPER PAYMENTS BY BANKS AND BANK HOLDING COMPANIES

CROSS REFERENCE: For a document issued jointly by the Federal Reserve System, the Federal Deposit Insurance Corporation and the Comptroller of the Currency, see FR Doc. 78-1509 appearing under the Federal Reserve System in the notices section of this issue. Refer to the table of contents in the front of this issue under "Federal Reserve System" to find the correct page number.

#### [7035-01]

#### INTERSTATE COMMERCE COMMISSION

[Notice No. 568]

#### ASSIGNMENT OF HEARINGS

JANUARY 16, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FD 27972, Louisville & Nashville Railroad Co.—Trackage rights—Over Grank Trunk Western Railroad Co. South Bend subdivision between Munster, Lake County, Ind., and Thornton Junction, Cook County, Ill., and FD 28464, Louisville & Nashville Railroad Co. construction of connecting track over Grank Trunk Western Railroad Co. at Munster, Lake County, Ind., now as-

signed March 6, 1978, at South Holland, Ill., and will be held March 6, 7, 8, and 10 at the Thornton Township Hall, 333 East 162nd Street, in South Holland, and March 9, 1978, at the Dalton Village Hall, 14014 Park Avenue in Dalton, Ill.

MC 136183 (Sub 3), Joe Costa, d.b.a. Trinidad Freight Service, now assigned February 7, 1978, at Santa Fe, N. Mex., is canceled and reassigned for February 7, 1978 (3 days), at Clayton, N. Mex., and will be held at the Union County Courthouse.

MC-C-9763, Home Transportation Co., Inc. v. Colonial Fast Freight Lines, Inc., now assigned February 22, 1978, at Washington, D.C., for prehearing conference, is now reassigned for hearing on February 22, 1978, at the offices of the Interstate Commerce Commission in Washington, D.C.

MC 129903 (Sub 7), Emporia Motor Freight, Inc., now assigned January 23, 1978, at Emporia, Kans., is postponed to a date to be hereafter fixed.

MC 116273 (Sub 23), Indian Valley Enterprises Inc., now assigned February 16, 1978, at Washington, D.C., is canceled.

MC 45363 (Sub 9), Stones Express, Inc., now assigned January 18, 1978, at New York, N.Y., is canceled.

MC 142809, Don Penick & Harvey Keenan, d.b.a. Double Eagle Trucking, now being assigned February 28, 1978 (3 days), at Olympia, Wash., in a hearing room to be later designated.

MC 124211 (Sub 297), Hilt Truck Line, Inc., now being assigned March 7, 1978 (2 days), for continued hearing at Los Angeles, Calif., in a hearing room to be later designated.

MC 109772 (Sub 28), Robertson Truck-A-Ways, Inc., now being assigned March 9, 1978 (2 days), at Los Angeles, Calif., in a hearing room to be later designated.

MC 142941 (Sub 6), Scarborough Truck Lines, now being assigned March 13, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 116915 (Sub 30), Eck Miller Transportation Corp., now assigned March 7, 1978, at Dallas, Tex., is postponed indefinitely.

MC 18121 (Sub 19), Advance Transportation Co., now assigned March 14, 1978, at Madison, Wis., is postponed indefinitely.

MC 115841 (Sub 564), Colonial Refrigerated Transportation, Inc., now being assigned February 16, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1539 Filed 1-18-78; 8:45 am]

#### [7035-01]

[LAB 43 Sub-No. 41]

#### ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Between Bemis, Tenn., and Holy Springs, Miss., in Madison, Hardeman, and Fayette Counties, Tenn., and Benton and Marshall Counties, Miss.

JANUARY 6, 1978.

The Interstate Commerce Commission's Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railroad Co. of its line extending from Bemis, Tenn., to Holy Springs,

Miss., a distance of 67.1 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment.

It was concluded, among other things, that the amount of traffic diverted to motor carrier is not expected to create any substantial alterations in existing air quality and fuel consumption patterns. Moreover, there are not definitive land use plans which would be affected by the abandonment. There are existing alternate railheads within a short distance from the line that can handle the line's traffic. It has been determined that the line would be suitable for alternative public use due, among other things, to its proximity to state and national parks.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011. Interested persons may comment on this matter by filing their statements in writing on or before February 21, 1978.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1536 Filed 1-18-78; 8:45 am]

#### [7035-01]

[LAB 43 (Sub-NO. 37)]

#### ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment near Dyersburg, Tenn., and Hickman, Ky., in Dyer and Lake Counties, Tenn., and Fulton County, Ky.

JANUARY 6, 1978.

The Interstate Commerce Commission's Section of Energy and Environment has concluded that the proposed abandonment by the Illinois Central Gulf Railway Co. of its line between Dyersburg, Tenn., and Hickman, Ky., a distance of approximately 48.9 miles, if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment.

It was concluded, among other things, that (1) diversion of traffic from rail to motor carriers would not

create significant impacts on the area's highway network, energy consumption requirements, ambient air quality, or intrusive noise incidents; (2) abandonment could impair the planned development of a port facility and industrial site at Hickman; and (3) the line would be suitable for alternative public use if abandoned.

These conclusions are contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423, telephone 202-275-7011. Interested persons may comment on this matter by filing their statements in writing on or before February 21, 1978.

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issues of whether the present or future public convenience and necessity permit discontinuance of the line proposed for abandonment. Consequently, comments on the environmental study should be limited to discussion of the presence or absence of environmental impacts and reasonable alternatives.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1535 Filed 1-18-78; 8:45 am]

#### [7035-01]

[Notice No. 1TA]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 5, 1978.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment if will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be gov-

erned by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 99610 (Sub-No. 28TA), filed December 19, 1977. Applicant: ROSS NEELY EXPRESS, INC., P.O. Drawer B, Pratt City Station, 1500 2nd Street, Birmingham, Ala. 35214. Applicant's representative: Edward G. Villalon, Pennsylvania Avenue and 13th Street NW., 1032 Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, except household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, (1) between junction of U.S. Highways 72 and 43 at or near Tusculumba, Ala., and Memphis, Tenn.; from junction of U.S. Highways 72 and 43 over U.S. Highway 72 to Memphis, Tenn., and return over the same route, serving all intermediate points in Alabama; (2) between Hamilton, Ala., and Memphis, Tenn., from Hamilton, Ala., over U.S. Highway 78 to Memphis, Tenn., and return over the same route, serving all intermediate points in Alabama; (3) between Reform, Ala., and Memphis, Tenn., from Reform, Ala., over U.S. Highway 82 to Columbia, Miss., thence over U.S. Highway 45 via Aberdeen, Nettleton, Shannon, and Verona to Tupelo, Miss., thence over U.S. Highway 78 to Memphis, Tenn., and return over the same route, serving all intermediate points in Alabama; (4) between Atlanta, Ga., and Memphis, Tenn., from Atlanta, Ga., over U.S. Highway 78 to Memphis, Tenn., and return over the same route, serving all intermediate points in Alabama. Service under routes 1 through 4 above includes service to the Memphis, Tenn., commercial zone. Authority is sought for applicant to tack routes 1 through 4 with applicant's authority presently held under Public Convenience and Necessity No. MC 99610 (Sub-No. 14), and to interline with other carriers at all points of interchange in Alabama, and at Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately one-hundred sixty-two (162)

statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined in the field office named below. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616 2121 Building, Birmingham, Ala. 35203.

No. MC 109324 (Sub-No. 37TA), filed December 19, 1977. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, Ark. 72601. Applicant's representative: Jay C. Miner (same address as applicant). Authority sought to operate as common carrier by motor vehicle, over regular route, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk and those requiring special equipment), (1) between Conway, Ark. and Fort Worth, Tex. and points within their respective commercial zones, and serving the intermediate points of Little Rock, Ark. and Dallas, Tex. and points in their respective commercial zones: from Conway over Interstate Highway 40 to junction Interstate Highway 30, thence over Interstate Highway 30 to Dallas, Tex., and thence over U.S. Highway 80 to Fort Worth and return over the same route; (2) between Danville, Ark. and Fort Worth, Tex. and points within their respective commercial zones, and serving the intermediate points of Booneville and Greenwood, Ark. and Dallas, Tex., and points within their respective commercial zones: from Danville over Arkansas Highway 10 to junction Arkansas Highway 10S, thence over Arkansas Highway 10S to junction U.S. Highway 71, thence over U.S. Highway 71 to junction U.S. Highway 271, thence over U.S. Highway 271 to junction U.S. Highway 59, thence over U.S. Highway 59 to junction Oklahoma Highway 9, thence over Oklahoma Highway 9 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 75, thence over U.S. Highway 75 to Dallas, Tex., thence over U.S. Highway 80 to Fort Worth and return over the same route; and (3) between Mountain Home, Ark. and Fort Worth, Tex. and points within their respective commercial zones, and serving the intermediate points of Dallas, Tex. and Harrison, Ark.: from Mountain Home over U.S. Highway 62 to junction Arkansas Highway 68, thence over Arkansas Highway 68 to junction Arkansas Highway 74, thence over Arkansas Highway 74 to junction Arkansas Highway 16, thence over Arkansas Highway 16 to Fayetteville, Ark., thence over U.S. Highway 62 to Muskogee, Okla., thence over U.S. Highway 69 to junction U.S. Highway 75,



thence over U.S. Highway 75 to Dallas, Tex., thence over U.S. Highway 80 to Fort Worth and return over the same route. Restriction: The operations described in (1), (2), and (3) above are restricted against the transportation of shipments between Dallas and Fort Worth, Tex. and points in their respective commercial zones, on the one hand, and on the other, Kansas City, Springfield, and St. Louis, Mo. and points within their respective commercial zones. Applicant intends to tack its existing authority with MC 109324 and various subs thereunder for 180 days. Supporting shippers: There are approximately 404 statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117344 (Sub-No. 265TA), filed December 16, 1977. Applicant: THE MAXWELL CO. 10380 Evendale Drive, P.O. Box 15010, Cincinnati, Ohio 45215. Applicant's representative: John C. Spencer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular route, transporting: Dry fertilizers, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, Ky., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Virginia, and West Virginia. Restricted to the transportation of traffic originating at the above mentioned plantsite, for 180 days. Supporting Shippers: Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. J. J. Stefanec, Director, Transportation Legislation. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations—Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 117820 (Sub-No. 16TA), filed December 14, 1977. Applicant: AURELIA TRUCKING CO., 2136 Pine Grove Avenue, Port Huron, Mich. 48060. Applicant's representative: James D. Osmer, 100 West Long Lake Road, Suite 102 Bloomfield Hills, Mich. 48013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fabric-urethane foam laminates, from the plantsite of the Shawmut Mills Division of R. H. Wyner Associates, Inc., at Stoughton, Mass., to the facilities of Inmont Products, Inc., at Port Huron, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: R. H. Wyner Associates, P.O. Box A, Stoughton, Mass. 02072, Justin L. Wyner, President. Send protests to:

Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 120675 (Sub-No. 5TA), filed December 14, 1977. Applicant: ACME TRUCK LINE, INC., P.O. Box 183, 736 St. Joseph Street, Harvey, La. 70058. Applicant's representative: Phillip Robinson, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; (2) earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in, Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii, for 180 days. Supporting shippers: There are approximately (30) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 Federal Building and U.S. Post Office, New Orleans, La. 70113.

No. MC 123792 (Sub-No. 15 TA), filed November 23, 1977. Applicant: LEO J. UMERLEY, INC., 9813 Philadelphia Road, Baltimore, Md. 21237. Applicant's representative: Francis J. ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Salt and salt products, in packages, from White Marsh, Md., to points and place in

North Carolina, under a continuing contract, or contracts with Watkins Salt Co., Watkins Glen, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry P. Girven, GTM, Watkins Salt Co., P.O. Box 150, Watkins Glen, N.Y. 14891. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 140024 (Sub-No. 83TA), filed December 15, 1977. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Street, Commerce City, Colo. 80022. Applicant's representative: John F. DeCock, 5565 East 52nd Street, Commerce City, Colo. 80022. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pork, pork sides, pork products and pork by-products (except commodities in bulk), from the plantsite and facilities of Sigman Meat Co., Inc. at or near Brush, Colo., to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sigman Meat Co., Inc., P.O. Box 364, Brush, Colo. 80723. Send protests to: District Supervisor, R. L. BUCHANAN, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 143659 (Sub-No. 2TA), filed December 16, 1977. Applicant: VALLEY TRUCKING, INC., Box 55, Rural Route 2, Fargo, N. Dak. 58102. Applicant's representative: James B. Hovland, 414 Gate City Building, P.O. Box 1680, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages, from cold Spring, Minn., to Fargo, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shipper: Bergseth Bros., 501 23rd Street North, Fargo, N. Dak. 58102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268 Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, N. Dak. 58102.

No. MC 144095TA, filed December 14, 1977. Applicant: WILLIAM C. FRIAR, doing business as, FRIAR TRUCKING, 1079 Durfee Avenue, Oshkosh, Wis. 54901. Applicant's representative: Michael S. Varda, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Thercoma (a granulated fire retardant chemical), in bags, from Farmland, Ind., to Oshkosh, Wis., under a continuing contract or contracts with

Four Seasons Insulation Manufacturing Ltd., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Four Seasons Insulation Manufacturing Ltd., P.O. Box 2823, Oshkosh, Wis. 54901, (Leonard R. Zuehlke). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 144098TA, filed December 16, 1977. Applicant: METRO TRUCKING COMPANY, INC., 1523 North 9th Street, Milwaukee, Wis. 53205. Applicant's representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, Pa. 19518. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Used household goods, restricted to the transportation of shipments having a prior subsequent movement, in container, beyond the points authorized and further restricted to the performance of packing and unpacking of such containers, between Milwaukee County, Wis., on the one hand, and, on the other, points within the State of Wisconsin, for 180 days. Supporting shipper: Department of Defense, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310 (Dellon E. Coker). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1537 Filed 1-18-78; 8:45 am]

#### [7035-01]

[Notice No. 282]

#### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by February 21, 1978.

Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77476, filed December 27, 1977. Transferee: ADAMS, REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, Ga. 30050. Transferor: HUNT TRANSPORTATION, INC., 10770 I Street, Omaha, Nebr. 68127. Applicants' representative: Donald L. Stern, Attorney at Law, Univac Building (Suite 530), 7100 West Center Road, Omaha, Nebr. 68106. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 82841, issued May 7, 1970, as follows: Paper and paper products, and products produced or distributed by manufacturers and converters of paper and paper products (except commodities in bulk), from the plantsite of Bowaters Southern Paper Corp. at or near Calhoun (McMinn County), Tenn., to points in Oklahoma, Missouri, Kansas, Nebraska, Iowa, Wisconsin, Colorado, and New Mexico, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized under the commodity description immediately above is restricted to traffic originating at the immediately above-named plantsite. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77481, filed January 3, 1978. Transferee: C. C. HILTNER VANNING, INC., 13730 Hiltner Road, Reisterstown, Md. 21136. Transferor: E. M. EBERT, INC., 55 Plainfield Avenue, Elmont, N.Y. 11003. Applicants' representatives: Alvin Altman, 888 Seventh Avenue, New York, N.Y. 10019 and Harold E. Meslirow, 1220 19th Street NW., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights

of transferor, as set forth in Certificate No. MC 88653, issued February 4, 1965, as follows: Horses (other than ordinary livestock), and equipment and paraphernalia incidental to the care, transportation and exhibition of such horses, between points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, South Carolina, Virginia, West Virginia, and Pennsylvania. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77485, filed December 29, 1977. Transferee: DeWAYNE KNISELY, d.b.a. KNISELY TRANSFER, 115 West Mahoning Street, Punxsutawney, Pa. 15767. Transferor: JOHN M. KENDRA, d.b.a. KENDRA'S TRANSFER CO., 562 West Mahoning Street, Punxsutawney, Pa. 15767. Applicants' representative: H. Ray Pope, Attorney at Law, 10 Grant Street, Clarion, Pa. 16214. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 47255, issued September 20, 1940, as follows: Household goods, over irregular routes, between points and places in Armstrong, Clearfield, Indiana, and Jefferson Counties, Pa., on the one hand, and, on the other, points and places in Michigan, New Jersey, New York, Ohio, Virginia, and West Virginia, traversing Maryland for operating convenience only. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1538 Filed 1-18-78; 8:45 am]

#### [7035-01]

[Finance Docket No. 28586 (Sub-No. 1)]

#### MISSOURI PACIFIC RAILROAD CO.—MERGER—MISSOURI PACIFIC RAILROAD CO., ET AL

Missouri Pacific Railroad Co., a Delaware corporation (MoPac-Delaware), 210 North 13th Street, St. Louis, Mo. 63103; Missouri Pacific Railroad Co., a Missouri corporation (MoPac-Missouri), 210 North 13th Street, St. Louis, Mo. 63103; and MoPac-Missouri's wholly owned subsidiary railroads, Abilene & Southern Railway Co. (A&S), North First at Cypress, Abilene, Tex. 79601; Fort Worth Belt Railway Co. (FWB), T&P Passenger Station Building, Fort Worth, Tex. 76102; Missouri-Illinois Railroad Co. (MI), 210 North 13th Street, St. Louis, Mo. 63103; New Orleans and Lower Coast Railroad Co. (NOLC), 1384 Annunciation Street, New Orleans, La. 70130; St. Joseph Belt Railway Co. (St.



Jo Belt), 210 North 13th Street, St. Louis, Mo. 63103; Texas-New Mexico Railway Co. (T-NM), 101 North Main Street, Monahans, Texas 79756; and Union Terminal Railway Co. (Union Term.), 210 North 13th Street, St. Louis, Mo. 63103, all represented by Mark M. Hennelly, Senior Vice President and General Counsel for MoPac-Missouri, 2000 Missouri Pacific Building, 210 North 13th Street, St. Louis, Mo. 63103, on December 20, 1977, filed with the Interstate Commerce Commission at Washington, D.C., a joint application under section 5(2) of the Interstate Commerce Act for an order authorizing the merger of the properties and franchises of MoPac-Missouri, A&S, FWB, MI, NOLC, St. Jo Belt, T-NM, and Union Term. with and into MoPac-Delaware. The merger proceeding has been assigned Finance Docket No. 28586 (Sub-No. 1). The surviving corporation resulting from such merger, MoPac-Delaware, further made application under section 20a of the Interstate Commerce Act for an order authorizing the issuance of common stock and the assumption of liability in respect of securities to the extent that any of the named railroads is liable as obligor or guarantor of such securities. The stock issuance and assumption of liability proceeding has been assigned Finance Docket No. 28637.

By supplemental application filed December 27, 1977, Missouri Pacific Corp. joins in the merger application. MoPac-Delaware is a wholly owned subsidiary, and MoPac-Missouri a 92.3 percent-owned subsidiary, of Missouri Pacific Corp.

The applicants will effectuate merger under a Plan and Joint Agreement of Merger and Consolidation which provides that upon consummation of the merger, the separate corporate existences of MoPac-Missouri and its named subsidiaries will cease and all of their rights and obligations will vest in MoPac-Delaware. As a part of the merger each share of common stock of MoPac-Missouri will be converted into 0.95 shares of Missouri Pacific Corp. common stock, except that the common stock of MoPac-Missouri which is owned by Missouri Pacific Corp. will be cancelled; the capital stock of the named subsidiary railroads will be cancelled; and the common stock of MoPac-Delaware will be authorized and outstanding. Accordingly, after consummation of the merger, the surviving corporation would remain a wholly owned subsidiary of Missouri Pacific Corp. and would continue the carrier operations and business of MoPac-Missouri and the named subsidiary railroads under the name Missouri Pacific Railroad Co.

MoPac-Missouri operates 12,314 miles of mainline railroad and 4,875

miles of sidings and spur tracks in the States of Texas, New Mexico, Louisiana, Mississippi, Tennessee, Arkansas, Oklahoma, Kansas, Missouri, Illinois, Nebraska, and Colorado. A&S operates 38.61 miles of railroad from Abilene, Tex., to Winters, Tex. FWB operates 2.94 miles of mainline track and 12.33 miles of yard track and sidings in the city of the Fort Worth, Tex. MI operates 332.79 miles of main track and 49.78 miles of yard tracks and sidings in the States of Illinois and Missouri. NOLC operates 34 miles of main track and 15.67 miles of yard track and sidings from New Orleans, La., to Port Sulphur, La. St. Jo Belt operates 2.33 miles of main track, 14.11 miles of yard track, and 0.74 miles of trackage rights just outside the city of St. Joseph, Mo. T-NM operates 108.31 miles of railroad from Monahans, Tex., to Lovington, N. Mex. Union Term. operates 5.87 miles of main track, 16.69 miles of yard track, and 3.10 miles of trackage rights, both inside and outside the city of St. Joseph, Mo.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28586 (Sub-No. 1), and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.  
Acting Secretary.

[FR Doc. 78-1541 Filed 1-18-78; 8:45 am]

## [1505-01]

[Volume No. 51]

**PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS**

*Correction*

In FR Doc. 78-135 appearing at page 1026 in the issue for Thursday, January 5, 1978. On page 1028, in the eighth line of the middle column, "No. MC 11343," should read, "No. MC 113434".

## [1505-01]

[Volume No. 45]

**Petitions, Applications, Finance Matters (Including Temporary Authorities), Railroad Abandonments, Alternate Route Deviations, and Intrastate Applications**

*Correction*

In FR Doc. 77-34350 appearing on page 61107 in the issue of Thursday, December 1, 1977 on page 61117, in the 3rd column, 1st paragraph, 1st line should read, "No. MC 113855 (Sub-No. 390), filed. . ."

On page 61121, the 3rd column, the 1st paragraph, the 1st line should read, "No. MC 119726 (Sub-No. 104), filed. . ."

## [7035-01]

[Volume No. 53]

JANUARY 13, 1978.

**PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS**

**PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY**

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Com-

mission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 76 (M1) (correction) (Notice of filing of Petition to Broaden Territory), filed November 8, 1977, published in the FEDERAL REGISTER issue of December 30, 1977, and republished, as corrected, this issue. Petitioner: MAWSON & MAWSON, INC., P.O. Box 125, Langhorne, Pa. 19047. Petitioner's representative: Dwight L. Koerber, Jr., 666 Eleventh St. NW., Washington, D.C. 20001. Petitioner holds a motor common carrier Certificate in No. MC 76, issued April 5, 1973, authorizing transportation, over irregular routes, of, as pertinent: *Steel, steel products, and commodities* the transportation of which, because of size or weight, requires the use of special equipment, between Philadelphia, Pa., and points in Pennsylvania within 150 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, Delaware, and Maryland. By the instant petition, petitioner seeks to broaden the territorial description to read: Between Philadelphia, Pa., and points in Philadelphia within 150 miles of Philadelphia, on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, and Pennsylvania. The purpose of this correction is to clarify authority sought.

No. MC 730 (Sub-No. 76) (M1) (notice of filing of petition to modify restriction), filed October 31, 1977. Petitioner: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, P.O. Box 958, 1417 Clay Street, Oakland, Calif. 94604. Petitioner's representative: Alfred G. Krebs (same address as petitioner). Petitioner holds a motor common carrier Certificate in No. MC 730 (Sub-No. 76), issued March 11, 1957, authorizing transportation, as pertinent, over regular routes, of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, livestock, gold bullion, and bulk liquids in tank trucks), between Los Angeles, Calif., and Seattle, Wash., serving the intermediate and off-route points of Fresno, Modesto, Stockton, Sacramento, and Redding, Calif., Ashland, Med-

\*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

ford, Grants Pass, Roseburg, Eugene, Corvallis, Albany, Salem, and Portland, Oreg., Chehalis, Centralia, Olympia, and Tacoma, Wash., and those in the Los Angeles, Calif. commercial zone as defined by the Commission, restricted to traffic moving between Washington and Oregon points, on the one hand, and, on the other, points in California; and the intermediate point of Klamath Falls, Oreg., restricted to traffic moving between Klamath Falls, on the one hand, and, on the other, points in the Los Angeles Calif., commercial zone, and the Los Angeles Harbor commercial zone, as defined by the Commission, and the following language substituted in lieu thereof in the above authority: "and the off-route point of Klamath Falls, Oreg., restricted to traffic moving between Klamath Falls, on the one hand, and, on the other, points in California or Oregon."

By the instant petition, petitioner seeks to have Klamath Falls, Oreg., be designated as an off-route point in lieu of an intermediate point, and also to modify the second restriction. The following language would therefore be deleted: "and the intermediate point of Klamath Falls, Oreg., restricted to traffic moving between Klamath Falls, on the one hand, and, on the other, points in the Los Angeles, Calif., commercial zone, and the Los Angeles Harbor commercial zone, as defined by the Commission" and the following language substituted in lieu thereof in the above authority: "and the off-route point of Klamath Falls, Oreg., restricted to traffic moving between Klamath Falls, on the one hand, and, on the other, points in California or Oregon."

No. MC 115818 (Sub-No. 13) (M1) (notice of filing of petition to add contracting shipper and broaden territorial description), filed November 16, 1977.

Petitioner: WESTBURY TRANSPORT, INC., P.O. Box 272, Manhasset, N.Y. 11030. Petitioner's representative: Roy A. Jacobs, 550 Maroneck Avenue, Harrison, N.Y. 10528. Petitioner holds a motor contract carrier Permit in No. MC 115818 (Sub-No. 13), issued August 19, 1977, authorizing transportation, over irregular routes, of: (1)(a) *Such merchandise as is dealt in by retail department stores* (except commodities in bulk), from New York, N.Y., to points in New Jersey, New York, and Connecticut; and (b) From Paterson N.J., to points in Connecticut, New Jersey (except Paterson), and New York; and (2) *Returned shipments of the commodities described in (1) above, from points in New Jersey, New York, and Connecticut, to New York, N.Y.* (b) From points in Connecticut, New Jersey (except Paterson), and New York, N.Y., to Paterson, N.J., under a continuing contract or contracts with (1) Allied Stores of New York, Inc., of Jamaica, N.Y., and (2) Bedding Showcase, Inc., of Huntington, N.Y. By the instant petition, petitioner seeks to add D. M. Read, Inc., as an additional contracting shipper, and seeks addition of the following: (1)(c) From Bridgeport, Danbury, and Trumbull, Conn., to points in Connecticut (except Bridgeport, Danbury, and Trumbull), New Jersey and New York; and (2)(c) from points in Connecticut (except Bridgeport, Danbury, and Trumbull), New Jersey and New York, to Bridgeport, Danbury and Trumbull, Conn.



No. MC 129074 (M1) (notice of filing of petition to modify a permit by the addition of contracting shippers), filed July 14, 1977. Petitioner: DELTA TRANSPORT LTD., Blockhouse Lunenburg, P.O. Box 130, North Sydney, Nova Scotia, Canada. Petitioner's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Petitioner holds a motor contract carrier permit in No. MC 129074, issued August 25, 1967, authorizing transportation over irregular routes, of (1) *Fresh and processed fish*, from ports of entry on the United States-Canada boundary line at or near Calais and Houlton, Maine, to Bangor, Maine; Boston, Gloucester, Worcester, and Springfield, Mass., Providence, R.I., Hartford, New Haven, and Bridgeport, Conn., New York, N.Y., and Philadelphia and Pittsburgh, Pa.; and (2) *Fish packaging supplies and trawler equipment and machinery*, from Boston and Gloucester, Mass., and New York City, N.Y., to ports of entry on the United States-Canada boundary line at or near Calais and Houlton, Maine. Restriction: The service authorized herein is subject to the following conditions: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the following shippers: H. B. Nickerson and Sons, Ltd., of North Sydney, Nova Scotia, Canada; and Riverport Seafoods, Ltd., of Riverport, Nova Scotia, Canada. By the instant petition, petitioner seeks to modify the above authority by (1) adding an origin point of Portland, Maine in (2) above; and (2) petitioner seeks to add the following subsidiaries which are wholly owned by H. B. Nickerson and Sons: (a) Canso Seafoods Ltd., Canso, Nova Scotia; (b) Nickerson Outfitting Co. Ltd., North Sydney; (c) Ritcey Bros. (Fisheries) Ltd., Riverport, Nova Scotia; (d) Versatile Contracting Ltd., Sydney, Nova Scotia; (e) H. F. Russell Sea Foods Ltd., Lismore, Nova Scotia; (f) Nickerson Bros. Ltd., Port Mouton, Nova Scotia; (g) Ferguson Industries Ltd., Pictou, Nova Scotia; (h) Amos Brannen & Sons Ltd., Yarmouth, Nova Scotia; (i) Wedgeport Marine Products Ltd., Wedgeport, Nova Scotia; (j) Dingwall Fish Co. Ltd., Dingwall, Nova Scotia; (k) Ingalls Head Sea Food Ltd., Grand Manan, New Brunswick.

NOTE.—Riverport Seafoods, Ltd. of Riverport, Nova Scotia, is also a wholly owned subsidiary of Nickerson.

No. MC 135684 (Sub-No. 19) (M1) (Notice of filing of petition to modify certificate of public convenience and necessity), filed October 14, 1977. Petitioner: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick

Lane, Suite 500, Silver Spring Md. 20910. Petitioner holds a motor common carrier Certificate in MC 135684 (Sub-No. 19) issued September 15, 1977, which, in pertinent part, authorizes the transportation of: *Paper bags* from Newton, Conn. to points in Pennsylvania, Ohio, and Virginia; *Kraft wrapping paper and wood pulp board* from West Point, Va. to Newtown, Conn.; *Paper and paper articles* from Newtown, Conn. to points in Maine New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and Ohio; and *Materials, supplies and equipment* (other than bulk) used in the manufacture and distribution of plastic articles and paper articles, and returned shipments of plastic articles and paper and paper articles from the destination points named previously to Newtown, Conn. Said operations are restricted to traffic originating at or destined to facilities of Bemis Company, Inc.; and said operations are restricted to traffic originating at points in the above-named origin territory and destined to points in the above-named destination territory. By the instant petition, Petitioner seeks to modify the Certificate so as to change the point Newtown, Conn. to Crossett, Ark. to reflect the shipper's closing of the facility at Newtown, Conn. and the substitution of Crossett, Ark. for the distribution and manufacturing functions formerly performed at Newtown, Conn.

#### REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

##### NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 59806 (Sub-No. 9) (Republication), filed March 14, 1977, pub-

lished in the FEDERAL REGISTER issue of May 5, 1977, and republished this issue. Applicant: GROSS & HECHT TRUCKING, INC., P.O. Box 514, 35 Brunswick Avenue, Edison N.J. 08817. Applicant's representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07006. An Order of the Commission, Review Board No. 3, dated October 19, 1977, and served November 1, 1977, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses, and (2) *equipment, material, and supplies* used in the conduct of the business described in (1) above, between points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union and Warren Counties, N.J., Bronx, Dutchess, Kings, Nassau, New York, Orange, Queens, Putnam, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, N.Y., and Fairfield County, Conn., under a continuing contract, or contracts, with White Rose Frozen Food Corp., of Secaucus, N.J., restricted in (1) and (2) above against the transportation of commodities in bulk, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to give notice of the authorization of points in Putnam and Dutchess Counties, N.Y. as additional service points.

No. MC 109397 (Sub-No. 319) (Republication) (Notice of filing of petition to modify certificate), filed May 2, 1977, published in the FEDERAL REGISTER issue of June 9, 1977, and republished this issue. Petitioner: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, east on interstate business route 44, Joplin, Mo. 64801. Petitioner's representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, Okla. 73112. An Order of the Commission, Review Board No. 3, dated October 25, 1977, and served November 14, 1977, finds that the present and future public convenience and necessity require modification of petitioner's Certificate No. MC 109397 (Sub-No. 319), issued December 16, 1975, to read: *Canned animal food, and dry dog food*, from Sante Fe Springs and Vernon, Calif., to points in Arkansas, Tennessee, Oklahoma, Virginia, Ohio, Kentucky, New York, New Jersey, Pennsylvania, and Maryland. Petitioner is fit, willing, and able properly to perform such service and to conform to the requirements of the

Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the addition of dry dog food to the commodity description in the modifications authorized to petitioner's certificate.

No. MC 111545 (Sub-No. 236) (Republication), filed April 26, 1977, published in the FEDERAL REGISTER issue of June 3, 1977, and republished this issue. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426, Station A, Marietta, Ga. 30065. Applicant's representative: Robert E. Born (same address as applicant). An Order of the Commission, Review Board No. 2, dated November 3, 1977, and served November 15, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Plywood and composition board* from the facilities of Day Companies, Inc., located in Randolph County, Ga., to points in that part of the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico (except Florida and Georgia). Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to give notice of the addition of composition board to the commodity description in applicant's grant of authority.

No. MC 142289 (Sub-No. 2) (Republication), filed September 2, 1976, published in the FEDERAL REGISTER issue of October 15, 1976, and republished this issue. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, N.J. 08753. Applicant's representative: Rita Tripodi (same address as applicant). An Order on Further Consideration, Review Board No. 3, dated November 10, 1977, and served December 12, 1977, finds on further consideration that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Glass, formica panels, prefabricated woodwork, architectural trim, plastic and wooden trim, prefabricated shutters, plastic shutters, prehung doors, and prehung windows*, between the facilities of The Level Line, Inc., at or near Lakewood, N.J., and the facilities of The Level Line, Inc., at or near Allentown, Pa., restricted to the transportation of shipments originating at or destined to the above-described facilities. Applicant is fit, willing, and able to perform the granted service and to conform to the requirements of

the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to give notice (1) of the grant of common carrier authority in lieu of contract carrier; and (2) of the broadening of the territorial description.

#### MOTOR CARRIER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2017 (Sub-No. 7), Filed November 25, 1977. Applicant: ALTO'S EXPRESS, INC., Cinnaminson Industrial Park, 2301 Garry Road, Cinnaminson, N.J. 08077. Applicant's representative: Wayne W. Wilson, 329 West Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and materials, equipment and supplies* used or useful in the manufacture sale or distribution of foodstuffs (except in bulk, in tank vehicles); between Moosic, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Rhode Island, West Virginia, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Chicago, Ill.

No. MC 11207 (Sub-No. 409), Filed November 23, 1977. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sheet steel containers, plastic containers, terne plate, and tin plate*, from Homerville, Ga. to points in Alabama, Louisiana, Mississippi, and Texas, (2) *materials, and supplies* used in the manufacture of sheet steel containers, plastic containers, terne plate, and tin plate, from points in Alabama, Louisiana, Mississippi, and Texas to Homerville, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, Fla., or Atlanta Ga.

No. MC 29120 (Sub-No. 207), filed November 17, 1977. Applicant: ALL-AMERICAN, INC., 9393 West 110th Street, 5th Floor, Overland Park, Kans. 66210. Applicant's representative: Harold H. Clokey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, dangerous explosives, household goods, commodities in bulk, commodities requiring special equipment) between Denver, Colo. and Rapid City, S. Dak., serving Ellsworth Air Force Base, Rosebud, Sturgis, Belle Fourche, S. Dak., as off route points. From Denver over U.S. 85 to Torrington, Wyo., thence over U.S. 85 to the junction of U.S. 85 and U.S. 26, thence over U.S. 26 to the



junction of U.S. 26 and U.S. 85, at or near Lingle, Wyo., thence over U.S. 85 to the junction of U.S. 85 and U.S. 16, at or near New Castle, Wyo., thence over U.S. 16 to Rapid City, S. Dak., and return over the same route.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo. or Rapid City, S. Dak. Common control may be involved.

No. MC 29910 (Sub-No. 179), filed November 23, 1977. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, Ark. 72902. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lift trucks and lift truck attachments, parts and accessories* (except commodities which because of size or weight require the use of special equipment): between the facilities of Nissan Industrial Equipment Co., at or near Memphis, Tenn., on the one hand, and, on the other, points in that part of the United States in and east of Colorado, Montana, New Mexico, and Wyoming, restricted to the transportation of shipments originating at or destined to the facilities of Nissan Industrial Equipment Co., or its distributors or shippers.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn., or Little Rock, Ark.

No. MC 48958 (Sub-No. 148), filed November 18, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities*, (except those of unusual value, Class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (1) Between Denver, Colo., and Cheyenne, Wyo., serving the intermediate point of Fort Collins, Colo. only; From Denver, Colo. over U.S. Highway 287 to Fort Collins, Colo., thence over Colorado State Highway 14 to junction Interstate Highway 25, thence over Interstate Highway 25 to Cheyenne, Wyo., and return over the same route; (2) Between Greeley, Colo., and Fort Collins, Colo., serving no intermediate points: From Greeley, Colo. over U.S. Highway 34 to junction Interstate Highway 25, thence over Interstate Highway 25 to junction Colorado State Highway 68, thence over Colorado State Highway 68 to junction U.S. Highway 287, thence over U.S. Highway 287 to Fort Collins, and return

over the same route; (3) Between Greeley, Colo., and Fort Collins, Colo., serving no intermediate points: From Greeley, Colo. over U.S. Highway 34 to junction Interstate Highway 25, thence over Interstate Highway 25 to junction Prospect Street (or over Interstate Highway 25 to junction Colorado State Highway 14) thence over Prospect Street or Colorado State Highway 14 to Fort Collins, and return over the same route; (4) Between Eaton, Colo., and Fort Collins, Colo., serving no intermediate points: From Eaton, Colo. over Weld County Road 74 and Colorado State Highway 68 to junction U.S. Highway 287, thence over U.S. Highway 287 to Fort Collins, and return over the same route; (5) Between Eaton, Colo., and Fort Collins, Colo., serving no intermediate points: From Eaton, Colo. over Weld County Road 74 to junction Interstate Highway 25, thence over Interstate Highway 25 to junction Prospect Street (or over Interstate Highway 25 to junction Colorado State Highway 14), thence over Prospect Street or Colorado State Highway 14 to Fort Collins, and return over the same route; (6) Between Ault, Colo., and Fort Collins, Colo., serving no intermediate points: From Ault, Colo. over Colorado State Highway 14 to Fort Collins, Colo., and return over the same route; (7) Between Denver, Colo., and Fort Collins, Colo., serving no intermediate points: From Denver, Colo. over U.S. Highway 87 (Interstate Highway 25) to junction Colorado State Highway 68, Prospect Road or Colorado State Highway 14, thence over Colorado State Highway 68, Prospect Road or Colorado State Highway 14 to Fort Collins, and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Fort Collins, Colo.

No. MC 51146 (Sub-No. 549), filed November 21, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic products* from Seymour, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 61231 (Sub-No. 112), filed November 23, 1977. Applicant: ACE LINES, INC., 4143 East 43rd Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: *Perlite products, vermiculite products and insulation* (except commodities in bulk), from the plantsite of W. R. Grace & Co., at Milwaukee, Wis., to points in Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests that the hearing be held at Chicago, Ill.

No. MC 61825 (Sub-No. 72), filed November 25, 1977. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, Post Office Box 385, Collinsville, Va. 24078. Applicant's representative: John D. Stone, Roy Stone Transfer Corp., Post Office Box 385, Collinsville, Va. 24078. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials* from Eden, N.C., to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maryland, South Carolina, Tennessee, Virginia, and West Virginia and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in Alabama, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maryland, South Carolina, Tennessee, Virginia, and West Virginia, to Eden, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61825 (Sub-No. 73), filed November 22, 1977. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, P. O. Box 385, Collinsville, Va. 24078. Applicant's representative: John S. Stone (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and sound deadener compound* (except in bulk), and filters, (a) from points in Marion County, Tenn., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at points in Marion County, Tenn.; (b) from points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.; (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in Part I above (except in bulk), from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn., or Pittsburgh, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 63417 (Sub-No. 121), filed November 23, 1977. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, Va. 24034. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Agricultural limestone and gypsum* (except in bulk), from Irvington, Ky., to points in Delaware, The District of Columbia, Georgia, Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, Virginia, and West Virginia, and returned shipments of the above commodities from above destinations to Irvington, Ky.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Roanoke, Va. or Washington, D.C.

No. MC 65941 (Sub-No. 46), filed November 23, 1977. Applicant: TOWER LINES, INC., 3rd and Warwood Avenue, Box 6010, Wheeling, W. Va. 26003. Applicant's representative: Paul M. Danilell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk), and filters, from points in Marion County, Tenn., to points in Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia, restricted to traffic originating at points in Marion County, Tenn.; (2) *materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in Part I above (except in bulk), from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.; (3) *petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk), and filters, from points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn., or Pittsburgh, Pa.

No. MC 73165 (Sub-No. 421), filed November 23, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: R. Cameron Rollins (same address as applicant). Authority sought to operate as common

carrier, by motor vehicle, over irregular routes, transporting: *Iron and Steel, Iron and Steel Articles, and Iron and Steel Products*; and those commodities which because of size and weight require special equipment or handling, from Savannah, Ga., to points in Alabama, Georgia, North Carolina, South Carolina, Tennessee, Mississippi, Kentucky, and Virginia.

NOTE.—If hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga. or Savannah, Ga.

No. MC 73688 (Sub-No. 77), filed November 22, 1977. Applicant: SOUTHERN TRUCKING CORP., 1500 Orenda Avenue, Memphis, Tenn. 38107. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials, siding, asphalt* (except in bulk) and accessories thereto from the plantsite of Masonite Corp., located at or near Meridian, Miss., to points in Alabama, Arkansas, Georgia, Florida, Kentucky, Louisiana, North Carolina, South Carolina, and Tennessee; and (2) *roofing granules and crushed stone in bags* from the plantsite of Minnesota Mining and Mfg. Co. located at or near Little Rock, Ark., to the plantsite of Masonite Corp., located at or near Meridian, Miss.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Meridian, Miss., or Birmingham, Ala.

No. MC 74321 (Sub-No. 137), filed December 2, 1977. Applicant: B. F. WALKER, INC., P.O. Box 17-B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, and trailer chassis* (other than those designed to be drawn by passenger automobiles) in initial movements, in driveway service, from the plantsite of Boyd Tank Trailers, Inc., located at or near Boyd, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Fort Worth, Tex., or Dallas, Tex.

No. MC 78228 (Sub-No. 71), filed November 25, 1977. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Refractories and refractory products*, from Carrollton, Ohio, and Kittan-

ning, Pa., to Gary, Ind., Chicago, Ill., Dearborn, Detroit, Ecorse, and Melvindale, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Pittsburgh, Pa.

No. MC 87113 (Sub-No. 17), filed November 18, 1977. Applicant: WHEATON VAN LINES, INC., 8010 Castleton Road, Indianapolis, Ind. 46250. Applicant's representative: Alan F. Wohlsetter, 1700 K Street NW., Washington D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture, new furnishings and carpet*, from the ports of entry on the International Boundary line between the United States and Mexico at Laredo, Tex., to Denver, Colo.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Denver, Colo. Common control may be involved.

No. MC 91811 (Sub-No. 14), filed November 25, 1977. Applicant: MILTON K. MORRIS, INC., P.O. Box 557, Southampton, Pa. 18966. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in or used in the operations of the wholesale retail and chain store grocery business* (except commodities in bulk, fresh fruits and vegetables and frozen foods), from the plantsites and storage facilities of the Clorox Co. at Jersey City, N.J., to points in Pennsylvania, Maryland, and Delaware, under a continuing contract or contracts with the Clorox Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 94201 (Sub-No. 156), filed November 22, 1977. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta Ga. 20316. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and connections, valves, and materials and supplies* used in the installation thereof. From Geneva County, Ala., to points in the United States in and east of Texas, Oklahoma, Kansas, Missouri, Iowa, and Minnesota. (2) *Materials and supplies* used in the manufacture of commodities named in (1) above from points in the United States in and east of Texas, Oklahoma, Kansas, Missouri, Iowa, and Minnesota to Geneva County, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Birmingham, Ala., or Atlanta, Ga.



No. MC 95876 (Sub-No. 223), filed November 23, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Givold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Camper tops*, between Brainerd, Minn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn. Common control may be involved.

No. MC 103993 (Sub-No. 910), filed November 22, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46515. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Ind. 46515. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* (except those designed to be drawn by passenger automobiles), in initial movements, from points in Ogle County, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 106074 (Sub-No. 55), filed November 25, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Road, P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material* (except commodities in bulk), from the plantsites of Fibreboard Corp., at or near Fruita, Colo., and Grambling, La., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at San Francisco, Calif., or Washington, D.C.

No. MC 106400 (Sub-No. 111), filed November 25, 1977. Applicant: KAW TRANSPORT COMPANY, a corporation, P.O. Box 12628, North Kansas City, Mo. 64116. Applicant's representative: Robert L. Hawkins, Jr., P.O. Box 456, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Corn and soybean products*, dry, in bulk, in tank and hopper type vehicles from North Kansas City, Mo., to points in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 106603 (Sub-No. 163), filed November 23, 1977. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street, SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Part 1: Building, wall or insulating boards from Jamesburg, N.J., to points in Illinois; Indiana; Iowa; Kentucky; Michigan; Missouri; points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans and Wyoming Counties, N.Y.; Ohio; West Virginia; and Wisconsin. Part 2: Materials, equipment and supplies used in the manufacture and distribution of building, wall and insulating boards from points in Illinois; Indiana; Iowa; Kentucky; Michigan; Missouri; points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans and Wyoming Counties, N.Y.; Ohio; West Virginia; and Wisconsin to Jamesburg, N.J.

NOTE.—Applicant holds contract carrier authority in No. MC 48240 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 106603 (Sub-No. 164), filed November 23, 1977. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Part 1: Building, wall or insulating boards from Florence, Ky., to points in Illinois, Indiana, Iowa, Michigan, Missouri, New York, Ohio, Pennsylvania, and Wisconsin. Part 2: Materials, equipment and supplies used in the manufacture and distribution of building, wall and insulating boards from points in Illinois, Indiana, Iowa, Michigan, Missouri, New York, Ohio, Pennsylvania, and Wisconsin to Florence, Ky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 106674 (Sub-No. 265), filed November 7, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: (1) *Plumbing, bathroom, and laundry fixtures and accessories*, from the facilities utilized by the Powers Fiat Corp., at or near Plainview, Long Island, N.Y., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Nebraska, New Hampshire, New Jersey, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, West Virginia, and the District of Columbia; and (2) *materials, equipment, and supplies*, used in the manufacture, distribution, and sale of plumbing, bathroom, and laundry fixtures and accessories, (a) from points in and east of North Dakota, Nebraska, Kansas, Oklahoma, and Texas (except New York), to the facilities utilized by the Powers Fiat Corp., located at or near Plainview, Long Island, N.Y.; and (b) from points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Ohio), to the facilities utilized by the Powers Fiat Corp., at or near Monroe, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Tulsa, Okla.

No. MC 106674 (Sub-No. 270), filed November 25, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and Fertilizer Ingredients*, in bags, from the facilities of the W. R. Grace & Co., Ag. Chem Group, New Albany, Ind., to points in Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Indianapolis, Ind., or Chicago, Ill.

No. MC 107515 (Sub-No. 1114), filed November 25, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, P.O. Box 308, Forest Park, Ga. 30350. Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid and film adhesives* (except in bulk, in tank vehicles) in vehicles equipped with mechanical refrigeration, from Harve de Grace, Md., to points in Georgia (except Marietta, Ga.).

NOTE.—Applicant holds contract carrier authority in No. MC 126436 (Sub-No. 6), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Atlanta, Ga.

No. MC 107678 (Sub-No. 65), filed January 6, 1978. Applicant: HILL &

HILL TRUCK LINE, INC., P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: David A. Sutherland, 1150 Connecticut Avenue NW., Suite 400, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Iron or steel articles*; and (b) *building and construction materials, supplies, and equipment* (except commodities in bulk), from the plantsites and warehouse facilities of Penn-Dixie Steel Corp., and/or Penn-Dixie Industries, Inc. located at Ft. Wayne, Kokomo, and North Judson, Ind.; Columbus and Toledo, Ohio; Detroit, Grand Rapids, Holland, Lansing, and Petoskey, Mich.; Blue Island, Chicago, and Joliet, Ill.; Kingsport, Knoxville, and South Pittsburg, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Kansas City, Mo., and points in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (including Alaska and Hawaii); and (2) *Materials, supplies and equipment* used in the manufacturing and distribution of the commodities in (1) above (except commodities in bulk), from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Kansas City, Mo., and points in and west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (including Alaska and Hawaii), to the plantsites and warehouse facilities of Penn-Dixie Steel Corp. and/or Penn-Dixie Industries, Inc. located at Ft. Wayne, Kokomo, and North Judson, Ind.; Columbus and Toledo, Ohio; Detroit, Grand Rapids, Holland, Lansing, and Petoskey, Mich.; Blue Island, Chicago, and Joliet, Ill.; Kingsport, Knoxville, and South Pittsburg, Tenn. NOTE: Applicant requests that this application be consolidated with No. MC 106398 (Sub-No. 777), *National Trailer Convoy, Extension—Penn-Dixie Steel Corp.*, and other related cases.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. Common control may be involved. Prehearing conference January 31, 1978 at 9:30 a.m. at the Offices of the Interstate Commerce Commission.

No. MC 108453 (Sub-No. 36), filed November 23, 1977. Applicant: G & A TRUCK LINE, INC., 404 West Peck Avenue, White Pigeon, Mich. 49099. Applicant's representative: William P. Sullivan, Suite 1000, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pulpboard*, from White Pigeon, Mich. to points in New York (except Rochester and Buffalo, N.Y.); and (2) *waste paper*, from points in New York (except Rochester and Buffalo, N.Y.) to White Pigeon, Mich., under a continuing contract or contracts with White Pigeon Paper Co. of White Pigeon, Mich.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 109638 (Sub-No. 32), filed November 22, 1977. Applicant: EVERETTE TRUCK LINE, INC. P.O. Box 145, Cherry Road, Washington, N.C. 27889. Applicant's representative: Cecil W. Bradley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products* between points in New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Ohio, West Virginia, and Tennessee for the account of McCoy Lumber Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Raleigh, N.C. or Washington, D.C.

MC 109689 (Sub-No. 321), filed November 18, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ammonical etchants*, in bulk, from Casa Grande, Ariz., to Arizona, California, Colorado, New Mexico, Oregon, Utah, Washington, Wyoming, and Texas and the return of spent material from destinations above to Casa Grande, Ariz.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

MC 109689 (Sub-No. 322), filed November 23, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed supplements*, in bulk, in tank vehicles from Bisbee, Ariz., to Anaheim, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah.

MC 109689 Sub-No. 323, filed November 23, 1977. Applicant: W. S. HATCH CO., a corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, from Miami, Ariz., to Henderson, Nev.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 110252 (Sub-No. 65), filed November 14, 1977. Applicant: JAMES J. WILLIAMS, INC., 5711 East Third Avenue, Spokane, Wash. 99206. Applicant's representative: John D. Robertson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in specially equipped vehicles, between points in Montana lying on and west of U.S. Highway 91 and including incorporated areas which are divided by U.S. Highway 91; those points in Idaho lying on and north of the southern boundary of Idaho County; and those points in Washington lying on and east of U.S. Highway 97.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Spokane, Wash., or Great Falls, Mont.

No. MC 111594 (Sub-No. 77), filed November 22, 1977. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wis. 54494. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, in tank vehicles, from Brookfield, Wis., and North Baltimore, Ohio, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin; and (2) *Materials and supplies* used in the manufacture of chemicals, in bulk, in tank vehicles, from points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Wisconsin, to Brookfield, Wis. and North Baltimore, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. or Milwaukee, Wis.

No. MC 111812 (Sub-No. 546), filed November 23, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233 Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1. *Petroleum and petroleum products, vehicle body sealer and sound deadener compound* (except in bulk) and *filters*, (a) from points in Marion County, Tenn. to points in Georgia, Florida, North Carolina, South Carolina, Illinois, Wisconsin, Minnesota, South Dakota, North Dakota, Iowa, Nebraska, Kansas, Colorado, Missouri, Massachusetts, Connecticut, New Hampshire, Maine, and



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New York, restricted to traffic originating at points in Marion County, Tenn., (b) from points in Ohio, New York, Rhode Island, Pennsylvania and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn. II. *Materials, supplies, and equipment*, used in the manufacture, sale, and distribution of the commodities named in Part I above (except in bulk), from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to points in Marion County, Tenn. Restricted to traffic destined to points in Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Atlanta, Ga.

No. MC 111812 (Sub-No. 547), filed November 22, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and warehouse facilities of the International Paper Co., at or near Jay and Livermore Falls, Maine, to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, Wyoming, District of Columbia, points in New York on and west of Interstate Highway 81 and points in Pennsylvania on and west of U.S. Highway 15.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Portland, Maine.

No. MC 111812 (Sub-No. 548), filed November 25, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Wilson Foods Corp., located at Logansport, Ind., to points in Idaho, Montana, Oregon, Utah, Washington, and Wyoming,

from the plantsite and warehouse facilities of Wilson Foods Corp., located at Albert Lea, Minn. to points in Wyoming. Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111812 (Sub-No. 550), filed November 25, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from points in Minnesota, South Dakota, Nebraska, and Iowa to points in Georgia and Florida. Restricted to traffic originating at the named origin States and destined to the named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 111940 (Sub-No. 70), filed November 23, 1977. Applicant: SMITH'S TRUCK LINES, a corporation, P.O. Box 88, Muncy, Pa. 17756. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body dealer and/or sound deadener compound* (except in bulk), and *filters*, from points in Marion County, Tenn., to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia, restricted to traffic originating at points in Marion County, Tenn.; (2) *Materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in (1) above (except in bulk), from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.; and (3) *Petroleum and petroleum products, vehicle body dealer and/or sound deadener compound* (except in bulk), and *filters*, from

points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Atlanta, Ga.

No. MC-112595 (Sub-No. 73), filed November 28, 1977. Applicant: FORD BROTHERS, INC., P.O. Box 727, 510 Riverside Drive, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Rolling processing fluids, wire drawing compounds and lubricating oils*, in bulk, in tank vehicles, from the plantsite of the Ironsides Co., at Columbus, Ohio, to points in Arkansas, Iowa, Missouri, Nebraska, and Texas; and (2) *Ingredients and raw materials* used in the manufacture of rolling processing fluids, wire drawing compounds and lubricating oils, in bulk, in tank vehicles, from points in Arkansas, Georgia, Indiana, Iowa, Louisiana, Missouri, Nebraska, Pennsylvania, Tennessee, Texas, Virginia, and Elkridge, Md., and Austin, Minn., to the plantsite of the Ironsides Co., at Columbus, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 113267 (Sub-No. 355), filed November 25, 1977. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3215 Tulane Road, P.O. Box 30130 AMF, Memphis, Tenn. 38130. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in section A and C of appendix I to the Report in Descriptions in Motor Carrier Certificates 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plantsite and storage facilities utilized by John Morrell & Co. located at Sioux Falls, S. Dak. and St. Paul, Minn., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at the named origins and destined to the named destination.

NOTE.—If hearing is deemed necessary applicant requests it be held at Chicago, Ill.

No. MC 113651 (Sub-No. 242), filed November 22, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riffin Road, Muncie, Ind. 47305. Applicant's representative: H. Barney Firestone, 10 South LaSalle

Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from points in Florida to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Miami, Fla.

No. MC 114273 (Sub-No. 308), filed November 22, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Polyethylene foam* (except in bulk, in tank vehicles) from Hanging Rock, Ohio, to Cedar Rapids, Iowa and (2) *Coated Nylon Fabric* (except in bulk, in tank vehicles) from South Braintree, Mass. to Cedar Rapids, Iowa. Restricted to traffic originating at and destined to the above-named points.

NOTE.—Applicant states the purpose of this application is to substitute single-line service for existing joint-line service. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Washington, D.C. Common control may be involved.

No. MC 114273 (Sub-No. 310), filed November 22, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Farm implement parts* from Ashtabula, Ohio to Moline, Ill. Restricted to traffic originating at and destined to the above-named points.

NOTE.—Applicant states it is presently handling the involved traffic via joint-line service. The purpose of this application is to substitute single-line service for existing joint-line service. Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114273 (Sub-No. 314), filed November 28, 1977. Applicant: CRST, INC. P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth Core (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Canned goods*, from Elwood, Upland, and Port Isabel, Ind., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Illinois, Wisconsin, Michigan, Kentucky, Virginia, West Virginia, Ohio, Pennsylvania, and Delaware; and (2) *materials, equipment, and supplies* used in the manufacture of canned goods, from the above-named destination points, to

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Elwood, Upland, Port Isabel, Ind. Restricted: (1) to traffic originating at the plantsites and storage facilities utilized by Fettig Canning Corp. at Elwood, Upland, and Port Isabel, Ind., and destined to the above-named States; (2) to traffic originating at the above-named destination States and destined to the plantsites and storage facilities utilized by Fettig Canning Corp. at Elwood, Upland, and Port Isabel, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 115311 (Sub-No. 254), filed November 23, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicles body sealer and sound deadener compound* (except in bulk) and *filters* (a) from: Points in Marion County, Tenn., to Points in Alabama, District of Columbia, Florida, Georgia, Kentucky Maryland, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia. Restricted to traffic originating at points in Marion County, Tenn., (b) from: points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to Points in Marion County, Tenn. Restricted to traffic destined to Marion County, Tenn. II. *Materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in Part I above (except in bulk). From: Points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn. Restricted to traffic destined to points in Marion County Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at: Memphis, Tenn. or Pittsburgh, Pa.

No. MC 115331 (Sub-No. 439), filed November 25, 1977. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Zinc Oxide*, from Hillsboro, Ill., to points in Arkansas, Indiana, Iowa, Kentucky, Kansas, Louisiana, Minnesota, Missouri, Michigan, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 115496 (Sub-No. 74) filed November 28, 1977. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, Ga. 31014. Applicant's representative: VIRGIL H. SMITH, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transportation of: *Polyvinyl chloride, plastic pipe and fittings* from the plantsite of Tridyn Industries, Inc. at or near Colfax, N.C., to points in Alabama, Georgia, Florida, Mississippi, Texas, Oklahoma, Louisiana, Arkansas, Tennessee, Kentucky, Indiana, Ohio, Illinois, North Carolina, South Carolina, Virginia, Maryland, Pennsylvania, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Colfax, N.C.

No. MC 115841 (Sub-No. 576), filed November 22, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heasley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Air conditioning and heating equipment and materials, equipment, and supplies*, used in the manufacturing and distribution thereof from Nashville, Tenn., to points in Louisiana, Arkansas, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Nashville, Tenn.

No. MC 115841 (Sub-No. 577), filed November 22, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heasley, 666 11th Street NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by food business houses between Nashville, Tenn., on the one hand, and, on the other, points in Texas, Alabama, Arkansas, Georgia, Florida, Mississippi, Illinois, Kentucky, Indiana, and Louisiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Nashville, Tenn.

No. MC 115841 (Sub-No. 578), filed November 23, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heasley, 666 11th Street NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular



routes, transporting: *Iron, and steel articles and commodities* the transportation of which because of size or weight require the use of special equipment, from Davidson and Rutherford Counties, Tenn., to points in Kentucky, Virginia, West Virginia, Michigan, Ohio, Indiana, Illinois, Wisconsin, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Nashville, Tenn. or Washington, D.C.

No. MC 115904 (Sub-No. 87), filed November 23, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Flat glass*, from the facilities of Guardian Industries at or near Kingsburg, Calif., to points in the United States (except Alaska and Hawaii); (2) *Flat glass*, from the facilities of Guardian Industries at or near Kingsburg, Calif., to the Ports of Entry on the International Boundary line between the United States and Canada located in Washington, Idaho, and Montana. Restricted to traffic, destined in foreign commerce to the Provinces of British Columbia, Alberta and Saskatchewan; (3) *Materials, equipment and supplies* used in the manufacture and distribution of flat glass from points in the United States (except Alaska and Hawaii) to the facilities of Guardian Industries at or near Kingsburg, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held at Fresno, Calif. or Washington, D.C.

No. MC 116915 (Sub-No. 44), filed November 25, 1977. Applicant: ECK MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, Ind. 46901. Applicant's representative: Mr. Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products, and materials, equipment, and supplies* used in the manufacture thereof, between the plantsite of U.S. Reduction located at or near Russellville, Ala., on the one hand, and, on the other, points in Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 116915 (Sub-No. 45), filed November 25, 1977. Applicant: ECK

MILLER TRANSPORTATION CORP., 1830 S. Plate Street, Kokomo, Ind. 46901. Applicant's representative: Mr. Fred F. Bradley, P.O. Box 773, Frankfort, Ky. 40602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, poles, piling, pallets, timbers, cross-ties, and particle board*, between points in Alabama, Arkansas, Georgia, Indiana, Mississippi, and Tennessee. Restricted to service for the account of The McGinnis Lumber Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss., Nashville, Tenn., or Louisville, Ky.

No. MC 116999 (Sub-No. 4), filed November 5, 1977. Applicant: EPHRAIM FREIGHT SYSTEMS, INC., P.O. Box 1159, St. Joseph, Mo. 64502. Applicant's representative: Kirk Wm. Horton, 260 Sheridan Avenue, Palo Alto, Calif. 94302. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Denver, Colo. and Grand Junction, Colo., serving the intermediate points of Eagle, Gypsum, Glenwood Springs, Newcastle, Silt, Rifle, Grand Valley, and Debeque; from Denver over U.S. Highway 6 to Grand Junction and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Glenwood Springs, Colo.

No. MC 117589 (Sub-No. 45), filed November 18, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, Wash. 98108. Applicant's representative: Jacob P. Billig, 2033 K Street NW., Suite 300, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat byproducts*, as described in Appendix 1 to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank or hopper-type vehicles), (2) *Frozen foods*, and (3) *commodities*, the transportation of which would be otherwise exempt from regulation pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with commodities listed in (1) and (2) above, from points in Colorado to points in Washington, Oregon, Idaho, Montana, Wyoming, and Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Seattle, Wash., or Denver, Colo.

No. MC 117686 (Sub-No. 192), filed November 22, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Mr. Robert A. Wichser (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Modular office systems, modular industrial handling systems and modular health care units and components, equipment, materials, and supplies*, used in the manufacture, installation, sale, and distribution of the commodities named above when moving in mixed shipments therewith, (1) from Zeeland and Grand Rapids, Mich., Atlanta Ga., and Houston, Tex., to points in Arizona, California, New Mexico, Oregon, Washington, and Texas, and (2) between Zeeland and Grand Rapids, Mich., Atlanta, Ga., and Houston, Tex. Restriction: Restricted to the transportation of shipments originating at the plantsite and storage facilities of Herman Miller, Inc., located at the above designated origin points and destined to points in the designated destination states.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., Omaha, Nebr. or Washington, D.C.

No. MC 117686 (Sub-No. 193), filed November 22, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach, P.O. Box 417, Sioux City Iowa 51102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Yarn*, from Greensboro, N.C. to Minneapolis, Minn. Restriction: Restricted to shipments destined to the plantsite and storage facilities of Munsingwear, Inc., at or near Minneapolis, Minn.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn. or Washington, D.C. Applicant seeks authority in No. MC-F-13256 to purchase a permit; therefore dual operations may be involved.

No. MC 117940 (Sub-No. 243), filed November 22, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* (except commodities in bulk), from the plant and warehouse facilities of the Green Giant Co., located at or near Belvidere, Ill., to points in Indiana, Kentucky, Michigan, and Ohio, restricted to traffic originating at specified facilities at

named origin and destined to points in named destination states.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis or St. Paul, Minn. Applicant holds contract carrier authority in MC 114789 (Sub-No. 28), and other subs thereunder, therefore dual operations may be involved.

No. MC 119789 (Sub-No. 394), filed November 23, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic film*, from Griffin, Ga., to points in Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

No. MC 123091 (Sub-No. 23), filed November 25, 1977. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, Ohio 44403. Applicant's representative: James Duvall, P.O. Box 97, 220 West Bridge Street, Dublin, Ohio 43017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hardwood flooring and installation accessories therefor*, from points in Shelby County, Tenn., and Grenada County, Miss., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Memphis, Tenn., or Washington, D.C.

No. MC 123233 (Sub-No. 80), filed November 23, 1977. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, Quebec, Canada H1J 1C4. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sugar*, in bulk, in tank vehicles, from the Ports of Entry on the International Boundary Line between the United States and Canada located in New York, Vermont, and Maine, to points in Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New York, and Pennsylvania. Restricted to the transportation of traffic having an immediately prior movement in foreign commerce.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Albany, N.Y., or Montpelier, Vt.

No. MC 123407 (Sub-No. 414), filed November 25, 1977. Applicant: SAWYER TRANSPORT, INC., South

Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and accessories used in the installation thereof* (except commodities in bulk, in tank vehicles and plastic pipe and fittings used in or in connection with the discovery, development, distribution of natural gas and petroleum and their products and byproducts) from the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, Iowa, to points in the United States (except Alaska and Hawaii), and (2) *materials, supplies, and accessories used in the manufacture and distribution of plastic pipe, plastic fittings, and accessories used in the installation thereof* (except commodities in bulk, in tank vehicles) from points in the United States (except Alaska and Hawaii) to the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 123407 (Sub-No. 415), filed November 25, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Composition board*, from Coldwater, Mich., to points in the United States (except Alaska and Hawaii), and (2) *materials, equipment, and supplies*, used in the manufacture of (1) above from points in the United States (except Alaska and Hawaii) to Coldwater, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Detroit, Mich.

No. MC 123407 (Sub-No. 429), filed January 3, 1978. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, wood products, building board, insulating materials, and roofing materials* (except commodities in bulk) from Alabama, Florida, Georgia, South Carolina, North Carolina, Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

Applicant requests that the instant application be heard on a consolidated basis with that of Machinery Transports, Inc., MC-124947 (Sub-No. 78).

No. MC 124078 (Sub-No. 764), filed November 23, 1977. Applicant: SCHWERTMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1801, Milwaukee, Wis. 53201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Rice hull ash*, in bulk, from Stuttgart, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Ohio, Tennessee and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Little Rock, Ark.

No. MC 124213 (Sub-No. 11), filed November 22, 1977. Applicant: SWIFT-LINES, INC., 7878 "I" Street, Omaha, Nebr. 68106. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Estherville, Iowa, and Sioux Falls, S. Dak., to points in Illinois, restricted to traffic originating at the above-named origins and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Omaha, Nebr.

No. MC 124328 (Sub-No. 118), filed November 23, 1977. Applicant: BRINK'S INC., 234 East 24th Street, Chicago, Ill. 60616. Applicant's representative: William Gambone (same address as applicant). Authority sought to operate as a contract carrier by motor vehicle over irregular routes in the transportation of: *Precious metal, scrap, and sweeps*, between Chicago, Ill., on the one hand, and, on the other, Detroit, Mich., and points in New Jersey, New York, Pennsylvania and Connecticut, under a continuing contract or contracts with Simmons Refining Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 124896 (Sub-No. 39), filed November 21, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to oper-



ate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Petroleum and petroleum products, vehicle body sealer and sound deadener compound* (except in bulk) and *filters* (a) from points in Marion County, Tenn., to points in Alabama, District of Columbia, Florida, Georgia, Kentucky, Maryland, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia. Restricted to traffic originating at points in Marion County, Tenn. (b) from points in Ohio, New York, Rhode Island, Pennsylvania, West Virginia, to points in Marion County, Tenn. Restricted to traffic destined to Marion County, Tenn. 2. *Materials, supplies and equipment* used in the manufacture, sale and distribution of the commodities named in part 1 above (except in bulk) from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn. Restricted to traffic destined to points in Marion County, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn. or Pittsburgh, Pa.

No. MC 125103 (Sub-No. 6), filed November 25, 1977. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, Minn. 56101. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Landy of Wisconsin, Inc., at or near Eau Claire, Wis., to points in Kansas, Nebraska, North Dakota, South Dakota, and Tennessee, under a continuing contract or contracts with Landy of Wisconsin, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis or St. Paul, Minn.

No. MC 126126 (Sub-No. 7), filed November 17, 1977. Applicant: RABB BROS. TRUCKING, INC., P.O. Box 736, San Joaquin, Calif. 93660. Applicant's representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Dry fertilizer*, in bulk and bagged, (1) from Helm, Bena, Edison, and Hercules, Calif., to points in Lane, Linn, and Benton Counties, Oreg.; and (2) from Bena, Edison, and Hercules, Calif., to points in Douglas, Coos, Curry, Josephine, Klamath, Jackson, and Lake Counties, Oreg., under a continuing

contract or contracts with Valley Nitrogen Producers, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco, Calif.

No. MC 126844 (Sub-No. 45), filed November 23, 1977. Applicant: R.D.S. TRUCKING CO., CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsite and warehouse facilities of Standard Brands Inc., at Atlanta and Doraville, Ga., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 128273 (Sub-No. 115), filed November 25, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and *filters*, from points in Marion County, Tenn., to points in the United States (except Alaska and Hawaii), restricted to traffic originating at points in Marion County, Tenn. (2) *Materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities named in part (1) (except in bulk) from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to points in Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn. (3) *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk) and *filters*, from points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.

NOTE.—If oral hearing is deemed necessary, applicant requests this application be consolidated with that of similar applications recently filed.

No. MC 128273 (Sub-No. 274), filed November 22, 1977. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701.

Applicant's representative: Elden Corban, P.O. Box 189, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise* as is used by, dealt in, or distributed by wholesale or retail grocery, department, drug and variety stores and institutional supply firms, and (2) *supplies and materials* used in the manufacture and sale of commodities described in (1) above, between Byhalla, Miss., on the one hand and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests this proceeding be consolidated with a similar application.

No. MC 128981 (Sub-No. 10), filed November 22, 1977. Applicant: LAND-AIR DELIVERY, INC., 1736 North 79th Street, Kansas City, Kans. 66112. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, explosives, commodities requiring special equipment, automobiles, trucks and buses), (1) between points in Arkansas on and west of U.S. Highway 167; and (2) between points in (1) above, on the one hand, and, on the other, points in Kansas, Missouri, Nebraska, Oklahoma, and Texas. Restriction: Restricted in (1) and (2) above to the transportation of traffic having an immediately prior to subsequent movement by air.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tulsa, Okla.

No. MC 133119 (Sub-No. 127), filed November 22, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Pizza*, from Joplin, Mo., to Albuquerque, N. Mex., and points in Texas, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, North Carolina, South Carolina, and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Neb., or Minneapolis, Minn.

No. MC 133119 (Sub-No. 128), filed November 25, 1977. Applicant: HEYL TRUCK LINES, INC., 200 Norka Drive, Akron, Iowa 51001. Applicant's representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Neb. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products,*

*meat by-products, and articles distributed by meat packinghouses* as described in Section A and C of appendix I to the report in Description in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and/or warehouse facilities utilized by Iowa Beef Processors Inc. located at or near Denison and Fort Dodge, Iowa; Luverne, Minn.; Dakota City and West Point, Neb., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Neb. or Sioux City, Iowa.

No. MC 133228 (Sub-No. 10), filed November 22, 1977. Applicant: JOHN WELCH, WILLIAM WELCH AND W. D. WELCH, d.b.a. WELCH RROS. TRUCKING CO., 1105 South Boulder, Portales, N. Mex. 88130. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N. Mex. 87102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum wallboard, gypsum joint cement and related commodities* (except commodities in bulk), from points in Hardeman County, Tex., to points in New Mexico, under a continuing contract, or contracts, with Georgia-Pacific Corp., Portland, Oreg.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albuquerque, N. Mex. Common control may be involved.

No. MC 133689 (Sub-No. 157), filed November 25, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: James B. Aronson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packing-houses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Wisconsin Beef Industries, Inc., at Eau Claire, Wis., to points in Illinois, Ohio, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, Missouri, Kansas, Iowa, Nebraska, South Dakota, North Dakota, Minnesota, and Michigan, restricted to traffic originating at the above named origin and destined to the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 134094 (Sub-No. 8), filed November 25, 1977. Applicant: HEIGHTS

SERVICE, INC., 521 E. Nevada Avenue, St. Paul, Minn. 55101. Applicant's representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials, premiums, and malt beverage dispensing equipment when moving in mixed loads with malt beverages*, from St. Paul, Minn., to Lansing, Ill., under a continuing contract or contracts with the Vierk Corp. of Lansing, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 134286 (Sub-No. 39), filed November 25, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and/or warehouse facilities utilized by Iowa Beef Processors, Inc., located at or near Dennison and Fort Dodge, Iowa; Luverne, Minn.; Dodge City and West Point, Neb., to points in the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Sioux City, Iowa or Omaha, Neb.

No. MC 134575 (Sub-No. 23), filed November 25, 1977. Applicant: FIGOL DISTRIBUTORS LTD., 11233-156 Street, Edmonton, Alberta, Canada T5M 1Y2. Applicant's representative: Richard S. Mandelson, 1600 Lincoln Center Building, 1600 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer, malt liquor, wine and distilled alcoholic beverages*, in containers, from ports of entry on the international boundary line between the United States and Canada located in Minnesota, North Dakota, Montana, Idaho, and Washington to points in Arizona, California, Colorado, Illinois, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Texas, Washington, and Wyoming. Restricted to traffic originating in the Province of Alberta.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Great Falls or Missoula, Mont.

No. MC 135078 (Sub-No. 63), filed November 23, 1977. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, Neb. 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, Mo. 64141. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Abrasive grains* for the manufacture of grinding wheels from the facilities of General Abrasives Division of Dresser Industries, Inc., in Niagara Falls, N.Y., to points in Illinois, Indiana, Massachusetts, Minnesota, Pennsylvania, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Chicago, Ill., or Omaha, Neb. Applicant holds contract carrier authority in MC-135007 (Sub-No. 1) and other subs thereto therefore, dual operations may be involved.

No. MC 135691 (Sub-No. 20), filed November 1977. Applicant: DALLAS CARRIERS CORP., 3610 Garden Brook Drive, Dallas, Tex. 75234. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from Concord, Ark., to Seward, Neb.; Lake Mills, Iowa; Batavia, Ill., and Arden, N.C., restricted to a transportation service to be performed under a continuing contract, or contracts, with Walker Manufacturing Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135861 (Sub-No. 23), filed November 25, 1977. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, Tex. 76106. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paint pigments and paint ingredients* (except commodities in bulk), from Brooklyn and Glens Falls, N.Y., and Bayonne, Linden, New Brunswick, Newark, and Parling, N.J., to facilities of Ennis Paint Manufacturing, Inc., at Ennis, Tex., under continuing contract, or contracts, with Ennis Paint Manufacturing, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas or Fort Worth, Tex.

No. MC 136916 (Sub-No. 18), filed November 23, 1977. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, N.J. 07848. Applicant's representative: Morton E. Kiel Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:



*Salt and salt products*, from Perth Amboy, N.J., to points in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in New York, N.Y.

MC 138144 (Sub-No. 25), filed November 22, 1977. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Paul R. Bergant, 10 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof*, building materials, construction materials, supplies, and equipment, from the plantsites and warehouse facilities of Penn-Dixie Steel Corp. and/or Penn-Dixie Industries, Inc. and its one hundred percent owned subsidiary Stevens Spring located at or near Kokomo, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans., to all points in the United States (except Alaska and Hawaii); (2) *materials, supplies, and equipment*, used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii) to the plantsites and warehouse facilities of Penn-Dixie Steel Corp. and/or Penn-Dixie Industries, Inc. and one hundred percent owned subsidiary Stevens Spring located at or near Kokomo, Ind.; Fort Wayne, Ind.; Elkhart, Ind.; Toledo, Ohio; Columbus, Ohio; Lansing, Mich.; Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Jackson, Miss.; Nazareth, Pa.; Cabot, Pa.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Kingsport, Tenn.; Knoxville, Tenn.; Richard City, Tenn.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, Ind.; Cicero, Ind.; and Newton, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved. Prehearing Conference January 31, 1978, at 9:30 a.m., at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 138157 (Sub-No. 52), filed November 25, 1977. Applicant:

**SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT**, 2931 South Market Street, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, tools and accessories and materials, equipment and supplies*, used in the manufacture, production, and distribution of motor vehicle parts, tools and accessories, (a) between Jacksonville, Fla., on the one hand, and, on the other, Cleveland, Ohio, and Los Angeles, Calif., (b) from Jacksonville, Fla., to Denver, Colo. Restriction: Restricted to traffic having a prior or subsequent movement by water. Further restricted against the transportation of commodities in bulk and tank vehicles and commodities which by reason or size or weight require the use of special equipment.

NOTE.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138741 (Sub-No. 42), filed December 21, 1977. Applicant: **AMERICAN CENTRAL TRANSPORT, INC.**, 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and building and construction materials* (except commodities in bulk), from the plantsites and shipping facilities of Penn Dixie Steel Corp., Penn Dixie Industries, Inc. and its affiliates and subsidiaries at or near Cicero, North Judson, Kokomo, Fort Wayne, and Elkhart, Ind.; Centerville and West Des Moines, Iowa; Blue Island, Chicago, and Joliet, Ill.; Denver, Colo.; Jackson, Miss.; Columbus and Toledo, Ohio; Detroit, Petoskey, Grand Rapids, Lansing, and Holland, Mich.; Nazareth and Cabot (West Winfield), Pa.; Milwaukee, Wis.; Kingsport, Knoxville, and South Pittsburg, Tenn.; Atlanta, Ga.; Salisbury, N.C.; and Newton, Kans. to points and places in the States of Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Minnesota, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, and Wisconsin; and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of iron and steel articles and building and construction materials, except commodities in bulk,

from the States in (1) above to the plantsites and shipping facilities of Penn Dixie Steel Corp., Penn Dixie Industries, Inc., and its affiliates and subsidiaries.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Prehearing conference January 31, 1978, at 9:30 a.m., at the Offices of the Interstate Commerce Commission.

No. MC 138882 (Sub-No. 27), filed November 25, 1977. Applicant: **WILEY SANDERS, INC.**, P.O. Drawer 621, Troy, Ala. 36081. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a common carrier, over irregular routes, transporting: *Pipe, fittings, hydrants, valves, and parts and accessories for the aforementioned items* (except commodities in bulk), from the facilities of United States Pipe & Foundry Co. at or near Birmingham and Bessemer, Ala., to points in Texas, Missouri, Iowa, Wisconsin, Oklahoma, Minnesota, Nebraska, North Dakota, South Dakota, and Kansas. Restricted to the transportation of traffic originating at the facilities of United States Pipe & Foundry Co. at or near Birmingham and Bessemer, Ala.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Birmingham or Montgomery, Ala.

No. MC 138875 (Sub-No. 64), filed November 22, 1977. Applicant: **SHOE-MAKER TRUCKING CO.**, a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. Authority sought to operate as a common carrier, over irregular routes, transporting: *Such products as are dealt in by wholesale and retail distributors of floor, wall, ceiling, and counter coverings*, from Salem, N.J. to the facilities of Robison Distributing Co., Inc. located at Salt Lake City, Utah, and Burley, Idaho Falls, Pocatello, and Twin Falls, Idaho. Restriction: Except the transportation of products in bulk in tank vehicles.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Salt Lake City, Utah.

No. MC 139294 (Sub-No. 4), filed November 25, 1977. Applicant: **H. T. L. INC.**, P.O. Box 122, Fairfield, Ala. 35064. Applicant's representative: Robert E. Tate, Registered Practitioner, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and particleboard*, in straight or mixed shipments, from the plant and warehouse facilities of MacMillan Bloedel, Inc., at Pine Hill and Opelika, Ala., to Mobile, Ala., in Interstate or Foreign Commerce.

NOTE.—Applicant holds contract carrier authority in No. MC 135867 (Sub-No. 1) therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Birmingham, Ala., or Atlanta, Ga.

No. MC 139495 (Sub-No. 288), filed November 23, 1977. Applicant: **NATIONAL CARRIERS, INC.**, 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Insulating material*, (except in bulk,) from the plantsite of Fibre-board Corp., at or near Grambling, La., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139973 (Sub-No. 36), filed November 23, 1977. Applicant: **J. H. WARE TRUCKING, INC.**, P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and parts and pole-line hardware*, between Visalia, Calif., on the one hand, and on the other, all points in the United States (except Alaska and Hawaii), restricted to traffic originating at or destined to the facilities of McGraw-Edison Co.

NOTE.—Applicant holds motor contract carrier authority in MC 138375 and sub numbers thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Mo., or St. Louis, Mo.

No. MC 140010 (Sub-No. 13), filed November 23, 1977. Applicant: **JOSEPH MOVING & STORAGE CO., INC.**, d.b.a. **ST. JOSEPH MOTOR LINES**, 573 Dutch Valley Road NE., Atlanta, Ga. 30324. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a contract carrier, over irregular routes, by motor vehicle, transporting: (1) *Such commodities as are dealt in or used by automotive service stations* (except commodities in bulk and except commodities which, because of size or weight, require the use of special equipment), between Fulton County, Ga., on the one hand, and, on the other, points in the United States in and east of Wisconsin, Illinois, Missouri, Oklahoma, and Texas; and, (2) plastic granules (except in bulk), from Houston, Baytown, and Orange, Tex., to points in Alabama, Florida, Georgia, North Carolina,

South Carolina, and Tennessee. Service under parts (1) and (2) to be performed under a continuing contract or contracts with Gulf Oil Company-U.S., a Division of Gulf Oil Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Ga.

No. MC 140024 (Sub-No. 82), filed November 25, 1977. Applicant: **J. B. MONTGOMERY, INC.**, a Delaware Corporation, 5565 East 52nd Avenue, Commerce City, Colo. 80022. Applicant's representative: John F. DeCock (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs, other than frozen*, (except commodities in bulk), from Battle Creek, Mich. to Denver, Colo., restricted to traffic originating at the named origin and destined to the named destination.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 140612 (Sub-No. 39), filed November 21, 1977. Applicant: **ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406**. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68509. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces and air conditioners*, between points in Iowa, California, Washington, Idaho, Oregon, Arizona, Utah, Nevada, Montana, Tennessee, Arkansas, and Texas. Restricted to the transportation of traffic moving from, to or between the facilities of Lennox Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Des Moines, Iowa, or Lincoln, Nebr. By the instant application, applicant seeks conversion of motor contract carrier authority held in No. MC 138003 (Sub-No. 2), to a certificate of public convenience and necessity. Applicant holds other motor contract carrier authority in MC 138003 and Sub-numbers thereunder, therefore dual operations may be involved.

No. MC 140883 (Sub-No. 16), filed November 23, 1977. Applicant: **DOWNS TRANSPORTATION CO., INC.**, 2705 Canna Ridge Circle NE., Atlanta, Ga. 30345. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Shelves, kitchen cabinet, oven, rack, or refrigerator*, from the facilities of Garland Enterprises, Inc., at or near Garland, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 140883 and subs thereto, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 141668 (Sub-No. 1), filed November 25, 1977. Applicant: **LONGMONT TURKEY PROCESSORS, INC.**, 149 Kimbark Street, Longmont, Colo. 80501. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Turkeys and turkey products* and (2) *materials, equipment, and supplies* used in the raising, manufacture, production, and distribution of turkeys and turkey products, except commodities in bulk, between points in Weld and Boulder Counties, Colo., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to a transportation service performed under a continuing contract or contracts with Longmont Turkey Processors, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 142059 (Sub-No. 13), filed November 23, 1977. Applicant: **CARDINAL TRANSPORT, INC.**, P.O. Box 911, 1830 Mound Road, Joliet, Ill. 60434. Applicant's representative: Jack Riley, P.O. Box 911, Joliet, Ill. 60434. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic foam products, building materials and materials and supplies* used in the manufacture and distribution thereof (except commodities in bulk), between St. Louis, Mo., on the one hand, and on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 142059 (Sub-No. 15), filed January 3, 1978. Applicant: **CARDINAL TRANSPORT, INC.**, 1830 Mound Road, P.O. Box 911, Joliet, Ill. 60434. Applicant's representative: Fred H. Daly, 1725 K Street NW., Suite 1009, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and construction materials* from facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies located at or near Lansing, Mich.; Grand Rapids, Mich.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Milwaukee, Wis.; Chicago, Ill.; Blue Island, Ill.; Joliet, Ill.; Kokomo, Ind.; Fort Wayne, Ind.; North Judson, Ind.; Elkhart, Ind.; Cicero, Ind.; Centerville, Iowa; West Des Moines, Iowa; Denver, Colo.; Albuquerque, N. Mex.; Jackson, Miss.; Columbus, Ohio; Toledo, Ohio; Kingsport, Tenn.; Knoxville, Tenn.; South



Pittsburgh (Richard City), Tenn., Atlanta, Ga., Salisbury, N.C., Cabot, Pa., Nazareth, Pa., North Arlington, N.J., and Newton, Kans., to points in the United States (except Alaska and Hawaii), and, (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, from points in the United States (except Alaska and Hawaii) to facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corporation, and subsidiaries of the foregoing companies, located at or near Lansing, Mich., Grand Rapids, Mich., Petoskey, Mich., Holland, Mich., Detroit, Mich., Milwaukee, Wis., Chicago, Ill., Blue Island, Ill., Joliet, Ill., Kokomo, Ind., Fort Wayne, Ind., North Judson, Ind., Elkhart, Ind., Cicero, Ind., Centerville, Iowa, West Des Moines, Iowa, Denver, Colo., Albuquerque, N. Mex., Jackson, Miss., Columbus Ohio, Toledo, Ohio, Kingsport, Tenn., Knoxville, Tenn., South Pittsburgh (Richard City), Tenn., Atlanta, Ga., Salisbury, N.C., Cabot, Pa., Nazareth, Pa., North Arlington, N.J., and Newton, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.; Prehearing Conference, January 31, 1978, at 9:30 am at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 142296 (Sub-No. 3), filed November 25, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: A. *Yarn* from Gastonia, Belmont, and Albemarle, N.C., and Thomaston, Ga., to Minneapolis, Minn.; and B. *clothing, wearing apparel, robes*, both hanging and boxed and *component parts* used in the manufacture thereof (except commodities in bulk). (1) From Hamilton and Guin, Ala., and New Albany, Miss., to Minneapolis, Minn.; Memphis, Tenn.; and Winnfield, La.; (2) from Winnfield, La., to Arkadelphia, Ark., and Memphis, Tenn.; (3) from Crossville, Tenn., to Minneapolis, Minn.; and Seattle, Wash., to Minneapolis, Minn.; (5) from Minneapolis, Minn., to points in Alabama, California, Georgia, Florida, and Washington; (6) from Memphis, Tenn., to Burlington, N.J.; (7) from Burlington, N.J., to Hamilton, Ala.; Arkadelphia, Ark. and Paris, Tex.; (8) and from Hamilton, Ala., to Crossville, Tenn. Service under Parts A and B of the application will be performed under a continuing contract or contracts with Munsingwear, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex., or Memphis Tenn.

No. MC 143377 (Sub-No. 2), filed November 23, 1977. Applicant: BARRY J. WEST, d.b.a. B.J.'s SERVICE, P.O. Box 595, Lititz, Pa. 17543. Applicant's representative: John W. Frame, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *Bound and unbound paper and material* from printing firms, such as printed material and various correspondence or instructions, between points in York, Lebanon, and Lancaster Counties, Pa., on the one hand, and, on the other, points in the New York, N.Y., commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Harrisburg, Pa.

No. MC 143391 (Sub-No. 1), filed November 25, 1977. Applicant: CICIO TRUCKING CO., INC., P.O. Box 661, Woodridge, N.Y. 12789. Applicant's representative: Roy D. Pinsky, 345 South Warren Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ice*, from Sullivan County, N.Y., to New York, New Jersey, and Pennsylvania; *materials and supplies* used in production of egg cartons, from Westboro, Mass., to Sullivan County, N.Y.; and *materials and supplies* used in packaging and distribution of eggs, from Palmer, Mass., to Sullivan County, N.Y.; from Sullivan County, N.Y., to New York, New Jersey, Pennsylvania, Connecticut, and Massachusetts.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in New York City, N.Y., or Syracuse, N.Y.

No. MC 143511 (Sub-No. 1), filed November 22, 1977. Applicant: HARDINGER TRANSFER CO., INC., P.O. Box 521, Erie, Pa. 16512. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, classes A and B explosives, commodities in bulk and those requiring special equipment) in piggyback trailers or containers, and empty piggyback trailers or containers, between points in Erie County, Pa., on the one hand, and, on the other, rail piggyback facilities in Cleveland, Ohio, restricted to traffic having an immediately prior or subsequent movement by rail.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Erie, Pa.

No. MC 143691 (Amendment), filed September 6, 1977, published in the FEDERAL REGISTER issue of October 20, 1977, and republished, as amended,

this issue. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Francis J. Mulcahy (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Microfilm, microfiche, microforms, and related items* between Flora, Miss., on the one hand, and, on the other, points in Alabama, Georgia, Kentucky, Louisiana, North Carolina, Ohio, South Carolina, and Tennessee, restricted to shipments under a continuing contract or contracts with banks, banking institutions and Southern Vital Records Center; (2) *microfilm, microfiche, microforms, and related items* between Memphis, Tenn., on the one hand, and, on the other, points in Arkansas, Mississippi, and Missouri, restricted to shipments under a continuing contract or contracts with banks, banking institutions and Eastman Kodak; and (3) *microfilm, microfiche, microforms, and related items* (a) between Jackson, Miss., on the one hand, and, on the other, Flora, Miss., and (b) between Orlando and Miami, Fla., on the one hand, and, on the other, points in Florida, restricted to the transportation of shipments having an immediately prior or subsequent movement by air and further restricted to the transportation of shipments under a continuing contract or contracts with banks, banking institutions and Southern Vital Records Center.

NOTE.—Applicant has motor common carrier authority pending in No. MC 142330 (Sub-No. 5), therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Memphis, Tenn. The purpose of this amendment is to change the language of the restriction in part (3) above.

No. MC 143848 (Sub-No. 1), filed November 25, 1977. Applicant: J. & B. TRUCKING, INC., 201 Frisco Avenue (P.O. Box 117), Clinton, Okla. 73601. Applicant's representative: C. L. Phillips, Room 248, Classen Terrace Building, 1411 North Classen, Oklahoma City, Okla. 73106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) *Petroleum products*, in containers (except in bulk in tank vehicles), from the facilities of Congo Refinery located in Hancock County, W. Va., to the warehouse facilities of Morrison Wholesale, Inc., located in Clinton, Okla.; and (2) *pneumatic rubber tires and tubes*, from Texarkana, Ark., to the warehouse facilities of Morrison Wholesale, Inc., located in Clinton, Okla., under a continued contract or contracts in (1) and (2) above, with Morrison Wholesale, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Oklahoma City, Okla.

No. MC 143949 (Sub-No. 3), filed November 25, 1977. Applicant: JOHN GALT LINE, INC., 9600 Lucas Ranch Road, Cucamonga, Calif. 91730. Applicant's representative: Lucy Kennard Bell, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Applicant seeks authority as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Motor homes*, in truckaway service, from the plantsites and facilities of Chinook International, Inc., located in Los Angeles County, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 144011, filed November 14, 1977. Applicant: HALL SYSTEMS, INC., 212 South 10th Street, Birmingham, Ala. 35233. Applicant's representative: Robert D. Hunter, Lange, Simpson, Robinson & Somerville, 1700 First Alabama Bank Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General Commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Birmingham, Ala., and New Orleans, La.: From Birmingham over Interstate Highway 65 to junction Interstate Highway 10 thence over Interstate Highway 10 to New Orleans and return over the same route; (2) between Birmingham, Ala., and New Orleans, La.: From Birmingham over U.S. Highway 31 to junction U.S. Highway 90 thence over U.S. Highway 90 to New Orleans and return over the same route. In connection with route 1 and route 2 above serving all intermediate points on route 2 from the Mississippi-Alabama State line to New Orleans and serving those same points as off-route points on route 1. In connection with route 1 above, serving Gainesville, Miss., as an off-route point; (3) between Birmingham, Ala., and New Orleans, La.: From Birmingham over Interstate Highway 59 to New Orleans and return over the same route; (4) between Birmingham, Ala., and New Orleans, La.: From Birmingham over U.S. Highway 11 to New Orleans and return over the same route. In connection with route 3 and route 4 above, serving Meridian, Miss., Laurel, Miss., Hattiesburg, Miss., and Slidell, La., as intermediate points and serving Gainesville, Miss. as an off-route point. Also serving all intermediate points on route 4 from the Mississippi-Alabama State line to New Orleans and serving the same points as off-

route points on route 3; (5) between Birmingham, Ala., and Jackson, Miss.: From Birmingham over Interstate Highway 20 to Jackson and return over the same route; (6) between Birmingham, Ala., and Jackson, Miss.: From Birmingham over U.S. Highway 11 to junction U.S. Highway 80 thence over U.S. Highway 80 to Jackson and return over the same route. In connection with route 5 and route 6 above, serving Meridian, Miss. as an intermediate point on both routes. Also serving all intermediate points on route 6 from the Mississippi-Alabama State line to Jackson, Miss., and serving those same points as off-route points on route 5; (7) between Jackson, Miss., and Gulfport, Miss.: From Jackson over U.S. Highway 49 to Gulfport and return over the same route. In connection with route 7 above, serving all intermediate points between Jackson and Gulfport. Restrictions: No service from New Orleans, La., to points in Mississippi. No service to any Alabama points not in the commercial zone of Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Birmingham, Ala.; New Orleans, La. or Meridian, Miss.

No. MC 144027, filed November 23, 1977. Applicant: WHITE'S DELIVERY SERVICE, INC., 3645 Tulip Street, Philadelphia, Pa. 19134. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cocoa beans and cocoa products*, except in bulk, from Norfolk and Newport News, Va. and Baltimore, Md. to Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Washington, D.C. or Philadelphia, Pa.

No. MC 144029, filed November 23, 1977. Applicant: CUMBERLAND TRANSPORTATION CORP., 5940 Fisher Road, P.O. Box 487, East Syracuse, N.Y. 13057. Applicant's representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07066. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard and pulpboard products, and materials, supplies, and equipment* used in the manufacture and distribution of pulpboard and pulpboard products, between Scotia, N.Y. on the one hand, and on the other, New York, New Jersey, Pennsylvania, Vermont, New Hampshire, Massachusetts, and Connecticut, under continuing contract or contracts with St. Regis Paper Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 144036, filed November 25, 1977. Applicant: J. R. PHILLIPS TRUCKING LTD., R. R. No. 2, Maidstone, Ontario, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in bulk, between the plantsite and warehouses of Zalev Brothers, Ltd., located at or near Port Huron and Detroit, Mich., on the International Boundary Line between the United States and Canada, on the one hand, and on the other, points in that part of Michigan on and south of Michigan Highway 55, including points located on the aforesaid highway, restricted to transportation in foreign commerce only.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Detroit, Mich.

No. MC 144041, filed November 28, 1977. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, Ga. 30345. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals* (except in bulk), from Decatur and Conyers, Ga., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of chemicals (except in bulk), from points in the United States (except Alaska and Hawaii), to Decatur and Conyers, Ga.

NOTE.—Applicant holds contract carrier authority in MC 140883 (Sub-No. 2) and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

No. MC 144044, filed November 25, 1977. Applicant: WILLIAM DARE, JOHN R. DARE, JAMES M. DARE, AND RICHARD W. DARE, a partnership, d.b.a. DARE'S GARAGE, 6255 E. S.R. 22 and S.R. 3, Morrow, Ohio 45152. Applicant's representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, Ohio 43215. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed and replacement vehicles*, in wrecker service, between points in Hamilton, Warren, Clinton, and Butler Counties, Ohio, on the one hand, and, on the other, points in Michigan, Wisconsin, Illinois, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Pennsylvania, New York, Kentucky, Tennessee, New Jersey, Texas, Florida, and Indiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.



No. MC 144126, filed January 3, 1978. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22-A Philadelphia, Miss. 39350. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and construction materials*, from facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies located at or near Lansing, Mich., Grand Rapids, Mich., Petoskey, Mich., Holland, Mich., Detroit, Mich., Milwaukee, Wis., Chicago, Ill., Blue Island, Ill., Joliet, Ill., Kokomo, Ind., Fort Wayne, Ind., North Judson, Ind., Elkhart, Ind., Cicero, Ind., Centerville, Iowa, West Des Moines, Iowa, Jackson, Miss., Columbus, Ohio, Toledo, Ohio, Kingsport, Tenn., Knoxville, Tenn., South Pittsburg (Richard City), Tenn., Atlanta, Ga., Salisbury, N.C., Cabot, Pa., Nazareth, Pa., and Newton, Kans., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin, and West Virginia; and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities named in (1) above, from points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Wisconsin and West Virginia, to facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies, located at or near Lansing, Mich., Grand Rapids, Mich., Petoskey, Mich., Detroit, Mich., Milwaukee, Wis., Holland, Mich., Chicago, Ill., Blue Island, Ill., Joliet, Ill., Kokomo, Ind., Elkhart, Ind., Cicero, Ind., Centerville, Iowa, West Des Moines, Iowa, Jackson, Miss., Columbus, Ohio, Toledo, Ohio, Kingsport, Tenn., Knoxville, Tenn., South Pittsburg (Richard City), Tenn., Atlanta, Ga., Salisbury, N.C., Cabot, Pa., Nazareth, Pa., and Newton, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Indianapolis, Ind. or Washington, D.C. Applicant holds motor contract carrier authority in MC 123905, therefore dual operations may be involved. Prehearing Conference, January 31, 1978, at 9:30 am at the Offices of the Interstate Commerce Commission, Washington, D.C.

## PASSENGERS

No. MC 109736 (Sub-No. 38), filed November 22, 1977. Applicant: CAP-

ITOL BUS COMPANY, d.b.a. CAPITOL TRAILWAYS, a Corporation, 1061 South Cameron Street (P.O. Box 3343), Harrisburg, Pa. 17104. Applicant's representative: S. Berne Smith, 100 Pine Street (P.O. Box 1166), Harrisburg, Pa. 17108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round trip charter operations, and in special operations, in round trip sightseeing or pleasure tours, beginning and ending at points in Columbia, Lycoming, Montour, Northumberland, Snyder, and Union Counties, Pa., and extending to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Williamstown, Pa. Common control may be involved.

No. MC 143874 (Correction), filed October 18, 1977, published in the FEDERAL REGISTER issue of December 15, 1977, and republished, as corrected this issue. Applicant: COLUMBIANA COUNTY MOTOR CLUB, INC., 213 East Fourth Street, East Liverpool, Ohio 43920. Applicant's representative: Gerald P. Wadkowski, 85 East Gay Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Passengers, and their baggage*, in special and charter operations, between points in Columbiana County, Ohio, on the one hand, and, on the other, Pittsburgh International Airport, Pa.

NOTE.—The purpose of this correction is to indicate the correct spelling of applicant's name. If a hearing is deemed necessary, applicant requests it be held at East Liverpool, Youngstown, or Columbus, Ohio or Pittsburgh, Pa.

## FREIGHT FORWARDER

No. FF 504 (Correction), filed September 29, 1977, published in the FEDERAL REGISTER issue of November 25, 1977, and republished, as corrected, this issue. Applicant: GRAY INTERNATIONAL FREIGHT FORWARDING CO., a Corporation, 1290 South Pearl Street, Denver, Colo. 80210. Applicant's representative: Henry C. Winters, 235 Evergreen Building, 15 South Grady Way, Renton, Wash. 98055. The purpose of this correction is to applicant's correct address in Washington, in lieu of West Virginia as previously published. The remainder of the application remains the same as previously published.

## FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carri-

ers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13345. (Correction) (Consolidated Freightways Corp. of Delaware—Pooling of Agreement—Nelson's Express, Inc., et al.), published in the October 14, 1977, issue of the FEDERAL REGISTER, on page 55344. Previous notice was published with an incorrect docket number. The correct number should be MC-F-13345.

No. MC-F-13453. Authority sought for control by A.G.C. Corp. (non-carrier), 111 West Clarendon, Phoenix, Ariz. 85013, of Greyhound Lines, Inc., 111 West Clarendon, Phoenix, Ariz. 85013, Gray Line New York Tours Corp., 354 West 54th Street, New York, N.Y. 10019, Walters Transit Corp., 525 11th Avenue, New York, N.Y. 10018, Texas, New Mexico & Oklahoma Coaches, Inc., Box 1800, Lubbock, Tex. 79409, and Vermont Transit Co., Inc., 135 St. Paul Street, Burlington, Vt. 05401, and for acquisition by the Greyhound Corp., 111 West Clarendon, Phoenix, Ariz. 85013.

Application has been filed by A.G.C. Corp. to acquire control of the above-stated carriers under section 5 of the Interstate Commerce Act. All of the issued and outstanding stock of A.G.C. Corp. is owned by the Greyhound Corp. which currently controls the carriers involved in this proceeding.

The Greyhound Corp. desires to change its State of incorporation from Delaware to Arizona where it maintains its corporate headquarters. The legal mechanism for this change is to merge the Greyhound Corp. into an Arizona corporation which has been created for this purpose, namely A.G.C. Corp.

This merger will not change the name of the company, its authorized or outstanding stocks or securities, or the nature of location of its business, assets, liabilities, or officers or directors. Further, neither this application nor the merger will change any carriers currently controlled by the Greyhound Corp. (a Delaware corporation)

or to be controlled by A.G.C. Corp. before the merger or the Greyhound Corp. (an Arizona corporation) after the merger. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Motion to dismiss filed simultaneously with application.

No. MC-F-13465. Authority sought for purchase by COOPER-JARRETT, INC., Hanover Plaza, Morristown, N.J. 07960, of a portion of the operating rights of Eastern Express, Inc., Debtor-In-Possession, 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by R. E. Cooper, Jr., Hanover Plaza, Morristown, N.J. 07960, of control of such rights through the purchase. Applicant's attorneys: Irving Klein, 371 Seventh Avenue, New York, N.Y. 10001 and Roland Rice, 501 Perpetual Building, 1111 East Street NW, Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities*, with exceptions as a common carrier, over regular routes, between Indianapolis, Ind., and Rochester, Pa., serving no intermediate points, but serving the off route points of Anderson and Muncie, Ind., and Dayton, Ohio: from Indianapolis over U.S. Highway 40 to LaFayette, Ohio, thence over U.S. Highway 42 via Mansfield, Ohio, to Lodi, Ohio, thence over U.S. Highway 224 to Canfield, Ohio, thence over Ohio Highway 46 to Columbiana, Ohio, thence over Ohio Highway 14 to the Ohio-Pennsylvania State line, thence over Pennsylvania Highway 51 to Beaver, Pa., and thence over Pennsylvania Highway 68 to Rochester, and return over the same route, with restriction. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Washington, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13466. Authority sought for purchase by MARTEN TRANSPORT, LTD., Route 3, Mondovi, Wis. 54755, of a portion of the operating rights of Hiawatha Produce Co., 4195 Fourth Street, Winona, Minn. 55987, and for acquisition by Roger Marten, Route 3, Mondovi, Wis. 54755, of control of such rights through the transaction. Applicant's attorneys: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402, and Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, Wis. 53105. Operating rights sought to be purchased: *Dairy products* (except commodities in bulk), as a common carrier, over irregular routes, from points in Minnesota and Wisconsin to

points in Illinois (except points in the Chicago, Ill., Commercial Zone as defined by the Commission) and points in that part of Missouri on and east of U.S. Highway 65, with restrictions; *Foodstuffs*, except commodities, in bulk, as a common carrier, over irregular routes, from the (10 facilities of Mississippi Valley Milk Producers at or near Maquoketa, Iowa, (2) the facilities of Farmers Co-op at or near Cresco and Decorah, Iowa, (3) the facilities of Farmers Butter & Dairy Co-op at or near Fredericksburgs, Iowa, and (4) the facilities of Land O'Lakes, Inc., at or near Hudson, Iowa, to points in Minnesota and Wisconsin, with restrictions; *Foodstuffs*, except in bulk, as a common carrier, over irregular routes, from points in Minnesota and Wisconsin to points in Illinois, Missouri, Kansas, Nebraska, and Iowa, with restrictions. Vendee is authorized to operate as a common carrier in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, and Wisconsin, and as a contract carrier in Arkansas, Ohio, South Dakota, California, North Dakota, Tennessee, and Texas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13467. Authority sought for purchase by BHY TRUCKING, INC., 9231 Whitmore, El Monte, Calif. 91733, of a portion of the operating rights of Western Gillette, Inc., 1077 Gorge Boulevard, Akron, Ohio, 44309, and for acquisition by Roy G. Barrow, 9231 Whitmore, El Monte, Calif. 91733, and G. W. Howell, P.O. Box 10480, Santa Ana, Calif. 92711, of control of such rights through the purchase. Applicant's attorneys: Milton W. Flack, 4311 Wilshire Boulevard, No. 300, Los Angeles, Calif. 90010, and William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Operating rights to be transferred: *Mining and road building machinery and equipment* (including structural steel, pipe and well casing, but not including explosives), and used construction camp equipment, which because of size or weight require the use of special equipment, as a common carrier, over irregular routes, between points in California, on the one hand, and, one the other, points in Arizona. Vendee is authorized to operate as a common carrier in the States of California, Arizona, Texas, New Mexico, Nevada, Oklahoma, Kansas, Arkansas, and Louisiana. Applicant states it intends to tack the authority sought with existing authority. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13471. Authority sought for purchase by COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220, of the operating rights of Fortenberry Transports, Inc., P.O. Box 47, Lubbock,

Tex., 79408, and for acquisition by Billy D. Cox Truck Leasing, Inc. and Billy D. Cox, also of Dallas, Tex., of control of the rights through the purchase. Applicant's attorneys: D. Paul Stafford and Lawrence A. Winkle, P.O. Box 45538, Dallas, Tex. 75245. Operating rights sought to be purchased: *Meats, meat products, and meat by-products*, with exceptions, as a common carrier, over irregular routes, from the plantsite of Swift & Co. near Clovis, N. Mex. to points in the states of Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee, except Memphis, Tenn., Mobile and Selma, Ala., and Pensacola, Fla., as more fully described in Certificate No. MC 133765. Vendee is authorized to operate as a common carrier, transporting specific commodities, over irregular routes, between points in the states of Texas, California, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, District of Columbia, Arizona, Colorado, Florida, New Mexico, North Carolina, Louisiana, Idaho, Nevada, Oregon, Utah, Washington, Georgia, Iowa, Nebraska, Arkansas, Oklahoma, Alabama, Illinois, Indiana, Kentucky, Missouri, Tennessee, Mississippi, Montana, Wyoming, Kansas, West Virginia, Michigan, Wisconsin, and Ohio, and pursuant to Permit No. MC 142296 as a contract carrier of clothing and wearing apparel between Memphis, Tenn. and Los Angeles and San Francisco, Calif. Approval of the proposed transaction will not result in duplicating authority. Application has not been filed for temporary authority under section 210a(b). This application is not related to any pending or simultaneously filed application.

No. MC-F-13475. Authority sought for purchase by NEUENDORF TRANSPORTATION CO., 121 South Stoughton Road, Madison, Wis. 53714, of a portion of the operating rights of Fore Way Express, Inc., 204 South Bellis Street, Wausau, Wis. 54401, and for acquisition by C. J. Neuendorf, of Madison, Wis., and Ervin H. Pries, of Medford, Wis., of control of the such rights through the purchase. Applicant's attorney: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis. 53705. Operating rights sought to be purchased: *General commodities*, with the usual exceptions, as a common carrier, over regular routes between Milwaukee, Wis., and Plover, Wis., serving Madison, Wis., as an intermediate point and Lawrence, Wis., as an off route point, restricted to traffic originating at or destined to Lawrence, Wis., and points in New Chester Township (Adams County), Wis.; and between New Chester Township, Wis., and Milwaukee, Wis., over regular routes, serving the intermedi-



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## NOTICES

ate point of Lawrence, Wis., as described in Certificate No. MC 99565 (Sub-No. 11-Portion). Vendee is authorized to operate as a common carrier in Wisconsin, Illinois, Minnesota, Indiana, Iowa, Michigan, Ohio, Pennsylvania, New York, and New Jersey. Duplicating authority may be involved. Application has not been filed for temporary authority under section 210a(b).

## OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with special rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 140389 (Sub-No. 21), filed December 30, 1977. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, Ala. 35902. Applicant's representative: Maurice F. Bishop, 601-09 Frank Nelson Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton-Factory Products*, from points in Georgia (except Atlanta, Ga.), North Carolina (except Greensboro, N.C.), South Carolina, and those in that part of Alabama on and east of U.S. Highway 31 to points in Washington, Oregon, Idaho, and Utah.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Atlanta, Ga. This is a Gateway Elimination application filed in connection with the merger application—Osborn Transportation, Inc.—Merger—Tompkins Motor Lines, Inc., MC-F-13069 published in the FEDERAL REGISTER issue of March 31, 1977. Osborn Transportation, Inc., and Tompkins Motor Lines, Inc., are under common ownership. They are presently transporting the involved traffic through the Nashville, Tenn., gateway. The applica-

tion seeks to eliminate this gateway in connection with merger of the carriers.

## MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

## MOTOR CARRIERS OF PROPERTY

No. MC 48958 (Deviation No. 79), ILLINOIS-CALIFORNIA EXPRESS, INC., 601 Ross St., Amarillo, Tex. 79189, P.O. Box 9050, filed January 9, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Wickenburg, Ariz., over U.S. Highway 89 to junction U.S. Highway 93, thence over U.S. Highway 93 to junction U.S. Highway 66, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Wickenburg, Ariz., over U.S. Highway 89 to junction U.S. Highway 66 near Ash Fork, Ariz., thence over U.S. Highway 66 to junction U.S. Highway 93 near Kingman, Ariz., and return over the same route.

No. MC 48958 (Deviation No. 80), ILLINOIS-CALIFORNIA EXPRESS, INC., 601 Ross St., P.O. Box 9050, Amarillo, Tex. 79189, filed January 9, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Amarillo, Tex., over U.S. Highway 287 to junction Texas Highway 256, thence over Texas Highway 256 to junction U.S. Highway 83, thence over U.S. Highway 83 to junction U.S. Highway 62, thence over U.S. Highway 62 to junction U.S. Highway 281, thence over U.S. Highway 281 to junction U.S. Highway 277 and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Amarillo, Tex., over U.S. Highway 287 to Wichita Falls, Tex.,

thence over Texas and Oklahoma Highway 79 to junction U.S. Highway 70 near Waurika, Okla., thence over U.S. Highway 70 to junction Oklahoma Highway 76 near Healdton, Okla., thence over Oklahoma Highway 76 to junction Oklahoma Highway 19 at Lindsay, Okla., thence over Oklahoma Highway 19 to junction U.S. Highway 277 near Chickasha, Okla., thence over U.S. Highway 277 to junction U.S. Highway 281 near Richards Spur, Okla., and return over the same route.

No. MC 75320 (deviation No. 67), CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801, filed January 5, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 40 and U.S. Highway 54 over U.S. Highway 54 to junction U.S. Highway 36 near Pittsfield, Ill., thence over U.S. Highway 36 to Springfield, Ill., and return over the same route for operating convenience only. This notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction U.S. Highway 40 and U.S. Highway 54 over U.S. Highway 40 to St. Louis, Mo., thence over U.S. Highway 66 to Springfield, Ill., and return over the same route.

No. MC 89723 (deviation No. 44), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th St., St. Louis, Mo. 63103, filed January 9, 1978. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From West Memphis, Ark., over Interstate Highway 40 to junction U.S. Highway 49, thence over U.S. Highway 49 to junction U.S. Highway 79, thence over U.S. Highway 79 to junction Arkansas Highway 98, thence over Arkansas Highway 98 to junction U.S. Highway 82, thence over U.S. Highway 82 to Texarkana, Ark., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From West Memphis, Ark., over U.S. Highway 64 to Bald Knob, Ark., thence over U.S. Highway 67-167 to N. Little Rock, Ark., thence over U.S. Highway 67 to Texarkana, Ark., and return over the same route.

## MOTOR CARRIER INTERSTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate au-

thority sought, pursuant to Section 206(a) (6) of the Interstate Commerce act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Florida Docket No. 770973 CCT, filed December 14, 1977. Applicant: ROUNDTREE TRANSPORT, INC., 3580 Southwest 46th Avenue, Fort Lauderdale, Fla. Applicant's representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, Fla. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of *building and construction material and supplies*, in truckload lots, on flatbed equipment only, between points in Florida. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to Florida Public Service Commission, 700 South Adams Street, Tallahassee, Fla. 32304, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 77-674-T, filed December 2, 1977. Applicant: ASKINS MOVING & STORAGE, INC., 1305 East Palmetto Street, Florence, S.C. 29502. Applicant's representative: Jack L. Nettles, 229 South Coit Street, P.O. Box 1461, Florence, S.C. 29503. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of (1) *household goods*, between points and places in South Carolina; and (2) *commodities in general* (except petroleum products in bulk in tank trucks; classes A and B explosives and classes A, C and D poisons as defined under explosives and other dangerous articles in American Trucking Association, Inc., Agent Tariff No. 10, MF-ICC No. 11, PSCSC No. 11, supplements thereto or reissues thereof; and household goods and related articles, as defined in Motor Truck Rate Bureau, Agent, household goods Tariff, Motor Freight Tariff No. 8-D, SCPSC-MF No. 79, supplements thereto or reissues thereof; and except drugs and drug sundries for King Drug Co., Florence, S.C., from Florence to Darlington, Harts-ville, Kingstree, Lake City, Lamar, Olanita and Timmons-ville, S.C.; and commodities in general for Sears, Roebuck & Co., unless having prior or subsequent movement by rail in TOFC Trailers), between points and places in Darlington and Florence Counties, S.C., and between points and places in Darlington and Florence Counties and points and places in South Carolina. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to South Carolina Public Service Commission, P.O. Box 11649, Transportation Department, Columbia, S.C. 29211, and should not be directed to the Interstate Commerce Commission.

By the Commission.  
H. G. HOMME, Jr.,  
Acting Secretary.  
[FR Doc. 78-1424 Filed 1-18-78; 8:45 am]

## NOTICES

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[7035-01]

[Notice No. 5]

## SPECIAL PROPERTY BROKERS

JANUARY 18, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness within 30 days after this notice. Statements must be mailed to: Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B-77-12, filed October 20, 1977. Applicant: MERCURY INTERNATIONAL FORWARDERS, INC., 820 East "D" Street, Wilmington, Calif. 90744. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1540 Filed 1-18-78; 8:45 am]



## sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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#### [6355-01]

#### CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., January 25, 1978.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

##### UNVENTED GAS-FIRED SPACE HEATERS

The staff will brief the Commission on a possible proposed ban of unvented gas-fired space heaters under the Consumer Product Safety Act, because of possible carbon monoxide poisoning or asphyxiation hazards associated with these heaters.

#### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

(S-122-78 Filed 1-17-78; 1:57 pm)

#### [6355-01]

#### CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., January 26, 1978.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

1. *Recommendation to Accept Corrective Action Plan: Massey-Ferguson, Inc., lawn tractor, ID 77-67.*—The staff has recommended that the Commission accept the corrective action plan which Massey-Ferguson has implemented to deal with a possible hazard associated with steering wheels on certain Massey-Ferguson lawn tractors.

2. *Petition to Require Special Packaging for Acetaminophen Preparations PP 76-9.*—Stephen D. Steckel, assistant director of pharmacy at Strong Memorial Hospital, Rochester, N.Y., has asked the Commission to require child-resistant packaging on products containing the aspirin-substitute acetaminophen, because of alleged overdose problems among children.

3. *Commission Meeting in California.*—James P. DiGrazia, director of the Commission's San Francisco Area Office, has recommended that the Commission hold a formal business session in California, in order to provide greater public exposure to CPSC decisionmaking.

#### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

(S-121-78 Filed 1-17-78; 1:57 pm)

#### [6570-06]

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Monday, January 23, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

#### MATTERS TO BE CONSIDERED:

Part open to the public: American Arbitration Association: Proposed Contract for development of materials to be used in staff training for resolution of conflicts arising from the filing of charges of employment discrimination.

Part closed to the public: Revised Phasing Plan for Field Office Structure.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 16, 1978. (S-115-78 Filed 1-17-78; 8:52 am)

#### [6570-06]

#### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-115-78, ante.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Monday, January 23, 1978.

#### CHANGES IN THE MEETING:

The following item is added to the agenda for the closed part of the meeting:

Litigation Authorization: General Counsel Recommendations: Matters closed to the public under § 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows: In favor of change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner.

Opposed: None.

#### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This notice issued January 17, 1978. (S-126-78 Filed 1-17-78; 3:53 pm)

#### [7545-01]

#### NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m. Friday, January 27, 1978.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation.

MATTERS TO BE CONSIDERED: Consideration of applicants qualified for appointment to Administrative Law Judge.

#### CONTACT PERSON FOR MORE INFORMATION:

Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, telephone number 202-254-9430.

Dated: January 16, 1978, Washington, D.C.

By direction of the Board.

For the National Labor Relations Board.

GEORGE A. LEET,  
Associate Executive Secretary.  
(S-114-78 Filed 1-17-78; 8:52 am)

#### [4910-58]

#### NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Friday, January 20, 1978 [NM-78-41].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed. (A majority of the Board has voted that the meeting may be closed and that no earlier notice was possible.) (Exemption 9B.)

MATTERS TO BE CONSIDERED: Formulation of Board comments on proposed legislation, as requested by Office of Management and Budget.

#### CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming 202-426-8860.  
(S-124-78 Filed 1-17-78; 3:31 pm)

#### [4910-58]

#### NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, January 26, 1978 [NM-78-51].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

#### MATTERS TO BE CONSIDERED:

1. *Marine Accident Report.*—Collision of the SS *Marine Floridian* with

### SUNSHINE ACT MEETINGS

the Benjamin Harrison Bridge near Hopewell, Va., on February 24, 1977.

2. *Railroad Accident Report.*—Rear end collision of two ConRail freight trains, Stemmers Run, Baltimore, Md., June 12, 1977.

3. *Aviation Special Study.*—Emergency locator transmitters: An overview.

4. *Discussion.*—Letter to the Secretary of State concerning international aviation investigations and NTSB order 6220.1, Board policy regarding participation in international aircraft accident investigations.

5. *Discussion.*—NTSB public hearings and how rotation among the members will be established.

6. *Discussion.*—Selection of railroad accidents to investigate.

#### CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-426-8860.  
(S-125-78 Filed 1-17-78; 3:31 pm)

#### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, January 12, 1978.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open (additional item)

#### MATTERS TO BE CONSIDERED:

2 p.m.—Affirmation of order extending time in review of ALAB-447 (Exxon). By unanimous vote on January 12, 1978 the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that this agenda item be held on less than one week's notice to the public. Immediate action is required to permit additional time to review the matter.

#### CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 13, 1978.  
(S-117-78 Filed 1-17-78; 10:36 am)

#### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 16, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

STATUS: Open and Closed (Changes).  
MATTERS TO BE CONSIDERED:

#### Monday, January 16

9:30 a.m. Final Disposition of NRDC Petition for Reconsideration in S-3 Rulemaking Proceeding (Public Meeting). Rescheduled from Wednesday, January 18, 1978.

#### Wednesday, January 18

2 p.m. (1) Discussion of Proposed Publication of Final Export/Import Regulations (Public Meeting). Approximately 1 hour, if required, continued from January 12. Other items as scheduled.

#### Thursday, January 19

2 p.m. (2) Additional item—Appellate Review in Midland (Closed-Exemptions 6 and 10), continued from January 12, 1978.

#### CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 13, 1978.

(S-119-78 Filed 1-17-78; 10:36 am)

#### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, January 16, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed (Additional Item).

#### MATTERS TO BE CONSIDERED:

3 p.m.—Discussion Concerning a Special Proceeding in the Midland Licensing Proceeding (Exemption 10).

#### CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 16, 1978.

(S-116-78 Filed 1-17-78; 10:36 am)

#### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 23, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.



## SUNSHINE ACT MEETINGS

## MATTERS TO BE CONSIDERED:

Monday, January 23

9:30 a.m. (1) Briefing on NRC Policy on Notifying Boards and Panels. Approximately 1 hour. Public Meeting. (2) Proposals for Settlement of Sheffield Waste Disposal Case. Approximately ½ hour. Public Meeting.

1:30 p.m. (1) Briefing on National Plan for Safeguards Contingencies. Approximately 1 hour. Public Meeting. (2) Discussion of Notification of Congress with Regard to International Safeguards Matters. Approximately 1 hour. Public Meeting.

Tuesday, January 24

9:30 a.m. (1) Oral Arguments in St. Lucie (ALAB-420). Approximately 1 hour. Public Meeting. (2) Discussion of St. Lucie (ALAB-420). Approximately 1 hour. Public Meeting.

1:30 p.m. (1) Briefing by Department of State Representatives on Export Matters. Approximately 1 hour. (Closed—Exemptions 1 and 9.) (2) Discussion of Personnel Matter. Approximately 1½ hours. (Closed—Exemption 6.)

## CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.  
[S-118-78 Filed 1-17-78; 10:36 am]

[7905-01]

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## U.S. RAILROAD RETIREMENT BOARD.

## "FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., January 23, 1978.

CHANGES IN THE MEETING: Additional item to be considered at closed meeting: (7) Appeal from referee's denial of disability annuity application, William W. Abbott.

## CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board,  
COM No. 312-751-4920, FTS No. 387-4920.

[S-120-78 Filed 1-17-78; 12:26 pm]

[8010-01]

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## SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 23, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, January 24, 1978, at 10 a.m. Open meetings will be held on Tuesday, January 24, 1978, at 3:30 p.m., on Wednesday, January 25, 1978, at 10 a.m., on Wednesday, January 25, 1978, at 2:30 p.m., and on Thursday, January 26, 1978, at 2 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(9) and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, January 24, 1978, at 10 a.m., will be:

Referral of investigative files to Federal, State or Self-Regulatory authorities. Formal orders of investigation.

Institution of injunctive actions.  
Institution of administrative proceedings.  
Settlement of administrative proceedings.  
Other litigation matters.

The subject matter of the open meeting scheduled for Tuesday, January 24, 1978, at 3:30 p.m., will be:

The Commission will meet with representatives of the Association of Corporate Secretaries to discuss current issues and developments of mutual concern.

The subject matter of the open meeting scheduled for Wednesday, January 25, 1978, at 10 a.m., will be:

1. The issuance of a release confirming the expiration date of January 31, 1978, with regard to Rule 15c2-11(f)(4)(T) concerning information required for initiation or resumption of quotations. (The expiration date for this rule has been previously extended by the Commission several times).

2. Further consideration of soliciting public comments on proposed Rule 206(4)-3 under the Investment Advisers Act of 1940 which would set forth guidelines pursuant to which investment advisers can make cash payments to persons who solicit clients for such investment advisers.

3. The issuance of a release announcing the Commission's preliminary response to the recommendations of the Advisory Committee on Corporate Disclosure.

The subject matter of the open meeting scheduled for Wednesday, January 25, 1978, at 2:30 p.m., will be:

Oral argument in the matter of Allen Mansfield concerning an appeal from disciplinary action taken against him by the National Association of Securities Dealers, Inc.

The subject matter of the open meeting scheduled for Thursday, January 26, 1978, at 2 p.m., will be:

The Commission will meet with interested persons who wish to express their views concerning the valuation of portfolio securities by money market funds.

## FOR FURTHER INFORMATION CONTACT:

Judy L. Chesser at 202-376-8065 or Margaret Topps at 202-376-8003.

JANUARY 16, 1978.

[S-123-78 Filed 1-17-78; 3:31 pm]



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	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
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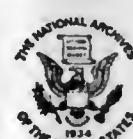
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## rules and regulations

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## [6325-01]

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

## Temporary Boards and Commissions

## AGENCY: Civil Service Commission.

## ACTION: Final rule.

SUMMARY: Not to exceed 40 positions on the staff of the Indian Claims Commission are excepted under schedule A until September 30, 1978, because it is impracticable to hold an examination for them.

## EFFECTIVE DATE: January 20, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3199(h) is added as set out below:

## § 213.3199 Temporary boards and commissions.

(h) *Indian Claims Commission.* (1) Until September 30, 1978, not to exceed 40 positions on the staff of the Commission.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

(FR Doc. 78-1364 Filed 1-19-78; 8:45 am)

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Department of Housing and Urban Development

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, January 16, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following three positions are excepted from the competitive service under Schedule C because they are confidential in nature: one Special Assistant to the Deputy Assistant Secretary for Regulatory Functions, one Special Assistant for Neighborhood Concerns, and one Special Assistant to the Deputy Assistant Secretary for Neighborhood and Consumer Affairs.

## EFFECTIVE DATE: January 16, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3384 (1), (5), (6), and (7) are added as set out below:

## § 213.3384 Department of Housing and Urban Development.

(1) *Office of the Assistant Secretary for Neighborhood Organizations, Voluntary Associations, and Consumer Protection.* . . .

(5) One Special Assistant to the Deputy Assistant Secretary for Regulatory Functions.

(6) One Special Assistant for Neighborhood Concerns.

(7) One Special Assistant to the Deputy Assistant Secretary for Neighborhood and Consumer Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

(FR Doc. 78-1307 Filed 1-13-78; 8:45 am)

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Civil Aeronautics Board

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Writer, Office of Community and Congressional Relations, is excepted under

Schedule C because it is confidential in nature.

## EFFECTIVE DATE: January 20, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3340(h) is added as set out below:

## § 213.3340 Civil Aeronautics Board.

(h) One Writer, Office of Community and Congressional Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

(FR Doc. 78-1670 Filed 1-19-78; 8:45 am)

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Congressional Liaison Officer, Office of Congressional Relations, is excepted from the competitive service under Schedule C because it is confidential in nature.

## EFFECTIVE DATE: January 20, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(q)(7) is amended to read as follows:

## § 213.3314 Department of Commerce.

(q) *Office of the Assistant Secretary for Economic Development.* . . .

(7) One Director and one Congressional Liaison Officer for the Office of Congressional Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

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For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1671 Filed 1-19-78; 8:45 am]

## [6325-01]

**PART 213—EXCEPTED SERVICE**  
Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Director, Office of Public Affairs, Federal Highway Administration is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3394(d)(6) is added as set out below:

§ 213.3394 Department of Transportation.

(d) *Federal Highway Administration.*

(6) Director, Office of Public Affairs.  
(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1672 Filed 1-19-78; 8:45 am]

## [6325-01]

**PART 213—EXCEPTED SERVICE**

Regional Commissions, Public Works and  
Economic Development Act of 1965

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Confidential Assistant to the Federal Co-chairman, Coastal Plains Regional Commission, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 20, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3386(f) is added as set out below:

§ 213.3386 Regional Commission, Public Works and Economic Development Act of 1965.

## RULES AND REGULATIONS

(f) One Confidential Assistant to the Federal Co-chairman, Coastal Plains Regional Commission.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1673 Filed 1-19-78; 8:45 am]

## [3410-02]

Title 7—Agriculture

**CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE**

**PART 26—GRAIN STANDARDS**

United States Standards for Corn

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Department is amending the U.S. Standards for Corn by providing an additional special grade to be used in the inspection of "Waxy Corn," a special-purpose corn. The amendment does not alter current inspection procedures applicable to varieties of corn other than waxy.

EFFECTIVE DATE: February 1, 1978.

FOR FURTHER INFORMATION CONTACT:

N. Gail Jackson, Director, Standardization Division, Federal Grain Inspection Service, Room 0629-S, 1400 Independence Avenue SW., Washington, D.C. 20250, telephone 202-447-8975.

SUPPLEMENTARY INFORMATION: The United States Grain Standards Act, as amended by this Act of September 29, 1977 (Pub. L. 95-113, 91 Stat. 913) provides for official U.S. standards to designate the quality of grain for use by producers, merchandisers, and consumers in the domestic and export marketing of grain. The Act provides for an official grading service and payment of a fee by the applicant to cover the cost of the service. Pursuant to section 4 of the Act (7 U.S.C. 76), a notice concerning a proposed revision of the United States Standard for Corn (7 CFR 26.351 et seq.) was published in the FEDERAL REGISTER (41 FR 61473) on December 5, 1977, according to the administrative provisions of section 553 of Title 5, United States Code. Reprints of the proposed revision as printed were made and mailed as ST

\*Including matters within the responsibility of the Federal Grain Inspection Service.

Notice 11 on December 8, 1977 to approximately 800 recipients, including official inspection personnel and interested parties in the grain industry. Persons were given 22 days from date of publication in the FEDERAL REGISTER to submit written comments, suggestions, or objections regarding the proposed rulemaking to the Hearing Clerk, U.S. Department of Agriculture. As of December 30, there was one response. It supported the proposal and urged implementation of the changes.

The words "or pink color" were inadvertently included in § 26.905(b) of the proposal but are omitted in the final rulemaking. The Department proposed to remove the restriction on "straw color" in waxy corn but not the restriction for "pink color". Waxy corn tends to be a "straw color" because of its high content of amylopectin starch. Under the current standards for corn, this straw color results in the downgrading of the sample based on its natural appearance. To eliminate this downgrading, the restriction on "straw color" does not apply to waxy corn.

It is further found that good cause exists for not postponing the effective date of this amendment until 1 year after publication in the FEDERAL REGISTER in that:

(1) Compliance with the amendments will not impose any obligation upon nor require any special preparation on the part of producers and handlers which cannot be completed by the effective time thereof; (2) the 1977 crop of waxy corn has already been harvested, and it is necessary that the amended standards be made effective as soon as possible to aid in the export marketing of the current crop; (3) the amended standards will in no way alter the grading of varieties of corn other than waxy.

Accordingly, §§ 26.353 and 26.905 of the United States Standards for Corn are amended to read as follows:

§ 26.353 Grades, grade requirements, and grade designations.

(c) *Special grades, special grade requirements, and special grade designations for corn—*(1) *Flint corn.*

(2) *Flint and dent corn.*

(3) *Weevily corn.*

(4) *Waxy corn—*(i) *Requirement.* Waxy corn shall be corn of any class which consists of 95 percent or more waxy corn, as determined by a test approved by the Administrator.

(ii) *Grade Designations.* Waxy corn shall be graded and designated according to the grade requirements of the standards applicable to such corn if it were not waxy, and there shall be added to and made a part of the grade designation immediately following the word "corn," the word "waxy."

§ 26.905 Interpretations with respect to the term "white kernels of corn with a slight tinge of light straw or pink color."

(a) Except for white waxy corn, the term "white kernels of corn with a slight tinge of light straw or pink color," when used in the United States Standards for Corn (see § 26.351(d)), shall be construed to include kernels which are white and/or light straw or light pink in color, and kernels which are white and pink in color: *Provided*, The pink color covers less than 50 percent of the kernel. White and pink kernels in which the pink color covers 50 percent or more of the kernel shall be considered as "corn of other colors."

(b) For the special grade "waxy," the requirement of "a slight tinge of light straw" shall not be applicable; however, kernels which are "slightly yellow" shall be considered as "corn of other colors." All other color requirements contained in the above paragraph remain in effect for all classes of waxy corn.

Done at Washington, D.C., January 17, 1978.

L. E. BARTELT,  
Administrator.

[FR Doc. 78-1681 Filed 1-19-78; 8:45 am]

## [3410-05]

**CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE**

**SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS**

**PART 729—PEANUTS**

1978 Crop of Peanuts: Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

ACTION: Proclamation.

SUMMARY: The U.S. Department of Agriculture announces the results of the referendum held during the period December 12-15, 1977, pursuant to section 358(b) of the Agricultural Adjustment Act of 1938, as amended, to determine whether farmers favor or oppose marketing quotas for peanuts produced in the calendar years 1978, 1979, and 1980. Since the only purpose of this proclamation is to announce the results of the referendum, it is found and determined that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is unnecessary.

DATE: January 13, 1978.

ADDRESS: Price Support and Loan Division, ASCS, USDA, 3741 South

## RULES AND REGULATIONS

Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Thomas A. VonGarlem, ASCS, 202-447-7954.

SUPPLEMENTARY INFORMATION: In a final rule published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61590), the Secretary of Agriculture announced that a marketing quota referendum for the 1978, 1979, and 1980 crops of peanuts would be held by mail ballot during the period December 12-15, 1977, inclusive. Section 358(b) of the Agricultural Adjustment Act of 1938, as amended, requires that the Secretary proclaim the results of the referendum within thirty days after the date on which it is held.

**FINAL RULE**

Accordingly, 7 CFR 729.105 is amended to read as follows:

§ 729.105 Proclamation of the results of the marketing quota referendum for the peanut crops produced in the three calendar years 1978, 1979, and 1980.

In a referendum of farmers engaged in the production of 1977-crop peanuts, held during the period December 12-15, 1977, 29,075 farmers voted. Of those voting, 27,228 farmers, or 93.8 percent, favored marketing quotas for peanuts produced in the three calendar years 1978, 1979, and 1980 and 1,847 farmers, or 6.4 percent opposed quotas for peanuts produced in each of such three calendar years. Since more than two-thirds of the farmers voting favored quotas, marketing quotas for peanuts produced in the calendar years 1978, 1979, and 1980 shall be effective.

(Secs. 358, 375, 52 Stat. 66, as amended; 55 Stat. 88, as amended; 7 U.S.C. 1358, 1375.)

Signed at Washington, D.C., January 12, 1978.

STEWART N. SMITH,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-1375 Filed 1-13-78; 2:48 pm]

## [3410-02]

**CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE**

[Lemon Reg. 129]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 22-28, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 17, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good on 115's and smaller and easier on larger sizes.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.429 Lemon Regulation 129.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 22, 1978, through January 28, 1978, is established at 190,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)



Dated: January 19, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable  
Division, Agricultural  
Marketing Service.

[FR Doc. 78-1978 Filed 1-19-78; 11:36 am]

# [1505-01]

## PART 959—ONIONS GROWN IN SOUTH TEXAS

Expenses and Rate of Assessment

### Correction

In FR Doc. 78-510 appearing on page 1475 in the issue of Tuesday, January 10, 1978, the date in the 4th paragraph entitled "EFFECTIVE DATE" should read, August 1, 1977.

# [1505-01]

[Amdt. No. 1]

## PART 967—CELERY GROWN IN FLORIDA

Increase in Expenses and Rate of Assessment

### Correction

In FR Doc. 78-508 appearing on page 1475, in the issue of Tuesday, January 10, 1978, the date in the 4th paragraph entitled "EFFECTIVE DATE" should read, August 1, 1977.

# [3410-05]

## CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER D—PROVISIONS COMMON TO MORE THAN ONE PROGRAM

## PART 792—NORMAL CROP ACREAGE AND SET-ASIDE ACREAGE

Revision of Regulations

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the normal crop acreage and set-aside acreage regulations to read as set out below, requiring that normal crop acreages be established for farms instead of conserving bases. It also requires that the set-aside normally be land that was recently tilled, that the set-aside normally be protected by vegetative cover, and that harvesting of the cover be prohibited. These changes make the set-aside more effective in controlling production and assure that the set-aside is protected from wind and water erosion. The material previously appearing under conserving base and designated set-aside

acreage regulations remains in effect for the programs to which it applies.

EFFECTIVE DATE: February 21, 1978.

### FOR FURTHER INFORMATION CONTACT:

Ernest Stevens, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, 202-447-7633.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55243). More than 3,800 people responded with written comments, and many comments were received by telephone. The written comments and the final decisions by this Department are summarized as follows:

1. *Crops in the Normal Crop Acreage.* The list of crops as provided for in the proposed rule in 7 CFR 792.2 remains unchanged. 1,120 comments were received. All but one comment favored adding specific crops to the list of proposed crops. However, crops normally substituted with the crops listed in 7 CFR 792.2 or for which the acreage may be adversely affected by set-aside programs may be approved by the Deputy Administrator, State and County Operations, ASCS, when such crops are recommended by the State committee.

2. *Cover on Set-Aside.* 625 comments were received which recommended that no vegetative cover be required on the set-aside acreage. 286 recommendations were for a cover crop. In addition, there were 1,181 recommendations to permit summer fallow on the set-aside acreage and there were 12 recommendations to prohibit summer fallow on the set-aside acreage. In the proposed rule, cover was required in order to control wind and water erosion and improve wildlife habitat. However, the comments pointed out that in some areas erosion is no problem and cover cannot be established unless the land is irrigated. This requires using water and energy that need to be preserved. The stubble or other residue from the previous crop may in other areas provide better erosion protection than a crop that would require land preparation. Farming practices other than seeded vegetation which will provide erosion protection and which are recommended by the State committee will be approved by the Deputy Administrator.

3. *Grazing Set-Aside.* The proposed rule prohibited grazing on set-aside acreage except under emergency situations. All but 30 of the 3,448 comments recommended that grazing be allowed on set-aside acreage. Most of the comments stressed that much small grain

is grazed and later harvested for grain and that farmers who set aside part of the acreage to reduce grain production should not lose the acreage for grazing as well. Also, it was stressed that grazing helps to control weeds and reduce growth that otherwise may be injurious to the cover-crop. The recommendations which were against allowing grazing on set-aside acreage claimed that grazing creates an inequity since some producers would receive no benefit. It was also pointed out that permitting grazing on set-aside acreage may help create a surplus livestock situation because more acreage may be grazed. Grazing will be permitted but will be excluded during the six principal growing months when grazing would not normally occur for crops being produced for harvest.

4. *Harvesting Set-Aside.* All but 6 of the 160 comments recommended that harvesting be permitted on set-aside acreage. There were recommendations as to specific crops which could be harvested on set-aside acreage. However, permitting the production of crops for harvest on set-aside acreage makes the set-aside less effective. Therefore, harvesting will be permitted only under emergency situations.

5. *Cross Compliance on the Farm.* The proposed rule provided for cross compliance. There were 53 comments recommending no cross compliance requirement and 7 comments which favored imposing a cross compliance requirement. The final rule provides for a cross compliance requirement on the farm. The acreage of all crops in the normal crop acreage is controlled when set-aside requirements are in effect for a crop grown on the farm. Failure to meet program requirements for that crop should preclude benefits for other crops on the farm that are in the normal crop acreage.

6. *Offsetting Compliance Between Farms.* The proposed rule required compliance with set-aside and normal crop acreage requirements for all farms on which the program participant was landlord, landowner, or operator. All of the 367 comments recommended elimination of this requirement. However, the final rule contains a modified offsetting compliance requirement to prevent producers from offsetting reduced production on a participating farm by increasing production on a nonparticipating farm that produces one or more crops for which a set-aside requirement is in effect.

7. *Miscellaneous Provisions.* A number of comments concerned the land eligible for designation as set-aside acreage. Some recommendations were to accept all cropland, to accept all land in grass or in tame hay, to accept all former Soil Bank land, and to accept all land which could be tilled. These recommendations were

not adopted because they would include much land not now in crop production because it is unsuitable. Other comments questioned the exclusion of small grain from the normal crop acreage when used for other than grain. The final rule includes all the acreage of crops in the normal crop acreage that was planted in 1977 for other than cover or green manure.

### FINAL RULE

7 CFR Part 792 is revised to read as follows:

Sec.  
792.1 Applicability.  
792.2 Normal crop acreage.  
792.3 Designation of set-aside acreage.  
792.4 Care of set-aside acreage.  
792.5 Use of set-aside acreage.  
792.6 Cross compliance on the farm.  
792.7 Offsetting compliance between farms.

AUTHORITY: Secs. 101(h), 103(f), 105A and 107A of the Agricultural Act of 1949, as added by Pub. L. 95-113 (91 Stat. 913 et seq.), Sec. 1001 of Title X of Pub. L. 95-113 (91 Stat. 950).

### § 792.1 Applicability.

This part provides the rules for determining the farm normal crop acreage and for designation, care and use of acreage set aside under the 1978-81 Feed Grain Program, Part 775 of this chapter, as amended; the 1978-81 Rice Program, Part 730 of this chapter, as amended; the 1978-81 Wheat Program, Part 728 of this chapter, as amended; the 1978-81 Upland Cotton Program, Part 722 of this chapter, as amended; and all other programs to which this part is made applicable by individual program regulations. The number of acres to be set aside for each program will be stated in the individual program regulations. In this part and in all instructions, forms and documents in connection with it, the words and phrases used shall, unless the context or subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitution of farms and allotments, Part 719 of this chapter, as amended, and in the regulations governing the programs to which this part is applicable.

### § 792.2 Normal crop acreage.

The normal crop acreage (herein called NCA) shall be the acreage planted in 1977 to the following crops for other than cover or green manure and any volunteer acreage of these crops harvested for grain: barley, field corn, grain sorghum, rice, wheat, upland cotton, oats, rye, soybeans, flax, dry edible beans, sunflower, sugar beets, sugar cane, and any other major field crop of significant acreage which is recommended by the State committee and approved by the Deputy Administrator, State and County Operations, ASCS. The 1977 acreage shall be determined, and ad-

justed when abnormal, in accordance with instructions issued by the Deputy Administrator.

### § 792.3 Designation of set-aside acreage.

(a) *Land eligible for designation.* Subject to the provisions of paragraph (b) of this section, the land eligible for designation as set-aside acreage must be cropland that was tilled within the previous three years in the production of a crop for other than hay or pasture, unless the county committee determines that the cropland was devoted in all of the previous three years to a hay crop that was in a normal rotation pattern with a small grain or row crop, or the cropland was designated as set-aside in any one year for which a set-aside program was in effect and was eligible when designated.

(b) *Land not eligible for designation.* Land will not be eligible for designation if it is:

(1) Land which is designated as set-aside under any other program for the calendar year (year in which the set-aside is in effect).

(2) Land for which a prevented planting or low yield payment is made for the calendar year.

(3) Turn rows, drainage ditches, wet low-lying areas, droughty knobs or banks, areas rejected by the county committee because of their small size or shape, or land in an orchard or vineyard and strips in skiprow planting patterns.

(4) Land which at the time the set-aside acreage is designated is expected to be used in the current year or a later year for industrial development, housing, highway construction, or other nonfarm use, and the land would not, in the absence of the program, be devoted in the current year to a crop for harvest.

(5) Land devoted to nonagricultural use on or before September 30 of the current year, unless such land is acquired by eminent domain and a representative of the State committee determines that it would not have been anticipated at the time of designation that the land would be devoted to non-agricultural use before the end of the current year.

(6) Land from a receding lake or areas bordering a lake which the producer does not have title to or otherwise have authority to use for crops.

(7) Land planted to grain for a State or National wildlife agency for wildlife.

(8) Land owned and operated by a State, county, or local government unless the owner establishes to the satisfaction of the county committee that it has adequate equipment and other facilities readily available for the successful production of crops under a set-aside program and that the production of such crops is a normal practice for such land.

### § 792.4 Care of set-aside acreage.

(a) *Approved cover and practices.* The set-aside shall be devoted by the normal period for planting spring crops to one or more of the following approved covers or practices, or to other cover or practices recommended by the State committee and approved by the Deputy Administrator which will effectively protect the set-aside from wind and water erosion throughout the calendar year:

(1) Annual, biennial, or perennial grasses and legumes, including volunteer stands other than weeds which meet the criteria set forth by the State committee.

(2) Small grains, including volunteer stands other than weeds which meet the criteria set forth by the State committee. They must be clipped to prevent seed formation except when approved for wildlife cover.

(3) Trees or shrubs planted for erosion control, shelter-belts, or other forestry purposes or for wildlife habitat during the current year or the fall of the preceding year, provided these practices are on designated set-aside acreage otherwise eligible under § 792.3.

(4) Terraces and sod waterways developed in the current year or the fall of the preceding year, provided these practices are on designated set-aside acreage otherwise eligible under § 792.3.

(5) Water storage developed for any purpose, including fish or wildlife habitat, during the current year or the fall of the preceding year, provided this practice is on designated set-aside acreage otherwise eligible under § 792.3.

(b) *Control of erosion, insects, weeds, and rodents.* The farm operator shall carry out such measures as are needed for the control of erosion, insects, weeds, and rodents on the set-aside acreage.

(c) *Land preparation for fall seeded crops.* Crops may be seeded on the set-aside acreage in the fall for harvest the next year. The land can be prepared in the fall and left bare only when recommended by the State committee and approved by the Deputy Administrator.

### § 792.5 Use of set-aside acreage.

(a) *Restriction on harvesting.* No crop shall be harvested from the set-aside acreage in the current year, or after December 31 of the current year if the crop would normally mature and be harvested in the current year, except when approved under emergency situations in accordance with instructions issued by the Deputy Administrator. A crop may be harvested if the crop is one which matured in the year preceding the current year on land which was not designated as set-aside in such year and the harvesting



was delayed because of adverse weather or other conditions beyond the control of the farm operator.

(b) *Restriction on grazing.* The set-aside acreage shall not be grazed during the six principal growing months as established by the State committee, except when approved under emergency situations in accordance with instructions issued by the Deputy Administrator.

#### § 792.6 Cross compliance on the farm.

To qualify on the farm for loans (other than for sugar), purchases, and payments authorized for crops included in the NCA, producers on a farm that produces one or more crops for which a set-aside requirement is in effect shall:

(a) Set aside the acreage required for each crop, and

(b) Limit the acreage of crops in the NCA to the NCA less the amount of the acreage which is required to be set aside.

#### § 792.7 Offsetting compliance between farms.

(a) To qualify for loans (other than for sugar), purchases, and payments authorized for crops included in the NCA on a farm participating in the program that produces one or more crops for which a set-aside requirement is in effect, the landlord, landowner, or operator shall assure that on each nonparticipating farm for which he is a landlord, landowner, or operator that produces one or more crops for which a set-aside requirement is in effect, the acreage of crops in the NCA are limited to the NCA.

(b) A landowner or landlord cannot escape responsibility for complying with paragraph (a) of this section by leasing for cash or other consideration all or part of a farm.

(c) Any executor, trust officer, or farm manager responsible for the management of a farm shall be considered as the operator of the farm for purposes of paragraph (a) of this section when he receives a percentage of the farm income exceeding 10 percent of the crops or proceeds thereof for such management service.

(d) For purposes of paragraph (a) of this section, all persons or entities in each category listed below shall be considered as the same producer and fully responsible for the actions of any person or entity in that category:

(1) Husband and wife, except that the husband and wife may be considered as separate producers if the spouse receiving benefits does not share to any degree in crops or proceeds thereof from the other farm, ownership or managerial control of the other farm is not shared by such spouse, and there have been no changes in the ownership, operation, or managerial control of the other

farm which would tend to defeat the purposes of paragraph (a) of this section;

(2) Minor children and the parent, guardian, or other person legally responsible for the minor unless the person legally responsible for the minor does not occupy the same household as the minor and shares no interest in the farming operations of the minor;

(3) A partnership and any member of the partnership;

(4) A corporation and the majority stockholders of such corporation (in applying this rule, consider as the same producer a corporation and two or more stockholders with a combined majority interest in the corporation who do not comply with paragraph (a) of this section);

(5) An estate and heirs of the estate with over 50 percent interest in the estate (in applying this rule, consider as the same producer an estate and two or more heirs with a combined interest in the estate of over 50 percent who do not comply with paragraph (a) of this section);

(6) A trust and beneficiaries of the trust with over a 50 percent interest in the trust (in applying this rule, consider as the same producer a trust and two or more beneficiaries with a combined interest in the trust of over 50 percent who do not comply with paragraph (a) of this section);

(7) Different corporations, trusts or estates having common stockholders or beneficiaries with a combined majority interest.

(e) Notwithstanding the foregoing:

(1) Any person who places land in a trust the beneficiary of which is such person's parent, brother, sister, spouse, child or grandchild shall be considered the same producer as the trust for purposes of paragraph (a) of this section if he acts as the trustee or trust officer for the trust or in any other way retains management responsibility for the trust land even though he does not receive any share of the crops or proceeds thereof from the trust land;

(2) When the State committee, or the county committee with the approval of the State committee, determines that a corporation or trust was formed, modified, or used for the purpose of circumventing paragraph (a) of this section, the corporation and any stockholder of the corporation, or the trust and any beneficiary of the trust, shall be considered as the same producer and fully responsible for the actions of the corporation or trust or of any stockholder or beneficiary of the corporation or trust.

(3) A landowner, landlord, or operator may be exempted from complying with paragraph (a) of this section for the 1978 program year if the county committee determines that a lease ex-

ecuted prior to October 3, 1977, prevents compliance. Such producer will be expected to renegotiate lease terms for future years.

**NOTE.**—An Economic Impact Statement as required under Executive Order 11821 and OMB Circular A-107 has been filed.

**NOTE.**—The Agricultural Stabilization and Conservation Service, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), developed an environmental assessment and has filed a supplemental environmental impact statement.

Issued at Washington, D.C., January 13, 1978.

STEWART N. SMITH,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-1812 Filed 1-19-78; 8:45 am]

#### [3410-02]

#### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange, Grapefruit, Tangerine, and Tangelo Reg. 1, Amdt. 8]

#### PART 905—ORANGES, GRAPEFRUIT, TANGERINES AND TANGELOS GROWN IN FLORIDA

##### Amendment of Honey Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

**SUMMARY:** This amendment is applicable to domestic and export shipments of fresh Florida Honey Tangerines. It permits each handler to ship to domestic markets, including Canada or Mexico, during the period January 16 to September 24, 1978, Honey Tangerines not smaller than 2 1/4 inches in diameter (size 176), and it permits each handler to ship to export markets, other than Canada or Mexico, during this same period Honey Tangerines not smaller than 2 1/4 inches (size 210). Size requirements for other varieties of tangerines continue unchanged. Currently, any handler may ship to domestic markets Honey Tangerines not smaller than 2 1/4 inches (size 120) and may export any such variety of fruit not smaller than 2 1/4 inches (size 150). Specification of minimum size requirements for Florida Honey Tangerines is necessary because of current and prospective supply and demand for the fruit and to maintain orderly marketing conditions in the interest of producers and consumers.

**DATES:** This amendment is effective during the period January 16 to September 24, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, 202-447-6393.

**SUPPLEMENTARY INFORMATION: Findings.** (1) Pursuant to the marketing agreement and Order No. 905, both as amended (7 CFR Part 905; 42 FR 59367; 61853), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the committee established under the marketing agreement and order, and upon other information, it is found that the regulation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The amendment reflects the Department's appraisal of the current and prospective supply and market demand conditions for Florida Honey Tangerines. It is designed to assure an ample supply of acceptable size fruit to consumers consistent with the quality and size composition of the crop. The season for Honey Tangerines has just started, and shipments for the week ended January 8, 1978, totaled only one carlot and for Monday, January 9 totaled four carlots.

(3) It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act; and this amendment relieves restrictions on the handling of Honey Tangerines.

Accordingly, it is found that the provisions of § 905.301 (42 FR 57947, 59367, 59955, 60918, 61590, 63635, 63881) should be and hereby are amended by redesignating "Murcott honey oranges" as "Honey Tangerines" in Tables I and II and by revising the minimum size applicable to Honey Tangerines and by revising paragraph (c), so that after the revisions the portion of Tables I and II applicable to such variety, which is effective January 16, 1978, and paragraph (c) read as follows:

§ 905.301 Orange, Grapefruit, Tangerine, and Tangelo Regulation 1.

(a) \* \* \*

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Tangerines: Dancy and similar, including Robinson.....	Dec. 12, 1977 to Sept. 24, 1978.	U.S. No. 1...	2 1/4
Honey tangerines.....	Jan. 16 to Sept. 24, 1978.	Florida No. 1.	2 1/4

(b) \* \* \*

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
Tangerines: Dancy and similar, including Robinson.....	Sept. 26, 1977 to Sept. 24, 1978.	U.S. No. 1...	2 1/4
Honey tangerines.....	Jan. 16 to Sept. 24, 1978.	Florida No. 1.	2 1/4

(c) *Size Tolerances:* In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted: (1) for oranges, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that for early and mid-season type and Valencia oranges shipped interstate in bulk a tolerance of 10 percent, by count, based

on oranges 2 1/4 inches in diameter and smaller shall apply; (2) for grapefruit, as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for tangerines, as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for tangelos, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 13, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-1474 Filed 1-19-78; 8:45 am]

#### [3410-05]

#### CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1977 Crop Barley Supplement]

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1977 Crop Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

**SUMMARY:** The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts, under which Commodity Credit Corporation, (CCC), will extend price support on 1977 crop barley. This rule is needed in order to provide a price support program for barley. This rule will enable eligible producers to obtain loans and purchases on eligible 1977 crop barley.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3744 South Building, P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman (ASCS), 202-447-9224.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1977 crops of feed grains including barley. Such determinations including determining loan and purchase rates, and other related program provisions. Interested persons were given until August 30, 1976 to submit data, views and recommendations. No recommendations were received concerning the loan and purchase program for barley. After



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RULES AND REGULATIONS

considering applicable factors it has been determined that the loan and purchase program for 1977 crop barley on a national average will be \$1.63 per bushel. The final availability date for purchases will be changed to March 31, 1978, the same as for loans. This change will permit producers to deliver 1977 crop barley under purchase agreement to CCC in time to make storage space available for 1978 crop barley.

Additional disbursements on 1977 crop loans already made will be available for those producers who want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The General Regulations Governing Price Support for 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and Subsequent Crops Barley Loan and Purchase Regulations, published at 35 FR 11166 and any amendments to such regulations are further supplemented for the 1977 crop of barley. 7 CFR §§1421.72 through 1421.75 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of barley. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1977 Crop Barley Loan and Purchase Program

- Sec. 1421.72 Purpose.
- 1421.73 Availability.
- 1421.74 Maturity of loans.
- 1421.75 Loan and purchase rates, premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).

Subpart—1977 Crop Barley Loan and Purchase Program

§ 1421.72 Purpose.

This supplement contains additional program provisions which, together with the provisions of the General Regulations Governing Price Support for the 1976 and Subsequent Crops, the 1970 and Subsequent Crops Barley Loan and Purchase Program Regulations, and any amendments thereto, apply to loans on and purchases of the 1977 crop of barley.

§ 1421.73 Availability.

(a) *Loans.* Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible barley on or before March 31, 1978.

(b) *Purchases.* Producers desiring to offer eligible 1977 crop barley not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1977 crop barley they will sell to CCC.

§ 1421.74 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan maturity date to the nine month maturity date described in this section.

§ 1421.75 Loan and purchase rates.

(a) *Basic loan and purchase rates (counties).* Basic county rates (marketing area in the case of Alaska) for loan and settlement purposes for barley (except mixed barley) grading U.S. No. 2 or better are established as follows:

1977-CROP BARLEY LOAN AND PURCHASE PROGRAM

County	Rate per bushel
<b>ALABAMA</b>	
All counties.....	\$1.60
<b>ALASKA*</b>	
Delta.....	1.54
Fairbanks.....	1.53
Glenallen.....	1.63
Homer.....	1.59
Kenai-Sold.....	1.66
Palmer.....	1.72
Talkeetna.....	1.72
<b>ARIZONA</b>	
All counties.....	1.80
<b>ARKANSAS</b>	
All counties.....	1.60
<b>CALIFORNIA</b>	
Alameda.....	1.96
Alpine.....	1.81
Amador.....	1.94
Butte.....	1.89
Calaveras.....	1.94
Colusa.....	1.93
Contra Costa.....	1.95
El Dorado.....	1.93
Fresno.....	1.92
Glenn.....	1.90
Humboldt.....	1.76
Imperial.....	1.92
Inyo.....	1.80
Kern.....	1.93
Kings.....	1.91
Lake.....	1.86
Lassen.....	1.76
Los Angeles.....	1.96
Madera.....	1.94
Marin.....	1.96

\* In Alaska, loan rates are for marketing areas.

1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Mariposa.....	1.92
Mendocino.....	1.62
Merced.....	1.94
Modoc.....	1.76
Monterey.....	1.90
Napa.....	1.93
Orange.....	1.96
Placer.....	1.91
Plumas.....	1.81
Riverside.....	1.93
Sacramento.....	1.96
San Benito.....	1.90
San Bernardino.....	1.94
San Diego.....	1.98
San Francisco.....	1.98
San Joaquin.....	1.98
San Luis Obispo.....	1.90
San Mateo.....	1.95
Santa Barbara.....	1.89
Santa Clara.....	1.94
Santa Cruz.....	1.91
Shasta.....	1.76
Sierra.....	1.80
Siakyou.....	1.76
Solano.....	1.95
Sonoma.....	1.93
Stanislaus.....	1.96
Sutter.....	1.92
Tehama.....	1.89
Tulare.....	1.90
Tuolumne.....	1.92
Ventura.....	1.93
Yolo.....	1.95
Yuba.....	1.92
<b>COLORADO</b>	
All counties.....	1.60
<b>CONNECTICUT</b>	
All counties.....	1.60
<b>DELAWARE</b>	
All counties.....	1.60
<b>FLORIDA</b>	
All counties.....	1.61
<b>GEORGIA</b>	
All counties.....	1.61
<b>IDAHO</b>	
Ada.....	1.65
Adams.....	1.65
Bannock.....	1.65
Bear Lake.....	1.62
Benewah.....	1.74
Bingham.....	1.64
Blaine.....	1.65
Boise.....	1.65
Bonner.....	1.70
Bonneville.....	1.62
Boundary.....	1.69
Butte.....	1.64
Camas.....	1.65
Canyon.....	1.65
Caribou.....	1.62
Cassia.....	1.64
Clark.....	1.61
Clearwater.....	1.73
Custer.....	1.65
Elmore.....	1.65
Franklin.....	1.66
Fremont.....	1.62
Gem.....	1.65
Gooding.....	1.65
Idaho.....	1.69
Jefferson.....	1.62
Jerome.....	1.65
Kootenai.....	1.74
Latah.....	1.74
Lemhi.....	1.61
Lewis.....	1.73
Lincoln.....	1.65
Madison.....	1.62
Minidoka.....	1.66
Nes Perce.....	1.74
Oneida.....	1.65
Owyhee.....	1.65
Payette.....	1.65
Power.....	1.65
Shoshone.....	1.62

RULES AND REGULATIONS

1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Teton.....	1.62
Twin Falls.....	1.66
Valley.....	1.65
Washington.....	1.65
<b>ILLINOIS</b>	
Alexander.....	1.66
Cook.....	1.61
Madison.....	1.65
Saint Clair.....	1.65
All other counties.....	1.56
<b>INDIANA</b>	
All counties.....	1.56
<b>IOWA</b>	
Pottawattamie.....	1.62
All other counties.....	1.58
<b>KANSAS</b>	
Wyandotte.....	1.63
All other counties.....	1.59
<b>KENTUCKY</b>	
All counties.....	1.57
<b>LOUISIANA</b>	
East Baton Rouge.....	1.78
Jefferson.....	1.78
Orleans.....	1.78
Saint Charles.....	1.76
West Baton Rouge.....	1.76
All other parishes.....	1.61
<b>MAINE</b>	
All counties.....	1.60
<b>MARYLAND</b>	
Baltimore.....	1.78
All other counties.....	1.60
<b>MASSACHUSETTS</b>	
All counties.....	1.60
<b>MICHIGAN</b>	
All counties.....	1.52
<b>MINNESOTA</b>	
Altkin.....	1.66
Anoka.....	1.69
Becker.....	1.57
Beltrami.....	1.59
Benton.....	1.66
Big Stone.....	1.61
Blue Earth.....	1.69
Brown.....	1.67
Carlton.....	1.70
Carver.....	1.70
Cass.....	1.62
Chippewa.....	1.66
Chisago.....	1.69
Clay.....	1.56
Clearwater.....	1.56
Cottonwood.....	1.66
Crow Wing.....	1.62
Dakota.....	1.70
Dodge.....	1.69
Douglas.....	1.61
Faribault.....	1.68
Fillmore.....	1.66
Freeborn.....	1.69
Goodhue.....	1.69
Grant.....	1.59
Hennepin.....	1.70
Houston.....	1.65
Hubbard.....	1.59
Isanti.....	1.68
Itasca.....	1.65
Jackson.....	1.65
Kanabec.....	1.67
Kandiyohi.....	1.66
Kittson.....	1.50
Koochiching.....	1.63
Lac Qui Parle.....	1.65
Lake of the Woods.....	1.66
Le Sueur.....	1.70
Lincoln.....	1.62
Lyon.....	1.65
McLeod.....	1.69
Mahnomen.....	1.55
Marshall.....	1.53
Martin.....	1.68

1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Meeker.....	1.67
Millie Lacs.....	1.67
Morrison.....	1.64
Mower.....	1.68
Murray.....	1.64
Nicollet.....	1.69
Nobles.....	1.62
Norman.....	1.56
Olmsted.....	1.69
Otter Tail.....	1.58
Pennington.....	1.54
Pine.....	1.70
Pipestone.....	1.61
Pope.....	1.54
Ramsey.....	1.70
Red Lake.....	1.54
Redwood.....	1.67
Renville.....	1.66
Rice.....	1.70
Rock.....	1.59
Roseau.....	1.52
Saint Louis.....	1.70
Scott.....	1.70
Sherburne.....	1.69
Sibley.....	1.69
Stearns.....	1.66
Steele.....	1.70
Stevens.....	1.61
Swift.....	1.65
Todd.....	1.61
Traverse.....	1.59
Wabasha.....	1.69
Wadena.....	1.60
Waseca.....	1.70
Washington.....	1.70
Watsonwan.....	1.66
Wilkin.....	1.67
Winona.....	1.67
Wright.....	1.70
Yellow Medicine.....	1.64
<b>MISSISSIPPI</b>	
All counties.....	1.60
<b>MISSOURI</b>	
Buchanan.....	1.62
Clay.....	1.62
Jackson.....	1.64
Saint Louis.....	1.64
All other counties.....	1.60
<b>MONTANA</b>	
Beaverhead.....	1.56
Big Horn.....	1.51
Carlton.....	1.51
Blaine.....	1.47
Cass.....	1.59
Carbon.....	1.52
Carter.....	1.42
Cascade.....	1.55
Chouteau.....	1.51
Custer.....	1.44
Daniels.....	1.41
Dawson.....	1.44
Deer Lodge.....	1.62
Fallon.....	1.42
Fergus.....	1.51
Flathead.....	1.67
Gallatin.....	1.62
Garfield.....	1.46
Glacier.....	1.54
Golden Valley.....	1.52
Houston.....	1.60
Granite.....	1.50
Hill.....	1.62
Jefferson.....	1.52
Judith Basin.....	1.52
Lake.....	1.60
Lewis and Clark.....	1.53
Liberty.....	1.52
Lincoln.....	1.67
McCone.....	1.44
Madison.....	1.62
Meagher.....	1.56
Mineral.....	1.64
Missoula.....	1.64
Musselshell.....	1.51
Park.....	1.60
Petroleum.....	1.49
Phillips.....	1.44
Pondera.....	1.53

1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Powder River.....	1.44
Powell.....	1.62
Prairie.....	1.44
Ravalli.....	1.60
Richland.....	1.41
Roosevelt.....	1.41
Rosebud.....	1.46
Sanders.....	1.64
Sheridan.....	1.39
Silver Bow.....	1.62
Stillwater.....	1.52
Sweet Grass.....	1.55
Teton.....	1.53
Toole.....	1.52
Treasure.....	1.46
Valley.....	1.43
Wheatland.....	1.53
Wibaux.....	1.42
Yellowstone.....	1.51
<b>NEBRASKA</b>	
Douglas.....	1.63
All other counties.....	1.55
<b>NEVADA</b>	
All counties.....	1.80
<b>NEW HAMPSHIRE</b>	
All counties.....	1.60
<b>NEW JERSEY</b>	
All counties.....	1.60
<b>NEW MEXICO</b>	
All counties.....	1.70
<b>NEW YORK</b>	
Albany.....	1.76
New York City.....	1.76
All other counties.....	1.60
<b>NORTH CAROLINA</b>	
All counties.....	1.61
<b>NORTH DAKOTA</b>	
Adams.....	1.41
Barnes.....	1.52
Benson.....	1.46
Billings.....	1.39
Bottineau.....	1.41
Bowman.....	1.39
Burke.....	1.39
Burleigh.....	1.45
Cass.....	1.55
Cavaller.....	1.46
Dickey.....	1.50
Divide.....	1.39
Dunn.....	1.39
Eddy.....	1.47
Emmons.....	1.42
Foster.....	1.48
Golden Valley.....	1.39
Grand Forks.....	1.52
Grant.....	1.40
Griggs.....	1.50
Hettinger.....	1.39
Kidder.....	1.46
La Moure.....	1.40
Logan.....	1.46
McHenry.....	1.43
McIntosh.....	1.47
McKenzie.....	1.42
McLean.....	1.48
Mercer.....	1.42
Morton.....	1.42
Mountrail.....	1.39
Nelson.....	1.40
Oliver.....	1.43
Pembina.....	1.40
Pierce.....	1.46
Ramsey.....	1.47
Ransom.....	1.52
Renville.....	1.40
Richland.....	1.55
Rolette.....	1.43
Sargent.....	1.54
Sheridan.....	1.44
Sioux.....	1.42
Slope.....	1.39
Stark.....	1.39
Steele.....	1.52



## 1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Stutsman	1.51
Towner	1.44
Trail	1.52
Walsh	1.50
Ward	1.41
Wells	1.47
Williams	1.39
OHIO	
All counties	1.54
OKLAHOMA	
All counties	1.61
OREGON	
Baker	1.72
Benton	1.77
Clackamas	1.81
Clatsop	1.87
Columbia	1.87
Coos	1.88
Crook	1.76
Curry	1.66
Deschutes	1.76
Douglas	1.70
Gilliam	1.81
Grant	1.76
Harney	1.63
Hood River	1.83
Jackson	1.69
Jefferson	1.79
Josephine	1.69
Klamath	1.69
Lake	1.68
Lane	1.76
Lincoln	1.76
Linn	1.78
Malheur	1.66
Marion	1.79
Morrow	1.80
Multnomah	1.87
Polk	1.79
Sherman	1.82
Tillamook	1.82
Umatilla	1.77
Union	1.75
Wallowa	1.72
Wasco	1.83
Washington	1.83
Wheeler	1.78
Yamhill	1.81
PENNSYLVANIA	
Philadelphia	1.76
All other counties	1.60
RHODE ISLAND	
All counties	1.80
SOUTH CAROLINA	
Charleston	1.76
All other counties	1.61
SOUTH DAKOTA	
Aurora	1.51
Beadle	1.54
Bennett	1.43
Bon Homme	1.54
Brookings	1.59
Brown	1.53
Brule	1.49
Buffalo	1.51
Butte	1.36
Campbell	1.46
Charles Mix	1.52
Clark	1.55
Clay	1.56
Codington	1.58
Corson	1.43
Custer	1.41
Devon	1.51
Day	1.56
Deuel	1.61
Dewey	1.45
Douglas	1.52
Edmunds	1.50
Fall River	1.41
Faulk	1.52
Grant	1.61
Gregory	1.51
Haakon	1.43

## 1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
Hamlin	1.56
Hand	1.51
Hanson	1.51
Harding	1.38
Hughes	1.49
Hutchinson	1.53
Hyde	1.61
Jackson	1.43
Jerauld	1.51
Jones	1.48
Kingsbury	1.59
Lake	1.57
Lawrence	1.36
Lincoln	1.56
Lyman	1.48
McCook	1.52
McPherson	1.50
Marshall	1.55
Merde	1.39
Mellette	1.47
Miner	1.53
Minnehaha	1.56
Moody	1.57
Pennington	1.41
Perkins	1.40
Potter	1.50
Roberts	1.59
Sanborn	1.51
Shannon	1.41
Spink	1.53
Stanley	1.48
Sully	1.50
Todd	1.47
Tripp	1.48
Turner	1.56
Union	1.57
Walworth	1.47
Washabaugh	1.43
Yankton	1.56
Ziebach	1.42
TENNESSEE	
Shelby	1.66
All other counties	1.60
TEXAS	
Chambers	1.80
Galveston	1.80
Harris	1.80
Jefferson	1.80
Nueces an Patricio	1.80
All other counties	1.64
UTAH	
All counties	1.70
VERMONT	
All counties	1.60
VIRGINIA	
Chesapeake (Norfolk)	1.70
All other counties	1.60
WASHINGTON	
Adams	1.77
Asotin	1.77
Benton	1.79
Chelan	1.81
Chittam	1.87
Clark	1.87
Columbia	1.87
Cowlitz	1.87
Douglas	1.76
Ferry	1.72
Franklin	1.76
Garfield	1.78
Grant	1.77
Grays Harbor	1.76
Island	1.80
Jefferson	1.72
King	1.87
Kittas	1.80
Klickitat	1.80
Lewis	1.81
Lincoln	1.76
Mason	1.74
Okanogan	1.75
Pacific	1.76
Pend Oreille	1.70
Pierce	1.87

## 1977-CROP BARLEY LOAN AND PURCHASE PROGRAM—Continued

County	Rate per bushel
San Juan	1.75
Skagit	1.75
Skamania	1.82
Snohomish	1.80
Spokane	1.74
Stevens	1.71
Thurston	1.81
Wahkiakum	1.84
Walla Walla	1.78
Whitcom	1.73
Whitman	1.76
Yakima	1.76
WEST VIRGINIA	
All counties	1.60
WISCONSIN	
Douglas	1.67
All other counties	1.57
WYOMING	
All counties	1.64

Discounts	Cents per bushel
(a) Grade discounts:	
U.S. No. 3	-4
U.S. No. 4	-8
U.S. grade No. 5	-20
Sample grade	(*)
(b) Special discounts:	
Garlicky	-10
Weed control law (where required by §1421.25)	-10

\*See note.

NOTE.—Barley grading sample grade is not eligible for loan. In the event quantities of barley grading U.S. Sample Grade are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

(c) Other factors. Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the barley, such as (but not limited to) thin barley, moisture, foreign material, test weight, heat damage, musty, sour, smutty, stained, weevily, ergoty, and bleached. Such discounts will be established not later than the time delivery of barley to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

NOTE.—Discounts are cumulative except only one grade discount shall be applied. For the purpose of applying discounts, factors which cause barley of the subclass Malting Barley or Blue Malting Barley to have a lower numerical grade than if the barley were graded under a different subclass shall be disregarded.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
[FR Doc. 78-1472 Filed 1-19-78; 8:45 am]

[3410-05]

[CCC Grain Price Support Regulations,  
1977 Crop Corn Supplement]

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

## Subpart—1977 Crop Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts, under which Commodity Credit Corporation (CCC) will extend price support on 1977 crop corn. This rule is needed in order to provide a price support program for corn. This rule will enable eligible producers to obtain loans and purchases on their eligible 1977 crop corn.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, USDA, 3750 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, (ASCS), 202-447-9224.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1977 crops of feed grains including corn. Such determinations included loan and purchase rates and other related program provisions. Interested persons were given until August 30, 1976 to submit any data, views, and recommendations. Seven responses were received concerning the loan and purchase rates. All recommended that the support rate be increased. After considering the recommendations and other factors, it has been determined that loan and purchase rates for 1977 crop corn on a national average will be \$2.00 per bushel. The final availability date for purchases will be changed to May 31, 1978, the same as for loans.

Additional disbursements on 1977 crop corn loans already made will be available for those producers who

want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The General Regulations Governing Price Support for the 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and Subsequent Crop Corn Loan and Purchase Regulations, published at 35 FR 13970 and any amendments to such regulations are further supplemented for the 1977 crop of corn. 7 CFR §§ 1421.111 through 1421.113 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of corn. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

## Subpart—1977 Crop Corn Loan and Purchase Program

Sec.  
1421.111 Availability.  
1421.112 Maturity of loans.  
1421.113 Loan and purchase rates, premiums and discounts.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note 1421).

## Subpart—1977 Crop Corn Loan and Purchase Program

§ 1421.111 Availability.

(a) Loans. Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible corn on or before May 31, 1978.

(b) Purchases. A producer desiring to offer eligible 1977 crop corn not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1978, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1977 crop corn he will sell to CCC.

§ 1421.112 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan maturity date to the nine-month maturity date described in this section.

§ 1421.113 Loan and purchase rates, premiums and discounts.

County basic loan and purchase rates for corn and the schedule of premiums and discounts are contained in this section. Farm stored loans will be made at the basic rate for the county where the corn is stored, adjusted only for the weed control discount where applicable. The rate for warehouse stored loans shall be the basic rate for the county where the corn is stored, adjusted by the premiums and discounts prescribed in paragraph (b) of this section. Notwithstanding, § 1421.22(c), settlement for corn delivered from other than approved warehouse storage, shall be based (1) on the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity of the corn delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(a) Basic county rates. Basic county rates for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture are as follows:

County	Rate per bushel
ALABAMA	
All counties	\$2.15
ARIZONA	
All counties	2.21
ARKANSAS	
All counties	2.12
CALIFORNIA	
All counties	2.21
COLORADO	
Baca	2.04
Cheyenne	2.03
Kiowa	2.03
Kit Carson	2.03
Lincoln	2.06
Logan	2.05
Phillips	2.03
Prowers	2.03
Sedgwick	2.03
Washington	2.05
Yuma	2.02
All other counties	2.07
CONNECTICUT	
All counties	2.24
DELAWARE	
All counties	2.16
FLORIDA	
All counties	2.16
GEORGIA	
All counties	2.18
IDAHO	
All counties	2.18
ILLINOIS	
Adams	2.05
Alexander	2.09
Bond	2.07
Boone	2.05
Brown	2.06
Bureau	2.05
Calhoun	2.07
Carroll	2.03
Cass	2.06







## RULES AND REGULATIONS

County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Mahnomen	1.90	Howard	2.05	Colfax	2.00
Marshall	1.90	Howell	2.13	Cuming	1.99
Martin	1.89	Iron	2.08	Custer	1.93
Meeker	1.92	Jackson	2.09	Dakota	1.95
Millie Lacs	1.92	Jasper	2.08	Dawes	2.00
Morrison	1.91	Jefferson	2.09	Dawson	1.93
Mower	1.93	Johnson	2.09	Deuel	1.95
Murray	1.93	Knox	2.04	Dixon	1.95
Nicollet	1.91	Lacade	2.09	Dodge	2.00
Nobles	1.89	Lafayette	2.09	Douglas	2.02
Norman	1.90	Lawrence	2.09	Dundy	1.95
Olmsted	1.93	Lewis	2.04	Fillmore	2.00
Otter Tail	1.90	Lincoln	2.07	Franklin	1.97
Pennington	1.90	Linn	2.06	Frontier	1.95
Pine	1.92	Livingston	2.06	Furnas	1.96
Pipestone	1.88	McDonald	2.10	Gage	2.12
Polk	1.90	Macon	2.05	Garden	1.94
Pope	1.90	Madison	2.08	Garfield	1.95
Ramsey	1.92	Maries	2.07	Gosper	1.95
Red Lake	1.90	Marion	2.04	Grant	1.97
Redwood	1.89	Mercer	2.04	Greeley	1.96
Renville	1.91	Miller	2.09	Hall	1.96
Rice	1.92	Mississippi	2.09	Hamilton	1.96
Rock	1.89	Monteau	2.06	Harlan	1.97
Roseau	1.90	Monroe	2.05	Hayes	1.95
St. Louis	1.92	Montgomery	2.06	Hitchcock	1.95
Scott	1.92	Morgan	2.06	Holt	1.94
Sherburne	1.92	New Madrid	2.09	Hooker	1.95
Sibley	1.92	Newton	2.09	Howard	1.96
Stearns	1.91	Nodaway	2.06	Jefferson	2.02
Steele	1.91	Oregon	2.11	Johnson	2.03
Stevens	1.89	Osage	2.06	Kearney	1.96
Swift	1.89	Ozark	2.13	Keith	1.96
Todd	1.91	Pemiscot	2.09	Keyapaha	1.93
Traverse	1.87	Perry	2.08	Kimball	1.95
Wabasha	1.92	Pettis	2.05	Knox	1.95
Wadena	1.91	Phelps	2.09	Lancaster	2.01
Waseca	1.91	Pike	2.06	Lincoln	1.95
Washington	1.92	Platte	2.09	Logan	1.94
Watsonwan	1.89	Polk	2.09	Loup	1.93
Wilkin	1.89	Pulaski	2.09	McPherson	1.95
Winona	1.93	Putnam	2.03	Madison	1.97
Wright	1.92	Rails	2.08	Merrick	1.96
Yellow Medicine	1.88	Randolph	2.05	Morrill	2.02
MISSISSIPPI				Nance	2.03
All counties				Nemaha	2.03
MISSOURI				Nevada	1.99
Adair	2.04	Ripley	2.09	Nuckolls	2.02
Andrew	2.08	St. Charles	2.07	Otoe	2.04
Atchison	2.05	St. Clair	2.07	Pawnee	2.04
Audrain	2.06	St. Francois	2.08	Pearce	1.97
Barry	2.11	Saint Louis	2.09	Phelps	1.96
Barton	2.07	Sainte Genevieve	2.06	Pierce	1.97
Bates	2.08	Saline	2.07	Platte	1.98
Benton	2.06	Schuyler	2.04	Polk	1.98
Bollinger	2.08	Scotland	2.03	Red Willow	2.08
Boone	2.05	Scott	2.09	Richardson	2.05
Buchanan	2.09	Shannon	2.11	Rock	1.93
Butler	2.09	Shelby	2.04	Saline	2.01
Caldwell	2.09	Stoddard	2.09	Sarpy	2.00
Callaway	2.06	Stone	2.11	Saunders	2.00
Cape Girardeau	2.07	Sullivan	2.05	Scotts Bluff	2.02
Carroll	2.08	Taney	2.13	Seward	2.00
Carter	2.09	Texas	2.11	Sheridan	1.98
Cass	2.09	Vernon	2.07	Sherman	1.94
Cedar	2.08	Warren	2.07	Sioux	2.02
Chariton	2.07	Washington	2.08	Stanton	1.99
Christian	2.11	Wayne	2.09	Thayer	2.00
Clark	2.03	Webster	2.11	Thomas	1.94
Clay	2.09	Worth	2.05	Thurston	1.99
Clinton	2.09	Wright	2.11	Valley	1.94
Cole	2.06	MONTANA		Washington	2.02
Cooper	2.04	All counties		Wayne	1.97
Crawford	2.08	NEBRASKA		Webster	1.97
Dade	2.09	Adams	1.97	Wheeler	1.96
Dallas	2.07	Antelope	1.97	York	1.98
Davies	2.07	Arthur	1.97	NEVADA	
De Kalb	2.07	Banner	2.02	All counties	
Dent	2.09	Blaine	1.93	NEW HAMPSHIRE	
Douglas	2.13	Boone	2.00	All counties	
Dunklin	2.09	Box Butte	2.00	NEW JERSEY	
Franklin	2.06	Boyd	1.94	All counties	
Gasconade	2.06	Brown	1.93	NEW MEXICO	
Gentry	2.06	Buffalo	1.94	Curry	2.11
Greene	2.09	Burt	2.01	Hardin	2.11
Grundy	2.06	Butler	2.00	Lee	2.11
Harrison	2.05	Cass	2.01	Quay	2.11
Henry	2.07	Cedar	1.96	Roosevelt	2.11
Hickory	2.07	Chase	1.96	Union	2.11
Holt	2.06	Cherry	1.95	All other counties	2.18
		Cheyenne	2.00	NEW YORK	
		Clay	1.99	All counties	

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County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
NORTH CAROLINA		Wood	2.06	TEXAS	
All counties	2.17	Wyandot	2.06	Armstrong	2.07
NORTH DAKOTA		OKLAHOMA		Bailey	2.07
All counties	1.93	Beaver	2.06	Briscoe	2.07
OHIO		Beckham	2.10	Carson	2.07
Adams	2.08	Cimarron	2.05	Castro	2.07
Allen	2.05	Ellis	2.08	Childress	2.08
Ashland	2.08	Harmon	2.10	Cochran	2.09
Ashtabula	2.15	Harper	2.06	Collingsworth	2.08
Athens	2.11	Roger Mills	2.10	Cottle	2.09
Auglaize	2.04	Texas	2.05	Crosby	2.09
Belmont	2.13	All other counties	2.12	Dallam	2.07
Brown	2.08	OREGON		Deaf Smith	2.07
Butler	2.05	All counties	2.18	Dickens	2.09
Carroll	2.12	PENNSYLVANIA		Donley	2.08
Champaign	2.04	All counties	2.19	Floyd	2.07
Clark	2.04	RHODE ISLAND		Gray	2.07
Clermont	2.07	All counties	2.24	Hale	2.07
Clinton	2.06	SOUTH CAROLINA		Hall	2.08
Columbiana	2.15	All counties	2.17	Hansford	2.07
Coshocton	2.09	SOUTH DAKOTA		Hartley	2.07
Crawford	2.06	Aurora	1.86	Hemphill	2.07
Cuyahoga	2.11	Beadle	1.86	Hockley	2.09
Darke	2.03	Bennett	1.93	Hutchinson	2.07
Defiance	2.04	Bon Homme	1.90	King	2.09
Delaware	2.05	Brookings	1.86	Lamb	2.07
Erie	2.07	Brown	1.86	Lipscomb	2.07
Fairfield	2.07	Brule	1.86	Lubbock	2.09
Fayette	2.05	Buffalo	1.86	Moore	2.07
Franklin	2.04	Butte	1.86	Motley	2.09
Fulton	2.08	Campbell	1.88	Ochiltree	2.07
Gall	2.09	Charles Mix	1.88	Oldham	2.07
Geauga	2.13	Clark	1.88	Parmer	2.07
Greene	2.04	Clay	1.93	Potter	2.07
Gurnsey	2.11	Codington	1.86	Randall	2.07
Hamilton	2.08	Corson	1.90	Roberts	2.07
Hancock	2.06	Custer	1.96	Sherman	2.07
Hardin	2.05	Davison	1.87	Swisher	2.07
Harrison	2.13	Day	1.86	Wheeler	2.08
Henry	2.08	Deuel	1.86	All other counties	2.14
Highland	2.06	Dewey	1.90	UTAH	
Hocking	2.08	Douglas	1.87	All counties	2.21
Holmes	2.09	Edmunds	1.87	VERMONT	
Huron	2.07	Fall River	1.99	All counties	2.24
Jackson	2.08	Faulk	1.87	VIRGINIA	
Jefferson	2.14	Grant	1.86	All counties	2.18
Knox	2.06	Gregory	1.88	WASHINGTON	
Lake	2.13	Haakon	1.90	All counties	2.16
Lawrence	2.08	Hamlin	1.86	WEST VIRGINIA	
Licking	2.06	Hand	1.86	All counties	2.17
Logan	2.05	Hanson	1.87	WISCONSIN	
Lorain	2.08	Harding	1.92	Adams	1.97
Lucas	2.08	Hughes	1.88	Ashland	1.97
Madison	2.04	Hutchinson	1.89	Barron	1.95
Mahoning	2.15	Hyde	1.87	Bayfield	1.94
Marion	2.06	Jackson	1.91	Brown	1.99
Medina	2.10	Jerauld	1.86	Buffalo	1.94
Meigs	2.10	Jones	1.90	Burnett	1.93
Mercer	2.03	Kingsbury	1.86	Calumet	1.99
Miami	2.04	Lake	1.88	Chippewa	1.95
Monroe	2.14	Lawrence	1.92	Clark	1.97
Montgomery	2.04	Lincoln	1.91	Columbia	2.01
Morgan	2.11	Lynan	1.88	Crawford	1.97
Morrow	2.08	McCook	1.87	Dane	2.03
Muskingum	2.09	McPherson	1.87	Dodge	2.03
Noble	2.12	Marshall	1.86	Door	2.00
Qitawa	2.08	Meade	1.91	Douglas	1.92
Paulding	2.04	Mellette	1.90	Dunn	1.95
Perry	2.09	Miner	1.87	Eau Claire	1.95
Pickaway	2.05	Minnehaha	1.89	Florence	1.99
Pike	2.07	Moody	1.88	Fond du Lac	2.01
Portage	2.13	Pennington	1.93	Forest	1.99
Preble	2.05	Perkins	1.90	Grant	1.99
Putnam	2.04	Potter	1.89	Green	2.03
Richland	2.08	Roberts	1.88	Green Lake	2.01
Ross	2.06	Sanborn	1.87	Iowa	2.03
Sandusky	2.06	Shannon	1.96	Iron	1.98
Scioto	2.08	Spink	1.86	Jackson	1.95
Seneca	2.06	Stanley	1.90	Jefferson	1.97
Shelby	2.04	Sully	1.88	Jones	1.97
Stark	2.12	Todd	1.91	Kenosha	2.06
Summit	2.11	Tripp	1.89	Kewaunee	2.00
Trumbull	2.15	Turner	1.90	La Crosse	1.94
Tuscarawas	2.11	Union	1.93	Lafayette	2.02
Union	2.05	Walworth	1.89	Langlade	1.99
Van Wert	2.04	Washabauqh	1.91	Lincoln	1.98
Vinton	2.08	Yankton	1.91	Manitowoc	2.00
Warren	2.06	Ziebach	1.91	Marathon	1.98
Washington	2.13	TENNESSEE			
Wayne	2.10	All counties	2.13		
Williams	2.05				



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County	Rate per bushel
Marquette.....	1.99
Marquette.....	1.99
Menominee.....	1.99
Milwaukee.....	2.04
Monroe.....	1.95
Oconto.....	1.99
Oneida.....	1.99
Outagamie.....	1.98
Ozaukee.....	2.02
Pepin.....	1.94
Pierce.....	1.94
Polk.....	1.93
Portage.....	1.98
Price.....	1.97
Racine.....	2.08
Rock.....	2.00
Rusk.....	2.04
St. Croix.....	1.96
Sauk.....	2.00
Sawyer.....	1.96
Shawano.....	1.99
Sheboygan.....	2.00
Taylor.....	1.97
Trempealeau.....	1.94
Vernon.....	1.95
Vilas.....	1.99
Walworth.....	2.05
Washington.....	1.95
Waukesha.....	2.03
Waupaca.....	2.04
Waushara.....	1.99
Winnebago.....	1.99
Wood.....	1.97
WYOMING	
All counties.....	2.09

(b) **Premiums and discounts.** The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows:

Premiums	Cents per bushel
(i) Moisture (percent):	
14.6 through 15.0.....	+1
14.5 or less.....	+2
(ii) Broken corn and foreign material (percent):	
2.0 or less.....	+2

Premiums do not apply to sample grade corn.

Discounts	Cents per bushel
(i) Class—mixed corn.....	-2
(ii) Test weight per bushel, pounds:	
53.0 through 53.9.....	-1
52.0 through 52.9.....	-2
51.0 through 51.9.....	-4
50.0 through 50.9.....	-6
49.0 through 49.9.....	-9
46.9 and under.....	(1)
(iii) Total damage (percent):	
5.1 through 6.0.....	-1
6.1 through 7.0.....	-2
7.1 and over.....	(1)
(iv) Heat damage (percent):	
.21 through .50.....	-1
.51 and over.....	(1)
(v) Broken corn and foreign material (percent):	
3.1 through 4.0.....	-2
4.1 and over.....	(1)

\*See note.  
(c) **Weed control laws:**  
Where required by § 1421.25..... 10  
(d) **Other.** Amounts determined by CCC to represent market discounts for

quality factors not specified above which affect the value of the corn such as (but not limited to) moisture, weevily, musty, sour, and rodent excreta. Such discounts will be established not later than the time delivery of corn to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

**NOTES.**—Premiums and discounts are cumulative except only one grade discount shall be applied.

Corn exceeding limits shown in foregoing schedule or corn containing in excess of 15.5 percent moisture is not eligible for loan. In the event quantities of corn exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
[FR Doc. 78-1485 Filed 1-19-78; 8:45 am]

## [3410-05]

[CCC Grain Price Support Regulations, 1977 Crop Oats Supplement]

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### Subpart—1977 Crop Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

**SUMMARY:** The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support program for oats. This rule will enable eligible oat producers to obtain loans and purchases on their eligible 1977 crop oats.

**EFFECTIVE DATE:** January 20, 1978.

**ADDRESS:** Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3752 South Building, P.O. Box 2415, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**

Merle Strawderman, ASCS 202-447-9224.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was published in the FEDERAL REGISTER on

July 29, 1976, 41 FR 31563, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1977 crop of feed grains including oats. Such determinations included determining loan and purchase rates and other related program provisions. Interested persons were given until August 30, 1976, to submit data, views, and recommendations. No recommendations were received concerning the loan and purchase program for oats. After considering applicable factors it has been determined that the loan and purchase rates for 1977 crop oats on a national average will be \$1.03 per bushel. The final availability date for purchases will be changed to March 31, 1978, the same as for loans. This change will enable producers to deliver 1977 crop oats under purchase agreement to CCC in time to make storage space available for 1978 crop oats.

Additional disbursements on 1977 crop oat loans already made will be available for those producers who want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The General Regulations Governing Price Support for 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and subsequent crops oats loan and purchase regulations, published at 35 FR 8340 and any amendments to such regulations are further supplemented for the 1977 crop of oats. 7 CFR §§ 1421.270 through 1421.273 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of oats. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

### Subpart—1977 Crop Oats Loan and Purchase Program

**Sec.**  
1421.270 Purpose.  
1421.271 Availability.  
1421.272 Maturity of loans.  
1421.273 Loan and purchase rates and premiums and discounts.

**AUTHORITY:** Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).

### Subpart—1977 Crop Oats Loan and Purchase Program

#### § 1421.270 Purpose.

This supplement contains additional program provisions which together with the provisions of the general regulations governing price support for the 1976 and subsequent crops, the 1970 and subsequent crops oats loan

and purchase program regulations, and any amendments thereto, apply to loans on and purchases of the 1977 crop of oats.

#### § 1421.271 Availability.

(a) **Loans.** Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible oats on or before March 31, 1978.

(b) **Purchases.** A producer desiring to offer eligible 1977 crop oats not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1977 crop oats they will sell to CCC.

#### § 1421.272 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan maturity date to the nine-month maturity date described in this section.

#### § 1421.273 Loan and purchase rates and premiums and discounts.

(a) **Basic loan and purchase rates.** County loan and purchase rates for oats and the schedule of premiums and discounts are shown below. The term "county" as used in this subpart with reference to the State of Alaska shall mean "marketing area". Marketing areas in Alaska shall be the areas established under the State small grain incentive program. Farm-stored loans will be made at the basic rate for the county where the grain is stored, adjusted only for the weed control discounts where applicable. The loan and purchase rate for warehouse-stored oats loans shall be the basic rate for the county where the oats are stored, adjusted by the premiums and discounts prescribed in paragraph (b) of this section. Notwithstanding § 1421.22(c), settlement for oats delivered from other than approved warehouse storage shall be based: (1) On the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity delivered as shown on the warehouse receipts and accompanying documents issued by an ap-

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proved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose. The basic rate applies to oats grading U.S. No. 3, having moisture not in excess of 14 percent.

1977—CROP OATS LOAN AND PURCHASE PROGRAM		
County	Rate per bushel	
ALABAMA		
All counties.....	\$1.13	
ALASKA*		
Delta.....	1.01	
Fairbanks.....	1.00	
Glenallen.....	1.07	
Homer.....	1.04	
Kenai-Soldotna.....	1.09	
Palmer.....	1.13	
Talkeetna.....	1.13	
ARIZONA		
All counties.....	1.22	
ARKANSAS		
All counties.....	1.11	
CALIFORNIA		
All counties.....	1.22	
COLORADO		
All counties.....	1.12	
CONNECTICUT		
All counties.....	1.12	
DELAWARE		
All counties.....	1.12	
FLORIDA		
All counties.....	1.16	
GEORGIA		
All counties.....	1.13	
IDAHO		
All counties.....	1.12	
ILLINOIS		
Adams.....	1.05	
Alexander.....	1.08	
Bond.....	1.06	
Boone.....	1.05	
Brown.....	1.05	
Bureau.....	1.05	
Calhoun.....	1.06	
Carroll.....	1.05	
Cass.....	1.05	
Champaign.....	1.05	
Christian.....	1.05	
Clark.....	1.08	
Clay.....	1.07	
Clinton.....	1.07	
Coles.....	1.05	
Cook.....	1.07	
Crawford.....	1.07	
Cumberland.....	1.06	
De Kalb.....	1.05	
De Witt.....	1.05	
Douglas.....	1.05	
Du Page.....	1.05	
Edgar.....	1.05	
Edwards.....	1.08	
Effingham.....	1.06	
Fayette.....	1.05	
Ford.....	1.05	
Franklin.....	1.08	
Fulton.....	1.05	
Gallatin.....	1.09	
Greene.....	1.08	
Grundy.....	1.05	
Hamilton.....	1.08	
Hancock.....	1.05	
Hardin.....	1.09	
Henderson.....	1.05	
Henry.....	1.05	
Iroquois.....	1.05	
Jackson.....	1.08	
Jasper.....	1.07	
INDIANA		
Adams.....	1.11	
Allen.....	1.11	
Bartholomew.....	1.11	
Benton.....	1.09	
Blackford.....	1.10	
Boone.....	1.10	
Brown.....	1.12	
Carroll.....	1.10	
Cass.....	1.10	
Clark.....	1.12	
Clay.....	1.10	
Clinton.....	1.10	
Crawford.....	1.12	
Davies.....	1.12	
Dearborn.....	1.13	
Decatur.....	1.11	
De Kalb.....	1.11	
Delaware.....	1.10	
Dubois.....	1.12	
Elkhart.....	1.11	
Fayette.....	1.10	
Floyd.....	1.12	
Fountain.....	1.09	
Franklin.....	1.12	
Fulton.....	1.10	
Gibson.....	1.12	
Grant.....	1.10	
Greene.....	1.12	
Hamilton.....	1.10	

\*In Alaska, loan rates are for marketing areas.

County	Rate per bushel
Jefferson.....	1.08
Jersey.....	1.06
Jo Daviess.....	1.05
Johnson.....	1.08
Kane.....	1.05
Kankakee.....	1.05
Kendall.....	1.05
Knox.....	1.05
Lake.....	1.06
La Salle.....	1.05
Lawrence.....	1.08
Lee.....	1.05
Livingston.....	1.05
Logan.....	1.05
McDonough.....	1.05
McHenry.....	1.05
McLeary.....	1.05
Macon.....	1.05
Macoupin.....	1.06
Madison.....	1.07
Marion.....	1.07
Marshall.....	1.05
Mason.....	1.05
Massac.....	1.08
Menard.....	1.05
Merced.....	1.05
Monroe.....	1.06
Montgomery.....	1.06
Morgan.....	1.05
Moultrie.....	1.05
Ogle.....	1.05
Peoria.....	1.05
Perry.....	1.08
Piatt.....	1.05
Pike.....	1.05
Pope.....	1.09
Pulaski.....	1.08
Putnam.....	1.05
Randolph.....	1.08
Richland.....	1.07
Rock Island.....	1.05
Saint Clair.....	1.06
Saline.....	1.09
Sangamon.....	1.05
Schuyler.....	1.05
Scott.....	1.05
Shelby.....	1.05
Stark.....	1.05
Stephenson.....	1.05
Tazewell.....	1.05
Union.....	1.08
Vermillion.....	1.05
Wabash.....	1.08
Warren.....	1.05
Washington.....	1.08
Wayne.....	1.08
White.....	1.08
Whiteside.....	1.05
Will.....	1.06
Williamson.....	1.06
Winnebago.....	1.05
Woodford.....	1.05



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County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
McKenzie.....	.91	Pickaway.....	1.12	Roberts.....	.94
McLean.....	.88	Pike.....	1.13	Sanborn.....	.95
Mercer.....	.88	Portage.....	1.13	Shannon.....	.97
Morton.....	.89	Preble.....	1.10	Spink.....	.94
Mountrail.....	.89	Putnam.....	1.11	Stanley.....	.95
Nelson.....	.91	Richland.....	1.12	Sully.....	.96
Oliver.....	.89	Ross.....	1.13	Todd.....	.96
Pembina.....	.92	Sandusky.....	1.12	Tripp.....	.96
Pierce.....	.89	Scioto.....	1.13	Turner.....	.98
Ramsey.....	.91	Seneca.....	1.12	Union.....	1.00
Ransom.....	.93	Shelby.....	1.11	Walworth.....	.94
Renville.....	.88	Stark.....	1.13	Washburn.....	.96
Richland.....	.94	Summit.....	1.13	Washington.....	.96
Rolette.....	.89	Trumbull.....	1.14	Waukesha.....	.96
Sargent.....	.93	Tuscarawas.....	1.13	Yankton.....	.99
Sheridan.....	.89	Union.....	1.12	Ziebach.....	.94
Sioux.....	.90	Van Wert.....	1.10		
Slope.....	.92	Vinton.....	1.13		
Stark.....	.88	Warren.....	1.12		
Steele.....	.92	Washington.....	1.15		
Stutsman.....	.92	Wayne.....	1.13		
Towner.....	.90	Williams.....	1.11		
Trail.....	.92	Wood.....	1.11		
Walsh.....	.92	Wyandot.....	1.12		
Ward.....	.88				
Wells.....	.90				
Williams.....	.91				
		OKLAHOMA			
Adams.....	1.13	All counties.....	1.13		
Allen.....	1.11	OREGON			
Ashland.....	1.12	All counties.....	1.16		
Ashtabula.....	1.14	PENNSYLVANIA			
Athens.....	1.14	All counties.....	1.16		
Auglaize.....	1.11	RHODE ISLAND			
Belmont.....	1.15	All counties.....	1.12		
Brown.....	1.13	SOUTH CAROLINA			
Buller.....	1.11	All counties.....	1.13		
Carroll.....	1.14	SOUTH DAKOTA			
Champaign.....	1.12	Aurora.....	.95		
Clark.....	1.12	Beadle.....	.95		
Clermont.....	1.13	Bennett.....	.96		
Clinton.....	1.13	Bon Homme.....	.98		
Columbiana.....	1.14	Brookings.....	.96		
Coshocton.....	1.13	Brown.....	.93		
Crawford.....	1.12	Brule.....	.95		
Cuyahoga.....	1.13	Butte.....	.95		
Darke.....	1.10	Campbell.....	.94		
Defiance.....	1.12	Charles Mix.....	.92		
Delaware.....	1.12	Clark.....	.94		
Erie.....	1.12	Clay.....	1.00		
Fairfield.....	1.12	Codington.....	.95		
Fayette.....	1.12	Corson.....	.92		
Franklin.....	1.12	Custer.....	.97		
Fulton.....	1.11	Davison.....	.95		
Gallia.....	1.14	Day.....	.94		
Geauga.....	1.13	Deuel.....	.96		
Greene.....	1.12	Dewey.....	.94		
Guernsey.....	1.14	Douglas.....	.96		
Hamilton.....	1.12	Edmunds.....	.93		
Hancock.....	1.11	Ellis.....	.95		
Hardin.....	1.14	Fall River.....	.97		
Harrison.....	1.11	Faulk.....	.94		
Henry.....	1.11	Grant.....	.96		
Highland.....	1.13	Gregory.....	.95		
Hocking.....	1.13	Haakon.....	.95		
Holmes.....	1.13	Hamlin.....	.95		
Huron.....	1.12	Hand.....	.95		
Jackson.....	1.13	Hanson.....	.95		
Jefferson.....	1.15	Harding.....	.93		
Knox.....	1.12	Hughes.....	.95		
Lake.....	1.13	Hutchinson.....	.97		
Lawrence.....	1.13	Hyde.....	.95		
Licking.....	1.12	Jackson.....	.95		
Logan.....	1.12	Jerauld.....	.95		
Lorain.....	1.11	Jones.....	.95		
Lucas.....	1.11	Kingsbury.....	.95		
Madison.....	1.12	Lake.....	.95		
Mahoning.....	1.14	Lawrence.....	.94		
Marion.....	1.12	Lincoln.....	.98		
Medina.....	1.13	Lyman.....	.95		
Meigs.....	1.14	McCook.....	.96		
Mercer.....	1.09	McPherson.....	.92		
Miami.....	1.11	Marshall.....	.93		
Monroe.....	1.15	Meade.....	.94		
Montgomery.....	1.11	Melette.....	.96		
Morgan.....	1.14	Miner.....	.97		
Morrow.....	1.12	Minnehaha.....	.96		
Muskingum.....	1.13	Moody.....	.95		
Noble.....	1.14	Pennington.....	.92		
Ottawa.....	1.12	Perkins.....	.92		
Paulding.....	1.10	Perry.....	1.13		
Perry.....	1.13	Potter.....	.94		

RULES AND REGULATIONS

[CCC Grain Price Support Regulations, 1977 Crop Rye Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1977 Crop Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts, under which Commodity Credit Corporation (CCC), will extend price support on 1977 crop rye. This rule is needed in order to provide a price support program for rye. This rule will enable eligible producers to obtain loans and purchases on eligible 1977 crop rye.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3744 South Building, P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman (ASCS) 202-447-9224.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563 stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1977 crops of feed grains including rye. Such determinations included determining loan and purchase rates, and other related program provisions. Interested persons were given until August 30, 1976, to submit data, views and recommendations. No recommendations were received concerning the loan and purchase program for rye. After considering applicable factors it has been determined that the loan and purchase program for 1977 crop rye on a national average will be \$1.70 per bushel. The final availability date for purchases will be changed to March 31, 1978, the same as for loans. This change will permit producers to deliver 1977 crop rye under purchase agreement to CCC in time to make storage space available for 1978 crop rye.

Additional disbursements on 1977 crop rye loans already made will be available for those producers who want their loans adjusted to the rates in this supplement. Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
[FR Doc. 78-1489 Filed 1-19-78; 8:45 am]

The General Regulations Governing Price Support for 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and Subsequent Crops Rye Loan and Purchase Regulations, published at 35 FR 10355 and any amendments to such regulations are further supplemented for the 1977 crop of rye. 7 CFR §§ 1421.350 through 1421.353 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of rye. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1977 Crop Rye Loan and Purchase Program

Sec. 1421.350 Purpose.  
1421.351 Availability.  
1421.352 Maturity of loans.  
1421.353 Loan and purchase rates, premiums and discounts.

AUTHORITY: Sec. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c) Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note and 1421).

Subpart—1977 Crop Rye Loan and Purchase Program

§ 1421.350 Purpose.

This supplement contains program provisions which, together with the provisions of the general regulations governing price support for the 1976 and subsequent crops, the 1970 and Subsequent Crops Rye Loan and Purchase Program regulations, and any amendments thereto, apply to loans and purchases with respect to the 1977 crop of rye.

§ 1421.351 Availability.

(a) Loans. Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible rye on or before March 31, 1978.

(b) Purchases. Producers desiring to offer eligible 1977 crop rye not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1977 crop rye they will sell to CCC.

§ 1421.352 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date



## RULES AND REGULATIONS

through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan maturity date to the nine-month maturity date described in this section.

#### § 1421.235 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rates (counties). Basic county rates per bushel for loan and settlement purposes for rye are established for rye grading U.S. No. 2 or better, or U.S. No. 3 on the factor of test weight only and are as follows:

1977—CROP RYE LOAN AND PURCHASE PROGRAM		
County	Rate per Bushel	
<b>ALABAMA</b>		
All counties.....	\$1.80	
<b>ARIZONA</b>		
All counties.....	1.77	
<b>ARKANSAS</b>		
All counties.....	1.74	
<b>CALIFORNIA</b>		
Alameda.....	1.94	
Los Angeles.....	1.94	
Sacramento.....	1.94	
San Diego.....	1.94	
San Francisco.....	1.94	
San Joaquin.....	1.94	
All other counties.....	1.81	
<b>COLORADO</b>		
All counties.....	1.83	
<b>CONNECTICUT</b>		
All counties.....	1.78	
<b>DELAWARE</b>		
All counties.....	1.83	
<b>FLORIDA</b>		
All counties.....	1.87	
<b>GEORGIA</b>		
All counties.....	1.87	
<b>IDAHO</b>		
All counties.....	1.72	
<b>ILLINOIS</b>		
Cook.....	1.81	
St. Clair.....	1.81	
All other counties.....	1.75	
<b>INDIANA</b>		
All counties.....	1.73	
<b>IOWA</b>		
Pottawattamie.....	1.72	
Woodbury.....	1.72	
All other counties.....	1.68	
<b>KANSAS</b>		
Wyandotte.....	1.72	
All other counties.....	1.62	
<b>KENTUCKY</b>		
All counties.....	1.80	
<b>LOUISIANA</b>		
East Baton Rouge.....	1.96	
Jefferson.....	1.96	
Orleans.....	1.96	
St. Charles.....	1.96	
West Baton Rouge.....	1.96	
All other counties.....	1.77	
<b>MAINE</b>		
All counties.....	1.78	
<b>MARYLAND</b>		
Baltimore.....	1.94	
All other counties.....	1.83	

#### 1977—CROP RYE LOAN AND PURCHASE PROGRAM—Continued

County	Rate per Bushel	
<b>MASSACHUSETTS</b>		
All counties.....	1.78	
<b>MICHIGAN</b>		
All counties.....	1.85	
<b>MINNESOTA</b>		
Hennepin.....	1.74	
St. Louis.....	1.74	
All other counties.....	1.68	
<b>MISSISSIPPI</b>		
All counties.....	1.82	
<b>MISSOURI</b>		
St. Louis.....	1.85	
All other counties.....	1.72	
<b>MONTANA</b>		
All counties.....	1.53	
<b>NEBRASKA</b>		
All counties.....	1.62	
<b>NEVADA</b>		
All counties.....	1.67	
<b>NEW HAMPSHIRE</b>		
All counties.....	1.78	
<b>NEW JERSEY</b>		
All counties.....	1.80	
<b>NEW MEXICO</b>		
All counties.....	1.67	
<b>NEW YORK</b>		
Albany.....	1.94	
New York City.....	1.94	
San Joaquin.....	1.94	
All other counties.....	1.78	
<b>NORTH CAROLINA</b>		
All counties.....	1.87	
<b>NORTH DAKOTA</b>		
All counties.....	1.58	
<b>OHIO</b>		
All counties.....	1.73	
<b>OKLAHOMA</b>		
All counties.....	1.70	
<b>OREGON</b>		
Clatsop.....	1.95	
Multnomah.....	1.95	
All other counties.....	1.82	
<b>PENNSYLVANIA</b>		
Philadelphia.....	1.94	
All other counties.....	1.78	
<b>RHODE ISLAND</b>		
All counties.....	1.78	
<b>SOUTH CAROLINA</b>		
Charleston.....	1.94	
All other counties.....	1.85	
<b>SOUTH DAKOTA</b>		
All counties.....	1.62	
<b>TENNESSEE</b>		
Shelby.....	1.87	
All other counties.....	1.82	
<b>TEXAS</b>		
Galveston.....	1.96	
Harris.....	1.96	
Jefferson.....	1.96	
Nueces.....	1.96	
San Patricio.....	1.96	
All other counties.....	1.75	
<b>UTAH</b>		
All counties.....	1.62	
<b>VERMONT</b>		
All counties.....	1.78	
<b>VIRGINIA</b>		
Chesapeake (Norfolk).....	1.94	
All other counties.....	1.83	

#### 1977—CROP RYE LOAN AND PURCHASE PROGRAM—Continued

County	Rate per Bushel	
<b>WASHINGTON</b>		
Clark.....	1.95	
Cowlitz.....	1.95	
King.....	1.95	
Pierce.....	1.95	
All other counties.....	1.82	
<b>WEST VIRGINIA</b>		
All counties.....	1.80	
<b>WISCONSIN</b>		
Douglas.....	1.74	
Milwaukee.....	1.82	
All other counties.....	1.73	
<b>WYOMING</b>		
All counties.....	1.62	

(b) Premiums and discounts. The basic loan and purchase rates shall be adjusted as applicable by premiums or discounts as follows (all footnotes at end of paragraph):

Premiums:	Cents per bushel
Rye, grading U.S. No. 1.....	+2
Discounts:	
(a) Rye, grading U.S. No. 3 on account of test weight.....	-2
(b) Rye, grading U.S. No. 3 on account of "thin" rye:	
15.1 to 17.0 pct thins.....	-3
17.1 to 19.0 pct thins.....	-5
19.1 to 21.0 pct thins.....	-7
21.1 to 23.0 pct thins.....	-9
23.1 to 25.0 pct thins.....	-11
(c) Rye, grading U.S. No. 3 for factors other than test weight or percent of thins.....	-5
(d) Weed control discount (where required by § 1421.25).....	-10

Rye, grading U.S. No. 4 or Sample Grade is not eligible for loan. In the event quantities of rye grading U.S. No. 4 or Sample Grade are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

(c) Other factors. Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of rye such as (but not limited to) moisture, weevily, stones, musty, sour ergot, and heating. Such discounts will be established approximately one month prior to the loan maturity date for rye and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts and adjustments thereof at county ASCS offices approximately one month prior to the loan maturity date or as soon thereafter as practicable.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.

(FR Doc. 78-1473 Filed 1-19-78; 8:45 am)

#### [3410-05]

(CCC Grain Price Support Regulations, 1977 Crop Sorghum Supplement)

#### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

##### Subpart—1977 Crop Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and applicable discounts. This rule is needed in order to provide a price support program for sorghum. This rule will permit eligible producers to obtain loans and purchases on their eligible 1977 crop sorghum.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3752 South Building, P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman (ASCS), 202-447-9224.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for the 1977 crops of feed grains, including sorghum. Such determinations included determining loan and purchase rates and other related program provisions. Interested persons were given until August 30, 1976, to submit any data, views and recommendations. Two recommendations were received concerning sorghum. One recommended increasing the loan and purchase rate to \$4 and one recommended increasing such rate to \$4.20. After considering the recommendations and other factors it has been determined that loan and purchase rates for 1977 crop sorghum on a national average will be \$3.39 per cwt. The final availability date for purchases will be changed to May 31, 1978, the same as for loans.

Additional disbursement on 1977 crop sorghum loans already made will be available for those producers who

want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The General Regulations Governing Price Support for 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and Subsequent Crops Sorghum Loan and Purchase Program Regulations, published at 35 FR 10745, and any amendments to such regulations are supplemented for the 1977 crop of sorghum. 7 CFR §§ 1421.235 through 1421.237 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of sorghum. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

##### Subpart—1977 Crop Sorghum Loan and Purchase Program

Sec.  
1421.235 Availability.  
1421.236 Maturity of loans.  
1421.237 Loan and purchase rates.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 105, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441 note, 1421).

##### Subpart—1977 Crop Sorghum Loan and Purchase Program

#### § 1421.235 Availability.

(a) Loans. Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible sorghum on or before May 31, 1978.

(b) Purchases. A producer desiring to offer eligible 1977 crop sorghum not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1978, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1977 crop sorghum he will sell to CCC.

#### § 1421.236 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan ma-

turity date to the nine-month maturity date described in this section.

#### § 1421.237 Loans and purchase rates and discounts.

(a) Basic rates (counties). Basic county rates for loan and settlement purposes for sorghum grading U.S. No. 2 or better are established as follows:

BASIC COUNTY LOAN AND PURCHASE RATES FOR SORGHUM No. 2 OR BETTER	
County	Rate per Cwt.
<b>ALABAMA</b>	
All counties.....	\$3.36
<b>ARIZONA</b>	
Apache.....	3.35
Cochise.....	3.57
Coconino.....	3.35
Gila.....	3.35
Graham.....	3.39
Greenlee.....	3.35
Maricopa.....	3.71
Mohave.....	3.83
Navajo.....	3.35
Pima.....	3.63
Pinal.....	3.71
Santa Cruz.....	3.60
Yavapai.....	3.35
Yuma.....	3.76
<b>ARKANSAS</b>	
Arkansas.....	3.46
Ashley.....	3.42
Baxter.....	3.34
Benton.....	3.27
Boone.....	3.36
Bradley.....	3.40
Calhoun.....	3.39
Carroll.....	3.27
Chicot.....	3.42
Clark.....	3.35
Clay.....	3.48
Cleburne.....	3.41
Cleveland.....	3.42
Columbia.....	3.38
Conway.....	3.37
Craighead.....	3.49
Crawford.....	3.32
Crittenden.....	3.56
Cross.....	3.40
Dallas.....	3.38
Deshas.....	3.44
Drew.....	3.42
Faulkner.....	3.40
Franklin.....	3.32
Fulton.....	3.39
Garland.....	3.34
Grant.....	3.37
Greene.....	3.48
Hempstead.....	3.36
Hot Spring.....	3.35
Howard.....	3.33
Independence.....	3.41
Izard.....	3.37
Jackson.....	3.46
Jefferson.....	3.42
Johnson.....	3.32
Lafayette.....	3.38
Lawrence.....	3.46
Lee.....	3.49
Lincoln.....	3.43
Little River.....	3.35
Logan.....	3.32
Lonoke.....	3.44
Madison.....	3.28
Marion.....	3.31
Miller.....	3.37
Mississippi.....	3.50
Monroe.....	3.48
Montgomery.....	3.32
Nevada.....	3.36
Newton.....	3.31
Ouachita.....	3.37
Perry.....	3.35
Phillips.....	3.49
Pike.....	3.34
Poinsett.....	3.40
Polk.....	3.32



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## RULES AND REGULATIONS

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Pope.....	3.34
Prairie.....	3.46
Pulaski.....	3.42
Randolph.....	3.45
St. Francis.....	3.49
Saline.....	3.36
Scott.....	3.32
Searcy.....	3.33
Sebastian.....	3.32
Sevier.....	3.33
Sharp.....	3.41
Stone.....	3.37
Union.....	3.38
Van Buren.....	3.38
Washington.....	3.28
White.....	3.44
Woodruff.....	3.47
Yell.....	3.34

## CALIFORNIA

Alameda.....	3.85
Amador.....	3.84
Butte.....	3.74
Calaveras.....	3.84
Colusa.....	3.78
Contra Costa.....	3.85
El Dorado.....	3.83
Fresno.....	3.77
Glenn.....	3.75
Humboldt.....	3.49
Imperial.....	3.80
Inyo.....	3.56
Kern.....	3.81
Kings.....	3.76
Lake.....	3.68
Lassen.....	3.53
Los Angeles.....	3.85
Madera.....	3.80
Marin.....	3.81
Mariposa.....	3.80
Mendocino.....	3.60
Merced.....	3.83
Modoc.....	3.52
Monterey.....	3.72
Napa.....	3.79
Orange.....	3.85
Placer.....	3.78
Plumas.....	3.60
Riverside.....	3.80
Sacramento.....	3.85
San Benito.....	3.78
San Bernardino.....	3.83
San Diego.....	3.85
San Francisco.....	3.85
San Joaquin.....	3.85
San Luis Obispo.....	3.89
San Mateo.....	3.84
Santa Barbara.....	3.72
Santa Clara.....	3.85
Santa Cruz.....	3.77
Shasta.....	3.55
Sierra.....	3.62
Siskiyou.....	3.51
Solano.....	3.84
Sonoma.....	3.80
Stanislaus.....	3.85
Sutter.....	3.78
Tehama.....	3.73
Tulare.....	3.75
Tuolumne.....	3.80
Ventura.....	3.82
Yolo.....	3.78
Yuba.....	3.77

## COLORADO

Baca.....	3.31
All other.....	3.27

## DELAWARE

All counties.....	3.41
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## FLORIDA

All counties.....	3.36
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## GEORGIA

All counties.....	3.41
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## IDAHO

All counties.....	3.14
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## ILLINOIS

Alexander.....	3.41
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BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Bond.....	3.33
Calhoun.....	3.29
Clay.....	3.33
Clinton.....	3.35
Edwards.....	3.35
Franklin.....	3.36
Gallatin.....	3.35
Hamilton.....	3.37
Hardin.....	3.36
Jackson.....	3.38
Jefferson.....	3.35
Jersey.....	3.29
Johnson.....	3.39
Lawrence.....	3.31
Madison.....	3.35
Marion.....	3.34
Massac.....	3.40
Monroe.....	3.35
Perry.....	3.36
Pope.....	3.39
Pulaski.....	3.41
Randolph.....	3.36
Richland.....	3.32
Saint Clair.....	3.35
Saline.....	3.37
Union.....	3.40
Wabash.....	3.32
Washington.....	3.35
Wayne.....	3.35
White.....	3.35
Williamson.....	3.38
All other counties.....	3.23

## INDIANA

All counties.....	3.28
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## IOWA

Adair.....	3.26
Adams.....	3.25
Appanoose.....	3.22
Audubon.....	3.24
Calhoun.....	3.19
Carroll.....	3.23
Cass.....	3.27
Clarke.....	3.23
Crawford.....	3.24
Decatur.....	3.24
Fremont.....	3.27
Guthrie.....	3.20
Harrison.....	3.26
Ida.....	3.21
Lucas.....	3.22
Madison.....	3.24
Marion.....	3.19
Mills.....	3.27
Monona.....	3.25
Monroe.....	3.20
Montgomery.....	3.27
Page.....	3.27
Pottawatomie.....	3.27
Ringgold.....	3.26
Sac.....	3.21
Shelby.....	3.25
Taylor.....	3.26
Union.....	3.24
Warren.....	3.22
Wayne.....	3.23
Woodbury.....	3.23
All other counties.....	3.15

## KANSAS

Allen.....	3.35
Anderson.....	3.36
Atchison.....	3.39
Barber.....	3.25
Barton.....	3.21
Bourbon.....	3.36
Brown.....	3.36
Butler.....	3.26
Chase.....	3.31
Chautauqua.....	3.30
Cherokee.....	3.34
Cheyenne.....	3.18
Clark.....	3.25
Clay.....	3.27
Cloud.....	3.26
Coffey.....	3.33
Comanche.....	3.25
Cowley.....	3.26

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Crawford.....	3.35
Decatur.....	3.20
Dickinson.....	3.26
Doniphan.....	3.25
Douglas.....	3.27
Edwards.....	3.21
Elk.....	3.30
Ellis.....	3.21
Ellsworth.....	3.23
Finney.....	3.22
Ford.....	3.25
Franklin.....	3.38
Geary.....	3.30
Gove.....	3.21
Graham.....	3.21
Grant.....	3.22
Gray.....	3.24
Greeley.....	3.18
Greenwood.....	3.31
Hamilton.....	3.20
Harper.....	3.25
Harvey.....	3.25
Haskell.....	3.23
Hodgemen.....	3.23
Jackson.....	3.37
Jefferson.....	3.38
Jewell.....	3.24
Johnson.....	3.38
Kearny.....	3.20
Kingman.....	3.24
Kiowa.....	3.23
Labette.....	3.34
Lane.....	3.19
Leavenworth.....	3.39
Lincoln.....	3.24
Linn.....	3.38
Logan.....	3.19
Lyons.....	3.22
McPherson.....	3.25
Marion.....	3.26
Marshall.....	3.31
Meade.....	3.24
Miami.....	3.38
Mitchell.....	3.24
Montgomery.....	3.34
Morris.....	3.30
Morton.....	3.24
Nemaha.....	3.33
Neosho.....	3.35
Ness.....	3.20
Norton.....	3.21
Osage.....	3.34
Osborne.....	3.23
Ottawa.....	3.25
Pawnee.....	3.21
Phillips.....	3.22
Pottawatomie.....	3.33
Pratt.....	3.23
Rawlins.....	3.19
Reno.....	3.23
Republic.....	3.26
Rice.....	3.23
Riley.....	3.31
Rooks.....	3.23
Rush.....	3.21
Russell.....	3.21
Saline.....	3.25
Scott.....	3.19
Sedgwick.....	3.25
Seward.....	3.24
Shawnee.....	3.36
Sheridan.....	3.21
Smith.....	3.23
Stafford.....	3.21
Stanton.....	3.22
Stevens.....	3.24
Sumner.....	3.25
Thomas.....	3.19
Trego.....	3.21
Wabauasee.....	3.33
Wallace.....	3.18
Washington.....	3.27
Wichita.....	3.19
Wilson.....	3.34
Woodson.....	3.33
Wyandotte.....	3.39
All counties.....	3.36

## KENTUCKY

## RULES AND REGULATIONS

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BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
LOUISIANA	
All counties.....	3.38
MICHIGAN	
All counties.....	3.23
MINNESOTA	
All counties.....	3.18
MISSISSIPPI	
All counties.....	3.36
MISSOURI	
Adair.....	3.22
Andrew.....	3.35
Atchison.....	3.27
Audrain.....	3.27
Barry.....	3.25
Barton.....	3.29
Bates.....	3.35
Benton.....	3.29
Bollinger.....	3.38
Boone.....	3.26
Buchanan.....	3.37
Butler.....	3.44
Caldwell.....	3.37
Callaway.....	3.25
Camden.....	3.28
Cape Girardeau.....	3.39
Carroll.....	3.38
Cass.....	3.37
Cedar.....	3.28
Chariton.....	3.32
Christian.....	3.26
Clark.....	3.17
Clay.....	3.39
Clinton.....	3.38
Cole.....	3.25
Cooper.....	3.29
Crawford.....	3.28
Dade.....	3.25
Dallas.....	3.26
Davies.....	3.32
De Kalb.....	3.32
Dent.....	3.31
Douglas.....	3.31
Dunklin.....	3.47
Franklin.....	3.31
Gasconade.....	3.28
Gentry.....	3.28
Greene.....	3.25
Grundy.....	3.31
Harrison.....	3.27
Henry.....	3.33
Hickory.....	3.29
Holt.....	3.30
Howard.....	3.29
Howell.....	3.34
Iron.....	3.37
Jackson.....	3.39
Jasper.....	3.23
Jefferson.....	3.31
Johnson.....	3.35
Knox.....	3.25
Laclede.....	3.28
Lafayette.....	3.37
Lawrence.....	3.25
Lewis.....	3.19
Lincoln.....	3.29
Linn.....	3.29
Livingston.....	3.35
McDonald.....	3.25
Macon.....	3.28
Madison.....	3.26
Marion.....	3.21
Mercer.....	3.27
Miller.....	3.27
Mississippi.....	3.40
Moniteau.....	3.25
Monroe.....	3.26
Montgomery.....	3.28
Morgan.....	3.29
New Madrid.....	3.43
Newton.....	3.30
Nodaway.....	3.30
Oregon.....	3.27
Osage.....	3.26
Ozark.....	3.32

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Pemiscot.....	3.48
Perry.....	3.37
Pettis.....	3.29
Phelps.....	3.26
Pike.....	3.26
Platte.....	3.39
Polk.....	3.26
Pulaski.....	3.26
Pulnam.....	3.25
Rails.....	3.22
Randolph.....	3.27
Ray.....	3.39
Reynolds.....	3.33
Ripley.....	3.43
Saint Charles.....	3.31
Saint Clair.....	3.31
Saint Francois.....	3.35
Saint Louis.....	3.35
Sainte Genevieve.....	3.36
Saline.....	3.35
Schuyler.....	3.19
Scotland.....	3.17
Scott.....	3.39
Shannon.....	3.33
Shelby.....	3.23
Stoddard.....	3.41
Stone.....	3.26
Sullivan.....	3.25
Taney.....	3.28
Texas.....	3.36
Vernon.....	3.32
Warren.....	3.30
Washington.....	3.34
Wayne.....	3.41
Webster.....	3.25
Worth.....	3.28
Wright.....	3.27
NEBRASKA	
Antelope.....	3.23
Burt.....	3.26
Butler.....	3.26
Cass.....	3.27
Colfax.....	3.25
Cumming.....	3.25
Dodge.....	3.26
Douglas.....	3.27
Gage.....	3.27
Hall.....	3.22
Hamilton.....	3.23
Jefferson.....	3.24
Johnson.....	3.27
Lincoln.....	3.26
Lancaster.....	3.24
Madison.....	3.24
McIntosh.....	3.22
Merrick.....	3.22
Nemaha.....	3.28
Otoe.....	3.26
Pawnee.....	3.28
Pierce.....	3.24
Platte.....	3.24
Folk.....	3.24
Richardson.....	3.30
Saline.....	3.26
Sarpy.....	3.27
Saunders.....	3.26
Seward.....	3.26
Stanton.....	3.25
Thayer.....	3.22
Thurston.....	3.25
Washington.....	3.27
York.....	3.25
All other counties.....	3.20
NEVADA	
All counties.....	3.30
NEW MEXICO	
Chaves.....	3.33
Curry.....	3.35
De Baca.....	3.32
Guadalupe.....	3.32
Harding.....	3.34
Hidalgo.....	3.39
Lea.....	3.35
Luna.....	3.39
Quay.....	3.35
Roosevelt.....	3.35
All other counties.....	3.31
NORTH CAROLINA	
All counties.....	3.41

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
NORTH DAKOTA	
All counties.....	3.13
OHIO	
All counties.....	3.28
OKLAHOMA	
Adair.....	3.39
Alfalfa.....	3.36
Atoka.....	3.47
Beaver.....	3.32
Beckham.....	3.41
Blaine.....	3.42
Bryan.....	3.47
Caddo.....	3.46
Canadian.....	3.45
Carter.....	3.47
Cherokee.....	3.44
Choctaw.....	3.47
Cimarron.....	3.32
Cleveland.....	3.47
Coal.....	3.47
Comanche.....	3.46
Cotton.....	3.45
Craig.....	3.37
Creek.....	3.45
Custer.....	3.42
Delaware.....	3.39
Dewey.....	3.37
Ellis.....	3.36
Garfield.....	3.39
Gravin.....	3.47
Grady.....	3.47
Grant.....	3.36
Greer.....	3.42
Harmon.....	3.41
Harper.....	3.32
Haskell.....	3.45
Hughes.....	3.46
Jackson.....	3.42
Jefferson.....	3.47
Johnston.....	3.47
Kay.....	3.36
Kingfisher.....	3.42
Kiowa.....	3.45
Latimer.....	3.46
Le Flore.....	3.46
Lincoln.....	3.46
Logan.....	3.43
Love.....	3.47
McClain.....	3.47
McCurtain.....	3.45
McIntosh.....	3.45
Major.....	3.37
Marshall.....	3.48
Mayes.....	3.39
Murray.....	3.47
Muskogee.....	3.45
Noble.....	3.40
Nowata.....	3.37
Okfuskee.....	3.45
Oklahoma.....	3.46
Oklmulgee.....	3.45
Osage.....	3.38
Ottawa.....	3.37
Pawnee.....	3.41
Payne.....	3.43
Pittsburg.....	3.46
Pontotoc.....	2.47
Pottawatomie.....	3.46
Pushmataha.....	3.47
Roger Mills.....	3.37
Rogers.....	3.39
Seminole.....	3.46
Sequoyah.....	3.44
Stephens.....	3.47
Texas.....	3.42
Tillman.....	3.42
Tulsa.....	3.44
Wagoner.....	3.43
Washington.....	3.36
Washita.....	3.44
Woods.....	2.36
Woodward.....	3.34
OREGON	
All counties.....	3.29
PENNSYLVANIA	
All counties.....	3.41



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## RULES AND REGULATIONS

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
SOUTH CAROLINA	
All counties.....	3.41
SOUTH DAKOTA	
Bon Homme.....	3.22
Clay.....	3.24
Hutchinson.....	3.21
Lincoln.....	3.23
Turner.....	3.21
Union.....	3.24
Yankton.....	3.24
All other counties.....	3.20
TENNESSEE	
Shelby.....	3.48
All other counties.....	3.36
TEXAS	
Anderson.....	3.54
Andrews.....	3.33
Angelina.....	3.59
Aransas.....	3.67
Archer.....	3.43
Armstrong.....	3.36
Atascosa.....	3.59
Austin.....	3.64
Bailey.....	3.35
Bandera.....	3.55
Bastrop.....	3.54
Baylor.....	3.43
Bee.....	3.66
Bell.....	3.61
Bexar.....	3.54
Blanco.....	3.55
Borden.....	3.35
Bosque.....	3.47
Bowie.....	3.44
Brazoria.....	3.67
Brazos.....	3.56
Brewster.....	3.26
Briscoe.....	3.37
Brooks.....	3.65
Brown.....	3.45
Burleson.....	3.56
Burnet.....	3.54
Caldwell.....	3.65
Calhoun.....	3.63
Callahan.....	3.43
Cameron.....	3.71
Camp.....	3.45
Carson.....	3.36
Cass.....	3.44
Castro.....	3.35
Chambers.....	3.71
Cherokee.....	3.51
Childress.....	3.41
Clay.....	3.45
Cochran.....	3.35
Coke.....	3.41
Coleman.....	3.44
Collin.....	3.47
Collingsworth.....	3.40
Colorado.....	3.61
Comal.....	3.54
Comanche.....	3.47
Conejo.....	3.45
Cooke.....	3.47
Coryell.....	3.46
Cottle.....	3.41
Crane.....	3.33
Crockett.....	3.31
Crosby.....	3.36
Culberson.....	3.26
Dallam.....	3.31
Dallas.....	3.47
Dawson.....	3.35
Deaf Smith.....	3.35
Delta.....	3.46
Denison.....	3.47
DeWitt.....	3.60
Dickens.....	3.41
Dimmit.....	3.46
Donley.....	3.36
Duval.....	3.62
Eastland.....	3.46
Ector.....	3.32
Edwards.....	3.45
Ellis.....	3.47
El Paso.....	3.26
Erath.....	3.47

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Falls.....	3.63
Fannin.....	3.47
Fayette.....	3.66
Fisher.....	3.41
Floyd.....	3.37
Foard.....	3.41
Fort Bend.....	3.67
Franklin.....	3.45
Freestone.....	3.52
Frio.....	3.50
Gaines.....	3.35
Galveston.....	3.71
Garza.....	3.37
Gillespie.....	3.53
Glasscock.....	3.35
Goliad.....	3.66
Gonzales.....	3.56
Gray.....	3.36
Grayson.....	3.48
Gregg.....	3.44
Grimes.....	3.63
Guadalupe.....	3.54
Hale.....	3.35
Hall.....	3.39
Hamilton.....	3.47
Hansford.....	3.31
Hardeman.....	3.41
Hardin.....	3.71
Harris.....	3.71
Harrison.....	3.45
Hartley.....	3.31
Haskell.....	3.43
Hays.....	3.54
Hempill.....	3.34
Henderson.....	3.50
Hidalgo.....	3.68
Hill.....	3.46
Hockley.....	3.35
Hood.....	3.47
Hopkins.....	3.46
Houston.....	3.59
Howard.....	3.35
Hudspeth.....	3.27
Hunt.....	3.47
Hutchinson.....	3.31
Irion.....	3.37
Jack.....	3.47
Jackson.....	3.59
Jasper.....	3.61
Jeff Davis.....	3.27
Jefferson.....	3.71
Jim Hogg.....	3.62
Castro.....	3.68
Johnson.....	3.47
Jones.....	3.42
Karnes.....	3.64
Kaufman.....	3.47
Kendall.....	3.55
Kenedy.....	3.65
Kent.....	3.41
Kerr.....	3.54
Kimble.....	3.49
King.....	3.41
Kinney.....	3.47
Kieberg.....	3.68
Knox.....	3.43
Lamar.....	3.46
Lamb.....	3.35
Lampasas.....	3.49
La Salle.....	3.51
Lavaca.....	3.57
Lee.....	3.56
Leon.....	3.54
Liberty.....	3.67
Limestone.....	3.52
Lipscomb.....	3.31
Live Oak.....	3.64
Llano.....	3.51
Loving.....	3.32
Lubbock.....	3.35
Lynn.....	3.35
McCulloch.....	3.45
McLennan.....	3.51
McMullen.....	3.55
Madison.....	3.58
Marion.....	3.45
Martin.....	3.35
Mason.....	3.49
Matagorda.....	3.65
Maverick.....	3.41

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Medina.....	3.53
Menard.....	3.45
Midland.....	3.34
Milam.....	3.55
Mills.....	3.47
Mitchell.....	3.38
Montague.....	3.47
Montgomery.....	3.66
Moore.....	3.31
Morris.....	3.45
Motley.....	3.59
Nacogdoches.....	3.52
Navarro.....	3.51
Newton.....	3.61
Nolan.....	3.41
Nueces.....	3.71
Ochiltree.....	3.31
Oldham.....	3.35
Orange.....	3.67
Palo Pinto.....	3.47
Panola.....	3.51
Parker.....	3.47
Parmer.....	3.35
Pecos.....	3.31
Polk.....	3.64
Potter.....	3.35
Presidio.....	3.26
Rains.....	3.46
Randall.....	3.35
Reagan.....	3.34
Real.....	3.52
Red River.....	3.45
Reeves.....	3.33
Refugio.....	3.66
Roberts.....	3.32
Robertson.....	3.54
Rockwall.....	3.47
Runnels.....	3.42
Rusk.....	3.46
Sabine.....	3.56
San Augustine.....	3.56
San Jacinto.....	3.62
San Patricio.....	3.71
San Saba.....	3.46
Schleicher.....	3.38
Scurry.....	3.36
Schackelford.....	3.44
Shelby.....	3.52
Sherman.....	3.30
Smith.....	3.48
Somervell.....	3.47
Starr.....	3.64
Stephens.....	3.46
Sterling.....	3.37
Stonewall.....	3.43
Sutton.....	3.43
Swisher.....	3.35
Tarrant.....	3.47
Taylor.....	3.43
Terrell.....	3.31
Terry.....	3.35
Throckmorton.....	3.44
Titus.....	3.45
Tom Green.....	3.41
Travis.....	3.54
Trinity.....	3.60
Tyler.....	3.61
Upton.....	3.32
Uvalde.....	3.52
Val Verde.....	3.42
Van Zandt.....	3.46
Victoria.....	3.63
Walker.....	3.63
Waller.....	3.65
Ward.....	3.33
Live Oak.....	3.64
Webb.....	3.49
Wharton.....	3.63
Wheeler.....	3.37
Wichita.....	3.42
Wilbarger.....	3.42
Willacy.....	3.70
Williamson.....	3.54
Wilson.....	3.59
Winkler.....	3.32
Wise.....	3.47
Wood.....	3.46
Yoakum.....	3.35
Young.....	3.46

BASIC COUNTY LOAN AND PURCHASE RATES  
FOR SORGHUM No. 2 OR BETTER—Continued

County	Rate per Cwt.
Zapata.....	3.61
Zavala.....	3.46
UTAH	
All counties.....	3.27
VIRGINIA	
All counties.....	3.41
WASHINGTON	
All counties.....	3.29
WISCONSIN	
All counties.....	3.18
WYOMING	
All counties.....	3.19

(b) Discounts. The basic loan and purchase rates shall be adjusted as applicable by discounts as follows (all footnotes at end of paragraph):

	Cents per bushel
Discounts apply per hundredweight—test weight, in pounds:	
(a) 52.9 to 52.0.....	-1
(b) 51.9 to 51.0.....	-2
(c) Below 51.0.....	(1)
Total damage kernels, percent:	
(a) 5.1 to 8.0.....	-2
(b) 8.1 to 7.0.....	-4
(c) 7.1 to 6.0.....	-6
(d) 6.1 to 5.0.....	-8
(e) 5.1 to 4.0.....	-10
(f) 4.1 to 3.0.....	-12
(g) 3.1 to 2.0.....	-14
(h) 2.1 to 1.0.....	-16
(i) 1.1 to 0.0.....	-18
(j) 0.1 to 0.0.....	-20
(k) 15.1 and over.....	(1)
Heat damaged kernels, percent:	
(a) 0.51 to 1.00.....	-2
(b) 1.01 to 2.00.....	-4
(c) 2.01 to 3.00.....	-6
(d) 3.01 and over.....	(1)
Broken kernels, foreign material and other grains, percent:	
(a) 8.1 to 9.0.....	-2
(b) 9.1 to 10.0.....	-4
(c) 10.1 to 11.0.....	-6
(d) 11.1 to 12.0.....	-8
(e) 12.1 to 13.0.....	-10
(f) 13.1 to 14.0.....	-12
(g) 14.1 to 15.0.....	-14
(h) 15.1 and over.....	(1)
Weed control law (where required by §1421.25).....	-15

\*See note.

NOTE.—Sorghum grading sample is not eligible for loan. In the event quantities of sorghum grading U.S. sample grade are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

Other factors. Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the sorghum, such as (but not limited to) moisture, heat damage, test weight, weevily, musty, sour, stones, weathered, discolored. Such discounts will be established not later than the time delivery of sorghum to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate

## RULES AND REGULATIONS

to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to maturity date.

NOTE.—Discounts are cumulative except only one grade discount shall be applied.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
(FR Doc. 78-1470 Filed 1-19-78; 8:45 am)

## [3410-05]

[CCC Grain Price Support Regulations,  
1977 Crop Soybeans Supplement]

PART 1421—GRAINS AND SIMILARLY  
HANDLED COMMODITIESSubpart—1977 Crop Soybeans Loan and  
Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the: (1) Final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates and premiums and discounts under which the Commodity Credit Corporation (CCC) will extend price support on 1977 crop soybeans. This rule is needed in order to provide a price support program for soybeans. This rule will enable eligible producers to obtain loans and purchases on their eligible 1977 crop soybeans.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3752, South Building, P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, ASCS, 202-447-9223, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1977 crop of soybeans. Such determinations included loan and purchase rates and other related provisions. Interested persons were given until August 30, 1976, to submit any data, views, and recommendations. Seven responses were received concerning the loan and purchase rates. All recommended that the support rate be increased. After considering the recommendations and other factors it has been determined that loan and purchase rates for 1977

crop soybeans on a national average will be \$3.50 per bushel. The final availability date for purchases will be changed to May 31, 1978, the same as for loans.

Additional disbursements on 1977-crop soybeans loans already made will be available for those producers who want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The general regulations governing price support for 1976 and subsequent crops, published at 41 FR 22334 and any amendments thereto and the 1970 and subsequent crops soybean loan and purchase regulations, published at 35 FR 13971 and any amendments to such regulations are further supplemented for the 1977 crop of soybeans. 7 CFR §§ 1421.390 through 1421.392 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of soybeans. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

## Subpart—1977 Crop Soybean Loan and Purchase Program

Sec.  
1421.390 Availability.  
1421.391 Maturity of loans.  
1421.392 Loans and purchase rates, premiums, and discounts.

AUTHORITY: Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 301, 303, 401, 63 Stat. 1051, as amended (7 U.S.C. 1447, 1449, 1421).

## Subpart—1977 Crop Soybean Loan and Purchase Program

§ 1421.390 Availability.

(a) Loans. Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible soybeans on or before May 31, 1978.

(b) Purchases. A producer desiring to offer eligible 1977 crop soybeans not under loan for purchase must execute and deliver to the county ASCS office on or before May 31, 1978, a purchase agreement (Form CCC-614) indicating the approximate quantity of 1977 crop soybeans he will sell to CCC.

§ 1421.391 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calendar month following the month the loan is disbursed, and in the case of warehouse stored loans, on demand but not later than the last day of the ninth calendar month following the month the warehouse receipt was issued except that loans made on



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warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued, mature on the date through which such charges have been paid. Producers who have already received disbursement on loan may request a change of the loan maturity date to the nine-month maturity date described in this section.

§ 1425.392 Loan and purchase rates, premiums, and discounts.

County loan rates for soybeans and the schedule of premiums and discounts are contained in this section. Farm stored loans will be made at the basic rate for the county where the soybeans are stored, adjusted only for the weed control discount where applicable. The loan and purchase rate for warehouse stored soybean loans shall be the basic rate stored, adjusted by the premiums and discounts prescribed in paragraphs (b) and (c) of this section. Notwithstanding § 1421.22(c), settlement for soybeans delivered from other than approved warehouse storage shall be based: (1) On the basic rate for the county in which the producer's customary delivery point is located, and (2) on the quality and quantity of the soybeans delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(a) Basic county loan and purchase rates. Basic county rates for the classes Green or Yellow Soybeans containing 12.8 to 13 percent moisture and grading not lower than U.S. No. 2 on the factors of test weight, splits, and heat damage and U.S. No. 1 on all other factors are as follows:

County	Rate per bushel
<b>ALABAMA</b>	
All counties.....	\$3.47
<b>ARIZONA</b>	
All counties.....	3.36
<b>ARKANSAS</b>	
Arkansas.....	3.54
Ashley.....	3.53
Baxter.....	3.49
Benton.....	3.43
Boone.....	3.48
Bradley.....	3.53
Calhoun.....	3.51
Carroll.....	3.45
Chicot.....	3.53
Clark.....	3.49
Clay.....	3.53
Cleburne.....	3.50
Cleveland.....	3.53
Columbia.....	3.49
Conway.....	3.50
Craighead.....	3.52
Crawford.....	3.46
Crittenden.....	3.54
Cross.....	3.54
Dallas.....	3.51
Desha.....	3.53
Drew.....	3.53

County	Rate per bushel
Faulkner.....	3.51
Franklin.....	3.47
Fulton.....	3.50
Gallatin.....	3.49
Gariand.....	3.51
Grant.....	3.53
Greene.....	3.46
Hempstead.....	3.50
Hot Spring.....	3.45
Howard.....	3.50
Independence.....	3.50
Isard.....	3.52
Jackson.....	3.52
Jefferson.....	3.48
Lafayette.....	3.46
Lawrence.....	3.52
Lee.....	3.54
Lincoln.....	3.53
Little River.....	3.46
Logan.....	3.47
Lonoke.....	3.53
Madison.....	3.45
Marion.....	3.48
Miller.....	3.46
Mississippi.....	3.54
Monroe.....	3.48
Montgomery.....	3.46
Nevada.....	3.48
Newton.....	3.46
Ouachita.....	3.50
Perry.....	3.50
Phillips.....	3.54
Pike.....	3.46
Poinsett.....	3.52
Polk.....	3.46
Pope.....	3.49
Prairie.....	3.54
Pulaski.....	3.51
Randolph.....	3.52
St. Francis.....	3.50
Saline.....	3.46
Scott.....	3.48
Searcy.....	3.46
Sebastian.....	3.46
Sevier.....	3.45
Sharp.....	3.52
Stone.....	3.50
Union.....	3.51
Van Buren.....	3.49
Washington.....	3.44
White.....	3.51
Woodruff.....	3.54
Yell.....	3.48

<b>CALIFORNIA</b>	
All counties.....	3.36

<b>DELAWARE</b>	
All counties.....	3.47

<b>FLORIDA</b>	
All counties.....	3.47

<b>GEORGIA</b>	
All counties.....	3.47

<b>ILLINOIS</b>	
Adams.....	3.55
Alexander.....	3.55
Bond.....	3.57
Boone.....	3.54
Brown.....	3.56
Bureau.....	3.54
Calhoun.....	3.55
Carroll.....	3.52
Cass.....	3.57
Champaign.....	3.58
Christian.....	3.57
Clark.....	3.54
Clay.....	3.55
Clinton.....	3.55
Coles.....	3.57
Cook.....	3.58
Crawford.....	3.56
Cumberland.....	3.57
De Kalb.....	3.56
De Witt.....	3.58
Douglas.....	3.57
Du Page.....	3.58
Edgar.....	3.57
Edwards.....	3.51
Effingham.....	3.57
Fayette.....	3.53
Ford.....	3.58

County	Rate per bushel
Franklin.....	3.51
Fulton.....	3.56
Gallatin.....	3.50
Greene.....	3.56
Grundy.....	3.58
Hamilton.....	3.51
Hancock.....	3.55
Hardin.....	3.50
Henderson.....	3.54
Henry.....	3.54
Iroquois.....	3.58
Jackson.....	3.55
Jasper.....	3.57
Jefferson.....	3.52
Jersey.....	3.55
Jo Daviess.....	3.52
Johnson.....	3.54
Kane.....	3.57
Kankakee.....	3.58
Kendall.....	3.57
Knox.....	3.56
Lake.....	3.57
LaSalle.....	3.58
Lawrence.....	3.54
Lee.....	3.54
Livingston.....	3.58
Logan.....	3.58
McDonough.....	3.58
McHenry.....	3.58
McLean.....	3.58
Macon.....	3.58
Macoupin.....	3.57
Madison.....	3.56
Marion.....	3.56
Marshall.....	3.56
Mason.....	3.57
Massac.....	3.49
Menard.....	3.57
Mercer.....	3.53
Monroe.....	3.55
Montgomery.....	3.57
Morgan.....	3.57
Moultrie.....	3.57
Ogle.....	3.54
Peoria.....	3.57
Perry.....	3.54
Pike.....	3.58
Porter.....	3.56
Posey.....	3.53
Pulaski.....	3.55
Putnam.....	3.53
Randolph.....	3.52
Ripley.....	3.55
Richland.....	3.55
Rock Island.....	3.53
St. Clair.....	3.58
Saline.....	3.56
Sangamon.....	3.58
Schuyler.....	3.54
Scott.....	3.57
Shelby.....	3.57
Stark.....	3.57
Stephenson.....	3.52
Tazewell.....	3.58
Union.....	3.56
Vermilion.....	3.58
Wabash.....	3.51
Warren.....	3.56
Washington.....	3.55
Wayne.....	3.52
White.....	3.50
Whiteside.....	3.52
Will.....	3.56
Williamson.....	3.53
Winnebago.....	3.53
Woodford.....	3.58

<b>INDIANA</b>	
Adams.....	3.52
Allen.....	3.52
Bartholomew.....	3.52
Benton.....	3.57
Blackford.....	3.52
Boone.....	3.53
Brown.....	3.53
Carroll.....	3.53
Cass.....	3.46
Clark.....	3.52
Clay.....	3.54
Clinton.....	3.53
Crawford.....	3.53
Daviess.....	3.52
Dearborn.....	3.52
Decatur.....	3.53

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County	Rate per bushel
De Kalb.....	3.52
Delaware.....	3.52
Dubois.....	3.52
Elkhart.....	3.52
Fayette.....	3.52
Floyd.....	3.52
Fountain.....	3.57
Franklin.....	3.52
Gibson.....	3.53
Grant.....	3.52
Greene.....	3.53
Hamilton.....	3.53
Hancock.....	3.52
Harrison.....	3.53
Hendricks.....	3.52
Henry.....	3.52
Howard.....	3.53
Huntington.....	3.52
Jackson.....	3.52
Jasper.....	3.56
Jay.....	3.52
Jefferson.....	3.52
Jennings.....	3.52
Johnson.....	3.52
Knox.....	3.52
Kosciusko.....	3.52
Lagrange.....	3.52
Lake.....	3.58
La Porte.....	3.55
Lawrence.....	3.52
Madison.....	3.52
Marion.....	3.53
Marshall.....	3.53
Martin.....	3.52
Miami.....	3.53
Monroe.....	3.52
Montgomery.....	3.54
Morgan.....	3.52
Newton.....	3.57
Noble.....	3.52
Ohio.....	3.52
Orange.....	3.52
Owen.....	3.53
Parke.....	3.55
Perry.....	3.53
Pike.....	3.52
Porter.....	3.57
Posey.....	3.53
Pulaski.....	3.55
Putnam.....	3.54
Randolph.....	3.52
Ripley.....	3.52
Rush.....	3.52
St. Joseph.....	3.53
Scott.....	3.52
Shelby.....	3.52
Spencer.....	3.53
Stark.....	3.52
Steuben.....	3.55
Sullivan.....	3.54
Switzerland.....	3.52
Tippecanoe.....	3.55
Tipton.....	3.53
Union.....	3.52
Vanderburgh.....	3.53
Vermillion.....	3.57
Vigo.....	3.56
Wabash.....	3.52
Warren.....	3.57
Warrick.....	3.53
Washington.....	3.52
Wayne.....	3.52
Wells.....	3.55
White.....	3.55
Whitley.....	3.52

<b>IOWA</b>	
Adair.....	3.46
Adams.....	3.46
Allamakee.....	3.47
Appanoose.....	3.49
Audubon.....	3.45
Benton.....	3.50
Black Hawk.....	3.47
Boone.....	3.47
Bremer.....	3.46
Buchanan.....	3.48
Buena Vista.....	3.45
Butler.....	3.46
Calhoun.....	3.45
Carroll.....	3.45
Cass.....	3.46

County	Rate per bushel
Cedar.....	3.51
Cerro Gordo.....	3.46
Cherokee.....	3.45
Chickasaw.....	3.46
Clarke.....	3.48
Clay.....	3.45
Clayton.....	3.48
Clinton.....	3.52
Crawford.....	3.45
Dallas.....	3.47
Davis.....	3.51
Decatur.....	3.48
Delaware.....	3.48
Des Moines.....	3.48
Dickinson.....	3.45
Dubuque.....	3.49
Emmet.....	3.45
Fayette.....	3.47
Floyd.....	3.45
Franklin.....	3.47
Fremont.....	3.45
Greene.....	3.45
Grundy.....	3.48
Guthrie.....	3.47
Hamilton.....	3.46
Hancock.....	3.48
Hardin.....	3.48
Harrison.....	3.44
Henry.....	3.53
Howard.....	3.46
Humboldt.....	3.46
Ida.....	3.45
Iowa.....	3.50
Jackson.....	3.52
Jasper.....	3.49
Jefferson.....	3.52
Johnson.....	3.50
Jones.....	3.51
Keokuk.....	3.52
Kossuth.....	3.46
Lee.....	3.54
Linn.....	3.50
Louisia.....	3.53
Lucas.....	3.49
Lyon.....	3.44
Madison.....	3.47
Mahaska.....	3.51
Marion.....	3.49
Marshall.....	3.49
Mills.....	3.45
Mitchell.....	3.45
Monona.....	3.44
Monroe.....	3.49
Montgomery.....	3.45
Muscatine.....	3.52
O'Brien.....	3.45
Osceola.....	3.45
Page.....	3.45
Palo Alto.....	3.45
Plymouth.....	3.44
Pocahontas.....	3.45
Polk.....	3.48
Pottawattamie.....	3.45
Poweshiek.....	3.50
Ringgold.....	3.47
Sac.....	3.45
Scott.....	3.52
Shelby.....	3.45
Sioux.....	3.44
Story.....	3.48
Tama.....	3.50
Taylor.....	3.48
Union.....	3.47
Van Buren.....	3.53
Wapello.....	3.51
Warren.....	3.48
Washington.....	3.53
Wayne.....	3.49
Webster.....	3.47
Winnebago.....	3.46
Winneshek.....	3.47
Woodbury.....	3.44
Worth.....	3.46
Wright.....	3.46

<b>KANSAS</b>	
All counties.....	3.43
<b>KENTUCKY</b>	
All counties.....	3.51
<b>LOUISIANA</b>	
All counties.....	3.51

County	Rate per bushel
MARYLAND	
All counties.....	3.47
MICHIGAN	
Allegan.....	3.44
Arenac.....	3.44
Barry.....	3.44
Bay.....	3.44
Berrien.....	3.49
Branch.....	3.48
Calhoun.....	3.46
Cass.....	3.49
Clinton.....	3.44
Eaton.....	3.45
Genesee.....	3.44
Gladwin.....	3.44
Gratiot.....	3.44
Hillsdale.....	3.49
Huron.....	3.44
Ingham.....	3.45
Ionia.....	3.44
Isabella.....	3.44
Jackson.....	3.47
Kalamazoo.....	3.46
Lapeer.....	3.47
Lenawee.....	3.49
Livingston.....	3.45
Macomb.....	3.45
Midland.....	3.44
Monroe.....	3.50
Montcalm.....	3.44
Oakland.....	3.45
Saginaw.....	3.44
Saint Clair.....	3.44
St. Joseph.....	3.48
Sanilac.....	3.44
Shiawassee.....	3.44
Tuscola.....	3.44
Van Buren.....	3.46
Washtenaw.....	3.47
Wayne.....	3.47
All other counties.....	3.43
MINNESOTA	
Aitkin.....	3.38
Anoka.....	3.45
Becker.....	3.39
Beltrami.....	3.38
Benton.....	3.42
Big Stone.....	3.42
Blue Earth.....	3.47
Brown.....	3.48
Carlton.....	3.39
Carver.....	3.47
Cass.....	3.38
Chippewa.....	3.44
Chisago.....	3.42
Clay.....	3.39
Clearwater.....	3.38
Cottonwood.....	3.43
Crow Wing.....	3.36
Dakota.....	3.47
Dodge.....	3.45
Douglas.....	3.41
Faribault.....	3.46
Fillmore.....	3.45
Freeborn.....	3.46
Goodhue.....	3.45
Grant.....	3.41
Hennepin.....	3.47
Houston.....	3.45
Hubbard.....	3.39
Isanti.....	3.42
Itasca.....	3.38
Jackson.....	3.43
Kanabec.....	3.40
Kandiyohi.....	3.43
Kittson.....	3.38
Koochiching.....	3.38
Lac Qui Parle.....	3.44
Lake of the Woods.....	3.37
Le Sueur.....	3.47
Lincoln.....	3.41
Lyon.....	3.42
McLeod.....	3.46
Mahnomen.....	3.38
Marshall.....	3.36
Martin.....	3.45
Meeker.....	3.44
Millie Lacs.....	3.40
Morrison.....	3.40
Mower.....	3.45
Murray.....	3.42



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RULES AND REGULATIONS

County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Nicollet.....	3.47	Lafayette.....	3.45	Clinton.....	3.52
Nobles.....	3.43	Lawrence.....	3.45	Columbiana.....	3.50
Norman.....	3.38	Lewis.....	3.54	Coshocton.....	3.50
Olmsted.....	3.45	Lincoln.....	3.53	Crawford.....	3.52
Otter Tail.....	3.39	Linn.....	3.49	Cuyahoga.....	3.50
Pennington.....	3.37	Livingston.....	3.48	Darke.....	3.51
Pine.....	3.40	McDonald.....	3.45	Defiance.....	3.52
Pipestone.....	3.41	Macon.....	3.50	Delaware.....	3.51
Polk.....	3.37	Madison.....	3.52	Erie.....	3.52
Pope.....	3.42	Maries.....	3.46	Fairfield.....	3.52
Ramsey.....	3.47	Marion.....	3.51	Fayette.....	3.52
Red Lake.....	3.37	Mercer.....	3.48	Franklin.....	3.51
Redwood.....	3.43	Miller.....	3.47	Fulton.....	3.54
Renville.....	3.44	Mississippi.....	3.54	Gallia.....	3.52
Rice.....	3.46	Monteau.....	3.46	Geauga.....	3.50
Rock.....	3.42	Monroe.....	3.52	Greene.....	3.51
Roseau.....	3.36	Montgomery.....	3.50	Guernsey.....	3.52
Scott.....	3.47	Morgan.....	3.47	Hamilton.....	3.52
Sherburne.....	3.45	New Madrid.....	3.54	Hancock.....	3.53
Sibley.....	3.47	Newton.....	3.45	Hardin.....	3.54
Stearns.....	3.42	Nodaway.....	3.46	Harrison.....	3.50
Steele.....	3.46	Oregon.....	3.50	Henry.....	3.54
Stevens.....	3.42	Osage.....	3.48	Highland.....	3.52
Swift.....	3.42	Ozark.....	3.47	Hocking.....	3.52
Todd.....	3.40	Pemiscot.....	3.54	Holmes.....	3.50
Traverse.....	3.41	Perry.....	3.54	Huron.....	3.52
Wabasha.....	3.45	Pettis.....	3.47	Jackson.....	3.52
Wadena.....	3.39	Phelps.....	3.48	Jefferson.....	3.50
Waseca.....	3.46	Pike.....	3.54	Knox.....	3.50
Washington.....	3.45	Platte.....	3.46	Lake.....	3.50
Watsonwan.....	3.46	Polk.....	3.46	Lawrence.....	3.52
Wilkin.....	3.39	Pulaski.....	3.47	Licking.....	3.50
Winona.....	3.45	Putnam.....	3.49	Logan.....	3.53
Wright.....	3.45	Rails.....	3.54	Lorain.....	3.52
Yellow Medicine.....	3.45	Randolph.....	3.50	Lucas.....	3.55
MISSISSIPPI		Ray.....	3.46	Madison.....	3.51
All counties.....	3.53	Reynolds.....	3.50	Mahoning.....	3.50
MISSOURI		Ripley.....	3.50	Marion.....	3.53
Adair.....	3.50	Saint Charles.....	2.53	Medina.....	3.52
Andrew.....	3.46	Saint Clair.....	3.45	Meigs.....	3.52
Atchison.....	3.46	Saint Francois.....	3.52	Mercer.....	3.52
Audrain.....	3.52	Saint Louis.....	3.54	Miami.....	3.51
Barry.....	3.45	Sainte Genevieve.....	3.54	Monroe.....	3.52
Barton.....	3.45	Saline.....	3.47	Montgomery.....	3.51
Bates.....	3.45	Schuyler.....	3.50	Morgan.....	3.52
Benton.....	3.46	Scotland.....	3.52	Morrow.....	3.52
Bollinger.....	3.54	Scott.....	3.54	Muskingum.....	3.52
Boone.....	3.49	Shannon.....	3.50	Noble.....	3.52
Buchanan.....	3.46	Shelby.....	3.52	Ottawa.....	3.53
Butler.....	3.52	Stoddard.....	3.54	Paulding.....	3.52
Caldwell.....	3.46	Stone.....	3.46	Perry.....	3.52
Callaway.....	3.49	Sullivan.....	3.49	Pickaway.....	3.52
Cape Girardeau.....	3.47	Taney.....	3.46	Pike.....	3.52
Cape Girardeau.....	3.54	Texas.....	3.46	Portage.....	3.50
Carroll.....	3.50	Vernon.....	3.44	Preble.....	3.51
Carter.....	3.45	Washington.....	3.51	Putnam.....	3.53
Cass.....	3.45	Wayne.....	3.52	Richland.....	3.52
Cedar.....	3.44	Webster.....	3.46	Ross.....	3.53
Chariton.....	3.49	Worth.....	3.46	Sandusky.....	3.52
Christian.....	3.46	Wright.....	3.46	Scioto.....	3.53
Clark.....	3.54	NEBRASKA		Seneca.....	3.53
Clay.....	3.46	All counties.....	3.41	Shelby.....	3.52
Clinton.....	3.46	NEW JERSEY		Stark.....	3.50
Cole.....	3.46	All counties.....	3.45	Summit.....	3.50
Cooper.....	3.46	NEW MEXICO		Trumbull.....	3.50
Crawford.....	3.50	All counties.....	3.36	Tuscarawas.....	3.51
Dade.....	3.45	NEW YORK		Union.....	3.51
Dallas.....	3.46	All counties.....	3.37	Van Wert.....	3.52
Davies.....	3.46	NORTH CAROLINA		Vinton.....	3.52
De Kalb.....	3.46	All counties.....	3.47	Warren.....	3.52
Dent.....	3.50	NORTH DAKOTA		Washington.....	3.52
Douglas.....	3.46	All counties.....	3.36	Wayne.....	3.50
Dunklin.....	3.54	OHIO		Williams.....	3.52
Franklin.....	3.52	Adams.....	3.52	Wood.....	3.54
Franklin.....	3.52	Allen.....	3.53	Wyandot.....	3.53
Oasconade.....	3.50	Ashland.....	3.52	OKLAHOMA	
Gentry.....	3.46	Ashtabula.....	3.50	All counties.....	3.39
Greene.....	3.46	Athens.....	3.52	PENNSYLVANIA	
Grundy.....	3.46	Auglaize.....	3.53	All counties.....	3.43
Harrison.....	3.45	Belmont.....	3.52	SOUTH CAROLINA	
Henry.....	3.45	Brown.....	3.52	All counties.....	3.47
Hickory.....	3.46	Butler.....	3.52	SOUTH DAKOTA	
Holt.....	3.46	Carroll.....	3.50	All counties.....	3.39
Howard.....	3.48	Champaign.....	3.52	TENNESSEE	
Howell.....	3.52	Clark.....	3.51	All counties.....	3.47
Iron.....	3.45	Clermont.....	3.52	TEXAS	
Jackson.....	3.45			All counties.....	3.39
Jasper.....	3.45			VERMONT	
Jefferson.....	3.54			All counties.....	3.36
Johnson.....	3.45				
Knox.....	3.52				
Laclede.....	3.46				

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County	Rate per bushel
VIRGINIA	
All counties.....	3.47
WEST VIRGINIA	
All counties.....	3.45
WISCONSIN	
All counties.....	3.43

(b) Premiums and discounts. The basic loan and purchase rates shall be adjusted as applicable by premiums and discounts as follows (all footnotes at end of paragraph):

	Cents per bushel
1. Premiums—Moisture (percent):	
12.2 or less.....	+7.0
12.3 through 12.7.....	+3.5
12.8 through 13.0.....	0
2. Discounts:	
(a) Class:	
Black.....	-25
Brown.....	-25
Mixed.....	-25
(b) Moisture:	
13.1 through 13.5.....	-3.5
13.6 through 14.0.....	-7.0
14.1 and over.....	(1)
(c) Test weight per bushel (pounds):	
53.9 to 53.0.....	-0.5
52.9 to 52.0.....	-1.0
51.9 to 51.0.....	-1.5
50.9 to 50.0.....	-2.0
49.9 to 49.0.....	-2.5
48.9 and under.....	(1)
(d) Splits:	
20.1 to 25.0.....	-0.25
25.1 to 30.0.....	-0.50
30.1 to 35.0.....	-0.75
35.1 to 40.0.....	-1.00
40.1 and over.....	(1)
(e) Damaged kernels:	
(1) Heat damage (percent):	
0.6 to 1.0.....	-1.0
1.1 to 1.5.....	-2.0
1.6 to 2.0.....	-3.0
2.1 to 2.5.....	-4.0
2.6 to 3.0.....	-5.0
3.1 and over.....	(1)
(2) Total damage:	
2.1 to 3.0.....	-1.0
3.1 to 4.0.....	-2.0
4.1 to 5.0.....	-3.0
5.1 to 6.0.....	-5.0
6.1 to 7.0.....	-7.0
7.1 to 8.0.....	-9.0
8.1 and over.....	(1)
(f) Black, brown and/or bicolored soybeans in yellow or green soybeans:	
1.1 to 2.0.....	-0.5
2.1 to 5.0.....	-1.5
5.1 to 10.0.....	-3.5
10.1 and over.....	(1)
(g) Special factors:	
(1) Materially weathered.....	-5.0
(2) Stained.....	-2.0
(3) Purple mottled.....	-2.0
(4) Weed control laws (where required by § 1421.25).....	-10

See note.

NOTE.—Soybeans exceeding limits shown in this schedule or soybeans containing in excess of 14.0 percent moisture are not eligible for loan. In the event quantities of soybeans exceeding limits shown are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

Other factors. Amounts determined by CCC to represent market discounts

for quality factors not specified above which affect the value of the soybeans, such as (but not limited to) moisture, musty, sour, and heating. Such discounts will be established not later than the time delivery of soybeans to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately one month prior to the loan maturity date.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.  
(FR Doc. 78-1484 Filed 1-19-78; 8:45 am)

[3410-05]  
[CCC Grain Price Support Regulations, 1977 Crop Wheat Supplement]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES  
Subpart—1977 Crop Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of the rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) premiums and discounts under which Commodity Credit Corporation (CCC) will make loans on 1977 crop wheat. This rule is needed in order to implement the 1977 wheat loan and purchase program. This rule will enable eligible wheat producers to obtain loans and purchases on their eligible 1977 crop wheat.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3752 South Building, P.O. Box 2415, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman (ASCS), 202-447-9224.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the FEDERAL REGISTER on July 29, 1976, 41 FR 31563, stating that the Department of Agriculture proposed to make determinations and issue regulations relative to a loan and purchase program for 1977 crop wheat. Such determinations included determining loan and purchase rates and other related provisions. Interested persons were given until August 30, 1976, to submit any data, views, and recommendations. Seven responses

were received concerning the loan and purchase rates. All recommended that the support rate be increased. Such recommended increases ranged from \$2.50 to \$4. After considering applicable factors it has been determined that the loan and purchase rates for 1977 crop wheat on a national average will be \$2.25 per bushel. The final availability date for purchases will be changed to March 31, 1978, the same as for loans.

Additional disbursements on 1977 crop wheat loans already made will be available for those producers who want their loans adjusted to the rates in this supplement.

Producers who wish to secure loans or adjust present loans to these rates can do so by contacting their local Agricultural Stabilization and Conservation Service Office or Agricultural Service Center.

The General Regulations Governing Price Support for 1976 and Subsequent Crops, published at 41 FR 22334 and any amendments thereto and the 1970 and Subsequent Crops Wheat Loan and Purchase Regulations, published at 35 FR 8204 and any amendments to such regulations are further supplemented for the 1977 crop of wheat. 7 CFR §§ 1421.485 through 1421.488 and the title of the subpart are revised to read as provided below, effective as to the 1977 crop of wheat. The material previously appearing in these sections shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1977 Crop Wheat Loan and Purchase Program

Sec. 1421.485 Availability.  
1421.486 Maturity of loans.  
1421.487 Ineligible classes.  
1421.488 Loan and purchase rates.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 107, 401, 63 Stat. 1051, as amended (7 U.S.C. 1445a, 1421).

Subpart—1977 Crop Wheat Loan and Purchase Program

§ 1421.485 Availability.  
(a) Loans. Producers desiring to participate in the program through loans must request a loan on their 1977 crop of eligible wheat on or before March 31, 1978.

(b) Purchases. Producers desiring to offer eligible 1977 crop wheat not under loan for purchase must execute and deliver to the county ASCS office on or before March 31, 1978, a Purchase Agreement (Form CCC-614) indicating the approximate quantity of 1977 crop wheat they will sell to CCC.

§ 1421.486 Maturity of loans.

Loans mature in the case of farm stored loans on demand but not later than the last day of the ninth calen-



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RULES AND REGULATIONS

dar month following the month the loan is disbursed, and in case of warehouse stored loans, on demand but not later than last day of the ninth calendar month following the month the warehouse receipt was issued, except that loans made on warehouse receipts which show that the nine-month storage charge has been paid but the date of tender to CCC is after the date the warehouse receipt was issued mature on the date through which such charges have been paid. Producers who have already received disbursement on loans may request a change of the loan maturity date to the nine-month maturity date described in this section.

§ 1421.487 Ineligible classes.

Unclassed wheat shall not be eligible for loan or purchase.

§ 1421.488 Loan and purchase rates.

(a) Basic loan and purchase rates (counties). Basic rates per bushel for loan and settlement purposes for wheat are established for wheat grading U.S. No. 1 and are as follows:

County	Rate per bushel
<b>ALABAMA</b>	
Mobile.....	2.39
All other counties.....	2.20
<b>ARIZONA</b>	
All counties.....	2.27
<b>ARKANSAS</b>	
All counties.....	2.21
<b>CALIFORNIA</b>	
Alameda.....	2.43
Alpine.....	2.25
Amador.....	2.38
Butte.....	2.32
Calaveras.....	2.38
Colusa.....	2.37
Contra Costa.....	2.38
El Dorado.....	2.37
Fresno.....	2.33
Glenn.....	2.31
Humboldt.....	2.20
Imperial.....	2.35
Inyo.....	2.31
Kern.....	2.36
Kings.....	2.35
Lake.....	2.31
Lassen.....	2.20
Los Angeles.....	2.43
Madera.....	2.36
Marin.....	2.36
Mariposa.....	2.36
Mendocino.....	2.25
Merced.....	2.39
Modoc.....	2.20
Monterey.....	2.33
Napa.....	2.37
Orange.....	2.43
Placer.....	2.37
Plumas.....	2.20
Riverside.....	2.35
Sacramento.....	2.43
San Benito.....	2.36
San Bernardino.....	2.44
San Diego.....	2.43
San Francisco.....	2.43
San Joaquin.....	2.43
San Luis Obispo.....	2.32
San Mateo.....	2.43
Santa Barbara.....	2.33
Santa Clara.....	2.37
Santa Cruz.....	2.38
Shasta.....	2.21
Sierra.....	2.22
Siskiyou.....	2.20
Solano.....	2.38
Sonoma.....	2.35

County	Rate per bushel
Stanislaus.....	2.40
Sutter.....	2.37
Tehama.....	2.27
Tulare.....	2.35
Tuolumne.....	2.36
Ventura.....	2.40
Yuba.....	2.38
<b>COLORADO</b>	
Adams.....	2.09
Alamosa.....	2.06
Arapahoe.....	2.09
Archuleta.....	2.03
Baca.....	2.12
Boulder.....	2.08
Chaffee.....	2.06
Cheyenne.....	2.10
Conejos.....	2.06
Costilla.....	2.06
Crowley.....	2.09
Custer.....	2.06
Delta.....	2.00
Denver.....	2.09
Dolores.....	2.00
Douglas.....	2.03
Eagle.....	2.09
Elbert.....	2.09
El Paso.....	2.09
Fremont.....	2.06
Garfield.....	2.03
Grand.....	2.06
Huerfano.....	2.10
Jackson.....	2.06
Jefferson.....	2.06
Kiowa.....	2.10
Kit Carson.....	2.10
La Plata.....	2.00
Larimer.....	2.09
Las Animas.....	2.12
Lincoln.....	2.09
Logan.....	2.09
Mesa.....	2.00
Moffat.....	2.06
Montezuma.....	2.00
Montrose.....	2.00
Morgan.....	2.09
Otero.....	2.09
Ouray.....	2.00
Phillips.....	2.09
Pitkin.....	2.00
Pueblo.....	2.11
Rio Blanco.....	2.03
Rio Grande.....	2.06
Routt.....	2.06
Saguache.....	2.06
San Miguel.....	2.00
Sedgwick.....	2.09
Summit.....	2.03
Teller.....	2.06
Washington.....	2.09
Weid.....	2.09
Yuma.....	2.10
<b>CONNECTICUT</b>	
All counties.....	2.22
<b>DELAWARE</b>	
All counties.....	2.25
<b>FLORIDA</b>	
All counties.....	2.19
<b>GEORGIA</b>	
All counties.....	2.19
<b>IDAHO</b>	
Ada.....	2.19
Adams.....	2.19
Bannock.....	2.17
Bear Lake.....	2.15
Benewah.....	2.30
Bingham.....	2.15
Blaine.....	2.15
Boise.....	2.19
Bonner.....	2.22
Bonneville.....	2.14
Boundary.....	2.20
Butte.....	2.14
Camas.....	2.16
Canyon.....	2.19
Caribou.....	2.16
Cassia.....	2.16
Clark.....	2.12

County	Rate per bushel
Clearwater.....	2.28
Custer.....	2.14
Elmore.....	2.18
Franklin.....	2.18
Fremont.....	2.13
Gem.....	2.19
Gooding.....	2.19
Idaho.....	2.27
Jefferson.....	2.14
Jerome.....	2.19
Kootenai.....	2.28
Latah.....	2.30
Lemhi.....	2.14
Lewis.....	2.29
Lincoln.....	2.18
Madison.....	2.14
Minidoka.....	2.18
Nez Perce.....	2.32
Oneida.....	2.18
Owyhee.....	2.18
Payette.....	2.19
Power.....	2.18
Custer.....	2.28
Teton.....	2.13
Twin Falls.....	2.19
Valley.....	2.18
Washington.....	2.19
<b>ILLINOIS</b>	
Adams.....	2.23
Alexander.....	2.26
Bond.....	2.29
Boone.....	2.31
Brown.....	2.23
Bureau.....	2.29
Calhoun.....	2.30
Carroll.....	2.26
Cass.....	2.25
Champaign.....	2.29
Christian.....	2.27
Lairner.....	2.25
Clark.....	2.25
Clay.....	2.25
Clinton.....	2.29
Coles.....	2.25
Cook.....	2.31
Cass.....	2.27
Clark.....	2.29
Cumbe.....	2.25
De Kalb.....	2.31
De Witt.....	2.25
Douglas.....	2.26
DuPage.....	2.31
Dearborn.....	2.24
Edgar.....	2.27
Edwards.....	2.25
Effingham.....	2.27
Fayette.....	2.28
Ford.....	2.29
Franklin.....	2.29
Fulton.....	2.27
Gallatin.....	2.22
Greene.....	2.29
Grundy.....	2.31
Hamilton.....	2.23
Hancock.....	2.23
Hardin.....	2.22
Henderson.....	2.25
Henry.....	2.28
Iroquois.....	2.31
Jackson.....	2.28
Jasper.....	2.24
Jefferson.....	2.29
Jersey.....	2.30
Jo Davies.....	2.28
Johnson.....	2.26
Kane.....	2.31
Kankakee.....	2.31
Kendall.....	2.31
Knox.....	2.27
Lake.....	2.31
LaSalle.....	2.31
Lawrence.....	2.24
Lee.....	2.30
Livingston.....	2.30
Logan.....	2.25
McDonough.....	2.25
McHenry.....	2.31
McLean.....	2.27
Macon.....	2.25
Macoupin.....	2.29
Madison.....	2.30
Marion.....	2.29
Marshall.....	2.28
Mason.....	2.23
Massac.....	2.25
Menard.....	2.23
Mercer.....	2.27
Monroe.....	2.30

RULES AND REGULATIONS

County	Rate per bushel
Montgomery.....	2.29
Morgan.....	2.27
Moultrie.....	2.26
Ogle.....	2.29
Peoria.....	2.27
Perry.....	2.29
Piatt.....	2.25
Pike.....	2.24
Pope.....	2.23
Pulaski.....	2.26
Putnam.....	2.28
Randolph.....	2.30
Richland.....	2.24
Rock Island.....	2.28
Saint Clair.....	2.30
Saline.....	2.23
Sangamon.....	2.27
Schuyler.....	2.23
Scott.....	2.25
Shelby.....	2.27
Stark.....	2.27
Stephenson.....	2.30
Tazewell.....	2.25
Union.....	2.26
Vermilion.....	2.30
Wabash.....	2.24
Warren.....	2.27
Washington.....	2.29
Wayne.....	2.25
White.....	2.22
Whiteside.....	2.29
Will.....	2.31
Williamson.....	2.27
Winnabago.....	2.30
Woodford.....	2.27
<b>INDIANA</b>	
Adams.....	2.24
Allen.....	2.24
Bartholomew.....	2.24
Benton.....	2.29
Blackford.....	2.24
Boone.....	2.23
Brown.....	2.24
Carroll.....	2.27
Cass.....	2.27
Clark.....	2.29
Clay.....	2.25
Clinton.....	2.23
Crawford.....	2.29
Davies.....	2.25
Dearborn.....	2.24
Decatur.....	2.24
De Kalb.....	2.24
Delaware.....	2.24
Dubois.....	2.26
Elkhart.....	2.26
Fayette.....	2.24
Fulton.....	2.29
Gallatin.....	2.27
Greene.....	2.27
Grundy.....	2.24
Hamilton.....	2.27
Olson.....	2.24
Grant.....	2.23
Greene.....	2.25
Hamilton.....	2.24
Hancock.....	2.24
Harrison.....	2.29
Hendricks.....	2.23
Henry.....	2.24
Howard.....	2.23
Huntington.....	2.23
Jackson.....	2.25
Jasper.....	2.30
Jay.....	2.24
Jefferson.....	2.27
Jennings.....	2.25
Johnson.....	2.23
Knox.....	2.24
Kosciusko.....	2.27
Lagrange.....	2.23
Lake.....	2.31
La Porte.....	2.31
Lawrence.....	2.25
Madison.....	2.24
Marion.....	2.24
Marshall.....	2.27
Martin.....	2.25
Miami.....	2.23
Monroe.....	2.24
Montgomery.....	2.25
Morgan.....	2.23
Newton.....	2.30
Noble.....	2.24
Ohio.....	2.24
Orange.....	2.27

County	Rate per bushel
Owen.....	2.24
Parke.....	2.27
Perry.....	2.25
Pike.....	2.25
Porter.....	2.31
Posey.....	2.22
Pulaski.....	2.30
Ripley.....	2.23
Randolph.....	2.24
Rush.....	2.24
St. Joseph.....	2.29
Scott.....	2.27
Shelby.....	2.24
Spencer.....	2.25
Starke.....	2.30
Steuben.....	2.24
Sullivan.....	2.25
Switzerland.....	2.25
Tippecanoe.....	2.26
Tipton.....	2.23
Union.....	2.24
Vanderburgh.....	2.24
Vermillion.....	2.27
Vigo.....	2.26
Wabash.....	2.23
Warren.....	2.29
Warrick.....	2.25
Washington.....	2.27
Wayne.....	2.24
Wells.....	2.24
White.....	2.29
Whitley.....	2.23
<b>IOWA</b>	
Pottawattamie.....	2.33
All other counties.....	2.21
<b>KANSAS</b>	
Allen.....	2.28
Anderson.....	2.31
Atchison.....	2.33
Barber.....	2.17
Barton.....	2.17
Bourbon.....	2.29
Cass.....	2.31
Butler.....	2.21
Clay.....	2.24
Chautauqua.....	2.24
Cherokee.....	2.26
Cheyenne.....	2.10
Clark.....	2.14
Clay.....	2.22
Cloud.....	2.22
Coffey.....	2.29
Comanche.....	2.15
Cowley.....	2.21
Crawford.....	2.27
Floyd.....	2.13
Decatur.....	2.21
Dickinson.....	2.31
Doniphan.....	2.31
Douglas.....	2.32
Edwards.....	2.17
Elk.....	2.24
Ellis.....	2.17
Ellsworth.....	2.20
Finney.....	2.12
Ford.....	2.15
Franklin.....	2.32
Geary.....	2.24
Gove.....	2.15
Graham.....	2.17
Grant.....	2.11
Gray.....	2.14
Greeley.....	2.09
Greenwood.....	2.24
Hamilton.....	2.11
Harper.....	2.19
Harvey.....	2.20
Haskell.....	2.12
Hodgeman.....	2.16
Jackson.....	2.30
Jefferson.....	2.32
Jewell.....	2.21
Johnson.....	2.33
Kearny.....	2.11
Kingman.....	2.20
Kiowa.....	2.27
Labette.....	2.15
Lane.....	2.15
Leavenworth.....	2.33
Lincoln.....	2.20
Linn.....	2.31
Logan.....	2.11
Lyon.....	2.26
McPherson.....	2.20

County	Rate per bushel
Marion.....	2.20
Marshall.....	2.26
Meade.....	2.14
Miami.....	2.32
Mitchell.....	2.20
Posey.....	2.26
Montgomery.....	2.24
Morris.....	2.24
Morton.....	2.13
Nemaha.....	2.28
Neosho.....	2.27
Ness.....	2.16
Norton.....	2.17
Osage.....	2.29
Osborne.....	2.20
Spencer.....	2.21
Pawnee.....	2.17
Phillips.....	2.17
Pottawatomie.....	2.28
Pratt.....	2.17
Rawlins.....	2.10
Reno.....	2.20
Republic.....	2.22
Rice.....	2.20
Riley.....	2.26
Rooks.....	2.18
Rush.....	2.17
Russell.....	2.18
Saline.....	2.21
Scott.....	2.12
Sedgwick.....	2.20
Seward.....	2.13
Shawnee.....	2.30
Sheridan.....	2.14
Sherman.....	2.09
Smith.....	2.20
Stafford.....	2.17
Stanton.....	2.11
Stevens.....	2.13
Sumner.....	2.20
Thomas.....	2.11
Trego.....	2.17
Wabunsee.....	2.27
Wallace.....	2.09
Washington.....	2.24
Wichita.....	2.10
Wilson.....	2.26
Woodson.....	2.27
Wyandotte.....	2.33
<b>KENTUCKY</b>	
Jefferson.....	2.30
All other counties.....	2.22
<b>LOUISIANA</b>	
East Baton Rouge.....	2.40
Jefferson.....	2.40
Orleans.....	2.40
Saint Charles.....	2.40
West Baton Rouge.....	2.40
All other counties.....	2.25
<b>MAINE</b>	
All counties.....	2.19
<b>MARYLAND</b>	
Baltimore.....	2.38
All other counties.....	2.25
<b>MASSACHUSETTS</b>	
All counties.....	2.21
<b>MICHIGAN</b>	
Alcona.....	2.14
Alger.....	2.15
Allegan.....	2.23
Alpena.....	2.11
Antrim.....	2.11
Arenac.....	2.15
Beraga.....	2.15
Barry.....	2.22
Bay.....	2.19
Benzie.....	2.14
Berrien.....	2.27
Branch.....	2.24
Calhoun.....	2.24
Cass.....	2.24
Charlevoix.....	2.10
Cheboygan.....	2.10
Chippewa.....	2.15
Clare.....	2.17
Clinton.....	2.20
Crawford.....	2.14
Delta.....	2.15
Dickinson.....	2.15
Eaton.....	2.22
Emmet.....	2.08



## RULES AND REGULATIONS

[illegible]

County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Granite.....	2.20	Loup.....	2.18	Richland.....	2.32
Hill.....	2.16	McPherson.....	2.14	Rolette.....	2.16
Jefferson.....	2.20	Madison.....	2.28	Sargent.....	2.31
Judith Basin.....	2.17	Merrick.....	2.25	Sheridan.....	2.16
Lake.....	2.20	Morrill.....	2.08	Sioux.....	2.17
Lewis and Clark.....	2.18	Nance.....	2.26	Slope.....	2.15
Liberty.....	2.17	Nemaha.....	2.26	Stark.....	2.15
Lincoln.....	2.21	Nickolls.....	2.29	Steele.....	2.28
McCone.....	2.14	Otoe.....	2.20	Stutsman.....	2.26
Madison.....	2.20	Pawnee.....	2.28	Towner.....	2.28
Meagher.....	2.18	Perkins.....	2.10	Traill.....	2.19
Mineral.....	2.20	Phelps.....	2.17	Walsh.....	2.29
Missoula.....	2.20	Pierce.....	2.28	Ward.....	2.14
Musselshell.....	2.15	Platte.....	2.28	Wells.....	2.22
Park.....	2.19	Polk.....	2.27	Williams.....	2.13
Petroleum.....	2.13	Red Willow.....	2.13		
Phillips.....	2.14	Richardson.....	2.29		
Pondera.....	2.18	Rock.....	2.21	Adams.....	2.25
Powder River.....	2.14	Saline.....	2.25	Allen.....	2.26
Powell.....	2.20	Sarpy.....	2.33	Ashland.....	2.29
Prairie.....	2.15	Saunders.....	2.32	Ashtabula.....	2.31
Ravalli.....	2.18	Scotts Bluff.....	2.08	Athens.....	2.26
Richland.....	2.15	Seward.....	2.28	Auglaize.....	2.25
Roosevelt.....	2.14	Sheridan.....	2.09	Belmont.....	2.29
Rosebud.....	2.13	Sherman.....	2.21	Brown.....	2.25
Sanders.....	2.20	Sioux.....	2.06	Butler.....	2.25
Sheridan.....	2.14	Stanton.....	2.30	Carroll.....	2.29
Silver Bow.....	2.20	Thayer.....	2.23	Champaign.....	2.25
Stillwater.....	2.17	Thomas.....	2.15	Clark.....	2.25
Sweet Grass.....	2.18	Thurston.....	2.32	Clermont.....	2.25
Teton.....	2.18	Valley.....	2.21	Clinton.....	2.25
Toole.....	2.17	Washington.....	2.23	Columbiana.....	2.30
Treasure.....	2.14	Wayne.....	2.29	Coshocton.....	2.29
Valley.....	2.13	Webster.....	2.20	Crawford.....	2.28
Wheatland.....	2.18	Wheeler.....	2.24	Cuyahoga.....	2.28
Wibaux.....	2.16	York.....	2.25	Darke.....	2.25
Yellowstone.....	2.15			Defiance.....	2.25
				Delaware.....	2.28
				Erie.....	2.28
				Fairfield.....	2.28
				Payette.....	2.25
				Franklin.....	2.28
				Fulton.....	2.27
				Galla.....	2.25
				Geauga.....	2.31
				Greene.....	2.25
				Guernsey.....	2.29
				Hamilton.....	2.25
				Hancock.....	2.28
				Hardin.....	2.28
				Harrison.....	2.29
				Henry.....	2.27
				Highland.....	2.25
				Hocking.....	2.28
				Holmes.....	2.29
				Huron.....	2.28
				Jackson.....	2.25
				Jefferson.....	2.29
				Knox.....	2.29
				Lake.....	2.31
				Lawrence.....	2.25
				Licking.....	2.29
				Logan.....	2.25
				Lorain.....	2.29
				Lucas.....	2.28
				Madison.....	2.25
				Mahoning.....	2.31
				Marion.....	2.28
				Medina.....	2.29
				Melgs.....	2.25
				Mercer.....	2.25
				Miami.....	2.25
				Monroe.....	2.29
				Montgomery.....	2.25
				Morgan.....	2.29
				Morrow.....	2.29
				Muskingum.....	2.29
				Noble.....	2.28
				Ottawa.....	2.28
				Paulding.....	2.25
				Perry.....	2.28
				Pickaway.....	2.28
				Pike.....	2.25
				Portage.....	2.29
				Preble.....	2.25
				Putnam.....	2.27
				Richland.....	2.29
				Ross.....	2.28
				Sandusky.....	2.28
				Scioto.....	



## RULES AND REGULATIONS

County	Rate per bushel	County	Rate per bushel	County	Rate per bushel
Union	2.28	Crook	2.34	Roberts	2.33
Van Wert	2.25	Curry	2.15	Sanborn	2.38
Vinton	2.28	Deschutes	2.20	Shannon	2.14
Warren	2.25	Douglas	2.39	Spink	2.27
Washington	2.29	Gilliam	2.39	Stanley	2.21
Wayne	2.29	Grant	2.34	Sully	2.22
Williams	2.25	Harney	2.20	Todd	2.19
Wood	2.28	Hood River	2.45	Tripp	2.22
Wyandot	2.28	Jackson	2.20	Turner	2.32
OKLAHOMA		Jefferson	2.37	Union	2.33
Adair	2.25	Josephine	2.20	Walworth	2.22
Alfalfa	2.23	Klamath	2.28	Washington	2.19
Atoka	2.27	Lake	2.25	Yankton	2.29
Beaver	2.18	Lane	2.34	Ziebach	2.18
Beckham	2.28	Lincoln	2.37	TENNESSEE	
Bisbee	2.28	Linn	2.26	Shelby	2.31
Bryan	2.27	Malheur	2.20	All other counties	2.20
Caddo	2.27	Marion	2.41	TEXAS	
Canadian	2.27	Morrow	2.37	Andrews	2.25
Carter	2.27	Multnomah	2.50	Archer	2.30
Cherokee	2.25	Polk	2.39	Armstrong	2.25
Choctaw	2.27	Sherman	2.39	Atascosa	2.39
Cimarron	2.17	Tillamook	2.43	Bailey	2.25
Cleveland	2.27	Umatilla	2.37	Bandera	2.36
Coal	2.27	Union	2.32	Bastrop	2.39
Comanche	2.27	Wallowa	2.30	Baylor	2.29
Cotton	2.27	Wasco	2.41	Bee	2.47
Craig	2.25	Washington	2.43	Bell	2.39
Creek	2.28	Wheeler	2.38	Bexar	2.39
Custer	2.28	Yamhill	2.41	Blanco	2.37
Delaware	2.25	PENNSYLVANIA		Borden	2.25
Dewey	2.25	Philadelphia	2.38	Bosque	2.38
Ellis	2.20	All other counties	2.23	Bowie	2.32
Garfield	2.25	RHODE ISLAND		Brasos	2.44
Garvin	2.27	All counties	2.23	Briscoe	2.35
Grady	2.27	SOUTH CAROLINA		Brown	2.33
Grant	2.23	Charleston	2.38	Burleson	2.44
Greer	2.27	All other counties	2.19	Burnet	2.37
Harmon	2.27	SOUTH DAKOTA		Caldwell	2.39
Harper	2.18	Aurora	2.28	Calhoun	2.43
Haskell	2.27	Beadie	2.27	Callahan	2.29
Hughes	2.27	Bennett	2.16	Carson	2.25
Jackson	2.27	Bon Homme	2.31	Castro	2.25
Jefferson	2.27	Brookings	2.31	Chambers	2.49
Johnston	2.27	Brown	2.27	Cherokee	2.41
Kay	2.24	Brule	2.25	Childress	2.27
Kingfisher	2.27	Buffalo	2.25	Clay	2.31
Kiowa	2.27	Butte	2.13	Cochran	2.25
Latimer	2.27	Campbell	2.20	Coke	2.26
Le Flore	2.27	Charles Mix	2.27	Coleman	2.30
Lincoln	2.20	Clark	2.27	Collins	2.34
Logan	2.28	Clay	2.33	Collingsworth	2.25
Love	2.27	Codington	2.31	Comal	2.39
McClain	2.27	Corson	2.17	Comanche	2.34
McCurain	2.27	Custer	2.07	Concho	2.32
McIntosh	2.27	Dayton	2.31	Cooke	2.32
Major	2.25	Day	2.31	Coryell	2.35
Marshall	2.25	Deuel	2.34	Cottle	2.25
Mayes	2.25	Dewey	2.17	Crosby	2.25
Murray	2.27	Douglas	2.27	Culbertson	2.25
Muskogee	2.27	Edmunds	2.24	Dallas	2.22
Noble	2.25	Okfuskee	2.07	Dallas	2.26
Nowata	2.25	Okmulgee	2.26	Dawson	2.25
Okfuskee	2.27	Oklahoma	2.34	Deaf Smith	2.25
Oklahoma	2.27	Okeefe	2.34	Delta	2.35
Okeefe	2.25	Oklahoma	2.34	Denton	2.34
Okeefe	2.25	Oklahoma	2.34	DeWitt	2.41
Okeefe	2.25	Oklahoma	2.34	Dickens	2.25
Okeefe	2.25	Oklahoma	2.34	Dimmit	2.33
Okeefe	2.25	Oklahoma	2.34	Donley	2.25
Okeefe	2.25	Oklahoma	2.34	Eastland	2.29
Okeefe	2.25	Oklahoma	2.34	Edwards	2.29
Okeefe	2.25	Oklahoma	2.34	Ellis	2.36
Okeefe	2.25	Oklahoma	2.34	El Paso	2.25
Okeefe	2.25	Oklahoma	2.34	Erath	2.24
Okeefe	2.25	Oklahoma	2.34	Falls	2.38
Okeefe	2.25	Oklahoma	2.34	Fannin	2.32
Okeefe	2.25	Oklahoma	2.34	Fisher	2.26
Okeefe	2.25	Oklahoma	2.34	Floyd	2.25
Okeefe	2.25	Oklahoma	2.34	Foard	2.27
Okeefe	2.25	Oklahoma	2.34	Frio	2.37
Okeefe	2.25	Oklahoma	2.34	Gaines	2.25
Okeefe	2.25	Oklahoma	2.34	Galveston	2.49
Okeefe	2.25	Oklahoma	2.34	Garcia	2.25
Okeefe	2.25	Oklahoma	2.34	Gillespie	2.33
Okeefe	2.25	Oklahoma	2.34	Glasscock	2.25
Okeefe	2.25	Oklahoma	2.34	Goliad	2.43
Okeefe	2.25	Oklahoma	2.34	Gonzales	2.41
Okeefe	2.25	Oklahoma	2.34	Gray	2.25
Okeefe	2.25	Oklahoma	2.34	Grayson	2.29
Okeefe	2.25	Oklahoma	2.34	Grimes	2.44
Okeefe	2.25	Oklahoma	2.34	Guadalupe	2.39
Okeefe	2.25	Oklahoma	2.34	Hale	2.25
Okeefe	2.25	Oklahoma	2.34	Hall	2.38

## RULES AND REGULATIONS

County	Rate per bushel	County	Rate per bushel	Cents per bushel
Hamilton	2.36	Travis	2.39	
Hansford	2.22	Uvalde	2.32	
Hardeman	2.27	Van Zandt	2.37	
Harris	2.49	Victoria	2.43	
Hartley	2.22	Waller	2.43	
Haskell	2.27	Ward	2.44	
Hays	2.39	Wharton	2.44	
Hemphill	2.22	Wheeler	2.44	
Hill	2.36	Wichita	2.29	
Hockley	2.25	Wilbarger	2.29	
Hood	2.33	Williamson	2.39	
Howard	2.25	Wilson	2.41	
Hudspeth	2.25	Wise	2.32	
Hunt	2.25	Yoakum	2.25	
Hutchinson	2.22	Young	2.30	
Irion	2.27	Zavala	2.33	
Jack	2.31	UTAH		
Jackson	2.39	All counties	2.19	
Jeff Davis	2.25	VERMONT		
Jefferson	2.45	All counties	2.21	
Johnson	2.35	VIRGINIA		
Jones	2.27	Chesapeake (Norfolk)	2.38	
Karnes	2.43	All other counties	2.23	
Kaufman	2.37	WASHINGTON		
Kendall	2.37	Adams	2.35	
Kent	2.25	Asotin	2.34	
Kerr	2.33	Benton	2.37	
Kimble	2.31	Chelan	2.37	
King	2.25	Ciaram	2.29	
Kinney	2.29	Clark	2.50	
Knox	2.27	Columbia	2.36	
Lamar	2.32	Lipscomb	2.50	
Lamb	2.25	Douglas	2.35	
Lampasas	2.38	Ferry	2.27	
Limestone	2.38	Franklin	2.37	
Lipscomb	2.22	Garfield	2.36	
Live Oak	2.45	Grant	2.35	
Llano	2.35	Grays Harbor	2.42	
Loving	2.25	Idaho	2.31	
Lubbock	2.25	Jefferson	2.31	
Lynn	2.25	Mason	2.50	
McCulloch	2.33	Maverick	2.29	
McLennan	2.38	Medina	2.35	
Martin	2.25	Menard	2.31	
Mason	2.33	Midland	2.25	
Maverick	2.29	Millam	2.42	
Medina	2.35	Mills	2.34	
Menard	2.31	Mason	2.39	
Midland	2.25	Montague	2.26	
Millam	2.42	Moore	2.22	
Mills	2.34	Motley	2.25	
Montague	2.26	Navarro	2.37	
Moore	2.22	Nolan	2.26	
Motley	2.25	Nueces	2.49	
Navarro	2.37	Ochiltree	2.22	
Nolan	2.26	Oldham	2.25	
Nueces	2.49	Palo Pinto	2.31	
Ochiltree	2.22	Parker	2.33	
Oldham	2.25	Parmer	2.25	
Palo Pinto	2.31	Pecos	2.25	
Parker	2.33	Potter	2.25	
Parmer	2.25	Presidio	2.25	
Pecos	2.25	Randall	2.25	
Potter	2.25	Real	2.31	
Presidio	2.25	Red River	2.32	
Randall	2.25	Reeves	2.25	
Real	2.31	Refugio	2.46	
Red River	2.32	Roberts	2.22	
Reeves	2.25	Robertson	2.41	
Refugio	2.46	Rockwall	2.35	
Roberts	2.22	Runnels	2.29	
Robertson	2.41	San Antonio	2.49	
Rockwall	2.35	Schleicher	2.34	
Runnels	2.29	Scurry	2.27	
San Antonio	2.49	Shackelford	2.29	
Schleicher	2.34	Sherman	2.22	
Scurry	2.27	Somervell	2.33	
Shackelford	2.29	Stephens	2.30	
Sherman	2.22	Sterling	2.25	
Somervell	2.33	Stonewall	2.25	
Stephens	2.30	Sutton	2.27	
Sterling	2.25	Swisher	2.25	
Stonewall	2.25	Tarrant	2.36	
Sutton	2.27	Taylor	2.27	
Swisher	2.25	Terry	2.25	
Tarrant	2.36	Throckmorton	2.29	
Taylor	2.27	Tom Green	2.28	
Terry	2.25			

## 1. Class premiums and discounts:

(i) Premiums: Hard amber durum, No. 3 or better: +7%

(iv) Weed control discount (where required by § 1421.25) -15.

(ii) Discounts:	Cents per bushel
Durum	-10
Mixed wheat (mixes of classes other than contrasting classes)	-3
Mixed wheat (mixtures of contrasting classes)	-10
(iii) Unclassed wheat which includes red durum	(*)

2. Grade discounts:

(i) Grade discounts:

No. 2 -2

No. 3 -4

No. 4 -6

No. 5 -9

Sample grade (i)

(ii) Special grade discounts:

Smut—Light smutty -3

Smutty -9

Garlic—Light garlicky -10

Garlicky -20

\*Except for Hard Amber Durum produced in Arizona, California and New Mexico.

\*Unclassed wheat which includes Red Durum is ineligible for loan.

\*Wheat grading sample is ineligible for loan. In the event quantities of wheat grading sample are delivered in satisfaction of loan obligations, such quantities will be discounted on the basis of the schedule of discounts as provided by the Kansas City Commodity Office for settlement purposes.

(iii) Grade Discounts Sample—on the factors of Test Weight and Total Damage.

Sample on account of test weight	Weight	Cents per bushel
Hard Red Spring	Weight	Cents per bushel
Test weight	Weight	Cents per bushel
49	50	-13
48	49	-17
47	48	-21
46	47	-25
45	46	-29
44	45	-33
43	44	-39
42	43	-45
41	42	-51
40	41	-57
	40	-63

Sample on account of total damaged kernels

Percent—Total damaged kernels	Cents per bushel
15.1 to 16	-10
16.1 to 17	-12
17.1 to 18	-14
18.1 to 19	-16
19.1 to 20	-18
20.1 to 21	-20
21.1 to 22	-22
22.1 to 23	-24
23.1 to 24	-26
24.1 to 25	-28
25.1 to 26	-30
26.1 to 27	-32
27.1 to 28	-34
28.1 to 29	-36
29.1 to 30	-38
Each percent over 30	-3



3. *Premiums for Protein Content.*  
Applicable to wheat grading No. 5 or better of the classes Hard Red Winter and Hard Red Spring.

Hard Red Winter	
Percent protein	Cents per bushel
10.50 to 10.99	0
11.00 to 11.49	1
11.50 to 11.99	2
12.00 to 12.49	3
12.50 to 12.99	4
13.00 to 13.49	5
13.50 to 13.99	6
14.00 to 14.49	7
14.50 to 14.99	8
15.00 and over	9

Hard Red Spring	
Percent protein	Cents per bushel
11.50 to 11.99	0
12.00 to 12.49	1
12.50 to 12.99	2
13.00 to 13.49	3
13.50 to 13.99	4
14.00 to 14.49	5
14.50 to 14.99	6
15.00 to 15.49	7
15.50 to 15.99	8
16.00 to 16.49	9
16.50 to 16.99	10
17.00 and over	11

(c) *Other factors.* Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of wheat, such as (but not limited to) moisture, weevily, ergoty, stones, musty, sour, and heating. Such discounts will be established not later than the time delivery of wheat to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices.

NOTE.—Premiums and discounts are cumulative except only one grade discount shall be applied.

Signed at Washington, D.C., on January 11, 1978.

STEWART N. SMITH,  
Acting Executive Vice President,  
Commodity Credit Corporation.

[FR Doc. 78-1471 Filed 1-19-78; 8:45 am]

RULES AND REGULATIONS

CHAPTER XVIII—FARMERS HOME  
ADMINISTRATION, DEPARTMENT OF  
AGRICULTURE  
[FmHA Instruction 1933-11]  
SUBCHAPTER B—LOANS AND GRANTS PRIMARILY  
FOR REAL ESTATE PURPOSES

PART 1822—RURAL HOUSING LOANS AND  
GRANTS

SUBCHAPTER J—LOAN AND GRANT PROGRAMS  
(GROUP)

PART 1933—LOAN AND GRANT PROGRAMS  
(GROUP)

Subpart I—Self-Help Technical Assistance  
Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration adds regulations as a result of a general administrative restructuring of the agency regulations. This addition is intended to strengthen, expand, redesignate, clarify, consolidate and revise the regulations concerning self-help technical assistance grants.

EFFECTIVE DATE: January 20, 1978.  
FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: On November 22, 1976, there was published in the FEDERAL REGISTER (41 FR 51404-51420) and republished June 10, 1977 (42 FR 29885-29906), a notice of proposed rulemaking which would establish under Chapter XVIII, Title 7, of the Code of Federal Regulations a new Subchapter J, "Loan and Grant Programs (Group)," Part 1933, Subpart I, "Self-Help Technical Assistance Grants, §§ 1933.401-1933.450." This new Part 1933 (42 FR 24232, May 13, 1977) was revised, transferred and redesignated from Part 1822, Subpart I (35 FR 11226, as amended at 37 FR 3802, 40 FR 52837, 41 FR 7486) of this Chapter XVIII. Interested parties were given the opportunity to submit on or before December 23, 1976, and July 11, 1977, comments, suggestions, or objections regarding the proposed addition.

Comments received and considered for the initial and second proposals have resulted in many changes (herein incorporated) including specific changes as set forth below:

1. In § 1933.402, the State Director's grant approval authority has been increased to \$200,000. If the grant plus unexpended funds of a previous grant exceed \$300,000, National Office consent is required.

2. In § 1933.403, Indian Tribes or tribal corporations are included as types of eligible organizations; the definition of participating families has been expanded to clarify that it includes those qualifying and receiving interest credits regardless of the age or sex of the heads of households. The

term "sponsor" has been expanded to include community action agencies; a system for determining "equivalent units" has been included as a more accurate method for determining grantee performance and unit production. This section also provides for financial supervision to individual families with 502 RH loans; grant closeout has been redefined and technical assistance has been broadened to provide assistance to 502 self-help families in obtaining invoices and itemized bills for materials and preparing checks for FmHA countersignatures.

3. In § 1933.404 only those members of the Board of Directors who have annual incomes below the Federal poverty guidelines may be paid for attending meetings.

4. In § 1933.405, participant families are required to provide their own hand tools, however, the State Director may authorize the purchase of office equipment on a case by case basis; also, grantee personnel may be permitted cost of travel and per diem to attend certain training sessions.

5. In § 1933.406, proposed grantee applicants are provided with a broader knowledge of the kind of information that may be used to justify the need for a self-help housing program.

6. In § 1933.407, a new method of computing Technical Assistance (TA) cost and net savings to families is provided. This new method provides for combining land and construction cost in this computation.

7. In § 1933.408, a statement concerning the applicability of the Office of Management and Budget (OMB) Circular No. A-102 is included.

8. In § 1933.409, initial staffing of the grantee has been changed to clarify the hiring of employees as necessary and to require that the grantee establishes an adequate accounting system within a specified time limit; also an Evaluation Report of Self-Help Technical Assistance will be provided on a quarterly basis and TA records will be retained for a period of 3 years.

9. In § 1933.410, a review and an appeal process has been added. Also, clarification as to when a prospective self-help family will be determined eligible for financial assistance has been added.

10. In § 1933.416, language has been added to provide the applicant with the right for National Office review if the grant proposal is disapproved.

11. In § 1933.418, a method of evaluating the performance of grantees is explained and referenced to Exhibit E of the regulation.

12. In § 1933.419, the review process for terminating the TA grantee operation is established.

13. In Exhibit A, the format has been revised and modified to include clarification for the disposal of personal property of the grantee organization.

14. In Exhibit E, a step-by-step breakdown of the process for evaluating the performance of the grantee is included.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

1. Subpart I of 7 CFR Part 1822 is removed.

2. 7 CFR Part 1933 is amended by adding a new Subpart I, consisting of §§ 1933.401-1933.50. This new Subpart I, which is revised, transferred and redesignated from Subpart I of 7 CFR Part 1822, reads as follows:

Subpart I—Self-Help Technical Assistance Grants

- Sec.  
1933.401 Purpose.  
1933.402 Authority.  
1933.403 Definitions.  
1933.404 Eligibility.  
1933.405 Purposes.  
1933.406 Conditions for approving an agreement.  
1933.407 Limitations.  
1933.408 Federal Management Circular FMC 74-7.  
1933.409 Other considerations.  
1933.410 Processing preapplications, applications and completing grant dockets.  
1933.411 [Reserved].  
1933.412 Planning and performing development work.  
1933.413 [Reserved].  
1933.414 Docket preparation.  
1933.415 [Reserved].  
1933.416 Approval and closing.  
1933.417 Subsequent grants.  
1933.418 Management assistance.  
1933.419 Grant closeout, suspension, and termination.  
1933.420-1933.50 [Reserved].

- Exhibit A—Self-help technical assistance grant agreement  
Exhibit B—Personnel Guidelines  
Exhibit C—Sample personnel forms  
Exhibit D—Amendment to self-help technical assistance grant agreement  
Exhibit E—Evaluation of self-help technical assistance (TA) grants  
Exhibit F—Site option loan to technical assistance grantees

AUTHORITY: 42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.

Subpart I—Self-Help Technical Assistance Grants

§ 1933.401 Purpose.

This Subpart sets forth the policies and procedures and delegates authority for providing Technical Assistance (TA) funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing as authorized under Section 523 of the Housing Act of 1949. This financial assistance may pay part or all of the cost of developing, administering, or coordinating programs of technical and supervisory assistance to aid needy families in carrying out mutual self-help housing efforts in rural areas.

RULES AND REGULATIONS

§ 1933.402 Authority.

The State Director is authorized to approve or disapprove TA grants in accordance with this Subpart. For a grant in excess of \$200,000 or when the amount of the grant plus any unexpended funds from a previous grant will exceed \$300,000, prior written consent of the National Office is required. In such cases, the docket along with the State Director's recommendations will be submitted to the National Office for review.

§ 1933.403 Definitions.

As used in this regulation:

(a) *Agreement.* The contract between Farmers Home Administration (FmHA) and the applicant which sets forth the terms and conditions under which TA funds will be made available.

(b) *Agreement period (or grant period).* The period of time for which an agreement is in force.

(c) *Applicant or grantee.* An organization which applies for or receives TA funds under an agreement. "Grantee" also means a borrower under Exhibit F of this Subpart.

(d) *Date of completion.* The date when all work under a grant is completed or the date in the TA grant agreement, or any supplement or amendment to it, when Federal assistance ends.

(e) *Disallowed costs.* Those charges to a grant which FmHA determines cannot be authorized.

(f) *Grant closeout.* The process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

(g) *Mutual self-help.* The construction method by which participating families, organized in groups usually of 6 to 10 families, utilize their own labor to reduce the total construction cost of their homes. Participating families complete construction work on their homes by exchanging actual labor with one another. The mutual self-help method will be used only for new construction unless an exception is obtained from the National Office in accordance with § 1933.409(a).

(h) *Organization.* (1) A State or political subdivision or public nonprofit corporation (including Indian Tribes or tribal corporations) authorized to receive and administer TA funds; or

(2) A private nonprofit corporation that is owned and controlled by private persons or interests and is organized and operated for purposes other than making gains or profits for the corporation and is legally precluded from distributing any gains or profits to its members.

(i) *Participating family.* Individuals and/or their families who agree to build homes by the mutual self-help method. Generally, participants are

families with low incomes, including those who qualify for and receive interest credits. Some families having incomes above the interest credit level may also participate provided they are unable to pay for a home built by the contract method. Families in this category may include large families who have continually high medical expenses or high debt repayment provided they are otherwise eligible. Participating families must have the ability to furnish their share of the required labor input regardless of the age or sex of the head of household. The participating families may obtain the necessary home financing from FmHA or from other sources. A participating family must have financing arrangements completed before the start of construction and have sufficient time and show a desire to work with other families in building their own homes. Each family should contribute at least 700 hours of labor in building each other's homes for the mutual self-help method to be carried out. The available time of a participating family must coincide with the other group members so that the mutual concept of the project can be met.

(j) *Rural areas.* Open country or rural places as defined in § 1822.3(c) of this Chapter (FmHA Instruction 444.1).

(k) *Sponsor.* An existing entity that is willing and able to assist an applicant without charge, in applying for a grant and in carrying out its responsibilities under the agreement. Examples of sponsors are local rural electric cooperatives, institutions of higher education, and community action agencies.

(l) *Termination of a grant.* The cancellation of Federal assistance, in whole or in part, under a grant at any time before the date of completion.

(m) *Technical assistance.* The organizing and supervising of groups of families in the building of their own homes including such functions as: (1) Recruiting families who are interested in sharing labor in the construction of each other's homes and assisting such families in obtaining housing loans.

(2) Assisting at meetings of the families at which the self-help program and subjects related to home ownership, such as loan payments, taxes, insurance, maintenance and upkeep of the property are explained and discussed;

(3) Helping families in planning and development activities that lead to the acquisition and development of suitable building sites;

(4) Assisting families in selecting house plans for homes which will meet their needs and which they can afford;

(5) Assisting families in obtaining cost estimates for construction materials and any subcontracting that will be required;



(6) Providing assistance in the preparation of loan applications;

(7) Providing technical supervision and training for families while they construct their homes.

(8) Providing financial supervision to individual families with Section 502 Rural Housing (RH) loans which will minimize the time and effort required by FmHA to countersign checks. The grantee's secretary-bookkeeper should:

(i) Total invoices and itemized statements for payment of materials purchased by individual families from suppliers and subcontractors.

(ii) Maintain a record of deposits and withdrawals on Form FmHA 402-2, "Statement of Deposits and Withdrawals," or similar form provided by the grantee to account for all Section 502 RH funds for each loan.

(iii) Prepare checks accompanied by corresponding invoices and itemized statements for FmHA countersignature. Checks should be submitted for countersignature usually not more frequently than 30 day intervals.

(iv) Prepare checks for FmHA countersignature made payable to the grantee for reimbursement of funds when the grantee has advanced funds, available from sources other than TA funds, for payment of individual borrower bills for materials and subcontractors. Itemized invoices must be presented to FmHA when checks are to be countersigned.

(9) Assisting families in solving other housing problems.

(n) *Equivalent units.* Equivalent units represents the "theoretical number of units" arrived at by adding the percentage of completion figure for each family in the self-help program (pre-construction and actual construction) together at any given date during program operations. The sum of the percentage of completion figures for all participant families represents the total number of "equivalent" or "theoretical" units completed in the program at that date.

#### § 1933.404 Eligibility.

(a) *Eligibility of applicant.* To be eligible to receive a grant, the applicant must:

(1) Be an organization as defined in § 1933.403(h).

(2) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the agreement. To meet this requirement of actual capacity it must either:

(i) Have necessary background and experience with proven ability to perform responsibly in the field of mutual self-help or other business management or administrative ventures which indicate an ability to perform responsibly in the field of mutual self-help; or

(ii) Be sponsored by an organization which has such background experi-

ence and ability and which agrees in writing that it will provide, without charge, the help the applicant will need to carry out its responsibilities.

(3) Legally obligate itself to administer TA funds, provide an adequate accounting of the expenditure of such funds, and comply with the agreement and FmHA regulations.

(4) If the organization is a private nonprofit corporation, it should also:

(i) Be a corporation organized for the primary purpose of assisting low- and moderate-income families to obtain adequate housing.

(ii) Have local representation among its membership.

(iii) Adopt, if it is being newly organized, Articles of Incorporation and Bylaws that generally conform to Exhibits D and E of Subpart D of Part 1822 (Exhibits D and E of FmHA Instruction 444.5) which are available in FmHA offices, with changes appropriate to include the purposes and powers of an eligible applicant under this Subpart. The Office of the General Counsel (OGC) should be requested by FmHA to review and adopt the exhibits for use in the respective States.

(iv) Have a Board of Directors which will consist of not less than five but generally not more than nine members. Only those board members with annual incomes below the Federal Poverty guidelines as established by the Community Services Administration shall be entitled to receive payments or reimbursement for attending board meetings.

(v) If it is engaged in or plans to become engaged in other activities that will affect the operation of the TA grant, be able to provide sufficient evidence and documentation that:

(A) it will have sufficient funds to assure continued operation for at least the period of the grant agreement or

(B) if the other funding is terminated, proper adjustments can be made in the operation so that the TA grant is not adversely affected.

(b) *Authorized representative of applicant.* FmHA will deal only with authorized representatives of the applicant. The authorized representatives must be members of the applicant-organization and have no pecuniary interest in the award of any engineering, architectural, or construction contracts, purchase of the necessary equipment, or purchase or development of the land.

#### § 1933.405 Purposes.

TA funds may be used only for the following purposes:

(a) Hiring personnel as authorized in the agreement.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The State Director may, however, authorize the purchase

of office equipment on a case-by-case basis when he determines it is more economical to purchase such equipment during the grant period.

(c) Purchase of office supplies such as paper, pens, and pencils.

(d) Payment of necessary reasonable administrative costs including but not limited to items such as workmen's compensation, liability insurance, audit reports, travel and training, and employer's share of social security and health benefits.

(e) Purchase and maintenance of power or specialty tools such as a power saw, electric drill, and sabre saw which are needed but are not readily available to participating families on a rental basis at reasonable cost. The participating families, however, are expected to provide their own basic hand tools such as hammers and handsaws.

(f) Payment of reasonable fees for necessary training of grantee personnel. This may include the cost of travel and per diem to attend State or Regional training sessions when authorized on an individual case basis by the FmHA State Director.

(g) Payment for technical and consultant services not readily available without cost to the participating families.

(1) Generally, however, training and consulting will be limited to obtaining outside expertise to help the grantee's employees with local problems they are encountering in administering the TA proposal.

(2) Ordinarily, FmHA will furnish needed guidance for the development of a TA application. The State Director may, however, with the prior approval of the National Office, authorize the use of TA funds to enable an applicant to pay a qualified consulting organization or foundation, operating on a nonprofit basis, charges for necessary services for development of such an application, provided the State Director determines that:

(i) Either the applicant, even with the available FmHA guidance, cannot develop a sound TA application without the professional services; or the services would permit significant financial savings to the Government, either directly or by reducing the workload in processing applications; and

(ii) The charges are reasonable considering the amount of TA funds covered by the agreement and the cost of similar services in the same or similar rural areas.

(3) The applicant and consulting foundation must be informed that FmHA grant funds will be available only if the grant is made by FmHA.

#### § 1933.406 Conditions for approving an agreement.

An agreement may be approved for an eligible applicant when the following conditions are present:

(a) A need clearly exists in the area for self-help housing. The applicant must provide information such as census materials, local planning studies, surveys, or other readily available information, indicating a need in the area for housing of the type and cost to be provided by the proposed self-help TA program for low income families that lack adequate housing or live in housing that is considered to be deteriorating, dilapidated, overcrowded, and lacking some or all plumbing facilities. The applicant must also provide evidence that at least as many families as the number of homes to be built have been contacted and are interested in and appear to be eligible to participate in the self-help program. A list of such families consisting of names and addresses will be provided.

(b) Reasonable evidence is available that the applicant has or can hire qualified people to carry out its responsibilities. The Board of Directors will hire the TA Director with the written approval of the State Director. The State Director should authorize approval only after the candidate's qualifications are reviewed, if they show that the candidate is capable of carrying out these responsibilities.

(c) Funds for the proposed TA project are not available from other sources.

(d) The applicant must have at least the first self-help group organized and each individual's RH 502 loan approved before the grant is closed. The group should be ready to begin construction, generally, within 30 days after grant closing.

(e) Sites are available for the initial group and are or can reasonably be expected to be available for subsequent groups. An RH site loan to the applicant under sections 523 or 524 may be considered for approval simultaneously with or before approval of the agreement if necessary to obtain adequate sites.

#### § 1933.407 Limitations.

The size of the TA grant will depend on the experience and capability of the applicant. In any case, the application will fully justify the number of homes proposed.

(a) *Maximum amount.* An initial TA grant will not exceed \$200,000 without prior approval of the National Office.

(b) *Average TA cost.* An agreement should be developed on the basis of reasonable cost per house. A new organization may have higher costs because of difficulties encountered during the early stages of operation. During the first year of operation the TA cost should not exceed 18% of the combined land and construction cost of the homes built by the contract method. For grantees operating on-going programs of self-help housing the TA cost should not exceed 15% of

the combined land and construction cost of the homes built by the contract method. In any case, a TA cost resulting in a net savings per house of less than \$500.00 will not be acceptable. Net savings will be computed in accordance with the following example:

Cost of contractor built house, including land.....	\$23,500
Cost of self-help house, including land....	-18,000
Gross saving .....	5,500
Gross saving .....	5,500
Per unit TA cost .....	-3,000
Net savings .....	2,500

(c) *Agreement period.* An agreement will cover a period not to exceed 2 years from the date the TA grant is closed.

(d) *Advances.* Funds may be advanced initially under an agreement to cover TA needs for the balance of the month in which the grant is closed and the next month. Each additional advance will be made for a 1-month period in accordance with § 1933.416(d) (4) and (5).

(e) *Prohibited use of funds.* An applicant may use TA funds only for the purposes stated in § 1933.405. Among the purposes for which TA funds will not be used are the following:

(1) Hiring personnel specifically for the purpose of performing any of the construction work for participating families in the self-help projects.

(2) Buying real estate or building materials or other property of any kind for participating families.

(3) Paying any debts, expenses, or costs which should be the responsibility of the participating families in the self-help projects, other than those listed in § 1933.405.

(f) *Obligations incurred before execution of the agreement.* An applicant should not obligate itself for any debts before executing the agreement. If, nevertheless, the applicant incurs debts for technical and consultant services of the type listed in § 1933.405(g) and the requirements of that paragraph are met, funds may be used to pay these debts.

#### § 1933.408 Office of Management and Budget (OMB) Circular No. A-102.

Uniform administrative requirements for grants-in-aid to State and local governments are provided in OMB Circular No. A-102. Should a State or local governmental body express an interest in applying for a TA grant, the matter will be referred to the National Office for processing to assure compliance with OMB Circular No. A-102.

#### § 1933.409 Other considerations.

(a) *Type of construction.* An application will be based only on the need to build new houses by the mutual self-

help method, unless prior approval for repair work is obtained from the National Office. Some forms of manufactured housing may be used such as precut or paneled exterior walls which will reduce construction time for the families. However, each family should contribute at least 700 hours of labor for the mutual self-help method to be carried out. The family labor contribution must result in a significant cost saving. Grantees may, after they begin working in an area, find that a need exists for a mutual self-help project to enable homeowners to make repairs to their homes. These repairs may be either minor or extensive. With prior approval of the National Office, an applicant may organize a mutual self-help project for purposes other than new construction, provided all the following additional conditions are met:

(1) The self-help group must be composed entirely of individuals and families needing to repair their homes. The repair work on all homes should be reasonably comparable in the amount of labor exchange that is required. The estimated number of hours of labor and a description of the work to be done must be provided.

(2) Participating families must have the time and ability to complete the type of work required in the project.

(3) Participating families must assure the applicant that they will follow through to the conclusion of the project.

(b) *Staffing of applicant—(1) Initial staff.* The initial staff for a new organization may consist of the TA Director, the Secretary bookkeeper, a group worker, and a construction supervisor. Positions should be filled only as necessary to assure that construction of the homes for at least the first group of families can start within 30 days of closing the agreement. The employees initially hired should be able to serve double functions until such time as the volume work warrants hiring additional staff. For example, the TA Director may also perform the work of a group worker and provide limited bookkeeping and secretarial services until the volume of work justifies hiring additional staff.

(2) *Typical staff.* (i) One director.

(ii) One to two coordinator-trainers who will work with participating families during the planning and development stages and will provide any necessary and appropriate assistance throughout construction.

(iii) One secretary-bookkeeper who should be hired when the volume of work justifies the position.

(iv) One to three construction supervisors who will provide guidance and instructions to participating families during the construction of their homes. Each construction supervisor should work work groups of 6 to 10



self-help families. A construction supervisor must be available when families can work on their houses and may be hired initially on an hourly basis.

(v) Other staff positions to be paid for with grant funds may be added only if the State Director determines they are necessary for the success of the TA grant and justified from an economic standpoint.

(c) *Area to be served.* An application for TA funds must specify the area to be served under the proposed agreement. Generally, the area will not include more than the area of a single county. In any event, it will be restricted to the area served by one FmHA county office, unless specific authority for an exception is given by the national office before approval of the grant.

(d) *Authorizing resolution.* A resolution will be adopted by the applicant's governing body authorizing the appropriate officers to apply to FmHA for a specified amount of TA funds and to execute Exhibit A, "Self-Help Technical Assistance Grant Agreement," and Form FmHA 400-4, "Nondiscrimination Agreement." The applicant's board of directors and officers should fully understand the "Self-Help Technical Assistance Grant Agreement" and the "Nondiscrimination Agreement" to be aware of their responsibilities. A certified copy of the authorizing resolution will be included in the agreement docket before the agreement is approved.

(e) *Nondiscrimination.* The applicant will be bound by the nondiscrimination and equal employment opportunity covenants contained in the "Self-Help Technical Assistance Agreement" and will execute Form FmHA 400-4 which will become a part of the agreement docket. The applicant will also comply with the affirmative fair housing marketing requirements contained in FmHA Instruction 1901-E.

(f) *Compliance with local codes and regulations.* Applicants must be sure that the planning and development of self-help housing will conform with any applicable laws, ordinances, codes, and regulations governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, sanitation, and zoning, as well as minimum property standards as adopted by FmHA.

(g) *Reports.* Applicants receiving TA funds will be required to submit to the county office:

(1) "Request for Advance or Reimbursement" on Form SF-270 by the 15th of each month. The county office will transfer the necessary information from Form SF-270 to Form FmHA 440-57 and prepare Form 440-57 according to the FMI.

(2) An audit of the grantee's accounts at the end of the grant period

or at least every two years of operation in accordance with the handbook, "Instruction to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrower and Grantees." A copy of the handbook may be obtained from any FmHA office.

(3) Form SF-269, "Financial Status Report," at the end of the grant period. The report may be on either a cash or accrual basis consistent with the financial accounting system adopted by the grantee and will be consistent throughout the grant period. The report will be submitted to the county supervisor within 90 days after the end of the grant period or the completion or termination of the program.

(4) An evaluation report of self-help technical assistance (TA) grants as provided in Exhibit E will be submitted on or before January 15, April 15, July 15, and October 15 of each year. If the report is due within 30 days after grant closing, it will not be required. The information provided on Exhibit E, however, may be required by the State Director more frequently and additional requirements may be imposed as needed if a grantee has a history of poor performance, is not financially stable, or its management system is such that it does not provide the minimum information required to be reported in Exhibit E. If additional reports and requirements are required, the State director will notify the county supervisor of the decision. The county supervisor will notify the TA grantee in writing as to:

(A) Why the additional standards are being imposed;

(B) What corrective action is needed.

The county supervisor will forward several copies of the notification to the State director. The State director will forward a copy of the notification to the national office and any other agencies known to be funding the grantee at the time the grantee is notified. The national office will notify the Office of Operations and Finance (USDA) and the Office of Management and Budget (OMB), Financial Management Branch, Budget Review Division, Washington, D.C. 20503.

(h) *Use and accountability for TA funds.* All TA funds will be placed in a depository institution of the grantee's choice. The use of minority depository institutions is encouraged. Checks must be signed by at least two authorized officials of the applicant who have been properly bonded in accordance with paragraph (i) of this section. No expenditures will be made for items or amounts not authorized under the agreement. When necessary to assure proper use, the State director, at any time during the grant period, may require TA funds to be deposited in a supervised bank account

in accordance with Part 1803 of this Chapter (FmHA Instruction 402.1).

(i) *Bonding.* If the applicant does not have fidelity bond coverage, it will provide such bond coverage for its officers and employees entrusted with the receipt, custody, or disbursement of its funds, and the custody of any other negotiable or readily salable personal property. The amount of the bond will be at least equal to the maximum amount of such funds and property that the applicant will have in its possession or control at any time, including funds in bank accounts, except that State or local units of government will not be required to provide fidelity bonds over and above those normally required for their operations. If not prohibited by State law, the United States will be named co-obligee on the bond. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(j) *Records.* If the applicant is a private nonprofit organization, it must submit to FmHA, by the end of the first month after TA grant closing, certification that it has established an accounting system which, in the opinion of a certified public accountant or licensed independent public accountant, licensed on or before December 31, 1970, is adequate to meet the purposes of the agreement. The accounting certification shall state that the applicant has established an adequate accounting system with appropriate internal controls to safeguard assets, check the accuracy and reliability of its accounting data, promote operating efficiency, and encourage compliance with prescribed management policies and any additional fiscal responsibilities and accounting requirements established by FmHA. If this requirement cannot be met by the time specified, the applicant must show that such an accounting system is in the process of development, with a definite completion date. Establishment of such certified adequate system must, in any event, be completed before the third monthly advance is made. If a certified adequate accounting system is not provided for by the time the third monthly advance is to be made, the grant may be terminated in accordance with § 1933.419(b).

(k) *Retention of records.* The grantee's financial records supporting documents, statistical records, and all other records pertinent to the grant agreement shall be retained for a period of 3 years.

(l) *Site option (SO) loans.* A TA grantee may obtain a site option loan for the purchase of land options in accordance with Exhibit F of this subpart.

§ 1933.410 Processing preapplications and applications and competing grant dockets.

(a) *Form AD-621, "Preapplication for Federal Assistance."* Form AD-621

will be submitted by each applicant in an original and two copies to the county supervisor. It will be used to establish communication between the applicant and FmHA, determine the applicant's eligibility, determine how well the project can compete with similar applications from other organizations and eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application. The following information will be attached to and become a part of the preapplication, as Part IV, Program Narrative Statement:

(1) Complete information about the applicant's previous experience and capacity to carry out the objective of the agreement.

(2) If the applicant is already formed, a copy of, or an accurate reference to, the specific provisions of State law under which the applicant is organized; a certified copy of the applicant's articles of incorporation and bylaws or other evidence of corporate existence; certificate of incorporation for other than public bodies; evidence of good standing from the State when the corporation has been in existence 1 year or more; the names and addresses of the applicant's members, directors, and officers; and if another organization is a member of the applicant-organization, its name, address, and principal business. If the applicant is not already formed, copies of the proposed organizational documents as outlined in § 1933.404(a)(4)(iii).

(3) A current dated and signed financial statement showing the amounts and specific nature of assets and liabilities together with information on the repayment schedule and status of any debt owed by the applicant. If the applicant is a new organization being sponsored by another organization, the same type of financial statement also should be provided by the applicant's sponsor.

(4) A narrative statement which includes information about the amount of the grant request, area to be served, the need for self-help housing in the area, and the number of self-help units that can be built in the agreement period.

(5) A list of other activities the applicant is engaged in and expects to continue and a statement as to any other funding and whether it will have sufficient funds to assure continued operation of the other activities for at least the period of the agreement.

(b) *Preapplication review.* The county supervisor will review Form AD-621 and other information submitted with it. The preapplication and the county supervisor's comments, recommendations, and any additional information will be forwarded to the State director for advice about further

processing. The State director will review the preapplication and related information to determine whether it meets the eligibility requirements.

(1) The State director will review the applicant's articles of incorporation and bylaws and, if they conform to approved model forms for the State as provided in § 1933.404(a)(4)(iii), the State director need not obtain a preliminary opinion regarding the legality of the organization of the applicant from OGC. In all other cases, the State director will, and, in any case, may, submit the preapplication with any comments or questions to OGC for a preliminary opinion as to whether the applicant is or will be a legal organization of the type required by these regulations and for advice on any other aspects of the preapplication.

(2) The State director, if unable to determine eligibility or qualifications with the advice of the OGC, may submit the preapplication to the National Office for review. The preapplication will contain any memoranda from OGC setting forth the results of its review. The State director will identify in the transmittal memorandum to the national office the specific problem and will recommend possible solutions. Any information about the applicant which would be helpful to the national office in reaching a decision should be included.

(c) *Form AD-622, "Notice of Preapplication Review Action."* The State director will authorize the county supervisor to prepare and execute Form AD-622 informing applicants about the results of the review.

(1) If, after review of the preapplication, the applicant is not eligible or, if the applicant is eligible and no funds are available, the applicant will be promptly notified on Form AD-622. The notification will inform the applicant that a review of the decision by the national office may be requested if the applicant believes the decision has not been made in a proper manner based on the information submitted. The applicant may request the review by writing to the Administrator of the Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

(2) Upon receipt of a request for a review the Administrator will obtain a comprehensive report on the matter from the State office. He will consider this information together with any additional information that may be provided by the applicant; and

(1) If the Administrator determines that the applicant is eligible, he will inform the applicant by letter that its request will be approved or may be approved subject to certain conditions. The Administrator will advise the State director of the action to be taken.

(2) If the Administrator determines that the applicant is not eligible, he will inform the applicant by letter of his decision giving the reasons. The Administrator will also send the State director a copy of the letter.

(3) If no decision is reached within 45 days of the receipt of a request for review by the Administrator, the applicant will be informed that its request is being considered and given a specific date by which a decision will be made.

(3) If the State director determines that the applicant is eligible and could carry out the agreement, and if funds have not been allocated to a State to cover the request, the State director will contact the national office as to the availability of funds. If funds are available, the applicant will then be requested to submit an application and other necessary docket items.

(d) *Form AD-625, "Application for Federal Assistance (Short Form)."* The applicant will submit Form AD-625 in an original and two copies to the county supervisor. The applicant also should provide a detailed proposal of its goals including information about:

(1) Evidence of the need for self-help housing in the area, including the following:

(i) Housing conditions of low- and moderate-income families in the area.

(ii) Reasons why families cannot obtain adequate housing without self-help assistance.

(iii) Names and addresses of families who have been personally contacted by the applicant and are interested in participating in a self-help housing project. Community organizations including minority organizations may be used as a source of names of people interested in self-help housing.

(iv) Evidence that the first group of prospective participating self-help families will likely qualify for financial assistance from FmHA or other sources. In addition, such information as the income and size of other interested families who appear to be eligible should be submitted.

(v) Cost comparison of adequate but modest contractor built housing in the area with housing built by the self-help method. This cost comparison should include plans and specifications for the houses to be built, detailed cost estimates for building by the self-help method, and bids from at least two contractors building in the area.

(2) The services the applicant will provide that are not presently available to families that are eligible to participate in the proposed TA grant program.

(3) Proposed staff needed, including qualifications, experience, proposed hiring schedule, and availability of any prospective employees.

(4) Name, address, and official position of applicant's representative or



representatives authorized to act for the applicant and work with the county supervisor.

(5) Budget information including a detailed budget for the agreement period based upon the needs outlined in the proposal.

(6) Personnel procedures and practices that will be established. Exhibit B of this subpart contains guidelines that may be used. Exhibit C of this subpart contains sample forms that applicants can use in maintaining their personnel records. Any forms to be used will be submitted with the application.

(7) A proposed monthly activities schedule showing the proposed dates for starting and completing the recruitment, loan processing and construction phases for each group of participant families.

(8) Evidence of the availability of building sites for at least the first group of participant families. As proof of availability an option to purchase or other documentation that accept-

able building sites can be purchased must be provided.

#### § 1933.411 [Reserved]

#### § 1933.412 Planning and performing development work.

The development work will be planned and completed in accordance with Subparts A and D of part 1804 (FmHA Instruction 424.1 and 424.5) of this chapter.

#### § 1933.413 [Reserved]

#### § 1933.414 Docket preparation.

(a) *Assembly.* When the application and all items required for the complete docket have been received, they will be thoroughly examined by the County Supervisor to insure that they have been properly and accurately prepared and include the required dates and signatures. The agreement docket items will be assembled in the following order and distributed as indicated:

Form No.	Name of form or document	Total number of copies	Signed by applicant	No. for agreement docket	Copy for applicant
AD-821	Preapplication for Federal assistance.	3	1	1-O, 1C	1-C
AD-822	Notice of preapplication review action.	2		1-C	1-O
AD-823	Application for Federal assistance (Short Form) (with attachments).	3	1	1-O, 1C	1-C
FmHA 440-1	Request for obligation of funds.	4	2	3-O, 2C	1-C
FmHA 440-4	Nondiscrimination agreement.	2	1	1-O	1-C
	Certified copy of authorizing resolution.	1	1	1-O	
	Self-help technical assistance grant agreement (Exhibit A).	2	1	1-O	1-C
	Any personnel forms to be used.	2		1-O	1-C

1-O=Original; 1-C=Copy.

(b) *Review.* (1) The county supervisor will review the docket, comment on the need for self-help housing in the area, the applicant's capacity to carry out the agreement, and evaluate and verify the applicant's financial statement. These comments and the docket will be submitted to the State director for review.

(2) The State director will review the docket and determine that either it is complete or it is incomplete and require any additional information necessary to complete the docket.

#### § 1933.415 [Reserved]

#### § 1933.416 Approval and closing.

(a) *Responsibilities of approval official.* The approval official will review the docket to determine compliance with established policies and all pertinent regulations and, specifically, determine that the:

- (1) Applicant is eligible.
- (2) Funds are requested for authorized purposes.
- (3) Proposal is sound.
- (4) Preapproval requirements have been met.

(b) *Approval of grant.* To approve the grant, the approval official will:

- (1) Execute and distribute Form FmHA 440-1, in accordance with instructions contained in the forms manual insert (FMI).
- (2) Prepare and distribute Form FmHA 071-1, "Project Information Card," in accordance with FmHA Instruction 2015-C.

(c) *Disapproval of grant.* If a grant is disapproved after the docket has been developed, the approval official will state the reason on the original Form FmHA 440-1, or in a memorandum to the county supervisor. The county supervisor will notify the applicant in writing of the disapproval and the rea-

sons for disapproval. The notification will inform the applicant that a review of the decision by the national office may be requested if the applicant believes the decision has not been made in the proper manner. Such a review will be conducted as outlined in § 1933.410(c)(2). The docket will then be handled in accordance with FmHA Instruction 2033-A.

(d) *Actions subsequent to approval of a grant.*—(1) *Change in amount of grant.* If it becomes necessary for the amount of TA funds provided for in the agreement to be increased or decreased before closing, the county supervisor will request that all distributed docket forms be returned to the county office. The grant docket will be revised accordingly and reprocessed. If, however, funds were obligated by the Finance Office in a previous fiscal year and additional funds are needed, the distributed docket forms will not be reprocessed. A grant for the additional amount needed will be processed and the amount of the grant agreement will be the total of the two.

(2) *Cancellation of an approved grant.* An approved grant may be canceled before closing, if the applicant is determined to no longer be eligible, the proposal is no longer feasible, or the applicant requests cancellation. Cancellation will be accomplished as follows:

(i) The county supervisor will prepare Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," in an original and two copies, or three copies if the TA check has been received in the county office from the disbursing office. The form will be revised by changing the word "loan" to "grant" wherever the word appears. Form FmHA 440-10 will be sent to the State director with the reasons for the requesting cancellation.

(ii) If the State director approves the request for cancellation, he will forward the original of the form to the Finance Office. After making appropriate record changes, a copy of Form FmHA 440-10 will be returned to the county office. If the TA check is received in the county office, the county supervisor will return it to the U.S. Treasury, Regional Disbursing Office, Kansas City, Kans., with a copy of Form FmHA 440-10.

(iii) The county supervisor will notify the applicant and all other interested parties, of the cancellation and the right to appeal as provided in § 1933.419(b)(3).

(3) *Requesting initial TA check.* (i) The initial TA check may cover the applicant's needs for the first calendar month. If the initial check is for a partial month, it will cover the needs for the partial month and the next whole month. For example, if it is delivered on February 10, it will cover the appli-

cant's needs for the balance of February and the month of March.

(ii) The initial advance of TA grant funds may not be requested simultaneously with the request for obligation of TA grant funds on Form FmHA 440-1. The initial TA grant check must be requested on Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request," in accordance with the FMI after Form FmHA 440-57 has been received from the Finance Office indicating that funds have been obligated.

(4) *Requesting additional TA checks.* Additional advances may be made each month provided:

(i) A satisfactory monthly report on Form SF-270, and the information required quarterly in Exhibit E of this subpart has been received.

(ii) The Exhibit E quarterly reports verify that the applicant has fully complied with the agreement. The reports will be reviewed carefully to ascertain that all TA funds are used only for authorized purposes as outlined in § 1933.405.

(iii) Additional TA checks will not be requested until all previous expenditures of TA funds have been determined to be for authorized purposes. Reimbursements for unauthorized expenditures may be accepted from the applicant or subsequent advances reduced by the amount of the unauthorized expenditures. Reimbursements will be sent to the Finance Office as returned grant funds.

(A) If the county supervisor questions the applicant's compliance with the terms of the agreement, the county supervisor will immediately request a written explanation from the grantee. If the explanation provided by the grantee is satisfactory to the county supervisor, no further action need be taken. If the explanation provided by the grantee is not satisfactory, the county supervisor will immediately request the advice of the State director.

(B) If the State director determines that the applicant has failed to comply with the terms of the agreement, the State director will notify the grantee in writing of the reasons for the determination and, with the advice of OGC, determine appropriate corrective action to be taken.

(5) *Receiving additional TA checks.* If the applicant's reports are satisfactory, the county supervisor and the applicant will determine the amount of funds necessary for the next month. An advance of TA grant funds will then be requested on Form FmHA 440-57 in accordance with the FMI. Form FmHA 440-57 requesting the check should be forwarded to the Finance Office in sufficient time to allow check delivery to be made on the first day of the following month. To show the timing of additional ad-

vances, if an applicant's initial advance covered part of February and all of March, the additional advance should cover the month of April. The additional advance check would be delivered on April 1. The next advance would be delivered on May 1. The applicant will normally receive operating funds for each month on the first day of the month unless otherwise agreed.

(e) *Grant closing.* A grant will be considered closed on the date the agreement is executed by the applicant and the Government and the initial advance check is delivered to the applicant. The agreement should be executed and the check delivered on the same date. County supervisors and assistant county supervisors are authorized to execute the "Self-Help Technical Assistance Grant Agreement" on behalf of the Government. The applicant will execute the agreement as authorized in its authorizing resolution.

(f) *Extending and revising grant agreements.*—(1) *Extending period and revising grant agreement.* The State director may extend the period of an agreement for as long as 1 year on determining that the extension is justified and that the applicant is likely to complete the goals outlined in the initial proposal during that period. This will be done by the State director authorizing the county supervisor to execute on the behalf of the Government an "Amendment to Self-Help Technical Assistance Grant Agreement" in the form of Exhibit D. In paragraph 2, line 2, the word "none" will be inserted in the blank space to indicate that no additional funds are being made available. Any revisions will be in writing and attached to Exhibit D. The county supervisor and the applicant's authorized officials will execute the form at the same time.

(2) *Additional funding during the grant agreement period.* If an applicant needs additional funds to achieve the goals set out in the initial application and the increase is justified:

(i) The State director will require and review a copy of the new proposed budget and a complete justification for the request.

(ii) After determining that funds are available and the total grant is within his approval authority, the State director may approve or disapprove the request in accordance with this subpart. If a increase in grant funds is not approved, the grantee will be notified of the disapproval and his right to appeal as provided in § 1933.410(c)(1) of this subpart. If approved, such additional funding will be coded as a subsequent loan on Form FmHA 440-1. Any appeal will be handled in accordance with § 1933.410(c)(2). If funds have not been allocated to a State or are not available on a national basis to cover a request, or if the grant is not within the State director's approval author-

ity, the State director will contact the national office as to the availability of funds and approval authority.

(iii) Checks will be ordered and handled in accordance with paragraphs (d) (3), (4), and (5) of this section.

(iv) The county supervisor or assistant county supervisor, and the applicant's authorized officials will execute on "Amendment to Self-Help Technical Assistance Grant Agreement" (see Exhibit D).

#### § 1933.417 Subsequent grants.

A subsequent grant is a self-help TA grant made to an applicant that has previously received a TA grant and has achieved or nearly achieved the goals set up for the previous grant and is submitting a new proposal for TA funds. A new "Self-Help Technical Assistance Agreement", will be required for each subsequent grant which will be coded as an initial grant on Form FmHA 440-1.

(a) The State Director may approve subsequent grants in accordance with the authority of this Subpart provided the following conditions exist:

(1) The applicant has complied with the terms of the initial grant agreement and has made satisfactory progress toward achieving its goals.

(2) A continuing need clearly exists for self-help housing in the area to be served by the subsequent grant.

(3) The funding period of the subsequent grant will not begin until the end of the grantee's current funding period unless the proposal covers a different geographical area.

(4) The State Director has examined the new application and determined that the approval conditions can be met.

(5) Funds are available. If funds have not been allocated to a State, or are not available on a National basis, the State Director will contact the National Office as to the availability of funds.

(b) When the subsequent grant is approved, the State Director will prepare and distribute the forms in accordance with § 1933.416(b). When a subsequent grant is disapproved, the grantee will be notified of the disapproval and his right to appeal as provided in § 1933.410(c)(1) of this Subpart.

(c) The period of the subsequent grant may not be more than 2 years.

(d) Subsequent grant checks will be delivered in the same manner as for initial grants.

#### § 1933.418 Management assistance.

The State Director will see that each TA grantee receives the management assistance necessary to achieve a successful program.

(a) *Training.* TA employees who will be locating and recruiting families will receive training in packaging RH loans for self-help housing when or shortly



after they are hired so that they can work more effectively. The grantee's other employees also should receive training on FmHA policies, procedures, and requirements appropriate to their positions. The County Supervisor, other FmHA employees, or outside sources approved by FmHA should give this training.

(b) *Coordination of management assistance.* The County Supervisor should advise the TA Director of the necessity of working closely with and coordinating all activities with the County Office. Meetings should be scheduled between the director and the County Supervisor at least monthly. These meetings should coincide with the time Form SF-270 and the information requested in Exhibit E of this Subpart are submitted by the grantee in accordance with § 1933.409(g) (1) and (4). The County Supervisor will keep the grantee informed of any problems being encountered and will assist the grantee in solving these problems.

(c) *Evaluating grantees.* Each grantee will be required to prepare and submit a quarterly evaluation on or before January 15, April 15, July 15 and October 15 of each year (except as modified under § 1933.409(g)(4)) of its performance by the completion of a report in the form of Exhibit E, Attachment 2, of this Subpart. The evaluation will be submitted in duplicate to the County Supervisor who will review it and make sure that the information is correct and forward it to the State Director. The State Director should evaluate each grantee's performance quarterly by reviewing Exhibit E and any comments from the County Supervisor. A copy of every fourth Exhibit E is to be forwarded to the National Office, unless requested more frequently by the Administrator. The State Director may submit a problem or unusual case to the National Office at any time. A copy of the latest Exhibit E should accompany any request for assistance from the National Office. When analyzing the quarterly reports submitted, the State Director should consider if the TA cost is excessive and determine the problem causing the high costs. The net savings, in any case, should be equal to or greater than the \$500 figure explained in § 1933.407(b). If the problems can be corrected, the grant should be continued and specific actions should be agreed to by the grantee to be taken within a specified period. If it is determined that the grantee cannot correct the problems, lower the TA cost to a reasonable level, increase net savings, or accomplish grant purposes, the grant should be terminated. The grantee should be promptly notified in writing of this determination and given the reasons for and the effective date of termination.

**§ 1933.419 Grant closeout, suspension, and termination.**

(a) *Grant purposes completed.* Promptly after the date of completion, grant closeout actions will be taken to allow the orderly discontinuance of grantee activity.

(1) The grantee will immediately refund to FmHA any balance of grant funds advanced that are not committed for the payment of authorized expenses.

(2) The grantee will send Form SF-269 to FmHA within 90 days after the date of completion of the grant. All other financial, performance, and other reports required as a condition of the grant also will be completed.

(3) The grantee will account for any property acquired with TA grant funds or otherwise received from FmHA.

(4) After the grant closeout, FmHA retains the right to recover any disallowed costs which are discovered as a result of the final audit.

(b) *Grant purposes not completed.*

(1) *Termination.* When the grantee has failed to comply with the terms of the agreement, the County Supervisor will promptly report the facts to the State Director. The State Director will consider termination of the grant. The State Director may also withhold further disbursement of grant funds and prohibit the grantee from incurring additional obligations of grant funds with written approval of the National Office. FmHA may allow all necessary and proper costs which grantee could not reasonably avoid.

(i) *Termination for cause.* The grant agreement may be terminated in whole, or in part, at any time before the date of completion, whenever FmHA determines that the grantee has failed to comply with the terms of the Agreement. The reasons for termination may include but are not limited to such problems as those listed in paragraph (e)(3)(i) of the "Terms of Agreement" section of the Grant Agreement (Exhibit A).

(ii) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties will agree to the termination conditions including the effective date and, in the case of partial termination, the portion to be terminated.

(2) *Notification of termination.* The State Director will promptly notify the grantee in writing of the termination action including the specific reasons for the decision. The notification to the grantee will specify that:

(i) The funding will be terminated within 30 days unless the problems are satisfactorily resolved.

(ii) If the grantee believes the pro-

posed termination is improper or believes the problems can be resolved, the grantee should immediately and, in any case, within 15 days of the date of this notification, contact the State Director in writing requesting a meeting for further consideration.

(3) *Appeal termination action.* When the grantee requests further consideration of the State Director's decision concerning termination action, the request will be handled as follows:

(i) The State Director will arrange for a meeting to be held within 15 days of the receipt of the grantee's request for a review. If the grantee is unable to meet with FmHA within the 15 day period, a meeting will be arranged at such other time and place as is mutually convenient for the grantee and FmHA. The meeting will be an informal proceeding at which the grantee will be given the opportunity to provide whatever additional information it believes should be considered in reaching a decision concerning the case. The grantee may have an attorney or any other person present at the meeting if desired.

(ii) Within 10 days of the meeting, the State Director will determine what action to take.

(A) If the State Director determines that the proposed termination is not necessary, he will inform the grantee by letter, and advise the County Supervisor of the action to be taken.

(B) If the State Director determines that the termination of the grant is appropriate, he will inform the grantee by letter giving the reasons for this decision. A copy of the letter will be sent to the County Supervisor. The letter must contain the following statement:

If you wish to have the decision on the termination of your TA grant reviewed, you may write the Administrator of the Farmers Home Administration within 15 days of the date hereof explaining why you believe the grant should not be terminated. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

Your correspondence must be accompanied by any supporting material and documentation that you desire to have the National Office consider.

(C) A copy of the request and supporting material must be sent to the State Director at the same time such party forwards the original to the National Office.

(4) *National Office review.* (i) Immediately upon receipt of any request from a grantee that the decision of the State Director be reconsidered, the National Office will make a preliminary decision concerning the continued funding of the grantee during the appeal period. Written notification of the decision will be given to the State Director and grantee.

(ii) The National Office will then obtain a comprehensive report on the matter from the State Office. This information will be considered together with any additional information that may be provided by the grantee. The request will be handled as provided in § 1933.410(c)(2).

**§ 1933.420-1933.450 [Reserved]**

**EXHIBIT A—SELF-HELP TECHNICAL ASSISTANCE GRANT AGREEMENT**

This grant agreement dated \_\_\_\_\_, 19\_\_\_\_, is between \_\_\_\_\_ a non-profit corporation, herein called "Grantee," organized and operating under \_\_\_\_\_ (authorizing State statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "FmHA."

In consideration of financial assistance in the amount of \$\_\_\_\_\_ (herein called "Grant Funds") to be made available by FmHA to Grantee under section 523b(1)(A) of the Housing Act of 1949 to be used in (specify area to be served) \_\_\_\_\_ for the purpose of providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts. Grantee will provide such a program in accordance with the terms of this Agreement and FmHA regulations.

**Definitions:**

(1) "Date of Completion" means the date when all work under a grant is completed or the date in the TA Grant Agreement, or any supplement or amendment thereto, on which Federal assistance ends.

(2) "Disallowed costs" are those charges to a grant which the FmHA determines cannot be authorized.

(3) "Grant Closeout" is the process by which the grant operation is concluded at the expiration of the grant period or following a decision to terminate the grant.

(4) "Termination" of a grant means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

**Terms of agreement:**

(a) This grant Agreement shall terminate \_\_\_\_\_ years from this date unless extended or sooner terminated under paragraphs (e) and (f) below.

(b) Grantee shall carry out the self-help housing activity described in the application docket which is attached to and made a part of this Agreement. Grantee will be bound by the conditions set forth in the docket and the further conditions set forth in this Agreement. If any of the conditions in the docket are inconsistent with those in the Agreement, the latter will govern. A waiver of any condition must be in writing and must be signed by an authorized representative of FmHA.

(c) Grantee shall use grant funds only for the purposes and activities specified in FmHA regulations and in the application docket approved by FmHA including the approved budget. Any uses not provided for in the approved budget must be approved in writing by FmHA in advance.

(d) If the grantee is a private nonprofit corporation, expenses charged for travel or per diem will not exceed the rates paid FmHA employees for similar expenses. If the grantee is a public body, the rates will be those that are allowable under the customary practice in the government of which the grantee is a part; if none are customary, the FmHA rates will be the maximum allowed.

(e) Grant closeout and termination procedures will be as follows:

(1) Promptly after the date of completion or a decision to terminate a grant, grant closeout actions are to be taken to allow the orderly discontinuance of grantee activity.

(i) The grantee shall immediately refund to FmHA any uncommitted balance of grant funds.

(ii) The grantee will furnish to FmHA within 90 days after the date of completion of the grant a "Financial Status Report," Form SF-269. All financial, performance, and other reports required as a condition of the grant will also be completed.

(iii) The grantee shall account for any property acquired with technical assistance (TA) grant funds, or otherwise received from FmHA.

(iv) After the grant closeout, FmHA retains the right to recover any disallowed costs which may be discovered as a result of the audit.

(2) When there is reasonable evidence that the grantee has failed to comply with the terms of this Agreement, the State Director can, on reasonable notice, terminate the grant and withhold further payments pursuant to paragraph (3) below or prohibit the grantee from incurring additional obligations of grant funds. FmHA may allow all necessary and proper costs which the grantee could not reasonably avoid.

(3) Grant termination will be based on the following:

(i) *Termination for cause.* This grant may be terminated in whole, or in part, at any time before the date of completion, whenever FmHA determines that the grantee has failed to comply with the terms of the agreement. The reasons for termination may include, but are not limited to, such problems as:

(A) Actual TA costs exceeding the amount stipulated in the proposal.

(B) The number of homes being built is less than proposed construction or is not on schedule.

(C) The cost of housing not being appropriate for the self-help program.

(D) Failure of grantee to use grant funds only for authorized purposes.

(E) Failure of grantee to submit adequate and timely reports of its operation.

(F) Failure of grantee to require families to work together in groups by the mutual self-help method.

(G) Serious or repetitive violation of any of the provisions of any laws administered by FmHA or any regulation issued thereunder.

(H) Violation of any nondiscrimination or equal opportunity requirement administered by FmHA in connection with any FmHA programs.

(i) Failure to establish an accounting system acceptable to FmHA.

(ii) *Termination for convenience.* FmHA or the grantee may terminate the grant in whole, or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in case of partial termination, the portion to be terminated.

(4) Procedure for termination of grant for cause.

(i) FmHA shall promptly notify the grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. The grantee may request that the State Director review the determination.

(ii) If the State Director for reasons described in paragraph (e)(3)(i) determines that the grant should not be continued in full, the grantee may request the Administrator of FmHA to review the State Director's decision. Such request should be sent to: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(A) The request for review must be in writing and must be made within 15 days after the grantee receives notice of the action to which objection is being made, and must be accompanied by supporting material and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(B) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requesting party and the State Director in writing of his decision and the reason therefore.

(i) Extension and/or revision of this grant agreement may be approved by FmHA provided in its opinion, the extension and/or revision is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application docket during the period of the extension and/or revision.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement except as authorized in applicable FmHA regulations. The grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the grantee will make financial reports monthly and program progress reports quarterly (on 1/15, 4/15, 7/15 and 10/15 of each year), a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for audit purposes and will be retained by grantee for three years after the termination or completion of this grant.

(i) Title to personal property acquired with grant funds shall vest in the grantee, subject to the following: the grantee shall not sell, assign, lease, encumber, or otherwise dispose of such property or any interest therein without the written consent of FmHA during the grant period. At FmHA's option if the grant is completed, terminated, or canceled for any reason, the grantee may keep such personal property provided the State Director determines it is still needed to enable the grantee to continue a self-help housing program. The grantee may transfer all such personal property to another grantee approved by FmHA, convey the property back to the Government, or dispose of it in any reasonable manner approved by the State Director.

(j) Results of the program assisted by grant funds may be published by the grantee without prior review by FmHA, provided

(k) The grantee shall promptly notify the grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. The grantee may request that the State Director review the determination.

(l) If the State Director for reasons described in paragraph (e)(3)(i) determines that the grant should not be continued in full, the grantee may request the Administrator of FmHA to review the State Director's decision. Such request should be sent to: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(A) The request for review must be in writing and must be made within 15 days after the grantee receives notice of the action to which objection is being made, and must be accompanied by supporting material and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(B) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requesting party and the State Director in writing of his decision and the reason therefore.

(i) Extension and/or revision of this grant agreement may be approved by FmHA provided in its opinion, the extension and/or revision is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application docket during the period of the extension and/or revision.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement except as authorized in applicable FmHA regulations. The grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the grantee will make financial reports monthly and program progress reports quarterly (on 1/15, 4/15, 7/15 and 10/15 of each year), a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for audit purposes and will be retained by grantee for three years after the termination or completion of this grant.

(i) Title to personal property acquired with grant funds shall vest in the grantee, subject to the following: the grantee shall not sell, assign, lease, encumber, or otherwise dispose of such property or any interest therein without the written consent of FmHA during the grant period. At FmHA's option if the grant is completed, terminated, or canceled for any reason, the grantee may keep such personal property provided the State Director determines it is still needed to enable the grantee to continue a self-help housing program. The grantee may transfer all such personal property to another grantee approved by FmHA, convey the property back to the Government, or dispose of it in any reasonable manner approved by the State Director.

(j) Results of the program assisted by grant funds may be published by the grantee without prior review by FmHA, provided

(k) The grantee shall promptly notify the grantee in writing of the determination and the reasons for and the effective date of the whole or partial termination. The grantee may request that the State Director review the determination.

(l) If the State Director for reasons described in paragraph (e)(3)(i) determines that the grant should not be continued in full, the grantee may request the Administrator of FmHA to review the State Director's decision. Such request should be sent to: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250.

(A) The request for review must be in writing and must be made within 15 days after the grantee receives notice of the action to which objection is being made, and must be accompanied by supporting material and documentation. A copy of the request and supporting material must be sent by the requesting party to the State Director at the same time such party forwards the original to the Administrator.

(B) The Administrator will act on the request as expeditiously as possible under all the circumstances, and will notify the requesting party and the State Director in writing of his decision and the reason therefore.

(i) Extension and/or revision of this grant agreement may be approved by FmHA provided in its opinion, the extension and/or revision is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application docket during the period of the extension and/or revision.

(g) Grant funds may not be used to pay obligations incurred before the date of this Agreement except as authorized in applicable FmHA regulations. The grantee will not obligate grant funds after the grant termination or completion date.

(h) As requested and in the manner specified by FmHA, the grantee will make financial reports monthly and program progress reports quarterly (on 1/15, 4/15, 7/15 and 10/15 of each year), a financial status report at the end of the grant period, and permit on-site inspections of program progress by FmHA representatives. FmHA may require progress reports more frequently if it deems necessary. Grantee will maintain records and accounts, including property, personnel and financial records, to assure a proper accounting of all grant funds. These records will be made available to FmHA for audit purposes and will be retained by grantee for three years after the termination or completion of this grant.

(i) Title to personal property acquired with grant funds shall vest in the grantee, subject to the following: the grantee shall not sell, assign, lease, encumber, or otherwise dispose of such property or any interest therein without the written consent of FmHA during the grant period. At FmHA's option if the grant is completed, terminated, or canceled for any reason, the grantee may keep such personal property provided the State Director determines it is still needed to enable the grantee to continue a self-help housing program. The grantee may transfer all such personal property to another grantee approved by FmHA, convey the property back to the Government, or dispose of it in any reasonable manner approved by the State Director.

(j) Results of the program assisted by grant funds may be published by the grantee without prior review by FmHA, provided



that such publications acknowledge the support provided by funds pursuant to the provisions of Title V of the Housing Act of 1949 and that five copies of each such publication are furnished to the local representative of FmHA.

(k) Grantee certifies that no person or organization has been employed or retained to solicit or secure this grant for a commission, percentage, brokerage, or contingent fee.

(l) No person in the United States shall, on the grounds of race, creed, color, sex, marital status, national origin, or mental or physical handicap, be excluded from participating in, be denied the proceeds of, or be subject to discrimination in connection with the use of grant funds. Grantee will comply with pertinent nondiscrimination regulations of FmHA.

(m) In all hiring or employment made possible by or resulting from this grant, grantee: (1) will not discriminate against any employee or applicant for employment because of race, creed, color, sex, marital status, national origin, age, or mental or physical handicap, and (2) will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, sex, marital status, national origin, or mental or physical handicap. This requirement shall apply to, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In the event grantee signs a contract which would be covered by any Executive Order, law, or regulation prohibiting discrimination, grantee shall include in the contract the "Equal Employment Clause" as specified by FmHA.

(n) Grantee shall not, without the prior written approval of FmHA, enter into any contract obligating the use of TA grant funds.

(o) It is understood and agreed by grantee that any assistance granted under this Agreement will be administered subject to the limitations of Title V of the Housing Act of 1949 as amended, 42 USC 1472 et. seq., and related regulations, and that rights granted to FmHA herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the assistance, and protect FmHA's financial interest.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

By \_\_\_\_\_  
Name of grantee  
Signature  
Title \_\_\_\_\_  
United States of America  
By \_\_\_\_\_  
Signature  
Title \_\_\_\_\_  
Farmers Home Administration

#### EXHIBIT B.—PERSONNEL GUIDELINES

I *Personnel procedures*: The personnel procedures and practices outlined below constitute the basic guidelines which the grantee is encouraged to follow if it does not already have acceptable personnel procedures and practices in the selection and employment of staff members.

(A) *Employment policy*.—(1) *Standards for selection*. In selecting staff, each applicant will be reviewed and considered on the basis of sound character, individual skills, and qualifications for the job. Education qualifications, unless required by State or

local law or regulations, will not be made a condition of employment or advancement if a candidate is otherwise qualified to perform the duties of the position.

(2) *Equal employment*. No person shall be excluded from employment or participation in any aspect of the program on the grounds of sex, religion, race, creed, color, marital status, national origin, or mental or physical handicap.

(3) *Persons ineligible for employment*. (a) Any person serving as a voting member of the Board of Directors, or other major policy-advisory body, may not be employed by the organization.

(b) No person may hold a position over which any member of his or her immediate family or household has authority or responsibility either as a member of the governing body or as an employee of the organization.

(B) *Hiring procedure*. (1) The Board of Directors will hire the Technical Assistance (TA) Director with the written approval of the FmHA State Director. The salary for the TA Director will be recommended by the Board of Directors within the FmHA approved salary range and approved by the FmHA State Director.

(2) All other staff will be hired by the TA Director.

(3) The appointment period for each employee will be consistent with the time each is needed.

(C) *Employment practices*.—(1) *Salary schedules*. (a) The salary range for all positions will be established by the Board of Directors within the following guidelines:

Position	Basic starting salary	Maximum salary
Director.....	\$13,482	\$16,255
Coordinator-trainer.....	8,925	11,046
Construction supervisor.....	11,046	13,482
Secretary-bookkeeper.....	7,102	8,925

(b) Beginning salaries for each position, other than Director, will be determined by the TA Director with approval of FmHA within the ranges given above and within budget limitations. If necessary because of high wage levels in the area, higher salaries may be authorized by the State Director to obtain qualified persons to fill these positions.

(c) Each staff member will be evaluated by the TA Director 12 months after employment and annually thereafter. This evaluation will be in writing. Step increases may be given annually to all employees with satisfactory evaluations. An employee whose position is changed will receive future annual increases 12 months after this change and annually thereafter subject to satisfactory evaluations.

(d) Step increases are each 5 percent of the basic starting salary for the first 5 years of employment by the grantee. Any increase after that will be on the basis of a schedule developed by the organization with the approval of FmHA.

(2) *Vacations*. (a) Each full-time employee will receive 12 working days (96 hours) of vacation per year with pay.

(b) After a minimum of 3 months' employment, earned vacation may be taken. Vacation will be taken with the prior approval of the TA Director.

(c) Vacation time is accrued at the rate of 1 day (8 hours) per month. Employees who start on or before the 15th of the month begin to accrue vacation time the same

month; those who start after the 15th of the month begin to accrue vacation time the following month.

(d) Unused vacation time not to exceed 4 days may be carried over to the following year. Longer periods may be carried over, not to exceed 18 days, if permission is obtained from the TA Director.

(e) Upon resignation or discharge, all accumulated vacation time may be taken before separation.

(3) *Sick leave*. (a) Each employee will receive 12 days (96 hours) sick leave per year with pay.

(b) Sick leave will be accumulated at the rate of 1 day (8 hours) per month. Employees who start on or before the 15th of the month begin to accrue sick leave the same month; those who start after the 15th begin to accrue sick leave the following month.

(c) Unused sick leave is to be carried over to the following year. The maximum sick leave that may be accrued by an employee is 30 working days.

(d) Sick leave may be taken for personal illness, injury, and medical appointments. Usually no more than 5 consecutive days of sick leave may be taken unless a medical certificate is presented to the leave approval official.

(e) Upon resignation or discharge, all accumulated sick leave will be considered lost.

(4) *Holidays*. The following will be recognized as official paid holidays: New Year's Day, Washington's Birthday, Memorial Day, the Fourth of July, Labor Day, Columbus Day, Veteran's Day, Thanksgiving, and Christmas.

(5) *Work week*. For accounting purposes, a 40 hour work week is to be considered the minimum requirement for each full-time staff member. However, hours worked must be flexible to fit job need. Some night and weekend work is probable. Compensatory time can be taken as work permits, with permission of the TA Director.

(6) *Employee benefits*. The grantee will participate in and provide for Workmen's Compensation, Federal Insurance Contributions Act and Unemployment Compensation Insurance, if applicable, and up to 50 percent of the health benefits cost.

(7) *Discharge*. An employee is subject to discharge for good cause. The TA Director is responsible for discharging employees. The Board of Directors is responsible for discharging the Director, and will review his capability of continuing the management of the program upon the request of the FmHA State Director.

(D) *Personnel records*. Exhibit C contains sample forms that may be used by applicants in maintaining personnel records.

II *Official travel, mileage and per diem policies*: Prior written approval from the FmHA State Director must be obtained for reimbursement for travel outside of the State.

(A) *Reimbursement mileage*. (1) Mileage will be paid for travel from the office to the job (construction site, home interview location, group meetings, and so forth) and for any travel needed to expedite the job.

(2) Travel from the employee's residence to the office will not be paid. However, if a staff member lives closer to the job than to the office, the mileage incurred traveling to and from the job may be counted. Under certain circumstances, such as staff meetings, travel will be paid to the office. The validity of these claims will be determined by the TA Director.

(3) The TA Director, with prior written

approval of the FmHA State Director, must authorize all trips outside the area covered by the grant. When such travel has been authorized, mileage may be paid.

(B) *Mileage summary*. Employees should submit their travel claims to the office on a weekly basis no later than 10:00 a.m. each Friday.

(C) *Mileage rate*. The mileage rate for travel will be the rate paid for FmHA employees for similar travel except that, for a grantee that is a public body, the travel rates will be those allowable under the customary practice in the Government of which the grantee is a part.

(D) *Per diem*. With written approval of the TA Director, staff members whose official duties require overnight out-of-town travel are allowed no more than the rate paid FmHA employees for meals and lodging. Grant funds will not be used to pay for the cost of meals for employees or officials of the grantee except when in travel status.

For a grantee that is a public body the per diem will be that allowable under the customary practice in the Government of which the grantee is a part.

(E) *Reimbursable expenses of board of directors*. (1) Members of the Board of Directors with incomes below the Federal poverty guidelines as determined by the Community Services Administration who have difficulty meeting expenses arising from their official duties and responsibilities may be reimbursed for transportation to and from meetings, or other official appointments and for lodging and meals when an official meeting, or appointment requires overnight lodging.

(2) With the prior approval of the State Director, the Board may establish rates of reimbursement for eligible Board members not to exceed the amounts authorized in paragraphs II A, C and D of this Exhibit.

III *Code of Conduct*: The grantee will maintain a code or standards of conduct

which will govern the performance of its officers, employees, or agents. Grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from suppliers, contractors, or others doing business with the grantee. To the extent permissible by State or local law, rules, or regulations such standards will provide for penalties, sanctions, or other disciplinary actions to be taken for violations of such standards.

#### EXHIBIT C—(SAMPLE) PERSONNEL FORMS

*Sample Forms*. The following are suggested sample forms that organizations may use for maintaining personnel records.

Time and Attendance Report;  
Employee Leave Record;  
Travel Authorization;  
Mileage Summary;  
Out of Town Travel Expense Statement;  
Telephone Calls Log for the Month of \_\_\_\_\_.







## EXHIBIT D—AMENDMENT TO SELF-HELP TECHNICAL ASSISTANCE GRANT AGREEMENT

This Agreement dated \_\_\_\_\_, 19—, between \_\_\_\_\_ a nonprofit corporation, herein called "Grantee," organized and operating under \_\_\_\_\_ (authorizing State Statute) and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "FmHA," amends the "Self-Help Technical Assistance Grant Agreement" between the parties hereto dated \_\_\_\_\_, 19—, herein called "said Agreement."

Said Agreement is amended by providing additional financial assistance in the amount of \_\_\_\_\_ to be made available by FmHA to grantee pursuant to section 523 of Title V of the Housing Act of 1949 for the purpose of assisting in providing a program of technical and supervisory assistance which will aid low-income families in carrying out mutual self-help housing efforts; or Said Agreement is amended by changing the completion date specified in covenant 1 from \_\_\_\_\_ to \_\_\_\_\_ and by making the following attachments hereto: (List and identify proposal and any other documents pertinent to the grant.)

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 19—.

Name of Grantee \_\_\_\_\_  
By \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_  
United States of America

By \_\_\_\_\_  
Signature \_\_\_\_\_

Title \_\_\_\_\_  
Farmers Home Administration

## EXHIBIT E—INSTRUCTIONS FOR COMPLETING THE EVALUATION REPORT OF SELF-HELP TECHNICAL ASSISTANCE GRANTS

I General. This Exhibit will be used by FmHA and the grantee in determining grantee performance.

II Determining TA cost per unit. A. To determine the TA cost per unit at any time during its progress, it is necessary to have a formula for arriving at that cost. Devising such a formula is complicated by the fact that a self-help program will have several groups in various stages of progress at any given time. The following formula has been devised to provide a tool to determine more accurately the technical assistance cost per unit.

## FORMULA

Phase breakdown	Value of each phase	Cumulative
	(Percent)	(Percent)
Preconstruction:		
Phase I.....	10	10
Phase II.....	10	20
Phase III.....	10	30
Construction: Phase IV.....	70	31-100

B. Using the following Description of Phase Breakdown as a guide, the project staff selects the cumulative total percentage pertinent to the stage the self-help group is in and multiplies that percentage by the number of families (units) in the group. The result is the equivalent number of units completed. No credit may be given for Phase I, if the application is rejected. When this computation has been completed for

each group that falls within Phases I-IV, the total number of equivalent units is divided into the total grant funds expended to that date. The result is the TA cost per unit at that stage of the program's progress.

C. The per unit TA cost will be computed on a cumulative quarterly basis. Each grantee will compute the per unit TA costs by following the guidelines established in Attachment I of this Exhibit.

D. The description of phase breakdown consists of pre-construction and construction phases described as follows:

Pre-construction: Phase I: Hold community meetings; conduct interviews; obtain house plans; prepare cost estimates; begin search for land; submit family applications to the Farmers Home Administration (FmHA); FmHA runs credit check; applications are either "viewed with favor" or "rejected."

Phase II: Organize association of FmHA approved families; association conducts weekly meetings at which required FmHA forms are discussed and completed; house plans and land sites are selected; outside speakers explain and discuss taxes, insurance, how to keep a checking account, how interest is computed, home maintenance and decorating, landscaping, etc.; completed loan dockets for each family are submitted to FmHA.

Phase III: Family loan dockets are reviewed and recommendations made as to the loan amounts requested; the FmHA County Supervisor reviews family loan dockets; preliminary title search of each proposed building site is begun; requests loan check from Finance Office; when check arrives, final title search is made, loan closed, checking accounts opened, and construction begun.

Construction: Phase IV: The percentage of construction completed is determined for each family in a self-help group. These percentages are then added together to give the number of equivalent units (EU) constructed for each group as shown in paragraph E, Step 2 of this Exhibit. When more than one group is under construction the number of EU's for each group will be added together to provide the total number of EU's constructed for the entire project.

The following table will be used in determining the percentage of construction completed for each family.

## BREAKDOWN OF CONSTRUCTION DEVELOPMENT FOR DETERMINING PERCENTAGE CONSTRUCTION COMPLETED

	With basement	Without basement
	(Percent)	(Percent)
1. Excavation.....	1.4	( <sup>1</sup> )
2. Footing and foundations, walk, columns.....	4.9	2.8
3. Floor joist.....	1.4	1.4
4. Subfloor.....	.7	1.4
5. Wall framing (thru top plates).....	4.9	4.9
6. Wall sheathing.....	2.8	2.8
7. Roof framing, ceiling joist, sheathing, and felt.....	5.6	6.3
8. Roofing.....	2.1	2.1
9. Felt, siding, exterior trim, porches, etc.....	4.2	4.2
10. Siding, primed.....	.7	.7
11. Windows and exterior doors.....	5.6	6.3
12. Plumbing, roughed in.....	2.8	3.5
13. Sewage disposal.....	1.4	1.4
14. Heating, roughed in.....	.7	.7
15. Electric, roughed in.....	1.4	1.4

## BREAKDOWN OF CONSTRUCTION DEVELOPMENT FOR DETERMINING PERCENTAGE CONSTRUCTION COMPLETED—Continued

	With basement	Without basement
	(Percent)	(Percent)
16. Insulation, walls and ceiling.....	.7	.7
17. Dry wall or plaster.....	4.2	4.9
18. Basement and porch floors, steps.....	1.4	.7
19. Heating, finished.....	3.5	3.5
20. Flooring, including kitchen and bath.....	2.8	2.8
21. Interior carpentry, trim and doors.....	3.5	3.5
22. Cabinets and counter tops.....	2.8	2.8
23. Interior decoration.....	2.8	2.8
24. Exterior paint.....	1.4	1.4
25. Plumbing, complete fixtures, sink and water heater.....	2.8	3.5
26. Electric, complete fixtures.....	.7	.7
27. Finish hardware.....	.7	.7
28. Gutters and downspouts.....	.7	.7
29. Siding and finishing floors.....	.7	.7
30. Grading, walks and landscaping.....	.7	.7
	70	70

<sup>1</sup>Include with footings and foundations.

E. The computation of equivalent units and TA costs will be computed as follows:

Attachment I of this Exhibit will be used for recording the following information and construction in the example which starts January 1 with estimates for that month based on the proposal.

## Step 1

By reviewing the FmHA loan application records, one can determine the percentage of completion for each family in the pre-construction phase of the program. These are Phases I thru III. By totaling these percentages, one arrives at the number of "Equivalent Units" completed at that date during preconstruction. For example, if there are eight families in Group #2 and all have completed the 20% phase of preconstruction, then there would be 1.6 EU's (equivalent units) in the pre-construction phase of the program as of March 31. Each phase must be completed before it is considered in the calculation.

## Step 2

Refer to the records of construction progress for families in the construction phase IV. As of March 31 (assuming construction is on schedule) the director totals the percentage of completion figures for each family as in the following example:

	Equivalent units (percent)
Sandler.....	.45
Benjamin.....	.40
Vickerie.....	.40
Cochran.....	.38
Brown.....	.34
Mettger.....	.33
Thurber.....	.31
Richardson.....	.31
	2.92
Total production in the construction phase is therefore 2.92 EU's as of March 31.	

## Step 3

Add the pre-construction and construction subtotals together:

	Equivalent units (percent)
Preconstruction.....	1.60
Construction.....	2.92
Total.....	4.52

This provides the total E.U.'s of production during the first two months of operation. Steps 1, 2, and 3 will be used to complete items 16, 17, and 18 of Attachment I. (Evaluation Report of Self-Help Technical Assistance).

III Preparation. Attachment I (Evaluation Report of Self-Help Technical Assistance Grants) will be completed in an original and three copies. The Attachment will be signed by the TA Grantee. The original and two copies of the attachment will be submitted on a quarterly basis to FmHA on or before January 15, April 15, July 15 and October 15 of each year for the quarters ending March 31, June 30, September 30 and December 31 of each year. The County Supervisor will keep the original and forward two copies to the State Office. The State Office will forward the extra copy to the National Office. Information concerning TA grants closed within 30 days of the end of a quarter will be reported on the next quarterly report.



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## RULES AND REGULATIONS

## Evaluation Report of Self-Help Technical Assistance (TA) Grants

Evaluation for quarter Ending (1) \_\_\_\_\_, 19 (1) \_\_\_\_\_

1. a. Name of Grantee (2) \_\_\_\_\_

b. Address (3) \_\_\_\_\_

2. a. Date of Agreement (4) \_\_\_\_\_ Initial (5) \_\_\_\_\_ Subsequent (6) \_\_\_\_\_ Subsequent (7) \_\_\_\_\_

b. Amount of Grant \$ (6) \_\_\_\_\_ Initial (7) \_\_\_\_\_ Subsequent (8) \_\_\_\_\_ Subsequent (9) \_\_\_\_\_

c. Amount budgeted next month \$ (8) \_\_\_\_\_

d. Amount on hand \$ (10) \_\_\_\_\_

e. Amount of Grant used \$ (11) \_\_\_\_\_

3. a. Number of houses planned (12) \_\_\_\_\_

b. Number of houses completed and occupied (13) \_\_\_\_\_

c. Number of Construction supervisors (14) \_\_\_\_\_

d. Number of TA employees (15) \_\_\_\_\_

4. a. EU Increase During Monthly Operations (16) \_\_\_\_\_ First month (17) \_\_\_\_\_ Second month (18) \_\_\_\_\_ Third month (19) \_\_\_\_\_

b. Cumulative Total number of Equivalent Units (20) \_\_\_\_\_ First month (21) \_\_\_\_\_ Second month (22) \_\_\_\_\_ Third month (23) \_\_\_\_\_

c. Monthly Grant Funds Spent (24) \_\_\_\_\_ First Month (25) \_\_\_\_\_ Second Month (26) \_\_\_\_\_ Third Month (27) \_\_\_\_\_ Quarterly total (28) \_\_\_\_\_

d. TA Cost Per Equivalent Unit (29) \_\_\_\_\_ First Month (30) \_\_\_\_\_ Second Month (31) \_\_\_\_\_ Third Month (32) \_\_\_\_\_ Quarterly total (33) \_\_\_\_\_

e. Cumulative TA Cost Per Equivalent Unit (34) \_\_\_\_\_

5. Average time needed to complete construction of a house. (35) \_\_\_\_\_

6. Current cost of similar houses including lot costs if built by contractor method. (Attach detailed cost for each model unless previously submitted) (36) \_\_\_\_\_

7. Average of self-help borrower's cost per house including lot cost (loan plus borrower's financial contribution) (Attach detailed cost for each model unless previously submitted) (37) \_\_\_\_\_

8. Savings to the Self-Help borrower (6 - 7) (38) \_\_\_\_\_

9. Net savings after TA cost (8 - 4f) (39) \_\_\_\_\_

10. Average current cost of typical lots in item 6 improved or unimproved (Circle one). (40) \_\_\_\_\_

11. Average self-help family's cost of lots in item 7 improved or unimproved (Circle one). (41) \_\_\_\_\_

12. Is mutual self-help concept of family contribution of labor working on each other's homes being followed? (38) \_\_\_\_\_ If not, attach explanation. Average number of hours contributed by each family (39) \_\_\_\_\_

13. Does Grantee have control of group in terms of equitable labor contributions, purchase of materials, and moving into house? (40) \_\_\_\_\_ If not, explain.

14. Attach information concerning number of families contacted, number who have indicated a willingness to be a participating family, number of mutual self-help groups organized, progress on any construction started, and any problems relating to the operation of this grant.

I certify that the statements made above are true to the best of my knowledge and belief.

(41) \_\_\_\_\_ DATE (42) \_\_\_\_\_ GRANTEE/REPRESENTATIVE

## COUNTY OFFICE REVIEW

I have reviewed the above information which I have found to be substantially correct.

Comments: (44) \_\_\_\_\_

(45) \_\_\_\_\_ DATE (46) \_\_\_\_\_ COUNTY SUPERVISOR

## STATE OFFICE REVIEW

Comments: (47) \_\_\_\_\_

(48) \_\_\_\_\_ Date (49) \_\_\_\_\_ STATE OFFICE REPRESENTATIVE

## RULES AND REGULATIONS

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## Instruction for Preparation of the Evaluation Report of Self-Help Technical Assistance Grants

Attachment I will be used by all TA grantees obtaining self-help technical assistance grants. This attachment provides the grantee and FmHA a uniform method of reporting the performance progress of self-help projects. The TA Grantee will prepare an original and 3 copies of the attachment. The TA Grantee will sign the original and 2 copies and forward it to the local FmHA County Office. The TA Grantee will keep the unsigned copy for its records.

The evaluation report will be completed in accordance with the following:

1. Enter the date the quarter ends either March 31, June 30, September 30, or December 31 and the year.

2. Enter the full name of the TA grantee organization.

3. Enter the complete mailing address of the TA grantee organization.

4. Enter the date of the initial self-help technical assistance grant agreement.

5. Enter the date(s) of any subsequent self-help technical assistance grant agreement(s).

6. Enter the amount of the initial grant.

7. Enter the amount of each subsequent grant.

8. Enter the amount of the TA grant budgeted for the first month following the date entered in item 1.

9. Enter the cumulative amount of the TA grant advanced to the end of the quarter.

10. Enter the amount of TA grant funds advanced that are on hand at the end of the quarter.

11. Subtract item (2e) from (2d) to give the cumulative amount of grant used to the end of the quarter.

12. Enter the number of houses planned in the TA Grantee proposal(s).

13. Enter the number of houses completed and occupied at the end of the quarter.

14. Enter the total number of construction supervisors paid with TA grant funds.

15. Enter the number of employees paid with the TA grant funds including those listed in item 14.

16. Insert the number of EU's completed the first month of the quarter using steps 1, 2, and 3 of this Exhibit.

17. Insert the number of EU's completed the second month of the quarter by using steps 1, 2, and 3 of this Exhibit.

18. Insert the number of EU's completed the third month of the quarter by using steps 1, 2, and 3 of this Exhibit.

19. Add item (16) to item (21) from the previous quarterly report. If the grant was closed within 30 days of the end of the previous quarter the total EU's for those 30 days would be included in the first month of the present report.

20. Add item (17) to item (19) for the cumulative total number of EU's the second month of the reporting quarter.

21. Add item (18) to item (20) to obtain the cumulative total number of EU's for the third month of the quarter. This total is the cumulative total number of EU's for the quarter and the project.

22. Enter the grant funds spent the first month of the quarter. If the grant was closed within 30 days of the end of the previous quarter the total EU's for those 30 days would be included in the first month of the present report.

23. Enter the grant funds spent the second month of the quarter.

24. Enter the grant funds spent the third month of the quarter.

25. Add items 22, 23 and 24 together to give the total grant funds spent during the quarter.

26. Divide item (22) by item (16) and enter the quotient which will provide the TA cost per EU for the first month of the quarter.

27. Divide item (23) by item (17) and enter the quotient which will provide the TA cost per EU for the second month of the quarter.

28. Divide item (24) by item (18) and enter the quotient which will provide the TA cost per EU for the third month of the quarter.

29. Divide item (25) by the sum totals of items (16), (17) and (18) to obtain the TA cost per EU for the quarter.

30. Divide item (11) by item (21) to obtain the cumulative TA cost per EU.

31. Insert the average elapsed time needed per house from excavation to final inspection by FmHA to complete construction of a house. If no self-help homes have been completed by this grantee, use other projects or your best estimate as a guide.

32. Insert the current cost of similar houses built by a contractor(s) including lot costs. (attach detailed cost estimates for each model unless previously submitted.)

33. Insert the average cost including FmHA loan and borrower contribution of self-help borrower's house including lot costs for projects covered by the report.

34. Subtract item (33) from item (32) to obtain the self-help borrower savings per dwelling.

35. Subtract item (30) from item (34).

36. Insert the estimated current cost of lots where houses are built by the contractor method in item (32). In most cases this would be the cost of the lot as developed.

37. Insert the average current cost of lots where houses are built by the self-help method.

38. Answer (yes) or (no).

39. Insert average number of hours contributed for the quarter by each family. Obtain this information from Exhibit C of this Instruction.

40. Answer (yes) or (no).

41. Enter date of Exhibit.

42. Signature of grantee or his authorized representative.

43. Insert title of the grantee or his authorized representative.

44. County Supervisor should insert his comments concerning TA costs per EU, progress of construction, success of the project and any problems that the organization may have.

45. Insert date of County Supervisor's review.

46. Signature of County Supervisor.

47. State Office representative should insert his comments concerning but not limited to the comments listed in item 44.

48. Insert date of State Office review.

49. Signature of State Office representative.

EXHIBIT F—SITE OPTION LOAN TO TECHNICAL ASSISTANCE GRANTEES

I Objectives. The objective of a Site Option (SO) loan under section 523 (b)(1)(B) of Title V of the Housing Act of 1949 is to enable Technical Assistance (TA) grantees to establish revolving fund accounts to obtain options on land needed to make sites available to families that will build their own homes by the self-help method. An SO loan will be considered only when sites cannot be made available by other means including a regular Rural Housing Site (RHS) loan.

II Eligibility requirements. To be eligible for an SO loan, the applicant must be a TA

grantee that is currently operating in a satisfactory manner under a TA grant agreement. If the SO loan applicant has applied for TA funds but is not already a TA grantee and it appears that the TA grant will be made, the SO loan may be approved but not closed until the TA grant is closed.

III Loan purposes. Loans may be made only as necessary to enable eligible applicants to establish revolving accounts with which to obtain options on land that will be needed as building sites by self-help families participating in the TA self-help housing program. Loans will not be made to pay the full purchase price of land but only for the minimum amounts necessary to obtain an option from the seller. The option should be for as long as necessary but in no case should the option be for less than 90 days.

IV Limitations. (A) If the amount of an SO loan will exceed \$10,000, the prior consent of the National Office shall be obtained before approval.

(B) The amount of the SO loan should not exceed 15 percent of the purchase price of the land expected to be under option at any one time, unless a higher percent is authorized by the State Director when other land is not available or the particular area requires more down payment than elsewhere or similar circumstances exist.

(C) Form FmHA 440-34, "Option to Purchase Real Property," will be used without modification in all cases for obtaining options under this subpart.

(D) The limitations of § 1822.266 (b) (1) and (2) of this Chapter (FmHA Instruction 444.8 paragraph VI B (1) and (2)) concerning land purchase will apply to options purchased under this Subpart.

V Rates and terms.—(B) Repayment period. Each SO loan will be repaid in one installment which will include the entire principal balance and accrued interest. The maximum repayment period for each SO loan will be the applicant's remaining TA grant funding period.

(1) a shorter repayment period will be established if SO funds will not be needed for the entire TA grant funding period.

(2) If a regular RHS loan is to be processed, the SO loan should be scheduled for repayment when RHS loan funds will be available to purchase the land and repay the amount of SO funds advanced on the option, unless SO loan funds will still be needed to purchase other options. Under no circumstances, however, will the repayment period exceed the applicant's remaining TA grant funding period.

VI Processing application.—(A) Form of application. The application for assistance will be in the form of a letter to the Farmers Home Administration (FmHA) County Supervisor having jurisdiction over the area of the proposed site to be optioned. The letter will be signed by the applicant or its authorized representative and contain, as a minimum, the following information:

(1) A copy of the proposed option that shows a legal description of the land, option price, purchase price and terms of the option. If more than one site is to be purchased, a schedule of the proposed options should be included.

(2) Information to verify that a regular RHS loan cannot be processed in time to secure the option.

(3) Proposed method of repayment of the SO loan.

(4) Resolution from the applicant's governing body authorizing the application for an SO loan from FmHA.



(B) *Responsibility of the county supervisor.* Upon receipt of an SO loan application, the County Supervisor will:

(1) Determine whether the applicant is eligible. If the applicant is not eligible, or the loan cannot be made for other reasons, the application may be rejected by the County Supervisor with the concurrence of the District Director. The reasons for the rejection should be clearly stated and provided, in writing, to the applicant. The applicant will have the right to have the decision reviewed following the right procedure established in § 1933.419(b) of this Subpart and will receive notification in the manner provided in such section.

(2) Review and verify the accuracy of the information provided.

(3) Make an inspection and a memorandum appraisal of each proposed site "as is." The appraisal will include a narrative statement as to whether the site has been recently sold, verify that the seller is the owner of the property, and indicate whether the purchase price is acceptable based on the selling price of similar properties in the area.

(4) Indicate whether or not it appears that, considering the location and cost of development, adequate building sites can be provided at reasonable costs.

(5) If the option is for a tract of land on which 10 or more sites are proposed, the County Supervisor will request the Architect/Engineer in the State Office to review the proposal at this point and inspect the proposed site.

(6) If approval is recommended, prepare and have the applicant execute form FmHA 440-1, "Request for Obligation of Funds," for the amount needed. Copies of the form will be distributed as provided in the FMI.

(7) Forward the SO loan application and the applicant's TA application or TA docket to the State Director. The submission will include the appraisal report and the County Supervisor's comments and recommendations.

VII *Loan approval authority and State office actions.* The State director is authorized to approve SO loans developed in accordance with this Exhibit. The approval or disapproval of the loan will be handled in the same manner as provided in § 1822.272 of this Chapter (FmHA instruction 444.8, paragraph XII). A check may be requested at the time that Form FmHA 440-1 is submitted to the Finance Office.

VIII *Loan closing.*—(A) *General.* Loan closing instructions will be provided by the Office of the General Counsel (OGC) to assure that the Promissory Note is properly completed and executed. The County Supervisor may then close the loan.

(B) *Security for the loan.* The loan will be secured by a Promissory Note properly executed by the grantee using Form FmHA 440-16, "Promissory Note." A lien on the optioned real estate will not be taken.

(1) The "kind of loan" block on the note will read "SO loan."

(2) The note will be modified to show that the only installment on the loan will be the final installment.

(C) *Loan is closed.* The loan will be considered closed when the note is executed and the loan check delivered to the grantee.

IX *Establishment of SO loan revolving account.* (A) Supervised bank accounts will not be used for SO loans.

(B) Grantee will deposit SO loan funds in a depository institution of its choice. The use of minority institutions is encouraged. Such funds will remain separate from any

other account of the grantee and shall be established as an SO revolving account.

(C) Checks drawn on the revolving account will be for the sole purpose of purchasing land options and must be signed by at least two authorized officials of the borrower-organization who have been properly bonded in accordance with § 1933.409 (h) and (i) of this Subpart.

(D) Grantees will not expend funds for any options until the site and the option form have been reviewed and approved by the County Supervisor.

(1) Site option funds will not be left unused in the revolving account in excess of 60 days.

(2) If the funds are not used for the intended purpose within the 60 days specified above, the unused portion will be refunded on the account.

(E) When funds become available for repayment of the SO loan, such funds will be deposited in the revolving account for the purchase of additional site options if needed. If such funds are not needed to purchase more options, they will be applied on the SO loan.

X *Source of funds.* SO loans will be funded from the self-help housing land development fund.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major rule requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 28, 1977.

JAMES E. THORNTON,  
Associate Administrator,  
Farmers Home Administration.

[FR DOC. 78-1475 Filed 1-19-78; 8:45 am]

#### [8010-01]

#### Title 17—Commodity and Securities Exchanges

#### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. SAB-19]

#### PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS

##### Subpart B—Staff Accounting Bulletins

#### STAFF ACCOUNTING BULLETIN No. 19

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This interpretation describes the disclosure believed appropriate by the Commission staff in the notes to financial statements concerning expected future costs of storing spent nuclear fuel and of decommissioning nuclear electric generating plants.

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence J. Bloch, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549,

202-755-1182.

**SUPPLEMENTARY INFORMATION:** The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval; they represent interpretations and practices followed by the Division of Corporation Finance and Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 13, 1978.

#### STAFF ACCOUNTING BULLETIN No. 19

The staff hereby adds Topic 10J regarding disclosure of estimated future costs related to storing spent nuclear fuel and to decommissioning nuclear electric generating plants.

#### TOPIC 10: MISCELLANEOUS DISCLOSURE

#### J. ESTIMATED FUTURE COSTS RELATED TO SPENT NUCLEAR FUEL AND NUCLEAR ELECTRIC GENERATING PLANTS

##### FACTS

Utility companies with nuclear electric generating plants have amortized nuclear fuel cost to expense on the basis of the quantity of heat produced for the generation of electric energy. In computing the periodic amortization of the nuclear fuel cost a net residual salvage value has been generally assumed that is predicated on the reprocessing of spent nuclear fuel to recover the unused uranium and plutonium. No facility is presently in operation or can be made operable to process spent nuclear fuel. Consequently, reprocessing cannot be presently accomplished, and it may be necessary to store spent nuclear fuel for an indefinite period.

In determining depreciation rates for nuclear generating plants the costs of dismantling or decontaminating a plant at the end of its useful life have generally not been considered. Such costs now appear to be substantial.

##### QUESTION

What disclosure should be made concerning the estimated future costs of storing spent nuclear fuel and decommissioning nuclear generating plants?

##### INTERPRETATIVE RESPONSE

With regard to both the storing of spent nuclear fuel and decommissioning of nuclear generating plants it appears that costs will be incurred. It may not be possible to reasonably estimate these costs when financial statements are prepared.

A note to the financial statements should describe the consideration given to the estimated future storage or disposal costs for spent fuel in amortizing the cost of nuclear fuel. If the amortization of nuclear fuel in prior years recognized a net residual salvage value, the note should disclose whether the residual salvage value was subsequently eliminated or is to be eliminated by a charge to current operations or otherwise.

Also disclose whether (1) estimated future storage or disposal costs and (2) residual salvage value recognized in prior years and now being written off are being recovered through a fuel adjustment clause or if it is expected that provision will be made for such costs in applications to regulatory commissions for rate increases.

A note should also disclose the estimated costs of dismantling or decontaminating nuclear generating plants and whether provision for these costs is being made in current operations and recognized in service rates. If such expected costs are not being currently provided for, disclose the reasons for omitting the costs and the potential impact on the financial statements.

[FR Doc. 78-1561 Filed 1-19-78; 8:45 am]

#### [4110-03]

##### Title 21—Food and Drugs

#### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION [Docket No. 77F-0077]

#### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

##### Emulsifiers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The food additive regulations are amended to provide for the safe use of polysorbate 60, polysorbate 65, polysorbate 80, and sorbitan monostearate as emulsifiers in whipped edible oil topping rather than exclusively in whipped vegetable oil topping. The General Foods Corp. petitioned for the amendment.

DATES: Effective January 20, 1978; objections by February 21, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

**SUPPLEMENTARY INFORMATION:** A notice published in the FEDERAL REGISTER of May 6, 1977 (42 FR 23170), announced that a food additive petition (FAP 7A3280) had been filed by General Foods Corp., Technical Center, 250 North Street, White Plains, N.Y. 10625, proposing that § 172.836 Polysorbate 60, § 172.838 Polysorbate 65, § 172.840 Polysorbate 80, and § 172.842 Sorbitan monostearate (21 CFR 172.836, 172.838, 172.840,

and 172.842, respectively) be amended to provide for the safe use of polysorbate 60, polysorbate 65, polysorbate 80, and sorbitan monostearate as emulsifiers in whipped edible oil topping rather than exclusively in whipped vegetable oil topping as currently permitted.

Having evaluated the data in the food additive petition and other relevant material, the Commissioner of Food and Drugs concludes that the regulations should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 172 is amended as follows:

1. In § 172.836 by revising paragraph (c)(1) to read as follows:

§ 172.836 Polysorbate 60.

(c) • • •

(1) As an emulsifier in whipped edible oil topping with or without one or a combination of the following:

- (i) Sorbitan monostearate;
- (ii) Polysorbate 65;
- (iii) Polysorbate 80;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped edible oil topping; except that a combination of the additive with sorbitan monostearate may be used in excess of 0.4 percent, provided that the amount of the additive does not exceed 0.77 percent and the amount of sorbitan monostearate does not exceed 0.27 percent of the weight of the finished whipped edible oil topping.

2. In § 172.838 by revising paragraph (c)(3) to read as follows:

§ 172.838 Polysorbate 65.

(c) • • •

(3) As an emulsifier in whipped edible oil topping with or without one or a combination of the following:

- (i) Sorbitan monostearate;
- (ii) Polysorbate 60;
- (iii) Polysorbate 80;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped edible oil topping.

3. In § 172.840 by revising paragraph (c)(9) to read as follows:

§ 172.840 Polysorbate 80.

(c) • • •

(9) As an emulsifier in whipped edible oil topping with or without one or a combination of the following:

- (i) Sorbitan monostearate;
- (ii) Polysorbate 60;
- (iii) Polysorbate 65;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped edible oil topping.

4. In § 172.842 by revising paragraph (c)(1) to read as follows:

§ 172.842 Sorbitan monostearate.

(c) • • •

(1) As an emulsifier in whipped edible oil topping with or without one or a combination of the following:

- (i) Polysorbate 60;
- (ii) Polysorbate 65;
- (iii) Polysorbate 80;

whereby the maximum amount of the additive or additives used does not exceed 0.4 percent of the weight of the finished whipped edible oil topping; except that a combination of the additive with polysorbate 60 may be used in excess of 0.4 percent. *Provided*, That the amount of the additive does not exceed 0.27 percent and the amount of polysorbate 60 does not exceed 0.77 percent of the weight of the finished whipped edible oil topping.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 21, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be



submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective January 20, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: January 11, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-1437 Filed 1-19-78; 8:45 am]

[4110-03]

[Docket No. 75F-0096]

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Defoaming Agents

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for direct food additives to provide for the safe use of polyethylene glycol (400) dioleate as a component in defoaming agents limited to use in processing beet sugar and yeast. This action is in response to a food additive petition submitted by the C. P. Hall Co.

DATES: Effective January 20, 1978; objections by February 21, 1978.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of July 7, 1975 (40 FR 28502), announced that a food additive petition (FAP 5A3075) had been filed by the C. P. Hall Co., 7300 South Central Avenue, Chicago, Ill. 60638, proposing that § 173.340 (21 CFR 173.340), be amended to provide for the safe use of polyethylene glycol (400) dioleate as a component of defoaming agents used in processing beet sugar and yeast.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material,

concludes that § 173.340 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 173 is amended in § 173.340 in paragraph (a)(3) by alphabetically inserting a new item in the list of substances to read as follows:

§ 173.340 Defoaming agents.

Substances	Limitations
<p>...</p> <p>Polyethylene glycol (400) dioleate: Conforming with § 172.820(a)(2) of this chapter and providing the oleic acid used in the production of this substance complies with § 172.860 or § 172.862 of this chapter.</p>	<p>...</p> <p>As an emulsifier not to exceed 10 percent by weight of defoamer formulation.</p>

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 21, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective January 20, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: January 11, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.  
[FR Doc. 78-1436 Filed 1-19-78; 8:45 am]

[4110-03]

[Docket No. 77F-0172]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Resinous and Polymeric Coatings

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the indirect food additive regulations in § 175.300 *Resinous and polymeric coatings* by providing for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane in can-end cements. The Commissioner of Food and Drugs has concluded that such amendment is warranted after having evaluated data in a petition filed by W. R. Grace & Co., Dewey and Almy Chemical Division.

DATES: Effective January 20, 1978; objections by February 21, 1978.

ADDRESS: Objections to this regulation may be filed with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of July 26, 1977 (42 FR 38017), announced that a food additive petition (FAP 7B3302) had been filed by W. R. Grace & Co., Dewey and Almy Chemical Division, proposing that § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) be amended to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant at levels not to exceed 0.05 percent by weight of the divinylbenzene cross-linked butyl rubber component of can-end cements.

The Commissioner, having evaluated data in the petition and other relevant material, concludes that § 175.300 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))), and under authority delegated to the Commissioner (21 CFR 5.1), Part 175 is amended in § 175.300 by alphabeti-

cally inserting in the list of substances in paragraph (b)(3)(xxxi) a new item, to read as follows:

§ 175.300 Resinous and polymeric coatings.

(b) \* \* \*  
 (3) \* \* \*  
 (xxxi) \* \* \*

Tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane for use as an antioxidant at levels not to exceed 0.05 percent by weight of isobutylene-isoprene-divinylbenzene copolymers in the cement.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 21, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective January 20, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: January 11, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-1438 Filed 1-19-78; 8:45 am]

[1505-01]

[Docket No. 75F-0207]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

Subpart C—Substances for Use as Components of Coatings

RESINOUS AND POLYMERIC COATINGS

Correction

In FR Doc. 77-25655 appearing on page 44222 in the issue of Friday, September 2, 1977, the 3rd column, the paragraph in small type should read as follows:

2-Ethylhexyl acrylate-ethyl acrylate copolymers prepared by copolymerization of 2-ethylhexyl acrylate and ethyl acrylate in a 7/3 weight ratio and having a number average molecular weight range of 5,800 to 6,500 and a refractive index,  $n_D^{25}$  (40 percent in 2,2,4-trimethyl pentane) of 1.4130-1.4190; for use as a modifier for nylon resins complying with § 177.1500 of this chapter and for phenolic and epoxy resins listed in paragraph (b)(3) (vi) and (viii) of this section, respectively, at a level not to exceed 1.5 percent of the coating.

[4110-03]

[Docket No. 77F-0217]

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

Antioxidants

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the food additive regulations to provide for the safe use of 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-s-triazine-2,4,6(1*H*, 3*H*, 5*H*)-trione as an antioxidant in food-packaging adhesives and certain polyolefin polymers intended for food-contact use. B. F. Goodrich Co. petitioned for the use of this additive.

DATES: Effective January 20, 1978; objections by February 21, 1978.

ADDRESSES: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods

(HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 16, 1977 (42 FR 41324), announced that a food additive petition (FAP 7B3259) had been filed by B. F. Goodrich Co., 500 South Main Street, Akron, Ohio 44318, proposing that the food additive regulations be amended to provide for the use of 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-s-triazine-2,4,6(1*H*, 3*H*, 5*H*)-trione as an antioxidant in food-packaging adhesives and certain polyolefin polymers intended for food-contact use.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 175.105 (21 CFR 175.105) and § 178.2010 (21 CFR 178.2010) should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 175 and 178 are amended as follows:

1. In Part 175, § 175.105 is amended by alphabetically adding a new item to the list of substances in paragraph (c)(5) to read as follows:

§ 175.105 Adhesives.

Substances	Limitations
<p>...</p> <p>3,5-Di-<i>tert</i>-butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-s-triazine-2,4,6(1<i>H</i>, 3<i>H</i>, 5<i>H</i>)-trione.</p>	<p>...</p> <p>For use as antioxidant only.</p>

2. In Part 178, § 178.2010 is amended by alphabetically adding a new item to the list of substances in paragraph (b) to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

(b) \* \* \*  
 ...



Substances	Limitations
3,5-Di- <i>tert</i> -butyl-4-hydroxyhydrocinnamic acid triester with 1,3,5-tris(2-hydroxyethyl)-s-triazine-2,4,6(1 <i>H</i> , 3 <i>H</i> , 5 <i>H</i> )-trione.	For use only: 1. At levels not to exceed 0.5 pct by weight of polypropylene complying with § 177.1520 of this chapter in articles that contact food not in excess of high temperature heat-sterilized condition of use A described in § 176.170(c) of this chapter, table 2. 2. At levels not to exceed 0.5 pct by weight of polyethylene complying with § 177.1520 of this chapter in articles that contact food not in excess of high temperature heat-sterilized condition of use A described in § 176.170(c) of this chapter, table 2. 3. In adhesives complying with § 175.105 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 21, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective January 20, 1978.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated: January 16, 1978.

JOSEPH P. HILE,  
Associate Commissioner  
for Compliance.

[FR Doc. 78-1481 Filed 1-19-78; 8:45 am]

[4110-03]

[Docket No. 76F-0107]

#### PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

##### Ethylene-Vinyl Acetate-Vinyl Alcohol Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for indirect food additives to provide for the safe use of ethylene-vinyl acetate-vinyl alcohol copolymers intended to contact fatty foods. This action is in response to a food additive petition filed by U.S. Industrial Chemicals.

DATES: Effective January 20, 1978; objections by February 21, 1978.

ADDRESSES: Written objections to the Hearing Clerk HFC-20, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

#### FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of April 16, 1976 (41 FR 16194) announced that a food additive petition (FAP 5B3114) had been filed by U.S. Industrial Chemical, Cincinnati, Ohio 45237, proposing that § 177.1360 (21 CFR 177.1360) be amended to provide for the use of ethylene-vinyl acetate-vinyl alcohol copolymers as components of food-contact surfaces intended to contact fatty foods under conditions of refrigerated and frozen packaging and storage.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that § 177.1360 should be amended as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 177 is amended by revising § 177.1360 to read as follows:

§ 177.1360 Ethylene-vinyl acetate-vinyl alcohol copolymers.

Ethylene-vinyl acetate-vinyl alcohol copolymers (CAS Registry No. 26221-27-2) may be safely used as articles or components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) Ethylene-vinyl acetate-vinyl alcohol copolymers are produced by the partial or complete alcoholysis or hydrolysis of those ethylene-vinyl acetate copolymers complying with § 177.1350. Those copolymers containing a minimum of 55 percent ethylene and a maximum of 30 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (b) of this section. Those copolymers containing a minimum of 55 percent ethylene and a maximum of 15 percent vinyl alcohol units by weight may be used in contact with foods as described in paragraph (c) of this section.

(b) The finished food contact articles shall not exceed 0.005 inch thickness and shall contact foods only of the types identified in table 1 of § 176.170(c) of this chapter in categories I, II, IV-B, VI, VII-B, and VIII under the conditions of use D through G described in table 2 of § 176.170(c) of this chapter. *Provided*, That film samples of 0.005 inch thickness representing the finished article meet the following extractives limitation when tested by ASTM Method F34-63T:

(1) The film when extracted with distilled water at 70° F for 48 hours yields total extractives not to exceed 0.03 milligram per square inch of food-contact surface.

(2) The film when extracted with 50 percent alcohol at 70° F for 48 hours yields total extractives not to exceed 0.04 milligram per square inch of food-contact surface.

(c) The finished food contact article shall not exceed 0.003 inch thickness and shall contact foods only of the types identified in table 1 of § 176.170(c) of this chapter in categories III, IV-A, V, VII-A, and IX under the conditions of use F and G described in table 2 of § 176.170(c) of this chapter. *Provided*, That film samples of 0.003 inch thickness representing the finished articles meet the following extractives limitation when tested by ASTM Method F34-63T:

(1) The film when extracted with *n*-heptane at 100° F for 30 minutes yields total extractives not to exceed 0.05 milligram per square inch of food-contact surface, after correcting the total extractives by dividing by a factor of five.

<sup>1</sup> Copies may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

[4210-01]

Title 24—Housing and Urban Development

#### CHAPTER VIII—LOW INCOME PUBLIC HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-311]

#### PART 803—SECTION 23 HOUSING ASSISTANCE PAYMENTS PROGRAM

#### PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT-RENT AUTOMATIC ANNUAL ADJUSTMENT FACTORS

Amendment of Schedule B—Section 8 Existing Housing and Section 23 Existing Housing

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: HUD is amending for certain market areas the Schedule that sets forth the fair market rents for the section 23 and section 8 housing assistance payments programs for existing housing. These amendments are being made to correct typographical or proofreading errors which occurred in the preparation of the last publication, and also, amendments are being made in response to public and HUD field office comments on the May publication.

EFFECTIVE DATE: January 20, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Bernard Horn, Acting Director, Office of Economic and Market Analysis, PD&R, HUD, Washington, D.C. 20410, 202-755-5816.

SUPPLEMENTARY INFORMATION: On May 4, 1977, HUD published for comment a revised schedule for existing housing fair market rents. To avoid delay in providing needed rent increases while the comments were being considered, HUD published the proposed schedule for effect without change on July 1, 1977, effective March 29, 1977. In the preamble to the July 1 publication, however, HUD announced that additional amendments to the schedule would be made once all comments received were analyzed.

On August 23, these additional amendments were published for effect.

Other amendments for certain specified localities are now being published for effect to correct typographical or proofreading errors which occurred in the preparation of the last publication. In addition, amendments are being published in response to public and HUD field office comments which were received in response to the May publication inviting comments but which were received too late for HUD to consider in connection with the August 23 publication. Since these additional amendments are based on comments received in response to the May 4 publication, HUD has determined that it is not necessary to publish again for comment.

A finding of inapplicability regarding the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, D.C. 20410. It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, Title 24, Part 888, Schedule B and Part 803, Schedule B are revised for the specified market areas as set forth below.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., January 12, 1978.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing—Federal Housing Commissioner.

#### SCHEDULE B—FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

NOTE.—The Fair Market Rents for five and six bedroom units are calculated as follows:

- (1) Five bedrooms—150 percent of two bedroom fair market rent;
- (2) Six bedrooms—175 percent of two bedroom fair market rent.

(d) The provisions of this section are not applicable to ethylene-vinyl acetate-vinyl alcohol copolymers used in the food packaging adhesives complying with § 175.105 of this chapter.

Any person who will be adversely affected by the foregoing regulation may at any time on or before February 21, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective January 20, 1978.

(Sec. 409(c)(1), 72 Stat. 1788 (21 U.S.C. 348(c)(1)).)

Dated: January 16, 1978.

JOSEPH P. HILE,  
Associate Commissioner  
for Compliance.

[FR Doc. 78-1479 Filed 1-19-78; 8:45 am]

#### U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECS. 8 AND 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS Schedule B—Fair Market Rents for Existing Housing (Including Housing Finance and Development Agencies Program)

	0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms
REGION 2					
Albany, N.Y. Insuring office:					
Non SMSA:					
County—Greene.....	Nonelevator..	139	159	189	210
State—New York.....	Elevator.....	153	175	208	231
REGION 3					
Philadelphia, Pa. area office:					
Non SMSA:					
County—Wayne.....	Nonelevator..	159	184	219	241
State—Pennsylvania.....	Elevator.....	175	202	241	265
					267
					294



## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECS. 8 AND 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS —Continued

		0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms
REGION 3						
Richmond, Va. area office:						
Non SMSA:						
County—Carroll.....	Nonelevator..	130	146	171	196	250
State—Virginia.....	Elevator.....	143	161	188	218	275
County—Dickenson.....	Nonelevator..	130	141	167	184	232
State—Virginia.....	Elevator.....	143	155	183	202	255
County—Grayson.....	Nonelevator..	130	146	171	198	250
State—Virginia.....	Elevator.....	143	161	188	218	275
County—Greene.....	Nonelevator..	150	170	200	230	260
State—Virginia.....	Elevator.....	165	187	220	253	286
County—Lee.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
County—Orange.....	Nonelevator..	150	170	200	230	260
State—Virginia.....	Elevator.....	165	187	220	253	286
County—Russell.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
County—Smyth.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
County—Southampton.....	Nonelevator..	130	141	156	182	210
State—Virginia.....	Elevator.....	143	155	172	200	231
County—Tazewell.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
County—Wise.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
Indep. City—Franklin.....	Nonelevator..	155	171	196	212	251
State—Virginia.....	Elevator.....	171	188	216	233	276
Indep. City—Galax.....	Nonelevator..	130	146	171	196	250
State—Virginia.....	Elevator.....	143	161	188	218	275
Indep. City—Norton.....	Nonelevator..	140	156	196	212	251
State—Virginia.....	Elevator.....	154	172	216	233	276
REGION 4						
Coral Gables, Fla. insuring office:						
SMSA: Fort Lauderdale-Hollywood, Fla.:						
County—Broward.....	Nonelevator..	199	227	273	316	347
State—Florida.....	Elevator.....	219	250	300	348	382
Memphis, Tenn. insuring office:						
Non SMSA:						
County—McNairy.....	Nonelevator..	130	138	153	211	218
State—Tennessee.....	Elevator.....	143	152	168	232	240
Tampa, Fla. insuring office:						
SMSA: Tampa-St. Petersburg, Fla.:						
County—Hillsborough.....	Nonelevator..	146	165	200	245	267
State—Florida.....	Elevator.....	161	182	220	267	293
County—Pasco.....	Nonelevator..	146	165	200	245	267
State—Florida.....	Elevator.....	161	182	220	267	293
County—Pinellas.....	Nonelevator..	146	165	200	245	267
State—Florida.....	Elevator.....	161	182	220	267	293
Non SMSA:						
County—Lake.....	Nonelevator..	139	159	192	215	235
State—Florida.....	Elevator.....	154	176	209	235	259
REGION 5						
Cleveland, Ohio insuring office:						
SMSA: Cleveland, Ohio:						
County—Cuyahoga.....	Nonelevator..	161	187	223	260	295
State—Ohio.....	Elevator.....	179	206	245	285	323
County—Geauga.....	Nonelevator..	161	187	223	260	295
State—Ohio.....	Elevator.....	179	206	245	285	323
County—Lake.....	Nonelevator..	161	187	223	260	295
State—Ohio.....	Elevator.....	179	206	245	285	323
County—Medina.....	Nonelevator..	161	187	223	260	295
State—Ohio.....	Elevator.....	179	206	245	285	323
SMSA: Lima, Ohio:						
County—Putnam.....	Nonelevator..	120	137	164	190	208
State—Ohio.....	Elevator.....	131	149	179	210	228
Columbus, Ohio area office:						
SMSA: Columbus, Ohio:						
County—Delaware.....	Nonelevator..	141	161	192	224	245
State—Ohio.....	Elevator.....	155	177	211	246	268
County—Fairfield.....	Nonelevator..	141	161	192	224	245
State—Ohio.....	Elevator.....	155	177	211	246	268
County—Franklin.....	Nonelevator..	141	161	192	224	245
State—Ohio.....	Elevator.....	155	177	211	246	268
County—Madison.....	Nonelevator..	141	161	192	224	245
State—Ohio.....	Elevator.....	155	177	211	246	268
County—Pickaway.....	Nonelevator..	141	161	192	224	245
State—Ohio.....	Elevator.....	155	177	211	246	268
SMSA: Lima, Ohio:						
County—Allen.....	Nonelevator..	120	137	164	190	208
State—Ohio.....	Elevator.....	131	149	179	210	228
County—Auglaize.....	Nonelevator..	120	137	164	190	208
State—Ohio.....	Elevator.....	131	149	179	210	228
County—Van Wert.....	Nonelevator..	120	137	164	190	208
State—Ohio.....	Elevator.....	131	149	179	210	228

## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SECS. 8 AND 23 HOUSING ASSISTANCE PAYMENTS PROGRAMS —Continued

		0 bedrooms	1 bedroom	2 bedrooms	3 bedrooms	4 bedrooms
REGION 5						
SMSA: Springfield, Ohio:						
County—Champaign.....	Nonelevator..	128	146	175	204	223
State—Ohio.....	Elevator.....	141	161	193	225	245
County—Clark.....	Nonelevator..	128	146	175	204	223
State—Ohio.....	Elevator.....	141	161	193	225	245
Non SMSA:						
County—Athens.....	Nonelevator..	130	149	179	199	218
State—Ohio.....	Elevator.....	143	163	195	218	240
County—Coshoccon.....	Nonelevator..	111	126	152	169	184
State—Ohio.....	Elevator.....	122	140	167	184	204
County—Knox.....	Nonelevator..	128	145	175	201	222
State—Ohio.....	Elevator.....	140	160	192	223	242
County—Licking.....	Nonelevator..	117	133	159	177	194
State—Ohio.....	Elevator.....	129	146	176	195	213
County—Scioto.....	Nonelevator..	112	128	154	172	188
State—Ohio.....	Elevator.....	124	142	171	188	208
Indianapolis, Ind. area office:						
Non SMSA:						
County—Knox.....	Nonelevator..	135	150	180	190	220
State—Indiana.....	Elevator.....	149	165	198	209	242
REGION 7						
Des Moines, Iowa insuring office:						
SMSA: Cedar Rapids, Iowa:						
County—Linn.....	Nonelevator..	143	174	231	272	316
State—Iowa.....	Elevator.....	158	191	245	299	348
SMSA: Waterloo-Cedar Falls, Iowa:						
County—Black Hawk.....	Nonelevator..	130	152	216	255	307
State—Iowa.....	Elevator.....	141	167	236	281	338
REGION 9						
Fresno, Calif. insuring office:						
Non SMSA:						
County—Merced.....	Nonelevator..	149	168	200	250	291
State—California.....	Elevator.....	164	184	220	275	320
San Francisco, Calif. area office:						
SMSA: Salinas-Seaside-Monterey, Calif.:						
County—Monterey.....	Nonelevator..	183	206	250	346	373
State—California.....	Elevator.....	201	227	275	378	405
REGION 10						
Spokane, Wash. insuring office:						
SMSA: Richland-Kennewick, Wash.:						
County—Benton.....	Nonelevator..	151	179	217	288	324
State—Washington.....	Elevator.....	166	197	239	317	356
County—Franklin.....	Nonelevator..	151	179	217	288	324
State—Washington.....	Elevator.....	166	197	239	317	356

NOTE.—Fair market rents (FMR) may be calculated for 5 and 6 bedroom units as follows: 5-BR=150 pct of 2-BR FMR; 6-BR=175 pct of 2-BR FMR.  
Prepared by HUD-EMAD (CO), Sept. 29, 1977, and Oct. 21, 1977.

[FR Doc. 78-1428 Filed 1-19-78; 8:45 am]

[4110-85]

# Title 42—Public Health

## CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Updating Current Regulations

AGENCY: Public Health Service, HEW.

ACTION: Rule.

SUMMARY: This document amends the Code of Federal Regulations by deleting certain parts and subparts. The amendments are necessary because certain provisions are obsolete, in some cases due to the expiration of statutory authorizations. The effect of the amendments will be to update the current regulations of the Public Health Service.

EFFECTIVE DATE: January 20, 1978.

### FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Moran, Regulations Officer, 5600 Fishers Lane, Room 17A-55, Rockville, Md. 20857. Phone: 301-443-6330.

### SUPPLEMENTARY INFORMATION:

#### PART 1—AVAILABILITY OF RECORDS AND INFORMATION [DELETED]

Part 1 was promulgated in 1956 (21 FR 9805) before the passage of the Freedom of Information Act (5 U.S.C. 552) and Privacy Act of 1974 (5 U.S.C. 552a) and the provisions of Part 1 governing the general availability of records and information of the Service have been superseded by Departmental regulations, procedures, and policies implementing such statutes (see 45 CFR Parts 5 and 5b). Part 1 is therefore obsolete and unnecessary. There-

fore, Part 1 is removed from Title 42 of the Code of Federal Regulations.

#### PART 23—NATIONAL HEALTH SERVICE CORPS

Subpart B—Grants to Assist Entities with National Health Service Corps Personnel [Deleted]

The statutory authority for appropriations for grants to assist entities with assigned National Health Service Corps personnel has expired. Therefore, Subpart B of Part 23 is removed from Title 42 of the Code of Federal Regulations.

#### PART 33—NARCOTIC ADDICTS [DELETED]

Part 33 governed the treatment of narcotic addicts at the Lexington, Ky. and Fort Worth, Tex., Public Health Service Hospitals. Those facilities have now been closed and the regulations are no longer needed. Therefore Part 33 is removed from Title 42 of the Code of Federal Regulations.



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**PART 51—GRANTS TO STATES FOR COMPREHENSIVE PUBLIC HEALTH SERVICES**  
**Subpart A—Grants to States for Comprehensive Health Planning [Deleted]**

The program of grants to States for comprehensive health planning under section 314(a) of the Public Health Service Act, 42 U.S.C. 246(a), has been superseded by pertinent provisions of Title XV of the Public Health Service Act, 42 U.S.C. 300k-1 et seq. Subpart A of Part 51 is therefore obsolete. Accordingly, Subpart A of Part 51 is removed from Title 42 of the Code of Federal Regulations, and the heading of Part 51 is amended to read "Grants to States for Comprehensive Public Health Service."

**PART 56B—GRANTS FOR REGIONAL MEDICAL PROGRAMS [DELETED]**

The statutory authority for appropriations for grants for Regional Medical Programs has expired. Therefore, Part 56b is removed from Title 42 of the Code of Federal Regulations.

**PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS**

The statutory authorities for appropriations for a number of programs under Part 57 have expired. Therefore, the heading of Part 57 is amended to read "Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships and Student Loans," and the following subparts of Part 57 are removed from Title 42, Code of Federal Regulations:

**Subpart H—Grants To Improve the Quality of Training Centers for Allied Health Professionals [Deleted]**

**Subpart L—Special Project Grants to Schools of Medicine, Dentistry, Osteopathy, Optometry, Podiatry, Pharmacy and Veterinary Medicine [Deleted]**

**Subpart N—Grants for Conversion of 2-Year Schools of Medicine [Deleted]**

**Subpart Q—Grants to Hospitals for Training, Traineeships and Fellowships in Family Medicine [Deleted]**

**Subpart AA—Grants for Health Manpower Education Initiative Projects [Deleted]**

**Subpart CC—Grants To Assist Medical and Dental Schools in the District of Columbia [Deleted]**

**PART 58—GRANTS FOR PUBLIC HEALTH**

The statutory authority for Part 58 has been terminated. Therefore, Part 58 is removed from Title 42 of the Code of Federal Regulations.

**NOTE.**—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: December 15, 1977.

**JULIUS B. RICHMOND,**  
*Assistant Secretary for Health.*

Approved: January 11, 1978.

**JOSEPH A. CALIFANO, JR.,**  
*Secretary.*

[FR Doc. 78-1405 Filed 1-19-78; 8:45 am]

**[4110-39]**

**Title 45—Public Welfare**

**CHAPTER XIV—NATIONAL INSTITUTE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**Part 1451—BASIC SKILLS RESEARCH GRANTS PROGRAM**

**Final Rule for Awarding Federal Funds**

**AGENCY:** National Institute of Education, Department of Health, Education, and Welfare.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the basic skills research grants program by adding mathematics learning and literacy (writing skills and reading comprehension) as new research subjects. Editorial changes have been made to simplify the description of eligible research areas and to provide applicants with an address from which application information may be secured.

**EFFECTIVE DATE:** As required by section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

**FOR FURTHER INFORMATION CONTACT:**

Richard Werksman, Regulations Officer, OAM, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208, 202-254-7924.

**SUPPLEMENTARY INFORMATION:** Under the authority of section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e), a notice of proposed rulemaking which set forth proposed amendments to the basic skills research grants program (45 CFR Part 1451) was published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52448). Interested persons were invited to submit written comments concerning the proposed rule. One comment was received. A summary of the comment and the response to it is shown below.

**Comment.** The comment suggested that the program be structured "for

research, investigation, promotion, innovation, administration, teaching" of automated arithmetic systems at all education levels and in cooperation with other departments and organizations.

**Response.** No change has been made. The intent of the program is to focus fundamental research on the six selected areas which are described. Proposals for research on the subject described by the commenter could be appropriately considered under § 1451.5(a)(3), the mathematics learning area.

**Other changes.** The only change is correction of a typographical error in § 1451.6(c).

**APPLICATION INFORMATION**

The National Institute of Education is not inviting applications in response to this regulation at this time. A notice of closing date, including application information, was published in the FEDERAL REGISTER on September 30, 1977 (42 FR 52491). Program information is available from the Basic Skills Group, Room 819, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208, 202-254-5766.

**NOTE.**—The National Institute of Education has determined that this document does not contain a major proposal requiring preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.950, Educational Research and Development.)

Dated: November 16, 1977.

**PATRICIA ALBJERG GRAHAM,**  
*Director,*  
*National Institute of Education.*

Approved: January 13, 1978.

**JOSEPH A. CALIFANO, JR.,**  
*Secretary, Health,*  
*Education, and Welfare.*

Title 45, Subchapter B of Chapter XIV, Part 1451, of the Code of Federal Regulations is amended as follows:

1. Section 1451.5 is amended to read as follows:

§ 1451.5 Eligible research projects.

(a) **Eligible research areas.** An application submitted for a grant under this part must involve research in one of the following selected areas:

(1) **Teaching.** Investigations on the nature of teaching and ways to improve teaching effectiveness.

(2) **Literacy.** Investigations on writing skills, written materials, and reading comprehension.

(3) **Mathematics learning.** Investigations of the nature of mathematical tasks and on the development of mathematical concepts and processes.

(4) **Measurement.** Investigations to improve measurement procedures in basic skills.

(5) **Methodology.** Investigations to improve the quality of results in educational research through studies of methodological problems.

(6) **Law and education.** Investigations of the influence of judicial and legislative activities on educational quality.

(b) **Eligible research processes.** Projects that involve research in one of the selected areas described in paragraph (a) of this section may be carried out using any research process other than those specified in § 1451.6.

2. Section 1451.6(c) is amended to correct a typographical error and should read as follows:

§ 1451.6 Ineligible projects.

• • • • •

(c) Course development through the production of a new curriculum or the improvement of an existing curriculum, including the preparation of new instructional material or the modification of instructional material already in existence.

• • • • •

3. Section 1451.7 is amended to read as follows:

§ 1451.7 Application requirements.

(a) Applicants must submit an application in the form, and containing the detailed information, prescribed by the Director.

(b) Applicants for grants under this part may obtain application information from the Basic Skills Group, National Institute of Education, 1200 19th Street NW., Washington, D.C. 20208.

[FR Doc. 78-1606 Filed 1-19-78; 8:45 am]

**[6712-01]**

**Title 47—Telecommunication**

**CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION**  
(Docket No. 21370)

**PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS**

**Making Frequency 156.250 MHz Available for Port Operations Purposes in Certain Coast Guard Designated Vessel Traffic Services Radio Protection Areas; Correction**

**AGENCY:** Federal Communications Commission.

**ACTION:** Errata.

**SUMMARY:** Correction of certain errors contained in the report and order amending the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated vessel traffic services radio protection areas.

**EFFECTIVE DATE:** January 24, 1978.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**

Robert McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

**SUPPLEMENTARY INFORMATION:**

In the matter of amendment of Parts 2, 81, and 83 of the rules to make the frequency 156.250 MHz available for port operations purposes in certain Coast Guard designated vessel traffic services radio protection areas, Docket No. 21370.

Released: January 16, 1978.

1. In the appendix to the report and order (FCC 77-820) in the above-captioned matter, released December 19, 1977, and published in the FEDERAL REGISTER on December 29, 1977, at 42 FR 64896, the NG footnote in column 8 of the table in § 2.106 was mistakenly numbered NG116, and should be corrected to read NG117.

2. Additionally, in columns 8 and 11 of § 2.106 the services listed were inadvertently printed with the first letter capitalized and all the others in small type. These services should be printed in all capital letters in large block print.

3. In view of the foregoing, § 2.106 is amended as set forth below.

For the Federal Communications Commission.

**WILLIAM J. TRICARICO,**  
*Secretary.*

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

In § 2.106 the table is amended by changing the NG footnote in column 8 in the band 154.6375-156.250 MHz to NG117, and in the bands 154.6375-156.250 MHz and 156.250-157.0375 MHz, the services listed in columns 8 and 11 are amended by being printed in all capital letters in large block print, to read as follows:

§ 2.106 Table of frequency allocations.

Band (MHz)	Service	OF SERVICES NATURE OF SERVICE
7	8	11
***	***	***
154.6375 - 156.250	LAND MOBILE - (NC117)	PUBLIC SAFETY.
156.250 - 157.0375	NAVITIME MOBILE.	NAVITIME MOBILE. (NC117)
***	***	***

[FR Doc. 78-1814 Filed 1-19-78; 8:45 am]

**[6712-01]**

[Docket No. 21410; RM-2935]

**PART 73—RADIO BROADCAST SERVICES**

**FM Broadcast Station in Alexandria, Ind.; Changes Made in Table of Assignments**

**AGENCY:** Federal Communications Commission.

**ACTION:** Memorandum opinion and order.

**SUMMARY:** Action taken herein reverses earlier action and assigns a class A FM channel to Alexandria, Ind., as that community's first FM assignment. Petitioner, Triplett Broadcasting Co., Inc., states that the proposed station would provide Alexandria with a first full-time local aural broadcast service.

**EFFECTIVE DATE:** March 6, 1978.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

**SUPPLEMENTARY INFORMATION:**  
**MEMORANDUM OPINION AND ORDER**  
(PROCEEDING TERMINATED)

Adopted: January 10, 1978.

Released: January 12, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Alexandria, Ind.), Docket No. 21410, RM-2935.

1. The Commission herein reconsiders, on its own motion, a report and order adopted December 19, 1977, Docket No. 21410, denying the request of Triplett Broadcasting Co., Inc. ("petitioner"), proposing the assignment of FM channel 244A to Alexandria, Ind., as a first FM assignment to that community. No oppositions were filed to the proposal.

2. The Commission issued a notice of proposed rule making seeking comments on the proposal. The Commission failed to receive comments from petitioner and, consistent with our policy and procedures set forth in the appendix to the notice, refrained in the report and order from making the assignment to Alexandria in the absence of an expression of continuing interest. Upon receipt of the report and order, petitioner informed the Commission that timely comments were filed reiterating his continuing interest and intention to apply for the

<sup>1</sup>42 FR 55105, 42 FR 64914, December 29, 1977.

<sup>2</sup>The Commission's records do not show that this statement was received.



channel, if assigned, and submitted, by mail, a copy of his comments.

3. We believe that the public interest would be served by the assignment of channel 244A to Alexandria, Ind., since this assignment would provide the community an opportunity to obtain its first full-time aural broadcast service. Further, since the channel would have been assigned earlier had it not been for the lack of an expression of interest, now that we have a copy of petitioner's timely expression of interest, we believe that a reversal of our earlier denial of the petition is warranted and we will assign channel 244A to Alexandria, Ind.<sup>3</sup>

4. The Canadian Government has given its concurrence to the assignment at Alexandria, Ind.

5. Accordingly, it is ordered, That effective March 6, 1978, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended as to the named community to read as follows:

<sup>3</sup>Transmitter site shall be located at least 8 kilometers (5 miles) west of the community.

City Alexandria, Ind. Channel No. 244A

6. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r), 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, That this proceeding is terminated.

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc. 78-1613 Filed 1-19-78; 8:45 am]

#### [6712-01]

[Docket No. 20422; RM-2395; RM-2421; RM-2451; RM-2471; RM-2503; FCC 77-866]

#### PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Fort Walton Beach, Crestview and Destin, Fla.; Changes made in Table of Assignments; Correction to Preamble

AGENCY: Federal Communications Commission.

ACTION: Correction to Preamble to Memorandum Opinion and Order.

SUMMARY: The Preamble to the above proceeding, published in the FEDERAL REGISTER on January 10, 1978, at 43 FR 1500, listed the FCC number of the document as "FCC 77-863", which is the wrong FCC number; The correct FCC number to this document should be corrected to read "FCC 77-866".

EFFECTIVE DATE: February 15, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-1562 Filed 1-19-78; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

#### [3410-37]

#### DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 317, 381]

NET WEIGHT LABELING

Public Hearing

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of public hearing.

SUMMARY: This document announces a public hearing to be held concerning proposed amendments to the Federal Meat and Poultry Inspection Regulations on uniform labeling requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat or poultry products.

DATE: Public hearing to be held on February 9, 1978, beginning at 10 a.m.

ADDRESSES: Public hearing to be held in Room 218-A, Administration Building, Department of Agriculture, 12th and Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189.

SUPPLEMENTARY INFORMATION: On December 2, 1977, there appeared in the FEDERAL REGISTER (42 FR 61279-61284) a notice that the Food Safety and Quality Service is considering amendments to the Federal Meat and Poultry Inspection Regulations concerned with uniform labeling requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat or poultry products. The amendments, if implemented, would provide for more specific reasonable variations with respect to the statement of quantity of contents on labeling for meat and poultry products.

Comments and views expressed on the proposed amendments to the regulations indicate they have evoked widespread interest with opinions differing on the desirability of the proposal's provisions, and their effects on products and consumers if implemented.

The Administrator has concluded, therefore, that these circumstances require that further information and data be available to the fullest extent possible on the subject matter for consideration prior to decisions with respect to these proposed regulations. To foster the assembly of such information, the Administrator has scheduled a public hearing to consider the proposed amendments. The hearing will be held on February 9, 1978, beginning at 10 a.m., in Room 218-A, Administration Building, Department of Agriculture, 12th and Independence Avenue SW., Washington, D.C. At the hearing, the Administrator of the Food Safety and Quality Service, who will serve as chairman, will present a statement explaining the purpose and basis of the proposal. Any interested person may appear and be heard either in person or by a representative. Individual presentations should be scheduled in advance. To make a reservation to speak at the hearing, contact, Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189. A written copy of a speaker's comments should be given to the chairman prior to the speaker's oral presentation but is not required to be read into the record. Individuals making presentations may verbally summarize or emphasize certain points of their written comments. Opportunity will be provided for the chairman or other governmental officials at the hearing to comment upon or ask questions about each presentation made. The time for oral presentations and questions may be limited at the discretion of the chairman in order to give all persons at the hearing an opportunity to be heard. Transcripts of the oral hearing will be made, and copies of the transcripts and any written comments submitted at the hearing will be made a part of the record in this rulemaking proceeding and will be available for public inspection together with all other comments received in this proceeding.

Any interested person who desires to submit written data, views, or arguments on the proposal may do so by filing the same, in duplicate, on or before March 2, 1978, with the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250, or with the presiding officer at the hearing.

Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

ing. A copy of the net weight proposal may be obtained without charge from the Office of Information, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

After consideration of all information presented at the hearing and submitted pursuant to this notice and the notice of December 2, 1977, and any other information available to the Department, a determination will be made as to whether the regulations will be amended as proposed.

Done at Washington, D.C., on January 16, 1978.

ROBERT ANGELOTTI,  
Administrator,

Food Safety and Quality Service.

[FR Doc. 78-1675 Filed 1-19-78; 8:45 am]

#### [4810-33]

#### DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

OTHER REAL ESTATE OWNED

Proposed Revision to Interpretive Ruling

AGENCY: Comptroller of the Currency.

ACTION: Proposed revision to interpretive ruling.

SUMMARY: The purpose of this proposed revision is to ensure that national banks record the value of real estate which is received from a defaulted debtor. In a troubled debt restructuring, a national bank in its capacity as a creditor, will account for assets received, including real estate, in satisfaction of a receivable in a fashion which is consistent with generally accepted accounting principles as reflected in the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 15, paragraphs 29 and 91. In the current version of the interpretive ruling it is not clear that the value of real estate acquired in a troubled debt situation be treated in accordance with generally accepted accounting principles.

EFFECTIVE DATE: Written comments must be received on or before February 21, 1978.

ADDRESS: Comments should be addressed to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT:



Albert L. Elder III, Staff Attorney, Office of the Comptroller of the Currency, Washington, D. C. 20219. 202-447-1880.

**SUPPLEMENTARY INFORMATION:** The current version of 7.3025 permits "other real estate owner" to be recorded initially at the lower of cost or fair market value. It also provides that if the book value exceeds the fair market value, the difference must be charged off. The existing interpretive ruling, in addition, notes that if a subsequent increase in fair market value occurs, book value should not be written up beyond the original cost.

Generally accepted accounting principles dictate that after a troubled debt restructuring, a creditor shall account for assets received in satisfaction of a receivable the same as if the assets had been acquired for cash. The fair value at the time of transfer of an asset transferred to a creditor in a troubled debt restructuring is a measure of its cost to the creditor and generally its carrying amount, (except for subsequent depreciation, amortization or writedown), until sale or other disposition of the asset.

In the current version of the interpretive ruling it is not clear that the value of real estate acquired in a troubled debt situation be treated in accordance with generally accepted accounting principles.

In order to insure that real estate obtained from troubled debtors is recorded and subsequently carried on the bank's books in an acceptable manner, the words "the original cost as described in (d)(1) of this section nor" have been removed from the last sentence in section (e) and have been replaced by the words "the amount at which the asset was originally booked or."

Consistent with generally accepted accounting principles, the assets in the "other real estate owned" account which are not acquired by the bank in a troubled debt situation (former banking premises and property originally acquired for future expansion) will continue to be valued at the lower of cost or fair market value. The annual adjustment requirement has been eliminated. However, other than land assets shall be depreciated. Partial or complete charge offs will result with respect to these properties only if the value of the assets is seriously impaired.

Two other minor changes are also proposed. The last sentence of section (c) is deleted. The Comptroller of the Currency intends to use any appropriate supervisory remedies including those enumerated at 12 U.S.C. 1818(b) to enforce the requirements of 12 U.S.C. 29. The sentence to be deleted is considered to be superfluous. In addition, the first sentence in section (h) is deleted and the words "as required by

## PROPOSED RULES

12 U.S.C. 29" are added to the end of the remaining sentence in the section so that it more accurately reflects the language of the statute.

### DRAFTING INFORMATION

The principal drafter of this document was Albert L. Elder III, staff attorney.

### PROPOSED RULING

For the reasons stated above, the Comptroller proposes to amend 12 CFR 7.3025, an interpretive ruling, to read as follows:

#### § 7.3025 Other real estate owned.

(a) "Other real estate owned" is real estate acquired by a national bank:

(1) Through purchases at sales under judgments, decrees or mortgages where the property was security for debts previously contracted;

(2) Through conveyance in satisfaction of debts previously contracted; or

(3) Through purchases to secure debts previously contracted.

(b) Former banking premises and property originally acquired for future expansion, for which banking use is no longer contemplated, will be considered "other real estate owned." A former banking house will be considered "other real estate owned" from the date of relocation to new banking quarters. When real estate is acquired for future expansion, utilization should be accomplished within a reasonable period, which normally will be considered not to exceed three years. After real estate acquired for future expansion has been held for one year, a board resolution with definitive plans for utilization must be available for inspection.

(c) The bank is under an affirmative duty to dispose of "other real estate owned" at a price sufficient to reimburse the bank for its investment and costs of acquisition. However, no national banking association shall hold "other real estate owned" for a period longer than five years. This five year period begins on the date legal title to the property is transferred to the bank except in instances described in paragraph (b) of this section.

(d) "Other real estate owned" should be initially recorded at the lower of cost or fair market value.

(1) Cost includes the unpaid loan balance (excluding accrued and uncollected interest); major replacements or renovations required to make the property salable; assessments; taxes accrued up to the time of acquisition; court costs, legal fees, title and recording fees due in connection with the acquisition; and similar costs incurred in acquiring the property.

(2) Fair market value must be substantiated by a current appraisal prepared by an independent qualified appraiser at the time of acquisition.

(e) The bank must obtain annually a new appraisal or a certification in letter form from an independent appraiser substantiating that the property has not declined in value. In the event that book value exceeds the fair market value, the difference must be charged off; however, if a subsequent increase in fair market value occurs, the book value shall not be written up beyond the amount at which the asset was originally booked or beyond the book value of December 31, 1975, whichever is less.

(f) Current documentation must be maintained reflecting the bank's continuing and diligent efforts to dispose of each parcel of "other real estate owned."

(g) If "other real estate owned" is an unfinished construction or development project, further prudent advances to complete the project may be included in investment cost. However, such additional advances will not be permissible unless the bank maintains on file evidence that the advances will result in a more salable property.

(h) Disposition of the property must occur through public or private sale within five years from the date of acquisition as required by 12 U.S.C. 29.

Dated: December 28, 1977.

JOHN G. HEIMANN,  
Comptroller of the Currency.  
(FR Doc. 78-1610 Filed 1-19-78; 8:45 am)

## [1505-01]

### CIVIL AERONAUTICS BOARD

[14 CFR Part 207]

(EDR 342; Economic Regulations Docket 31861; Dated December 21, 1977)

### CHARTER TRIPS AND SPECIAL SERVICES OFF-ROUTE CHARTER LIMITATIONS

Proposed Rulemaking

#### Correction

In FR Doc. 77-36954 appearing at page 64704 in the issue for Wednesday, December 28, 1977, in the second column of page 64706, the first line of the paragraph under the second heading for "Alternative Proposal" now reading "That the above minimum be 10 per . . ." should have read "That the above maximum be 10 per . . .".

Also, in the last line of the same paragraph, the words ". . . the preceding calendar . . ." should have read "the preceding calendar year."

## [7020-02]

### INTERNATIONAL TRADE COMMISSION

[19 CFR Parts 201, 211]

### ENFORCEMENT PROCEDURES; RULES OF PRACTICE AND PROCEDURE

Enforcement, Modification, and Revocation of Final Commission Actions

AGENCY: U.S. International Trade Commission.

ACTION: Proposed rule.

**SUMMARY:** This subpart would establish procedures for the enforcement or revocation of final Commission actions issued under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), prohibiting unfair methods of competition or unfair acts in the import trade of the United States. At present no such rules exist.

**EFFECTIVE DATE:** Comments by March 21, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Jeffrey M. Lang, 202-523-0493.

Under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), the Commission is authorized to take action to exclude articles traded in violation of section 337 or to order that the offending practices cease and desist. There are, at present, four exclusion orders outstanding<sup>1</sup> and one consent order outstanding.<sup>2</sup> There are no cease and desist orders in effect at present. These orders are not penal in nature, but rather condition the future conduct of persons affected by them. For this reason, it will be necessary in most cases to adjust these orders changing circumstances.

Such continuing supervision of outstanding orders is contemplated in section 337. Subsection 337(f) ("Cease and Desist Orders") provides, in part—

The Commission may at any time, upon such notice and in such manner as it deems proper, modify or revoke any such order, and, in the case of a revocation, may take action under subsection (d) or (e), as the case may be.

Subsection 337(h) ("Period of Effectiveness") provides—

Except as provided in subsections (f) and (g), any exclusion from entry or order under this section shall continue in effect until the Commission finds, and in the case of ex-

<sup>1</sup>The outstanding orders are—*Convertible Game Tables*, investigation No. 337-TA-2; *Chain Door Locks*, investigation No. 337-TA-5; *Reclosable Plastic Bags*, investigation No. 337-TA-22; *Certain Exercising Devices*, investigation No. 337-TA-24; *Certain Display Devices for Photographs and the Like*, investigation No. 337-TA-30.

<sup>2</sup>*Color Television Receivers*, investigation No. 337-TA-23.

## PROPOSED RULES

clusion from entry notifies the Secretary of the Treasury, that the conditions which led to such exclusion from entry or order no longer exist.

Previously, changes in outstanding orders were made case by case. Now, however, the Commission has a docket of cases sufficient to require procedural rules in this area. Such rules will also serve the objectives of the law by providing a system of standardized procedures, which will encourage compliance with the law.

The basic plan of these proposed regulations is in two parts. First: The regulations authorize the inclusion of information-gathering conditions in any final Commission action under section 337. The scope of this power is provided by 19 U.S.C. 1333, and failure to provide the information required would not only be subject to court action (see 19 U.S.C. 1333(d)), but would also constitute a violation of the final Commission action itself.

Secondly, the regulations detail procedures for the alteration of any final Commission action. Here, a range of actions, from informal advice to quite formal hearings that may result in the maximum remedies available under the law, are set forth.

### SECTION-BY-SECTION DISCUSSION

**Section 211.50.** The "applicability" and "purpose" subsections are mostly self-explanatory. These rules are intended to serve as the basis for all changes in final Commission actions. These rules are not limited to enforcing cease and desist orders. Dissolving orders that have ceased to serve a useful purpose, such as exclusion orders, is also contemplated. The rules also include temporary relief orders, but no other interlocutory orders are included. Final Commission actions have to undergo the rigors in the law relating to appeals (subsec. 337(c)) and Presidential review (subsec. 337(g)). However, this does not mean that when an adversely affected person fails to appeal a final Commission action, or appeals and loses, it may later collaterally attack the original action when that action is altered pursuant to these rules. In such a situation, it would appear that a court challenge, if any, can only attack the changed action.

The rule contains a "savings" provision, which serves to keep while the existing consent order in *Color Television Receivers*, investigation No. 337-TA-23.

**Section 211.51.** The power to gather information relating to the operation of a final Commission action is set out here. Any reporting provided for by law is permitted if it will either "aid the Commission to determine whether and to what extent there is compliance with the action" or "whether and to what extent the conditions which

led to the action are changed." The first of these relates to cease and desist orders.

The second condition, which is adapted from subsection 337(h), may relate to any kind of final Commission action. One example of such changed circumstances is when the holder of a domestic patent ceases to domestically produce articles that are the subject of an exclusion order. In that case, revocation of the exclusion may be in order.

Final Commission actions may also include provisions for gathering information by any other means provided by law, which includes gaining access to records, copying records, and requiring persons to produce books or papers (19 U.S.C. 1333(a)). This rule further provides for the collection of information from voluntary sources.

Under paragraph (b), the Commission is empowered to prescribe the form and detail of reporting. This implements 19 U.S.C. 1333.

Under paragraph (c), information gathering is enforceable in court or by any other means available to enforce the final action. In paragraph (d), discretion is kept to set the term of any informational requirements of a final action. This would allow for the adjustment of reporting requirements to meet the needs of individual cases and changes in international trade.

**Section 211.52** provides that information received pursuant to a final action can be held in confidence. The standards for this are the same as those under § 201.6 of the Commission's rules of practice and procedure. These regulations are not subject to § 201.6, however, since that rule is being simultaneously amended so as not to apply to proposed Subchapter C of these rules. The reference to "statutory functions" in the proposal is also intended to include Commission rules. Keeping the data confidential will encourage better reporting.

**Section 211.53.** This section sets forth enforcement powers and establishes the plan of the remaining sections of this subpart. Paragraphs (b) (1) to (5) inform persons subject to final Commission actions of the steps which may be taken in the exercise of the oversight of final Commission actions. The steps are set out in order of increasing complexity, and each step (except (b)(5), which is self-explanatory) corresponds to one of the next four sections of the regulations. These rules are intended to provide the greatest possible flexibility in enforcing the law. For example, the rules make it possible to avoid excluding articles that are affected by a cease and desist order, unless exclusion is necessary to stop an unfair act or method that is the subject of the cease and desist order.

**Section 211.54.** Advice to persons reporting may be sufficient in some



cases. When a cease and desist order is involved, and compliance with the order is the primary objective of reporting, then advising persons that their reporting evidences noncompliance may be an effective means of getting compliance. The Federal Trade Commission would appear to reserve the right to exercise this option (16 CFR 3.61(a)).

**Section 211.55.** Modification of reporting requirements will facilitate focusing on problems which require special study in order to determine how the oversight function will be exercised. It may also be used to document facts that justify change in a final order. Modifying reporting requirements will also assure compliance with many cease and desist orders. Finally, it will facilitate altering or abolishing reporting schemes that have proved useless, unreasonably burdensome, or undesirable for other reasons. The rule would allow any person to request changes in reporting requirements, which may be handled publicly or not, as conditions warrant.

**Section 211.56** represents a procedural framework for fundamental change in final Commission actions. Such matters may be handled by letter or conference under paragraph (a) or by complaint, followed by answer and then a decision. The formal procedures are adapted from existing rules of other Federal agencies that conduct their own enforcement proceedings short of court action. This rule is aimed primarily at enforcement (by modification or revocation and exclusion) of cease and desist orders, temporary cease and desist orders, and consent orders. (Parties to sec. 337 proceedings who want cease and desist orders or exclusion orders listed or modified may seek modification or revocation by a simpler process of motion and answer under paragraph (c) of this section or by recommendation under § 211.55.)

Upon conclusion of the enforcement process, which may include a hearing, a modified cease and desist order may issue or the existing final Commission action may be replaced with an exclusion order. All such orders are new final Commission actions, subject to court review (although not on the original record of the sec. 337 investigation), Presidential review, bonding, and so-called public interest determinations.

**Section 211.57.** This section provides for temporary relief action. Thus, when patterns of trade are changing rapidly or enforcement is needed immediately to be effective, a cease and desist order could be revoked and temporarily replaced by exclusion or any other temporary measure allowed by the law, if certain criteria are met. It must be "evident" that violations will occur or that temporary measures are

necessary to "accomplish the purpose of section 337." This section applies to all types of final Commission actions.

**Section 211.58.** Notice to Federal agencies is essential to the proper functioning of these rules. Under subsections 337(b), Government agencies have a role in Commission section 337 proceedings. These rules are supplementary to section 337, and therefore the agencies should have a role here, too. Furthermore, advice to the Secretary of the Treasury when an exclusion order of any type is made or revoked is required by subsections 337(d), 337(e), and 337(h).

#### § 201.6 [Amended]

Section 201.6(h) is amended by deleting the words "Part 210".

19 CFR Part 211, Subpart C, is added as follows:

#### Subpart C—Enforcement, Modification, and Revocation of Final Commission Actions

- Sec.  
211.50 Applicability, purpose, and savings.  
211.51 Information gathering.  
211.52 Confidentiality of information.  
211.53 Disposition of information: enforcement powers.  
211.54 Advice to persons submitting information.  
211.55 Modification of information requirements.  
211.56 Proceedings to enforce, modify, revoke, or substitute for final Commission actions.  
211.57 Immediate action.  
211.58 Notice of enforcement action to Government agencies.

**AUTHORITY:** The provisions of this Subpart C are issued under secs. 333, 335, and 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1333, 1335, and 1337).

#### § 211.50 Applicability, purpose, and savings.

(a) **Applicability.** The rules in this subpart apply to "final Commission actions" issued by the Commission under section 337, including exclusion orders, temporary exclusion orders, and cease and desist orders (cease and desist orders shall, for purposes of this subpart, mean cease and desist orders, temporary cease and desist orders, and consent orders).

(b) **Purpose.** The purpose of this subpart is to set forth procedures for the enforcement, modification, and revocation of final Commission actions.

(c) **Savings.** The rules in this subpart shall apply to final Commission actions taken before the effective date of these rules only to the extent not inconsistent with such final actions.

#### § 211.51 Information gathering.

(a) **Power to require information.** Whenever the Commission takes a final Commission action, it may attach to such action (or, in the case of a consent order, approve) terms and conditions requiring any person to report to the Commission facts in that person's

possession that will aid the Commission in determining whether and to what extent there is compliance with the action or whether and to what extent the conditions which led to the action are changed. The Commission may also include (or, in the case of a consent order, approve) provisions that exercise any other information-gathering power available to it by law. The Commission may at any time request the cooperation of any person or agency in supplying the Commission with information that will aid the Commission in achieving the same ends.

(b) **Form and detail of reports.** Reports under subsection (a) of this section may be required to be in writing, under oath, and in such detail and in such form as the Commission prescribes in the order. A final Commission action may also contain terms and conditions which exercise, or make possible the exercise of, on conditions precedent, any power of information gathering available to the Commission by law, subject to the standards of § 211.51(a).

(c) **Power to enforce informational requirements.** Terms and conditions of final Commission actions for reporting and information gathering, and modifications of such terms and conditions, shall be enforceable by the Commission by a civil action in the nature of mandamus pursuant to 19 U.S.C. 1333 or, at the Commission's discretion, in the same manner as any other provision of the final Commission action is enforced.

(d) **Term of reporting requirement.** The Commission may prescribe in the final Commission action (or, in the case of consent orders, approve) frequency of reporting or information gathering and the date on which these activities are to terminate. If no date for termination is provided, reporting and information gathering shall terminate when the final Commission action or any amendment to it expires by its own terms or is terminated. The Commission may modify informational requirements of a final Commission action at any time, pursuant to § 211.53(b)(2) and § 211.55.

#### § 211.52 Confidentiality of information.

In any final Commission action, the Commission may direct that information provided to the Commission pursuant to such action will be received by the Commission in confidence, if disclosure is likely to have the effect of either: (1) Impairing the Commission's ability to obtain such information as is necessary to perform its statutory functions, or (2) causing substantial harm to the competitive position of the person from whom the information was obtained.

#### § 211.53 Disposition of information; enforcement powers.

(a) The Commission will review reports submitted pursuant to any final Commission action and conduct such further investigation as it deems necessary, consistent with the action.

(b) Subsequent to the issuance of a final Commission action, the Commission may, upon request of a person or on its own motion, take any one or a combination of the following actions, in any order or all at once, subject to the requirements of this subpart, as applicable:

(1) Advise persons reporting or providing information whether and to what extent the acts set forth in their information evidence compliance with the final Commission action;

(2) Require further, different, or more frequent reports, or other forms of information gathering, consistent with the law;

(3) Modify or revoke a final Commission action, or substitute a new final Commission action after proceedings;

(4) Take immediate action to modify or revoke a final Commission action, or to substitute a new final Commission action;

(5) Institute appropriate court action to enforce the final Commission action.

#### § 211.54 Advice to persons submitting information.

The Commission may, upon request by any person or in its discretion, decide to advise persons reporting or providing information that it evidences lack of compliance with a final Commission action or constitutes a reason to modify or revoke such action.

#### 211.55 Modification of information requirements.

Any person may recommend that the Commission (or the Commission may on its own motion) order that a person required by the terms and conditions of a final Commission action to report or to provide information or access to information do so other than as prescribed in the final Commission action. The Commission may modify reporting requirements as necessary: (1) To assure compliance with an outstanding action, (2) to take account of changed circumstances, (3) to minimize the burden of reporting or informational access consistent with the objectives of section 337, or (4) on the basis of any combination of the above. A recommendation to modify reporting requirements shall identify the reports involved and state the reason or reasons for modification. No reporting requirement will be suspended during the pendency of such a recommendation unless the Commission orders it. The Commission may, if the public interest warrants, announce that a modification of reporting is under consideration and ask for comment, but it may also modify any reporting requirement at any time without notice, consistent with the standards of this section.

(2) **Parties.** The parties to an enforcement proceeding shall be the Commission (represented by an attorney employed by the Commission), the respondent, and any other person with

an interest sufficient to support intervention in a section 337 investigation under § 210.6 of these rules.

#### § 211.56 Proceedings to enforce, modify, revoke, or substitute for final Commission actions.

(a) **Informal complaints.** Informal complaints may be made in writing with respect to any act done or omitted by any person in violation of any provision of a final Commission action. If warranted, matters so presented may be handled by the Commission through correspondence or conference with the appropriate persons. Any matter not disposed of informally may be made the subject of a formal proceeding pursuant to this subpart. The filing of an informal complaint shall not bar the subsequent filing of a formal complaint.

(b) **Formal complaints.** The Commission may, in order to determine whether a cease and desist order is being violated, institute an enforcement proceeding by docketing a complaint setting forth the alleged violation and, following such proceeding, modify or revoke and enforce the order. The complaint shall be served upon the alleged violator and published in the FEDERAL REGISTER.

(1) **Answer.** Within fifteen (15) days after the date of service of a complaint docketed pursuant to this rule, the named respondent shall file an answer to the complaint. Answers shall fully and completely advise the Commission as to the nature of the defense and shall admit or deny each allegation of the complaint specifically and in detail unless the person complained of is without knowledge, in which case his answer shall so state and the statement shall operate as a denial. Allegations of fact not denied or controverted shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered and shall, in the absence of a reply, be deemed to be controverted. Failure of a respondent to file and serve an answer within the time and in the manner prescribed by this rule shall be deemed to authorize the Commission in its discretion to find the facts alleged in the petition to be true and to take such action as may be appropriate without notice or hearing, or, in its discretion, to proceed to take evidence, without notice, of the allegations or charges set forth in the complaint, provided that the Commission (or presiding officer, if one be appointed) may permit late filings of an answer for good cause shown.

(2) **Parties.** The parties to an enforcement proceeding shall be the Commission (represented by an attorney employed by the Commission), the respondent, and any other person with

an interest sufficient to support intervention in a section 337 investigation under § 210.6 of these rules.

(3) **Public hearings.** If, in the judgment of the Commission, there is good and sufficient reason therefor, the Commission, in the course of an enforcement investigation, may hold a public hearing and afford parties the opportunity to appear and be heard. If no notice of public hearing issues concurrently with a notice of investigation, any party who believes that a public hearing should be held may, by February 6, 1978, of the notice of investigation, submit a request in writing to the Secretary of the Commission that a public hearing be held, stating the reasons for such request.

(4) **Written statements.** At any time after a formal complaint under § 211.56(b) is published in the FEDERAL REGISTER, any party may submit to the Commission a written statement of information pertinent to the subject matter of the investigation. If a public hearing is held in the investigation, such statement may be presented in lieu of an appearance at the hearing. Statements shall conform to the requirements for documents set forth in § 201.8 of this chapter.

(5) **Commission action.** Upon conclusion of an enforcement proceeding relating to a cease and desist order, the Commission may modify the cease and desist order in any manner necessary to prevent the unfair practices which were originally the basis for issuing such order, or it may revoke the cease and desist order and direct that the articles concerned, imported by any person violating the provisions of this section, shall be excluded from entry into the United States. Such modification or revocation and exclusion shall not be made if, after considering the effect of such action upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such actions should not be taken. Any such order shall become effective and final as provided in § 210.56 of Part 210 [proposed] for purposes of setting bond (if applicable), appeal, and Presidential review under section 337. The hearings provided for under this section are not subject to §§ 554, 555, 556, 557, and 702 of Title 5, United States Code.

(c) **Modification or dissolution of final Commission actions by motion.** Whenever any party to a section 337 proceeding or an enforcement proceeding under this subpart or any person adversely affected by a final Commission action believes that changed conditions of fact or law, or the public interest, require that a final Commission action be modified or set aside, in



## PROPOSED RULES

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-1590 Filed 1-19-78; 8:45 am]

## [7020-02]

[19 CFR Part 209, 210 and 211]

INVESTIGATIONS OF UNFAIR PRACTICES IN  
IMPORT TRADE

## Supplementary Procedures

AGENCY: United States International  
Trade Commission.

ACTION: Proposed rules.

**SUMMARY:** These proposals would amend Part 210 of the Commission's rules to provide procedures for consent orders and for other purposes. They would further establish a new Part 211 to provide for certain nonadjudicative procedures incident to the exercise of Commission jurisdiction under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337). The purpose of these rules is to propose regulations to govern these supplemental proceedings. The Commission's rules at present do not provide for these supplemental proceedings.

**EFFECTIVE DATE:** Comments by March 21, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Warren L. Dean, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202-523-0486.

**SUPPLEMENTARY INFORMATION:** In the exercise of its jurisdiction under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), the Commission is authorized to conduct proceedings supplemental to the formal adjudicative investigations provided for by Part 210 of the Commission's rules of practice and procedure (19 CFR, Part 210). These proceedings may be authorized in part by other statutes, such as the Administrative Procedure Act (5 U.S.C. 551, et seq.) in the case of consent orders, and section 603 of the Trade Act of 1974 (19 U.S.C. 2482) in the case of preliminary investigations, as well as by section 337 itself. The Commission's rules at present do not provide for these supplemental proceedings.

The nature of these proposed amendments to the Commission's rules is to revise the format of Subchapter C to provide for these supplemental procedures, by dividing the subchapter into 3 parts. A new part 209, to provide procedures for the conduct of informal inquiries and preliminary investigations, will be the subject of subsequent rulemaking. Amendments to Part 210 of the Commission's

rules to provide procedures for determining a controversy by consent during the course of an adjudicative investigation are proposed here. Also proposed is a new Part 211, to provide procedures for the Commission's enforcement authority, including determining a controversy by consent during the course of preliminary investigations and informal inquiries.

The following is a section-by-section analysis of the proposed amendments.

SUBCHAPTER C—INVESTIGATIONS OF  
UNFAIR PRACTICES IN IMPORT TRADE

The Subchapter would be retitled to allow for both adjudicative and supplemental procedures necessary for the exercise of the Commission's jurisdiction under section 337.

Part 210—Adjudicative Procedures, this part would be retitled in a manner consistent with the new format of Part 210.

## § 210.14 Consent Order Settlement.

The Commission has determined that it has the authority to afford parties an opportunity to determine a controversy by consent. While section 337 requires the Commission to determine whether there is a violation of section 337, section 5 of the Administrative Procedure Act (5 U.S.C. 554) requires the Commission to afford parties an opportunity to waive their rights to such a determination and determine a controversy by consent and invoke the Commission's basic authority on that basis.

This section would prescribe a procedure whereby the parties could determine a controversy by consent order during the course of a formal adjudication. The proposed consent order agreement would be in the form of a joint motion to terminate the investigation as provided in section 210.51, together with a consent order agreement and proposed consent order as described in § 210.15.

The period proposed for public comment (30 days) concerning the proposed consent order settlement is relatively brief owing to the statutory time constraints for concluding a section 337 investigation. However, the Commission's consideration of the consent order agreement and proposed order would encompass the "public interest" consideration required by section 337 for other Commission action. For the meaning of the brackets, please refer to the analysis of proposed § 210.55.

## § 210.15 Consent Order Agreement.

This section would establish requirements for the consent order agreement by prescribing what must be contained in the agreement to invoke the basic authority of the Commission under section 337. The section also provides that the consent order would have the same force and effect as is provided by statute and regulation for other Commission orders, and provides for the interpretation of the consent order.

## § 210.51 Termination of Investigation.

This section would be amended to provide for licensing agreement settlements and consent order settlements. Termination of an investigation on the basis of such settlements involves determination of the controversy by consent, and a determination of whether there is a violation of section 337

appears not to be necessary. This section would reverse prior Commission practice with respect to licensing agreement settlements.

## § 210.55 Commission Determination and Action.

This section would be amended to provide for publication and transmittal to the President of Commission action as required by section 337(g). The bracketed language in this proposal section and in proposed §§ 210.14, 210.56 and 211.21 includes consent orders in the Commission action required to be transmitted to the President. Deletion of the brackets would allow consent orders to become final without such transmittal to the President. On July 14, 1977, the Commission voted that the proposed consent orders in investigation No. 337-TA-23, Certain Color Television Receiving Sets, be approved. The four commissioners voting were equally divided on the issue of whether the consent orders should be transmitted to the President for his review and possible disapproval for policy reasons, in the manner provided in section 337(g). That section by its terms only applies to determinations of a violation of section 337 and action taken with respect thereto, but section 337(g), as a limitation on the Commission's authority, may apply where the Commission's authority is invoked upon the consent of the parties. Accordingly, public comment is solicited on this issue.

## § 210.56 Effective Date of Commission Action.

This section would further implement section 337(g) by providing that Commission action shall become effective and final in the manner prescribed by the statute. Commission action includes enforcement orders of the Commission, as well as the other Commission action. Transmittal of Commission action is to the Special Representative for Trade Negotiations pursuant to Executive Order. For the meaning of the brackets, please refer to the analysis of proposed § 210.55.

The President has not yet exercised his statutory right to disapprove Commission action under section 337. The Commission at this time is uncertain of what action, if any, it might be authorized to take in response to possible disapproval of Commission action. For example, the President might disapprove an exclusion order and indicate that an appropriate cease-and-desist order would be acceptable, or he might disapprove a consent order in favor of a determination on the merits (assuming consent orders are made subject to Presidential disapproval). The rule allows for such a possibility. The period of Presidential review would be excluded from the statutory period for concluding the Commission's investigation should the President, for example, disapprove of a Commission consent order.

Part 211—Enforcement Procedures, this part would provide procedures for various enforcement actions available to the Commission in the exercise of its jurisdiction under section 337. The part contains three subparts. The first two are set out here. The third is the subject of a separate but simultaneous notice of proposed rulemaking.

## PROPOSED RULES

SUBPART A—INFORMAL ENFORCEMENT  
PROCEDURE

This subpart contains a procedure whereby assurances would be accepted by the Commission that practices in violation of section 337 will not occur, thus disposing of preliminary investigation activity by the Commission.

## § 211.10 Informal Disposition Through Compliance.

This procedure, which avoids the publicity and the potential impact on U.S. foreign relations of consent orders, may be useful in disposing of certain matters which are the subject of preliminary investigative activity by the staff. Opportunity for such informal disposition would be afforded only in a manner consistent with the Commission's public interest responsibilities.

SUBPART B—CONSENT ORDER  
PROCEDURE

This subpart proposes a procedure whereby a person may determine a controversy by consent order prior to the institution of an investigation under section 337 and Part 210.

## § 211.20 Opportunity to Submit Proposed Consent Order.

This section would provide for an opportunity to submit a proposed consent order to the Commission prior to the institution of a formal investigation under section 337 and Part 210, either during the course of a section 603 preliminary investigation or informal investigative activity upon receipt of a complaint under oath as provided in section 337(b). By and with the consent of the parties, the proposal provides that the Commission's authority under section 337 could be invoked prior to the institution of a formal investigation. Where a complaint has been filed under oath this procedure would be available only with the concurrence of the complainant, in light of the complainant's right to institution of an investigation on the basis of such complaint.

## § 211.21 Disposition.

This section would provide a procedure for disposition of consent order agreements submitted prior to the institution of a formal section 337 investigation, which procedure consists of (1) tentative acceptance of the agreement, (2) publication for comment, and (3) final acceptance and issuance of the agreement. Once tentatively accepted by the Commission, the procedure for disposing of the consent order proposal would be similar to that provided in new § 210.14 of Part 210 for such action during the course of a formal section 337 investigation. The rule further provides that a consent order issued by the Commission would become effective and final in the same manner as is provided by law and regulation for other Commission action. For the meaning of the brackets, please refer to the analysis of proposed § 210.55.

In consideration of the above, the following amendments are proposed to Chapter II, Title 19, of the Code of Federal Regulations:

- (1) Subchapter C of 19 CFR Chapter II is retitled Investigations of Unfair Practices in Import Trade;
- (2) Part 209 of Subchapter C, Preliminary Investigations and Procedures, is reserved;

(3) Part 210 of Subchapter C is retitled Adjudicative Procedures;

(4) Present §§ 210.14 and 210.15 of Part 210 are redesignated §§ 210.16 and 210.17 of Part 210, respectively, and present §§ 210.56 and 210.57 of Part 210 are redesignated §§ 210.57 and 210.58 of Part 210, respectively;

(5) New §§ 210.14, 210.15 and 210.56 are added, and present §§ 210.51 and 210.55 are amended; and

(6) New Part 211, Subparts A and B, are added, and new Part 211, Subpart C, is reserved, as follows:

## § 210.14 Consent order settlement.

(a) A proposal to settle a matter by consent order shall be submitted as a motion to terminate an investigation under § 210.51 of this part, together with a consent order agreement and a proposed consent order. Such a motion shall be filed at any time prior to commencement of a hearing as provided in § 210.41(a)(1) of this part jointly by one or more respondents, the Commission investigative attorney, and the complainant (when not the Commission investigative attorney). The Commission may, upon request and for good cause shown, consider such a motion certified to it by the presiding officer during the course of a hearing. The consent order agreement shall comply with the requirements of § 210.15 of this part. A party may not withdraw from the consent order agreement once it has been submitted pursuant to this section.

(b) The presiding officer shall certify the motion to the Commission together with his recommendation within ten (10) days after service of such motion. The filing of the motion shall not stay proceedings before the presiding officer unless the presiding officer or the Commission shall so order. For the purpose of the time limits for the completion of the hearing set forth in § 210.41(e)(1) of this part, there shall be excluded any period of time during which the proceeding is stayed by order of the Commission.

(c) After the motion has been certified to the Commission by the presiding officer the Commission shall promptly publish notice of such motion in the FEDERAL REGISTER and for a period of thirty (30) days thereafter will receive and consider any comments concerning the consent order agreement that may be filed by interested persons. During this period the Commission may conduct such public proceedings with regard to the motion as it deems appropriate. Thereafter, within an additional period of twenty (20) days, the Commission shall either (1) accept the agreement, issue the consent order, and terminate the investigation; (2) reject the agreement and deny the motion; or (3) take such other action as it deems appro-



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PROPOSED RULES

prate, after considering the effect of the consent order upon the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers, in the manner provided by § 210.16(a)(4) of this part. The Commission shall publish a statement of reasons in support of its action in the FEDERAL REGISTER, and serve the statement of reasons on all parties. (If accepted by the Commission, the consent order shall become effective and final in the manner provided by § 210.56 of this part.)

(d) Nothing in this section precludes the settlement of an investigation by the adjudicatory process through the filing of admissions pursuant to § 210.21 or § 210.34 of this part, or the submission of the case to the presiding officer on the basis of a stipulation of facts on which a recommended determination can be made.

§ 210.15 Consent order agreement.

(a) Every consent order agreement shall contain, in addition to the appropriate proposed consent order, (1) an admission of all jurisdictional facts; (2) an express waiver of further procedural requirements, including the requirement that the Commission's decision contain a determination of whether there is a violation of section 337; and (3) an express waiver of all rights to seek judicial review or otherwise challenge or contest the validity of the consent order. The consent order agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by any party that section 337 has been violated.

(b) The consent order shall have the same force and effect and may be enforced, modified, or revoked in the same manner as is provided in section 337 and Parts 210 and 211 for other Commission action, upon becoming final. Except as otherwise provided in the agreement, the complaint and notice of investigation or the proposed complaint, as the case may be, may be used in construing the terms of the consent order, but no agreement, understanding, representation or interpretation not contained in the consent order agreement or Commission decision accompanying the consent order may be used to vary the terms of the consent order. The Commission may require periodic compliance reports pursuant to subpart C of Part 211 to be submitted by the person entering into the consent order agreement.

§ 210.51 Termination of investigation.

(a) *Motions for termination.* Any party may move at any time for an order to terminate an investigation before the Commission, to terminate the investigation as to all issues in an

investigation in regard to one or more but not all of the respondents, or to terminate the investigation as to any parts of the issues in regard to any or all of the respondents.

(b) *Default.* Upon the occurrence of the condition of default, an investigation before the Commission may be terminated as to one or more of the parties in the investigation.

(c) *Licensing agreement settlement.*

(1) When a complaint is filed alleging patent, trademark, or copyright infringement, a misappropriation of trade secrets or technical knowledge, an investigation before the Commission directed to such subject matter may be terminated as provided in paragraph (a) of this section on the basis of a licensing agreement entered into between the parties (except the Commission investigative attorney). A motion for termination by such parties shall contain copies of the licensing agreement and any agreements supplemental thereto and an affidavit executed by the parties stating that there are no other agreements, written or oral, expressed or implied, between such parties concerning such licensing agreement.

(2) The licensing agreement and affidavit shall be certified by the presiding officer to the Commission with his recommendation. An order of termination based upon such licensing agreement shall not constitute a determination of the Commission under § 210.55 of this part.

(d) *Consent order settlement.* An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a consent order settlement under § 210.14 of this part. An order of termination based upon such a settlement shall not constitute a determination of the Commission under § 210.55 of this part.

(e) *Effect of termination.* Except as provided in paragraph (c) and (d) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.55 of this part, and an order of termination issued by the presiding officer (when not the Commission) shall constitute a recommended determination of the presiding officer under § 210.53 of this part.

§ 210.55 Commission determination and action.

(a) *Review of recommended determination.* Subject to the provisions of § 210.54 of this part, upon receipt of a recommended determination and the record under § 210.53 of this part, the Commission shall review the same and determine, as the case may be, whether there is a violation of section 337 of the Tariff Act or whether there is reason to believe that there is such a violation, and, when appropriate,

whether any action (exclusion of articles from entry, exclusion of articles from entry except under bond, or cease and desist order) should be ordered, the form in which such action should be ordered, and the amount of any bond required.

(b) *When the presiding officer is the Commission.* When the Commission has presided at the taking of evidence, it shall determine, as the case may be, whether there is a violation of section 337 of the Tariff Act or whether there is reason to believe there is such a violation, and, when appropriate, whether any action (exclusion of articles from entry, exclusion of articles from entry except under bond, or cease-and-desist order) should be ordered, the form in which such action should be ordered, and the amount of any bond required.

(c) *Service of Commission determination upon the parties.* A Commission determination shall be served upon each party to the investigation.

(d) *Publication and transmittal to the President.* A Commission determination that there is a violation of section 337 or that there is reason to believe that there is such a violation, together with the action taken, or Commission action taken under [§ 210.14 of this part or] Subpart[s B and] C of Part 211 shall be immediately (1) published in the FEDERAL REGISTER, and (2) transmitted to the Special Representative for Trade Negotiations together with the record upon which the determination and action is based, or, in the case of action taken under [§ 210.14 of this part or] Subpart[s B and] C of Part 211, upon which such action is based.

§ 210.56 Effective date of Commission action.

(a) Commission action, consisting of the Commission determination and action taken under § 210.55 of this part, or, as the case may be, action taken under [§ 210.14 of this part or] Subpart[s B and] C of Part 211, shall, except for the purposes of § 210.61 of this part, be effective upon publication thereof in the FEDERAL REGISTER except that articles directed to be excluded from entry or subject to a cease-and-desist order shall be entitled to entry under bond determined by the Commission until such determination and action become final in the manner specified in paragraphs (b) and (c) of this section.

(b) If the President does not disapprove for policy reasons such Commission action within a period of sixty (60) days after a copy of such Commission action is delivered to the Special Representative for Trade Negotiations, or if the President notifies the Commission before the close of such period that he approves such Commission action, then such Commission

action shall become final on the day after the close of such period, or the day on which the President notifies the Commission of his approval, as the case may be.

(c) If, before the close of such period, the President for policy reasons disapproves the Commission action and notifies the Commission of such disapproval, then effective on the date the Commission receives such notice such Commission action shall have no force or effect, and consistent with the terms of the President's disapproval the Commission may then proceed with the investigation as if such action had never been taken. For the purposes of § 210.17 of this part, there shall be excluded the period of time during which the action was effective.

(d) Final Commission action shall remain in effect as provided in Subpart C of Part 211.

PART 211—ENFORCEMENT PROCEDURES

Subpart A—Informal Enforcement Procedure

Sec.  
211.10 Informal disposition through voluntary compliance.

Subpart B—Consent Order Procedure

211.20 Opportunity to submit proposed consent order.  
211.21 Disposition.

Subpart C—Enforcement Modification and Revocation of Final Commission Action (Reserved)

Subpart A—Informal Enforcement Procedure

§ 211.10 Informal disposition through voluntary compliance.

(a) The Commission, when it has information obtained during the course of any informal inquiry or preliminary investigation under Part 209 indicating that a person may be engaging in a practice which may involve a violation of section 337, may afford such person the opportunity to have the matter disposed of on an informal nonadjudicative basis, if the Commission deems that the public interest factors set forth in paragraph (a)(2) of § 210.16 of Part 210 will be fully safeguarded thereby.

(b) In determining whether the public interest factors set forth in paragraph (a)(2) of § 210.16 of Part 210 will be fully safeguarded through such informal administrative action, the Commission will consider—

- (1) The nature and gravity of the practice;
- (2) Whether the practice is likely to recur;
- (3) The prior record and good faith of the person involved;
- (4) Adequate assurance of voluntary compliance; and
- (5) Any other factor that the Commission deems appropriate.

PROPOSED RULES

Subpart B—Consent Order Procedure

§ 211.20 Opportunity to submit proposed consent order.

(a) Where time, the nature of the proceeding, and the public interest permit, any person being investigated under the provisions of Part 209 or § 210.11(b) of Part 210 shall be afforded the opportunity to submit to the Commission a proposal for disposition of the matter in the form of a consent order agreement executed by or on behalf of such person and complying with the requirements of § 210.15 of Part 210.

(b) The consent order procedure described in this subpart will only be available prior to institution of an investigation as provided in § 210.12 of Part 210. When proceedings have been commenced upon receipt of a complaint pursuant to § 210.10(a) of Part 210, the consent procedure described in this subpart will be available only with the concurrence of the complainant and upon proper application to the Commission to defer the institution of an investigation.

§ 211.21 Disposition.

Upon receiving an executed consent order agreement conforming with the requirements of § 210.15 of Part 210 the Commission shall within twenty (20) days either: (1) Provisionally accept the agreement and proposed consent order, (2) reject the agreement and institute an investigation, or (3) take such other action as it deems appropriate. If the consent order agreement is provisionally accepted the Commission shall: (1) Place the agreement and proposed consent order on the record, (2) publish the consent order agreement in the FEDERAL REGISTER for a period of public comment thereon for thirty (30) days, and (3) make available an explanation of the provisions of the consent order agreement and the relief to be obtained thereby and any other information which it deems helpful in assisting interested persons to understand the terms of the consent order agreement. A person may not withdraw from a consent order agreement once it has been placed upon the record. The Commission will receive and consider any comments, views or recommendations received concerning the agreement and proposed consent order from interested persons during the period of public comment. During this period the Commission may conduct such public proceedings with regard to the agreement and proposed consent order as it deems appropriate. Thereafter, within a period of twenty (20) days the Commission shall either accept the agreement and proposed consent order or withdraw its provisional acceptance after considering the effect of the consent order on the public health and

welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, in the manner provided by § 210.16(a)(2) of Part 210. The Commission shall publish a statement of reasons in the FEDERAL REGISTER, and serve the statement of reasons on all parties. (If accepted by the Commission, the consent order shall become effective and final in the manner provided by § 210.56 of Part 210.)

By order of the Commission.

Issued: January 17, 1978.

KENNETH R. MASON,  
Secretary.

(FR Doc. 78-1589 Filed 1-19-78; 8:45 am)

[1505-C1]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 161, 145]

(Docket No. 77P-0097)

DRAINED WEIGHT OR SOLID CONTENT  
WEIGHT FOR CANNED FRUITS AND VEGETABLES

Label Statement, Standards of Fill of  
Container, and Temporary Labeling Exemption

Correction

In FR Doc. 77-34950 appearing at page 62282 in the issue for Friday, December 9, 1977; the following changes should be made:

1. In the second line of § 101.107(g), third column, page 62286, "dehydrated" should read "rehydrated".
2. In footnote 2 to the table in § 145.115(c)(1)(iii), page 62289, "X<sub>d</sub>" should have a bar over it.
3. In the third line of § 145.120(a)(1), middle column, page 62289, "operational" should read "optional".
4. In footnote 2 to Table 1 in § 145.125(c)(1)(ii), page 62291, "X<sub>d</sub>" should have a bar over it.
5. In Table 2 in § 145.125(c)(1)(ii), page 62291, the heading under "In heavy sirups (ounces)" reading "X<sub>d</sub>" should read "X<sub>e</sub>".
6. On page 62292, in the tenth entry under "Container designation" in the table in § 145.130(c)(1)(ii), "No. 10 (71 whole figs)" should read "No. 10 (70 whole figs)".
7. On page 62294, the last entry in the right-hand column of the table in § 145.145(c)(1)(ii), now reading "25.80", should read "25.85".
8. On page 62295, in the headings for Table 2A in § 145.170(c)(1)(iii), each italicized X should have a bar over it.
9. At the top of page 62296, in the headings for Table 2B in § 145.170(c)(1)(iii), each italicized X should have a bar over it.



10. In the third line of § 145.175(c)(1)(ii), middle column, page 62296, "X<sub>2</sub>" should have a bar over it.

11. In footnote 2 to the table in § 145.185(c)(1)(ii), on page 62298, the italicized X should have a bar over it.

## [4110-03]

[21 CFR Parts 182, 184, 186]  
[Docket No. 77N-0232]

## GELATIN

Affirmation of GRAS Status as a Direct and Indirect Human Food Ingredient; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of time for comment.

SUMMARY: This document extends to April 9, 1978, the comment period on the Commissioner of Food and Drugs' proposal to affirm the generally recognized as safe (GRAS) status of gelatin as a direct and indirect human food ingredient. The comment period on that proposal expired on January 9, 1978. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by April 9, 1978.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of November 11, 1977 (42 FR 58763), the Commissioner issued a proposal to affirm the generally recognized as safe (GRAS) status of gelatin as a direct and indirect human food ingredient.

On December 19, 1977, a letter was received from the law firm of Riposanu, Joyce, Ahern, Aballi and Diaz-Cruz on behalf of the Gelatin Manufacturers Institute of America (the Institute). This letter requested an extension of the comment period for the GRAS affirmation proposal for gelatin for an additional 90 days, to April 9, 1978. The extension was requested to allow sufficient time for the Institute and its members to prepare comments on the proposed rule.

The Commissioner has decided that the opportunity to comment on GRAS affirmation proposals is an important

part of the GRAS review process, and that an extension to the comment period for this proposal would be appropriate, and that it should be extended to all interested parties.

Accordingly, interested persons may, on or before April 9, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the Commissioner's proposal. The envelope containing the comments should be prominently marked "Gelatin." Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 16, 1978.

JOSEPH P. HILE,  
Associate Commissioner for  
Compliance.

[FR Doc. 78-1811 Filed 1-18-78; 11:03 am]

## [4110-03]

[21 CFR Parts 610 and 640]  
[Docket No. 77N-0352]

## CITRATE PHOSPHATE DEXTROSE ADENINE SOLUTION

Proposed Addition to List of Approved Anticoagulants

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency is proposing to amend the biologics regulations by adding the anticoagulant citrate phosphate dextrose adenine (CPDA) to the list of approved anticoagulants for Whole Blood (Human) and products derived from Whole Blood (Human). When CPDA is used as the anticoagulant, the permitted storage period for Whole Blood (Human) and Red Blood Cells (Human) may be extended from 21 to 35 days.

DATES: Comments by March 21 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Michael L. Hooton or Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: The biologics regulations governing Whole Blood (Human) in § 640.4 Collection of blood (21 CFR 640.4) cur-

rently provide for the use of three anticoagulants—citrate dextrose solution (ACD), heparin solution, and citrate phosphate dextrose solution (CPD). The Commissioner of Food and Drugs is proposing to amend (1) § 640.4 to authorize the use of citrate phosphate dextrose solution supplemented with adenine (CPDA) as an additional anticoagulant, (2) § 610.53 Dating periods for specific products (21 CFR 610.53) to provide a dating period of 35 days for Whole Blood (Human) and Red Blood Cells (Human) collected and stored in CPDA, and (3) § 640.7 Labeling (21 CFR 640.7) to include CPDA in blood labeling.

The anticoagulants ACD and CPD containing small amounts of adenine have been shown to extend from 21 to 35 days the period within which whole blood and red blood cells may be safely stored. In Sweden ACD-adenine has been used as an anticoagulant for blood since 1965, and 2 million blood units containing ACD-adenine have been transfused. Similarly, during 1972 ACD-adenine was added to about 10 percent of the blood units collected in West Germany.

Data resulting from the European use and published studies of blood collected in anticoagulants supplemented with adenine demonstrate that:

1. Whole Blood (Human) and Red Blood Cells (Human) stored in anticoagulant supplemented with adenine for 35 days are as safe, potent, and effective as the same products stored in anticoagulant without adenine for 21 days.

2. Red blood cell antigens stored in anticoagulant supplemented with adenine retain their reactivity for compatibility testing during this additional time.

3. There are no reported differences in frequency, severity, or type of adverse reaction from transfusion with blood stored up to 21 days in anticoagulant solutions without adenine and blood stored up to 35 days in anticoagulant solutions supplemented with adenine.

4. There are no reported differences in the yield, stability, safety, potency, or effectiveness of Single Donor Plasma (Human), Cryoprecipitated Antihemophilic Factor (Human), Normal Serum Albumin (Human), Immune Serum Globulin (Human), Plasma Protein Fraction (Human), Fibrinogen, and Factor IX complex (Factors II, VII, IX, and X) derived from blood collected in anticoagulant supplemented with adenine and blood collected in anticoagulant without adenine.

5. The quality of the red blood cells during the extended storage period is improved, an effect which becomes increasingly significant after about 10 days of storage. It is expected also that the use of CPDA will promote ef-

ficient distribution and utilization of blood by reducing waste due to outdating.

The Commissioner therefore concludes that, based on the available data, blood collected and stored in CPDA for 35 days can be expected beyond reasonable doubt to yield its specific results and retain its safety, purity, potency, and effectiveness. The Commissioner is not aware of any data demonstrating the hemostatic effect of Platelet Concentrate (Human) prepared from blood collected in (Human) anticoagulant supplemented with adenine. For this reason, no amendment authorizing the use of Whole Blood (Human) collected in CPDA for the preparation of Platelet Concentrate (Human) is being proposed at this time. It should be noted that CPDA is not proposed for use in blood products collected by plasmapheresis. The anticoagulant CPDA increases the stability of red blood cells in whole blood. Because the red blood cells are returned during a plasmapheresis procedure, there is no need for this anticoagulant in blood collected during plasmapheresis.

The background data and information on which the Commissioner relies in proposing this regulation are on file with the Hearing Clerk, Food and Drug Administration, and include the following references:

## REFERENCES

1. Akerblom, O., C.-H. de Verdier, M. Finnson, L. Garby, C. F. Hogman, and S. G. O. Johansson, "Further Studies on the Effect of Adenine in Blood Preservation," *Transfusion*, 7:1, 1967.
2. Akerblom, O., and A. Kreuger, "Studies on Citrate-Phosphate-Dextrose (CPD) Blood Supplemented with Adenine," *Vox Sanguinis*, 29:90, 1975.
3. Ambros, J. L., C. M. Ambros, K. Okada, I. B. Mink, R. Shields, W. Warner, C. Bishop, J. L. Tricht, G. Golden, and A. Mittelman, "Clinical and Experimental Studies on Adenine, Various Nucleosides and Their Analogs in Hematology," *Annals of the New York Academy of Sciences*, 255:435, 1975.
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Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend Parts 610 and 640 of Subchapter F of Title 21 of the Code of Federal Regulations to read as follows:

1. In Part 610 by amending § 610.53 by revising the items, Red Blood Cells (Human) and Whole Blood (Human), to read as follows:

§ 610.53 Dating periods for specific products.

Red Blood Cells (Human):

(a) Twenty-one days from date of collection of source blood, provided labeling recommends storage between 1° and 6° C and the hermetic seal is not broken during processing. § 610.51 does not apply.

(b) Thirty-five days from date of collection of source blood, when collected and stored with anticoagulant citrate phosphate dextrose adenine solution, provided labeling recommends storage between 1° and 6° C and the hermetic seal is not broken during processing. § 610.51 does not apply.

(c) Twenty-four hours after plasma removal, provided labeling recommends storage between 1° and 6° C if the hermetic seal is broken during processing. § 610.51 does not apply.

(d) Frozen: Three years, provided labeling recommends storage at -65° C or colder.

(e) Twenty-four hours after removal from storage at -65° C or colder, provided labeling recommends storage between 1° and 6° C. § 610.51 does not apply.

Whole Blood (Human) collected in:

(a) ACD solution. Twenty-one days, provided labeling recommends storage between 1° and 6° C. § 610.51 does not apply.

(b) Heparin solution. Forty-eight hours, provided labeling recommends storage between 1° and 6° C. § 610.51 does not apply.

(c) CPD solution. Twenty-one days, provided labeling recommends storage between 1° and 6° C. § 610.51 does not apply.

(d) CPDA solution. Thirty-five days, provided labeling recommends storage between 1° and 6° C. § 610.51 does not apply.

2. In Part 640:

a. In § 640.4 by adding new paragraph (d)(4) to read as follows:

640.4 Collection of the blood.

(d) \*\*\*

(4) Anticoagulant citrate phosphate dextrose adenine solution (CPDA).

Tri-sodium citrate (Na<sub>3</sub>C<sub>6</sub>H<sub>5</sub>O<sub>7</sub> · 2 H<sub>2</sub>O) 26.3 gm.

Citric acid (C<sub>6</sub>H<sub>8</sub>O<sub>7</sub> · H<sub>2</sub>O) 3.27 gm.

Dextrose (C<sub>6</sub>H<sub>12</sub>O<sub>6</sub> · H<sub>2</sub>O) 31.9 gm.

Monobasic sodium phosphate (NaH<sub>2</sub>PO<sub>4</sub> · H<sub>2</sub>O) 2.22 gm.

Adenine (C<sub>5</sub>H<sub>5</sub>N<sub>5</sub>) 0.275 gm.

Water for injection (U.S.P.) to make 1,000 ml.

Volume per 100 ml. blood, 14 ml.

b. In § 640.7 by adding a new item (iv) to paragraph (b)(1) to read as follows:

§ 640.7 Labeling.

(b) Anticoagulant—(1) \*\*\*

(iv) Either "CPDA" or "citrate phosphate dextrose adenine solution".

c. In § 640.22 by revising paragraph (a) to read as follows:

§ 640.22 Collection of source material.

(a) Whole blood used as the source of Platelet Concentrate (Human) shall be collected as prescribed in § 640.4, except that paragraphs (d) (2) and (4) and paragraph (h) shall not apply.

Interested persons may, on or before March 21, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857; written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 16, 1978.

JOSEPH P. HILE,  
Associate Commissioner for  
Compliance.

[FR Doc. 78-1480 Filed 1-19-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 301]

[LR-265-74]

ANNUAL REGISTRATION FOR EMPLOYEE RETIREMENT BENEFIT PLANS

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the requirement that the plan administrator of an employee retirement benefit plan annually report information relating to plan participants who separate from service covered by the plan and are entitled to a deferred vested retirement benefit under the plan, but are not paid this retirement benefit. This document also contains proposed regulations relating to the requirement that the plan administrator report certain changes in plan status, and proposed regulations relating to amounts imposed for failure to file with the Internal Revenue Service certain information required in connection with employee retirement benefit plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). These regulations would provide plan administrators and employers with the guidance needed to comply with ERISA, and would also affect plan participants who separate from service covered by an employee retirement benefit plan and are entitled to a deferred vested retirement benefit under the plan.

DATES: Written comments and requests for public hearing are to be delivered or mailed by March 6, 1978. The regulations relating to the reporting of the deferred vested retirement benefit of a separated plan participant are generally proposed to be effective with respect to participants separating from service in plan years beginning after 1975. The regulations relating to the reporting of a change in plan status are also proposed to be effective for plan years beginning after 1975. The regulations relating to amounts imposed for failure to file certain information with respect to employee benefit plans are generally proposed to be effective for plan years beginning after September 2, 1974.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T:LR-265-74, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Richard Johnson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T:LR-265-74) (202-566-3603) (Not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6057, 6652 (e) and (f) and 6690 of the Internal Revenue Code of 1954. The amendments are proposed to conform the regulations to section 1031 of the Employee Retirement Income Security Act of 1974 (88 Stat. 943) ("ERISA"), and are to be issued under the authority contained in sections 6057 and 7805 of the Internal Revenue Code of 1954 (88 Stat. 943 and 68A Stat. 917; 26 U.S.C. 6057 and 7805).

IDENTIFICATION OF SEPARATED PARTICIPANTS WITH DEFERRED VESTED RETIREMENT BENEFIT

ERISA requires that the plan administrator of an employee retirement benefit plan file with the Internal Revenue Service information relating to each plan participant who separates from service covered by the plan, is entitled to a deferred vested retirement benefit under the plan and is not paid this retirement benefit. The information required describes the nature, amount and form of the benefit to which the participant is entitled. This description of the retirement benefit is also to be provided the participant. Information reported to the Internal Revenue Service will be delivered to the Social Security Administration. When an individual applies for benefits under the Social Security laws the Social Security Administration will then deliver to the applicant a description of the retirement benefit to which the applicant is entitled under the employee retirement benefit plan. The Social Security Administration will also provide the information to the participant upon request.

NOTIFICATION OF CHANGE IN STATUS

ERISA also requires that the plan administrator of an employee retirement benefit plan report to the Internal Revenue Service any change in the status of the plan. A change in the plan administrator, termination of the plan or merger of the plan with another plan are examples of changes in status which must be reported.

AMOUNTS IMPOSED FOR FAILURE TO PROVIDE INFORMATION WITH RESPECT TO EMPLOYEE BENEFIT PLAN

ERISA provides that plan administrators required to file with the Internal Revenue Service information relating to each plan participant who separates from service covered by the plan and is entitled to a deferred vested retirement benefit under the plan, but is not paid this retirement benefit. Plans subject to this filing requirement are described in subparagraph (3) of this paragraph. Subparagraph (4) describes how the information is to be filed with the Internal Revenue Service. In the case of a plan to which only one employer contributes, the time for filing the information with respect to each separated participant is described in subparagraph (5). In the case of a plan to which more than one employer contributes the time for filing the information with respect to a participant is described in paragraph (b)(2). Paragraph (b) also provides other rules applicable only to plans to which more than one employer contributes.

nal Revenue Service information relating to the deferred vested retirement benefit of a plan participant, or to file a notification of a change in plan status will be liable for certain amounts imposed in the case of a failure to do so. A penalty is also imposed if the plan administrator willfully fails to provide a participant with a statement of the deferred vested retirement benefit to which the participant is entitled.

In addition, certain amounts are imposed in the case of a failure to file the annual return required for employee benefit plans, the actuarial statement required in the case of a merger or consolidation of two or more plans or certain other information required with respect to certain plans benefiting an owner-employee.

DELETION OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the regulations which merely reproduce provisions of the Internal Revenue Code are being deleted.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these regulations as final regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

The principal author of these proposed regulations was Richard Johnson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENT TO THE REGULATIONS

The proposed amendments to 26 CFR Part 301 are as follows:

PARAGRAPH 1. There is inserted in the appropriate place the following new sections:

§ 301.6057-1 Employee retirement benefit plans; identification of participant with deferred vested retirement benefit.

(a) Annual registration statement—(1) In general. Under section 6057(a), the plan administrator (within the meaning of section 414(g)) of an employee retirement benefit plan must file with the Internal Revenue Service

information relating to each plan participant who separates from service covered by the plan and is entitled to a deferred vested retirement benefit under the plan, but is not paid this retirement benefit. Plans subject to this filing requirement are described in subparagraph (3) of this paragraph. Subparagraph (4) describes how the information is to be filed with the Internal Revenue Service. In the case of a plan to which only one employer contributes, the time for filing the information with respect to each separated participant is described in subparagraph (5). In the case of a plan to which more than one employer contributes the time for filing the information with respect to a participant is described in paragraph (b)(2). Paragraph (b) also provides other rules applicable only to plans to which more than one employer contributes.

(2) Deferred vested retirement benefit. For purposes of this section, a plan participant's deferred retirement benefit is considered a vested benefit if it is vested under the terms of the plan at the close of the plan year described in paragraph (a)(5) or (b)(4) (whichever is applicable) for which information relating to any deferred vested retirement benefit of the participant must be filed. A participant's deferred retirement benefit need not be a nonforfeitable benefit within the meaning of section 411(a) for the filing requirements described in this section to apply. Accordingly, information relating to a participant's deferred vested retirement benefit must be filed as required by this section notwithstanding that the benefit is subject to forfeiture by reason of an event or condition occurring subsequent to the close of the plan year described in paragraph (a)(5) or (b)(4) (whichever is applicable) for which information relating to any deferred vested retirement benefit of the participant must be filed.

(3) Plans subject to filing requirement. The term "employee retirement benefit plan" means a plan to which the vesting standards of section 203 of part 2 of subtitle B of Title I of the Employee Retirement Income Security Act of 1974 (88 Stat. 854) apply for any day in the plan year. (For purposes of this section, "plan year" means the plan year as determined for purposes of the annual return required by section 6058(a)). Accordingly, a plan need not be a qualified plan within the meaning of section 401(a) to be subject to these filing requirements. A plan to which more than one employer contributes must file the report of deferred vested retirement benefits described in this section, but see paragraph (b) for special rules applicable to such a plan.

(4) Filing requirements. Information relating to the deferred vested retirement benefit of a plan participant



must be filed on Schedule SSA as an attachment to the Annual Return/Report of Employee Benefit Plan (Form 5500 series). Schedule SSA shall be filed on behalf of an employee retirement benefit plan for each plan year for which information relating to the deferred vested retirement benefit of a plan participant is filed under paragraph (a)(5) or (b)(2) of this section. There shall be filed on Schedule SSA the name and Social Security number of the participant, a description of the nature, form and amount of the deferred vested retirement benefit to which the participant is entitled, and such other information as is required by section 6057(a) or Schedule SSA and the accompanying instructions. The form of the benefit reported on Schedule SSA shall be the normal form of benefit under the plan, or, if the plan administrator (within the meaning of section 414(g)) considers it more appropriate, any other form of benefit.

(5) *Time for reporting deferred vested retirement benefit*—(i) *In general.* In the case of a plan to which only one employer contributes, information relating to the deferred vested retirement benefit of a plan participant must be filed no later than on the Schedule SSA filed for the plan year following the plan year within which the participant separates from service covered by the plan. Information relating to a separated participant may, at the option of the plan administrator, be reported earlier (that is, on the Schedule SSA filed for the plan year in which the participant separates from service covered by the plan). For purposes of this paragraph a participant is not considered to separate from service covered by the plan solely because the participant incurs a break in service under the plan. In addition, for purposes of this paragraph, in the case of a plan which uses the elapsed time method described in Department of Labor regulations for crediting service for benefit accrual purposes, a participant is considered to separate from service covered by the plan on the date the participant severs from service covered by the plan.

(ii) *Exception.* Notwithstanding subdivision (i), no information relating to the deferred vested retirement benefit of a separated participant is required to be reported on Schedule SSA if, after the participant separates from service covered by the plan, but before the end of the plan year following the plan year during which the participant so separates from service covered by the plan, the participant (A) is paid retirement benefits under the plan, (B) returns to service covered by the plan, or (C) forfeits the deferred vested retirement benefit under the plan.

(b) *Plans to which more than one employer contributes*—(1) *Application.*

Section 6057 and this section apply to a plan to which more than one employer contributes with the modifications set forth in this paragraph. For purposes of section 6057 and this section, whether or not more than one employer contributes to a plan shall be determined by the number of employers who are required to contribute to the plan. Thus, for example, this paragraph applies to plans maintained by more than one employer which are collectively bargained as described in section 413(a), multiple-employer plans described in section 413(c) and the regulations thereunder, multiemployer plans described in section 414(f), and plans adopted by more than one employer of certain controlled and common control groups described in section 414 (b) and (c).

(2) *Time for reporting deferred vested retirement benefit*—(i) *In general.* In the case of a plan to which more than one employer contributes, information relating to the deferred vested retirement benefit of a plan participant must be filed no later than on the Schedule SSA filed for the plan year within which the participant completes the second of two consecutive one-year breaks in service (as defined in the plan for vesting percentage purposes) in service computation periods (as defined in the plan for vesting percentage purposes) beginning after December 31, 1974. For the definition of the term "one-year break in service" in the case of a plan which uses the elapsed time method described in Department of Labor Regulations for crediting service for vesting percentage purposes, see § 1.411 (a)-6 (c)(2). At the option of the plan administrator, information relating to a participant's deferred vested retirement benefit may be filed earlier (that is, on the Schedule SSA filed for the plan year in which the participant incurs the first one-year break in service or, in the case of a separated participant, on the Schedule SSA filed for the plan year in which the participant separates from service).

(ii) *Exception.* Notwithstanding subdivision (i) of this subparagraph, no information relating to a participant's deferred vested retirement benefit is required to be filed on Schedule SSA if, before the end of the plan year in which the participant incurs the second consecutive one-year break in service, the participant (A) is paid some or all of such deferred vested retirement benefit under the plan, (B) accrues additional retirement benefits under the plan, or (C) forfeits the deferred vested retirement benefit under the plan.

(iii) *Special transitional rule.* Notwithstanding subdivision (i), if the second consecutive one-year break in service described in subdivision (i) is incurred in a plan year beginning

before January 1, 1977, information relating to the participant's deferred vested retirement benefit is to be reported on the Schedule SSA filed for the first plan year beginning after December 31, 1976. Further, no information relating to a participant's deferred vested retirement benefit is required to be reported on Schedule SSA if, before the end of the first plan year beginning after December 31, 1976, the participant (A) is paid some or all of such deferred vested retirement benefit under the plan, (B) accrues additional retirement benefits under the plan, or (C) forfeits the deferred vested retirement benefit under the plan.

(3) *Information relating to deferred vested retirement benefit*—(i) *Incomplete records.* Section 6057(a) and paragraph (a)(4) of this section require the filing on Schedule SSA of a description of the deferred vested retirement benefit to which the participant is entitled. If the plan administrator of a plan to which more than one employer contributes maintains records of a participant's service covered by the plan which are incomplete as of the close of the plan year with respect to which the plan administrator files information relating to the participant on Schedule SSA, the plan administrator may elect to file the information required by Schedule SSA based only upon these incomplete records. The plan administrator is not required, for purposes of completing Schedule SSA, to compile from sources other than such records a complete record of a participant's years of service covered by the plan. Similarly, if retirement benefits under the plan are determined by taking into account a participant's service with an employer which is not service covered by the plan, but the plan administrator maintains records only with respect to periods of service covered by the plan, the plan administrator may complete Schedule SSA taking into account only the participant's period of service covered by the plan.

(ii) *Inability to determine correct amount of participant's deferred vested retirement benefit.* If the amount of a participant's deferred vested retirement benefit which is filed on Schedule SSA is computed on the basis of plan records maintained by the plan administrator which—

(A) Are incomplete with respect to the participant's service covered by the plan (as described in subdivision (i)), or

(B) Fail to account for the participant's service not covered by the plan which is relevant to a determination of the participant's deferred vested retirement benefit under the plan (as described in subdivision (i)),

then the plan administrator must indicate on Schedule SSA that the

amount of the deferred vested retirement benefit shown therein may be other than that to which the participant is actually entitled because the amount is based upon incomplete records.

(iii) *Inability to determine whether participant vested in deferred retirement benefit.* Where, as described in subdivision (i), information to be reported on Schedule SSA is to be based upon records which are incomplete with respect to a participant's service covered by the plan or which fail to take into account relevant service not covered by the plan, the plan administrator may be unable to determine whether or not the participant is vested in any deferred retirement benefit. There may be reason to believe, however, that, because plan records are incomplete, the participant may in fact be vested in a deferred retirement benefit. In such a case, information relating to the participant must be filed on Schedule SSA with the notation that the participant may be entitled to a deferred vested retirement benefit under the plan, but information relating to the amount of the benefit may be omitted. This subdivision (iii) does not apply in a case in which it can be determined from plan records maintained by the plan administrator that the participant is vested in a deferred retirement benefit. Subdivision (ii), however, may apply in such a case.

(c) *Voluntary reports.* The plan administrator of an employee retirement benefit plan described in paragraph (a)(3) of this section, or any other employee retirement benefit plan, may at its option, file on Schedule SSA information relating to the deferred vested retirement benefit of any plan participant who separates at any time from service covered by the plan, including plan participants who separate from such service in plan years beginning prior to 1976.

(d) *Individual statement to participant.* The plan administrator of an employee retirement benefit plan defined in paragraph (a)(3) of this section must provide each participant with respect to whom information is required to be filed on Schedule SSA a statement describing the deferred vested retirement benefit to which the participant is entitled. The description provided the participant must include the information filed with respect to the participant on Schedule SSA, and any other information the Internal Revenue Service may require. The statement is to be delivered to the participant or forwarded to the participant's last known address no later than the date on which any Schedule SSA reporting information with respect to the participant is required to be filed.

(e) *Penalties.* For amounts imposed in the case of failure to file the report

of deferred vested retirement benefits required by section 6057 (a) and paragraph (a) or (b) of this section, see section 6652(e)(1). For the penalty relating to a failure to provide the participant the individual statement of deferred vested retirement benefit required by section 6057 (e) and (d) of this section, see section 6690.

(f) *Effective dates.*—(1) *Plans to which only one employer contributes.* In the case of a plan to which only one employer contributes, this section is effective for plan years beginning after December 31, 1975, and with respect to a participant who separates from service covered by the plan in plan years beginning after that date.

(2) *Plans to which more than one employer contributes.* In the case of a plan to which more than one employer contributes, this section is effective for plan years beginning after December 31, 1976.

§ 301.6057-2 Employee retirement benefit plans; notification of change in plan status.

(a) *Change in plan status.* The plan administrator (within the meaning of section 414(g)) of an employee retirement benefit plan defined in § 301.6057-1 (a) (3) (including a plan to which more than one employer contributes, as described in § 301.6057-1 (b) (1)) must notify the Internal Revenue Service of the following changes in plan status—

(1) A change in the name of the plan,

(2) A change in the name or address of the plan administrator,

(3) The termination of the plan, or

(4) The merger or consolidation of the plan with another plan or the division of the plan into two or more plans.

(b) *Notification.* A notification of a change in status described in paragraph (a) must be filed on the Annual Return/Report of Employee Benefit Plan (Form 5500 series) for the plan year in which the change in status occurred. The notification must be filed at the time and place and in the manner prescribed in the form and any accompanying instructions.

(c) *Penalty.* For amounts imposed in the case of failure to file a notification of a change in plan status required by section 6057(b) and this section, see section 6652(e)(2).

(d) *Effective date.* This section is effective for changes in plan status occurring within plan years beginning after December 31, 1975.

§ 301.6652 [Deleted.]

P.A.R. 2. Section 301.6652 is deleted.

P.A.R. 3. There is added immediately after § 301.6652-2 the following new section:

§ 301.6652-3 Failure to file information with respect to employee retirement benefit plan.

(a) *Amount imposed*—(1) *Annual registration statement.* The plan administrator (within the meaning of section 414(g)) of an employee retirement benefit plan defined in § 301.6057-1(a)(3) is liable for the amount imposed by section 6652(e)(1) in each case in which there is a failure to file information relating to the deferred vested retirement benefit of a plan participant, as required by section 6057(a) and § 301.6057-1, at the time and place and in the manner prescribed therefor (determined without regard to any extension of time for filing). The amount imposed by section 6652(e)(1) on the plan administrator is \$1 for each participant with respect to whom there is a failure to file the required information, multiplied by the number of days during which the failure continues. However, the total amount imposed by section 6652(e)(1) on the plan administrator with respect to a failure to file on behalf of a plan for a plan year shall not exceed \$5,000.

(2) *Notification of change in status.* The plan administrator (within the meaning of section 414(g)) of an employee retirement benefit plan defined in § 301.6057-1(a)(3) is liable for the amount imposed by section 6652(e)(2) in each case in which there is a failure to file a notification of a change in plan status, as described in section 6057(b) and § 301.6057-2, at the time and place and in the manner prescribed therefor (determined without regard to any extension of time for filing). The amount imposed by section 6652(e)(2) on the plan administrator is \$1 for each day during which the failure to so file a notification of a change in plan status continues. However, the total amount imposed by section 6652(e)(2) on the plan administrator with respect to a failure to file a notification of a change in plan status shall not exceed \$1,000.

(3) *Annual return of employee benefit plan.* [Reserved.]

(4) *Actuarial statement in case of mergers.* The plan administrator (within the meaning of section 414(g)) is liable for an amount imposed by section 6652(f) in each case in which there is a failure to file the actuarial statement described in section 6058(b) at the time and in the manner prescribed therefor (determined without regard to any extension of time for filing). The amount imposed by section 6652(f) on the plan administrator is \$10 for each day during which the failure to file the statement with respect to a merger, consolidation or transfer of assets or liabilities continues. However, the amount imposed by section 6652(f) on the plan administrator with respect to a failure to file the



statement with respect to a merger, consolidation or transfer shall not exceed \$5,000.

(5) *Information relating to certain trusts and annuity and bond purchase plans.* Under section 6652(f) the amount described in this subparagraph is imposed in each case in which there is a failure to file a return or statement required by section 6047 at the time and in the manner prescribed therefor in § 1.6047-1 (determined without regard to any extension of time for filing). The amount is imposed upon the trustee of a trust described in section 401(a), custodian of a custodial account or issuer of an annuity contract, as the case may be (see § 1.6047-1(a)(1) (i) and (ii)). The amount imposed by section 6652(f) is \$10 for each day during which the failure to file with respect to a payee for a calendar year continues. However, the amount imposed with respect to a failure to file with respect to a payee for a calendar year shall not exceed \$5,000.

(b) *Showing of reasonable cause.* (1) No amount imposed by section 6652(e) shall apply with respect to a failure to file information relating to the deferred vested retirement benefit of a plan participant under section 6057(a), or a failure to give notice of a change in plan status under section 6057(b), if it is established to the satisfaction of the director of the internal revenue service center at which the information or notice is required to be filed that the failure was due to reasonable cause.

(2) No amount imposed by section 6652(f) shall apply with respect to a failure to file a return or statement required by section 6058 or 6047, or a failure to provide material items of information called for on such a return or statement, if it is established to the satisfaction of the appropriate district director or the director of the internal revenue service center at which the return or statement is required to be filed that the failure was due to reasonable cause.

(3) An affirmative showing of reasonable cause must be made in the form of a written statement setting forth all the facts alleged as reasonable cause. The statement must contain a declaration by the appropriate individual that the statement is made under the penalties of perjury.

(c) *Joint liability.* If more than one person is responsible for a failure to comply with sections 6057 (a) or (b) or section 6058 (a) or (b) or section 6047, all such persons shall be jointly and severally liable with respect to the failure.

(d) *Manner of payment.* An amount imposed under section 6652 (e) or (f) and this section shall be paid in the same manner as a tax upon the issuance of notice and demand therefor.

(e) *Effective dates—(1) Annual registration statement.* With respect to the

annual registration statement described in section 6057(a), this section is effective—

(i) In the case of a plan to which only one employer contributes, for plan years beginning after December 31, 1975, with respect to participants who separate from service covered by the plan in plan years beginning after that date, and

(ii) In the case of a plan to which more than one employer contributes, for plan years beginning after December 31, 1976.

(2) *Notification of change in status.* With respect to the notification of change in plan status required by section 6057(b), this section is effective with respect to a change in status occurring within plan years beginning after December 31, 1975.

(3) *Annual return of employee benefit plan.* With respect to the annual return of employee benefit plan required by section 6058(a), this section is effective for plan years beginning after September 2, 1974.

(4) *Actuarial statement in case of mergers.* With respect to the actuarial statement required by section 6058(b), this section is effective with respect to mergers, consolidations or transfers of assets or liabilities occurring after September 2, 1974.

(5) *Information relating to certain trusts and annuity and bond purchase plans.* With respect to reports or statements required to be filed by section 6047 and the regulations thereunder, this section is effective with respect to calendar years ending after September 2, 1974.

PAR. 4. There is added in the appropriate place the following new section:

§ 301.6690-1 Penalty for fraudulent statement or failure to furnish statement to plan participant.

(a) *Penalty.* Any plan administrator required by section 6057(e) and § 301.6058-1(d) to furnish a statement of deferred vested retirement benefit to a plan participant is subject to a penalty of \$50 in each case in which the administrator (1) willfully fails to furnish the statement to the participant in the manner, at the time, and showing the information required by section 6057(e) and § 301.6057-1(d), or (2) willfully furnishes a false or fraudulent statement to the participant. The penalty shall be assessed and collected in the same manner as the tax imposed on employers under the Federal Insurance Contributions Act.

(b) *Effective date.* This section shall take effect on September 2, 1974.

WILLIAM E. WILLIAMS,  
Acting Commissioner  
of Internal Revenue.

[FR Doc. 78-1407 Filed 1-16-78; 8:45 am]

[6560-01]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 845-6]

### APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Amador County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Amador County Air Pollution Control District (APCD) has adopted changes to its rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to February 21, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Amador County Air Pollution Control District, 810 Court Street, Jackson, Calif. 95642.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814. Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The ARB submitted to EPA on behalf of the Amador County APCD on October 13, 1977 proposed revisions to the following rules:

#### Rules and titles

- 102—Definitions.
- 103—Enforcement.
- 203—Nuisance.
- 205—Exceptions (to Rule 202, Visible Emissions).
- 207—Particulate Matter.

- 212—Process Weight Table—Dust and Condensed Fumes.
- 216—Abrasive Blasting.
- 302—Prohibitions on Open Burning.
- 304—Open Burning Permitted.
- 305—Permit Conditions.
- 313—Penalty.
- 507—Provision of Sampling and Testing Facilities.
- 602.1—Authority to Construct Schedules.
- 604—Analysis Fees.
- 605—Technical Reports.
- 701—General (provisions for hearings).
- 703—Contents of Petitions.
- 710—Notice of Public Hearing.

In addition, a rule on new source review was also submitted. It will be addressed in another FEDERAL REGISTER notice.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before February 21, 1978, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

(Secs. 110, 301(a) Clean Air Act, as amended (42 U.S.C. 7410, 7601(a)).)

Dated: December 27, 1977.

CLYDE B. ELLER,  
Acting Regional Administrator.

[FR Doc. 78-1790 Filed 1-19-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 845-7]

### APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Calaveras County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Calaveras County Air Pollution Control District (APCD) has adopted changes to its rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to February 21, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105. Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Calaveras County Air Pollution Control District, Government Center, San Andreas, Calif. 95249. California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814. Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The ARB submitted to EPA on behalf of the Calaveras County APCD on October 13, 1977 proposed revisions to the following rules:

#### Rules and titles

- Rule 102—Definitions.
- Rule 203—Exceptions (to Rule 202, Visible Emissions).
- Rule 205—Nuisance.
- Rule 206(b)—Pathological Incineration.
- Rule 207—Particulate Matter.
- Rule 208—Orchard or Citrus Heaters.
- Rule 209—Fossil Fuel-Steam Generator Facility.
- Rule 210(B)—Total Reduced Sulfur.
- Rule 211—Process Weight Per Hour.
- Rule 213—Storage of Petroleum Products.
- Rule 215—Abrasive Blasting.
- Rule 216—Enforcement.
- Rule 217—Existing Sources.
- Rule 301—Open Outdoor Fires.
- Rule 302—Exceptions to Rule 301.
- Rule 303—Burning Permits.
- Rule 304—Exceptions to Rule 303.
- Rule 307—Exceptions to Rule 306 (No-Burn Days).
- Rule 319—Open Burning of Wood Waste on Property where Grown.
- Rule 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning.
- Rule 321—Hazard Reduction Burning.
- Rule 322—Mechanized Burners.
- Rule 323—Enforcement Responsibility.
- Rule 324—Penalty.
- Rule 402—Authority to Inspect.
- Rule 404—Upset Conditions, Breakdown or Scheduled Maintenance.
- Rule 407—Circumvention.
- Rule 409—Public Records.
- Rule 507—Provision of Sampling and Testing Facilities.
- Rule 601—Permit Fees.
- Rule 602—Permit Fee Schedules.
- Rule 603—Analysis Fees.
- Rule 604—Technical Reports.
- Rule 605—Hearing Board Fees.
- Rule 700—Applicable Articles of the Health and Safety Code.

Rule 702—Filing Petitions.  
Rule 703—Contents of Petitions.  
Rule 710—Notice of Public Hearing.  
Rule 715—Decisions.

In addition, a rule on new source review was also submitted. It will be addressed in another FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before February 21, 1978, will be considered, and made available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: December 27, 1977.

CLYDE B. ELLER,  
Acting Regional Administrator.  
[FR Doc. 78-1791 Filed 1-19-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 845-8]

### APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Placer County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Placer County Air Pollution Control District (APCD) has adopted changes to its rules and regulations. The revisions have been submitted to the United States Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to February 21, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), United States Environmental Protection Agency, Region IX,



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PROPOSED RULES

215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Placer County Air Pollution Control District, DeWitt Center, Auburn, Calif. 95603.

California Air Resources Board, 1709, 11th Street, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library) 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION:

The ARB submitted to EPA on behalf of the Placer County APCD on October 13, 1977 proposed revisions to the following rules:

Rules and Titles

- 101—Title
- 102—Definitions
- 103—Validity
- 104—Effective Date.
- 203—Exceptions (to Rule 202, Visible Emissions)
- 205—Nuisance
- 206(A)—Incinerator Burning
- 206(B)—Pathological Incineration
- 207—Particulate Matter
- 208—Orchard or Citrus Heaters
- 210—Specific Contaminants
- 211—Process Weight
- 212—Storage of Petroleum Products
- 213—Reduction of Animal Matter
- 214—Abrasive Blasting
- 301—Prohibitions on Open Burning
- 302—Regulated Open Burning
- 303—Burning Permits
- 304—Exceptions to Rule 303
- 305—Permit Validity
- 306—No-Burn Days
- 307—Exceptions to Rule 306
- 308—Agricultural Burning Reports
- 309—Amount Burned Daily
- 310—Approved Ignition Device
- 311—Restricted Burning Day
- 312—Wind Direction
- 313—Minimum Drying Times
- 314—Exceptions to Rule 313
- 315—Preparation of Material to be Burned
- 316—Burning of Agricultural Waste
- 317—Range Improvement Burning
- 318—Forest Management Burning
- 319—Open Burning of Wood Waste on Property Where Grown
- 320—Right-of-Way Clearing and Levee, Ditch and Reservoir Maintenance Burning
- 321—Hazard Reduction Burning
- 322—Mechanized Burners
- 401—Responsibility
- 402—Authority to Inspect
- 404—Upset Conditions, Breakdown or Scheduled Maintenance
- 407—Circumvention
- 408—Source Recordkeeping and Reporting
- 409—Public Records
- 507—Provision of Sampling and Testing Facilities

- 601—Permit Fees
- 602—Hearing Board Fees
- 603—Analysis Fees
- 604—Renewal Fee
- 605—Exemptions to Rule 604
- 702—Filing Petitions
- 703—Contents of Petitions
- 704—Petitions for Variances
- 706—Failure to Comply with Rules
- 708—Dismissal of Petition
- 709—Place of Hearing
- 710—Notice of Hearing
- 715—Decision
- 801—Enforcement
- 802—Authority to Arrest
- 803—Penalties
- 804—Order for Abatement

In addition, revisions to regulations on new source review were also submitted. These regulations will be addressed in another FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before February 21, 1978, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

(Secs. 110, 301(a) Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: December 2, 1977.

CLYDE B. ELLER,  
Acting Regional  
Administrator.

[FR Doc. 78-1792 Filed 1-19-78; 8:45 am]

[6560-01]

[40 CFR Part 52]

[FRL 846-1]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Rules and Regulations of the Santa Barbara County Air Pollution Control District in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Santa Barbara County Air Pollution Control District (APCD) has adopted changes to its rules and regulations. The revisions have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board (ARB) as revisions to the California State Implementation Plan (SIP). The intended effect of the revisions is to update the rules and regulations, and

to correct certain deficiencies in the SIP. The EPA invites public comments on these proposed rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted up to February 21, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), U.S. Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Santa Barbara County Air Pollution Control District, 4440 Calle Real, Santa Barbara, Calif. 93110.

California Air Resources Board, 1709 11th Street, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library) 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION:

The ARB submitted to EPA on behalf of the Santa Barbara County APCD on November 4, 1977 proposed revisions to the following rules:

- Rule 23—Storage of Petroleum and Petroleum Products
- Rule 35—Storage and Transfer of Gasoline
- Rule 39.3—Continuous Emission Monitoring

In addition, a rule on new source review was also submitted. It will be addressed in another FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the proposed regulations as SIP revisions. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested parties may participate by submitting written comments to the EPA Region IX Office. Comments received on or before February 21, 1978, will be considered, and made available for public inspection at the EPA Regional Office and the EPA Public Information Reference Unit.

(Secs. 110, 301(a) Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: December 29, 1977.

CLYDE B. ELLER,  
Acting Regional Administrator.  
[FR Doc. 78-1793 Filed 1-19-78; 8:45 am]

PROPOSED RULES

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[1505-01]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Health Care Financing Administration

[45 CFR Part 205]

[42 CFR Part 50]

PROPOSED RESTRICTIONS APPLICABLE TO  
STERILIZATIONS FUNDED BY THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Correction

IN FR Doc. 77-35424 appearing on page 62718 in the issue of Tuesday, December 13, 1977 on page 62720, in the 3rd column, 1st full paragraph, subparagraph 1 should read as follows:

"1. Is there a need for sterilization review committees, and if so, is the committee as envisioned by the proposed rules adequate to meet that need?"

[1505-01]

Office of Education

[45 CFR Part 128]

SERVICE LEARNING CENTERS PROGRAM

Administration

Correction

In FR Doc. 78-887 appearing at page 1892 in the issue for Thursday, January 12, 1978, in paragraph (a) under "Addresses", first column, page 1892, the date of the Washington, D.C. hearing, now reading "January 23, 1978", should read "February 2, 1978".

[1505-01]

[45 CFR Part 137]

EDUCATIONAL INFORMATION CENTERS  
PROGRAM

Administration

Correction

In FR Doc. 78-888 appearing at page 1895 in the issue for Thursday, January 12, 1978, in paragraph (a) under "Addresses", third column, page 1895, the date of the Washington, D.C. hearing, now reading "January 23, 1978", should read "February 2, 1978".

ary 12, 1978, in paragraph (a) under "Addresses", third column, page 1895, the date of the Washington, D.C. hearing, now reading "January 23, 1978", should read "February 2, 1978".

[1505-01]

[45 CFR Part 139]

TRAINING PROGRAM FOR SPECIAL PROGRAMS STAFF AND LEADERSHIP PERSONNEL

Award of Contracts

Correction

In FR Doc. 78-889 appearing at page 1898 in the issue for Thursday, January 12, 1978, the date for the Washington, D.C. hearing, which is printed as January 23, 1978, should be February 2, 1978. The incorrect date appears in the first column of page 1898 in the "Dates" paragraph and also in item A under "Addresses".



# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6320-01]

## CIVIL AERONAUTICS BOARD

[Docket No. 31914; Order 78-1-45]

### AMERICAN AIRLINES, INC. ET AL

Order Dismissing Complaint Regarding U.S. Mainland-Puerto Rico/Virgin Islands, Fare Increase

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of January 1978.

By tariff revisions<sup>1</sup> marked to become effective January 15, 1978, American Airlines, Inc. (American), Eastern Air Lines, Inc. (Eastern), and Pan American World Airways, Inc. (Pan American) propose to increase all fares in the U.S. mainland-Puerto Rico/Virgin Islands market by 3.3 percent. American and Eastern base their proposals on carrier results for the year ended September 1977, applying the ratemaking adjustments set forth in Order 76-12-96. In matching Eastern's filing, American has combined its results with Eastern's and has calculated the entity return on investment (ROI) at 11.6 percent with the proposed increase, projecting costs to February 1, 1978.

The carriers state that they are merely catching-up with the allowable 12-percent ROI; and American alleges that it would not expect to make any further increase effective before May 1, six months after the fare increase authorized when the Board changed its cost-escalation policy in this entity.

The Commonwealth of Puerto Rico (Commonwealth) has filed a complaint against American's proposal claiming that while this would be the first major increase of 1978, it cumulatively represents 14.2 percent in increases since January 1977; this is significantly greater than increases permitted in both the Hawaii and domestic 48-State entities; the realization of public benefit built-in to the anticipation of costs beyond the tariff-effective date is questionable; and the lack of low-fare competition for American and Eastern is at the heart of the Commonwealth's concern about rising air fares.

The Board finds that the complaint does not set forth sufficient facts to

<sup>1</sup>Revisions to American Airlines, Inc. Tariff C.A.B. No. 294, Eastern Air Lines, Inc. Tariff C.A.B. No. 294, and Pan American World Airways, Inc. Tariff C.A.B. No. 53.

warrant investigation and consequently the request for suspension will be denied and the complaint dismissed.

In keeping with the Board's analysis as set forth in the "Mainland U.S.-Puerto Rico/Virgin Islands Fares" case, the combined results of the carriers for the year ended September 1977 have been adjusted to reflect established ratemaking standards to determine ROI from operations in this entity reflecting the proposed increase. Costs have been carried forward to February 1, 1978.<sup>2</sup> The final result reflects an adjusted ROI of 10.5 percent. (See Appendix A). Accordingly, we will permit the proposed increase to become effective.<sup>3</sup>

The results indicate that the entity is experiencing upward cost pressures, both in fuel and non-fuel elements. Fuel costs have jumped nearly 50 percent for American from August through November.<sup>4</sup> The annual rate of increase in non-fuel unit costs has risen to 8.8 percent compared to 7.4 percent for the year ended June 1977.<sup>5</sup>

The Commonwealth correctly recognizes that cost pressures in this market have warranted larger increases over the past year than in the domestic 48 States.<sup>6</sup> This is exemplified by the difference in the non-fuel unit-

<sup>2</sup>February 1, 1978 is three months beyond the date of the last fare increase in this entity (November 1, 1977). It was then that the Board first projected costs beyond the tariff-effective date in this entity (Order 77-10-57), and the carriers characterize this proposal as a "catch-up" to that new policy, as was permitted by Order 77-11-2, after anticipated costs were first recognized in the 48-State entity.

<sup>3</sup>The Board's correction for a mathematical error in Eastern's justification and the updating of fuel costs account for the difference between the Board's and American's calculated ROI. Details of the Board's analysis will be available for public inspection in the Public Reference Room, Room 710.

<sup>4</sup>American's renewal of its contract with its fuel supplier has produced this large increase. American's cost per gallon of fuel for November 1977 was 38.38 cents, rising from 25.80 cents in August. Meanwhile, Eastern's fuel costs have averaged 36.18 cents for the year ended September 1977 versus 27.73¢ for American.

<sup>5</sup>Increasing labor costs in Puerto Rico combined with payment of deferred employee compensation by Eastern have contributed to this rising rate.

<sup>6</sup>The increase permitted here brings the level of increases over the past 12 months to 14.2 percent versus seven percent in the domestic 48 States.

cost inflation factor in the Puerto Rico/Virgin Island market of 1.0878 percent compared to 1.0433 percent in the domestic 48-State entity for the year ended September 1977. In addition, although American's fuel increase has been relatively comparable in both entities, the impact is felt much more in the smaller Puerto Rico/Virgin Islands entity, because fares here are based on the costs of only two carriers. Whether additional market competition would change these facts cannot be resolved in this context.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002:

It is ordered, That: 1. The complaints in Docket 31914 are dismissed; and

2. A copy of this order will be served upon American Airlines, Inc., Eastern Air Lines, Inc., Pan American World Airways, Inc., and the Commonwealth of Puerto Rico.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1677 Filed 1-19-78; 8:45 am]

[6320-01]

[Docket Nos. 24694, 31976; Order 78-1-35]

### DELTA AIR LINES, ET AL

#### Order Regarding Miami-Los Angeles Competitive Nonstop and Low-Fare Cases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on 11th day of January 1978.

#### INTRODUCTION

On September 16, 1977, the Board, by Order 77-9-62, solicited comments from parties to this case on the further steps to be taken in light of the remand of the Board's original decision by the U.S. Court of Appeals for the District of Columbia Circuit. *Delta Air Lines, et al v. CAB*, 561 F.2d 293 (D.C. Cir. 1977). Comments were filed on October 6 and reply comments were submitted by October 18.<sup>1</sup> By and large, the parties present three al-

<sup>1</sup>All Members concurred.

<sup>2</sup>TWA's comments were filed on October 11, accompanied by a motion for leave to file late. We shall grant the motion.

ternatives. First, Pan American and Western urge the Board to limit the remand to the narrow issue specifically returned by the court, i.e., the choice between Pan American and Western. Delta Air Lines, although originally a losing applicant, now argues that such a limited remand is required by the court's order. Second, Eastern Air Lines, Trans World Airlines, and American Airlines urge the Board to reopen the entire question of carrier selection and permit updating of the record by all interested carriers. Finally, National Airlines, which is the incumbent certificated carrier (Western, the Board's original selection, continues to operate temporarily pending the outcome of the remand), urges the Board to undertake a full-scale reexamination of the need for competition in the market or, at a minimum, to wait until National's petition for certiorari is disposed of by the Supreme Court.<sup>2</sup> National requests oral argument on the scope of the remand.

#### GENERAL CONCLUSIONS

We find that Docket 24694 should be reopened for the limited purpose of allowing Pan American an opportunity for adversarial exploration of the developments which have occurred since the close of the record, in accordance with the court's direction. We shall examine these matters through the use of expedited, non-trial procedures, and without a further initial decision. This will allow the Board to move promptly to final decision. At the same time, we shall initiate a new Miami-Los Angeles case to examine whether or not we can secure the introduction of low-fare Miami-Los Angeles service and thus support the movement within the industry from its historic, near-exclusive reliance on service competition to a greater measure of price competition. We shall consider these matters in a new docket. We discuss these two proceedings separately below.

#### THE CURRENT CASE

We think it proper to bring the current case to a prompt conclusion. The Board's original decision makes clear that, from the perspective of the traveling and shipping public, no carrier can provide appreciably better service than Western or Pan American. All applicants had proposed two or three daily round trips and none has suggested in the comments that a greater quantum of service is likely to be provided in the primary market. Similarly, no carrier has challenged the Board's earlier finding that Pan

<sup>2</sup>National filed its petition on September 21, 1977, arguing that the Court of Appeals exceeded its authority when it limited the remand to the question of carrier selection between Western and Pan American.

American could convenience more beyond traffic than other applicants, notwithstanding its recent reductions in service. Several parties argue that Western's earlier advantage in terms of beyond service has been eroded. This contention is not entirely convincing since Western's impressive route structure beyond Los Angeles remains. We are nonetheless prepared to accept, for present purposes, the argument that Western's beyond-segment capabilities no longer give it a substantial edge over other carriers. Two key underpinnings of the Board's original award, however, continue to distinguish Western from the remaining candidates on the current record—Western's selection is consistent with the Board's historic policy favoring the strengthening of smaller carriers, and Western's dominant position at Los Angeles serves as a counterweight to National's strength at Miami. In such circumstances, and consistently with the mandate of the Court of Appeals, we believe the public interest requires that we update the record but promptly bring this case to a close and select either Western or Pan American to operate pending a more complete examination of low fare options and other applications. This course of action complies with our obligation to accord Pan American the procedural opportunity which the Court of Appeals concluded we had improperly denied it.

We are pleased to see the general willingness of interested parties to utilize expedited nontrial procedures similar to those recently employed successfully in the *Service to Saipan Case*, Docket 24421, and the *Service to Richmond Case*, Docket 24412, and we have decided to use such procedures to decide the limited issue remaining in this case. We shall require, first, that Western file, within 10 days of the service date of this order, the information relating to its actual experience in the market, as requested in the appendix to Pan American's comments of October 6. Upon review of Western's objections, we find ourselves in agreement with Pan American that the court's directive did not circumscribe the Board's power to require the submission of useful evidence. Upon submission of the evidence, Western will have a full opportunity to argue about its relevance to the Board's inquiry. We shall also authorize the simultaneous filing of comments by Western, Pan American, and any other parties on the narrow issue to be considered, along with information, exhibits, and data that they believe necessary or desirable for an informed examination of events subsequent to the close of the original record. Such comments and data shall be due 28 days from the service date of this order. We will also permit the filing of rebuttal com-

ments, information, data, and exhibits. All rebuttal material shall be filed within 28 days of the due date for the filing of the initial material. Finally, briefs to the Board, which shall conform to the requirements of Rule 31, shall be due 14 days after the due date for the filing of rebuttal material. This schedule is designed to bring the case before the Board in about 75 days and we shall endeavor to conclude it no more than 75 days later.

#### THE NEW CASE

The Board is keenly interested in promoting market conditions that provide the increased likelihood of low-fare service. The current and historic load factors in the Miami-Los Angeles market suggests it both needs fare competition and offers a particularly attractive opportunity for getting it promptly. As the data in National's comments show, the carrier is operating a wasteful level of capacity for the traffic it is carrying. During the 18 months ended in July 1977, National's load factor never exceeded 47 percent and was generally lower. Western's have been even lower. Moreover, this situation cannot be attributed to the recent entry of Western. National's oral argument materials demonstrate that the condition is chronic, with load factors occasionally dropping below 35 percent. See charts 1 and 2.

In our judgment there is at least one explanation of National's willingness to operate at chronically low load factors: the fare is so high that its breakeven point is even lower. If fares are reduced, the breakeven point will rise, and National will have to increase its actual load factors, either by reducing frequencies or attracting additional traffic. In our view, a substantial fare reduction is likely to attract sufficient traffic to produce reasonable load factors without any reduction in service perhaps enough to permit an increase in service. Such a prospect in this large and important transcontinental market, so long the recipient of subpar service is, in our view, worth the commitment of time and resources necessary to explore this issue despite the time and effort already expended.

We shall therefore institute a *Miami-Los Angeles Low-Fare Case*, Docket 31976, for the purpose of considering whether the public convenience and necessity require additional carriers between Miami and Los Angeles.

We actively solicit reduced fare proposals from new entrants, National, and whichever carrier is selected in Docket 24694 to compete temporarily with National.<sup>3</sup> We have determined,

<sup>3</sup>We are aware that Western has filed a tariff introducing Super Saver fares, effective January 23, 1978. This development does not dissuade us from the need for a more general route investigation.



as a matter of general policy, that in this and future cases the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority and, if so, which carrier or carriers should be selected. For these purposes, the Board expects the record to be developed to examine the need for and feasibility of various new price/quality options.

The price options which should be explored include, but are not limited to, reduced normal fares, promotional fares, and off-peak pricing.\* The quality options which should be considered in order to justify lower prices economically should include, but not be limited to, reduced on-board amenities, higher seating densities, increased load factors, and improved aircraft utilization. Further, we shall consider how lower prices and price competition can be maintained once a case is concluded, whether by making awards temporary or contingent upon the price performance of the carrier receiving new authority, or by other means. We believe that the grant of temporary authority in Docket 24694, coupled with an examination of the issue of renewal, will serve as a useful spur to the establishment of lower fares by the incumbent carriers.

As we have done before, we shall determine whether any new authority should be permissive; whether, particularly if permissive authority is decided upon, multiple awards should be made; and whether multiple awards, under the present statute, are consistent with encouraging real price competition. See Orders 77-12-50, December 9, 1977, and 77-12-115, December 22, 1977. Nothing in the foregoing discussion should be regarded as indicating that traditional service benefits, or the Board's traditional preference for the renewal of temporary authority, should be disregarded. On the contrary, these are important considerations to be weighed with the price and price/quality considerations discussed above. The bases for new route awards, however, will now include the consideration of realistic, cost-based price proposals.

Accordingly, it is ordered, That:

1. Docket 24694 is reopened for the limited purposes outlined above;

2. Western shall file within 10 days of the service date of this order the information requested in the appendix to Pan American's comments of October 6, 1977.

\*Off-peak pricing options should include traditional night coach fares, as well as differential pricing at other slack periods, such as weekends and at certain hours of the day, in order to permit higher load factors and more efficient aircraft utilization.

3. Initial comments concerning changes in circumstances occurring after the close of the original record which may affect the Board's selection of Western or Pan American in docket 24694 may be filed within 28 days of the service date of this order;

4. Rebuttal information and comments may be filed within 28 days of the due date for the filing of the initial material;

5. Briefs to the Board may be filed within 14 days after the due date for the filing of rebuttal material;

6. The motion of Trans World Airlines in Docket 24694 for leave to file late is granted;

7. A proceeding to be known as the *Miami-Los Angeles Low-Fare Case*, Docket 31976, shall be instituted and set for hearing before an administrative law judge of the Board at a time and place to be designated later, as the orderly administration of the Board's docket permits;

8. The proceeding instituted in paragraph 7, above, shall consider whether the public convenience and necessity require: (i) The modification, alteration or amendment of the certificate of the successful applicant in Docket 24694 so as to renew the authority to operate nonstop service between Miami-Ft. Lauderdale, Fla., and Los Angeles-Ontario-Long Beach, Calif., and (ii) the authorization of a different, or an additional, carrier or carriers to engage in nonstop air transportation between Miami-Fort Lauderdale, Fla., and Los Angeles-Ontario-Long Beach, Calif.

9. If the answer to the issues in paragraph 8, above, are in the affirmative, the proceeding shall consider which air carrier or carriers should be authorized, and whether the new or existing authority should be subject to any terms, conditions, or limitations;

10. Any authority awarded in Docket 31976 shall be granted without eligibility for subsidy;

11. Applications and motions to consolidate in connection with Docket 31976 shall be filed within 28 days of the service date of this order and answers thereto shall be filed within 25 days thereafter;

12. Petitions for reconsideration of this order, insofar as it institutes the *Miami-Los Angeles Low-Fare Case*, may be filed by all interested persons within 21 days of the service date of this order.

13. This order shall be subject to any approval deemed necessary by the U.S. Court of Appeals for the District of Columbia Circuit.

This order shall be published in the FEDERAL REGISTER.

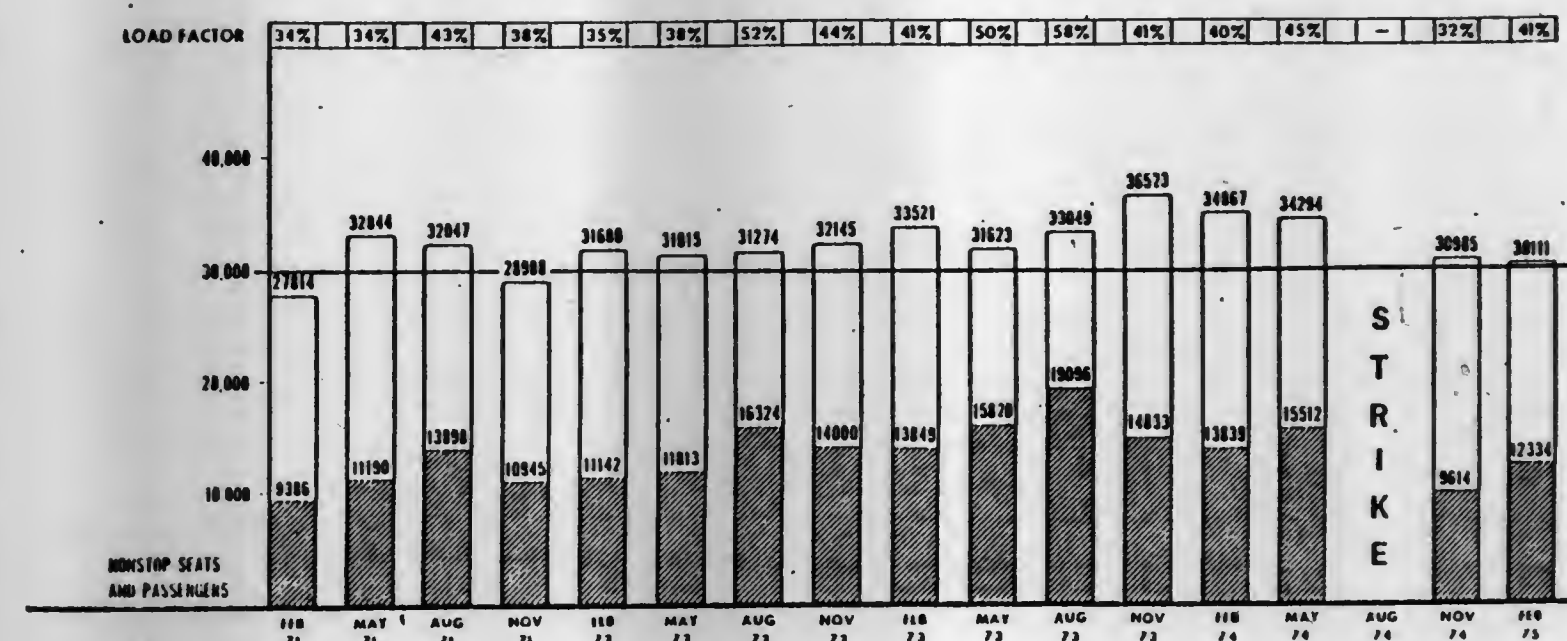
By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

\*All Members concurred.

CHART 1

## NATIONAL'S FOUR-YEAR NONSTOP LOAD FACTORS



SOURCE: NAL 304 303 (UPDATES)

CHART 2

MIAMI-LOS ANGELES

ER-588 NONSTOP TRAFFIC

	Departures		Nonstop Seats		Old Passengers		Old L/F		Old Mkt. Share		On-Board Passgr.		On-Board L/F	
	NA	WA	NA	WA	NA	WA	NA	WA	NA	WA	NA	WA	NA	WA
1976														
January	116		30,086		11,887		38.8		100.0		11,887		38.8	
February	127		33,247		12,829		38.6				12,829		38.6	
March	132	1/	34,464	1/	13,631	1/	39.6	1/		1/	13,764	1/	42.3	1/
April	130		34,008		14,444		42.5				17,022		39.7	
May	164		42,880		16,858		39.3				20,083		42.1	
June	181		47,747		19,565		41.0				22,433		46.4	
July	188		48,296		21,847		45.4				20,899		42.1	
August	188	121	48,450	30,734	20,381	4,781	42.1	15.8	81.0	19.0	5,292		17.0	
September	177	119	46,037	30,226	14,038	4,876	30.5	16.1	74.2	25.8	14,485	5,363	31.5	17.7
October	188	122	46,371	30,888	15,299	5,601	33.0	18.1	73.2	26.8	15,760	6,138	34.0	19.8
November	135	120	37,556	30,480	13,868	5,439	36.9	21.1	68.3	31.7	13,905	6,718	37.0	22.0
December	130	124	36,176	31,012	15,971	7,872	44.1	25.4	67.0	33.0	15,984	8,349	44.2	26.9
Aug. Thru Dec., 1976	818	606	214,550	153,440	79,557	29,569	37.1	19.3	72.8	27.1	81,033	31,800	37.4	20.7
1977														
January	124	118	34,730	28,749	14,726	7,758	42.4	28.1	85.5	34.5	15,440	8,588	44.5	26.9
February	111	109	31,196	27,684	11,012	6,203	35.3	22.4	64.0	36.0	11,738	6,726	37.7	24.3
March	124	122	34,634	30,988	12,534	7,718	36.2	24.9	61.9	36.1	13,514	8,674	39.0	28.0
April	121	121	34,222	30,627	13,004	8,795	38.0	28.7	59.7	40.3	14,288	9,474	41.4	30.8
May	124		33,884		11,349		34.1				12,897		38.1	
June	120		33,074		11,773		35.8				13,360		40.4	
July	122		33,586		14,078		41.8				15,501		46.2	

1/ Western inaugurated Los Angeles-Miami service on August 1, 1978.

[FR Doc. 78-1530 Filed 1-19-78; 8:45 am]



## [6320-01]

(Docket No. 31921)

HOUSTON-TAMPA/ORLANDO INVESTIGATION  
Prehearing Conference

Notice is hereby given that a prehearing conference in this proceeding will be held on March 14, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of: (1) Proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates.

The Bureau of Operating Rights will circulate its material on or before February 17, 1978, and the other parties

on or before March 7, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C. January 18, 1978.

RICHARD V. BACKLEY,  
Administrative Law Judge.  
(FR Doc. 78-16-76 Filed 1-19-78; 8:45 am)

## [6320-01]

(Docket No. 30332, Agreement C.A.B. 27085 R-1 through R-3, Agreement C.A.B. 27086; Order 78-1-501)

INTERNATIONAL AIR TRANSPORT  
ASSOCIATION

## Order Regarding Specific Commodity Rates

JANUARY 12, 1978.

Issued under delegated authority.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreements name four specific commodity rates under existing commodity descriptions as set forth below, reflecting reductions from general cargo rates; and were adopted pursuant to unopposed notice to the carriers and promulgated in IATA letters dated December 29, 1977.

Agreement CAB	Specific Commodity Item No.	Description and rate
27085:		
R-1	4700	Machinery and tools—excluding steamship and/or motorship machinery parts, 79 cents per kg., minimum weight 250 kgs., from Auckland to Pago Pago.
R-2	6002	Chemicals, dyes, fertilizers, insecticides, paints, pigments, varnishes, drugs, pharmaceuticals and medicines, cosmetics, soaps, toilet preparations and articles, perfumes, essential oils, gums and resins and plastics solely in the form of sheets, slabs, rods, tubings, powder, and other unfinished forms, 80 cents per kg., minimum weight 100 kgs., from Auckland to Pago Pago.
R-3	6810	Plastic articles, 61 cents per kg., minimum weight 100 kgs., from Auckland to Pago Pago.
27086	4109	Aircraft engines and parts of aircraft—excluding fuselages, wings, aircraft tail assemblies, stabilizers and/or stabilators, 315 cents per kg., minimum weight 100 kgs., 275 cents per kg., minimum weight 200 kgs., 220 cents per kg., minimum weight 500 kgs., between New York and Addis Ababa.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreements are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to the conditions ordered.

Accordingly, it is ordered, That: Agreements C.A.B. 27085, R-1 through R-3, and C.A.B. 27086 are approved: *Provided*, That (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 60 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursu-

ant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,  
Secretary.  
(FR Doc. 78-1678 Filed 1-19-78; 8:45 am)

## [6320-01]

(Docket Nos. 31810, 31819; Order 78-1-631)

OLYMPIC AIRWAYS, S.A. AND TRANS WORLD  
AIRLINES, INC.Order Dismissing Complaints Regarding Trans-  
atlantic Passenger Fares Between United  
States and Greece

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of January 1978.

By tariff revisions filed December 7, 1977, for effectiveness January 6, 1978, Olympic Airways, S.A. (Olympic), and

Trans World Airlines, Inc. (TWA), propose new reduced fares in U.S.-Greece markets similar to those recently implemented between the United States and Italy by Alitalia-Linee Aeree Italiane, S.p.A. (Alitalia) and other carriers. The proposals would reduce normal first-class and economy fares by amounts ranging from \$78 to \$292, roundtrip, and would replace most existing promotional fares by new 14/60-day excursion and 7/21-day group inclusive-tour (GIT) fares as in the case of the Alitalia filing.<sup>1</sup>

In its justification for the filing, Olympic submits that normal-fare traffic accounts for only about seven percent of its U.S.-Greece passengers, and the reduced normal fares will attract passengers who desire stopovers and previously traveled on the normal fares or the 14/21-day excursion fare, which is to be discontinued; the new excursion fares at \$535 winter and \$595 peak, New York-Athens, will be more attractive to vacation travelers than the \$526 (winter) and \$633 (peak)

<sup>1</sup>TWA, however, would retain existing fares alongside the new fares.

existing nonaffinity group fares, which, however, are government-ordered and will be retained; the GIT fare at \$495 will be attractive in putting together tourist packages during the winter, when the market is depressed; and both fares will be more remunerative to the carrier and less costly to offer than the recently effective \$473 winter super-APEX.

In complaints against both tariffs,<sup>2</sup> Homeric Tours, Inc. (Homeric), and Tourlite International, Inc. (Tourlite), which operate charter tours to Greece, request suspension and investigation of the proposed peak season excursion fares (\$595-New York/Athens round-trip) alleging that the proposed fares are predatory and would put U.S.-Greece charter tour operators out of business; and if the fares are approved, the Board should require TWA to amend its charter tariff to waive any cancellation penalties and forfeiture provisions, and require all scheduled carriers to renegotiate all existing charter contracts so that charter tour operators may have the opportunity to minimize their anticipated losses.

In support of their request, the complainants allege that the U.S.-Greece charter market is highly seasonal and in the crucial summer season the proposed \$595 excursion fare will prove predatory; this market is family-oriented (30 percent of all charter passengers are children) and with a 50 percent children's discount on the scheduled service excursion fare, a family could save a considerable sum compared to a charter where all passengers pay the full price; the scheduled carriers have a further advantage in that the add-ons they offer for travel to New York from cities with a Greek ethnic market are lower than the full domestic fare which charter passengers must pay; the rules are more liberal on the excursion fare, which has no advance payment feature or cancellation penalty, than on charters; and in 1973 the non-affinity group fare to Greece was \$323 and it is now \$677, an indication that if competition from charters is eliminated, scheduled fares may again rise.

In answer to the complaints, Olympic states that since the proposed excursion fare would be \$62 higher than the already effective super-APEX fare during the winter season, it increases the differential of scheduled over charter fares, and thus can hardly be characterized as predatory; that the minimum tour price applicable to the GIT fare actually boosts its packaged level to over \$700; and that the GIT fare would not be available during the

<sup>1</sup>On December 27, 1977, the complainants filed a motion for leave to submit a reply to TWA's answer which we will grant.

peak season, when the large majority of the complainants' charter tours are scheduled to depart.

TWA, in support of its tariff and in answer to the complaints, states that, although it feels there are numerous shortcomings in Olympic's proposal,<sup>3</sup> nevertheless it has chosen to match it because it simplifies the fare structure and limits free stopovers and consequent yield erosion; the reduced New York-Athens normal economy fare at 9.15 cents per-mile would still yield more than the existing New York-London fare at 9.06 cents per-mile; Olympic's filing raises substantially the same issues as Alitalia's recent U.S.-Italy fare structure, which the Board approved; TWA, the largest charter carrier in the New York-Athens market, has no intention of driving out charters, since its contracted U.S.-Greece charter operations for 1978 have tied up a significant amount of its available charter capacity, which probably could not be resold if canceled and TWA would lose regardless of what cancellation penalties it collected; the proposed fares are higher than the current super-APEX fare, are well above prevailing charter rates, and do not present a serious threat to charters; the complaints are a mere subterfuge by which Homeric and Tourlite seek to shift the risk of their 1978 charter programs back to TWA, and Homeric has even agreed to a clause in its charter contract with TWA acknowledging the possibility of new low scheduled fares and agreeing to pay cancellation charges in any event; and consistent enforcement of charter cancellation penalties is necessary to prevent speculative bookings by unreliable tour operators and to avoid tremendous losses by the charter carrier.<sup>4</sup> In their reply, the complainants contend that TWA has misled the Board in alleging that the so-called "rider" to its charter contracts was agreed to by the tour operators.

Upon consideration of the tariffs, complaints and answers, the Board finds that the complaints do not set forth facts sufficient to warrant suspension or investigation; they will therefore be dismissed.

The proposals raise the same issues as were presented in the recent Alitalia case; in fact, Olympic indicates its filing is in direct response to develop-

<sup>2</sup>TWA cites points similar to those raised by its complaint against Alitalia's U.S.-Italy fares. See Order 77-11-78, November 18, 1977.

<sup>3</sup>TWA states that in 1975, when speculative bookings and cancellations were common, unpaid ferry mileage amounted to 14.4 percent in its international charter operations, but through consistent enforcement of penalties unpaid ferry mileage was reduced to 5.6 percent in 1977.

ments in the U.S.-Italy market. These new filings would extend to the U.S.-Greece market improvements similar to the ones in the U.S.-Italy fare structure, which the Board noted with approval in its Order 77-11-78, dismissing complaints against Alitalia's fares. Normal first-class and economy fares would be reduced significantly, the number of fares would be reduced and the overall structure simplified, and strict limitations would be placed on stopovers.<sup>5</sup> Yields per mile under the Olympic fares would be similar to those achieved under Alitalia's fares to Italy.

In these circumstances, the Board would suspend the proposed fares only upon the most convincing showing that they are uneconomic and likely to be predatory with respect to charter services. We cannot make such a finding in this case. Short-run marginal costs would easily be covered by all the proposed fares, and we are not convinced that the new excursion fares present a serious threat to the viability of charter services in this market.

Homeric and Tourlite use a figure of \$569 as an average 1978 summer ABC price in the New York-Athens market, but we have been unable to confirm this based on information available to the Board, and as with our consideration of this issue in the Alitalia case there is at present insufficient information to conclude that the proposed fares would be predatory as to charters during the 1978 peak season.<sup>6</sup> The complainants have not supported their estimate that 30 percent of U.S.-Greece charter passengers are children, and in any event the children's discount on scheduled service fares is not a factor unique to this case. Since the adult excursion fares appear to fall above prevailing charter rates, we fail to understand why the complainants waited to raise the issue of children's fares until the last minute. If, as the complainants such as Chicago, Detroit, Washington and Boston, the charter groups would not necessarily have to assemble in New York, and thus the question of scheduled service proportional fares over new York is not particularly germane, and has no bearing on the reasonableness of the proposed transatlantic

<sup>4</sup>We do have reservations about the necessity for maintaining the nonaffinity group fare, since it would appear that the new promotional fares could probably accommodate the traffic now moving on that fare.

<sup>5</sup>We note, however, that Bamaco Airtours International is marketing ABC's using an Overseas National Airlines DC-10 with weekly departures from May 25 through October 12, 1978, with minimum per-seat prices ranging from \$454 to \$498.

<sup>6</sup>See Order 77-11-78, page 9.



fare.\* Concerning advance payments and other rules, the Board recently liberalized its charter rules in several important respects including reducing the ABC advance purchase period to 15 days. Since we are not convinced that the proposed fares are predatory, the lack of an advance purchase requirement on the excursion fare is not sufficient grounds for suspension.

Finally, we would state that our conclusions as to the appropriateness of TWA's charter cancellation charges were not based on that carrier's allegations about the so-called "rider" to its charter contracts, and for this reason, we will not require TWA and other scheduled carriers to waive their charter cancellation fees and abrogate their existing charter contracts, as suggested by Homeric and Tourlite. Although we are not persuaded by TWA that strict enforcement of cancellation penalties was the only factor affecting its unpaid ferry mileage over the last two years, neither are we convinced that the Board should routinely disapprove charter cancellation fees every time a low fare is introduced in scheduled service. The proposed fares do not appear to be predatory against charters and, in these circumstances, the relief sought by the tour operators is excessive and unnecessary.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a), 403, and 1002(j) thereof:

*It is ordered, That:* 1. Except to the extent granted herein, the complaints of Homeric Tours, Inc. and Tourlite International, Inc., in Dockets 31810 and 31819, respectively, are dismissed; and

2. Copies of this order be served upon Olympic Airways, S.A., Trans World Airlines, Inc., Homeric Tours, Inc., and Tourlite International, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,\*  
Secretary.

[FR Doc. 78-1679 Filed 1-19-78; 8:45 am]

#### [6320-01]

[Docket No. 31564; Order 78-1-64]

#### AIR INDIA

Order Vacating Suspension Regarding Transatlantic Super-APEX Fares  
Adopted by the Civil Aeronautics Board at its office in Washington,

\*Even when the charter group does assemble in New York, the fact that charter passengers traveling by air pay the full domestic fare (compared to a lower add-on for scheduled transatlantic fares) is a situation not unique to the proposed U.S.-Greece excursion fares. Further, we note that Homeric and Tourlite's citations of the add-ons to be used with the proposed fares are incorrect. In addition, their citation of the histo-

D.C., on the 9th day of January 1978.

By Order 77-10-139, October 25, 1977, the Board suspended, pending investigation, super-APEX (advance-purchase excursion) fares proposed by Air India and other carriers for use between the United States, on the one hand, and various points in Europe/Africa, on the other. The Board stated that it was suspending the fares because the United States had been unable to secure an ad hoc agreement with India which would permit us to suspend the fares after they became effective, and in those circumstances, failure to suspend the fares before they became effective might foreclose any future action by this Government with regard to such fares.

On December 26, 1977, the Government of India signed an ad hoc agreement confirming the right of the United States to take action against the super-APEX fares after they became effective. Thus there is no reason for Air India's fares to countries whose Governments have signed appropriate ad hoc agreements to remain under suspension, and this order will vacate our previous action in that respect.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958.

*It is ordered, That:*

1. Order 77-10-139 is hereby vacated insofar as it suspends and investigates advance purchase excursion fares as follows:

INTERNATIONAL PASSENGER FARES  
TARIFF No. 4, CAB No. 22, ISSUED BY JOHN M. SAMPSON, AGENT

On 9th and 10th Revised Pages 269 the fares applicable to Air India between Boston and New York, on the one hand, and the following points, on the other:

Algiers, Ankara, Athens, Barcelona, Berlin, Bremen, Bucharest, Cologne, Düsseldorf, Frankfurt, Geneva, Hamburg, Hanover, Helsinki, Istanbul, Madrid, Moscow, Munich, Nuremberg, Rome, Stuttgart, Tunis, and Turin.

On 9th and 10th Revised Pages 270 all basic fares applicable to Air India between Boston and New York, on the one hand, and Venice and Zurich, on the other.

2. This order shall be submitted to

ry of the Greek Government-ordered non-affinity group fare is somewhat confused. In January 1973 the New York-Athens fare, for the basic season, was \$320. The complainants compared this fare with the current "peak-of-the-peak" season fare of \$673, while the current *basic* season fare is \$526. Much of the increase over the last five years is directly attributable to devaluation of the dollar and fuel surcharges; the balance of the price increase can hardly be explained as the action of a monopolist since competition in the form of charter programs has been present throughout the period.

\*All Members concurred except Member Minetti who did not participate.

the President\* and shall be effective on January 16, 1978; and

3. Copies of this order shall be filed in the above tariff and served upon Air India.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,\*  
Secretary.

[FR Doc. 78-1680 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### CIVIL SERVICE COMMISSION COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

#### Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the U.S. Civil Service Commission announces the following meeting:

COMMITTEE ON PRIVATE VOLUNTARY AGENCY ELIGIBILITY

Date and time: February 7, 1978, 10 a.m.  
Place: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., room 7B09.  
Type of meeting: Open. Any interested person may file a written statement with the Committee in advance of or at the meeting.

Contact person: Margaret Davis, Office of the Assistant to the Chairman, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, telephone 202-632-5564.

Purpose of committee: To make recommendations to the Chairman of the Civil Service Commission regarding eligibility of national voluntary agencies to participate in the Federal fund-raising program.

Agenda: To review applications for fund-raising privileges which have been submitted to voluntary organizations to the Commission in compliance with the Federal Fund-Raising Manual.

Dated: January 20, 1978.

GEORGE J. MCQUOID,  
Assistant to the Chairman.

[FR Doc. 78-1651 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### CIVIL AERONAUTICS BOARD

#### Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Civil Aeronautics Board to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of the General Counsel.

\*This order was submitted to the President on January 10, 1978.

\*All Members concurred.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1652 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### DEPARTMENT OF COMMERCE

#### Title Change in Noncareer Executive Assignment

By notice of September 10, 1976, FR Doc. 76-26177, the Civil Service Commission authorized the Department of Commerce to make a change in title for the position of Deputy Assistant Secretary for Policy Development and Coordination, Office of the Secretary, authorized to be filled by noncareer executive assignment. This is notice that the title of this position is now being changed to Deputy Assistant Secretary for Domestic Economic Policy Coordination, Office of the Secretary.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1653 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### DEPARTMENT OF COMMERCE

#### Title Change in Noncareer Executive Assignment

By notice of July 27, 1974, FR Doc. 74-14742, the Civil Service Commission authorized the Department of Commerce to fill by noncareer executive assignment the position of Deputy Director, Bureau of International Commerce, Domestic and International Business Administration, Office of the Director. This is notice that the title of this position is now being changed to Deputy Director, Bureau of Export Development, Office of the Director, Industry and Trade Administration.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1654 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### FEDERAL HOME LOAN BANK BOARD

#### Revocation of Authority To Make a Noncareer Executive Assignment

Under authority § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Home Loan

Bank Board to fill by noncareer executive assignment in the excepted service the position of Director, Federal Savings and Loan Insurance Corporation, Office of the Director, Office of Federal Savings and Loan Insurance Corporation.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1655 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### FEDERAL HOME LOAN BANK BOARD

#### Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Home Loan Bank Board to fill by noncareer executive assignment in the excepted service the position of Director, Office of the Community Investment.

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1656 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### DEPARTMENT OF THE INTERIOR

#### Grant of Authority To Make Noncareer Executive Assignment

Under authority § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Fish, Wildlife, and Parks, Office the Secretary.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1657 Filed 1-19-78; 8:45 am]

#### [6325-01]

#### OFFICE OF MANAGEMENT AND BUDGET

#### Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Assistant to the Director for Public

Affairs, Office of the Director, Executive Office of the President.

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1658 Filed 1-19-78; 8:45 am]

#### [3510-24]

#### DEPARTMENT OF COMMERCE

#### Economic Development Administration

#### MARILYN HANDBAGS, INC., ET AL.

#### Petitions for a Determination of Eligibility To Apply for Trade Adjustment Assistance

Petitions were accepted for filing on January 10, 1978, from three firms: (1) Marilyn Handbags, Inc., 1910 Cross Bronx Expressway, Bronx, N.Y. 10473, a producer of handbags; (2) Breezy Bay Inc., 1773 West 33rd Place, Hialeah, Fla. 33012, a producer of women's coats; and (3) Kessler Shoe Manufacturing Co., Inc., 191 Shaeffer Avenue, Westminster, Md. 21157, a producer of children's shoes. The petitions, were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business January 30, 1978.

CHARLES L. SMITH,  
Acting Chief, Trade Act Certification Division, Office of  
Planning and Program Support.

[FR Doc. 78-1591 Filed 1-19-78; 8:45 am]

#### [3510-25]

#### TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

#### Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is



hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, February 9, 1978, at 10 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975 and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has six parts:

#### GENERAL SESSION

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Review of December 14, 1977 meeting.
- (4) Report on recent market developments in USSR and Eastern Europe since the last meeting.
- (5) Review of final draft outlines for the annual report.

#### EXECUTIVE SESSION

- (6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 22, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act

relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26682).

Dated: January 17, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-1620 Filed 1-19-78; 8:45 am]

#### [3510-25]

##### HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS-TECHNICAL ADVISORY COMMITTEE

#### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, February 15, 1978, at 9 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Adminis-

tration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the Charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) Maintenance of the processor performance tables and further investigation of total systems performance; and (b) Investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The subcommittee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed during the meeting should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the meeting have been properly classified under Executive Order 11652. All subcommittee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230 telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 17, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-1621 Filed 1-19-78; 8:45 am]

#### [3510-25]

##### Industry and Trade Administration

##### EXPORT MONITORING REPORT FOR COAL AND COKE OF COAL

Week Ending December 9, 1977

On December 7, 1977, the Department of Commerce announced the monitoring of exports and anticipated exports of bituminous coal and coke of coal under section 4(c)(1) of the Export Administration Act of 1969, as amended. This announcement followed by one day the commencement of a United Mine Workers' strike, which began upon the expiration of the union's contract with the Bituminous Coal Operators' Association. Similar monitoring programs were conducted by the Department during the coal strikes of 1974 and 1971. Details of the monitoring program were published in the FEDERAL REGISTER December 12, 1977 (42 FR 62361-2).

Total bituminous coal exports for the week ending December 9 were 679,883 short tons. This level of coal exports is substantially below December weekly exports for prior years. In December 1976, average weekly exports were 1,044,281 short tons and, in December 1975, were 1,023,827 short tons. Export contracts calling for shipment during the next 6 and 12 weeks indicate that, if sufficient coal is available, exports will continue at close to this lower than normal level. The present reduced level of bituminous coal exports reflects the fact that these exports consist primarily of metallurgical grades of coal used in the production of coke, the major energy source in steel-making operations. Reduced steelmaking operations worldwide have resulted in ample stocks of metallurgical coal in most developed countries; and the expectation that foreign steel operations will continue at the

current reduced rate has resulted in decreased purchases of U.S. coal. The low level of exports also reflects, in part, efforts by certain major importing countries within recent years to reduce their dependence on the U.S. for metallurgical coal, by purchasing from other countries, such as Canada, Australia, and the Soviet Union.

Low volatile metallurgical coal is a critical ingredient in the coal mix used to produce coke and usually is the most costly coal variety. If the current coal strike continues for an extended period, shortages of this type of coal will probably be the first to occur, since its production is limited and concentrated predominantly in areas heavily impacted by the U.M.W. strike. Moreover, the strike may lead to increased use of lower than normal grades of coal for coke production, and this in turn could increase the demand for low volatile coal for blending with those lower grades in order to achieve desired coke properties.

During this survey period, 199,136 short tons of low volatile metallurgical coal were exported. Projected export data, based upon contracts outstanding at the end of the week, indicate that this level of exports of low volatile coal will continue if supplies are available to the exporters. In the week under review, Asia was the major geographical area importing low volatile coal, taking 111,525 short tons. The remaining exports were divided almost equally between Europe and the Western Hemisphere. Reported export contracts show that exports to Asia and Europe will continue at about this week's level. However, the shipments to the Western Hemisphere, primarily to Canada via the Great Lakes, are expected to drop as the lakes freeze over to a weekly level of 5,000 short tons, or less. The average export price of this coal, which reflects world prices, was \$60.38. The high and low prices included in this weighted average were \$62.21 and \$52.19, respectively.

Medium volatile metallurgical coal exports for the week were 283,420 short tons, and forward contract data indicate that, with adequate coal availability, this export level will continue. Europe was the primary importing region, with 173,711 short tons, followed closely by Asia, with 102,906 short tons. The Western Hemisphere accounted for 6,803 short tons of medium volatile metallurgical coal exports. The average price of this coal variety was \$53.16, with a high and low price for the week of \$59.90 and \$42.00, respectively. High volatile metallurgical coal exports for the week were 47,055 short tons. This appears to be a relatively low level of exports for this grade of coal, since contracts calling for export during the next three weeks indicate weekly exports of between 129,000 and 297,000 short tons.

This lesser value and quality metallurgical coal faces greater competition from foreign coal producers located closer to the consuming countries. The Western Hemisphere thus accounts for the largest share of U.S. exports of this grade of coal, with significantly lesser quantities being exported to Asia and Europe, where Australian/Chinese and Polish/Russian coal, respectively, are competitive with U.S. production. The average export price of this grade of coal during the week was \$47.76, with a high of \$53.30 and a low of \$43.71.

Other bituminous coal, i.e. steam or boiler coal, is the lowest and least costly grade of bituminous coal. It is also the most readily available and widely consumed grade, being used primarily by electric utilities. Greater foreign availability of this type of coal has resulted in its transportation over the shortest, most economical distance between producer and consumer, with U.S. exports being limited economically to Western Hemisphere destinations. During the week ending December 9, exports of this grade of coal were 129,424 short tons, a somewhat higher figure than projected weekly exports for the next twelve weeks. This comparatively high export level probably reflects power plant stockpiling in anticipation of the current strike. Prices of these coal exports averaged \$35.64. The low was \$33.53. The high of \$38.50 is abnormal, reflecting unusual circumstances applicable to a reported transaction.

Exports of coke of coal during the week were only 3,922 short tons. Future export contracts vary widely, however, ranging between approximately 1,900 and 85,700 short tons. The U.S. is neither a major exporter nor importer of this commodity. Historically, the U.S. exports about 1.3 million short tons of coke of coal per year and imports about 0.2 million short tons. Average prices of U.S. coke exports during the week were \$126.84, with a high and low, respectively, of \$137.79 and \$94.60.

Total bituminous coal imports into the U.S. have historically run about 2.0 million short tons per year (compared to total exports of approximately 60 million short tons) and are not considered significant. Therefore, import data is not being collected on a weekly basis by either the Department of Commerce or the Department of Energy, and weekly import data is not included in this report. Similarly, the Department of Commerce is collecting weekly data on the export of coke, but neither the Department of Commerce nor the Department of Energy is collecting data on coke imports on a weekly basis.

Domestic coal data being developed by the Department of Energy show that total coal production for the



## NOTICES

week ending December 10, was 9,100,000 short tons, a drop of 61 percent as a result of the strike, from 14,798,000 short tons produced the preceding week. Coal consumption for the week ending December 10 showed no significant change from weekly averages for the month of December in the two preceding years. Coal stocks, however, increased significantly over prior years in the categories of both metallurgical coal used by the steel industry and steam coal used by electric utilities and general industry. Total domestic stocks of bituminous coal for the week were calculated by the Department of Energy at 171,925,000 short tons, compared with December month-end stocks, in 1976 and 1975, of 134,172,000 and 126,882,000 short tons, respectively.

The Department of Energy is not collecting data on domestic coal prices on a weekly basis. Therefore, price data on coal (f.o.b. mine) and coke (f.o.b. coke plant) presented in the publication "Coal Week" were selected for inclusion in this report. These data show that low volatile metallurgical coal was selling on the domestic spot market, during the week ending December 10, at \$44-\$51 per short ton, while domestic selling prices under long term contract ranged from \$43-\$50 a short ton. Medium volatile metallurgical coal domestic selling prices on a spot and contract basis were \$31-

\$37 and \$40-\$43 a short ton, respectively. High volatile metallurgical coal spot and contract sales prices in the domestic market were \$29-\$36 and \$31-\$38, respectively. Other bituminous, or steam, coal was priced on the spot market at \$18.87 and, on the contract market, at \$19.12 a short ton. Spot market furnace coke, used in steel plant blast furnaces, was priced at \$85-\$90 per short ton, while spot foundry coke, used in foundry cupolas, was priced at \$129-\$134 short ton. No unusual movement in coal or coke of coal pricing was noted during the week, with domestic prices for all grades of bituminous coal remaining substantially beneath export prices reported on an f.o.b. port of export basis, while coke prices were nearly comparable.

In general, data developed during the first week of coal export monitoring showed that the strike had not yet had an appreciable impact on exports. If the strike continues, coal and coke of coal exports are expected to continue at near their present levels for two or three more weeks, while coal and coke at port in transit to port of export when the strike began is moved out. Thereafter, exports will probably drop significantly.

Tables of exports; export contracts; exports and imports; production, consumption and stocks; and domestic and export prices follow:

## NOTICES

TABLE 1  
U.S. Exports and Contracts for Export of Bituminous Coal  
and Coke of Coal  
(in Short Tons)  
For Week Ending December 9, 1977

Commodity	Exports			Contracts				
	Dec. 1975 Weekly Avg.	Dec. 1976 Weekly Avg.	Nov. 1977 Weekly Avg.	Week Ending 12/9/77	Week Ending 12/16/77	Week Ending 12/23/77	Week Ending 12/30/77	Week Ending 1/6/78
Low Volatile 1/ Metallurgical Coal	n.a.	n.a.	n.a.	199,136	171,958	128,327	118,074	103,178
Medium Volatile 2/ Metallurgical Coal	n.a.	n.a.	n.a.	283,420	313,406	269,874	365,306	159,580
High Volatile 3/ Metallurgical Coal	n.a.	n.a.	n.a.	47,055	129,651	297,132	153,896	31,510
Total Metallurgical Coal	n.a.	n.a.	n.a.	550,459*	659,266**	695,333	637,276	295,268
Other Bituminous Coal	n.a.	n.a.	n.a.	129,424	4/-	-	-	-
Total Bituminous Coal	1,023,827	1,044,281	n.a.	679,883	-	-	-	-
Coke of Coal	16,646	7,287	n.a.	3,922	6,839	2,265	85,698	28,915

Commodity	Week Ending 1/20/78	Next Six Weeks	Total for 12 Weeks
Low Volatile 1/ Metallurgical Coal	103,178	698,202	1,489,095
Medium Volatile 2/ Metallurgical Coal	300,280	1,698,164	3,296,090
High Volatile 3/ Metallurgical Coal	31,510	279,080	954,289
Total Metallurgical Coal	434,968	2,675,446	5,783,725**
Other Bituminous Coal	4/-	-	-
Coke of Coal	1,885	36,451	164,018

- 1/ 22% or less volatile matter  
2/ 31% or less and more than 22% volatile matter  
3/ More than 31% volatile matter

\* Includes 20,848 short tons of metallurgical grade coal not identified as to volatility.

\*\* Includes 44,251 short tons of metallurgical grade coal not identified by volatility.

n.a. - not available

SOURCES: Office of Export Administration, and Bureau of the Census

4/ Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to Section 7 (e) of the Export Administration Act of 1969, as amended.



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NOTICES

TABLE 2  
Exports by Commodity and Area of Destination\*  
Anticipated Exports by Commodity and Area of Destination  
(in Short Tons)  
For Week Ending December 9, 1977

Commodity and Area of Destination	Exports				Contracts				
	Weekly Average Dec. 1975	Weekly Average Dec. 1976	Weekly Average Nov. 1977	Week Ending 12/9/77	Week Ending 12/16/77	Week Ending 12/23/77	Week Ending 12/30/77	Week Ending 1/6/78	Week Ending 1/13/78
Low Volatile 1/ Metallurgical Coal									
Asia			7,458	111,525	96,033	83,049	71,289	71,289	94,289
Europe			43,463	40,893	69,039	41,039	42,546	27,650	67,650
Western Hemisphere			82,956	46,718	6,886	4,239	4,239	4,239	4,239
TOTAL	n.a.	n.a.	133,877 ***	199,136	171,958	128,327	118,074	103,178	166,178
Medium Volatile 2/ Metallurgical Coal									
Asia				102,906	116,557	82,508	99,504	23,304	71,304
Europe				173,711	168,097	167,907	246,433	115,007	99,807
Western Hemisphere				6,803	28,752	19,369	19,369	19,369	19,369
TOTAL	n.a.	n.a.	n.a.	283,420	313,406	269,874	365,306	158,580	190,480
High Volatile 3/ Metallurgical Coal									
Asia				11,331	2,500	68,500	67,040	2,500	2,500
Europe				-0-	15,077	60,077	15,077	17,231	17,231
Western Hemisphere				35,724	112,074	148,555	71,779	11,779	11,779
TOTAL	n.a.	n.a.	n.a.	47,055	129,651	297,132	153,896	31,510	31,510
Total Metallurgical Coal									
Asia				337,151	225,762	215,090	234,147	97,093	168,093
Europe				269,606	214,604	252,213	269,024	304,788	184,688
Western Hemisphere				224,411	110,093**	191,961**	172,163	95,387	25,387
TOTAL	n.a.	n.a.	889,125 ****	550,459**	659,266**	695,333	677,276	293,268	383,168

Commodity and Area of Destination	Contracts		
	Week Ending 1/20/78	Next Six Weeks	Total for 12 Weeks
Low Volatile 1/ Metallurgical Coal			
Asia	71,289	450,734	937,972
Europe	27,650	222,034	487,608
Western Hemisphere	4,239	25,434	51,515
TOTAL	103,178	698,202	1,489,095
Medium Volatile 2/ Metallurgical Coal			
Asia	113,504	833,794	1,340,565
Europe	167,407	754,616	1,726,174
Western Hemisphere	19,369	109,754	235,351
TOTAL	300,280	1,698,164	3,296,090
High Volatile 3/ Metallurgical Coal			
Asia	2,500	105,020	250,560
Europe	17,231	103,386	265,310
Western Hemisphere	11,779	70,674	48,410
TOTAL	31,510	279,080	554,280
Total Metallurgical Coal			
Asia	187,293	1,389,548	2,529,097
Europe	212,288	1,080,036	2,483,092
Western Hemisphere	35,387	205,862	771,536**
TOTAL	434,968	2,675,446	5,783,725**

n.a. - not available

1/ 22% or less volatile matter

2/ 11% or less and more than 22% volatile matter

3/ More than 31% volatile matter

The data in this table is based on information obtained from exporters by the Office of Export Administration subject to the confidentiality provisions of the Export Administration Act of 1969, as amended. In a number of instances only one exporter is involved in exports or contracts for export of a stated commodity to a particular country. Publication of the data by country of destination thus could effectively reveal information required to be held confidential. Accordingly, in order to maintain the confidentiality of the

information supplied by exporters, this data is published by area of destination or by worldwide total rather than by individual country of destination.

\*\* Includes metallurgical grade coal not identified as to volatility.

\*\*\* Partial, in content tons.

\*\*\*\* Incl. 17,957 S/T to other destinations.

Sources: Off. Export Admin., Bureau of Census

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TABLE 2 (Continued)  
Exports by Commodity and Area of Destination\*  
Anticipated Exports by Commodity and Area of Destination  
(in Short Tons)  
For Week Ending December 9, 1977

Commodity and Area of Destination	Exports				Contracts				
	Weekly Average Dec. 1975	Weekly Average Dec. 1976	Weekly Average Nov. 1977	Week Ending 12/9/77	Week Ending 12/16/77	Week Ending 12/23/77	Week Ending 12/30/77	Week Ending 1/6/78	Week Ending 1/13/78
Other Bituminous Coal									
TOTAL	n.a.	n.a.	n.a.	129,424	1/				
Steel Bituminous Coal									
TOTAL	1,023,827	1,044,281	n.a.	679,883					
Coke of Coal									
TOTAL	15,646	7,287	n.a.	3,922	6,839	2,285	85,468	28,915	1,945

Commodity	Contracts		
	Week Ending 1/20/78	Next Six Weeks	Total for 12 Weeks
Other Bituminous Coal			
Coke of Coal	1,885	36,451	164,018

n.a. - not available

\* The data in this table is based on information obtained from exporters by the Office of Export Administration subject to the confidentiality provisions of the Export Administration Act of 1969, as amended. In a number of instances only one exporter is involved in exports or contracts for export of a stated commodity to a particular country. Publication of the data by country of destination thus could effectively reveal information required to be held confidential. Accordingly, in order to maintain the confidentiality of the information supplied by exporters, this data is published by area of destination or by worldwide total rather than by individual country of destination.

1/ Less than 100,000 tons. Due to a limited number of firms reporting this data, precise figures have been withheld to prevent disclosure of information deemed to be confidential pursuant to Section 7(c) of the Export Administration Act of 1969, as amended.

SOURCES: Office of Export Administration, and Bureau of the Census



## NOTICES

TABLE 3

Export Prices of Bituminous Coal and Coke of Coal  
(in \$ per Short Ton)

Commodity	Dec. 1975 Average	Dec. 1976 Average	Nov. 1977 Average	Week Ending December 9, 1977 Weighted Average	High	Low
Low Volatile Metallurgical Coal <sup>1/</sup>	n.a.	n.a.	n.a.	60.38	62.21	52.19
Medium Volatile Metallurgical Coal <sup>2/</sup>	n.a.	n.a.	n.a.	53.16	59.90	42.00
High Volatile Metallurgical Coal <sup>3/</sup>	n.a.	n.a.	n.a.	47.76	53.30	43.71
Total Metallurgical Coal	n.a.	n.a.	53.84	55.39*	62.21	42.00
Other Bituminous Coal	n.a.	n.a.	35.01	35.64	58.50**	33.53
Total Bituminous Coal	49.24	49.76	50.99	51.51*	62.21	33.53
Coke of Coal	62.91	83.75	79.70	126.84	137.79	94.60

<sup>1/</sup> 22% or less volatile matter

<sup>2/</sup> 31% or less and more than 22% volatile matter

<sup>3/</sup> more than 31% volatile matter

\* Excludes 44,251 tons for which price data is not available

\*\* This figure is not characteristic of the price of this commodity due to exceptional circumstances applicable to a reported transaction.

n.a. - not available

SOURCES: Office of Export Administration, and  
Bureau of the Census

TABLE 4

U.S. Trade in Bituminous Coal and Coke of Coal  
(in Short Tons)  
For Week Ending December 9, 1977

	Weekly Average Dec. 1975	Weekly Average Dec. 1976	Nov. 1977 Weekly Avg.	Week Ending 12/09/77
<b>IMPORTS</b>				
Bituminous Coal <sup>1/</sup>	20,097	21,452	31,158	n.a.
Coke of Coal	20,774	28,903	41,267	n.a.
<b>EXPORTS</b>				
Bituminous Coal <sup>1/</sup>	1,023,827	1,044,281	1,047,451	679,883
Coke of Coal	16,646	7,287	33,179	3,922

<sup>1/</sup> includes both metallurgical grade and steam coal

n.a. - not available

SOURCES: Office of Export Administration, and  
Bureau of the Census

## NOTICES

Table 5

Bituminous Coal and Coke of Coal\* Production, Consumption, and Stocks (in 1,000 short tons)  
For Week Ending December 10, 1977

	Dec. 1975 Weekly Avg.	Dec. 1976 Weekly Avg.	Nov. 1977 Weekly Avg.	Week Ending Dec. 10, 1977
Total Bituminous Coal Production**	12,019	12,593	14,798	9,100
Consumption				
Metallurgical***	1,519	1,568	NA	1,290
Other Bituminous				
Electric Utility	8,414	9,387	NA	9,228
General Industry	1,358	1,421	NA	1,330
Total Other	9,772	10,808	NA	10,558
Total Bituminous	11,291	12,376	NA	11,848
Bituminous Coal Stocks (End of Specified Periods)				
Metallurgical***	8,671	9,804	NA	14,634
Other Bituminous				
Electric Utility	109,707	117,468	NA	147,796
General Industry	8,504	6,900	NA	9,495
Total Other	118,211	124,368	NA	157,291
Total Bituminous	126,882	134,172	NA	171,925

\* Data on coke of coal production, consumption, and stocks are not available on a weekly basis.

\*\* More detailed production data are not available.

\*\*\* More detailed data in terms of volatile content are not available.

Data source - Department of Energy.

Table 6

Representative Domestic Prices of Bituminous Coal and Coke of Coal  
(\$/short ton f.o.b. Mine or Coke Plant)  
For Week Ending December 10, 1977

	December 1975		December 1976		November 1977		Week Ending December 10, 1977	
	Spot	Contract	Spot	Contract	Spot	Contract	Spot	Contract
Metallurgical Coal								
Low Volatile	46.38	NA	33/50	45.75/49.50	42/51	43/50	44/51	43/50
Medium Volatile		NA	28/33	40/46.50	31/37	40/43	31/37	40/43
High Volatile		NA	27/33	34/40	29/36	31/38	29/36	31/38
Other Bituminous Coal	17.37	NA	16.12	17.37	18.75	18.81	18.87	19.12
Coke								
Furnace	NA	NA	85/97	NA	85/90	NA	85/90	NA
Foundry	110/117	NA	121/125	NA	129/132.50	NA	129/134	NA

Source: McGraw-Hill's "Coal Week".

Prices shown for the years 1975 and 1976 represent single quotes selected at random, as does the price shown for November 1977. Metallurgical coal source is Central Appalachia. Prices for "other bituminous coal" are averaged from Northern Appalachian steam coal quotes.

DECEMBER 9, 1977.

S. STANLEY KATZ,  
Acting Assistant Secretary, for Industry and Trade.

[FR Doc. 78-1408 Filed 1-19-78; 8:45 am]



2916

[3510-22]

National Oceanic and Atmospheric  
Administration

NEW ENGLAND FISHERY MANAGEMENT  
COUNCIL

Public Meeting

The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet February 8-9, 1978, at the Holiday Inn, junction of Routes 1 and 128, Peabody, Mass. The meeting starts at 10 a.m. on February 8th and adjourns at approximately 5 p.m.; on February 9th starts at 9 a.m. and adjourns at approximately 5 p.m.

PROPOSED AGENDA

(1) Groundfish Plan for 1978; (2) Herring Plan for 1978; the Council will schedule a public hearing at 1:30 p.m., February 9, 1978, during its regular meeting to receive public comment on the proposed herring management plan seasonal and real quotas; and (3) other business.

Meeting is open to the public. For more information on seating, changes to the agenda, or written comments, contact Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Mass. 01960, telephone: 617: 535-5450.

Dated: January 17, 1978.

WINFRED H. MEIBOHM,  
Associate Director,  
National Marine Fisheries  
Service.

[FR Doc. 70-1602 Filed 1-19-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM  
THE BLIND AND OTHER SEVERELY  
HANDICAPPED

PROCUREMENT LIST 1978

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 22, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely

NOTICES

Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1978, November 14, 1977 (42 FR 59015):

CLASS 1440

Circuit card Assembly, 1440-00-454-8574.

E. R. ALLEY, Jr.,  
Acting Executive Director.

[FR Doc. 78-1616 Filed 1-19-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Proposed Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletion from the procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 services provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 22, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following services from Procurement List 1978, November 14, 1977 (42 FR 59015):

SIC 7349

Janitorial/Custodial, National Marine Fisheries Complex, 2725 Montlake Boulevard East, Seattle, Wash., for the West, Central, East, and Pilot Plant Buildings; and the Behavior Laboratory.

SIC 7641

Furniture Rehabilitation, Rickenbacker Air

Force Base, Columbus, Ohio; Wright-Patterson Air Force Base, Dayton, Ohio.

E. R. ALLEY, Jr.,  
Acting Executive Director.

[FR Doc. 78-1617 Filed 1-19-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletion from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1978 a service provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 20, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On November 28, 1977, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 FR 60587) of proposed deletion from Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following service is hereby deleted from Procurement List 1978:

SIC 7542

Vehicle Detailing, Duluth, Minn., plus 10-mile radius.

E. R. ALLEY, Jr.,  
Acting Executive Director.

[FR Doc. 78-1618 Filed 1-19-78; 8:45 am]

[6820-33]

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by workshops for the blind or other severely handicapped.

NOTICES

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Dated: January 16, 1978.

FRANCIS C. CADIGAN, Jr.,  
Colonel, MC,

Director, Biomedical Laboratory.  
[FR Doc. 78-1649 Filed 1-19-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

VOLUNTARY AGREEMENT AND PLAN OF  
ACTION TO IMPLEMENT THE INTERNATIONAL  
ENERGY PROGRAM

Meetings

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94-163), notice is hereby provided of the following meetings:

A meeting of Subcommittee A of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on January 23, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks.
2. Finalize proposed test guide for Allocation Systems Test-2 (AST-2) including:
  - (a) Review comments on preliminary guide made by Reporting Companies and National Emergency Sharing Organizations (NESOs).
  - (b) Review items covered in Exxon telex dated December 22, 1977, to IEA Secretariat.
  - (c) Handling of base period final consumption.
3. Review Gulf proposal for data to be used by the Industry Supply Advisory Group (ISAG) in AST-2.
4. Review ISAG work procedures in evaluating Phase 2 offers in AST-2.
5. Review ISAG data formats.
6. Review reference materials required by ISAG in AST-2.
7. Future work program.
  - (a) Plans for NESO and Reporting Company briefing meetings—schedule, agenda, participation and responsibility.
  - (b) Schedule for other meetings required prior to AST-2.
  - (c) Tentative schedule of meetings required following AST-2.

A meeting of Subcommittee A of the Industry Advisory Board to the International Energy Agency (IEA) will be held on January 24 and 25, 1978, at the offices of Exxon Corp., 1251 Avenue of the Americas, New York, N.Y., beginning at 9 a.m. on January 24. The agenda is as follows:

1. Opening remarks.
2. Approve proposed final test guide for AST-2.
3. Review items related to AST-2.
  - (a) Proposed data to be used by ISAG.
  - (b) Status of government legal clearances required.
  - (c) ISAG work procedures for evaluation of Phase 2 offers.
  - (d) ISAG data formats.
  - (e) Reference material required by ISAG.
  - (f) Plans for Reporting Company/NESO briefing meetings.

4. Review Secretariat proposal for revised handling of base period final consumption.
5. Future work program.

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on January 26, 1978, at the offices of Mobil Oil Corp., 150 East 42nd Street, New York, N.Y., beginning at 9:30 a.m. The agenda is as follows:

1. Opening remarks by Chairman including:
  - (a) Communications to and from IEA.
  - (b) Report on meeting of the Standing Group on Emergency Questions (SEQ) of December 13, 1977.
2. Matters arising from record note of IAB meeting on December 1, 1977.
3. Position of Reporting Companies under:
  - (a) EEC competition regulations.
  - (b) U.S. Voluntary Agreement.
4. Report by IEA Secretariat on status of National Emergency Sharing Organizations (NESOs).
5. Report on and discussion of work of Subcommittee A, including:
  - (a) Spring 1978 Allocations Systems Test, including:
    - i. Approval of final test guide and associated procedures.
    - ii. Review of clearances required for data seen by ISAG members.
    - iii. Review of status of other governmental or legal clearances required for AST-2.
    - iv. Future work program.
  - (b) Review of IEA Secretariat's revised proposal for handling base period final consumption data.
6. Report on and discussion of work of Subcommittee C, including:
  - (a) Extraordinary and additional costs.
  - (b) Settlement of disputes.
  - (c) Pricing in an emergency.
  - (d) Membership of subcommittee.
7. Report on Industry Supply Advisory Group (ISAG).
8. Dates and venues of future meetings of IAB and subcommittees.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. As provided by section 209.32 of DOE regulations, IEP requirements and anticipated procedural delays in processing this notice require the usual seven day notice period to be shortened.

Issued in Washington, D.C., January 18, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

[FR Doc. 78-1922 Filed 1-19-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

SYSTEM TO MONITOR NO. 2 (HOME)  
HEATING OIL PRICES

Notice of Adoption

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of adoption of monitoring system.



**SUMMARY:** The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby announces the adoption of a system to be used by ERA to monitor No. 2 heating oil (also referred to as home heating oil) prices during the current heating season (November 1977 through March 1978). The Energy Information Administration ("EIA") of DOE will conduct a survey of sellers of No. 2 heating oil to obtain information on actual prices and gross margins for the refining, wholesaling and retailing sectors and will publish such information monthly. During the current heating season ERA will review this price information and any other available information on the marketing of No. 2 heating oil to determine whether any further regulatory actions are appropriate. DOE will task a subcommittee of its Fuel Oil Marketing Advisory Committee, comprised of representatives from ERA, industry, consumers and State Energy Offices, to advise and assist ERA in its evaluation of the marketing of No. 2 heating oil during the current heating season.

To assist in the evaluation of price increases to nonultimate consumers at the refining level, an index estimating what price levels would have been allowed under continued price controls will be computed and published monthly. To assist in the evaluation of price increases at the wholesaling and retailing levels, ERA will develop benchmark margins for No. 2 heating oil at the wholesaling and retailing levels which will reflect the marketing costs and allow sufficient margins to further the objectives of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159, "EPAA"). DOE will hold a public evidentiary hearing in August 1978 to consider the need for further regulatory action with regard to No. 2 heating oil in light of all available information. In order to ensure that consumer interests are adequately represented at the hearing, representatives of consumer interests are invited to submit applications to the DOE Office of Administrative Review of the ERA for financial assistance to facilitate their participation.

**ADDRESSES:** Send complaints to: Middle Distillate Complaint Section, Office of Fuels Regulation, Economic Regulatory Administration, Department of Energy, Room 6222, 2000 M Street NW., Washington, D.C. 20461, Telephone: Washington, D.C. metropolitan area, Alaska, and Hawaii: 202-254-8583, all other areas 800-424-8002. Send petitions for intervenor funding to Office of Administrative Review, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Washington, D.C. 20461, 202-254-5134.

**FOR FURTHER INFORMATION CONTACT:**

Ed Villade (Media Relations), Department of Energy, 12th & Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Gerald P. Emmer (Office of Petroleum Allocation), Economic Regulatory Administration, 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202-254-7200.

Ben McRae (Office of General Counsel), Department of Energy, 12th & Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202-566-9565.

Paul Burke (Office of Fuels Regulation), Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461, 202-254-5338.

William C. Gillespie (Prices, Costs, and Marketing Branch), Energy Information Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9307.

#### SUPPLEMENTARY INFORMATION:

##### I. BACKGROUND

##### II. DISCUSSION OF COMMENTS

##### III. MONITORING SYSTEM ADOPTED

###### A. COLLECTION OF DATA

###### B. PUBLICATION OF DATA

###### C. EVALUATION OF REFINING, WHOLESALING AND RETAILING SECTORS

1. Refining sector.
2. Wholesaling and retailing sectors.
3. Complaints from the public.
4. Evidentiary hearing.
5. Intervenor funding.

###### D. REMEDIAL ACTIONS

1. Audits.
2. Hearings.
3. Further measures.
4. Reimposition of controls.

##### I. BACKGROUND

Following the July 1, 1976 exemption of middle distillates, including No. 2 heating oil and No. 2-D diesel fuel, from price and allocation controls (41 FR 24518, June 16, 1976), the Federal Energy Administration ("FEA") instituted a system which monitored the actual average prices of No. 2 heating oil to ultimate consumers and No. 2-D diesel fuel to ultimate consumers for on-highway use on a national and regional level (41 FR 41155, September 21, 1976; 42 FR 9415, February 16, 1977). Pursuant to a commitment given to Congress for the 1976-77 heating season, FEA compared these prices against indices which FEA had developed as estimates of what the national and regional prices of No. 2 heating oil to ultimate consumers and No. 2-D diesel fuel to ultimate consumers for on-highway use would have been if regulatory controls were still in effect, plus a flexibility factor of two

cents per gallon. FEA published both the actual prices and the index prices.

In July and August 1977, FEA held regional and national hearings at which consideration was given to what action, if any, should be undertaken with respect to middle distillate prices. In light of the statements presented at these hearings and written comments received with regard to this matter, FEA determined not to reimpose price controls on middle distillates, but to continue the monitoring of middle distillate prices so that the Agency would possess the information with which to determine what further action, if any, would be appropriate with regard to middle distillates.

On September 30, 1977 (42 FR 54444, October 6, 1977), FEA issued a proposed system to monitor middle distillate prices. Under this system, FEA would have continued to survey the prices of No. 2 heating oil and No. 2-D diesel fuel. However, since prior hearings and written comments had indicated that the greatest concern of consumers related to residential prices of No. 2 heating oil, FEA proposed calculation and publication of national and regional indices only for residential sales of No. 2 heating oil. These indices would have been calculated in the same manner as the indices for No. 2 heating oil during the 1976-77 heating season except that only residential prices would have been estimated as though controls had been continued and the calculation mechanism would have been refined to reflect criticisms that had been made of specific components thereof.

On October 17 and 20, 1977, regional hearings on this proposed system were held in Boston, Chicago and New York. On October 19 and 20, 1977, a national hearing was held in Washington, D.C. Written comments were requested by October 21, 1977. Following an analysis of the statements made at the hearings and of the written comments, representatives of DOE (which, effective October 1, 1977, had assumed the functions of FEA) met with representatives of the industry, of consumer groups and of the general public in an effort to identify their concerns more precisely. On December 5, 1977, the DOE Fuel Oil Marketing Advisory Committee submitted its extensive White Paper on the competitive viability of independent fuel oil marketers.

##### II. DISCUSSION OF COMMENTS

In their comments, retailers contended that the market for retail sales of No. 2 heating oil is highly competitive. Retailers generally opposed any index that reflected DOE's calculation of hypothetically controlled prices at the retail level on the grounds that such a system would threaten the economic viability of many retailers by focusing too much public attention on

retail sales and by forcing the freezing of retail margins at an unrealistically low figure. They stated that the monitoring of actual prices at each market level would give DOE adequate information. In addition, retailers commented unfavorably on the reporting burden which the proposed monitoring system would place on them.

Refiners opposed the proposed monitoring system as unnecessary in light of the performance of the industry during the 1976-77 heating season. Moreover, several difficulties with the calculation of the index contained within the proposed system were asserted. Several refiners also indicated that they would prefer a system which would furnish the public with the average prices charged at different market levels.

Consumer groups generally supported the proposed monitoring system as an improvement over the system employed during the last heating season, especially with regard to its emphasis on residential sales and the use of smaller geographic regions. They indicated preference, however, for a system which would produce information of a more current and localized nature with regard to actual prices and stated that the proposed system would not provide sufficient data for distribution levels other than the retail level. They also contended that an analysis based on the margins of firms at each distribution level would provide a more valid indication of possible abuses than a comparison of actual prices against the proposed index at the retail level.

##### III. MONITORING SYSTEM ADOPTED

Based on all the information available, DOE has determined that a program of continued and expanded monitoring of No. 2 heating oil is needed. Accordingly, DOE will implement a program designed to monitor each level of the No. 2 heating oil distribution system—refining, wholesaling, and retailing. Monitoring will be effectuated through a number of approaches. Whenever any element of this process of gathering and evaluating information on the marketing of No. 2 heating oil produces a finding that regulatory action is necessary to achieve the objectives of the EPAA, DOE will undertake appropriate action. This program for monitoring and evaluating the performance of refiners, wholesalers and retailers with regard to the marketing of No. 2 heating oil has been established only for the 1977-1978 heating season. Any program for future heating seasons will be considered in light of the findings on this heating season.

###### A. COLLECTION OF DATA

To insure that ERA has sufficient information on the prices charged for

No. 2 heating oil so that it might determine what action, if any, is appropriate, EIA will collect information with regard to the prices of No. 2 heating oil through the utilization of the following forms: (1) Form P-302-M-1 which surveys all refiners and all resellers and retailers who derive \$50 million or more in annual revenues from the sale of petroleum products to determine the amounts sold and the weighted average selling prices for various petroleum products, including No. 2 heating oil, sold at the wholesaling and retailing levels by the reporting firms; (2) Form P-110-M-1 which surveys all refiners to determine the monthly allocation to covered products of increased costs over the base period for calculating the appropriate cost pass through under the regulations; and (3) Form P-112-M-1 which surveys a scientifically selected sample of firms which sell No. 2 heating oil to determine the cost of purchased product, the selling price and the amounts of No. 2 heating oil sold to various categories of buyers by the reporting firms. Form P-302-M-1 is being revised to require disclosure of the percentage of the volume of total refinery output accounted for by No. 2 heating oil, and more complete information on refiners' non-product costs.

###### B. PUBLICATION OF DATA

DOE believes that both industry and consumers will find the information reported to DOE valuable in evaluating the performance of market forces in establishing the prices charged for residential sales of No. 2 heating oil. Therefore, after EIA has compiled these data, it will publish a summary of its findings with regard to average sales prices and average gross margins at the refining, wholesaling, and retailing levels. This summary will enable consumers to determine the degree to which any increases in price reflect changes in product costs or increases in gross margins. (In any analysis based on gross margins, it should be recognized that average gross margins do not reflect average net profits of said firms, since a firm's average gross margin generally includes various cost elements, such as transportation, storage, wages, insurance, interest expenses, services, etc.) Publication of the summary will necessarily occur two months after the month to which the findings pertain, to allow for the reporting, verification and compilation of the data.

For sales of No. 2 heating oil to non-ultimate consumers by refiners, DOE will publish for the nation and each DOE region (1) the actual average price, (2) the range of prices, and (3) the average gross margin (i.e., the weighted average of the difference between selling prices for sales to non-ultimate consumers and the weighted

average cost of crude oil and purchased product for each refiner; Appendix I contains a more detailed explanation of the calculation of this gross margin).

For sales of No. 2 heating oil to non-ultimate consumers (i.e., resellers, retailers, and reseller/retailers) by non-refiners, DOE will publish for the nation and each DOE region (1) actual average prices, (2) the range of prices, and (3) the average gross margin (i.e., the weighted average of the difference between selling prices for sales to non-ultimate consumers and the weighted average cost of purchased product for each non-refiner; Appendix II contains a more detailed explanation of the calculation of this gross margin).

For residential sales of No. 2 heating oil, DOE will publish for the nation, each DOE region and those states with significant sales of residential No. 2 heating oil (a list of which appears in Appendix V) (1) the actual average prices, (2) the range of prices, and (3) the average gross margin for non-refiner firms selling to residential users (i.e., the weighted average of the difference between the residential selling price and the weighted average cost of purchased product for each non-refiner; Appendix III contains a more detailed explanation of the calculation of this gross margin).

DOE recognizes the value of information of a more current and localized nature regarding actual average prices for residential sales of No. 2 heating oil than that which DOE will collect. To that end, DOE has established a pilot program assisting the New England States in pursuing alternative methods of monitoring residential heating oil prices on either a weekly or biweekly basis during the current heating season. These efforts are designed to identify and test methods to be utilized by State Energy Offices in developing price monitoring systems to meet their own state needs. States participating include Vermont, Connecticut, Massachusetts, Rhode Island, New Hampshire, and Maine.

###### C. EVALUATION OF REFINING, WHOLESALING AND RETAILING SECTORS

1. *Refining sector.* DOE will evaluate the available information on prices charged by refiners for sales of No. 2 heating oil to non-ultimate consumers so that possible unjustified price increases can be identified and appropriate action taken. To aid in this evaluation of prices at the refining level for sales to non-ultimate consumers, DOE will establish an index for the nation and each DOE region which will estimate what price levels would have been allowed under the provisions of 10 CFR 212.83 if price controls had been continued. The indices will be based on June 1977 instead of May 1973) prices adjusted to reflect



changes in crude oil, non-product and purchased product costs, computed in the same manner as in 10 CFR 212.83, plus cost increases not recouped between June 1977 and the month to which the indices refer. (Appendix IV contains a more detailed explanation of these indices.) DOE will compare against these indices the corresponding actual average prices for sales of No. 2 heating oil to non-ultimate consumers by refiners. In order to assist the industry and the public in evaluating the published information on refiner prices, DOE will publish on a national and regional basis the index prices for refiner sales of No. 2 heating oil.

The Office of Fuels Regulation of ERA will analyze refiner prices and gross margins throughout the current heating season, and will present this analysis to a subcommittee of the Fuel Oil Marketing Committee ("Subcommittee"), comprised of representatives of industry, consumer groups, state energy offices, and DOE, established to advise the Office of Fuels Regulation on the evaluation of the marketing of No. 2 heating oil during the current heating season. The Subcommittee will assist the Office of Fuels Regulation in the analysis of refiner prices and gross margins throughout the current heating season. DOE will make available data from its present refinery audit program, and ERA Office of Enforcement or the Office of Special Counsel for Compliance may initiate refinery audits either on their own initiative, or in response to requests by the Subcommittee, State Energy Offices or complaints to DOE.

2. *Wholesaling and retailing sectors.* Section 4(b)(1) of the EPAA sets forth the objectives to be achieved with regard to the allocation and pricing of petroleum products. In order to establish more clearly whether these objectives are being achieved with regard to No. 2 heating oil, the Office of Fuels Regulation will study the marketing of No. 2 heating oil by wholesalers and retailers during the current and prior heating seasons so that trends within the heating oil industry can be identified and their impact on the goals of the EPAA can be analyzed. Inasmuch as the policy stated in section 4(b)(1) of the EPAA contemplates more than equitable price levels, such study will include not only the causes of any price increases for No. 2 heating oil, but also the nature and intensity of competition in the heating oil market and the economic viability of various sectors of that market. Copies of the DOE Fuel Oil Marketing Advisory Committee White Paper analyzing the competitive viability of independent marketers will be available to the public through the Office of Fuels Regulation.

Although this study by the Office of Fuels Regulation will yield a compre-

hensive analysis of the factors which influence the marketing of No. 2 heating oil by wholesalers and retailers, DOE believes that the wholesale and retail marketing of No. 2 heating oil should be evaluated on a continuous basis throughout the current heating season so that appropriate regulatory actions can be considered on a timely basis. The effectiveness of any action by DOE during the heating season will be dependent on the length of time necessary for an identification and evaluation of indicators of whether the objectives of the EPAA are being achieved. If the marketing of No. 2 heating oil is subject to an event, such as an embargo on foreign crude oil, resulting in a large increase in prices charged for No. 2 heating oil, which is not justified by corresponding increases in product and non-product costs, DOE will immediately undertake the necessary regulatory response, including reimposition of controls. With regard to events for which the causes and effects are not so clear, DOE will not undertake regulatory action without the verification and evaluation of data concerning those events.

The information collected and verified by EIA with regard to prices charged for No. 2 heating oil may indicate possible frustration of the objectives of the EPAA. The timely utilization of this information, however, requires fair benchmarks against which the information can be compared. Therefore, the Office of Fuels Regulation will develop benchmark margins at the wholesaling and retailing levels for the nation and DOE regions for each month of the current heating season. Development of these benchmark margins will seek to accommodate the recoupment of all increased product and non-product costs and allow margins appropriate to the objectives of the EPAA, including preserving the competitive viability of independent marketers.

To insure a balanced analysis of each month's information, the Office of Fuels Regulation will present to the Subcommittee, by the fifteenth day of the month in which EIA publishes survey data on the price of No. 2 heating oil during a particular month of the current heating season, the following information: (1) the initial analysis of published data; (2) identification of distribution levels and/or regions where the data indicate potential unreasonable margin increases; (3) preliminary benchmark margins utilized in its analysis; and (4) the factors included in determining such benchmark margins. The Subcommittee will convene to consider this presentation from the Office of Fuels Regulation. ERA will choose a disinterested mediator who shall guide the discussion so that proper consideration shall be

given to the views of each Subcommittee member and qualified nonmember with regard to the cost elements to be considered in determining appropriate benchmarks and the relationship between such benchmarks and actual surveyed gross margins. The Subcommittee will then forward to the Office of Fuels Regulation its recommendations with respect to the reasonableness of gross margins for any particular distribution level or region of the nation. Moreover, the Subcommittee may suggest to the Office of Fuels Regulation the need for audits, conferences, or hearings to clarify discrepancies between actual average prices and benchmarks or to determine the actual wholesaler or retailer costs with regard to a specific item in the benchmark calculation.

After the conclusion of the Subcommittee meeting, the Office of Fuels Regulation will hold a public hearing to allow public comment on the reasonableness of No. 2 heating oil prices and the degree of competition and the viability of the retailing and wholesaling sectors, using the most recently published survey data by EIA on prices of No. 2 heating oil as the basis for such hearings. It is anticipated that the Subcommittee or members thereof may participate in these hearings.

Based on the results of the Subcommittee meeting, public hearings, analyses undertaken as a result of Subcommittee recommendations, and other action undertaken by DOE, the Office of Fuels Regulation will make and publish reports for each month of the heating season. These reports will detail the current status of the development of procedures to construct benchmarks for analyzing the reasonableness of No. 2 heating oil prices at the retailing and wholesaling levels and set forth actual average prices and actual average gross margins as well as benchmark margins for the latest month with regard to which EIA has published information on prices of No. 2 heating oil. A final report will be made on or before June 30, 1978, detailing procedures for the calculations of benchmarks for No. 2 heating oil at the wholesaling and retailing levels and containing benchmarks for each month of the current heating season based upon this procedure.

Moreover, DOE will request the Office of Enforcement to conduct audits of individual wholesalers and retailers in response to requests by the Subcommittee, State Energy Offices, or a significant number of complaints against a particular firm. DOE may also select firms for audit on a basis independent of their inclusion or exclusion for the list of firms which must file Form P-112-M-1.

If an audit discloses that a firm has a gross margin substantially in excess

of its historical gross margin and the gross margin currently employed in calculating the benchmark for that particular distribution level or region, DOE will promptly schedule a conference with that firm to determine whether the firm is charging excessive prices. DOE will attempt to negotiate a remedial course of action with respect to any entity which is found to be charging excessive prices. Moreover, as a result of such audits, DOE may undertake audits and hold hearings concerning the distribution level and/or region or particular area which contains the firm(s) potentially charging excessive prices to determine whether controls should be reimposed upon the particular distribution level and/or region.

3. *Complaints from the public.* To insure the achievement of all of the objectives of EPAA, DOE hereby establishes a mechanism to receive and evaluate complaints from individuals, organizations or State Energy Offices concerning the marketing of No. 2 heating oil. Complaints with respect to prices charged by refiners, wholesalers and retailers should be addressed to: Middle Distillate Complaint Section, Office of Fuels Regulation, Economic Regulatory Administration, Department of Energy, Room 6222, 2000 M Street NW., Washington, D.C. 20461; Telephone: Washington, D.C. metropolitan area, Alaska and Hawaii, 202-254-8583; all other areas, 800-424-8002.

4. *Evidentiary Hearing.* In July 1978, the Office of Fuels Regulation will publish its preliminary findings regarding the reasonableness of No. 2 heating oil prices during the 1977-78 heating season. In August 1978, the Office of Administrative Review will hold an evidentiary hearing to evaluate the performance of all levels of distribution of the heating oil industry and the need for any further regulatory action. The preliminary findings of the study of the marketing of No. 2 heating oil during the current and prior heating seasons by the Office of Fuels Regulation, the June report of the Office of Fuels Regulation on benchmarks for the 1977-78 heating season, and any other information obtained during the 1977-78 heating season will be considered at this hearing. The hearing will be conducted in a manner designed to test the validity of all data and conclusions introduced therein, including cross examination and rebuttal. Petitions which request specific administrative action by DOE with regard to the manner in which the evidentiary hearing will be conducted, or any other matter which bears on the hearing, should be filed with the Office of Administrative Review. With regard to the evaluation of the need for further regulatory action, actual average gross margins in

excess of the corresponding benchmarks contained in the final report will create the presumption of a need for further regulatory action. After consideration of the testimony, written comments and other available information, the Office of Administrative Review will transmit its findings to the ERA for a determination by the Administrator as to what further regulatory action, if any, is needed.

5. *Intervenor funding.* In order to ensure that consumer interests are adequately represented at the evidentiary hearing, any non-profit organization whose principal function involves the furtherance of consumer interests may submit an application for financial assistance to the Office of Administrative Review. An application to receive financial assistance to enable the organization to participate in the hearing should be filed in the form of a Petition for Special Redress. Each petition of this type should contain a detailed description of the purposes and functions of the organization which requests financial assistance and should indicate whether the organization operates on a non-profit basis. The Petition should also contain a description of the type of information which the petitioner plans to present at the hearing and the reasons why the petitioner's involvement in the hearing will substantially contribute to a full and fair determination of the complex and important issues to be considered in that proceeding. A budget which itemizes the expenses that the petitioner projects it will incur in order to present its position to the DOE should also be included. Finally, the Petition should be accompanied by documentation which establishes that unless the requested financial assistance is provided the organization involved will be unable to bear the costs of participating in the proceedings. The Petition must be filed with the Office of Administrative Review on or before February 21, 1978. The following Decision and Orders may be consulted for guidance as to the principles which have been applied in the past to applications for financial assistance of this type. *Consumers Union of United States, Inc.*, 5 FEA ¶ 87,014 (February 18, 1977), Supplemental Order, 5 FEA ¶ 87,014 (March 17, 1977); *Consumer Federation of America*, 5 FEA ¶ 87,034 (April 15, 1977), 5 FEA ¶ 87,040 (May 6, 1977), 5 FEA ¶ 87,051 (June 10, 1977).

#### D. REMEDIAL ACTIONS

If the analysis of the information supplied by any element of the monitoring system indicates that some price increases for No. 2 heating oil might be unjustified, ERA will undertake appropriate actions with regard to No. 2 heating oil which may include:

1. *Audits.* DOE may, at any time, conduct audits of firms to obtain more detailed information than the monitoring system provides. Firms will be selected for auditing on a basis independent of their inclusion or exclusion from the list of firms which must file Form EIA-9. The information obtained from these audits will be utilized to develop a more comprehensive background on the various factors which influence the price levels for No. 2 heating oil.

In order to have the capability to pursue audits on a timely basis, DOE will complete standby audit plans and designate standby audit groups which will allow such a "quick reaction" capability.

2. *Hearings.* ERA will hold public hearings throughout the current heating season to examine the factors which influence price levels for home heating oil. Such hearings may focus on the entire industry or on a particular market level and/or region. If appropriate, public hearings and audits will be coordinated to insure the inclusion of audit findings in the hearing records. Moreover, no later than August 1978, ERA will hold an evidentiary hearing to evaluate the performance of the industry during the 1977-78 heating season in light of the objectives of section 4(b)(1) of the EPAA and the effectiveness of the monitoring system.

3. *Further Measures.* DOE recognizes that there are other intermediate actions which may be more effective than audits or hearings. If there are significant price increases at any market and/or regional level, ERA may suggest price restraint on a voluntary basis for the appropriate sectors of the industry concerned. If it appears that the degree of voluntary price restraint is insufficient to achieve the goals of the EPAA, DOE will consider reimposition of controls.

4. *Reimposition of Controls.* Unless there is a strong showing that immediate reimposition of partial or complete controls is required to achieve the objectives of the EPAA during the current heating season, taking into account the possible dislocations that might result, ERA would not consider reimposition of controls until possibly the following heating season. Furthermore, ERA may reimpose controls on the entire industry or only on a particular market level and/or region.

In this regard, to the extent that market forces may in some instances be inadequate to restrain prices, ERA believes that individual firms should not be encouraged to charge prices that reflect excessive margins in the belief that excessive revenues obtained during a period of decontrol would be permitted to be retained following the reimposition of controls. Accordingly, should reimposition of controls



become necessary, ERA may require such firms to demonstrate that prices charged during the period of decontrol did not reflect excessive margins. To the extent that firms are found to have charged prices that reflect excessive margins, ERA may (following the reimposition of controls) require such firms to make adjustments to prices to reflect revenues received during the period of decontrol, which are found to have resulted from prices unreasonably in excess of those sufficient to insure the survival of the firm as an economically viable and competitive entity, and reflective of a competitive market place.

Issued in Washington, D.C., January 13, 1978.

JOHN F. O'LEARY,  
Deputy Secretary,  
Department of Energy.

#### APPENDIX I.—GROSS MARGIN FOR REFINERS' SALES TO NONULTIMATE CONSUMERS

$$M_n = \frac{\sum_{i=1}^n \sum_{t=1}^m \frac{P_{ni} - C_{ni}}{P_{ni}} \cdot \frac{V_{ni}}{V_{ni}}}{\sum_{i=1}^n \sum_{t=1}^m \frac{V_{ni}}{V_{ni}}}$$

Where:

$M_n$  = Refiners' average gross margin for sales of No. 2 heating oil to nonultimate consumers.

$P_{ni}$  = Average selling price for the  $i$ th refiner in month  $t$  for all sales of No. 2 heating oil to nonultimate consumers reported on Form EIA-9.

$C_{ni}$  = Average per unit cost of crude oil purchased by the  $i$ th refiner in month  $t$  reported on Form P-110.

$V_{ni}$  = Ratio of purchases of No. 2 heating oil to total sales of No. 2 heating oil by the  $i$ th refiner in month  $t$ . If purchases are greater than sales, then  $V_{ni} = 1$ .

$C_{ni}$  = Average per unit cost of No. 2 heating oil purchased by the  $i$ th refiner in month  $t$  reported on Form EIA-9.

$N_i$  = Volume of sales of No. 2 heating oil to nonultimate consumers in month  $t$  by the  $i$ th refiner as reported on Form EIA-9.

$m$  = Number of refiners with sales to nonultimate consumers as reported on Form EIA-9.

This formula refers to the national average gross margin for sales of refiners to nonultimate consumers. Regional margins would be calculated by using average prices derived for the given region.

#### APPENDIX II.—GROSS MARGIN FOR WHOLESALERS' SALES TO NONULTIMATE CONSUMERS

$$M_w = \frac{\sum_{i=1}^n \sum_{t=1}^m \frac{P_{wi} - C_{wi}}{P_{wi}} \cdot \frac{V_{wi}}{V_{wi}}}{\sum_{i=1}^n \sum_{t=1}^m \frac{V_{wi}}{V_{wi}}}$$

where:

$M_w$  = Wholesalers' (i.e., nonrefiners) average gross margin for sales of No. 2 heating oil to nonultimate consumers in month  $t$ .

$P_{wi}$  = Average selling price for all sales of No. 2 heating oil by the  $i$ th nonrefiner to nonultimate consumers in month  $t$  as reported on Form EIA-9.

$C_{wi}$  = Average per unit cost of No. 2 heating oil purchased by the  $i$ th nonrefiner in month  $t$  as reported on Form EIA-9.

$V_{wi}$  = Volume of sales of No. 2 heating oil to nonultimate consumers in month  $t$  by the  $i$ th nonrefiner as reported on Form EIA-9.

$n$  = Number of nonrefiners with sales of No. 2 heating oil to nonultimate consumers reporting Form EIA-9.

This formula refers to the national average gross margin for sales by nonrefiners to nonultimate consumers. Regional margins would be calculated by using data only for the given region.

#### APPENDIX III.—NONREFINERS' GROSS MARGIN FOR RESIDENTIAL SALES OF NO. 2 HEATING OIL

$$M_r = \frac{\sum_{i=1}^n \sum_{t=1}^m \frac{P_{ri} - C_{ri}}{P_{ri}} \cdot \frac{V_{ri}}{V_{ri}}}{\sum_{i=1}^n \sum_{t=1}^m \frac{V_{ri}}{V_{ri}}}$$

Where:

$M_r$  = Average gross margin for residential sales of No. 2 heating oil in month  $t$  by nonrefiners.

$P_{ri}$  = Average selling price in month  $t$  for all residential sales of No. 2 heating oil reported by the  $i$ th nonrefiner on Form EIA-9.

$C_{ri}$  = Average per unit cost of No. 2 heating oil purchased in month  $t$  reported by the  $i$ th nonrefiner on Form EIA-9.

$R_i$  = Volume of sales of No. 2 heating oil to residential users in month  $t$  reported by the  $i$ th nonrefiner on Form EIA-9.

$n$  = Number of nonrefiner firms with sales of No. 2 heating oil to residential users reporting on Form EIA-9.

This formula refers to the national average gross margin for sales to residential consumers by nonrefiners. Regional margins would be calculated by using data only for the given region.

#### APPENDIX IV.—GUIDELINE FOR REFINERS' PRICE FOR SALES OF NO. 2 HEATING OIL TO NONULTIMATE CONSUMERS

$$P_{ni} = \frac{P_{ni} - C_{ni}}{P_{ni}} \cdot \frac{V_{ni}}{V_{ni}} + C_{ni}$$

Where:

$P_{ni}$  = Actual weighted average wholesale price of refiners in June 1977, for No. 2 heating oil, derived from form EIA-9.

Only those refiners reporting the form EIA-9 will be included (nearly all refiners that sell No. 2 heating oil report form EIA-9). The wholesale price is the weighted average price for nonultimate consumer sales, which includes rack, delivered, and bulk sales.

$P_{ni}$  = Guideline wholesale price of refiners in month  $t$  for sales of No. 2 heating oil to nonultimate consumers.

$S'$  = Volume of sales of No. 2 heating oil sold by refiners in month  $t$  to nonultimate consumers.

$d'$  = Increased costs over June 1977 in month  $t$  allocated by refiners to sales of No. 2 heating oil to nonultimate consumers, computed as follows:

$$d' = \frac{S' - S}{S} \cdot \frac{C' - C}{C} \cdot \frac{P' - P}{P} \cdot \frac{V' - V}{V}$$

Where:

$S'$  = Volume of sales of No. 2 heating oil by refiners to nonultimate consumers in month  $t$ , reported on form EIA-9.

$V'$  = Total volume of sales of refined products in month  $t$ , reported on form P-302.

$Q^{t-1}$  = Volume of crude oil purchased in month  $t-1$ , reported on form P-110.

$Q^t$  = Volume of crude oil purchased by refiners in June 1977, reported on form P-110.

$C^{t-1}$  = Total cost of crude oil purchased by refiners in month  $t-1$ , reported on form P-110.

$C^t$  = Total cost of crude oil purchased by refiners in June 1977, reported on form P-110.

$V^{t-1}$  = Volume of sales of all refined products in month  $t-1$ , reported on form P-302.

$V^t$  = Volume of sales of all refined products in June reported on form P-302.

$V^t$  = Volume of sales for controlled products in June 1977 reported on form P-302.

$N^{t-1}$  = Increased nonproduct costs for controlled products in month  $t-1$ , reported on form P-110.

$N^t$  = Increased nonproduct costs for controlled products in June 1977, reported on form P-110.

$Q^{t-1}$  = Volume of No. 2 heating oil purchased by refiners in month  $t-1$ , reported on form EIA-9.

$Q^t$  = Volume of No. 2 heating oil purchased by refiners in June 1977, reported on form EIA-9.

$C^{t-1}$  = Total cost of No. 2 heating oil purchased by refiners in month  $t-1$ , reported on form EIA-9.

$C^t$  = Total cost of No. 2 heating oil purchased by refiners in June 1977, reported on form EIA-9.

$B'$  = Accumulated unrecovered costs applicable to time period  $t$ .

Accumulated unrecovered increased costs = Sum of increases in costs attributable to No. 2 heating oil—prior to current month. Sum of increases of revenue obtained from sales of No. 2 heating oil prior to current month.

$$B' = \sum_{i=1}^{t-1} [d' - S' (P' - C')]$$

Where:

$d'$  = Increased costs over June 1977 incurred by refiners allocated to sales of No. 2 heating oil to nonultimate consumers in month  $t$ .

$S'$  = Sales of No. 2 heating oil by refiners to nonultimate consumers in month  $t$ .

$B'$  = Accumulated unrecovered costs applicable to time period  $t$ .

$P_{ni}$  = Actual weighted average price of refiners in month  $t$  for sales of No. 2 heating oil to nonultimate consumers derived from form EIA-9.

$P_{ni}$  = Actual weighted average price of refiners in June 1977 for sales of No. 2 heating oil to nonultimate consumers, derived from form EIA-9.

Symbols used in the formula refer to time periods as follows:

$t$ —Refers to each month accumulated in the summation formula for unrecovered costs.

$o$ —Refers to June 1977.

$t$ —Refers to the month for which the selling price is being computed.

$t-1$ —Refers to the month one month before the month for which the selling price is being computed.

Subscripts used in the formulas refer to the following:

$a$ —Refers to actual prices.

$c$ —Refers to controlled products.

$r$ —Refers to residential prices and sales volumes.

These formulas calculate the guideline price for the national average.

The formulas used to calculate the guideline prices for the DOE regions are the same except the June 1977 national price to nonultimate consumers ( $P_{ni}$ ) would be replaced by average prices to nonultimate consumers for the regions.

These formulas are not entirely consistent with the calculations under 10 CFR 212.83 in that allocations are based on sales of No. 2 heating oil rather than production of No. 2 heating oil, refiners' nonproduct cost increases for No. 2 heating oil are estimated based on refiners' nonproduct cost increases for controlled products reported to the DOE, and the base period is June 1977 rather than May 1973.

The revised form P-302-M-1 will provide information as to the production of No. 2 heating oil and refiners' total nonproduct costs. When this information becomes available, the formulas will be adjusted to make allocations on the basis of production and revised nonproduct cost estimates. The estimated prices for prior months will be recalculated to reflect allocation on the basis of production and revised nonproduct estimates.

#### APPENDIX V

States with statistically valid residential heating oil survey prices

State	State code	DOE region
Alaska	AK	10
Connecticut	CT	1
Delaware	DE	3
District of Columbia	DC	3
Idaho	ID	10
Illinois	IL	5
Indiana	IN	5

#### APPENDIX V—Continued

States with statistically valid residential heating oil survey prices

State	State code	DOE region
Maine	ME	1
Maryland	MD	2
Massachusetts	MA	1
Michigan	MI	5
Minnesota	MN	5
New Hampshire	NH	1
New Jersey	NJ	2
New York	NY	2
Ohio	OH	5
Oregon	OR	10
Pennsylvania	PA	3
Rhode Island	RI	1
Vermont	VT	1
Virginia	VA	3
Washington	WA	10
West Virginia	WV	3
Wisconsin	WI	5

[FR Doc. 78-1453 Filed 1-16-78; 12:46 pm]

[6560-01]

#### ENVIRONMENTAL PROTECTION AGENCY

[EPA 846-2]

#### RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from January 9 through January 13, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (March 6, 1978). The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: January 17, 1978.

PETER L. COOK,  
Acting Director,  
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Brett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

#### FOREST SERVICE

Draft

Cooperative Gypsy Moth Suppression Program, 1978, January 8: This draft EIS presents the selection criteria for regulatory programs and discusses each viable alternative which may be considered for state-federal cooperative projects in suppressing gypsy moth infestations in the Northeastern United States. Several alternative plans are suggested, utilizing the aerial application of carbaryl, trichlorfon, diflubenzuron, and acephate. Adverse impacts include the possible adverse effect of diflubenzuron upon aquatic organisms and carbaryl upon honeybees. (ELR Order No. 80019.)

Tahoe NF Timber Management Plan, several California counties, January 11: Proposed is a revision of the existing Timber Management Plan which establishes a timber harvesting level and schedule for the Tahoe National Forest, Calif., for the next decade beginning FY 1978. Six alternatives are outlined with a yield of between 2,000 million board feet to 1,000 million board feet per decade. Adverse impacts include a possible effect upon water and soil quality, including some erosion; changes in fish and wildlife habitat; and changes in the vegetative structure, microclimate and plant relationships. (ELR Order No. 80032.)

Salt Lake Planning Unit, several Utah counties, January 13: Proposed is a land management plan for the Salt Lake Planning Unit, an area encompassing 138,000 acres of National Forest and other lands in the State of Utah. Four alternative plans outline resource management in areas such as air, water, recreation, wildlife, range forage, timber, insect and disease control, and mineral development. The proposed plan calls for 95 percent of the Unit to remain relatively undisturbed except for trail construction, ski area expansion, and people-use associated with recreation activities. (ELR Order No. 80035.)

Final

Beaver Creek Wilderness, Mineral Prospecting, McCreary County, Ky., January 11: Proposed is the conditional approval, with prescribed modifications, of a prospecting plan submitted by the Greenwood Land and Mining Co. of Parkers Lake, Ky. The Company claims to own mineral rights beneath and around the Beaver Creek Wilderness, and proposes to use motorized equipment to prospect for coal at 22 sites. It also intends to deep and surface mine in the Wilderness, based on information gathered by prospecting. Approximately 11 acres of land surface will be cleared, excavated, regraded and revegetated at 17 prospecting sites within the Wilderness. Comments made by: USDA, COE, DOI, EPA, and State and local agencies. (ELR Order No. 80025.)

Supplement

Naches-Tieton-White River (S-1), several Washington counties, January 13: This statement supplements a draft EIS originally filed with CEQ in August 1977. The Forest Service has subsequently re-inventoried roadless and undeveloped areas within the planning unit and has added 84,970 acres for a total of 375,750 acres under consideration for wilderness study. (ELR Order No. 80038.)

DEPARTMENT OF DEFENSE, ARMY CORPS  
Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers,



U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

## Final

Wilson Lake, O. & M., Russell and Lincoln Counties, Kans., January 11: Proposed is the continued operation and maintenance of Wilson Lake in Russell and Lincoln Counties, Kans. The project consists of water control operations, operation and maintenance of recreation areas, and management of project land and water resources. Adverse impacts, such as loss of vegetation and occurrence of soil erosion, will result from recreational use. (Kansas City District.) Comments made by: USDA, DOT, HUD, USCG, HEW, DOI, EPA, and State and local agencies. (ELR Order No. 80027.)

## Supplement

Bear Creek Lake (S-1), Colorado, January 11: This statement supplements a final EIS originally filed with CEQ in February of 1972; changes have occurred in project features, total project lands and the proposed recreation development since completion of the final EIS. Project implementation calls for two separate earthfilled embankments and an emergency spillway; a multipurpose lake with a surface area of 110 acres; a flood control pool of 640 acres; and recreational facilities. Adverse impacts include construction-related pollution; the relocation of Colorado Highway 8; and the inundation of 750 acres of land. (Omaha District.) (ELR Order No. 80029.)

## Supplement

Surfside-Sunset and Newport Beach, Orange County, California, January 10: Proposed is a beach nourishment project to restore the eroding Surfside-Sunset Beach shoreline and help maintain the integrity of the sandy beach shoreline downcoast from Surfside-Sunset Beach. The nourishment beach extends along approximately 8,000 feet of the Surfside-Sunset sandy beach shoreline. The nourishment material will be obtained from within a 190-acre subtidal borrow site located about 6,500 feet offshore from the feeder beach. Adverse impacts include the destruction of benthic organisms within the 190-acre offshore borrow site; displacement of fish species; destruction of open coast sandy beach organisms; and construction-related pollution. (L.A. District.) (ELR Order No. 80024.)

## ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Peter L. Cook, Acting Director, Office of Federal Activities, Room WSMW 537, 401 M Street, SW., Washington, D.C. 20460, 202-755-0777.

E. Marin-S. Sonoma Wastewater Management Plan (S-1), California, January 11: This statement supplements a draft EIS originally filed with CEQ in November 1977. Proposed is the inclusion of the Greenwood Beach Area in Southern Marin County into the Eastern Marin-Southern Sonoma Wastewater Management Plan. Greenwood Beach is a subdivision in the city of Tiburon containing 20 homes along approximately one mile of Richardson Bay shoreline. (ELR Order No. 80031.)

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

## Draft

Elmwood III Development, Wayne County, Mich., January 9: Proposed is the

construction, by the city of Detroit, of 2,100 dwelling units as the final development phase in a cleared 188 acre urban renewal site for subsidized and nonsubsidized rental and sales housing in townhouse, garden apartment, and mid and hi-rise structures. A community center, institutional uses and recreational space are included. Adverse impacts include construction-related pollution; increased noise and air pollution; and redistributed loads on city services. (ELR Order No. 80016.)

Kirby Meadows Subdivision, Shelby County, Tenn., January 9: Proposed is the development of 260 acres in southeast Shelby County, Tenn., into the Kirby Meadows subdivision. Plan implementation calls for the construction of single-family, multi-family, commercial and office structures for a planned community of approximately 1,700 families. Adverse impacts include an increase in storm water runoff; the covering of 6 minor archeological sites; construction-related pollution; and increased levels of air and noise pollution. (ELR Order No. 80021.)

Piper's Meadow Subdivision, Harris County, Tex., January 11: Proposed is the granting of HUD-FHA mortgage insurance for the development of the 282-acre Piper's Meadow Subdivision located in Harris County, Tex. The proposed subdivision will contain approximately 1,000 single family homes, shopping facilities and recreational facilities. Adverse impacts include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 80033.)

## Final

Amberly Subdivision, DeKalb County, Ga., January 11: The proposed project consists of the development of 2 subdivisions, Amberly and Amberly East, approximately 4.5 miles from Stone Mountain, Ga. The plan calls for land uses of 648 single-family detached units, on 283.04 acres and a flood plain of 25.5 acres. Completion of the project will result in increased pressure on community services and facilities, as well as higher levels of air and noise pollution. Comments made by: USDA, HEW, DOI, EPA, GSA, and State and local agencies. (ELR Order No. 80028.)

Martins Crossing Subdivision, DeKalb County, Ga., January 11: The proposed project is the construction of Martins Crossing Subdivision in DeKalb County, Ga. The 246-acre development has proposed land use of 535 single-family detached units. Common recreational amenities, including a swimming pool, cabana, and tennis courts, will be provided and 78.3 acres will be left in open space. Negative effects include increased traffic; additional demand on utilities, municipal and community services and facilities, and increased surface water run-off. Comments made by: USDA, HEW, DOI, DOT, ERDA, EPA, GSA, FEA, FPC, and State and local agencies. (ELR Order No. 80030.)

Greensbrook and Lake Forest Subdivisions, Harris County, Tex., January 9: The proposed action is for the Department of HUD to accept for HUD-FHA mortgage insurance purposes the Greensbrook and Kings Lake Forest Subdivisions located in the northeast section of Harris County, Tex. When completed in approximately ten years, the subdivisions will contain approximately 2,628 single-family homes plus recreational facilities to serve the subdivisions. Adverse effects include the removal of potential forestland and livestock grazing land

from production. Comments made by: EPA, COE, DOT, HEW, AHP, and State and local agencies. (ELR Order No. 80020.)

Camden Park Subdivisions, Harris County Tex., January 9: Proposed is the acceptance of the 311-acre Camden Park Subdivision for mortgage insurance purposes. Project plans call for the development of single-family homes, with some commercial reserves, in Harris County, Texas. Adverse effects include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. Comments made by: EPA, COE, DOI, USDA, and State and local agencies. (ELR Order No. 80023.)

Westbury Development, Oklahoma City, Canadian County, Okla., January 9: The proposed action is for the Department of HUD to accept part of the undeveloped areas of the Westbury Development in Oklahoma City for HUD-FHA home mortgage insurance purposes. The remaining area will be used for commercial and recreational purposes. The impact of Westbury will be the urbanization of about 1048 acres, formerly used for agriculture and an uncontrolled flood plain. Adverse effects include increased load on schools, possible reduction in air quality, and increased noise levels. Comments made by: EPA, USDA, DOT, AHP, and USDA. (ELR Order No. 80022.)

## Final

Jefferson, La.—Marrero to Lafitte Waterline, Jefferson Parish, La., January 9: Proposed is the construction of a water line from Marrero to Lafitte in Jefferson Parish, La., to provide improved water service to the people of Ward Six of the parish and to provide for the area's domestic, recreational, commercial, and industrial needs. The water line would originate as a 36-inch diameter pipe in Marrero and would terminate approximately seventeen miles south near the end of State Highway 45 Lafitte, as an 18-inch diameter pipe. Its size would be reduced sequentially as it moves south from Marrero. Construction of the pipeline will remove approximately 20.4 acres of land from future development. Comments made by: EPA, COE, and concerned groups and individuals. (ELR Order No. 80018.)

## NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8448.

## Final

Co-60 Spark-Gap Irradiators, Licensing Exemption, January 9: The statement concerns a proposed amendment to NRC regulations to exempt from requirements for a license the receipt, possession, use, transfer, export, ownership, or acquisition of spark-gap irradiators that contain cobalt-60 for use in spark-ignited fuel-oil burners. About 6000 microcurie of Co-60 could be distributed into the environment in 6,000 discrete sources, each containing no more than 1 microcurie. Estimated external radiation doses to maximally exposed individuals are included. Comments made by: USDA, NRC, ERDA, EPA, HEW, DOT, and State and local agencies. (ELR Order No. 80034.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

## FEDERAL AVIATION ADMINISTRATION

## Draft

Walker County Airport, Walker County, Ala., January 13: Proposed is the construction of a new Walker County Airport with a basic transport runway which will allow jets to use the airport facility. Plan implementation calls for runways and taxiways, lighting systems, parking, a service hangar, and roads. Adverse impacts include construction-related pollution; increased levels of air and noise pollution; and possible water impacts. (ELR Order No. 80036.)

## FEDERAL HIGHWAY ADMINISTRATION

## Final

F.A.S. Route 1270, Dundy County, Nebr., January 13: The proposed project consists of the upgrading and placement of a bridge on an 0.8 mile segment of county road (F.A.S. Route 1270) 0.3 mile east of Benkelman. Also included is grading, a gravel surface course, a major 1,700 foot long channel change, and culverts. The proposed improvement is included in Dundy County's One and Six Year Plan with the intent that the completed project will be coordinated in a total intercounty network of roads throughout the state. Between 2.4 and 10 acres of land will be acquired for right-of-way. (Region 7.) Comments made by: COE, DOI, EPA, and USDA. (ELR Order No. 80037.)

Montgomery County, Md., January 11: Proposed is the granting of Federal capital grant assistance to the Washington Metropolitan Area Transit Authority for a Metrobus Garage and Maintenance Facility for 250 buses in Montgomery County, Md. The garage is proposed for suburban bus service particularly in conjunction with the future complementary operation of Metrobus-Metrorail. The EIS reviews 3 alternative sites for the new facility. Adverse impacts include the clearing of some woodlands. Comments made by: DOT, USDA, EPA, AHP, State and local agencies, and concerned interest groups. (ELR Order No. 80026.)

## OFFICIAL NOTICE OF RETRACTION

The final EIS prepared by the Corps of Engineers, for Kanapolis Lake, Operation and Maintenance, Elsworth County, Kans., was received by EPA on December 22 and Notice of Availability was published in the December 30, 1977 FEDERAL REGISTER. Since that time it has come to EPA's attention that the FEIS is not available for public distribution at this time. Therefore, EPA officially rescinds the availability date of this statement. When EPA is notified by the Corps of Engineers that the statement is ready for distribution, EPA will at that time republish its availability in the FEDERAL REGISTER.

[FR Doc. 78-1701 Filed 1-19-78; 8:45 am]

## [6560.01]

[FRL 845-1; OOP-42045A1]

## STATE OF ARIZONA

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implement-

ing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 20, 1977, a Notice of Intent to Approve the Arizona State Plan was published in the FEDERAL REGISTER (42 FR 31181). Approval was contingent upon promulgation of necessary regulations implementing Arizona legislation. Subsequently, the Arizona Board of Pesticide Control, on July 11, 1977, and the Structural Pest Control Board, on September 9, 1977, promulgated final regulations necessary to implement Arizona legislation.

During the comment period following the June 20, 1977, FEDERAL REGISTER notice, EPA received numerous comments from interested parties regarding an error in the FEDERAL REGISTER notice. The notice stated that commercial applicators will be recertified by the Board of Pesticide Control every odd calendar year by written examination. The notice properly should have indicated that the Board of Pesticide Control will relicense (not to be confused with recertification) commercial applicators every odd calendar year by written examination. The Arizona State Plan indicates that specific procedures for recertifying applicators will be developed at a later date. These procedures will require that applicators demonstrate continued competence in applying pesticides in light of changes in technology. At such time as recertification procedures are finalized by Arizona, an appropriate FEDERAL REGISTER notice will be prepared which provides for public comment.

In addition, during the comment period, the Board of Pesticide Control decided to add a new commercial applicator category to their certification program. The new category, Regulatory Pest Control, is consistent with EPA certification requirements. Therefore, the agency does not consider this a sufficient action to warrant additional public comment.

Having reviewed the final regulations to Arizona legislation and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA, Region IX, hereby gives notice that the Arizona State Plan is now a fully approved State Plan.

Dated: January 6, 1978.

PAUL DE FALCO, Jr.,  
Regional Administrator,  
Region IX.

[FR Doc. 78-1700 Filed 1-19-78; 8:45 am]

[6712-01]

## FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-11, 78-12; File Nos. 381-A-RL-87, 66-A-L-107]

## CASPER AIR SERVICE, INC. AND WYOMING CENTRAL AERO-WAYS, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 11, 1978.

Released: January 16, 1978.

In re application of Casper Air Service, Inc., Casper, Wyo., SS Docket No. 78-11, File No. 381-A-RL-87, Wyoming Central Aero-Ways, Inc., Casper, Wyo., SS Docket No. 78-12, File No. 66-A-L-107, for an Aeronautical Advisory Station to serve Natrona County International Airport, Casper, Wyo.

1. Casper Air Service, Inc. (hereinafter called Casper), and Wyoming Central Aero-Ways, Inc. (hereinafter called Wyoming) have filed an application for authority to operate an aeronautical advisory station at the same airport. Casper seeks renewal of its current station license while Wyoming has filed for a new station authorization. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing: It is ordered, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues.

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-based operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;



(6) Proposed radio system including control and dispatch points; and  
(7) The availability of the radio facilities to other fixed-based operators;  
(b) To determine the manner in which Casper has operated aeronautical advisory station KPO 8 at Natrona County International Airport; and  
(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Casper and issue (c) which is conclusory.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, Casper and Wyoming, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,  
Chief, Safety and Special  
Radio Services Bureau.

[FR Doc. 78-1607 Filed 1-19-78; 8:45 am]

[6712-01]

[SS Docket Nos. 78-13, 78-14; File Nos. 145-A-L-57, 49-A-L-67]

JOHNSTOWN AVIATION AND AIR EAST, INC.

Order Designating Applications for  
Consolidated Hearing on Stated Issues

Adopted: January 11, 1978.

Released: January 16, 1978.

In re application of Johnstown Aviation, Johnstown, Pa., SS Docket No. 78-13, File No. 145-A-L-57, Air East, Inc., Johnstown, Pa., SS Docket No. 78-14, File No. 49-A-L-67, for an Aeronautical Advisory Station to serve Johnstown Cambria County Airport, Johnstown, Pa.

1. Johnstown Aviation (hereinafter called Johnstown), and Air East, Inc. (hereinafter called Air East) have filed an application for authority to operate an aeronautical advisory station at the same airport. Johnstown and Air East have both filed for new station authorizations. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing; *It is ordered*, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations;

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators; and

(b) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) which is conclusory.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, Johnstown and Air East, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,  
Chief, Safety and Special  
Radio Services Bureau.

[FR Doc. 78-1609 Filed 1-19-78; 8:45 am]

[6712-01]

[SS Docket No. 78-8]

S. C. McCLUNEY

Order Designating Application for Hearing on  
Stated Issues

Adopted: January 11, 1978.

Released: January 16, 1978.

In the matter of the application of: S. C. McCluney, 1347 South Capitol, Washington, D.C. 20003, SS Docket No. 78-8, for an amateur General Class Operator License and Amateur Radio Station License.

The Chief, Safety and Special Radio Services Bureau, has under consideration the above-captioned application for an Amateur General Class operator license and Amateur Radio Station license, filed by Samuel C. McCluney.

1. McCluney previously was the holder of Amateur Extra Class operator and station licenses, KOECG. An Order to Show Cause why his Amateur Station license should not be revoked was released on June 29, 1972, and, on the same day, the Commission released an order proposing suspension of McCluney's Amateur Extra Class operator license for the remainder of its term. A hearing was held in Jacksonville, Fla., on August 13, 1973. In an Initial Decision released on February 19, 1974, it was concluded that a renewal application which had been filed by McCluney on August 20, 1970, was part of a fraudulent scheme to upgrade McCluney's operator privileges without his having taken and passed the required examination. "Samuel C. McCluney, III," 46 FCC 2d 806, 813 (1974).

2. The Decision also concluded that McCluney deliberately misled and deceived the Commission in his August 20, 1970, application and that he continued the deception in September 3, 1971, and April 20, 1972, letters to the Commission and throughout the hearing. Id. at 814. The Decision ordered McCluney's Amateur station license revoked and his operator's license suspended for the remainder of the license term. Id. at 814. The Initial Decision was affirmed in its entirety by the Review Board in "Samuel C. McCluney, III," 46 FCC 2d 802 (1974). Subsequently, by an Order (FCC 74-1281) released December 3, 1974, the Commission denied McCluney's informal application for review of the Review Board Decision. The revocation and suspension of McCluney's Amateur license KOECG, became effective on that date.

Individual Amateur licensees must hold an operator license and a station license (§§ 97.3(d), 97.37 and 97.40(b) of the Commission's Rules). The station license may be revoked but the operator license may only be suspended. Sections 312(c) and 303(m) of the Communications Act of 1934, as amended; §§ 1.91 and 1.85 of the rules.

3. On August 12, 1977, the Commission administered Amateur Radio operator examinations at the Glade Valley Amateur Radio School in Sparta, N. C. At that time an examinee submitted an application for Amateur Radio operator and station licenses, dated July 15, 1977, which bore the hand-printed name, "S. NMN Copp," and an illegible signature. The applicant's mailing address was listed as "1347 S. Capitol, Washington, D.C. 20003." The applicant's station location for fixed operation was listed as "1919 M Street, Washington, D.C."

4. The "1919 M Street, Washington, D.C." address is that of the Commission. Upon questioning prompted by this address, the applicant produced identification which revealed that he was, in fact, Samuel C. McCluney. Thereupon, a second application, in the name of "S. C. McCluney" was submitted. The "1919 M Street" address was again listed but was changed to "1347 S. Capitol" when the Commission's examination personnel refused to accept the application with the former address. Thus, it appears that McCluney may have attempted to mislead or deceive the Commission in applying for Amateur Radio licenses on August 12, 1977, by concealing his true identity.

5. In view of McCluney's actions on August 12, 1977, his past conduct in obtaining an Amateur license by fraud, and his past attempts to mislead or deceive the Commission, it cannot be determined that a grant of his amended application would serve the public interest, convenience and necessity. Therefore, the Commission must designate the application for hearing.

Accordingly, *it is ordered*, Pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 0.331 and 1.973(b) of the Commission's rules, that the captioned application is designated for hearing at a time and place to be specified by subsequent Order, upon the following issues:

(1) To determine the facts and circumstances surrounding the submission of applications for Amateur Radio Station and Operator Licenses by Samuel C. McCluney on August 12, 1977, at the Glade Valley Amateur Radio School.

(2) To determine, in light of the evidence adduced pursuant to Issue (1), above, whether Samuel C. McCluney attempted to mislead or deceive the Commission in applying for Amateur Radio licenses on August 12, 1977.

(3) To determine, in light of the resolution of Issue (2), above, and in light of the Decision in "Samuel C. McCluney, III," 46 FCC 2d 802 (1974), whether the applicant possesses the

requisite character qualifications to be a licensee of the Commission.

(4) To determine whether the public interest, convenience and necessity would be served by a grant of the captioned application.

*It is further ordered*, That, to avail himself of the opportunity to be heard, the applicant herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intent to appear on the date fixed for hearing and to present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

*It is further ordered*, That a copy of this Order shall be sent by Certified mail—Return Requested to applicant at 1347 South Capitol, Washington, D.C. 20003.

For the Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,  
Chief, Legal, Advisory and  
Enforcement Division.

[FR Doc. 78-1608 Filed 1-19-78; 8:45 am]

[6712-01]

[Report No. 893]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JANUARY 16, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close

of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

APPLICATIONS ACCEPTED FOR FILING  
DOMESTIC PUBLIC LAND MOBILE RADIO  
SERVICE

- 20611-CD-AL-78 AAA Anserphone, Inc.—Jackson consent to assignment of license from AAA Anserphone, Inc.—Jackson, assignor to L & L Services, Inc. d.b.a. Metro Communication Services, assignee. Station: KRS705, Jackson, Miss.
- 20612-CD-AL-(2)-78 Eastern Oregon Telephone Co. Consent to assignment of license from Eastern Oregon Telephone Co., assignor to Blue Mountain Telephone, Inc., assignee. Stations: KFL944, Pilot/Rock, Ore. and KRH637, Boardman, Ore.
- 20614-CD-AL-78 Office Associates Telephone Answering consent to assignment of license from Office Associates Telephone Answering, assignor to Miami Valley Radiotelephone, assignee. Station: KWU420, Dayton, Ohio.
- 20615-CD-P-78 General Telephone Co. of California (KUA300) C.P. to relocate facilities and change antenna system operating on 35.22 MHz at Loc. No. 2: 730 Mira Monte Drive, Santa Barbara, Calif.
- 20619-CD-P-78 The Ohio Bell Telephone Co. (KWU263) C.P. to relocate facilities operating on 152.84 MHz at Loc. No. 4 to be located 2.8 miles SW. (245') of Carroll, Ohio on Pickerington Rd., 65' North of Lithopolis Rd., Carroll, Ohio.
- 20620-CD-P-(2)-78 St. John Co-operative Telephone & Telegraph Co. (KRS675) C.P. for additional facilities to on 2118.0 MHz (control) to be located at a new site described as Loc. No. 3: Front Street, St. John; 2168.0 MHz (repeater) at Loc. No. 2: Steptoe Butte, 3.3 miles NE. of Steptoe, Wash.
- 20621-CD-MP-78 Services Unlimited, Inc. (KUS332) C.P. to relocate facilities operating on 43.22 MHz at Loc. No. 1: Wachovia Building, Winston-Salem, N.C.
- 20624-CD-P-78 James D. & L. Lawrence D. Garvey d.b.a. Radiofone (KUS290) C.P. for additional facilities to operate on 35.58 MHz at a new site described as Loc. No. 3: 1.5 miles west of Bench Mark 10 Bayou Blue, Houma, La.
- 20627-CD-AL-78 Lynwood A. Williams d.b.a. Rockfish Radio Telephone Service,



consent of assignment of license from Lynwood A. Williams d.b.a. Rockfish Radio Telephone Service, assignor to Rockfish Radio Telephone Service, Inc., assignee. Station: KUS229, Wallace, N.C.

## MAJOR AMENDMENTS

- 21789-CD-P-77 Advance Business Communications, Inc. (new) Amend application to indicate that the frequency requested is 152.240 MHz instead of 158.70 MHz. All other particulars to remain as reported on PN No. 869 dated August 1, 1977.
- 20551-CD-P-77 Advanced Electronics, Inc. (new) Amend application to change frequency to 35.22 MHz and to change antenna system. All other particulars to remain the same as reported on PN No. 840 dated January 10, 1977.

## CORRECTIONS

- 20539-CD-P-78 Pacific Northwest Bell Telephone Co. (KOA246) correct entry to read: also additional facilities to operate on 459.625 MHz, test located at 819 SW Oak Street, Portland, Ore. All other particulars remain as reported on PN No. 891 dated January 3, 1978.
- 20163-CD-P-78 Radiotelephone Communications of Puerto Rico, Inc. (KQZ767) correct entry to read: 152.24 MHz & 158.70 MHz at a new site described as Loc. No. 5. All other particulars remain as reported on PN No. 883 dated November 7, 1977.

## INFORMATIVE

- 20034-CD-P-78 (KQZ707).
- 20035-CD-P-78 (KTS281).
- South Shore Radio-Telephone, Inc. (formerly William L. Eisele d.b.a. Lake Shore Communications). As listed on PN 10-17-77 the proposed construction has been determined to be a "Major Action" as defined by §1.1305 of the Commission's rules.
- It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding Ex-Parte presentations by reason of potential Electrical Interference: Frequency: 43.580 MHz.
- Pass Word, Inc., Moscow, Idaho 20333-CD-P-78.
- Bestline Answering Service, Inc., Spokane, Wash. 20075-CD-P-78.
- KS-943-CF-PO78 Pioneer Telephone Association, Inc. (new), Ryus, 15 miles on azimuth 294° to Ulysses, (Grant) Kans. Lat. 37°29'33" N., Long. 101°06'25" W. C.P. for a new station on frequencies 11545V 11225V MHz toward Satanta, Kans. on azimuth 118.2° and 11505V 11265V MHz toward Ulysses, Kans. on azimuth 294.1°.
- KS-944-CF-P-78 Same (new) Kansas Avenue, Ulysses, (Grant) Kans. Lat. 37°34'54" N., Long. 101°21'30" W. C.P. for a new station on frequencies 10815V 11055V MHz toward Ryus, Kans. on azimuth 114.1°.
- TX-946-CF-P-78 Big Bend Telephone Co., Inc. (new) Terlingua, Study Butte, (Brewster) Tex. Lat. 29°19'11" N., Long. 103°31'52" W. C.P. for a new station on frequencies 2112.0V 2113.7V MHz toward Terlingua Passive Reflector on azimuth 270.8° and from passive reflector to Nine Point, Tex. on azimuth 22.8°.
- TX-947-CF-P-78 Same (WBB264) Nine Point, 50 miles south of Alpine, (Brewster) Tex. Lat. 29°39'16" N., Long. 103°27'46" W. C.P. to add a point of communication on frequencies 2162.0V 2163.7V MHz toward Terlingua Passive Reflector on azimuth

202.8° and from passive reflector to Terlingua, Tex. on azimuth 90.8°; replace antenna on 2162.0H MHz toward Big Bend Pk, Texas.

NY-953-CF-MP-78 New York Telephone Co. (WCF980) Bryns Road, Scriba, (Oswego) N.Y. Lat. 43°25'48" N., Long. 76°28'21" W. Mod. of C.P. (961-CF-P-77) to increase antenna centerline height on frequencies 11365H 11285V MHz toward Oswego, N.Y. on azimuth 306.2°.

PA-955-CF-P-78 The Bell Telephone Co. of Pennsylvania (KIK88) 723 Linden Street, Allentown, (Lehigh) Pa. Lat. 40°36'13" N., Long. 75°28'26" W. C.P. to add frequency 11015V MHz toward Haafsville, Pa. on azimuth 255.7°; replace and move antennas on 10855V 10935V 111175V MHz toward Haafsville.

PA-956-CF-P-78 Same (WAX95) 0.9 Mile SW. of Haafsville, (Lehigh) Pa. Lat. 40°33'59" N., Long. 75°39'52" W. C.P. to add frequencies 6093.5V MHz toward Millbach, Pa. on azimuth 239.3° and 11625V MHz toward Allentown, Pa. on azimuth 75.6°.

PA-957-CF-P-78 Same (WAX96) Millbach, 2 Miles South of Newmanstown, (Lebanon) Pa. Lat. 40°19'22" N., Long. 76°11'51" W. C.P. to add frequencies 6256.5H MHz toward Manada, Pa. on azimuth 282.6° and 6345.5H MHz toward Haafsville, Pa. on azimuth 58.9°.

PA-958-CF-P-78 Same (KYJ37) Manada, 2.7 Miles NW. of Grantville, (Dauphin) Pa. Lat. 40°24'17" N., Long. 76°40'59" W. C.P. to add frequencies 6093.5V MHz toward Harrisburg, Pa. on azimuth 227.4° and 6004.5V MHz toward Millbach, Pa. on azimuth 102.3°.

PA-959-CF-P-78 Same (KYJ36) 210 Pine Street, Harrisburg, (Dauphin) Pa. Lat. 40°15'44" N., Long. 76°53'07" W. C.P. to add frequency 6345.5H MHz toward Manada, Pa. on azimuth 47.3°; move and replace antennas on 6226.9H 6286.2H 6404.8H 11445.0H 11525.0V 11685.0V MHz toward Manada.

OK-970-CF-P-78 Southwestern Bell Telephone Co. (KKB58) 424 South Detroit Street, Tulsa, (Tulsa) Okla. Lat. 36°09'10" N., Long. 95°59'12" W. C.P. to increase structure height, move and replace antennas on frequency 6004.5V MHz toward Bixby, Okla.; add 5945.2V MHz toward Bixby.

OK-971-CF-P-78 Southwestern Bell Telephone Co. (WGG32) 5.2 Miles WNW. of Bixby, (Tulsa) Okla. Lat. 35°58'26" N., Long. 95°58'08" W. C.P. to increase structure height, move and replace antennas for frequencies 6256.5H MHz toward Tulsa, Okla., and 6256.5V MHz toward Stone Bluff, Okla.; add frequencies 6197.2H MHz toward Tulsa and 6197.2V MHz toward Stone Bluff.

OK-972-CF-P-78 Same (WGG33) 3.8 Miles NE. of Stone Bluff, (Wagoner) Okla. Lat. 35°55'46" N., Long. 95°41'43" W. C.P. to increase structure height, move and replace antennas on frequencies 6004.5V MHz toward Muskogee, Okla. and 6004.5H MHz toward Bixby, Okla.; add frequencies 5945.2H MHz toward Bixby and 6945.2V MHz toward Muskogee.

OK-973-CF-P-78 Same (WGG34) 221 North 5th Street, Muskogee, (Muskogee) Okla. Lat. 35°45'05" N., Long. 95°22'20" W. C.P. to increase structure height, replace antennas on frequency 6256.5H MHz toward Stone Bluff, Okla.; add frequencies 6197.2H MHz toward Stone Bluff and 6345.5V MHz toward Porum, Okla.

OK-974-CF-P-78 Same (WBB319) 2.2 Miles SW. for Porum (Muskogee) Okla. Lat. 35°20'36" N., Long. 95°17'53" W. C.P. to add frequencies 6093.5H MHz toward Muskogee, Okla. and 6063.8H MHz toward a new point of communication at Stigler, Okla. on azimuth 121.8°.

OK-975-CF-P-78 Same (new) 201 North Broadway, Stigler, (Haskell) Okla. Lat. 35°15'19" N., Long. 95°07'31" W. C.P. for a new station on frequency 6315.9V MHz toward Porum, Okla. on azimuth 301.9°.

IL-978-CF-P-78 American Telephone and Telegraph Co. (KIM22) 4.5 miles south of Herscher, (Kankakee) Ill. Lat. 41°00'13" N., Long. 88°03'24" W. C.P. to change polarization from Horizontal to Vertical on frequencies 3770 MHz and from Vertical to Horizontal on 3750 3830 3910 3990 4070 4150 4198 MHz toward Verona, Illinois.

PA-952-CF-P-78 The Bell Telephone Co. of Pa. (KOC47) Within territory of the grantee. Application for renewal of developmental radio station license expiring March 11, 1978. Term: March 11, 1978 to March 11, 1978.

MR-994-CF-P-78 Micronesian Telecommunications Corp. (new) Puntan Mucho, Continental Hotel, Garapan, (Saipan) Northern Mariana Islands. Lat. 15°13'00" N., Long. 145°43'00" E. C.P. for a new station on frequency 1955.0H MHz toward Lijiang, Northern Mariana Islands on azimuth 199.7°.

MR-9995-CF-P-78 Same (new) Lijiang, San Jose, (Tinian) Northern Mariana Islands. Lat. 14°58'00" N., Long. 145°38'00" E. C.P. for a new station on frequency 1875.0H MHz toward Puntan Mucho, Northern Mariana Islands on azimuth 19.7°.

CO-996-CF-P-78 The Mountain States Telephone and Telegraph Co. (WBB70) Mt. Werner, 5.1 Miles east of Steamboat Springs, (Routt) Colo. Lat. 40°27'20" N., Long. 106°44'23" W. C.P. to add a point of communication on frequency 2171.6V MHz toward Phippsburg, Colo. on azimuth 211.7°.

CO-997-CF-P-78 The Mountain States Telephone and Telegraph Co. (new) 1.7 miles ENE. of Phippsburg, (Routt) Colo. Lat. 40°14'28" N., Long. 106°54'44" W. C.P. for a new station on frequencies 2116.6H MHz toward Oak Creek, Colo. on azimuth 315.4° and 2121.6V MHz toward Mt. Werner, Colo. on azimuth 31.6°.

CO-998-CF-P-78 Same (new) Main Street, Oak Creek, (Routt) Colo. Lat. 40°16'33" N., Long. 106°57'25" W. C.P. for a new station on frequencies 2166.6H MHz toward Phippsburg, Colo. on azimuth 135.4°.

OK-999-CF-P-78 Southwestern Bell Telephone Co. (new) Oklahoma City, SE, 2727 SE 89th Street, Oklahoma City, (Oklahoma) Okla. Lat. 35°22'42" N., Long. 97°27'51" W. C.P. for a new station on frequencies 6034.2H MHz toward Horseshoe Lake, Oklahoma on azimuth 55.3°.

OK-1000-CF-P-78 Same (new) 1.4 miles NNW. of Horseshoe Lake, (Oklahoma) Okla. Lat. 35°32'11" N., Long. 97°11'02" W. C.P. for a new station on frequencies 6286.2V MHz toward Oklahoma City SE, Oklahoma on azimuth 235.5° and 6286.2V MHz toward Shawnee, Okla. on azimuth 133.3°.

OK-1001-CF-P-78 Same (new) 521 North Broadway, Shawnee, (Pottawatomie) Okla. Lat. 35°20'03" N., Long. 96°55'22" W. C.P. for a new station on frequencies 6034.2H MHz toward Horseshoe Lake,

Okla. on azimuth 313.5° and 6034.2H MHz toward St. Louis, Okla. on azimuth 172.3°.

OK-1002-CF-P-78 Same (new) 3.2 miles South of St. Louis, (Pottawatomie) Okla. Lat. 35°01'43" N., Long. 96°52'21" W. C.P. for a new station on frequencies 6286.2V MHz toward Shawnee, Okla. on azimuth 352.3° and 6286.2V MHz toward Ada, Okla. on azimuth 148.2°.

OK-1003-CF-P-78 Same (new) 110 West 14th Street, Ada, (Pontotoc) Okla. Lat. 34°46'17" N., Long. 96°40'45" W. C.P. for a new station on frequencies 6034.2H MHz toward St. Louis, Okla. on azimuth 328.3° and 6034.2H MHz toward Tupelo, Okla. on azimuth 127.4°.

OK-1004-CF-P-78 Same (new) 1.9 miles NW. of Tupelo, (Coal) Okla. Lat. 34°37'17" N., Long. 96°26'32" W. C.P. for a new station on frequencies 6286.2V MHz toward Ada, Okla. on azimuth 307.5° and 6286.2H MHz toward Connerville, Okla. on azimuth 218.3°.

OK-1005-CF-P-78 Same (new) 3.1 miles south of Connerville, (Johnston) Okla. Lat. 34°24'12" N., Long. 96°38'06" W. C.P. for a new station on frequencies 6034.2H MHz toward Tupelo, Okla. on azimuth 36.1° and 6034H MHz toward Kingston, Okla. on azimuth 189.7°.

OK-1006-CF-P-78 Same (new) Harney Street, Kingston, (Marshall) Okla. Lat. 35°59'54" N., Long. 96°43'4" W. C.P. for a new station on frequencies 6286.2V MHz toward Connerville, Okla. on azimuth 9.6° and 6286.2V MHz toward Pickwick, Okla. on azimuth 128.0°.

OK-1007-CF-P-78 Same (new) 0.3 mile east of Pickwick, (Bryan) Okla. Lat. 33°52'1" N., Long. 96°31'00" W. C.P. for a new station on frequencies 6034.2H MHz toward Kingston, Okla. on azimuth 308.1° and 6034.2V MHz toward Durant, Okla. on azimuth 41.5°.

OK-1008-CF-P-78 Southwestern Bell Telephone Co. (new) 205 North 6th Street, Durant, (Bryan) Okla. Lat. 33°59'37" N., Long. 96°22'55" W. C.P. for a new station on frequencies 6286.2H MHz toward Pickwick, Okla. on azimuth 221.6°.

OR-900-CF-AL-(5)-78 Beaver State Telephone Co. Consent to assignment of radio station license from Beaver State Telephone Co., assignor to Blue Mountain Telephone, Inc. Assignee for stations KFM93 Round Mountain, Ore., KFM89 Black Cap Mountain, Lakeview, Ore., KPT38 Lakeview, Ore., WAU221 Paislay, Ore. and WGH99 Chiloquin, Ore.

TX-907-CF-TC-(16)-78 Big Ben Telephone Co., Inc. Consent to transfer of control from Neville Haynes, transferor to Virginia Haynes, transferee for stations WBB258 Alpine, Tex., WBB259 Alpine, Tex., WBB260 Presidio, Tex., WBB261 Maria, Tex., WBB262 Presidio, Tex., WBB263 Redford, Tex., WBB264 Alpine, Tex., WBB265 Alpine, Tex., WBB266 Marathon, Tex., WBB267 Marathon, Tex., WBB268 Marathon, Tex., WBB269 Marathon, Tex., WBB270 Sanderson, Tex., WBB271 Sanderson, Tex., WBB272 Fort Stockton, Tex., and WCT972 Sheffield, Tex.

TF-918-CF-P/ML-78 Wisconsin Telephone Co. (KSE 73) temporary fixed within the territory of the grantee. Construction permit and modification of license to add frequency bands 2110-2130, 2160-2180, 3700-4200 and 10700-11700 MHz.

TF-945-CF-P/L-78 United Wehco, Inc. (new) temporary fixed within the terri-

tory of the grantee. Construction permit and license for new station-3700-4200, 5942-6425, and 10700-11700 frequency bands.

LA-948-CF-P/L-78 South Central Bell Telephone Co. (KLW 24) Natchitoches, Toulne and Fourth Streets, Natchitoches, La. (Lat. 31°45'37" N., Long. 93°05'26" W.): Construction permit to add 3990V MHz toward Martin, La.

LA-949-CF-P-78 South Central Bell Telephone Co. (KLW 26) 0.5 mile South of Martin, La. (Lat. 32°04'28" N., Long. 93°13'12" W.): Construction permit to add 3950H MHz toward Ringgold, La.

LA-950-CF-P-78 South Central Bell Telephone Company (KLW 25) 5.0 miles SW of Ringgold, La. (Lat. 32°17'09" N., Long. 93°21'41" W.): Construction permit to add 3990V MHz toward Shreveport, La.

LA-951-CF-P-78 South Central Bell Telephone Co. (KLW 77) 602 Crockett Street, Shreveport, La. (Lat. 32°30'37" N., Long. 93°44'56" W.): Construction permit to add 3950V MHz toward Mooringsport, La., on azimuth 318.2°.

[FR Doc. 78-1570 Filed 1-19-78; 8:45 am]

## [6712-01]

[Report No. I-428]

## COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

JANUARY 16, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's rules, regulations, and its policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

## SATELLITE COMMUNICATIONS SERVICES

SC-214-DSE-P/L-78 Satcom, Inc., Columbia, S.C. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°04'21" N., Long. 81°08'48" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5.0 meter antenna.

MO-215-DSE-P/L-78 TCI Cablevision, Inc., Moberly, Mo. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°25'06" N., Long. 92°24'52" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

IN-216-DSE-P/L-78 New Castle Cable Communications, Inc., New Castle, Ind. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°56'49" N., Long. 85°21'16" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

IL-217-DSE-P/L-78 Sammons Communications of Illinois, Inc., Morgan County, Ill. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 39°42'22" N., Long. 90°16'07" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

TN-218-DSE-P/L-78 American Television & Communications Corp., Lexington, Tenn. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°41'18" N., Long. 88°21'56" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

IL-221-DSE-P/L-78 Jones Intercable CATV Fund V, Alton, Ill. Authority to construct and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°55'17" N., Long. 90°05'33" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

CA-222-DSE-P/L-78 Teleprompter Corp., Yucca Valley, Calif. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°06'05" N., Long. 116°26'56" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

NM-223-DSE-P/L-78 Teleprompter Corp., Silver City, N. Mex. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 32°46'20" N., Long. 108°16'19" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

AZ-224-DSE-P/L-78 Teleprompter Corp., Prescott, Ariz. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°32'44" N., Long. 112°28'28" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

WY-225-DSE-P/L-78 Teleprompter Corp., Rawlins, Wyo. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°47'23" N., Long. 107°14'29" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

NM-226-DSE-P/L-78 Wentronics, Inc. d.b.a. Gallup Cable TV, Gallup, N. Mex. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°31'30" N., Long. 108°44'34" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

FL-227-DSE-P/L-78 Digital Communications, Inc., St. Petersburg, Fla. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 27°45'22" N., Long. 82°38'15" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

NJ-228-DSE-P/L-78 Telco Cablevision of Asbury Park, Inc., Wanamassa, N.J. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°14'21" N., Long. 74°02'54" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA-230-DSE-P/L-78 Cal Nor Cableview, Inc., McCloud, Calif. Authority to construct, own, and operate a domestic com-



munications receive-only earth station at this location. Lat. 41°51'54" N., Long. 122°08'15" W. Rec. freq: 3700-4200 GHz. With an emission of 36000F9. With a 4.5 meter antenna.

MS-231-DSE-P/L-78 Fulton TV Cable Co., Inc., Fulton, Miss. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°18'15" N., Long. 88°23'40" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

GA-232-DSE-P/L-78 Cal-Nor Cableview, Inc., Atlanta, Ga. Authority to construct, own, and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°36'16" N., Long. 120°32'20" W. Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 4.5 meter antenna.

SSA-2-78 American Telephone & Telegraph Co., Hawley, Pa. (WB30). Special temporary authority to conduct tests of high digital bit rate transmission on Comstar satellite transponders at the Hawley, Pa., earth station.

AMENDMENT

111-DSE-P-77 RCA Alaska Communications, Inc., Tanana, Alaska. Amended to reflect a change in the diameter of the antenna from 10 meters to 5 meters, to change the geographic location to: Lat. 65°10'24" N., Long. 152°04'38" W. and a change in transmitting equipment from FM/FDM to single channel per carrier (SCPC) and other related changes.

[FR Doc. 78-1571 Filed 1-19-78; 8:45 am]

[6712-01]

[Docket No. 19660, RM-690, FCC 77-805]

INTERNATIONAL RECORD CARRIERS

Memorandum Opinion and Order

Adopted: November 30, 1977.

Released: January 6, 1978.

INTRODUCTION

In the matter of International Record Carriers' scope of operations in the Continental United States, including possible revisions to the formula prescribed under section 222 of the Communications Act, Docket No. 19660, RM-690.

1. In our *Report and Order and Notice of Proposed Rulemaking* in Docket No. 19660, 57 FCC 2d 190 (1975), we: (1) Ruled that the then existing formula prescribed pursuant to section 222(e)(3) of the Communications Act of 1934, as amended, to govern the distribution of outbound unrouted telegraph messages among the international record carriers (IRCs) was unjust, unreasonable, inequitable, and not in the public interest; (2) instituted a proposed rulemaking examining the legal, economic, and operational implications of placing traffic distribution on a required customer routing basis; and (3) prescribed an interim formula pending the outcome of the inquiry looking into the

all routed system of distribution. RCA Global Communications, Inc. (RCA Globcom), appealed our decision to the U.S. Court of Appeals for the Second Circuit. On July 27, 1977, the Court issued an opinion vacating our decision and remanding the case for further proceedings consistent with the standards set forth in section 222(e)(3) of the Communications Act, 47 U.S.C. 222(e)(3).<sup>1</sup> Thereupon, the Commission, TRT Telecommunications Corp. (TRT) and ITT World Communications, Inc. (ITT Worldcom), requested rehearing. On October 5, 1977, the Court granted the petitions for rehearing and issued a stay of its mandate. See *RCA Global Communications, Inc.*, Case No. 522.

2. In granting the petitions for rehearing the Court remanded the case for further proceedings primarily to examine "whether the promulgation of the interim formula (for distribution of outbound, unrouted international telegram messages among the international record carriers) has, in the opinion of the FCC, a factual basis in the record independent of the FCC's tentative preference for an all routed system." The court also asked us to determine whether "the interest of the telegram sending public may be ascertained with respect to an all routed requirement."

3. Pursuant to a suggestion from the Court, we invited the parties to the proceeding to file comments on the above issues. Comments have now been filed by RCA Globcom, ITT Worldcom, TRT, Western Union International, Inc. (WUI), and the Western Union Telegraph Co. (Western Union). In addition to these pleadings, we have the benefit of statistical reports filed with us and the parties by the International Quota Bureau showing the distribution of outbound international telegram messages under the interim formula during the period January 1, 1977, to June 30, 1977. Based on the views of the parties, the background of the formula, present circumstances in the international telegraph service, and the facts and statistical records before us, we find that the following actions will serve the public interest: (1) The rulemak-

<sup>1</sup>Section 222(e)(3), 47 U.S.C. 222(e)(3), states that whenever: "the Commission finds that any such distribution of telegraph traffic among telegraph carriers or any such division of charges for such traffic, which is being made or which is proposed to be made, is or will be unjust, unreasonable, or inequitable, or not in the public interest, the Commission shall by order prescribe the distribution of such traffic, or the division of charges therefor, which will be just, reasonable, equitable, and in the public interest, and will be, so far as is consistent with the public interest, in accordance with the existing contractual rights of the carriers." See 41 FR 51648, November 23, 1976.

ing looking toward designating a new formula shall be terminated without prescribing an all routed formula; and (2) the interim formula which allocates to each IRC a portion of unrouted traffic in the ratio it receives customer routed messages will be prescribed on a permanent basis.<sup>2</sup>

ALL ROUTED FORMULA

4. Our review of the comments filed by the parties, and the operating results under the interim formula persuades us that a prescription of the all routed formula is not necessary to achieve our basic public interest objectives and indeed would not be "just, reasonable, equitable, and in the public interest." At the time we called for comments on the all routed proposal, we indicated our preference for a system of traffic distribution based completely on customer choice, as a stimulus to greater competition which we believe would better serve the public interest. At paragraph 44 of the "Report and Order," we stated, however, that the record then before us was inadequate to adopt the all routed method of distribution. Instead, we prescribed the interim formula for the distribution of international message telegraph traffic until we were in a position to determine whether the all routed method of distribution would in fact result in better service to the public without, *inter alia*, proving to be an undue economic burden to the carriers.

5. Based on the comments we have received, we do not find sufficient merit in the all routed formula to warrant its prescription. ITT Worldcom, RCA Globcom, and TRT oppose prescription of the all routed formula since they believe that the added costs to the carriers and consequently to the public arising from the implementation of or reliance upon the all routed formula would yield no real benefit to the public generally or to those customers—representing approximately one-third of international message telegraph market—who do not route and to whom the all routed formula is directed. Likewise, Western Union opposes the all routed formula and concludes that it is uneconomic and, more than likely, unworkable due to the vast number of unrouted messages. Western Union, however, points out that under the interim formula it has recently initiated a system of distributing unrouted traffic among the IRCs on an automated basis and that this system is functioning smoothly. It further states "that the operating expenses required to continue to distribute traffic automatically are relatively minor (approximately \$50,000 per

<sup>2</sup>The background of this decision is set forth in our report and order and in the Court's decisions.

year) when compared to the millions of dollars required to implement an all-routed solution."<sup>3</sup> Since so many users are satisfied to place these messages with Western Union, we do not now believe that an all routed formula would add significant public benefits, whereas it could add to customer costs and even disrupt the convenient service through Western Union to which the public has become accustomed. Accordingly, we will terminate the proceeding without further action with respect to an all routed distribution system.

THE INTERIM FORMULA

6. When we prescribed the interim formula we were confident that it would be a vast improvement over the 1943 formula (although we had hopes that the all routed method would prove to be even better). Appendix A of this decision sets forth the interim formula in its entirety. The formula provides a direct ratio method for distribution by Western Union among the IRCs of outbound international message telegraph traffic. It allocates unrouted traffic among the IRCs in proportion to the share of specifically routed traffic to a particular destination country each IRC receives from its users.

7. Under the interim formula, a carrier is entitled to handle any specifically routed traffic to any destination area for which it has a tariff on file. A message is considered specifically routed if it is filed at a carrier's office by the sender in person, by telephone or other electronic means, or at a Western Union office so long as the particular IRC is designated by the sender and the carrier is authorized to serve the destination point sender.

8. A message is considered unrouted anytime the sender does not specify a carrier.<sup>4</sup> Each IRC is entitled to receive from Western Union unrouted traffic for each destination point in the carrier's effective outbound message telegraph traffic whether service to the destination is direct or by interconnection. A carrier's quota of unrouted traffic to a destination point is derived from the ratio of the number of routed messages to that point handled by the carrier during the base period to the total number of mes-

<sup>3</sup>While making plain that it favors a formula mode of distributing traffic over the all routed approach, Western Union takes no position as to the precise formula to be prescribed or the appropriateness of the interim formula per se.

<sup>4</sup>Traffic specifically routed to a sender by way of a carrier to a point not tariffed by the carrier is also considered unrouted and is allocated under the formula to a carrier serving that point.

sages to the destination handled by all the carriers serving that point during the base period. Unassigned traffic is allocated to each carrier without regard to its length or its category in the message telegraph service on a rotational basis.

THE PLEADINGS

9. The primary question the Court has asked us to determine is whether the interim formula may be justified outside of its role as precursor to an all routed allocation formula. At our invitation the parties have filed comments respecting the question of independent justification for the interim formula.

A. COMMENTS BY RCA GLOBCOM.

10. RCA does not believe that sufficient independent support exists to retain the interim formula. It argues that the interim formula during its year of operation has disserved the public interest by imposing unnecessary costs on the industry and by shifting traffic to less efficient routes. In the first place, according to RCA Globcom, the public interest is affected adversely by the wasteful spending on advertising that is encouraged by the interim formula since its market research shows that in excess of 90 percent of all social traffic and approximately 65 percent of all business traffic transferred to RCA Globcom is unrouted. Following implementation of the interim formula, RCA Globcom doubled its combined advertising and marketing expenditures devoted to international telegram service, from approximately \$340,000 in 1976 to approximately \$670,000 (annualized in 1977). However, despite its substantial increase in marketing effort, it states that there has been no discernable effect on the volume of unrouted traffic generated by the public. In addition, RCA Globcom states that a minimum nationwide marketing and advertising campaign would require an expenditure of \$2,007,000.

11. RCA's second argument concerns inefficient routing of unrouted traffic. It contends that the interim formula has caused a shift of over 50,000 message transfers by Western Union from international carriers with direct international circuits to specified destination points to carriers with only indirect capability to the customer's desired point. This has resulted in less efficient traffic handling, an increased payout of \$130,000 by the IRCs to foreign correspondents, and the idling of communications capacity which RCA Globcom has in place. Thus, RCA Globcom points out that this effect of the interim formula is inconsistent with our position in the gateway proceeding where we stated that

An authorization . . . to provide service . . . on a direct basis rather than an indi-

rect basis . . . should improve efficiency to the extent that traffic no longer must be switched through (a second country's) switching system and be hauled between (a second country and its ultimate destination) over landline facilities. *International Record Carrier's Communications*, 58 FCC 2d 250, 257 (1976).

From this, RCA Globcom concludes that essentially the same considerations mitigate against the use of indirect, less efficient routing as fostered by the interim formula.

12. RCA Globcom also challenges our position that the additional degree of competition the interim formula fosters will serve the public interest. RCA Globcom states that the interim formula creates incentives which encourage the IRCs to seek to increase their share of unrouted traffic, not by pursuing the occasional hinterland customer who does not route, but by intensifying their solicitation efforts to change the routing of large business customers already routing traffic and located in the gateways and in other major metropolitan centers. This emphasis on customers already routing traffic, according to RCA Globcom, arises from the feature of the interim formula which rewards a carrier for every routed message with two or three other messages. RCA Globcom states that this effect is inconsistent with our expressed desire to promote "customer choice" and thus to achieve a consequential reduction in unrouted traffic.

13. In addition to the absence of benefits accruing to the public, RCA Globcom states that the interim formula abruptly and unfairly shifts large blocks of traffic from RCA Globcom to other carriers. RCA Globcom submits that such action can only be justified on a finding that the carrier potentially losing traffic has misused or abused its position, thereby rendering the operation of the formula "unjust, or unreasonable or inequitable or not in the public interest." Likewise RCA Globcom further contends that in virtually all cases in which one carrier or another received, under the prior formula, most of the unrouted traffic to a given area, that carrier occupied its lead position before section 222 was enacted. Thus, just as its competitors' efforts may have been hampered by the formula so too was the competitive effort of the carrier responsible for transmission of the major portion of traffic. With respect to the effect of the formula on its own operations, RCA Globcom estimates it will "lose approximately 400,000 messages in 1977 and substantial unrecoverable revenues from the formula change on authorized traffic alone." Finally, RCA expects its total traffic and revenue losses to grow if the interim formula remains operative since it states that "outbound traffic to a major extent affects the amount of in-



bound traffic carriers receive from overseas."

14. Following its arguments that the interim formula is neither fair to the carriers nor in the public interest, RCA Globcom proposes alternate approaches to revising the formula. It argues that each alternative will minimize or eliminate the detrimental effects it sees arising from the interim formula. First, RCA Globcom suggests a phased-in approach to implement the interim formula. This approach would provide whatever long-term benefits we see flowing from the interim formula, while allowing management to adjust to reasonably predictable changes and to minimize short term idling of capacity. Another alternative RCA Globcom suggests is a formula using only traffic generated in the gateways as the allocation base. This approach would encourage limiting marketing efforts resulting from the formula change to an area where the IRCs currently are authorized to provide full direct service, maintain offices and where the bulk of their marketing efforts are concentrated. Since each of the carriers operate in the same gateways, RCA Globcom submits that this approach equalizes their competitive positions and would eliminate the need for a competitive response to another carrier's solicitation efforts in those areas outside the gateways. Finally, RCA Globcom urges us to reconsider our action denying the IRCs direct access to customers outside the gateways. In support, RCA Globcom states that it is likely that if direct access were permitted, a larger fraction of the overseas messages would be routed according to customer choice since many customers outside the gateways already route their messages directly to the IRCs at their own additional expense.

#### B. COMMENTS BY WUI

15. WUI also opposes adoption of the interim formula on a permanent basis. WUI argues that a large shift of traffic from one carrier to another would leave the carrier losing traffic with substantial unused switching and transmission capacity, and could overload the recipient's facilities leading to a reduced quality of service. Further, WUI claims that these dual effects are contrary to our policy that carriers "utilize their investment in the most economical, cost efficient manner in order to generate sufficient revenues to cover their embedded costs." See AT&T Series 1000, Docket No. 21417, released October 21, 1977.

16. With respect to the competitive incentive contained in the interim formula, WUI's vice president of sales in an affidavit states "that the intensity of competition in terms of selling and marketing activities and precise offerings was no less under the original for-

mula than they are under the interim formula." The reason for this, according to WUI, is that outbound traffic generates inbound traffic and a customer satisfied with WUI's message telegraph service is likely a customer for WUI's other services.

#### C. COMMENTS BY ITT WORLDCOM

17. Contrary to the views of RCA Globcom and WUI, both ITT Worldcom and TRT argue that the interim formula possesses an independent justification supporting its retention. These carriers point to their experience with the interim formula during the past year as sufficient support for its justification. ITT Worldcom believes that the interim formula provides a significant improvement for the public interest and that it produces an allocation of traffic which is clearly "just, reasonable and equitable" on the record before us and on operating experience to date. In ITT Worldcom's opinion our primary responsibility is the development of a formula which provides a fair allocation of traffic among each of the participating carriers. It states that the interim formula is administratively simpler than the original formula and, consequently, that there is substantially less chance for error on the part of the Quota Bureau or Western Union in calculating the allocation to each carrier. Moreover, since Western Union has automated the distribution of unrouted traffic, according to ITT Worldcom, as a result of the adoption of the interim formula, the unrouted traffic can now be distributed faster and more efficiently and ultimately at a lower cost to the carriers.

18. ITT Worldcom has submitted an affidavit by its executive vice president and general manager describing several improvements it has undertaken since the adoption of the interim formula and which it states were in part due to the incentives created by that formula. According to this statement, ITT has already undertaken a program of improvement in its overseas message service with the goal of increasing its share of routed messages traffic and thereby increasing its share of unrouted traffic pursuant to the formula. ITT Worldcom lists the following service improvements as resulting at least in part from the formula's implementation.

(a) June 1977—placed into service a new duplex international message switch to provide standby capability to enhance reliability and access time for customer transmissions. This first phase of improvement increased in-service time for message switching from approximately 95 percent to 98.5 percent. When full duplex capability is completed at the end of 1977, then in-service time for the switch is expected to be 99.9 percent.

(b) July 1977—implementation via the new message switch of automatic processing

of virtually all routed and unrouted traffic from the Western Union system.

(c) September 1976—provided a full speed interface for West Coast TWX subscribers of Western Union wishing to file message traffic directly with ITT Worldcom. This change permits a 50 percent decrease in a customer's transmission time. A similar capability is scheduled to go into service by January, 1978 for Atlantic Coast subscribers.

(d) 1976—instituted a service available twelve hours each day to answer questions from customers sending messages directly via telex or TWX or via the Western Union system, to answer questions about rates, to provide assistance in message tracing, and to answer other questions. This service is available free throughout the country by way of inbound WATS.

(e) July 1977—expanded on-line message storage capability of the message switch from one half day of on-line traffic storage to approximately 30 days. This change also provides virtually instantaneous on-line retrievals. Retrieval time is now two seconds as opposed to the formerly variable time which, dependent on load, could run from minutes to hours.

(f) September 1977—undertook steps to speed up operator processing for messages filed with ITT Worldcom by telephone.

(g) November 1977—made facility changes improving access for all gateway subscribers and for all Western Union TWX originated traffic into the new message switch.

The affidavit states that without the incentive provided by the interim formula much of the allocation of resources and manpower which went toward improving the efficiency of its message telegraph service might have been channeled to other services.

#### D. COMMENTS BY TRT

19. TRT in supporting retention of the interim formula asks us not to disregard the important public interest element supporting that formula or to misconceive the public interest responsibilities delegated to us by section 222 of the Act. TRT states that the interim formula performs an important public service by which the choices of knowledgeable consumers can be extended to those consumers who have inadequate overseas communication requirements to become sufficiently informed about the merit of particular carriers. Moreover, TRT argues that the formulation of a device which allows the free functioning of a competitive market, in and of itself, serves the public interest, unless the parties supporting retention of the former scheme can bring forward specific justifications which outweigh the implementation of a competitive policy. TRT contends that there is nothing in the basic purpose or language of section 222 suggesting that it was designed to repress fair competition among the carriers permitted pursuant to section 214 to enter the market once Western Union had divested its international operations and the possibility of anticompetitive abuses had passed.

20. Next TRT states that in its experience the implementation of the interim formula has not caused the carriers to embark on a course of undue promotional expenditures. Rather, TRT itself has aimed its promotional efforts at high-volume users who subscribe to telex services of either the IRCs or Western Union, and has not undertaken any significant effort to obtain routed traffic from those who customarily do not route messages. Thus, according to an affidavit filed by its vice president of marketing, TRT has not altered its "sales and marketing approach with respect to industry-wide marketing and sales efforts."

21. TRT also states that implementation of the interim formula has not increased the IRCs' operational costs. With a single exception it has transmitted all traffic received under the interim formula via circuits then in place or necessitated by the commencement of direct circuit operations to a new overseas point. Nor has TRT been obliged to employ additional message operators as a result of the interim formula. Finally, TRT states that the capacity of its automated message switch has been adequate to handle the additional volumes of traffic that have been generated by TRT's participation in the new formula. In sum, TRT has experienced no increase in either promotional or operating expenses as a result of the adoption of the interim formula. According to TRT, its experience stands as a clear demonstration that there is no reason whatsoever to believe that the interim formula may cause increased promotional or operational expenses among the carriers in providing the public with message telegraph service.

#### E. COMMENTS BY WESTERN UNION

22. Western Union has filed a letter stating that the existing formula mode of routing international message traffic should be continued. However, it takes no position as to the precise formula to be implemented or the appropriateness of the interim formula.

#### DISCUSSION

23. Our review of the comments filed by RCA Globcom and WUI opposing a permanent prescription of the interim formula shows that these carriers essentially have raised three possible defects in the formula. We will address each of these matters separately.

24. The first alleged defect arising from the operation of the interim formula is that it requires potentially millions of dollars in additional advertising and marketing costs to be incurred by the IRCs. RCA Globcom rests this argument on an analysis of the cost of a nationwide marketing and advertising campaign. It states that the cost of such an effort for

itself would be \$2,007,000. Despite this projection, it is plain to us that no carrier including RCA Globcom plans to undertake such an effort. RCA Globcom indicates it has budgeted \$670,000 for solicitation of message telegraph traffic. While this is a substantial increase over its prior message service marketing expenditures, we find no indication in RCA Globcom's pleadings that it is considering increasing its solicitation expenditures to the scale it claims is necessary for nationwide coverage. In any event, RCA does not advance specific facts to show that the public interest would be disserved by increased marketing efforts. Indeed, it appears that the basis for RCA's increased solicitation efforts lies in its recognition that the interim formula has brought about greater competitive efforts by the IRCs and that to expand its volume of message traffic, or to retain its substantial standing in the market it must increase its marketing efforts. We believe that this added emphasis on marketing will soon give rise to efforts, like those of ITT Worldcom, to improve, where possible, the facilities underlying service to the public. In sum, as the Court in its decision granting rehearing has noted the purpose of the original formula

cannot be stretched to giving RCA a right in perpetuity to a fixed share of the telegraphic market regardless of changing conditions and circumstances. It certainly could not have been the intention of the Congress or the FCC to permit RCA to sit back and do nothing to counteract tactics by its competitors and rely upon the "formula" to give it the lion's share of the unrouted business.

Accordingly, we reject this argument.

25. Secondly, both RCA Globcom and WUI argue that the interim formula diminishes use of existing circuitry of communications and consequently may cause the idling of direct circuit capacity already in place. The point that RCA and WUI are attempting to make is that the implementation of the interim formula has resulted in a shift of traffic from carriers with a direct circuit to a particular destination point to carriers which cannot directly serve that point but, instead, must interconnect with another entity before handing over the message for ultimate delivery. RCA Globcom estimates that in 1977 over 50,000 messages will be shifted to carriers lacking direct service capability to the 21 countries RCA Globcom has indicated. Moreover, RCA Globcom estimates that this reliance on indirect service will result in an increased payout of \$130,000 to foreign carriers.

26. We find no significant merit in this argument. At paragraphs 49 and 50 of our "Report and Order, we considered a proposal to allocate unrouted traffic on a country by country basis

among only those IRCs authorized direct circuits to a customer's desired points. Nevertheless, we chose to base distribution of unrouted traffic on the destinations a carrier is authorized to serve via direct circuits or by interconnection. One reason we rejected the direct circuit approach is because it would leave significant gaps in the distribution of unrouted traffic since there are numerous foreign destinations points which no carrier serves directly. We also rejected this proposal because it would deny substantial portions of unrouted traffic to small carriers who serve a higher percentage of their service points through intermediate connections. We believe that those carriers now providing indirect service will seek authorization to serve those points directly if the demand for their services to a particular destination point becomes sufficient. Moreover, we note that the 50,000 messages which RCA becomes sufficient. Moreover, we note that the 50,000 messages which RCA Globcom states have been shifted to indirect circuits due to the formula, amount to less than one half of one percent of the 7,887,664 worldwide annual messages the carriers transmit. This de minimis shift of traffic to indirect service is not in our opinion a threat to the public interest.

27. Finally, RCA Globcom contends that the interim formula encourages the IRCs to concentrate their efforts on existing customers who already route traffic. Here, TRT as well as our review of RCA Globcom's marketing experience to date underlines the validity of RCA Globcom's claim. However, we do not find anything in this marketing approach that persuades us to set aside the interim formula. Western Union's study shows that in 1974 three quarters of the international message traffic handled by it was unrouted. Much of this traffic appears to be originated by persons with only an occasional use for message telegraph traffic.

28. We emphasize that our goal is to encourage the carriers to continually strive to offer the public the best service possible at the lowest possible rates. The interim formula is a powerful incentive towards achievement of this goal. As RCA has noted, the interim formula rewards a carrier for every routed message with two or three unrouted messages. In contrast, the 1943 formula did not reward improvements in services or prices at all, but stood as a disincentive to such improvements. The customers who do route their traffic, for the most part business cus-

\*See p. 201 of the report and order demonstrating that "the ultimate effect (of the original formula) was that the carrier with the largest deficiency eventually came to receive all unrouted traffic to a given destination."



tomers, are keenly interested in the best service for the lowest cost and do educate themselves about the IRCs.\* By correlating the distribution of unrouted messages with routed messages, we insure that improvements in service or prices which earn the business of knowledgeable users will also be rewarded by unrouted messages. Thus, the incentive to provide the very best is maximized, and the public interest will benefit accordingly. The service and price improvements made to attract knowledgeable users also enhance the quality of service to casual users since the facilities making up the service are blind to the identity of customers and to the manner in which the message came to be the responsibility of the carrier. In this regard it is particularly interesting to note that ITT Worldcom while making no representation concerning its present marketing efforts has by affidavit described the service improvements which in the judgment of its chief executive officer have been brought about in part due to the additional degree of competitive incentives contained in the interim formula.

29. In sum, we cannot find that RCA Globcom's reduction in routed messages is a sufficient reason to bar or defer the operation of the interim formula. As we stated at paragraph 53 of the "Report and Order":

RCA appears to be asserting that its quota gives it a claim to a guaranteed amount of traffic. The present formula does not guarantee any carrier that it will receive traffic. As more customers routed messages and the unrouted pool shrank, traffic available for distribution became inadequate to satisfy quotas. Such changes in the marketplace can hardly be said to have wronged RCA particularly since its own increases in self generated traffic and the benefits it received under schedule B (special provisions applying to RCA) contributed to this process.

In this instant proceeding, RCA has brought forward nothing to cause us to modify that finding. Moreover, we can find no indication by RCA that the quality of service it provides to the public would suffer in any way by retention of the interim formula.

#### RCA GLOBCOM'S PROPOSED ALTERNATIVE FORMULAS

30. In addition to opposing retention of the interim formula, RCA Globcom has suggested various alternative proposals which it believes to be more equitable among the carriers and to better serve the public interest. It recommends: (1) Consideration of a phase-in period for the interim formula, (2) limiting the formula's oper-

\*Whether customers learn of the advantage of using an individual IRC by solicitation, advertisement, or customer word-of-mouth is not a matter of concern to us.

ations to traffic originating in the gateway cities, or (3) if the interim formula remains in effect, permitting the carriers at their expense to serve directly message telegraph customers located outside the gateways.

31. We are of the opinion that these alternatives are unnecessary to the implementation of the interim formula or would fail to serve the public interest as positively as the interim formula. Therefore, we shall reject them. In the first place, we are satisfied based on our own expertise and the remarks the carriers have filed concerning the actual operation of the interim formula that it is functioning smoothly. Indeed, we have seen no persuasive evidence that a phase-in period is necessary for the carriers to provide their services to the public. Aside from the wholly unsupported claim of adverse financial impact RCA Globcom has alleged, it appears that only minor short term adjustments such as a slightly greater reliance on indirect circuits, and consequent pay-outs have occurred due to the implementation of the interim formula. In sum, the actual experience of the IRC under the interim formula persuades us that a phase-in period is totally unnecessary and would disserve the public interest by delaying the incentives the IRCs have under the formula to improve their services and to offer them at the lowest possible rates.

32. Likewise, we can find no merit in artificially limiting the competitive incentive of the carriers to customers located in the gateways. We recognize that much of the carriers present solicitation efforts are directed toward customers in those discrete areas and may continue to be at least in the short run. However, to focus the efforts of the carrier on these points would go far toward institutionalizing the very criticism RCA Globcom has put forward supporting rejection of the interim formula, since the carriers would then be free to concentrate their efforts on those major customers located in the gateways without any incentive whatsoever to take into consideration the needs of the public outside the gateways. In this regard, we specifically affirm our findings in the "Report and Order" at paragraph 51 with respect to inclusion of all areas of the Continental United States in the formula. We stated that

[w]e believe that the volume (for inclusion in the quota base) should be based on all routed traffic. This includes direct pickups, direct access and routed WU transfers. This is the most likely way to achieve the goal of distributing unrouted traffic on the same basis as routed. Direct pickups (traffic routed directly to the designated carrier by a customer located either inside or outside the gateways) are by definition specifically routed and represent a significant portion of overall traffic. Therefore, to ignore such traffic would be unrealistic and contrary to our policy herein.

33. Finally, we deny RCA Globcom's request that we revisit our action rejecting the tariffs underlying the free direct access concept in International Carriers Communication, 40 FCC 2d 1082 (1973). In that case we found that the IRCs must file applications pursuant to section 222 to expand their operations beyond the gateways rather than proceeding by tariff because adoption of "free direct access would alter the structure of the industry by altering the relationships between the domestic and the international carriers as to the handling of international traffic." Thus, we have already concluded that the filing of applications justifying any expansion of operations outside the gateways is a prerequisite to any proposed expansion. We will not entertain RCA Globcom's suggestion here. It is sufficient to note we are considering the application and comments RCA Globcom has filed in Docket No. 19660.

#### FINDINGS REGARDING INTERIM FORMULA'S OPERATIONS

34. In our "Report and Order" we found that the interim formula provides the carriers with an equitable means of distribution, focusing on customer selection and giving each carrier an opportunity to increase its share of unrouted traffic. The interim formula, by functioning in a direct ratio method has simplified administration of routing allocations to the carriers and eliminated many of the sources of controversies found in the original formula. This simplification is accomplished through treating all classes of messages as a whole rather than retaining the aspect of the original formula which required allocation of unrouted traffic to be made according to the various classifications of the messages in the message telegraph service, and which also necessitated separate treatment of gateway and non-gateway traffic. Instead, the interim formula treats all message traffic generated in the continental United States in the same way, distinguishing only between route and unrouted messages.

35. It remains Western Union's function to distribute specifically routed traffic to the designated carriers. The unrouted traffic Western Union receives is distributed to the IRCs in the ratio each receives specifically routed traffic. Rotational distribution of messages to the carriers as they are received by Western Union insures that over the long run each carrier receives the revenues to which it is entitled under the formula. The deletion of the balancing provisions, since there is no longer any need or justification for them, eliminates distortions in distribution as well as long term accumulation of averages and deficiencies. Short run imbalances arising due to traffic variations are corrected by adjustment of the carriers' ratios. The provision for periodically adjusting the ratios assures that traffic distribution remains responsive to changing conditions brought about by customer selection.

36. Under the interim formula each carrier receives unrouted traffic to all points it is authorized to serve. If a carrier adds a new service point, the formula is adjusted to include that carrier in the distribution of unrouted traffic according to the amount of traffic specifically routed through it to that point. Since adjustments concerning new points of service are made at six month intervals, Western Union has added certainty in meeting its responsibilities under the formula and is spared too frequent changes in its distribution practices. The Quota Bureau calculates the IRC's ratios of unrouted traffic for each country of destination by determining the number of messages specifically designated by customers to a particular carrier. The individual carrier figures are then totaled every six months for each destination and each carrier's figures compared to that total. The resulting ratios represent each carrier's share of routed traffic for each destination point and therefore, its portion of unrouted traffic under the interim formula to that point.

#### INDEPENDENT JUSTIFICATION OF THE INTERIM FORMULA

37. The interim formula provides each carrier with the same opportunity as every other carrier to share in the pool of unrouted overseas messages Western Union receives. Through the mechanism of distributing these unrouted messages to carriers in direct proportion to the number each receives to various overseas destinations, the formula encourages each carrier to strive to secure as many messages on a routed basis as possible. In other words, a carrier's share of total message traffic is dependent upon its success in persuading users of the service to place messages directly with it. This method of distribution provides a simple means for the Quota Bureau to administer the formula and for Western Union to distribute traffic. Since all messages originating in the continental United States are treated the same, rotational distribution of messages insures a random distribution among the carriers. The direct ratio mechanism ensures that the formula will generate few complaints about the number of unrouted messages allocated to the individual carriers. As a result, Western Union may meet its allocation responsibilities through an automated distribution system, thereby greatly reducing its own administrative costs and limiting the need for the Quota Bureau to resolve complaints. Those few com-

plaints the carriers bring to the Quota Bureau, and none have been brought to our attention in the pleadings, may be equitably disposed of since the formula leaves little room for dispute once the facts, based on the Quota Bureau statistical reports are ascertained and the straight forward allocation system we have prescribed is applied to those facts. Disputes which the Quota Bureau cannot resolve are referred to us for action.

38. The improvements already made by ITT Worldcom under the interim formula are of the type we anticipated the formula would inspire, and provide concrete confirmation of the new formula's service to the public interest. We expect that once the formula is accepted as the rule, such further improvements will soon be forthcoming from all the carriers. All the IRCs, whether opposing or favoring retention of the interim formula, acknowledge that it maintains or increases the incentive to secure as many direct routings as possible. Our past experience in other areas, confirmed now by ITT's actions under the interim formula, has shown that carriers competing in this fashion must out of self interest strive to improve service efficiency and to keep charges as low as is feasible. Such improvements benefit all customers, routing and non-routing alike, because the facilities provide the same service to both without distinction. Therefore, we find that the interim formula is just, equitable, reasonable and in the public interest on its own merits and that it is in no way dependent for its justification on a required routing system of distributing international message telegraph traffic.

39. Accordingly, it is ordered, Pursuant to sections 1, 4(i), 4(j), 201, 222(e)(1), 222(e)(3), and 403 of the Communications Act of 1934, as amended, that the formula set forth in the Appendix hereto is prescribed as the distribution formula for outbound international message telegraph traffic.

40. It is further ordered, That this proceeding is terminated without further action concerning the proposed required routing formula for the distribution of outbound international message telegraph traffic.

\*We will continue to closely monitor the carriers' activities in the messages telegraph service, and remain ready to further modify the formula should the public interest so require.

\*Appendix was filed as a part of the original document.

For the Federal Communications Commission.\*

WILLIAM J. TRICARICO,  
Acting Secretary.

[FR Doc. 78-1099 Filed 1-19-78; 8:45 am]

[6712-01]

[SS Docket Nos. 78-4-78-7]

JOHN N. SICHERT

Order Designating Application for Hearing on Stated Issues

Adopted: January 12, 1978.

Issued: January 16, 1978.

In the matter of revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-4, licensee of Station KSL-5113 in the citizens band radio service; revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-5, licensee of Station WB3CMR in the amateur radio service; suspension of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-6, amateur novice class operator licensee; application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

The Chief, Safety and Special Radio Services Bureau, has under consideration the license for Citizens Band radio station KSL-5113, licensed to John W. Sichert, as well as Sichert's license for Amateur radio station WB3CMR. Also under consideration is Sichert's Novice Class operator license and his application for a Technician Class operator license.

John W. Sichert is the licensee of Citizens Band radio station KSL-5113, granted on July 25, 1975, and Amateur radio station WB3CMR, granted on June 18, 1976.

On September 22, 1976, Sichert transmitted radio communications on the frequency 27.655 MHz, which is not authorized for use in the Citizens Band but is in the band of frequencies allocated to the United States Government, in willful violation of § 95.41(d) of the Commission's rules.

It appears, That Sichert's radio transmissions on September 22, 1976, were not identified by a call sign issued by the Commission but instead were identified by the designation "7W198," in violation of § 95.95(c) of the Commission's rules.

\*Commissioner Brown not participating.  
Certain sections of the Commission's rules have been renumbered, revised or deleted. The rules cited herein are those which were in effect at the time of the radio operation.



*It further appears,* That the radio transmissions specified above, identified by the designation "7W198," demonstrate that Sichert has participated in an organized scheme to operate radio transmitting apparatus illegally and to avoid detection.

*It further appears,* That on September 22, 1976, Sichert's station was operated with a transmitter equipped to operate on frequencies not assigned to the Citizens Band Radio Service, in violation of §95.55(c)(4) of the Commission's rules.

*It further appears,* That on September 22, 1976, Sichert's station was operated with a transmitter equipped with controls allowing it to be operated in violation of the Commission's Technical regulations regarding the Citizens Band Radio Service, in violation of §95.55(e) of the Commission's rules.

*It further appears,* That during his radio operation on September 22, 1976, Sichert operated with transmitter output power greater than that allowed by §95.43(b) of the Commission's rules.

As a result of his radio operation on September 22, 1976, Sichert was convicted on March 28, 1977, in the United States District Court, District of Maryland, under 47 U.S.C. 502 upon his plea of guilty to violations of 47 CFR 95.41(d).

*It appears,* That thereafter, on April 22 and 28, 1977, Sichert transmitted radio communications on the frequencies 145-148 MHz, which frequencies are not authorized for Novice Class licensees, in willful violation of §97.7 of the Commission's rules.

*It further appears,* That Sichert's conduct described herein is contrary to the public interest, convenience and necessity standards provided for in section 307(a) of the Communications Act of 1934, as amended, and raises substantial questions regarding his qualifications to remain a licensee of the Commission.

*It further appears,* That, in view of the above, the Commission would be warranted in refusing to grant an application filed by the licensee if his original application were now before it.

*Accordingly, it is ordered,* Pursuant to section 312(a) (2), (4), and (c) of the Communications Act of 1934, as amended, and §0.331 of the Commission's rules, that Sichert show cause why the licenses for Citizens Band radio station KSL-5113 and Amateur radio station WB3CMR should not be revoked, and appear and give evidence in respect thereto at a hearing to be held at a time and place before an Administrative Law Judge, to be specified by a subsequent order. (See Enclosures 1, 2.)

*It is further ordered,* That the rule violation of which Sichert was convicted

shall be res judicata in this proceeding.

*It is further ordered,* Under authority contained in section 303(m)(1)(A) of the Communications Act of 1934, as amended and §0.331 of the Commission's rules, that the Novice Class Amateur Operator license of John W. Sichert is suspended for the remainder of the license term; and,

*It is further ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended and §1.973(b) and 0.331 of the Commission's rules, that Sichert's application for Technician Class Amateur operator license is designated for hearing, at a time and place to be specified by subsequent Order upon the following issues:

(1) To determine whether John W. Sichert operated radio transmitting equipment in violation of §§95.41(d), 95.95(c), 95.55(c)(4), 95.55(e), and 97.7 of the Commission's Rules.

(2) To determine the effect of Sichert's conviction in United States District Court on March 28, 1977, for violation of 47 CFR 95.43(b) on his qualifications to be a Commission licensee.

(3) To determine, in light of the facts adduced under issues (1) and (2), whether Sichert possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine, in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the Technician Class operator application of John W. Sichert.

*It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of station licenses (Docket Nos. 78-4 and 78-5) and suspension of operator license (Docket No. 78-6) is on the Bureau, pursuant to section 312(d) of the Communications Act of 1934, as amended; and the burden of introduction of evidence and the burden of proof for grant of the application (Docket No. 78-7) is on the respondent, pursuant to section 309(e) of the Act.

*It is further ordered,* That §1.85 of the Commission's rules, which requires that persons whose operator licenses are suspended must, in order to have a hearing on the matter, file an application for a hearing within fifteen days, is waived; and

*It is further ordered,* That §1.221(c) of the Commission's Rules, which requires that applicants whose applications are designated for hearing file a notice of appearance within 20 days in order to have a hearing on the issues, is waived; and

*It is further ordered,* That, in order to obtain a hearing on the suspension matter, Sichert shall, within 30 days after receipt of the suspension order,

make a written request for a hearing, whereupon the suspension will be held in abeyance until the conclusion of the proceedings on the suspension; that if Sichert elects not to make such a request, he shall mail his Amateur Radio Operator license to the Commission in Washington, D.C., before the expiration of thirty days. (See Enclosure 3.)

*It is further ordered,* That, in order to obtain a hearing on his application, Sichert, in person or by attorney, shall within thirty days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intent to appear on a date fixed for hearing to present evidence on the issues specified in the foregoing paragraph. Failure to file a written appearance within the time specified will result in the dismissal of the application with prejudice. (See Enclosure 4.)

*It is further ordered,* Pursuant to the provisions of §1.227 of the Commission's rules, that the proceedings on the above-stated issues regarding the Order to Show Cause, the Suspension and the Application are consolidated for hearing.

*It is further ordered,* That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

For the Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,  
Chief, Legal, Advisory and  
Enforcement Division.

## ENCLOSURE 1

RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE  
WHY CITIZENS BAND RADIO STATION LICENSE  
KSL-5113 SHOULD NOT BE REVOKED

SECRETARY,  
Federal Communications Commission,  
Washington, D.C.

In the matter of revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-4, licensee of Station KSL-5113 in the citizens band radio service; revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-5, licensee of Station WB3CMR in the amateur radio service; suspension of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-6, amateur novice class operator licensee; application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

In response to the above-mentioned Order to Show Cause, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in the above-entitled matter:

(See Page 3)

- ☐ 1. Respondent will appear and present evidence at the hearing.  
☐ 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

☐ 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.\*

Respectfully submitted,

Date: \_\_\_\_\_, 1978.

JOHN W. SICHERT,  
Respondent.

Section 1.91 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the Order to Show Cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the Order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of his request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for a written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the Order to Show Cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission. Thereupon, the matter normally will be handled by the Chief, Safety and Special Radio Services Bureau, under applicable delegations of authority, who will make a determination, on the basis of all information available, including statements filed by the respondent, respondent's past violation record, etc., whether a revocation order should be issued or whether the matter should be dismissed.

## ENCLOSURE 2

RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE  
WHY AMATEUR RADIO STATION LICENSE  
WB3CMR SHOULD NOT BE REVOKED

In the matter of revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-4, licensee of Station KSL-5113 in the citizens band radio service; revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-5, licensee of Station WB3CMR in the amateur radio service; suspension of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-6, Amateur novice class operator licensee; application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

In response to the above-mentioned Order to Show Cause, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which

\*If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations; (2) the reasons, if any, why you believe that your radio station license should not be revoked.

course of action he will take in the above-entitled matter:

(See Page 3)

☐ 1. Respondent will appear and present evidence at the hearing.

☐ 2. Respondent waives his right to a hearing in the above-entitled matter and does not submit a written statement.

☐ 3. Respondent waives his right to a hearing in the above-entitled matter and submits the attached written statement.\*

Respectfully submitted,

Date: \_\_\_\_\_, 1978.

JOHN W. SICHERT,  
Respondent.

Section 1.91 of the Commission's rules provides that a licensee, in order to avail himself of the opportunity to be heard in a hearing presided over by an Administrative Law Judge, shall file with the Commission, within 30 days after service of the Order to Show Cause, a written statement that he will appear at the hearing and present evidence on the matter specified in the Order. If Respondent is unable to appear at a hearing held in Washington, D.C., he may request that the hearing be held at a location near his residence. Any such request should contain whatever facts Respondent feels necessary in support of his request.

The right to a hearing is waived if the licensee (1) fails to file a timely written appearance, or (2) files with the Commission, within the time specified for a written appearance, a written statement expressly waiving the right to a hearing. When hearing is waived, the licensee, within the time specified for a written appearance, may submit to the Commission a written statement denying or seeking to mitigate or justify the circumstances or conduct complained of in the Order to Show Cause. When a hearing is waived, the Chief Administrative Law Judge will issue an order certifying the case to the Commission. Thereupon, the matter normally will be handled by the Chief, Safety and Special Radio Services Bureau, under applicable delegations of authority, who will make a determination, on the basis of all information available, including statements filed by the respondent, respondent's past violation record, etc., whether a revocation order should be issued or whether the matter should be dismissed.

## ENCLOSURE 3

RESPONDENT'S REPLY TO ORDER SUSPENDING  
NOVICE CLASS AMATEUR RADIO OPERATOR LICENSE

In the matter of revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-4, Licensee of Station KSL-5113, in the citizens band radio service; revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-5, Licensee of Station WB3CMR in the Amateur Radio Service; suspension of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-6, Amateur novice class operator licensee; application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

\*If this statement is intended to be in mitigation, it should include information as to (1) the corrective action, if any, that has been taken in connection with each of the related violations; (2) the reasons, if any, why you believe that your radio station license should not be revoked.

application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

In response to the above-mentioned Order, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in the above-entitled matter:

☐ 1. Respondent will appear at a hearing on the suspension order.

☐ 2. Respondent does not desire a hearing on the suspension order, and encloses his Amateur Radio Operator license to be held by the Commission for duration of the suspension.

Respectfully submitted,

Date: \_\_\_\_\_, 1978.

JOHN W. SICHERT,  
Respondent.

## ENCLOSURE 4

RESPONDENT'S REPLY TO THE ORDER DESIGNATING  
TECHNICIAN CLASS OPERATOR APPLICATION  
FOR HEARING

In the matter of revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-4, Licensee of Station KSL-5113, in the citizens band radio service; revocation of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-5, Licensee of Station WB3CMR in the Amateur Radio Service; suspension of license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-6, Amateur novice class operator licensee; application for technician class operator license of John W. Sichert, 2704 Spencerville Road, Burtonsville, Md. 20730, SS Docket No. 78-7.

In response to the above-mentioned Order, Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in the above-entitled matter:

☐ 1. Respondent will appear on the date fixed for the hearing and present evidence on the issues specified in the order of designation.

☐ 2. Respondent will not present evidence on the issues specified in the order of designation and understands that, as a result, his application will be dismissed with prejudice.

Respectfully submitted,

Date: \_\_\_\_\_, 1978.

JOHN W. SICHERT,  
Respondent.

[FR Doc. 78-1572 Filed 1-19-78; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H. C. No. 236]

HOME INSURANCE CO.

Receipt of Application for Permission to Acquire Control of Southern California Savings and Loan Association

JANUARY 17, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corp., has received an application from The Home Insurance Co., New



York, N.Y., a New Hampshire corporation, for approval of acquisition of control of Southern California Savings and Loan Association, Los Angeles, Calif., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(a)(e)), and §584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected through the purchase of all the guarantee stock of Southern California Savings and Loan Association. The entire guarantee stock of Southern California Savings and Loan Association is owned by City Investing Co., New York, N.Y., a Delaware corporation. City Investing Co. is a diversified registered savings and loan holding company. The Home Insurance Co. also is a subsidiary of City Investing Co. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20522, on or before February 21, 1978.

RONALD A. SNIDER,  
Assistant Secretary,  
Federal Home Loan Bank Board.  
(FR Doc. 78-1624 Filed 1-19-78; 8:45 am)

[4110-88]

#### DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Alcohol, Drug Abuse, and Mental Health  
Administration

#### ADVISORY COMMITTEES

##### Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of February 1978:

#### NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

Date and time: February 2-3; 9:30 a.m.  
Place: Conference Room 10-04, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.  
Closed—February 2; 9:30 a.m.-noon.  
Open—Otherwise.  
Contact—Ms. Pamela Thurber, Room 10A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6618.

**Purpose.** The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention and community services programs. The Council also gives advice on policies and priorities for drug abuse grants

and contracts and reviews and makes recommendations on grant applications.

**Agenda.** From 9:30 a.m. to 12 noon, February 2, the meeting shall be closed for final review of grant applications for Federal assistance in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1:00 p.m. on February 2 until 5:00 p.m. on February 3 will be open to the public for a discussion of issues in the field of drug abuse, orientation to the programs of the Institute, development of priorities for action by the Council, and administrative announcements.

#### METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

Date and time: February 2-4; 9:00 a.m.  
Place: Suite C-130, Shoreham Americana, Connecticut Avenue at Calvert Street, Washington, D.C.  
Open—February 2, 9-9:30 a.m.  
Closed—Otherwise.  
Contact—Mrs. Phyllis Pinzow, Room 15-99, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3373.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to metropolitan mental health problems and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9:00 a.m. to 9:30 a.m., February 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### DEVELOPMENTAL PROBLEMS RESEARCH REVIEW COMMITTEE

Date and time: February 2-4, 9 a.m.  
Place: Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015.  
Open—February 2, 9-10 a.m.  
Closed—Otherwise.  
Contact—Mrs. Diana Souder, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3566.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9:00 a.m. to 10:00 a.m., February 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Ad-

ministrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### DRUG ABUSE RESEARCH REVIEW COMMITTEE

Date and time: February 8-10; 9 a.m.  
Place: Conference Rooms M, J, and L, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.  
Open—February 8, 9-9:30 a.m.  
Closed—Thereafter.  
Contact: Mrs. Lucy Stevens, Room 9-46, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6664.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Drug Abuse relating to research activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

**Agenda.** From 9 a.m. to 9:30 a.m., February 8, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

Date and time: February 9-10; 9 a.m.  
Place: Dupont Plaza Hotel, Capital Suite, 1500 New Hampshire Avenue, Washington, D.C. 22036.  
Open—February 9, 9-9:30 a.m.  
Closed—Otherwise.  
Contact: Nina Young, Room 9-97, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3454.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to preclinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 9:30 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### SOCIAL SCIENCES TRAINING REVIEW COMMITTEE

Date and time: February 9, 10, 11; 9 a.m.  
Place: Sheraton Silver Spring Hotel, 8727 Colesville Road, Silver Spring, Md.  
Open—February 9, 9-11 a.m.  
Closed—Otherwise.  
Contact: Barbara Friedland, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3857.

**Purpose.** The Committee is charged with the initial review of grant applications for

Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science training and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 11 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### RESEARCH SCIENTIST DEVELOPMENT REVIEW COMMITTEE

Date and time: February 9-11; 9 a.m.  
Place: Board Room, Ramada Inn, Rosslyn, 1900 North Fort Meyer Drive, Arlington, Va. 22209.  
Open—February 9, 9-10 a.m.  
Closed—Otherwise.  
Contact: Marjorie Cross, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4347.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to developmental research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

Date and time: February 9-11; 9 a.m.  
Place: Plaza Room, Dupont Plaza Hotel, 1500 New Hampshire Avenue NW., Washington, D.C. 20036.  
Open—February 9, 9-9:30 a.m.  
Closed—Otherwise.  
Contact: Mrs. Vi Kemp, Room 10-104, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4843.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 9:30 a.m., February 9, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to

the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

Date and time: February 15-18; 9 a.m.  
Place: Suite B-120, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.  
Open—February 15, 9-9:30 a.m.  
Closed—Otherwise.  
Contact: John T. Hammack, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3936.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 9:30 a.m., February 15, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

Date and time: February 16-18; 9 a.m.  
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. 20014.  
Open—February 16, 9-10 a.m.  
Closed—Otherwise.  
Contact: Muriel Smith, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3942.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

Date and time: February 16-18; 9 a.m.  
Place: North Scott Room, Gramercy Inn, 1616 Rhode Island Avenue NW., Washington, D.C. 20036.  
Open—February 16; 9-10 a.m.  
Closed—Otherwise.  
Contact: Shirley Maltz, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2942.

**Purpose.** The Committee is charged with the initial review of grant applications for

Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

Date and time: February 16-18; 9 a.m.  
Place: Capital Room, Dupont-Plaza Hotel, Dupont Circle NW., Washington, D.C. 20036.  
Open—February 16, 9-9:30 a.m.  
Closed—Otherwise.  
Contact: Marilyn Andersen, Room 10-95, Parklawn building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3936.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 9:30 a.m., February 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, U.S.C. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

#### CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

Date and time: February 17-18; 9 a.m.  
Place: Ramada Inn Rosslyn, 1900 Fort Meyer Drive, Arlington, Va. 22209.  
Open—February 17, 9-10 a.m.  
Closed—Otherwise.  
Contact: Mrs. Eileen Nugent, Room 10C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4707.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to



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the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

**PSYCHIATRY EDUCATION REVIEW COMMITTEE**

Date and time: February 21-24; 10 a.m.  
Place: Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Open—February 21, 10-10:30 a.m.

Closed—Otherwise.

Contact: Ms. Connie Verney, Room 8C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2120.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatry education and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 10 a.m. to 10:30 a.m., February 21, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

**ALCOHOL RESEARCH REVIEW COMMITTEE**

Date and time: February 22-24; 9 a.m.  
Place: Embassy Row Hotel, Washington, D.C.

Open—February 22; 9-10 a.m.

Closed—Otherwise.

Contact: Dr. James C. Teegarden, Room 16C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4223.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to research activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

**BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE**

Date and time: February 22-25; 8:30 a.m.  
Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Open—February 22; 8:30-9:30 a.m.

Closed—Otherwise.

Contact: Donna Spain, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3855.

**Purpose.** The Committee is charged with the initial review of grant applications for

**NOTICES**

Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 8:30 a.m. to 9:30 a.m., February 22, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

**CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE**

Date and time: February 23-24; 9 a.m.  
Place: The Wellington Holiday Inn, 2505 Wisconsin Avenue NW, Washington, D.C.

Open—February 23, 9-10 a.m.

Closed—Otherwise.

Contact: Jane Gascoyne, Room 9-105, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3568.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

**Agenda.** From 9 a.m. to 10 a.m., February 23, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance, and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5, United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

**COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE**

Date and time: February 24-March 1; 9 p.m.  
Place: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Md. 20014.

Open—February 24; 9 p.m.-11 p.m.

Closed—Otherwise.

Contact: Mr. Sidney Leopold, Room 11-10, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

**Purpose.** The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

**Agenda.** From 9 p.m. to 11 p.m., February 24, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5,

United States Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Attendance by the public will be limited to space available. Substantive program information may be obtained from the contact person listed above.

The NIDA Information Officer who will furnish summaries of the meeting and rosters of the committee is Mr. Kenneth Howard, Program Information Officer for Drug Abuse, NIDA, Room 10A-56, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6500. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573. The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3308.

**NOTE.**—Less than 15 days notice is provided for the first meetings in the month due to a delay in mail deliveries.

Dated: January 16, 1978.

CAROLYN T. EVANS,  
Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administration.

(FR Doc. 78-1810 Filed 1-19-78; 8:45 am)

**[4110-86]**

**Center for Disease Control  
CENTER FOR DISEASE CONTROL PROGRAMS  
AND POLICIES ADVISORY COMMITTEE (AD HOC)**

**Establishment**  
Pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, the Center for Disease Control (CDC) announces the establishment by the Secretary, Department of Health, Education, and Welfare, on December 19, 1977, of the following advisory committee:

**Designation:** CDC Programs and Policies Advisory Committee (Ad Hoc).  
**Purpose:** The CDC Programs and Policies Advisory Committee (Ad Hoc) will review solicited responses from professionals in the fields of public health and preventive medicine and based on these responses, current data on morbidity and mortality, and their own expertise make recommendations to the Secretary, HEW, the Assistant Secretary for Health, and the Director, CDC, pertaining to future direction, programs, and policies for CDC.

Authority for this Committee will expire April 30, 1978, unless the Secretary formally determines that continuance is in the public interest.

**NOTICES**

Dated: January 6, 1978.

WILLIAM C. WATSON, Jr.,  
Acting Director,  
Center for Disease Control.  
(FR Doc. 78-1598 Filed 1-19-78; 8:45 am)

**[4110-86]**

**CENTER FOR DISEASE CONTROL PROGRAMS  
AND POLICIES ADVISORY COMMITTEE (AD HOC)**

**Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following Committee meeting:

**Name:** Center for Disease Control (CDC) Programs and Policies Advisory Committee (Ad Hoc).

**Dates:** February 21-23, 1978.

**Place:** Room 207, Building 1, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Ga. 30333.

**Time:** 9 a.m.

**Type of Meeting:** Open.

**Contact Person:** Ms. Patsy Whitesell, Executive Secretary of Committee, Bureau of Training, Center for Disease Control, 1600 Clifton Road, NE., Atlanta, Ga. 30333. Phone: AC/404 633-3311, Extension 6502, FTS: 236-6502.

**Purpose:** The CDC Programs and Policies Advisory Committee (Ad Hoc) will make recommendations to the Secretary, the Assistant Secretary for Health, and the Director, Center for Disease Control, pertaining to future direction, programs, and policies for CDC.

**Agenda:** The Committee will review solicited suggestions on the future direction of CDC from professionals in the fields of public health and preventive medicine, and will develop recommendations based on these responses, current morbidity and mortality data, and their own expertise.

Agenda items are subject to change as priorities dictate.

The meeting is open to the public for observation and participation. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 6, 1978.

WILLIAM C. WATSON, Jr.,  
Acting Director,  
Center for Disease Control.  
(FR Doc. 78-1599 Filed 1-19-78; 8:45 am)

**[1505-01]**

(Docket No. 77N-0239)

**PROPOSED MODEL RETAIL FOOD STORE  
SANITATION ORDINANCE**

**Availability**

**Correction**

In FR Doc. 77-30809, appearing at page 56367 in the issue of Tuesday, October 25, 1977, the "Date" paragraph should read "DATE: Comments by January 23, 1978." and the third line of the last full paragraph, top of the third column, should read, "January 23, 1978 to the office of the Hear-".

**[4110-03]**

**SYNTEX AGRIBUSINESS, INC.**

**Bon-Premix Medicated; Withdrawal of  
Approval of New Animal Drug Application**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** This document withdraws approval of a new animal drug application (NADA) for Bon-Premix Medicated which contains buquinolate for the prevention of coccidiosis.

**EFFECTIVE DATE:** January 20, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b(2))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the following notice is issued:

Syntex Agribusiness, Inc. (formerly Hoffman-Taff, Inc.), P.O. Box 1246, Springfield, Mo. 65805, has requested that its NADA 42-857V be withdrawn in accordance with § 514.115(d) (21 CFR 514.115(d)) on the grounds that the drug is no longer being marketed. Notice is given that approval of NADA 42-857V for Bon-Premix Medicated which contains buquinolate for the prevention of coccidiosis is hereby withdrawn, effective January 20, 1978.

Dated: January 12, 1978.

C. D. VAN HOUWELING,  
Director,  
Bureau of Veterinary Medicine.  
(FR Doc. 78-1432 Filed 1-19-78; 8:45 am)

**[4110-03]**

**Food and Drug Administration**

**PANEL ON REVIEW OF MISCELLANEOUS  
EXTERNAL DRUG PRODUCTS**

**Renewal**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Miscellaneous External Drug Products by the Secretary, Department of Health, Education, and Welfare.

**DATE:** Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

**FOR FURTHER INFORMATION CONTACT:**

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: January 12, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-1468 Filed 1-19-78; 8:45 am)

**PANEL ON REVIEW OF ORAL CAVITY DRUG  
PRODUCTS**

**Renewal**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Oral Cavity Drug Products by the Secretary, Department of Health, Education, and Welfare.

**DATE:** Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

**FOR FURTHER INFORMATION CONTACT:**

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Depart-



ment of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: January 12, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-1467 Filed 1-19-78; 8:45 am]

## [1505-01]

## PANEL ON REVIEW OF BLOOD AND BLOOD DERIVATIVES

Renewal

Correction

In FR Doc. 77-32810 appearing on page 59118 in the issue for Tuesday, November 15, 1977, in the "Summary" paragraph, the date "October 6, 1973" should have read "October 6, 1972".

## [1505-01]

[Docket No. 77N-0343; DESI 5554]

## POVIDONE INJECTION AND GELATIN INJECTION

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

Correction

In FR Doc. 77-34267 appearing at page 61308 in the issue for Friday, December 2, 1977, make the following changes:

(1) On page 61309, middle column, in the item numbered "17", "45:959-962" should have read "45:958-962".

(2) In column three on the same page, in the 16th line of the second full paragraph, "... from products ..." should have read "... for products ...".

## [1505-01]

[Docket No. 77N-0085]

## SACCHARIN AND ITS SALTS

Tentative Guidelines

Correction

In FR Doc. 77-33060 appearing at page 59119 in the issue for Tuesday, November 15, 1977, in the "Supplementary Information" paragraph, the 8th line now reading "...ered into interstate commerce on or af..." should have read "...ered for introduction into interstate commerce on or af..."

## [4110-08]

National Institutes of Health

## REPORT ON BIOASSAY OF ISOPHOSPHAMIDE FOR POSSIBLE CARCINOGENICITY

Availability

Isophosphamide has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention, National Cancer Institute. A report is available to the public.

**Summary:** A bioassay of the anticancer drug isophosphamide for possible carcinogenicity was conducted by injecting the test chemical intraperitoneally into Sprague-Dawley rats and B6C3F1 mice.

Groups of 35 rats and 35 mice of each sex were given the injections at one of two doses three times per week for 52 weeks. Doses for rats were either 6 or 12 mg/kg, and for mice either 10 or 20 mg/kg. After the period of administration of the isophosphamide, the surviving rats were observed for 31 weeks and the mice for 28 weeks. Untreated controls as well as vehicle controls (buffered saline) were used. The matched vehicle-control groups each consisted of 10 rats or 15 mice of each sex; pooled vehicle-control groups, used for statistical evaluation, consisted of the matched vehicle controls of each species combined with 20 male and 20 female matched vehicle-control rats or 15 male and 15 female matched vehicle-control mice from a similar bioassay of another test chemical. All surviving rats were killed at 79-84 weeks, all surviving mice at 79-81 weeks.

Mean body weights of the high-dose rats of either sex were lower than those of the matched vehicle controls after approximately 25 weeks on study. Survival was low among the high-dose male and female rats, but in the low-dose groups it was adequate for meaningful statistical analyses of the incidences of tumors. Mean body weights of the mice did not show any consistent effect from the isophosphamide treatment. Survival was adequate for meaningful statistical analyses in both groups of female mice, while survival of the males was 31 percent for both treated groups at the end of the study.

In male rats, tumors of the hematopoietic system included six malignant lymphomas and two granulocytic leukemias. With the unadjusted analysis, these tumors showed a dose-related trend in male rats using pooled vehicle controls (controls 0/29, low-dose 3/32, high-dose 5/34,  $P = 0.032$ ) and a higher incidence in the high-dose males than in the pooled vehicle controls ( $P = 0.040$ ). These tumors were not significant when compared with matched vehicle controls using adjusted analyses, and they cannot clearly be associated with treatment. However, it should be noted that five rats with these tumors were observed in the high-dose group whose median survival was only 35 weeks.

In female rats, the incidence of uterine leiomyosarcoma was significant in the low-dose group using pooled vehicle controls (controls 0/27, low-dose 15/32,  $P < 0.001$ ). There was also a significant incidence of mammary fibroadenoma among low-dose females using pooled vehicle controls (controls 8/28, low-dose 28/33,  $P < 0.001$ ). The incidence of each tumor was also significant when compared with matched vehicle controls using time-adjusted analyses. The low survival of the high-dose group (median time on study, 35 weeks) may explain the lower incidences of the uterine leiomyosarcomas and the mammary fibroadenoma in this group. In some rats, the leiomyosarcomas metastasized to the lungs, urinary bladder, spleen, and other abdominal sites.

In female mice, the incidence of malignant lymphoma of the hematopoietic system showed a significant dose-related trend using either matched vehicle controls (controls 0/14, low-dose 3/32, high-dose 13/34,  $P = 0.001$ ) or pooled vehicle controls (controls 1/29,  $P < 0.001$ ). Further, incidences of this tumor in the high-dose females were significantly higher than incidences in the matched vehicle ( $P = 0.005$ ) or pooled vehicle ( $P = 0.001$ ) controls.

It is concluded that under the conditions of this bioassay, isophosphamide was not carcinogenic in male Sprague-Dawley rats or in male B6C3F1 mice. However, the incidence of leiomyosarcomas of the uterus indicates that isophosphamide was carcinogenic in female Sprague-Dawley rats, and the incidence of fibroadenoma of the mammary gland in female rats was associated with treatment with isophosphamide. Isophosphamide was carcinogenic in female B6C3F1 mice, producing malignant lymphomas of the hematopoietic system.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalogue of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: January 10, 1978.

DONALD S. FREDRICKSON,

Director,

National Institutes of Health.

[FR Doc. 78-1063 Filed 1-19-78; 8:45 am]

## [4110-12]

Office of the Secretary

## ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meeting

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977, FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to the Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, February 10, 1978, and another on Saturday, February 11, 1978.

The February 10 meeting will be held from 9 a.m. to 12:30 p.m. and from 1:30 p.m. to 5 p.m. The February 11 meeting will be held from 9 a.m. to 1 p.m. Both meetings are to be held in the Hubert H. Humphrey Building Auditorium at 200 Independence Avenue, SW., Washington, D.C.

The purpose of the meetings is to discuss issues related to the development of a National Health Insurance Proposal.

These meetings are open to the public.

Further information on these meetings may be obtained from Dr. James J. Mongan in Washington, D.C. on 202-245-6275.

Dated: January 16, 1978.

JAMES J. MONGAN,  
Deputy Assistant Secretary for  
Health, National Health Insurance.

[FR Doc. 78-1603 Filed 1-19-78; 8:45 am]

## [4410-01]

## DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-12]

LONDON BOYCE SNAPP, II

Revocation of Registration

On March 7, 1977, the Administrator of the Drug Enforcement Administration (DEA) issued an Order to Show Cause to Landon Boyce Snapp, II, M.D. (Respondent), giving the Respondent an opportunity to show cause why his DEA Certificate of Registration, No. AS0367044, should not be revoked, and why his application for registration dated January 20, 1977, should not be denied, for reason that on March 4, 1977, in the United States District Court for the Middle District of Tennessee, the Respondent was convicted of 25 counts of unlawfully distributing and dispensing controlled substances and one count of conspiracy, all felonies relating to controlled substances, and for further reason that by order of the same

Court, the Respondent had been prohibited from practicing medicine, thereby depriving him of his authorization to prescribe, administer, dispense or otherwise handle controlled substances. Simultaneously, the Administrator suspended the Respondent's registration pending the outcome of the proceedings initiated by the Order to Show Cause. The Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

Following the exchange of written prehearing statements, a prehearing conference was held by telephone, the Administrative Law Judge and counsel for the Government and for the Respondent participating. At the outset of that conference, the Respondent's attorney requested that the administrative hearing be postponed pending the Respondent's challenges, in Tennessee, to various aspects of the District Court's order and to the action of the State Board of Medical Examiners in revoking the Respondent's license to practice medicine. With the agreement of the parties hereto, the Administrative Law Judge entered an Order staying these proceedings pending a final decision by the Federal courts and the courts of Tennessee. By stipulation, the suspension of the Respondent's DEA registration remained in effect and unchallenged while these proceedings were stayed.

On November 2, 1977, the Government filed with the Administrative Law Judge a motion to vacate the stay and a motion to terminate proceedings then pending before the Judge, together with supporting memoranda. Counsel for the Respondent not responding to these motions, the Administrative Law Judge concluded that the Respondent had conceded to the motion and that there were no valid grounds for opposing them.

On December 30, 1977, the Administrative Law Judge, pursuant to 21 CFR 1316.65, transmitted to the Administrator the record of these proceedings together with his report containing recommended findings of fact and conclusions of law. Judge Young concluded that in an Order of Revocation entered April 20, 1977, the Tennessee Board of Medical Examiners revoked the license of the Respondent to practice medicine in the State of Tennessee; that in the instant administrative proceeding, the Government has served on the Respondent's attorney a motion to terminate these proceedings based upon the aforesaid order of the Tennessee Board of Medical Examiners; that the Respondent has been given ample opportunity to oppose or make other response to the Government's motion, but that the Respondent has failed to do so; that the record in this matter indicates that there is no genuine issue as to any ma-

terial fact with respect to Respondent's entitlement to a DEA registration as a practitioner pursuant to 21 U.S.C. 823(f), because the record reveals that he is not authorized to dispense controlled substances under the law of the State of Tennessee in which, heretofore, he practiced medicine; that there is a lawful basis for revoking the Respondent's registration and for denying his pending application; and that since the Respondent is no longer licensed to practice medicine in Tennessee, his DEA registration must be revoked and his pending application denied.

The Administrator hereby adopts the findings of fact and conclusions of law recommended to him by the Administrative Law Judge. For reason that the Respondent is no longer licensed to practice medicine, nor is he authorized to dispense controlled substances, in the State of Tennessee, the State in which he heretofore practiced and was registered with the Drug Enforcement Administration, and for further reason that the Respondent stands convicted of numerous felony offenses related to controlled substances, a fact which he cannot refute or deny, it is the Administrator's decision that the Respondent's registration must be revoked and his pending application for registration denied.

Therefore, pursuant to the authority vested in the Attorney General by sections 823 and 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator orders that Certificate of Registration No. AS0367044, previously issued to Landon Boyce Snapp, II, M.D., be, and it hereby is, revoked. The Administrator further orders that the pending application for registration of the said Landon Boyce Snapp, II, M.D., be, and it hereby is, denied, effective immediately.

Dated: January 16, 1978.

PETER B. BENSINGER,  
Administrator,  
Drug Enforcement Administration.  
[FR Doc. 78-1625 Filed 1-19-78; 8:45 am]

## [4510-30]

## DEPARTMENT OF LABOR

Employment and Training Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations



listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 16th day of January 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

#### APPLICATIONS RECEIVED DURING THE WEEK ENDING JANUARY 13, 1978

Name of applicant, location of enterprise,  
and principal product or activity

Vermont Industrial Products, Inc., Morrisville, Vt. Manufacture of fireproof building material.  
Vacation Health Resorts Ltd., Frederickstead, Virgin Islands. Health resort.  
Moog Inc., Town of Elma, N.Y. Precision controls and related products.  
American Pipe & Plastics, Inc., Kirkwood, N.Y. Manufacture of polyethylene tubing and PVC pipe.  
Milodon Engineering, Inc., Petersburg Airport, Va. Manufacture of gear drives, oil systems, and related products.  
Mullenax Lumber Co., Inc., Parsons, W. Va. Sawmill.  
Morgantown Mountaineer Motel, Inc., Morgantown, W. Va. Motel.  
Ryder Contracting, Inc., Minnehaha Springs, W. Va. Excavation-road building.  
The Austin Co., Inc., Greeneville, Tenn. Dried tobacco packing.  
Seaway Freezing Co., Biloxi, Miss. Freezer for shrimp industry.  
Boyce Industries, Inc., Kingston Springs, Tenn. Fabricated steel.  
Beechmont Hardware & Building Supply, Inc., Muhlenberg County, Ky. Construction of housing and sales of hardware.  
Evans Buick, Howell, Mich. Retail sales of new and used automobiles.  
Reedsburg Foods Corp., Reedsburg, Wis. Processor of canned vegetables.  
North Central Plastics (Tenant of City of Ellendale), Ellendale, Minn. Fabricator of plastic products.  
Fluid Measurement Systems, Inc., Claremore, Okla. Manufacture of meter provers and related products.  
Giant Industries, Inc., Farmington, N. Mex. Petroleum refinery.  
Sierra Hotel, Inc. Ruidoso, N. Mex. Hotel and racquet club.  
New Sheridan Hotel and Bar, Ltd. Telluride, Colo. Hotel.  
JO G. & Beatrice Brown, Rangely, Colo. Motel.  
Red Samm Construction, Inc./Juneau Racquet Club, City and Borough of Juneau, Alaska. Recreational facility.  
Lakeside Grocery, Inc., Sitka, Alaska. Grocery store.  
(FR Doc. 78-1478 Filed 1-19-78; 8:45 am)

#### [4510-30]

##### FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Availability of Federal Supplemental Benefits  
in the State of Vermont

This notice announces the beginning of a new Federal Supplemental Benefit Period in the State of Vermont, effective on January 15, 1978. The new benefit period will terminate on January 28, 1978, however, because of the

termination of the Federal Supplemental Benefits Program.

#### BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable under the current law to eligible individuals are up to 13 weeks.

There is a Federal Supplemental Benefit "on" indicator in a State for a week if the United States Secretary of Labor determines with respect to the State that, (a) there is a State or National "on" indicator for the week, as determined for the purposes of payment of extended benefits under the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and (b) the employment security agency of the State has determined that the average rate of insured unemployment in the State for the period consisting of that week and the immediately preceding twelve weeks equalled or exceeded 5.0 percent. The Federal Supplemental Benefit Period actually begins with the third week following the week for which there is an "on" indicator, and under the current law lasts for a minimum period of not less than 13 weeks or until the termination of the program, whichever occurs first. Since the program terminates with the last week that ends on or before January 31, 1978, the new benefit period in Vermont will end on January 28, 1978.

#### DETERMINATION OF "ON" INDICATOR

The Secretary of Labor has determined under section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970, as amended, that there is a National "on" indicator in effect which is applicable to every State, as announced in the notice published in the FEDERAL REGISTER on September 9, 1977, at 42 FR 45387. The employment security agency of the State of Vermont has determined under the Act and 20 CFR

618.19(a)(2) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on December 31, 1977, and the immediately preceding twelve weeks, equalled or exceeded 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(a), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "on" indicator in the State of Vermont for the week ending on December 31, 1977, and that a Federal Supplemental Benefit Period therefore commenced in that State with the week beginning on January 15, 1978.

#### INFORMATION FOR CLAIMANTS

The duration of Federal Supplemental Benefits payable in the new Federal Supplemental Benefit Period, and the terms and conditions on which they are payable, are governed by amendments to the Act in Pub. L. 95-19 (91 Stat. 39), including the termination of the Program in Vermont on January 28, 1978.

The State employment security agency will furnish a written notice of potential entitlement to Federal Supplemental Benefits to each individual who has a previously established Federal Supplemental Benefit Account in which there is any balance as of the beginning of the new Federal Supplemental Benefit Period.

Persons who believe they may be entitled to Federal Supplemental Benefits in the State of Vermont, or who wish to inquire about their rights under this program, should contact the nearest Local Office of the Vermont Department of Employment Security in their locality.

Signed at Washington, D.C., on January 16, 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

(FR Doc. 78-1683 Filed 1-19-78; 8:45 am)

#### [4510-30]

##### SUBCOMMITTEE ON EQUAL APPRENTICESHIP OPPORTUNITY FEDERAL COMMITTEE ON APPRENTICESHIP

#### Meeting

Pursuant to section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.) of October 6, 1972, notice is hereby given of a meeting of the Subcommittee on Equal Apprenticeship Opportunity to be held on February 23, 1978, at the Americana Hotel, Oceanfront at 9701 Collins

Avenue, Miami Beach, Fla. The meeting will be in session from 10:30 a.m. until 4:00 p.m., approximately.

The agenda for the meeting includes a review of proposed agenda items previously initiated regarding modification of new language of affirmative action procedures in 29 CFR Part 30, Equal Employment in Apprenticeship Programs.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views, or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

If time permits, members may be permitted to address the Subcommittee on the above issues.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Dept. of Labor, 601 D Street NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C., this 17th day of January 1978.

ERNEST G. GREEN,  
Assistant Secretary for Employment  
and Training Administration.

(FR Doc. 78-1682 Filed 1-19-78; 8:45 am)

#### [4510-26]

Occupational Safety and Health Administration  
(V-77-9)

#### WEST CO.

#### Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of Variance.

SUMMARY: This notice announces the grant of a variance to The West Co. from certain standards prescribed in 29 CFR 1910.217 (c)(3)(i)(e) and (c)(3)(ii) concerning the guarding of mechanical power presses.

DATES: The effective date of the variance is January 20, 1978.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director,

Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue N.W., Room N-3668, Washington, D.C. 20210, telephone 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, William J. Green, Jr., Federal Building, 600 Arch Street, Room 4256, Philadelphia, Pa. 19106.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), Room 3445, New York, N.Y. 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, 519 Federal Street, Room 408, Camden, N.J. 08101.

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street, Room 3000, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, 113 West 6th Street, North Platte, Nebr. 69101.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street N.E., Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 406, 310 New Bern Avenue, Raleigh, N.C. 27601.

U.S. Department of Labor, Occupational Safety and Health Administration, 1000 North Ashley Drive, Room 918, Tampa, Fla. 33602.

#### I. BACKGROUND

The West Co., West Bridge Street, Phoenixville, Pa., 19460, made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety standards prescribed in 29 CFR 1910.217(c)(3)(i)(e). The standard requires that the two-hand tripping controls be located at such a distance from the point of operation that the slide completes its downward motion or stops before the operator can reach into the point of operation. As part of its guarding method, the applicant has developed a sliding barrier which is similar to, but does not comply with, those discussed in 29 CFR 1910.217(c)(3)(ii). Therefore, a variance from is sought in lieu of complying with § 1910.217(c)(3)(ii) or the distance requirements of § 1910.217(c)(3)(i)(e).

The facilities affected by this application are:

The West Co., Inc., West Bridge Street, Phoenixville, Pa. 19460.



The West Co., Inc., 10th and G Streets, Millville, N.J. 08332.  
The West Co., Inc., P.O. Box 698, Kearney, Nebr. 68847.  
The West Co., Inc., North Carolina State Road, Kinston, N.C. 28501.  
The West Co., Inc., 5111 Park Street, North Petersburg, Fla. 33709.

Notice of the application, and of the granting of an interim order, was published in the *FEDERAL REGISTER* on July 1, 1977 (42 FR 33816). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance requested. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

#### II. FACTS

The applicant operates mechanical power presses in the manufacture of molded rubber pharmaceutical products. The presses used are equipped with full revolution clutches with three engaging points per revolution. The trips are two-hand, single stroke, non-repeat type.

The presses are operated in a slow manner. Preparation time of up to 45 seconds-1 minute is required to dip the sheets of rubber in water and glycerine and rub the rubber sheet into place on the die. Most of the presses are then operated at 90 RPM, and a few 40 RPM. Due to the slow speed of the press, the two-hand trips must be located at distances of 35" to 79" from the point of operation in order to comply with § 1910.217(c)(3)(i)(e). The employees are on straight time, rather than incentive pay.

Because of the length of time the operator's hands are in the die area during preparation for the stroke, the applicant has developed the use of safety blocks to guard against injury in the event of a malfunction. The safety blocks, which consist of 2 pieces of 2" pipe approximately 9" long, are placed between the upper and lower die shoes before the operator reaches into the die area. When preparations are completed, the applicant removes the safety blocks from between the dies and uses them to press the two-hand trips. These two-hand trips are located closer to the die area than permitted under § 1910.217(c)(3)(i)(e).

In order to prevent damage or hazard if an unintentional stroke should occur while the safety blocks are in position, the presses are equipped with lightened flywheels, and with a reduced number of drive belts. The drive belts are loosened, allowing them to slip if there should be an incident which strains the motor.

In order to provide additional safety to the employees the applicant has de-

veloped a sliding barrier which is tripped by an air cylinder actuated by the same valves that trip the press. The barrier drops by gravity with a spring assist so that it falls well ahead of the slide and prevents the operator from reaching into the point of operation. The barrier is automatically raised by the ram at the end of the stroke, allowing the operator to place the safety blocks between the die shoes and prepare for the next stroke. The barrier is made of clear plastic with a rubber gasket across the bottom to prevent injury if it should strike an employee's hand.

#### III. DECISION

Section 1910.217(c)(3)(i)(e) requires, among other things, that two-hand trips be located at such distance from the point of operation that the slide completes its downward travel before the operator can reach into the point of operation.

The applicant's press operations differ greatly from the usual metal stamping operation. This is a slow operation requiring extensive manipulation of the rubber material in the die prior to each stroke, while metal stamping is a much more repetitive operation.

Because the applicant's power presses operate at slow speeds of 40 and 90 RPM, compliance with this standard would require the trips to be located at such distances from the point of operation that they would no longer be solely under the operator's control. There would then be the added hazard of a passerby tripping the press without the operator's knowledge.

In order to provide for safe operation of these presses, the applicant has developed a system of dual safeguards using safety blocks and a sliding barrier to safeguard employees during preparation time and during the stroke.

Strict operating procedures require that two pieces of 2" pipe each approximately 9" long (called safety blocks) be placed between the two shoes of the die before the operator reaches into the point of operation. These safety blocks are removed after the preparation is complete, and are used to press the two-hand trips. They are then replaced between the die shoes. In this way the safety blocks are always in position to prevent the die from closing while the operator's hands are in the point of operation. The applicant has long experience and a good safety record using these safety blocks. This long history of strictly enforcing their use contributes significantly to the safety of this procedure, as used by this applicant.

In addition to this method which is dependent on proper operating procedures, the applicant has developed a

sliding barrier which falls ahead of the slide and prevents the operator from reaching into the point of operation during the stroke. This barrier does not meet the requirements of § 1910.217(c)(3)(ii) in that it does not enclose the point of operation before the stroke can be initiated. Rather, the barrier is tripped by an air cylinder activated by the same valves that trip the press. The barrier then falls rapidly enough to prevent the operator, who is holding the safety blocks in his hands, from reaching into the point of operation.

Section 1910.217(c)(3) permits, among other things, the point of operation to be safeguarded either by (1) two-hand trips properly located or (2) by Type A or Type B gates. In this instance the applicant is partially using both methods. While neither of the applicant's methods by itself totally meets the requirements of the standards, the combination of the two, which would be used by the applicant, would provide safety to the employees.

The applicant's press operators are paid hourly wages rather than by piecework. Thus there is not the incentive for the operator to attempt to speed up production, perhaps bypassing some of the safety procedures.

Accordingly, it has been determined that the use of the safety blocks in combination with a sliding barrier, as described, will provide employment as safe as that which would be obtained by complying with the standard.

The State of North Carolina has reviewed the variance application. The State's comments were considered in reaching this decision. Accordingly, the State of North Carolina is made a party to this decision.

#### IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that The West Co. be, and it is hereby, authorized to operate its power presses using safety blocks in combination with a sliding barrier in lieu of complying with the distance requirement in 29 CFR 1910.217(c)(3)(i)(e) or 29 CFR 1910.217(c)(3)(ii), with the following conditions:

(1) The employer shall assure that two pieces of 2" pipe each approximately 9" long (called safety blocks) are available at each press, and that they are placed between the upper and lower die shoes before the operator's hands enter the point of operation;

(2) The employer shall assure that the safety blocks are removed and used to press the two-hand trips which activate the press;

(3) The presses shall be equipped with lightened flywheels and with the minimum number of drive belts re-

quired to stroke the press. These drive belts shall be loosened to allow slippage if the press should stroke while the blocks were in place;

(4) The presses shall be equipped with a sliding barrier which drops when the press is tripped, preventing access to the die area;

(5) The barrier shall drop by gravity assisted by springs; it shall fall freely; and the closing time for the barrier shall be .20 seconds  $\pm$  .05 seconds. These items shall be routinely checked as part of the maintenance checks and necessary adjustments or repairs made to maintain the closing speed;

(6) Two-hand trips shall be the only method of actuating the press;

(7) The operating procedures for use of these safety blocks and the sliding barrier on the power presses shall be written and shall be strictly enforced. All press operators shall be trained in the procedures, and supervisory personnel shall be responsible for assuring that the procedures are observed at all times;

(8) The presses shall not operate at less than 40 RPM;

(9) The two-hand trips shall be located at such distance from the barrier that the falling of the barrier would prevent the operator from reaching into the die; and,

(10) The operators shall be assured of sufficient time to safely perform each press operation.

As soon as possible The West Co. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on January 20, 1978, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 16th day of January 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.

[FR Doc. 78-1684 Filed 1-19-78; 8:45 am]

[4510-28]

Office of the Secretary  
[TA-W-1534]

BETHLEHEM STEEL CORP. SPARROWS POINT  
PLANT, BALTIMORE, MD.

Revised Determination

Following a Department of Labor investigation under section 222 of the Trade Act of 1974 and in accordance with section 223 of the Act, the Department of Labor on August 26, 1977, issued a notice of determinations regarding eligibility to apply for worker adjustment assistance applicable to workers and former workers of the

#### SALES OR PRODUCTION OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production of both continuous-weld and electric-weld pipe and tubing declined in the 4th quarter of 1975 compared to the like quarter of 1974 and from 1975 to 1976.

#### INCREASED IMPORTS

Imports of welded carbon steel pipe and tube increased from 1,207.3 thousand tons in 1975 to 1,499.5 thousand tons in 1976. Imports increased from 1,060.8 thousand tons in the first nine months of 1976 to 1,354.4 thousand tons in the first nine months of 1977. The ratio of imports to domestic shipments increased from 33.6 percent in 1975 to 50.7 percent in 1976. The ratio increased from 46.8 percent in the first nine months of 1976 to 52.1 percent in the first nine months of 1977.

#### CONTRIBUTED IMPORTANTLY

A survey of some of the customers of the Sparrows Point plant purchasing each of the types of pipe and tubing was conducted by the Department. Among the customers responding to the survey several had decreased purchases from Bethlehem and switched to imports in 1976.

#### B. TIN PLATE

A survey of some of the customers of the Sparrows Point plant that purchase tin plate was conducted by the Department. None of the customers that responded to the survey decreased purchases from Bethlehem in 1976 compared to 1975.

#### C. GALVANIZED SHEET

A survey of some of the customers of the Sparrows Point plant that purchase galvanized sheet was conducted by the Department. Only one customer that responded to the survey had decreased purchases from 1975 to 1976 and this customer represented a very small decline.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the pipe and tubing produced at the Sparrows Point, Md., plant of Bethlehem Steel Corp., contributed importantly to the total or partial separations of workers engaged in the production of those products at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Sparrows Point, Md., plant of Bethlehem Steel Corp., engaged in employment related to the production of continuous-weld or electric-weld pipe and tubing who became totally or partially separated from employment on or after November 15, 1975 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Sparrows Point plant of the Bethlehem Steel Corp., engaged in employment related to the production of nails and staples, wire, cold-rolled sheet, and hot-rolled sheet. The notice was published in the *FEDERAL REGISTER* on September 9, 1977 (42 FR 45390).

At the request of the United Steelworkers of America the Department re-opened its investigation to determine whether workers and former workers producing tin plate, galvanized sheet, pipe and tubing at the Sparrows Point plant of Bethlehem Steel Corp., are eligible to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The information upon which the determination was made was obtained principally from officials of the Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met with regard to workers engaged in employment related to the production of pipe and tubing. The investigation also revealed that without regard to whether any of the other criteria have been met, criterion (4) has not been met for workers engaged in employment related to the production of tin plate or galvanized sheet.

#### A. PIPE AND TUBING

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Pipe and tubing at Sparrows Point is produced on the electric resistance-weld pipe mill and the continuous-weld pipe mill. Employment of workers at both pipe mills declined in the 4th quarter of 1975 compared to the like quarter in 1974 and from 1975 to 1976.



It is further concluded that increased imports of articles like or directly competitive with tin plate and galvanized sheets produced at the Sparrows Point plant of the Bethlehem Steel Corp., did not contribute importantly to the total or partial separation of workers producing those products in the 4th quarter of 1975 and the full year 1976. Therefore, all workers at the Sparrows Point plant engaged in employment related to the production of tin plate or galvanized sheet who were separated from employment on or after November 15, 1975 and before December 31, 1976 are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 11th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 78-1687 Filed 1-19-78; 8:45 am]

## [4510-28]

[TA-W-2399]

## CHARMIL SPORTSWEAR, INC., BOSTON, MASS.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2399: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 29, 1977, in response to a worker petition received on September 27, 1977, which was filed on behalf of workers and former workers of Charmil Sportswear, Inc., Boston, Mass.

During the investigation, it was determined that women's sportswear, primarily skirts since 1975, are produced by Charmil Sportswear.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55314). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Charmil Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have

become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

The Department's investigation revealed that company sales increased 7 percent in quantity in 1976 compared to 1975, then increased 12 percent in the January-October period in 1977 compared to the like 10 month period in 1976. Sales increased in quantity in each quarter beginning in the third quarter of 1976 through the third quarter of 1977 when compared to each like quarter in the previous year.

Charmil Sportswear is a contractor. As such, all production is to order from the manufacturer, so production is equal to sales.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of women's sportswear produced by Charmil Sportswear, Inc., Boston, Mass., have not declined as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 78-1688 Filed 1-19-78; 8:45 am]

## [4510-28]

[TA-W-2223]

COLORITE TEXTILE PRINTWORKS, INC.  
BROOKLYN, N.Y.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2223: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 25, 1977, in response to a worker petition received on July 22, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union

of America on behalf of workers and former workers producing prints on bedspreads, drapes, and quilts at Colorite Textile Printworks, Inc., Brooklyn, N.Y.

During the investigation, it was determined that Colorite produces printed fabric which finds its end uses primarily in draperies and bedspreads.

The notice of investigation was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40286). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Colorite Textile Printworks, Inc., its customers, the American Textile Manufacturers Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that Colorite Textile Printworks, Inc., Brooklyn, N.Y., is a commission fabric printer. Manufacturers and fabric converters send unfinished material to Colorite. Colorite prints the fabric and returns the finished fabric to the customers.

Customers of Colorite who reduced purchases from the company in 1976 or the first half of 1977 compared to the like periods in the previous year were surveyed. They stated that they did not purchase imported printed fabric nor contract fabric printing work offshore. Customers which are fabric converters experienced increased sales in 1976 compared to 1975 and in the first nine months of 1977 compared to the like period in 1976.

Inasmuch as all types of finished fabric, flocked, dyed and printed, are

generally interchangeable and substitutable in their end uses, all types of finished fabric may be considered like or directly competitive with the fabric printed at Colorite.

Aggregate imports of finished fabric (including dyed, printed, and flocked), in absolute terms, declined from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 20 percent from 1975 to 1976.

Imports of finished fabric declined in each quarter of 1976 when compared to the previous quarter. Imports declined 38 percent in the first six months of 1977 compared to the like period of 1976.

Since 1973 the ratio of imports to domestic production has not exceeded 2.0 percent.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fabric printed at Colorite Textile Printworks, Inc., Brooklyn, N.Y., did not contribute importantly to the decline in sales or production and to the total or partial separation of the workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-1689 Filed 1-19-78; 8:45 am]

## [4510-28]

[TA-W-2422]

## COPPER QUEEN BRANCH OF PHELPS DODGE CORP., BISBEE, ARIZ.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2422: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977 in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing copper ore and refined copper at the Copper Queen, Bisbee, Ariz., Branch of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained

principally from officials of Phelps Dodge Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, The American Metals Market, Metal Bulletin, and Metals Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that without regard to whether the other criteria have been met, the fourth criterion has not been met.

The Copper Queen Branch of Phelps Dodge located in Bisbee, Ariz., was founded in 1878 as Phelps Dodge's first copper mine. Until December 1974, the branch operated two copper mines: an open pit mine and an underground mine as well as a concentrator. The branch produced copper concentrate which was shipped to Phelps' smelter at Douglas to be transformed into copper anode. In December, 1974 the open pit mine became exhausted and it was permanently shut down. At this time the mine also shut down its concentrator and ceased production of copper concentrate. In June, 1975 the underground mine became exhausted and it was also shut down.

Thus, from July, 1975 to the present, the Copper Queen Branch has produced cement copper only, which is shipped to Phelps Dodge's smelter at Douglas.

The Copper Queen Branch produces cement copper by irrigating copper materials, low grade ore and rocks, which are spread on the open grounds at the property. The water, with its copper content (approximately 4 pounds of copper per 1000 gallons of water), is conducted through pipes and deposited into big cement containers located in the property. Once there, the copper is precipitated by dumping pieces of iron into the containers.

The process of production for cement copper has the following characteristics:

(1) It is a very slow process, which serves to produce copper that would be uneconomical to obtain by other processes of production, (2) it requires a fairly steady labor force, (3) its output (as well as employment) is not affected by demand for cement copper from the smelter, but by working conditions, such as whether conditions, which complicate the process of gathering and/or irrigating the copper materials. Leaching and precipitating copper at Copper Queen is therefore, a slow and comparatively inexpensive procedure, through which the company is able to obtain the last vestiges of copper from nearly exhausted resources.

Decreases in employment of production workers at Bisbee are attributed mainly to the conclusion of salvage operations related to the closing of the two mines and the concentrator, and, to a lesser degree, to changes in working conditions, such as weather.

## CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increased imports of articles like or directly competitive with cement copper produced at the Copper Queen, Bisbee, Ariz., Branch of Phelps Dodge Corp., did not contribute importantly to the decline in production or to the total or partial separation of workers at that branch as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-1690 Filed 1-19-78; 8:45 am]

## [4510-28]

[TA-W-2322]

## CORY-ERIC, FARMINGVILLE, N.Y.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2322: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 12, 1977, in response to a worker petition received on September 6, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers at the Cory-Eric, Farmingville, plant. The petition incorrectly states that the Cory-Eric plant was located in Farmingdale, N.Y. Cory-Eric was located in Farmingville, N.Y.



The notice of investigation was published in the *FEDERAL REGISTER* on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Micky Blumfield Enterprises, the International Ladies' Garment Workers' Union, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Although the average number of production workers employed at Cory-Eric increased by 23 percent from 1975 to 1976, the average number of production workers declined in the last half of 1976 and the first two months of 1977 compared to the same periods in the previous years by 29 percent and 49 percent, respectively.

#### SALES OR PRODUCTION OF BOTH, HAVE DECREASED

Production (assembly) of women's leather coats declined 37 percent in quantity in 1976 compared to 1975. Production declined in the last half of 1976 and the first two months of 1977 compared to the same period in the previous years by 70 percent and 58 percent, respectively.

#### INCREASED IMPORTS

Imports of women's, misses' and children's leather coats and jackets increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 48.5 percent from 1975 to 1976. The ratios of imports to do-

mestic production and consumption increased from 38.9 percent and 28.0 percent, respectively, in 1975 to 57.5 percent and 36.5 percent, respectively in 1976.

#### CONTRIBUTED IMPORTANTLY

The Department interviewed the apparel manufacturer who accounted for approximately 100 percent of Cory-Eric's business from 1970 to 1977. The manufacturer reported that it had decreased its orders to Cory-Eric for women's leather coats and had increased its purchases of imported women's leather coats.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's leather coats produced at Cory-Eric, Farmingville, N.Y., contributed importantly to the decline in production and to the total or partial separation of the workers of the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Cory-Eric, Farmingville, N.Y., who became totally or partially separated from employment on or after September 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-1691 Filed 1-19-78; 8:45 am]

[4510-28]

[TA-W-2420]

#### DOUGLAS REDUCTION WORKS OF PHELPS DODGE CORP., DOUGLAS, ARIZ.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2420: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Douglas Reduction Works of Phelps Dodge Corp., Douglas, Ariz.

The notice of investigation was published in the *FEDERAL REGISTER* on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps

Dodge Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, Department files, the Department of Interior, The American Metal Market, Metal Bulletin and Metals Week.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers at the Douglas Reduction Works decreased in 1976 compared to 1975 and in the first three quarters of 1977 compared to the same quarters in 1976. Production workers were on strike from July 1, 1977 through August 11, 1977. Layoffs equal to or greater than 5 percent of average employment occurred in the September-December 1976 period, January 1977 and August 1977. Production increases coincident with employment declines are explained by the company's policy of first laying off those workers not directly involved in the production process (e.g. the removal of waste ore from the mine vicinity).

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of anode copper at the Douglas Reduction Works declined in each of the first three quarters of 1977 compared to the like quarters in 1976.

#### INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in

the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

#### CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Phelps Dodge and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted

average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Phelps Dodge's decision to lay off workers and reduce its smelting operations at Douglas was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Phelps Dodge substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with anode copper produced by the Douglas Reduction Works, Douglas, Ariz., facility of Phelps Dodge Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that facility.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Douglas Reduction Works, Douglas, Ariz., facility of Phelps Dodge Corp., who became totally or partially separated from employment on or after September 20, 1976, and before July 1, 1977, and all employees at the Douglas Reduction Works, Douglas, Ariz., facility of Phelps Dodge Corp., who became totally or partially separated from employment on or after August 12, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that all employees separated on or after July 1, 1977, and before August 12, 1977, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade of 1974.

Signed at Washington, D.C., this 11th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-1692 Filed 1-19-78; 8:45 am]

[4510-28]

[TA-W-2484]

#### HECLA MINING CO., CASA GRANDE, ARIZ.

#### Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2482: investigation regarding

certification of eligibility to apply for worker adjustment assistance prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977 in response to a worker petition received on October 13, 1977 which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Casa Grande, Ariz. properties of Hecla Mining Co.

The notice of investigation was published in the *FEDERAL REGISTER* on December 6, 1977 (42 FR 61666). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hecla Mining Co., the U.S. Department of Commerce, the U.S. International Trade Commission, the U.S. Department of Interior, the American Metal Market, Metal Bulletin, Metals Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Layoffs occurred at the Hecla Mining Co.'s Lakeshore Mine Operations in Casa Grande, Ariz. in October 1976 and continued in 1977. Separations occurred prior to production declines because of the company's policy of laying off those workers not directly involved with the production process whose duties can be performed at other times (e.g. the removal of waste ore from the mine vicinity). Most production workers were laid off on September 15, 1977 when the operations were shut down. No date has yet been set for reopening the operations.



SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at the Lakeshore Mine declined in the third quarter of 1977 compared to the third quarter of 1976. The operations were shut down on September 15, 1977.

INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Hecla and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the

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LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Comments made by customers purchasing copper from Hecla Mining Co. substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

Hecla's decision to lay off workers and reduce its mining operations and shut down the Lakeshore Mine in September 1977 was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market price for copper.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with refined copper produced by Lakeshore Mine Operations of Hecla Mining Co. in Casa Grande, Ariz. contributed importantly to the decrease in company production and to the total or partial separation of the workers at that firm.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Casa Grande, Ariz. property of Hecla Mining Co.'s Lakeshore Mine Operations who became totally or partially separated from employment on or after October 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-1693 Filed 1-19-78; 8:45 am]

[4510-28]  
INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 30, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 30, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210

Signed at Washington, D.C., this 5th day of January 1978.

MARVIN M. FOOKS,  
Director, Office of Trade  
Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles Produced
Alan Wood Steel Co. (work-ers)	Union, N.J.	Dec. 19, 1977	Dec. 12, 1977	TA-W-2,852	Sales office employees.
Armco Steel Corp., Sand Springs Works (USWA).	Sand Springs, Okla.	do	Dec. 15, 1977	TA-W-2,853	Hot rolled and cold rolled steel, reinforcing bars, and fence posts.
Armco Steel Corp., Marion Works (USWA).	Marion, Ohio	do	do	TA-W-2,854	Hot rolled bars, reinforcing bars, and steel posts for fences.
Jones & Laughlin Steel Corp. (USWA).	Hammond, Ind.	do	do	TA-W-2,855	Steel reinforcing bars.
Kathryn Marie (workers) Penn-Dixie Steel Corp. (company).	North Truro, Mass. Kokomo, Ill.	Dec. 14, 1977 Dec. 19, 1977	Dec. 13, 1977 Nov. 28, 1977	TA-W-2,856 TA-W-2,857	Scalloping and ground fishing. Wire and merchant products.
Penn-Dixie Steel Corp. Joliet Bar Mill Division (company).	Joliet, Ill.	do	do	TA-W-2,858	Hot rods, steel bars and structural shapes.
Penn-Dixie Steel Corp. Centerville Div. (company).	Centerville, Iowa	do	do	TA-W-2,859	Hog panels and barb wire.
Penn-Dixie Steel Corp. Blue Island Fine & Specialty Wire Div. (company).	Blue Island, Ill.	do	do	TA-W-2,860	Wire and wire products.
National Garment (ILGWU) Robert Shoe Co., Inc. (work-ers).	Hammonton, N.J. Lancaster, N.H.	Dec. 12, 1977 Dec. 19, 1977	Dec. 9, 1977 Dec. 12, 1977	TA-W-2,861 TA-W-2,862	Ladies outerwear and sportswear. Women's street boots and athletic shoes.
Superior cutting Die Co. (International Association of Machinists & Aerospace Workers).	St. Louis, Mo.	Dec. 20, 1977	do	TA-W-2,863	Cutting dies used in the production of leather garments and shoes.
Union Electric Steel Corp. Carnegie Plant (USWA).	Carnegie, Pa.	Dec. 19, 1977	Dec. 15, 1977	TA-W-2,864	Forge-hardened steel rolls.
Union Electric Steel Corp. Harman Creek plant (USWA).	Burgettstown, Pa.	do	do	TA-W-2,865	Melts steel and produces forging.
U.S. Steel Corp., Saxonburg Plant (USWA).	Saxonburg, Pa.	Dec. 9, 1977	Dec. 7, 1977	TA-W-2,866	Cinderling raw materials for blast furnaces.

[FR Doc. 78-1685 Filed 1-19-78; 8:45 am]

[4510-28]

[TA-W-1981]

MILLER ABATTOIR CO., NORTH BERGEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1981: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on April 14, 1977, in response to a worker petition received on April 13, 1977 which was filed on behalf of former workers slaughtering, cutting and shipping meat at Miller Abattoir Co., North Bergen, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21874). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miller Abattoir Co., its customers, the U.S. Department of Agriculture, the U.S. De-

partment of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Miller Abattoir Co. was established in 1937 in North Bergen, N.J. as a meat processing plant. About 90 percent of the meat handled at the plant was lamb, the rest beef. Miller Abattoir Co. closed in May 1976.

Miller Abattoir was primarily a kosher slaughterhouse which supplied kosher lamb cuts (forequarters) to kosher butcher shops in the New York City area. Industry analysts indicate, however, that all imported lamb is shipped frozen and consists of the non-kosher cuts, that is, of the hind-quarters of the lamb.

Customers surveyed who decreased purchases from Miller Abattoir Co. in 1975 and 1976 did not purchase imported lamb or beef during this period.

The red meat market is composed of beef, veal, lamb, and pork. In recent years lamb has accounted for a decreasing share of the total red meat market. The downward trend in lamb meat production may be largely attributed to consumer preferences and to the relatively high price of lamb meat compared to the price of other competitive meats. Due to the growing popularity of the fast foods industry, it has become increasingly difficult for lamb meat to compete effectively with



other red meats, especially ground beef.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with lamb and beef meat processed by Miller Abattoir Co., North Bergen, N.J. did not contribute importantly to the decline in sales or production or to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-1694 Filed 1-19-78; 8:45 am]

[4510-28]

[TA-W-2423]

#### MORENCI BRANCH OF PHELPS DODGE CORP. MORENCI, ARIZ.

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2423: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing anode copper at the Morenci, Ariz., Branch of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, The Department of the Interior, The American Metals Market, Metal Bulletin, Metals Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

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(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

##### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Production workers were on strike from July 1, 1977, through August 11, 1977. Layoffs equal to or exceeding 5 percent of average employment began at the Morenci Branch of Phelps Dodge Corp. in August 1977 subsequent to the strike and continued in September 1977. Additional layoffs are imminent.

##### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of anode copper at the Morenci Branch declined in the first 9 months of 1977 compared to the like period in 1976. Projected production levels for the last quarter of 1977 are lower than the same quarter in 1976.

##### INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first 6 months of 1976 to 14.8 percent in the first 6 months of 1977.

##### CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper

had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Phelps Dodge and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Phelps Dodge's decision to lay off workers and reduce its Morenci Branch's mining operations in August and September 1977 was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Phelps Dodge substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with anode copper produced by the Morenci, Ariz., Branch of Phelps Dodge Corp. contributed importantly to the decline in production and to the total or partial separation of the workers at that branch.

In accordance with the provisions of the Act, I make the following certification:

All employees at the Morenci, Ariz., Branch of Phelps Dodge Corp. who became totally or partially separated from employment on or after August 12, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-1695 Filed 1-19-78; 8:45 am]

[4510-28]

[TA-W-2421]

#### NEW CORNELIA BRANCH OF PHELPS DODGE CORP., AJO, ARIZ.

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2421: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing anode copper at the New Cornelia, Ajo, Ariz., Branch of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977, (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, The American Metals Market, Metal Bulletin, Metals Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) that a significant number or proportion of the workers in such workers' firm, or

#### NOTICES

an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

##### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Production workers at the New Cornelia Branch were on strike from July 1, 1977, through August 11, 1977. Layoffs equal to or exceeding 5 percent of average employment began in August and September of 1977, subsequent to the strike. Employment of production workers declined in the third quarter of 1977 compared to the third quarter of 1976.

##### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of anode copper at the New Cornelia Branch declined in the first six months of 1977 compared to the same period in 1976, and then ceased entirely from August 12, 1977, to October 1, 1977, immediately after the strike, due to lack of demand.

##### INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

#### CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Phelps Dodge and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Phelps Dodge's decision to lay off workers and reduce its New Cornelia Branch's mining operations in August and September 1977, was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Phelps Dodge substantiate the fact that increased imports have contributed to record in-



ventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with anode copper produced by the New Cornelia, Ajo, Ariz. Branch of Phelps Dodge Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that branch.

In accordance with the provisions of the Act, I make the following certification:

All employees at the New Cornelia, Ajo, Ariz. Branch of Phelps Dodge Corp., who became totally or partially separated from employment on or after August 12, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 11th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-1696 Filed 1-19-78; 8:45 a.m.)

#### [4510-28]

(TA-W-2040)

#### PRAIRIE MANUFACTURING CO., EAST PRAIRIE, MO.

#### Revised Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor issued a Notice of Negative Determination on August 31, 1977, published in the FEDERAL REGISTER on September 20, 1977, (42 FR 47276), regarding eligibility to apply for adjustment assistance applicable to former workers producing men's slacks, jeans, and uniforms at the Prairie Manufacturing Co., of East Prairie, Mo.

On the basis of additional information provided by workers of the Prairie Manufacturing Co., the Office of Trade Adjustment Assistance initiated a review investigation.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or sub-

division are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The reinvestigation has revealed that all four criteria have been met.

The original investigation had established the fact that: Average employment of production workers had fallen 10.3 percent in the first quarter of 1977 compared to the same period in 1976 and average weekly hours declined in the same period by 9.4 percent; production had fallen in 1976 compared to 1975 and in the first quarter of 1977 compared to the same period a year earlier; and that imports of men's and boys' dress and sport trousers and shorts had increased absolutely and relative to domestic production in 1976 compared to 1975 and increased absolutely in the first quarter of 1977 compared to the first quarter 1976.

Prairie Manufacturing Co. produces men's dress slacks, jeans and men's uniform slacks for one customer. This customer reduced purchases from Prairie in 1976 compared to 1975 and in the first quarter of 1977 compared to the same period in 1976. In early 1977 this customer began significant purchases of imported jeans directly competitive with articles made by Prairie. The purchases continued over a period of several months in 1977.

#### CONCLUSION

After careful review of the facts obtained in the reinvestigation I conclude that increases of imports of articles like or directly competitive with the jeans produced at the Prairie Manufacturing Co., contributed importantly to the total or partial separations of the workers of that firm. In accordance with the provisions of the Trade Act of 1974, I hereby issue the following revised determination:

All workers at the Prairie Manufacturing Co., of East Prairie, Mo., engaged in employment related to the production of jeans who became totally or partially separated from employment on or after January 8, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 78-1697 Filed 1-19-78; 8:45 am)

#### [4510-28]

(TA-W-2145)

#### RCA CORP., CLARK, N.J.

#### Reopening of Investigation

The Notice of Termination of Investigation published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63489) is hereby withdrawn. The investigation based on the worker petition received on June 6, 1977, has been reopened.

Signed at Washington, D.C., this 12th day of January 1978.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.  
(FR Doc. 78-1698 Filed 1-19-78; 8:45 am)

#### [4510-28]

(TA-W-2424)

#### TYRONE BRANCH OF PHELPS DODGE CORP. TYRONE, N. MEX.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2424: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing copper ore and refined copper at the Tyrone, N. Mex. Branch of Phelps Dodge Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Phelps Dodge Corp., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, Department files, Department of Interior, The American Metals Market, Metal Bulletin and Metals Week.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, the first criterion has not been met.

From January, 1976 through September, 1977, the only layoffs at the Tyrone Branch took place in September, 1977. These layoffs amounted to only 1.3 percent of the average number of production workers employed in that month, and were less than 50 workers.

In addition, in 1976 and the first nine months of 1977, the average weekly hours worked were not reduced to 80 percent or less of the normal work week at Tyrone.

From January 1976, through September 1977, employment declines of over 5 percent occurred only in the third quarter of 1976 and the third quarter of 1977, compared to the same quarters of the previous year. These declines are attributable to quits by college students employed for the summer, who usually leave in August.

There is no indication that current workers are threatened with any involuntary total or partial separations from employment at the Tyrone Branch.

#### CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that a significant number or proportion of workers at the Tyrone, N. Mex. Branch of Phelps Dodge Corp., have not become totally or partially separated and are not threatened to become totally or partially separated as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of January 1978

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 78-1699 Filed 1-19-78; 8:45 am)

#### [4510-30]

#### VIRGIN ISLANDS UNEMPLOYMENT COMPENSATION LAW

#### Approval

The Government of the Virgin Islands of the United States, in December 1977, submitted its unemployment compensation law, which is entitled the "Virgin Islands Unemployment In-

surance Act," for approval under section 3304(a) of the Internal Revenue Code of 1954, 26 U.S.C. 3304(a), as most recently amended by Pub. L. 94-566, approved October 20, 1976 (90 Stat. 2867), and Pub. L. 95-19, approved April 12, 1977 (91 Stat. 39).

Pursuant to section 3304(a) of the Internal Revenue Code of 1954, amended as set forth above, and in accordance with the delegation of authority in Secretary's Order 4-75, dated April 16, 1975 (40 FR 18515), the Employment and Training Administration in this Department examined the Virgin Islands law submitted for approval and found that it contains among its words and phrases all of the provisions required by said section 3304(a) to be contained therein, and which were to be in effect from and after January 1, 1978, or at an earlier date. Accordingly, the Assistant Secretary for Employment and Training approved the Virgin Islands law under section 3304(a) as of December 31, 1977.

In accordance with section 116(g) of Pub. L. 94-566 (90 Stat. 2673), and as a condition of the approval under section 3304(a), the Governor of the Virgin Islands, by approval of the Virgin Islands law, has approved the transfer to the Federal unemployment trust fund established by section 904 of the Social Security Act of an amount equal to the dollar balance credited to the unemployment subfund of the Virgin Islands established under section 310 of title 24 of the Virgin Islands Code.

In view of the foregoing, I hereby confirm the approval of the Virgin Islands Unemployment Insurance Act under section 3304(a) of the Internal Revenue Code of 1954, subject to the provisions of subsections (c) and (d) of section 3304, as of the date of such approval by the Assistant Secretary for Employment and Training.

Signed at Washington, D.C., on January 13, 1978.

RAY MARSHALL,  
Secretary of Labor.

(FR Doc. 78-1686 Filed 1-19-78; 8:45 am)

#### [7590-01]

#### NUCLEAR REGULATORY COMMISSION

#### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE MAINE YANKEE NUCLEAR PLANT

#### Meeting

The ACRS Subcommittee on the Maine Yankee Nuclear Plant will hold a meeting on February 4, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to review the request of the Maine Yankee Atomic Power Corp. for a power level increase for this plant.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

SATURDAY, FEBRUARY 4, 1978

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Maine Yankee Atomic Power Corp., and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, (telephone 202-634-1920) between a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Wiscasset Public Library, High Street, Wiscasset, Maine 04578.



Dated: January 16, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.

[FR Doc. 78-1594 Filed 1-19-78; 8:45 am]

## [7590-01]

[Docket No. 50-389A]

FLORIDA POWER & LIGHT CO. (ST. LUCIE  
PLANT, UNIT 2)

## Order

On October 19, 1977, the Commission decided to review ALAB-420, and requested briefing on questions set out in the order of that date. Oral argument in this case, previously set down for Thursday, January 12, 1978, has been rescheduled. The Commission will hear oral argument on Tuesday, January 24, 1978, at 9:30 a.m., in the Commission's conference room, 11th floor, 1717 H Street NW., Washington, D.C. As indicated in the Commission's order dated December 29, 1977, the parties should be prepared to address whether and how licensing boards might take into account the lateness of a request for an antitrust hearing in (1) determining the scope of the hearing, and (2) granting relief. The parties should also discuss whether the Licensing Board, in view of the lateness of the request for hearing, should have looked behind the allegations contained in the Florida Cities affidavits filed with the Board in determining whether good cause existed to have a late antitrust hearing. As previously indicated, the order and time limits for argument will be as follows:

Florida Power & Light Co.—20 minutes.  
The Florida Cities—20 minutes.  
NRC Staff and U.S. Department of Justice—20 minutes, to be divided by them by agreement. If there is no agreement, then divided equally.

Each party may elect to reserve a portion of its allotted time for rebuttal. It is so ordered.

Dated at Washington, D.C., on this 17th day of January, 1978.

By the Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 78-1813 Filed 1-19-78; 8:45 am]

The "Florida Cities" is the collective name used in this litigation for 21 Florida municipalities and utility commissions and the Florida Municipal Utilities Association. The individual names have been specified in previous filings before the Commission and in Commission orders.

## NOTICES

## [7590-01]

[Docket No. 50-302]

FLORIDA POWER CORP. ET AL.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 11 to Facility Operating License No. DPR-72, issued to the Florida Power Corp., City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised Technical Specifications for operation of the Crystal River Unit No. 3 Nuclear Generating Plant located in Citrus County, Fla. The amendment is effective as of the date of issuance.

This amendment resolves conflicting requirements with respect to the Reactor Building Purge Exhaust Duct Monitor trip setpoints, amplifies an emergency feedwater pump surveillance requirement, corrects typographical errors and deletes improperly characterized valves from a table of containment isolation valves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 15, 1977, (2) Amendment No. 11 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Crystal River Public Library, Crystal River, Fla. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commis-

sion, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-1595 Filed 1-19-78; 8:45 am]

## [7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 32 to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. FitzPatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment provides for changes in the Technical Specifications which (1) utilize words from Regulatory Guide 1.16 instead of referencing the Guide and (2) delete the requirement for an Annual Operating Report.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated November 2, 1977, (2) Amendment No. 32 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H

## NOTICES

Street, NW., Washington, D.C. and at the Oswego County Office Building, 48 E. Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 13th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-1596 Filed 1-19-78; 8:45 am]

## [7590-01]

[Dockets Nos. 50-280, 50-281]

VIRGINIA ELECTRIC AND POWER CO., SURRY  
POWER STATION, UNITS NOS. 1 AND 2

## Order for modification of license

I. Virginia Electric and Power Co. (the licensee), is the holder of Facility Operating Licenses Nos. DPR-32 and DPR-37 which authorize the operation of two nuclear power reactors known as Surry Power Station, units Nos. 1 and 2 (the facility) at steady state reactor power levels not in excess of 2441 thermal megawatts (rated power). The reactors are pressurized water reactors (PWR) located at the Licensee's site in Surry County, Va.

II. On August 24, 1977, the Commission authorized the installation of flow-limiting orifices in the discharge of the outside recirculation spray pumps for the facility and imposed limitations on certain operating parameters for the facility. These limitations were designed to assure adequate minimum flow of the containment recirculation spray pumps for design basis Loss of Coolant Accident (LOCA) conditions. One of these limitations was a minimum service water temperature of 55° F. On October 17, 1977, we authorized lowering the minimum limit to 35° F. The service water cools, through heat exchangers, the recirculating containment spray water. Adequate service water cooling serves to limit the recirculating containment spray water temperature. The lower limit on temperature was intended to assure that containment depressurization rate did not result in an inadequate net positive suction head (NPSH).

By letter dated September 12, 1977, the licensee submitted the results of more complete analyses regarding the available net positive suction head for the low head safety injection pumps for interim operation of the plants. The methods used to calculate the containment pressure, containment sump temperature, and available

NPSH have been reviewed for the North Anna plant and found to be acceptable. The same methods were used in the calculations for Surry.

By letter dated December 28, 1977, the licensee submitted the results of similar analyses regarding the lowering of the minimum service water temperature from 35° F to 25° F. Technical Specification 3.14, Circulating and Service Water Systems, provides a requirement for two operable service water flow paths to the recirculation spray system. The definition of "operable" includes a requirement that the service water is unfrozen and available for use. The Technical Specification requires plant shutdown should the flow paths not be operable. The following discussion indicates that the recirculating spray system would perform its required safety functions even if the service water reached 25° F, a physically unattainable lower value, since the freezing point for the service water is approximately 29° F.

The analyses in the December 28th letter indicate the effects of 25° F service water temperature on minimum available net positive suction head (NPSH) on the containment recirculation spray (RS) pumps and the low head safety injection (LHSI) pumps. The most severe operating condition provides sufficient NPSH and is therefore acceptable.

The decrease in service water temperature below 35° F provides added assurance that the containment will depressurize within one hour in the unlikely event of a loss of coolant accident.

For the foregoing reason, it is concluded that deleting the minimum service water temperature limit will still provide adequate recirculation spray pump flow to assure that continued operation will not impose an undue threat to public health and safety.

Copies of the following documents are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington D.C. 20555, and at the Swem Library, College of William and Mary, Williamsburg, Va.: (1) Letters from Licensee dated September 12, and December 28, 1977, and (2) this Order for Modification of License, in the matter of Virginia Electric and Power Co., Surry Power Station units Nos. 1 and 2, Dockets Nos. 50-280 and 50-281.

III. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations in 10 CFR Parts 2 and 50:

It is ordered, That Facility Operating Licenses Nos. DPR-32 and DPR-37 are hereby amended by supplementing our August 24, 1977 Order for Modification of License to include the following limits on operation, effective immediately:

Maximum service water temperature 85° F.

Containment temperature 100° to 125° F.  
Containment air partial maximum pressure 9.3 PSIA at 85° F service water temperature and 45° F RWST temperature. This value will vary in a manner similar to existing Technical Specification 3.8

Dated in Bethesda, Md. this 10th day of January 1978.

For the Nuclear Regulatory Commission.

VICTOR STELLO, Jr.,  
Director, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 78-1597 Filed 1-19-78; 8:45 a.m.]

## [3110-01]

OFFICE OF MANAGEMENT AND  
BUDGET

## CLEARANCE OF REPORTS

## List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 11, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Request for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

## NEW FORMS

## NATIONAL SCIENCE FOUNDATION

User Survey, Technical Report Author Survey, survey of federally funded projects, single time, individuals, Laverne V. Collins, 395-3214, Office of Federal Statistical Policy and Standard.

## U.S. INTERNATIONAL TRADE COMMISSION

(1) U.S. Producers' and (2) U.S. Importers' Questionnaires on Stainless Steel Table Flatware, single time, producers and importers of stainless steel flatware, C. Louis Kincannon, 395-3211.

## GENERAL SERVICES ADMINISTRATION

Claim for Exemption From Submission of Certified Cost or Pricing Data, OF-277, on occasion, suppliers of commercial items, Office of Federal Procurement Policy, 395-3436.



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NOTICES

**TENNESSEE VALLEY AUTHORITY**  
Commercial and Industrial Interview Guide, 8252, 8252A, single time, larger accounts, C. Louis Kincannon, 395-3211.

**DEPARTMENT OF AGRICULTURE**  
Federal Crop Insurance Corporation, Farm Crop Insurance Survey, single time, farm product producers, Lowry, R. L., 395-3772.

**DEPARTMENT OF COMMERCE**  
Bureau of Census Income Supplement Test—April 1978, CPS-1, 685, single time, 7,000 households in April 1978 CPS, Strasser, A., 395-6132, Office of Federal Statistical Policy and Standard.

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Office of Human Development:  
Title IX Coordinator Questionnaire, OS-20-77-A, single time, title IX coordinators in local educational agencies, Laverne V. Collins, 395-3214.  
Administrative Official Questionnaire, OS-20-77-B, single time, administrative officials in local educational agencies and educational agencies, Laverne V. Collins, 395-3214.  
Social Security Administration, Survey of Medically Denied SSI Disability Applicants, SSA-3747, single time, adult denied applicants of SSI disability benefits, Caywood, D. P., 395-3443, Human Resources Division.

**DEPARTMENT OF LABOR**  
Employment and Training Administration, Impact Research of Youth Incentive Entitlement Pilot Projects, ETA-13, single time, youth and parents in pilot and control sites, Strasser, A., 395-6132.

**DEPARTMENT OF THE INTERIOR**  
Bureau of Reclamation, Questionnaire—Lake Mead Fishing Survey for Nevada Department of Fish and Game, single time, fishermen and recreationalists visiting Lake Mead, Ellett, C. A., 395-6132.

**REVISIONS**  
**RAILROAD RETIREMENT BOARD**  
Application for Widows and Child's Insurance Annuities, AA-18, on occasion, applicants for RRA benefits, Caywood, D. P., 395-3443.  
Application for Child's Insurance Annuity, AA-19, on occasion, applicants for RRA benefits, Caywood, D. P., 395-3443.

**DEPARTMENT OF COMMERCE**  
Maritime Administration, Application for Admission to the United States Merchant Marine Academy, KP-2-65, on occasion, candidates for admission, Lowry, R. L., 395-3772.  
Bureau of Census, Census Employment Inquiry, BC170-A, on occasion, applicants for special censuses, Strasser, A., Office of Federal Statistical Policy and Standard, 395-6132.

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Social Security Administration, 1978 Study of Survivor Families with Children, SSA-3457, single time, families with material or paternal orphans, Caywood, D. P., Human Resources Division, 395-3443.  
National Institute of Education, Registry of Research Organizations in Education,

NIE-174, single time, Research Admins. in Insts. which conduct, Laverne V. Collins, 395-3214.

Social Security Administration, Employment or Self-employment Outside the United States, SSA-7163, on occasion, claimant's residing outside United States, Caywood, D. P., Human Resources Division, 395-3443.

**DEPARTMENT OF LABOR**  
Bureau of Labor Statistics, Information for the International Price Competitiveness Program Import Interview Form; International Commodity Price Information, Import Commodity Information, BLS3007A BLS3007C, annually, importers, Strasser, A., Office of Federal Statistical Policy and Standard, 395-6132.

**EXTENSIONS**  
**DEPARTMENT OF STATE (EXCL. AID AND ACTION)**  
Exchange-visitor Program Application, DSP-37, on occasion, non-govt. organizations and insts., Marsha Traynham, 395-3773.

**VETERANS ADMINISTRATION**  
State Home Report and Statement of Federal Aid Claimed (Care of War Veterans in Home Facilities), 10-5588, monthly, State veterans' home, Caywood, D. P., 395-3443.

**EMPLOYMENT AND TRAINING ADMINISTRATION**  
State and National Apprenticeship Data System (SNAPS), MA 5-125, semi annually, Marsha Traynham, 395-3773.

**DEPARTMENT OF AGRICULTURE**  
**STATISTICAL REPORTING SERVICE:**  
Wool Sales and Price Inquiry, annually, wool co-ops, pools and buyers, Ellett, C. A., Office of Federal Statistical Policy and Standard 395-6132.  
Cranberry Grower Inquiries, other (See SF-83), cranberry growers, Ellett, C. A., Office of Federal Statistical Policy and Standard 395-6132.  
Mushroom Processor Inquiry, annually, mushroom processors, Ellett, C. A., Office of Federal Statistical Policy and Standard 395-6132.  
Mushroom Grower Survey, annually, mushroom growers, Ellett, C. A., Office of Federal Statistical Policy and Standard 395-6132.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Housing Management, operating budget forms and summary budget, HUD-52564, HUD-52566, HUD-52567, HUD-52571, HUD-52573, annually, local housing authorities, Caywood, D. P., Housing, Veterans and Labor Division, 395-3443.  
Policy Development and Research, housing assistance supply experiment—survey of landlords, single time, owners of real estate in one SMSA, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.

**DEPARTMENT OF LABOR**  
Employment and Training Administration, State and National Apprenticeship Data System (SNAPS), MA 5-125, semiannually, Federal and State Apprenticeship and Training Reps., Strasser, A., 395-6132.

**DEPARTMENT OF TRANSPORTATION**  
National Highway Traffic Safety Administration, motor vehicle information request, on occasion, vehicle owner, lease rental agencies, new car dealers, Strasser, A., 395-6132.  
Federal Aviation Administration, notice of landing area proposal (establishment, alteration, or deactivation), FAA 7480-1, on occasion, private enterprise, Strasser, A., 395-6132.

**VELMA N. BALDWIN,**  
*Assistant to the Director for Administration.*

[FR Doc. 78-1836 Filed 1-19-78; 8:45 am]

[3110-01]

**CLEARANCE OF REPORTS**  
**List of Requests**

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 5, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

**NEW FORMS**  
**DEPARTMENT OF ENERGY**  
Epidemiology Survey on Magnetic Effects on Human Health (questionnaire), XBG-504-510, single time, individuals exposed to magnetic fields and control group, Richard Eisinger, 395-3214.

**ACTION**  
Making It Work Better: UYA Survey of Project Director on Activities and Effects, annually, directors of UYA projects, Human Resources Division, Reese, B. F., 395-3532.  
Making It Work Better: VISTA Survey of Project Director and Volunteer Supervisors/Activities and Effects, annually, directors and supervisors of VISTA projects, Human Resources Division, Reese, B. F., 395-3532.

**DEPARTMENT OF AGRICULTURE**  
Economic Research Service, Cotton Survey, single time, cotton producers, Lowry, R. L., Office of Federal Statistical Policy and Standard, 395-3772.

**DEPARTMENT OF COMMERCE**  
**Bureau of Census:**  
Methods Test Questionnaires, MTP-1, 2, and 3, monthly, households in four areas, Reese B. F., Office of Federal Statistical Policy and Standard, 395-3211.  
Conventional Address Register Listing Pages 1980 Census Dress Rehearsal (part of the 1980 Decennial Census), DX-104A(X), D-1044B(X), single time, all households in the conventional dress rehearsal area, Reese B. F., Office of Federal Statistical Policy and Standard, 395-3211.  
Domestic and International Business Administration, Survey of Women Business Owners, single time, women business owners, C. Louis Kincannon, Lowry, R. L., 395-3211.

**Bureau of Census, Post Enumeration Survey Current Household Roster and Roster of Relatives, Census of Oakland, DH-844, single time, households in Oakland, Calif., Reese, B. F., Office of Federal Statistical Policy and Standard, 395-3211.**  
**Domestic and International Business Administration:**  
Underground Coal Mining Machinery, ITA-9012, single time, mining machinery manufacturers, C. Louis Kincannon, 395-3211.  
Water and Wastewater Treatment Equipment, ITA-9009, single time, water and wastewater treatment equipment manufacturers, C. Louis Kincannon, Ellett, C. A., 395-3211.

**Bureau of Census:**  
Mail Screening International Victimization Survey, IVS-1, IVS-1L1, IVS-1L2, single time, Households in three SMSA's and two rural PSU's, Laverne V. Collins, Office of Federal Statistical Policy and Standard, 395-3214.  
Census of Irrigation (pretest), single time, irrigation organizations, Lowry, R. L., Office of Federal Statistical Policy and Standard, 395-3772.  
Economic Development Administration, Alert Letter—MBE 10% Participation, 531-A, 531-L, on occasion, minority business enterprises, Lowry, R. L., 395-3772.  
Bureau of Census, Census of Irrigation—Follow-on Survey (test), 77-A62-T1, single time, irrigated farms with sales of \$2,500 and over, Lowry, R. L., Office of Federal Statistical Policy and Standard, 395-3772.

**DEPARTMENT OF DEFENSE**  
Departmental and Other Military Health Care Survey, single time, retired military personnel and survivors, Richard Eisinger, Office of Federal Statistical Policy and Standard, 395-3214.

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**  
National Institute of Education, Pupil Survey and Measure of English Language Proficiency, NIE-178A-B-C, single time, parents, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 395-3214.  
Health Care Financing Administration (Medicare), RACC Long-Term Care Survey, HCFA-19T, single time, director of nursing/charge nurse in hospitals, Human Resources Division, Richard Eisinger, 395-3532.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Administration (Office of Assistant Secretary), Minority Business Participation

Report, HUD-525, on occasion, State governments, Caywood, D. P., 395-3443.

**DEPARTMENT OF LABOR**  
Employment and Training Administration, Study of the Program for Persons of Limited English-Speaking Ability, MT-284, single time, prime sponsor, project subcontractor staff, Strasser, A. and Laverne V. Collins, 395-6132.

**DEPARTMENT OF THE TREASURY**  
Departmental and Other, Special Summary Steel Invoice, on occasion, foreign shipper, seller, or manufacturer, C. Louis Kincannon, 395-3211.

**REVISIONS**  
**U.S. COMMISSION ON CIVIL RIGHTS**  
Undocumented Workers Project—Interview Guide, CR-311-9 and 1, on occasion, aliens, school superintendents, Laverne V. Collins and Maria Gonzalez, 395-3214.

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
Synthetic Organic Chemicals—Monthly Report on Production, CD-M1, monthly, original manufacturers of synthetic organic chemicals, C. Louis Kincannon, 395-3211.

**DEPARTMENT OF AGRICULTURE**  
Statistical Reporting Service, Peanut Variety Survey—Virginia, annually, peanut growers, Lowry, R. L., 395-3772.

**DEPARTMENT OF COMMERCE**  
Economic Development Administration, Pretest: (a) Request for Employee Address Report, (b) Local Public Works Employee Survey, ED-748QA, ED-748QB, single time, on-site employees of local public works, Strasser, A., 395-6132.  
Bureau of Census, Advance Letter to "Special Places"—1977 Census of Oakland, Calif. (1980 Census Pretest), DH-25, single time, managers and administrators, Office of Federal Statistical Policy and Standard, Reese, B. F., 395-3211.  
Economic Development Administration, Local Public Works Payroll Reporting Form, ED-746, weekly, construction (sub) contractors, Strasser, A., 395-6132.

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**  
National Institutes of Health, Cancer Research Project Registration Form, OS-NIH-CA-, on occasion, cancer researchers, Richard Eisinger, 395-3214.  
Health Resources Administration, Faculty Evaluation Form—National Health Service, Corps Scholarship Program, HRA-BHM 0610, on occasion, faculty and dean, Richard Eisinger, 395-3214.  
Health Care Financing Administration (Medicare), Chronic Renal Disease Medical Evidence Report Form, SSA 2728, on occasion, physicians, Human Resources Division, Richard Eisinger, 395-3532.

**DEPARTMENT OF JUSTICE**  
Law Enforcement Assistance Administration, National Prisoner Statistics—Admission and Release Report, NPS-2, NPS-3, on occasion, State corrections agencies, Office of Federal Statistical Policy and Standard, Laverne V. Collins, 395-3214.

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EXTENSIONS

**ENVIRONMENTAL PROTECTION AGENCY**  
Cost or Price Summary Format for Subagreements, Under U.S. EPA Grants, on occasion, contractors under EPA grants, Ellett, C. A., 395-6132.

**NATIONAL GALLERY OF ART**  
Report on Extension Service Lecture Use, NGA-224, on occasion, professors and teachers, Warren Topellius, 395-6132.

**NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES**  
Questionnaire for National Endowment for the Humanities, Journalism Fellows, annually, journalists, Lowry, R. L., 395-3772.

**AGENCY FOR INTERNATIONAL DEVELOPMENT**  
Offeror's Analysis of Cost Proposal, AID1420-18, on occasion, contractors for contracts over \$100,000, Warren Topellius, 395-6132.  
Schedule D—Ocean Transport—Part I and II (Commodities, Shipped), AID1550-9, AID1550-8, annually, voluntary agencies, C. Louis Kincannon, 395-3211.

**DEPARTMENT OF AGRICULTURE**  
Statistical Reporting Service, Fruit Inquiries—Growers, monthly, fruit growers, Ellett, C. A., 395-6132.

**DEPARTMENT OF COMMERCE**  
Maritime Administration, Financial Statements and Vessel Performance Reports, GO 12, semi-annually, subsidized U.S. steamship operators, Lowry, R. L., 395-3772.  
Bureau of Economic Analysis, Survey of Visitors Travel Expenses in the United States, BE 572GF, monthly, foreign visitors, Office of Federal Statistical Policy and Standard, C. Louis Kincannon, 395-3211.

**DEPARTMENT OF DEFENSE**  
Departmental and other, Value Engineering Program Requirements, MIL-V-38352, other (see SF-83), DOD contractors, Marsha Traynham, National Security Division, 395-3773.

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**  
Food and Drug Administration, Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Temporary Maintenance Treatment, FD-2636, on occasion, hospitals that treat narcotic addicts, Richard Eisinger, 395-3214.  
Health Resources Administration: Addition of Uniform Hospital Discharge Data Set Items to Hospital Discharge Survey, HSM88-1, annually, national sample of short-stay hospitals, Richard Eisinger, Office of Federal Statistical Policy and Standard, 395-3214.  
Forms and Reports for Health Professions Student Assistance Program, NIH-1614, annually, student borrowers, financial aid officers, Richard Eisinger, 395-3214.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
Federal Disaster Assistance Administration, Request for Grant-in-Lieu, HUD 495, on occasion, State and local governments in disaster areas, Budget Review Division, 395-4775.



## DEPARTMENT OF LABOR

Employment and Training Administration,  
Trade Readjustment Allowance Activities  
and Employability Services, ETA 5-63,  
monthly, SESAs for petitions under the  
Trade Act, Budget Review Division, 395-  
4775.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc. 78-1835 Filed 1-19-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE  
COMMISSION

[Release No. 5897; 18-5]

## COVINGTON AND BURLING RETIREMENT PLAN

Filing of Application for an Order Exempting  
From Provisions of Interests or Participations  
in Covington and Burling Retirement Plan

JANUARY 12, 1978.

Notice is hereby given that Covington and Burling ("Applicant"), 888 Sixteenth Street, N.W., Washington, D.C. 20006, a law firm organized as a partnership under the laws of the District of Columbia, has, by letter dated July 29, 1977, applied for an exemption from the registration requirements of the Securities Act of 1933 (the "Act") for participations or interests issued in connection with The Covington and Burling Retirement Plan (the "Plan"). All interested persons are referred to that document, which is on file with the Commission, for the facts and representations contained therein, which are summarized below.

## I. INTRODUCTION

Applicant's Plan provides that partners of the Applicant (except senior partners who no longer have the obligation to practice law) and employees of the Applicant (except employees whose employment depends primarily on legal education, such as lawyers and law clerks who are not partners) are eligible for participation therein if they are at least 25 years of age and have completed one year of service with the Applicant. Participation in the Plan begins on the January 1, or July 1, next succeeding the date on which a person first becomes eligible for participation. As of January 1, 1977, approximately 68 partners and 186 employees were eligible to participate in the Plan. The Plan is of the type commonly referred to as a "Keogh" plan, which covers persons (in this case, certain of Applicant's partners and employees) who are employees within the meaning of Section 401(c)(1) of the Internal Revenue Code of 1954 (the "Code"), and, therefore, is excepted from the exemption provided by Section 3(a)(2) of the Act for interests or participations in cer-

tain employee benefit plans of corporate employers. Section 3(a)(2) of the Act provides, however, "the Commission, by rules and regulations or order, shall exempt from the provisions of section 5 of the Act any interest or participation issued in connection with a stock bonus, pension, profit-sharing or annuity plan which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of the Code, if and to the extent that the Commission determines this to be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act."

II. DESCRIPTION AND ADMINISTRATION  
OF THE PLAN

Applicant represents that the Plan was originally established effective January 1, 1960, as a fixed benefit plan for non-legal employees (i.e., employees other than partners, associates or law clerks) and all contributions to the Plan were made by the Applicant, there being no provision for voluntary employee contributions. Effective as of January 1, 1968, the Plan was amended to provide for participation by partners, for annual contributions by Applicant of a fixed percentage of earnings of each participant, or for benefits to non-legal personnel on either a money purchase or a fixed benefit basis, whichever provision would produce the highest benefits. At that time the Plan was also amended to provide for voluntary contributions by participants of 1 percent to 10 percent of annual earnings, as defined in the Plan, to provide benefits on a money purchase basis. The Plan and related trust agreement have been amended effective January 1, 1976. These amendments were designed primarily for the purpose of complying with the Employment Retirement Income Security Act of 1974 ("ERISA"), to which the Plan is subject. The Internal Revenue Service has issued a determination letter to the effect that the Plan and trust agreement, as amended to date, continue to meet the requirements of section 401(a) of the Code and that the trust remains tax exempt under section 501(a) of the Code.

Applicant states that under the Plan, Applicant contributes to American Security Bank, N.A. (the "Trustee") with respect to each participant in the Plan an amount equal to 7½ percent of the participant's "earnings" (not in excess of \$100,000) from Applicant in every calendar year in which a participant has at least 1,000 hours of service unless the participant's participation commenced on July 1 in which case Applicant contributes in that year 3½ percent of such earnings. Each participant under the Plan is

permitted, at his option, to make voluntary contributions in an amount not less than 1 percent nor more than 10 percent of his earnings (not in excess of \$100,000) from the Firm for each calendar year. The amount of the voluntary contributions by participants during each fiscal year of the Applicant is also limited as required by section 415 of the Internal Revenue Code.

Applicant represents that the Plan is administered by Applicant's Pension Committee (the "Committee"), appointed by Applicant's Management Committee and consisting, as presently constituted, of three partners of the Applicant. The Committee is responsible for the day-to-day administration of the Plan, including the making and enforcement of rules relating to administration, interpretation of the Plan, determining the eligibility of each employee, authorizing disbursements, etc.

Applicant states that the assets of the Plan are to be held by the Trustee pursuant to a trust agreement between the Trustee and Applicant. The Committee is authorized to establish one or more trust funds and to allocate assets of the trust and contributions of the Applicant and the employees to such trust funds. Applicant represents that the trust agreement contemplates that there may be a discretionary fund managed by the Trustee, a directed fund to be managed by an "investment manager" as defined in ERISA, and a segregated fund to be managed by some other designated fiduciary. Applicant further represents that initially T. Rowe Price Associates has been designated an investment manager of a directed fund to hold substantially all Plan assets except assets which may be invested on a short-term basis by the Trustee. To the extent that a fund is managed by a person other than the Trustee, the Trustee has no investment discretion except as it may be requested to handle short-term investments.

Applicant represents that the Committee is authorized to establish general policy guidelines for the investment of Plan assets and to the extent that the Trustee, an investment manager, or a designated fiduciary acts in compliance with such guidelines, they are relieved of responsibility.

The Plan authorizes the Trustee to invest in collective or commingled funds containing assets other than assets of the Plan but the Committee will establish a policy guideline permitting such investment only if interests or participations in such fund are effectively registered under the Act. The Trustee currently has such a fund for investment of assets of Keogh plans. The provision for a segregated fund to be managed by a designated fiduciary was included to enable the Committee to direct application of

assets of the Plan to insurance or annuity contracts to provide Plan benefits.

Applicants state that the Committee is responsible for the funding policy of the Plan, but does not exercise investment discretion. The Committee also has authority to employ actuaries, accountants and other experts to assist in the administration of the Plan.

Applicant further submits that as an "employee pension benefit plan" within the meaning of ERISA, the Plan is subject to certain reporting and disclosure requirements.

Applicant contends that the exemption from registration under Section 3(a)(2) of the Act would clearly be available if Applicant were incorporated, for there would be no section 401(c)(1) employees. Applicant argues that merely because Applicant is unincorporated is no reason for subjecting such interests and participations to the registration requirements of the Act. Similarly, were partners of Applicant excluded from participation, the exemption would clearly be available. Again there would seem to be no policy basis for requiring registration simply because the principals responsible for establishing and administering the Plan, that is, the partners, are included as participants.

Applicant concludes that under the circumstances, granting the requested exemptive order would be appropriate in the public interest, consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given, that any interested person may, not later than January 30, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

The Applicant states, in part: (1) The Applicant is a wholly-owned subsidiary of Cummins Engine Co., Inc., and was incorporated to assist in financing Cummins' foreign operations. (2) The Applicant's 5% Subordinated Guaranteed Convertible Debentures due 1988 (the "Eurodollar Debentures") are the only class of securities issued by the Applicant which is registered under the 1934 Act. The Eurodollar Debentures are listed on the New York Stock Exchange where negligible trading has occurred since they were admitted to trading in 1968. (3) The Eurodollar Debentures are guaranteed by Cummins and are convertible into Cummins Common Stock. None of the securities of Applicant (other than the Eurodollar Debentures) are presently held by any person other than Cummins.

For the Commission, by the Division  
of Investment Management, pursuant  
to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1563 Filed 1-19-78; 8:45 am]

[8010-01]

[File No. 81-298]

## CUMMINS INTERNATIONAL FINANCE CORP.

Application and Opportunity for Hearing

JANUARY 12, 1978.

Notice is hereby given, that Cummins International Finance Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act"), for an order exempting the Applicant from the provisions of Section 13 of that Act.

Section 13 of the 1934 Act provides that every issuer of a security registered pursuant to Section 12 of that Act, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, such information and documents as the Commission shall require to keep reasonably current the information included in the registration statement, and such annual and quarterly reports the Commission may prescribe.

Section 12(h) of the 1934 Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of section 13 of the 1934 Act, if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part: (1) The Applicant is a wholly-owned subsidiary of Cummins Engine Co., Inc., and was incorporated to assist in financing Cummins' foreign operations. (2) The Applicant's 5% Subordinated Guaranteed Convertible Debentures due 1988 (the "Eurodollar Debentures") are the only class of securities issued by the Applicant which is registered under the 1934 Act. The Eurodollar Debentures are listed on the New York Stock Exchange where negligible trading has occurred since they were admitted to trading in 1968.

(3) The Eurodollar Debentures are guaranteed by Cummins and are convertible into Cummins Common Stock. None of the securities of Applicant (other than the Eurodollar Debentures) are presently held by any person other than Cummins.

(4) The holder of Eurodollar Debentures can be fully informed as to their investment by the reports required to be filed by Cummins pursuant to section 13 of the 1934 Act.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's Public Reference Section, 1100 L Street NW., Washington, D.C.

Notice is further given, that any interested person, not later than Feb. 6, 1978, may submit to the Commission in writing his view or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division  
of Corporation Finance, pursuant to  
delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1564 Filed 1-19-78; 8:45 am]

[8010-01]

[File No. 81-264]

CYANAMID INTERNATIONAL DEVELOPMENT  
CORP.

Application and Opportunity for Hearing

JANUARY 9, 1978.

Notice is hereby given, that Cyanamid International Development Corp. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "Exchange Act") seeking an exemption from the requirement to file reports pursuant to section 13 of the Exchange Act.

Section 12(b) of the Exchange Act provides that an issuer may register securities on a national securities exchange by filing a registration statement with both the exchange and the Securities and Exchange Commission, which registration statement contains information as to the issuer and any person directly or indirectly controlling or controlled by the issuer as the



## NOTICES

commission may require for the protection of investors or in the public interest.

Section 13 of the Exchange Act requires that issuers of securities registered pursuant to section 12 must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the Exchange Act empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the periodic reporting provisions of section 13, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part: 1. Applicant, a New Jersey corporation, is wholly-owned subsidiary of American Cyanamid Co. ("Cyanamid"). The Applicant was formed by Cyanamid for the principal purpose of obtaining funds for foreign subsidiaries and affiliated companies of Applicant and Cyanamid.

2. In September 1965, Applicant issued \$20,000,000 principal amount of 5 1/4% Guaranteed Sinking Fund Debentures due 1980 (the "Debentures").

3. The Debentures are unconditionally guaranteed as to the payment of principal, premium, if any, and sinking fund by Cyanamid.

4. The Debentures were offered abroad to foreign nationals and sales were not effected to or for the account of United States citizens or persons normally resident in the United States.

5. The Debentures are listed on the New York Stock Exchange and are registered pursuant to section 12(b) of the Exchange Act.

In the absence of an exemption, Applicant is required to file certain periodic reports with the Commission pursuant to Section 13 of the Exchange Act because the Debentures are registered both with the New York Stock Exchange and the Commission.

Applicant contends that the exemptive order requested is appropriate in view of the fact that none of the securities of the Applicant (other than the Debentures) are held by any person other than Cyanamid; that since the Debentures are unconditionally guaranteed by Cyanamid it is the reports of Cyanamid in which investors would be primarily interested; and because there has only been very limited and occasional trading in the Debentures on the New York Stock Exchange since their listing.

For a more detailed statement of information presented, all persons are referred to the application which is on

file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than February 3, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting an application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE F. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1565 Filed 1-19-78; 8:45 am]

## [8010-01]

[Rel. No. 20377, 70-6108]

## INDIANA &amp; MICHIGAN ELECTRIC CO.

## Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds and Cumulative Preferred Stock

JANUARY 12, 1978.

Notice is hereby given, that Indiana and Michigan Electric Co. ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to \$100,000,000 aggregate principal amount of its first mortgage bonds of a new series ("Bonds"), having a maturity date of March 1, 2008. The interest rate (which will be expressed in a multiple of 1/4 of 1 percent) and the

price to be paid to I&M for the Bonds (which shall not be less than 100 percent, unless I&M shall authorize a lower percentage not less than 99 percent, and shall not exceed 102 1/2 percent) will be determined by competitive bidding. None of the Bonds may be redeemed prior to March 1, 1983, if such redemption is for the purpose of refunding such Bond through the use, directly or indirectly, of borrowed funds at an effective interest cost less than the effective interest cost of the Bonds.

I&M also proposes to issue and sell at competitive bidding up to 1,600,000 shares of a new series of its cumulative preferred stock ("Preferred Stock"), par value \$25 per share. The price to be paid to I&M shall be \$25 per share, which shall also be the price at which the Preferred Stock shall be initially offered to the public. The dividend rate (which will be expressed in a multiple of .01) and the amount per share to be paid by I&M as compensation to the purchasers will be determined by competitive bidding. None of the shares of the Preferred Stock may be redeemed prior to March 1, 1983, if such redemption is for the purpose of refunding such stock, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the Preferred Stock at an effective interest cost or effective dividend cost less than the effective dividend cost of the Preferred Stock. The terms of the Preferred Stock may also include a sinking fund provision pursuant to which I&M would retire at \$25 per share, commencing no earlier than five years after the sale, not more than 5 percent annually of the number of shares initially issued, with the non-cumulative option on any sinking fund date of redeeming at \$25 per share an additional like number of shares and with the option to credit against any sinking fund requirement the shares of Preferred Stock theretofore purchased or otherwise acquired by I&M. It is proposed that I&M will decide upon the necessity for a sinking fund provision at a subsequent date and notify prospective bidders of its decision by telegram reasonably in advance of, but not less than 72 hours prior to, the bidding date.

It is stated that no condition is to be contained in the Bond purchase contract requiring the issuance and sale of the Preferred Stock, nor is any condition to be contained in the Preferred Stock purchase contract requiring the issuance and sale of the Bonds. Neither the Bonds nor the Preferred Stock will, however, be issued and sold unless I&M shall receive prior to sale one or more cash capital contributions in an aggregate amount of \$40,000,000 from AEP. The making of such cash capital contributions by

AEP is the subject of a separate application with this Commission (File No. 70-6082).

The proceeds from the sale of the Bonds and/or Preferred Stock will be used to repay unsecured short-term indebtedness and to reimburse I&M's treasury for expenditures incurred in connection with its construction program. As of December 14, 1977, I&M had approximately \$111,151,000 principal amount of short-term debt outstanding, and it is anticipated that at the time of the sale of the Bonds and/or Preferred Stock approximately \$120,000,000 principal amount of such unsecured short-term debt will be outstanding. I&M estimates its 1978 construction costs will be approximately \$181,000,000 (exclusive of construction costs of approximately \$39,600,000 of its generating subsidiary).

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Service Commission of Indiana and the Michigan Public Service Commission have jurisdiction over the proposed transactions. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, that any interested person may, not later than February 7, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

## NOTICES

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1566 Filed 1-19-78; 8:45 am]

## [8010-01]

[Release No. 20382; 70-5999]

MIDDLE SOUTH UTILITIES, INC. AND  
ARKANSAS POWER & LIGHT CO.

## Post-Effective Amendment Regarding Issuance and Sale of Common Stock by Subsidiary to Holding Company

JANUARY 12, 1978.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, La. 70112, a registered holding company, and its electric utility subsidiary company, Arkansas Power & Light Co. ("Arkansas"), First National Building, Little Rock, Ark. 72203, have filed with this Commission a post-effective amendment to the application in this proceeding pursuant to sections 6(b), 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order in this proceeding dated May 16, 1977 (HCAR No. 20028), the Commission authorized Arkansas to issue and sell to Middle South, and Middle South to acquire from Arkansas, from time to time until December 31, 1977, at the price of \$12.50 per share, or \$30,000,000 in the aggregate, 2,400,000 presently authorized but unissued shares of the common stock of Arkansas, \$12.50 par value. At that time, Arkansas had outstanding 29,438,773 shares of common stock, \$12.50 par value, having an aggregate par value on its books of \$367,959,662.50, all of which shares were owned by Middle South.

The post-effective amendment states that, on May 18, 1977, Arkansas issued and sold to Middle South 1,200,000 shares of its common stock for a purchase price of \$15,000,000 and that, subsequently, Arkansas has not issued and sold any additional shares of common stock. Arkansas and Middle South now believe it is in their best interest that the additional 1,200,000 shares of common stock be sold and delivered by Arkansas to Middle South from time to time through and including June 30, 1978, in increments to be determined by Arkansas and Middle South.

The Arkansas Public Service Commission and the Tennessee Public Service Commission have authorized the

issuance and sale of the new common stock by Arkansas. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 8, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the applicant which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1567 Filed 1-19-78; 8:45 am]

## [8010-01]

[Release No. 14371, SR-MSE-77-37]

## MIDWEST STOCK EXCHANGE, INC.

## Order Approving Proposed Rule Change

JANUARY 12, 1978.

On October 27, 1977, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Ill. 60603, filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change which makes technical changes to MSE's rule governing Withdrawal of Approval of Underlying Securities. These changes would permit the MSE to prohibit, if necessary, any opening purchase transactions in a previously opened series of options if the underlying stock does



not meet current standards for continued listing of options thereon or other Exchange requirements and would permit the MSE to make an application to the Securities and Exchange Commission to strike from trading and listing the option contracts whose underlying stock does not meet such current standards or other Exchange requirements.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34-14232, December 5, 1977) and by publication in the FEDERAL REGISTER (42 FR 62587, December 13, 1977).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved. For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1568 Filed 1-19-78; 8:45 am]

## [8010-01]

[Rel. No. 10091; 811-2400]

## PROFESSIONAL INVESTMENT CO., INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company.

JANUARY 12, 1978.

Notice is hereby given that Professional Investment Co., Inc. ("Applicant"), 1013 New York Avenue, Alamo-gordo, N. Mex. 88310, a New Mexico corporation registered as an open-end, diversified management company under the Investment Company Act of 1940 ("Act"), filed an application on November 18, 1977, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized on October 15, 1962 and registered under the Act on August 20, 1973. On February 15, 1977, Applicant's shareholders voted to dissolve the corporation and liquidate its assets. Applicant represents that the assets of the corporation were

liquidated and a liquidation dividend was paid to all shareholders of record. Applicant states that the sum of \$721.46, representing liquidation dividends and previous uncashed dividend checks for shareholders who could not be located, has been deposited with the State Treasurer of New Mexico. Applicant represents that it filed Articles of Dissolution with the New Mexico State Corporation Commission on September 23, 1977, and that it now has no stockholders, assets, liabilities, or business activities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 6, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 70-1569 Filed 1-19-78; 8:45 am]

## [8025-01]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1413]

## Kansas

## Declaration of Disaster Loan Area

The listing below of the 34 counties and adjacent counties within the State of Kansas constitutes a disaster area as a result of natural disasters as indicated:

County	Natural disaster(s)	Date(s)
Butler.....	Drought.....	1976 to spring of 1977.
	Excessive rainfall.	6 mos. of 1977.
	Hail.....	May 28-29, 1977.
Chase.....	Wet weather.....	June 10 to July 5, 1977.
	Flooding.....	June 19 and July 3, 1977.
	Hail.....	June 17, 1977.
Chautauqua.....	Flooding.....	June 21, 1977.
Cherokee.....	do.....	June 18-30, 1977.
Cheyenne.....	Hail storm.....	June 19, 1977.
	Snow storm.....	Mar. 11, 1977.
Clay.....	Drought.....	starting 4 a.m. (last 32 hrs.) 1976 to spring of 1977.
	Hail and excessive rainfall.	June of 1977.
Cloud.....	Hallstrom.....	June 1, 13, 17 and 18, 1977.
Coffey.....	Hail and wind storms.	Oct. 31, 1977.
Cowley.....	Heavy rain and flood.	June 21, 1977.
Dickinson.....	Extensive hail, rain and wind storms.	June 17-30, 1977.
Elk.....	Excessive rainfall.	June 21, 1977.
Franklin.....	Hail.....	Nov. 1, 1977.
Grant.....	do.....	May 1, 18, 18, and 20, 1977.
Greeley.....	Tornado.....	May 18, 1977.
Jewell.....	Hail.....	May 29, 1977.
	Drought.....	Fall of 1976 to spring of 1977.
Kingman.....	Hail.....	May 22, 1977.
Kiowa.....	Hallstrom.....	Do.
Labette.....	Flood.....	June 1977.
Linn.....	do.....	June 22-28, 1977.
Marion.....	Hail, rain and wind.	June 17, 18, 21, 24 and July 2, 1977.
McPherson.....	Drought.....	Fall of 1976 through spring of 1977.
	Excessive rainfall.	June 1977.
Meade.....	do.....	June 1 and 6, 1977.
Miami.....	Excessive rainfall.	May 29, 1977.
	wind, hail, and flooding.	Month of June 1977.
Montgomery.....	Excessive rainfall.	June 21, 1977.
Morris.....	Wind Erosion damage.	February and March 1977.
	Excessive rainfall.	May and June 1977.
	Hail.....	June 17 and July 2, 1977.
Morton.....	do.....	May 18, June 1, and July 1, 1977.
Osage.....	do.....	Oct. 31 to Nov. 1, 1977.
Ottawa.....	Excessive rainfall.	June and July 1, 1977.
	Hail.....	June 1, 17, and 18, 1977.
Pratt.....	Excessive rainfall and hailstorm.	May 22, 1977.
Reno.....	Hail.....	Do.
Saline.....	Drought.....	Fall of 1976 to spring 1977.
	Winterkill, excessive moisture.	June 1977.

County	Natural disaster(s)	Date(s)
Stevens.....	Hail and Tornadoes.	May 1 and 18, 1977.
Thomas.....	Hail storms.....	July 15 and Aug. 1, 1977.
Wabaunsee.....	Excessive rainfall and flooding.	Later part of June 1977 and 1st part of July 1977.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 10, 1978, and for economic injury until the close of business on October 10, 1978, at:

Small Business Administration, District Office, Main Place Building, 110 East Waterman Street, Wichita, Kans. 67202.

Small Business Administration, District Office, 12 Grand Building, 5th Floor, 1150 Grand Avenue, Kansas City, Mo. 64106.

or other locally announced locations:

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 6, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-1382 Filed 1-19-78; 8:45 am]

[Declaration of Disaster Loan Area No. 1387, Amdt. No. 2]

## MISSISSIPPI

## Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 45977) and amendment No. 1 (42 FR 58472), are amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Alcorn.....	Drought.....	Jan. 1 to Aug. 31, 1977.
Do.....	Excessive rainfall.	Sept. 13, to Sept. 25, 1977.
Amite.....	Drought.....	May 8 to July 15, 1977.
Attala.....	do.....	Apr. 15 to July 10, 1977.
Benton.....	do.....	Jan. 1 to Sept. 1, 1977.
Bolivar.....	do.....	Apr. 19 to Sept. 12, 1977.
Calhoun.....	do.....	Apr. 1 to July 11, 1977.
Chickasaw.....	do.....	May 15 to July 15, 1977.
Clarke.....	do.....	Apr. 15 to July 15, 1977.
Do.....	Excessive rainfall.	July 22 to Sept. 1, 1977.
Forrest.....	Drought.....	Apr. 1 to July 31, 1977.
Franklin.....	do.....	May 8 to July 12, 1977.
George.....	do.....	May 1 to July 8, 1977.
Greene.....	do.....	May 4 to July 7, 1977.
Grenada.....	do.....	Apr. 10 to June 30, 1977.
Do.....	Excessive rainfall.	Nov. 4 to Nov. 29, 1977.
Hancock.....	Drought.....	May 1 to July 5, 1977.
Do.....	Excessive rainfall.	July 25 to Sept. 17, 1977.
Harrison.....	Drought.....	May 8 to July 11, 1977.
Humphreys.....	Extreme heat and drought.	May 13 to July 9, 1977.

County	Natural disaster(s)	Date(s)
Do.....	Drought.....	Aug. 12 to Sept. 9, 1977.
Issaquena.....	do.....	May 1 to Sept. 1, 1977.
Itawamba.....	do.....	May 1 to Aug. 31, 1977.
Jackson.....	do.....	May 1 to July 5, 1977.
Jasper.....	do.....	May 1 to June 30, 1977.
Jefferson.....	do.....	May 1 to July 10, 1977.
Jefferson Davis.....	do.....	Do.
Jones.....	do.....	May 1 to July 5, 1977.
Lafayette.....	Dry weather.....	May 1 to July 15, 1977.
Lamar.....	Drought.....	May 1 to July 6, 1977.
Do.....	Excessive rainfall.	July 15 to Sept. 15, 1977.
Lauderdale.....	Drought.....	Apr. 15 to July 8, 1977.
Lawrence.....	do.....	May 5 to June 30, 1977.
Leake.....	do.....	Apr. 15 to July 10, 1977.
Lee.....	do.....	Apr. 23 to July 15, 1977.
Do.....	Insects.....	Sept. 1 to Oct. 10, 1977.
Lincoln.....	Drought.....	May 1 to July 15, 1977.
Madison.....	do.....	Apr. 1 to July 25, 1977.
Marion.....	do.....	May 1 to July 4, 1977.
Marshall.....	do.....	May 1 to Aug. 31, 1977.
Montgomery.....	do.....	Apr. 1 to July 9, 1977.
Monroe.....	do.....	Apr. 4 to July 10, 1977.
Neshoba.....	do.....	Apr. 1 to Aug. 10, 1977.
Newton.....	do.....	Apr. 15 to July 14, 1977.
Pearl River.....	do.....	May 1 to July 5, 1977.
Do.....	Excessive rainfall.	July 25 to Sept. 17, 1977.
Pike.....	Drought.....	May 2 to July 7, 1977.
Pontotoc.....	do.....	Apr. 10 to Sept. 6, 1977.
Prentiss.....	do.....	Jan. 1 to Sept. 15, 1977.
Sharkey.....	do.....	May 1 to Sept. 1, 1977.
Smith.....	do.....	Apr. 23 to July 12, 1977.
Stone.....	do.....	May 8 to July 11, 1977.
Sunflower.....	do.....	May 15 to Aug. 18, 1977.
Do.....	Excessive rainfall.	July 10 to Aug. 10, 1977.
Tallahatchie.....	Drought.....	Apr. 3 to Sept. 30, 1977.
Tippah.....	do.....	Mar. 1 to July 19, 1977.
Tishomingo.....	do.....	May 8 to Sept. 1, 1977.
Union.....	do.....	May 1 to Sept. 15, 1977.
Walthall.....	do.....	May 1 to July 2, 1977.
Warren.....	do.....	May 1 to July 30, 1977.
Do.....	Excessive rainfall.	Sept. 1 to Oct. 15, 1977.
Washington.....	Drought.....	May 1 to Aug. 30, 1977.
Wayne.....	do.....	Apr. 1 to July 11, 1977.
Webster.....	do.....	Apr. 4 to July 8, 1977.
Wilkinson.....	do.....	May 2 to July 8, 1977.
Winston.....	do.....	Apr. 10 to July 10, 1977.

County	Natural disaster(s)	Date(s)
Do.....	Excessive rainfall.	July 11 to Nov. 15, 1977.
Yalobusha.....	Drought.....	1976 through Aug. 31, 1977.
Do.....	Early frost.....	Oct. 12, 1977.
Yazoo.....	Drought.....	Apr. 22 to July 9, 1977.

and adjacent counties within the State of Mississippi, as a result of natural disasters as indicated. The time for filing applications is extended to July 3, 1978, for physical damage and October 3, 1978, for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 10, 1978.

PATRICIA M. CLOHERTY,  
Acting Administrator.

[FR Doc. 78-1383 Filed 1-19-78; 8:45 am]

## [4910-22]

## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

## NATIONAL ADVISORY COMMITTEE ON UNIFORM TRAFFIC CONTROL DEVICES, SUBCOMMITTEE ON CONSTRUCTION AND MAINTENANCE

## Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the ad hoc Task Force on Fundamental Principles of Traffic Control for Construction Zones, Subcommittee on Construction and Maintenance, National Advisory Committee on Uniform Traffic Control Devices. This meeting will be held in Room 3442, Nassif Building, 400 7th Street SW., Washington, D.C., on February 6 and 7, 1978, beginning at 9 a.m., and will be open to the public. The Task Force will review related material and prepare recommendations for the revision of Part VI, Manual on Uniform Traffic Control Devices to include consideration of basic principles related to the safe handling of traffic through construction zones.

For further information contact R. E. Conner, Executive Director, National Advisory Committee on Uniform Traffic Control Devices, Office of Traffic Operations, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590, 202-426-0411.

Dated: January 18, 1978.

J.J. CROWLEY,  
Director, Office of  
Traffic Operations.

[FR Doc. 78-1834 Filed 1-19-78; 8:45 am]



2968

[4810-31]

**DEPARTMENT OF THE TREASURY**

Bureau of Alcohol, Tobacco and Firearms  
(Notice No. 78-2)

**ADVISORY COMMITTEE ON EXPLOSIVES  
TAGGING**

**Closed Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Advisory Committee on Explosives Tagging will be held on March 1, 1978, at the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., room 5041, beginning at 9:30 a.m. (e.s.t.).

The Advisory Committee will discuss detailed proprietary scientific and technical data concerning various candidate explosive tagging systems that can be used in the detection and identification of explosives. The information which will be presented and discussed during the meeting will constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential within the ambit of Title 5, United States Code, section 552b(c)(4). Accordingly, the meeting of the Advisory Committee will, under authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), not be open to the public.

All communications regarding this Advisory Committee meeting should be addressed to the Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Attention: Mr. Robert F. Dexter, Committees Manager, Technical Services Division, Explosives Technology Branch, room 8233.

Signed: January 12, 1978.

REX D. DAVIS,  
Director.

[FR Doc. 78-1650 Filed 1-19-78; 8:45 am]

[4830-01]

**DEPARTMENT OF THE TREASURY**

Internal Revenue Service

**DEPARTMENT OF LABOR**

Pension and Welfare Benefit Programs

**PROPOSED CLASS EXEMPTION TO PERMIT  
PLANS TO PURCHASE CUSTOMER NOTES  
FROM EMPLOYERS MAINTAINING PLANS**

**Hearing**

By notice published in the FEDERAL REGISTER (42 FR 55321, October 14, 1977), the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the agencies), announced the pendency of a proposed class exemption from the restrictions of sections 406 and 407(a)

**NOTICES**

of the Employment Retirement Income Security Act of 1974, and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954. The proposed exemption would permit employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and other conditions of the exemption are satisfied.

A public hearing on the proposed class exemption will be held on March 9, 1978, beginning at 10 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7100 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

Any interested person who desires to present oral comments at the hearing and who wishes to be assured of being heard should submit a statement to that effect, an outline of the topics to be discussed (at least six copies), and the time to be allocated to each topic by 3:30 p.m. on February 14, 1978. The statement and outline should be submitted to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: E:EP:PT, Application No. D-639 Hearing.

An agenda will be prepared containing the order of presentation of oral comments and the time allotted to each commentator. Information with respect to the contents of the agenda may be obtained on or after February 24, 1978, by telephoning Charles Scaler, Washington, D.C., 202-566-3045. This is not a toll free number.

At the conclusion of oral comments by persons listed in the agenda, to the extent time permits, other persons will be permitted to make oral comments. The public hearing will be transcribed.

Persons making oral comments should be prepared to answer questions relating to the pending exemption and their comments.

Signed at Washington, D.C., this 16th day of January 1978.

ALVIN D. LURIE,  
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service United States Department of Treasury.

IAN D. LANOFF,  
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 78-1440 Filed 1-19-78; 8:45 am]

[4810-25]

**Office of the Secretary**

**ASSET DEPRECIATION RANGE GUIDELINES**

Study of Assets Used in Contract Construction  
(Including Offshore Oil and Gas Drilling)

The Office of Industrial Economics (OIE) of the Office of the Secretary of the Treasury has initiated a study of the guideline depreciation periods and repair allowance percentages for assets used in contract construction (including offshore oil and gas drilling). These assets are currently included in asset guideline classes 15.1 and 15.2 (Rev. Proc. 77-10, 1977-1 C.B. 548) of the Class Life Asset Depreciation Range System (IRC Secs. 167(m) and 263(e) and Reg. Sec. 1.167(a)-11).

All persons interested in this study may submit comments in writing to OIE. Information from all interested persons is solicited. All mail concerning this study should be addressed to:

Office of Industrial Economics, Contract Construction Project, P.O. Box 28018, Washington, D.C. 20005.

Dated: January 17, 1978.

Approved by:

KARL RUHE,  
Director, Office of  
Industrial Economics.

[FR Doc. 78-1823 Filed 1-19-78; 8:45 am]

[4810-25]

**MOTORCYCLES FROM JAPAN**

Antidumping: Extension of Investigatory  
Period

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Extension of Antidumping investigatory period.

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of motorcycles from Japan have occurred cannot reasonably be made in six months. This decision will be made in not longer than nine months from the date of the initiation of the investigation. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: January 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Edward F. Haley or Mr. Anthony L. Russo, Operations Officers, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C.

Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

**SUPPLEMENTARY INFORMATION:** On June 8, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26 and 153.27), indicating that motorcycles from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was submitted by counsel acting on behalf of the Harley-Davidson Motor Co., Inc., a subsidiary of AMF, Inc. On the basis of this information and subsequent preliminary investigation by the Customs Service, an "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 15, 1977 (42 FR 36584).

For purposes of this notice, the term "motorcycles" means those motorcycles having engines with total piston displacement over 90 cubic centimeters, whether for use on or off the road.

Pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), cannot reasonably be made within six months. The determination under section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will, therefore, be made within no more than nine months.

The reasons and bases for the above conclusion are as follows: The need for the collection and analysis of further information, particularly with respect to the issue of the comparability of the merchandise sold in the relevant markets and with respect to the prices of similar merchandise sold to appropriate third countries, makes it inadvisable to take tentative action at this time.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

Dated: January 17, 1978.

ROBERT H. MUNDHEIM,  
General Counsel of the  
Treasury.

[FR Doc. 78-1615 Filed 1-19-78; 8:45 am]

[7035-01]

**INTERSTATE COMMERCE  
COMMISSION**

(Notice No. 569)

**ASSIGNMENT OF HEARINGS**

JANUARY 17, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 103066 (Sub 58), Stone Trucking Co., now assigned January 18, 1978, at Columbus, Ohio, is canceled, application dismissed.

MC 43867 (Sub-No. 36), A. Leander McAllister Trucking Co., and MC 114211 (Sub-No. 318), Warren Transport, Inc., now being assigned March 10, 1978 (1 day), for hearing in San Francisco, Calif., in a hearing room to be later designated.

MC 66886 (Sub 56), Belger Cartage Service, Inc., now assigned February 2, 1978, at Birmingham, Ala., is canceled, application dismissed.

MC 100449 (Sub 75), Mallinger Truck Line, Inc., now being assigned March 14, 1978 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC 134755 (Sub 109), Charter Express, Inc., now being assigned March 15, 1978 (1 day), at Kansas City, Mo., in a hearing room to be later designated.

MC-F-13153, McCarthy Truck Line, Inc.—Control—(B) East Nebraska Motor Freight Inc., and (BB) Kruse Transportation Co., Inc.; and MC 121586 (Sub 2), Kruse Transportation Co., Inc.; MC-F-13168, McCarthy Truck Line—Control—Nebraska Iowa Missouri Express, Inc.; MC-F-13419, McCarthy Truck Line Inc.—Investigation of control—East Nebraska Motor Freight Inc., Kruse Transportation Co., Inc., Nebraska Iowa Missouri Express, Inc., and Dewayne Marley, d.b.a. Pike Truck Line; and MC 121540 (Sub 4), East Nebraska Freight, Inc., now assigned March 20, 1978 (1 week), at Lincoln, Nebr., in a hearing room to be later designated.

MC-F-12753, Whitfield Transportation, Inc.—Purchase—Haywood L. Washum, d.b.a. Los Angeles-Yuma Freight Lines, and MC 108461 (Sub 126), Whitfield Transportation, Inc., now assigned March 14, 1978, at Phoenix, Ariz., will be held at the Hyatt Regency, Second and Adams Streets.

MC-F-13020, Gray Moving & Storage, Inc.—Purchase—American Security Van Lines, and MC 112070 (Sub 14), Gray Moving & Storage, Inc., now assigned March 1, 1978, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 120981 (Sub 22), Bestway Express, Inc., now assigned February 27, 1978, at Nashville, Tenn., will be held in Room A-961, U.S. Courthouse, 801 Broadway, and February 28, 1978, through March 3, 1978, in Room 115, U.S. Courthouse, 801 Broadway.

MC 115826 (Sub 272), W. J. Digby, Inc., now assigned February 28, 1978, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 57697 (Sub 7), Lester Smith Trucking, Inc., now assigned March 8, 1978, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 114632 (Sub 120), Apple Lines, Inc., now assigned March 6, 1978, at Denver, Colo.,

will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 143112, Western Kansas Express, Inc., now assigned February 22, 1978, at Wichita, Kans., will be held in Room 501C, West Towers, Federal Building, 401 North Market.

MC 143633, James E. Ashley, d.b.a. Ashley Hauling Equipment Co., now being assigned March 16, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 143749, Garwood Wrecker Service, now being assigned March 22, 1978 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 139999 (Sub 25), Redfeather Fast Freight, Inc., and MC 114632 (Sub 111), Apple Lines, Inc., now being assigned March 20, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 133937 (Sub 20), Carolina Cartage Co., Inc., now assigned February 27, 1978, at Columbia, S.C., is canceled, application dismissed.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1664 Filed 1-19-78; 8:45]

[7035-01]

[No. 570]

**ASSIGNMENT OF HEARINGS**

JANUARY 17, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

**CORRECTION**

MC 114632 (Sub-No. 111), Apple Line, Inc., published in the FEDERAL REGISTER of December 28, 1977, page 64755, now assigned for hearing on December 27, 1978, at Kansas City, Mo., is to be disregarded.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1668 Filed 1-19-78; 8:45 am]

[7035-01]

[Docket No. AB-1 (Sub-No. 29)]

**CHICAGO & NORTH WESTERN  
TRANSPORTATION CO.**

**Notice of Findings**

Chicago & North Western Transportation Co. abandonment between Hayward and Bayfield, also between Ashland Junction and Ashland, all in Sawyer, Ashland, and Bayfield Counties, Wis.



## NOTICES

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on October 25, 1977, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line Railroad Abandonment—Goshen*, 354 ICC 76(1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Chicago & North Western Transportation Co. of its line of railroad between Hayward and Ashland Junction, and between Washburn and Bayfield, Wis. A certificate of abandonment will be issued to the Chicago & North Western Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and  
(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or  
(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the *FEDERAL REGISTER* on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as

well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.,  
Acting Secretary.

[IFR Doc. 78-1665 Filed 1-19-78; 8:45 am]

## [7035-01]

[Finance Docket No. 28657]

## CHICAGO, MILWAUKEE, ST. PAUL &amp; PACIFIC RAILROAD CO.

## Trackage Rights

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.—trackage rights—over Chicago & North Western Transportation Co. between Lakeland Junction and Bayport, Minn., and East St. Paul, Minn., and Eau Claire, Wisc., and over Burlington Northern, Inc., at East St. Paul, Minn.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co., 516 West Jackson Boulevard, Chicago, Ill. 60606, represented by Thomas H. Ploss, general attorney and commerce counsel; William L. Phillips, attorney; Rodger K. Johnson, general attorney; and William C. Sippel, attorney, all of 516 West Jackson Boulevard, Chicago, Ill. 60606, hereby give notice that on the 30th day of December 1977 it filed with the Interstate Commerce Commission at Washington, D.C., an application under section 5(2) of the Interstate Commerce Act for an order approving and authorizing the acquisition of trackage rights over the lines of the Chicago & North Western Transportation Co. (C&NW), between Lakeland Junction, Minn., and Bayport, Minn. (a distance of 3.38 miles), and between East St. Paul, Minn., and Eau Claire, Wis. (a distance of 87.3 miles), and over a line of the Burlington Northern, Inc. (BN), at East St. Paul, Minn. (less than 1 mile), which application is assigned Finance Docket No. 28657.

The counties through which the proposed trackage rights operations will occur are: Washington and Ramsey Counties, Minn., and St. Croix, Dunn, Chippewa, and Eau Claire Counties, Wis.

Operation over BN trackage at East St. Paul, Minn., is only necessary to provide an appropriate connection between applicant's lines and the C&NW line to Eau Claire, Wis. A trackage right agreement between applicant and BN, a constituent part of this application, is in the final stages of negotiation and will be filed with the Commission as Exhibit 9-b.

The purposes sought to be accomplished by the proposed transaction are the effectuation of economies in operation, in that Milwaukee road's own lines would require an estimated \$6,800,641 to upgrade to FRA Class 2 standards, and operations over the Winona Bridge railway and BN track-

age between Winona, Minn., and Trevino, Wis., at an annual expense of \$61,800, may be avoided through grant of the instant trackage rights application; elimination of excess facilities, in that C&NW's trackage is adequate to accommodate all traffic presently enjoyed by both C&NW and Milwaukee road in the territory involved; and improved financial viability of both Milwaukee road and C&NW, in that rail traffic will be concentrated on fewer lines, yielding future savings in maintenance and operation expenditures over those required in the maintenance and operation of separate trackage and facilities serving the same points.

This application is made contingent upon the issuance of an appropriate certificate of public convenience and necessity by the Commission in Docket No. AB-7 (Sub-No. 44) wherein the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. request abandonment of operations over the line of the Winona Bridge Railway Co. extending from a point in Winona, Winona County, Minn., in an easterly direction over Mississippi River crossing to the connection with the Burlington Northern, Inc., near East Winona, Buffalo county, Wis., a distance of 1 mile; and also to discontinue its operation over the line of the Burlington Northern, Inc., extending from railroad milepost 325 near East Winona in a northeasterly direction to railroad milepost 362 near Trevino, Buffalo County, Wis., a distance of 37 miles, and AB-7 (Sub-No. 45) wherein the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. request abandonment of its line of railroad known as the "St. Croix Junction to Bayport Branch" extending from railroad milepost 0.0 near St. Croix Junction in a northerly direction to railroad milepost 22.5 near Bayport, a distance of 22.5 miles, in Washington County, Minn.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969*, 352 ICC 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969*, supra, at p. 487.

Interested persons may participate formally in a proceeding by submitting

written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 28657 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than 45 days after the date notice of the filing of the application is published in the *FEDERAL REGISTER*. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

H. G. HOMME, Jr.,  
Acting Secretary.

[IFR Doc. 78-1659 Filed 1-19-78; 8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 17, 1978.

These applications for long- and short-haul relief have been filed with the ICC.

Protests are due at the ICC by February 6, 1978.

FSA No. 43490, Star Lines Overseas Shipping Ltd.'s No. 1, on intermodal rates on general commodities, between rail carriers terminals at U.S. Pacific and Gulf Coasts, on the one hand, and, on the other, ports on the Mediterranean Sea, or on waters adjacent or tributary thereto, in its tariffs Nos. 1 and 2, ICC Nos. 1 and 2, respectively, to become effective February 4, 1978, and later.

Grounds for relief—water competition.

FSA No. 43491, North Pacific Coast Freight Bureau, Agent's No. 78-1, on rates on barley and wheat, from stations in Montana, to Malden, Wash., in sup. 5 to its tariff 13-J, ICC 1342, to become effective February 18, 1978.

Grounds for relief—motor-truck competition.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[IFR Doc. 78-1660 Filed 1-19-78; 8:45 am]

## NOTICES

## [7035-01]

[Docket No. AB-2 (Sub-No. 16)]

## LOUISVILLE AND NASHVILLE RAILROAD CO.

Abandonment Between McKinnon and Big Sandy, Houston and Benton Counties, Tenn.; Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an Certificate and Order dated December 16, 1977, a finding, which is administratively final, was made by the Commission, Division 3, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Louisville and Nashville Railroad Co. of its line of railroad beginning at milepost F-218.3 at McKinnon, Tenn., extending to milepost F-229.8 near Big Sandy, Tenn., a distance of 11.5 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Louisville and Nashville Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the *FEDERAL REGISTER* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties. The offer must be filed and served no later than February 6, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 6, 1978.

H. G. HOMME, Jr.,  
Acting Secretary.

[IFR Doc. 78-1666 Filed 1-19-78; 8:45 am]

## [7035-01]

[Notice No. 2TA]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 6, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate

Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the *FEDERAL REGISTER* publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *FEDERAL REGISTER*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

## MOTOR CARRIERS OF PROPERTY

No. MC 26396 (Sub-No. 163TA), filed December 16, 1977. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Burns Harbor and Gary, Ind., to Mills, Wyo., for 180 days. Supporting shipper: Robert W. Eckhart, Material Control Manager, Western Oil Tool & Mfg. Co., Inc., P.O. Box 260, Casper, Wyo. 82602. Send protests to: District Supervisor Paul J. Lane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 52917 (Sub-No. 65 TA), filed December 8, 1977. Applicant: CHESAPEAKE MOTOR LINES, INC., 6748 Dorsey Road, Baltimore, Md. 21740. Applicant's representative: Charles E. Creager, Esq., 1329 Pennsylvania, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs (except bananas) in vehi-*



cles equipped with temperature control, between points in Frederick, Anne Arundel, Howard, Prince George's, Washington, and Baltimore counties, Md.; Delaware; New Jersey; Baltimore, Md.; Washington, D.C.; New York, N.Y.; Nassau, Suffolk, and Westchester counties, N.Y.; points in Stafford, Prince William, and Fairfax counties, Va., west of U.S. Interstate Route 95; and points in Pennsylvania east of the Susquehanna River, restricted against the transportation of canned goods from Cheriton and Hopeton, Va., to points in New York, New Jersey, and Pennsylvania, and further restricted against the transportation of frozen foods from points in New Jersey and Pennsylvania (except Philadelphia) to points in New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (16) statements of support attached to this application which may be examined at the field office named below. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 55896 (Sub-No. 59TA), filed December 14, 1977. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes. Transporting: Coke, in bulk, in dump equipment from the Toledo-Lucas County Port Authority Toledo, Ohio, to all points in Illinois, Indiana, Michigan, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller & Co., 55 East Monroe Street, Chicago, Ill. 60603. Elmer Olson, Materials Distribution Manager. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 80430 (Sub-No. 164TA), filed December 2, 1977. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, P.O. Box 851, La Crosse, Wis. 54601. Applicant's representative: F. Neil Aschemeyer (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the facilities of General Foods Corp., at or near Bettendorf, Iowa, to points in Indiana, Michigan, Ohio, and points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line

(near Hancock, Md.), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewiston, Pa.), thence along U.S. Highway 322 to junction Pennsylvania Highway 144 (at Potters Mills), thence along Pennsylvania Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to Pennsylvania Highway 449, thence along Pennsylvania Highway 449 to the Pennsylvania-New York State line (near Genesee, Pa.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, N.Y. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 91811 (Sub-No. 15 TA), filed December 6, 1977. Applicant: MILTON K. MORRIS, INC., 2307 Bristol Pike, P.O. Box 56, Croydon, Pa. 19020. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, Md. 20760. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Such merchandise as is dealt in or used in the operations of the wholesale retail and chain store grocery business (except commodities in bulk, fresh fruits and vegetables, and frozen foods), from plantsite and storage facilities of The Clorox Co. at Jersey City, N.J., to Philadelphia, Pa., and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Clorox Co., 1221 Broadway, Oakland, Calif. 94612. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 96697 (Sub-No. 9 TA), filed December 9, 1977. Applicant: CITY FREIGHT LINES, 22560 Lucerne Avenue, Carson, Calif. 90745. Applicant's representative: Gregory L. Owen, 22560 Lucerne Avenue, Carson, Calif. 90745. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities, except those of unusual values, household goods as defined by the Commission, commodities in the bulk, and commodities requiring special equipment. Regular route: Between all points on the following named highway: (a) State Highway 62 between Twenty-nine Palms and its junction with Interstate Highway 10 near Whitewater, including the off-route points of Desert Hot Springs and Pioneer Town. (b) Unnumbered county road between its junction with Interstate Highway 10 near Palm Springs and North Palm Springs. Irregular

route territory: All points and places within the following described territory: Beginning at the intersection of Yucalpa Boulevard and Interstate Highway 10; northwesterly along Redlands Boulevard to Barton Road; westerly along Barton Road to La Cadena Drive; southerly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to State Highway 60; southeasterly along State Highway 60 and U.S. Highway 395 to Nuevo Road; easterly along Nuevo Road via Nuevo and Lakeview to State Highway 79; southerly along State Highway 79 to State Highway 74; thence westerly to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said corporate boundary to The Atchison, Topeka and Santa Fe right-of-way; southerly along said right-of-way to Washington Road; southerly along Washington Road through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to Winchester Road (State Highway 79) to Jefferson Avenue; southerly along Jefferson Avenue to U.S. Highway 395; southerly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; easterly along said boundary line to U.S. Highway 99; northerly along U.S. Highway 99 to the State Highway 195; northerly and easterly on State Highway 195 to its intersection with State Highway 111 to its intersection with Interstate Highway 111 to its intersection with Interstate Highway 10 to point of beginning, for 180 days. Supporting shippers: There are approximately (18) statements of support attached to this application which may be examined at the field office named below. Send protests to: Walter W. Strakosch, Interstate Commerce Commission, Room 1321 Federal Building, 300 N. Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 107403 (Sub-No. 1048TA), filed December 7, 1977. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid and dry fertilizers and fertilizer materials, in bulk, in tank or hopper vehicles, from Monroe, La., to Arkansas, Mississippi, and points in Texas on and east of U.S. Highway 75 from the Oklahoma line through Dallas and Houston, Tex., to the Gulf of Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., South Central Division, 7018 Red Barn Road, Freeport, Tex. 77541. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 108393 (Sub-No. 131TA), filed December 1, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Ill. 60521. Applicant's representative: Thomas B. Hill, 201 East Ogden Avenue, Hinsdale, Ill. 60521. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Carpet, ceiling, tile, floor covering and floor tile and materials, supplies and equipment used in the installation and maintenance of carpet, ceiling tile, floor covering and floor tile, between Marietta, Lancaster, and Landisville, Pa., on the one hand, and, on the other points in Boone, Cook, DuPage, Kankakee, Kendall, Lake, McHenry, Will, and Winnebago Counties, Ill., and Lake County, Ind., for 180 days. Supporting shipper: Whirlpool Corp., Carl R. Anderson, Director of Transportation, Administrative Center, Benton Harbor, Mich. 49022. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 108449 (Sub-No. 406TA), filed December 16, 1977. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid fertilizers, in bulk in tank vehicles, from Alexandria, Minn., to all points in the States of North Dakota and South Dakota, for 180 days. Supporting shipper: Agrico Chemical Co., Box 3166, Tulsa, Okla. 74101. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, Minn.

No. MC 109397 (Sub-No. 377TA), filed December 16, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113 (business route I-44 east), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and wood products, from points in Arizona, Colorado, and Utah to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin, for 180 days. Supporting shipper: Kaibab Industries, Inc., P.O. Box 20506, Phoenix, Ariz. 85036. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission-BOP, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 109708 (Sub-No. 78TA), filed December 13, 1977. Applicant: INDIAN RIVER RIVER TRANSPORT CO., d.b.a. INDIAN RIVER TRANSPORT, INC., P.O. Box AG, 2580 Executive Road, Dundee, Fla. 33828. Applicant's representative: Bruce A. Bullock, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Brandy, wine, neutral spirits and rum, from Lake Alfred, Fla., to Linden, Dayton, and Lawrenceville, N.J.; Peoria, Pekin, and Chicago, Ill.; Cleveland and Cincinnati, Ohio; Lawrenceburg, Ind.; Clermont and Louisville, Ky.; Cambridge and Boston, Mass.; Baltimore, Md.; Detroit and Allen Park, Mich.; and Port Sulphur, La.; (2) Brandy, wine and neutral spirits, from Auburndale, Fla.; to Peoria, Ill.; Philadelphia and Schenley, Pa.; Lawrenceville and Scobeyville, N.J.; Louisville Ky.; Detroit, Mich.; Baltimore and Relay, Md.; and Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Florida Distillers Co., Division of Tod Hunter International, Inc., 530 Dakota Avenue, P.O. Box 1447, Lake Alfred, Fla. 33850, and Jacquin Florida Distillers, Inc., 425 Recker Highway, Auburndale, Fla. 33823. Send protest to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission-BOP, Monterey Building, Suite 101, 8410 NW. 53d Terrece, Miami, Fla. 33166.

No. MC 110420 (Sub-No. 773TA), filed December 7, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, in tank vehicles, between Gurnee, Ill., on the one hand, and, on the other, Macon, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Proctor & Gamble Co., William J. Payne, P.O. Box 599, Cincinnati, Ohio 45201. Send protest to: Mrs. Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 110686 (Sub-No. 53TA), filed December 7, 1977. Applicant: McCORMICK DRAY LINE, INC., Route 220, Avis, Pa. 27721. Applicant's representative: Jay H. McCormick (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Buildings, building

panels, building parts, and materials, accessories and supplies used in the installation, erection, and construction of buildings, building panels, and building parts (except commodities in bulk), from the plantsite and storage facilities of Butler Manufacturing Co., at or near Annville, Lebanon County, Pa., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Butler Manufacturing Co., 1020 South Henderson Street, Galesburg, Ill. 61401. Send protest to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 110988 (Sub-No. 3532TA), filed December 13, 1977. Applicant: SCHNEIDER TANK LINES, INC., 4321 West College Avenue, Giltedge Building, Appleton, Wis. 54911. Applicant's representative: Paul Schneider (same address as applicant). Authority sought to operate as common carrier, by motor vehicle, over irregular routes, transporting: Chemicals, in bulk, from Terre Haute, Ind., to points in Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Weston Paper & Manufacturing Co., P.O. Box 539, Terre Haute, Ind. 47808 (E. B. Weston). Send protest to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 112617 (Sub-No. 380TA), filed December 16, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, Ky. 40221. Applicant's representative: Charles R. Dunford (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dry fertilizers, in bulk, from the plantsite of Agrico Chemical Co., Melbourne, Ky., to points in Illinois, Indiana, Kentucky, Ohio, Virginia, Michigan, and West Virginia, for 180 days. Supporting shipper: Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 U.S. Post Office Building, Louisville, Ky. 40202.

No. MC 113678 (Sub-No. 711TA), filed December 14, 1977. Applicant: CURTIS, INC., 4810 Pontiac Street,



P.O. Box 16004, Stockyards Station, Commerce City (Denver), Colo. 80216. Applicant's representative: Roger M. Shander (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles, rugs, carpets, carpeting and materials and supplies used or useful in the installation thereof* (except commodities in bulk) from (1) Winchester, Tenn., to points in California and Colorado, and (2) from Dalton, Ga., to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: E and B Carpet Mills, Inc., 901 Showalter Avenue, Dalton, Ga. 30720. Send protests to: District Supervisor, H. C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 114457 (Sub-No. 342TA), filed December 14, 1977. Applicant: DART TRANSIT CO. 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry dog food*, from the facilities of Sunshine Feed Mills, Inc., at Tupelo, Miss., and Red Bay, Ala., to points in Milan, Peoria, Aurora, Elgin, East St. Louis, Springfield, Skokie, Waukegan, Wheaton, and Chicago, Ill.; St. Louis, Carthage, Independence, Hazelwood, Cape Girardeau, Joplin, and Kansas City, Mo.; Detroit, Livonia, Grand Rapids, Benton Harbor, Flint, Lansing, Port Huron, and Ann Arbor, Mich., and Indianapolis, Terre Haute, Plymouth, Hammond, Michigan City, and Fort Wayne, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Sunshine Feed Mills, Inc., P.O. Drawer S, Red Bay Ala. 35882. Send protests to: Marion L. Cheney, District Supervisor, ICC, BOP, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 114569 (Sub-No. 204TA), filed December 5, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins, P.O. Box 418, New Kingstown, Pa. 17072. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such merchandise used by, dealt in, or distributed by wholesale or retail grocery, department, drug, and variety stores and institutional supply firms*, from Byhalia, Miss., to Alabama; Phoenix and Tucson, Ariz.; Bentonville, Little Rock, and Harrison, Ark.; California; Denver, Colo.; Florida, Georgia, Idaho, Illinois, Indiana; Bettendorf and Des Moines, Iowa; Kansas,

Kentucky, Louisiana; Baltimore, Silver Spring, and Landover, Md.; Detroit and Grand Rapids, Mich.; Minneapolis, St. Cloud, and St. Paul, Minn.; Missouri; Billings, Butte, and Great Falls, Mont.; Lincoln and Omaha, Nebr.; Las Vegas, Reno, and Sparks, Nev.; New Jersey; Albuquerque, N. Mex.; New York, North Carolina, North Dakota, Ohio; Portland, Oreg.; Pennsylvania; Columbia, S.C.; Knoxville and Nashville, Tenn.; Texas; Salt Lake City, Utah; Virginia; Seattle and Spokane, Wash.; Washington, D.C.; Wisconsin; and Rock Springs, Laramie, and Cheyenne, Wyo.; (2) *Supplies and materials used in the manufacture and sale of such merchandise* described in (1) above to Byhalia, Miss., from Hoboken, N.J.; El Paso, Tex.; Fairbault, Minn.; Chicago, Ill.; Racine, Wis.; and Atlanta, Ga. Restricted to traffic originating or terminating at Byhalia, Miss., for 180 days. Supporting Shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston Salem, N.C. 27102; Professional Mixers, Inc., Chesterfield, Mo. 63101; Gem, Inc., Memphis, Tenn. 38118. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 115331 (Sub-No. 442TA), filed December 6, 1977. Applicant: TRUCK TRANSPORT, INC., 29 Clayton Hills Lane, St. Louis, Mo. 63131. Applicant's representative: Herman Galligos, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal and hickory chips*, from the facilities of Floyd Charcoal Co. at or near Howes, Mo., to points and places in Illinois, Indiana, North Dakota, and South Dakota, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Kingsford Co., 940 Commonwealth Building, Louisville, Ky. 40201. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 117686 (Sub-No. 197TA), filed December 8, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach, 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing houses as described in Section A and C of Appendix I to the report in Description in Motor Carrier Certifi-*

*cates*, 61 MCC 209 and 766 (except hides and commodities in bulk). From the plantsite and cold storage facilities utilized by Iowa Beef Processors, Inc., at or near Dakota City, Nebr., to points in California. Restriction: Restricted to the transportation of traffic originating at the named origins and destined to the above described State, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (2) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 119176 (Sub-No. 18TA), filed December 13, 1977. Applicant: THE SQUAW TRANSIT CO., P.O. Box 9368, Tulsa, Okla. 74107. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and machinery, materials, equipment and supplies used in or in connection with the construction operation, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof; Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the Transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells; between points in Oklahoma, Texas, Louisiana, Kansas, Arkansas, New Mexico, and Colorado, on the one hand, and, on the other, Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Maryland, Delaware, Virginia, West Virginia, North Carolina, and South Carolina, for 180 days. Supporting Shippers: Shell Oil Co., P.O. Box 2099, Houston, Tex. 77001; Gulf Oil Co.-U.S., P.O. Box 3076, Houston, Tex. 77001; The Crosby Group, P.O. Box 3128, Tulsa, Okla. 74101; The Bovaird*

Supply Co., P.O. Box 2590, Tulsa, Okla. 74102; and Lee C. Moore Corp., 1105 North Peoria Avenue, Tulsa, Okla. 74101. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 119493 (Sub-No. 173TA), filed December 7, 1977. Applicant: MONKEM, INC., P.O. Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel, P.O. Box 1196, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour, corn meal and grits*, from Buhler and Inman, Kans., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, except Alaska, Hawaii, Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia; (2) *Flour*, from McPherson, Kans., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, except Alaska, Hawaii, Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Buhler Mills, P.O. Box 345, Buhler, Kans. 67522 and (2) Wall Rogalsky Milling Co., P.O. Box 828, McPherson, Kans. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119619 (Sub-No. 118TA), filed December 6, 1977. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, Esq., One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen Bakery goods*, from Buffalo, N.Y., to points in, and including the commercial zones thereof as defined by the Commission, Detroit Grand Rapids and Lansing, Mich., and Columbus, Cincinnati, and Cleveland, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Able's Bagels, Inc., Sam Solodky, Chief Executive Officer, 75 Empire Drive, Buffalo, N.Y. 14224. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations-EMD

Building, Room 1386, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 119789 (Sub-No. 397TA), filed December 8, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188 (for telegrams—605 South Loop 12), Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spring assemblies, davenport, or sofa bed*, (2) *Steel assemblies, or sofa bed*, from Ennis, Tex. to Atlanta, Ga. (2) Steel assemblies from Simpsonville, Ky. to Ennis, Tex., for 180 days. Supporting shipper: Leggett and Platt, Inc., 903½ South Kaufman, Ennis, Tex. 75119. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 121630 (Sub-No. 6TA), filed December 13, 1977. Applicant: LEMORE TRANSPORTATION, INC., d.b.a. ROYAL TRUCKING CO., 1420 Royal Industrial Way, P.O. Box 6085, Concord, Calif. 94524. Applicant's representative: Daniel W. Baker, 100 Pine Street, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry general commodities*, in bulk, in dump vehicles (other than pneumatic tank-type vehicles) between points in California, on the one hand, and, on the other hand points in Oregon and Washington; restricted against the transportation of the following: (1) *Beet pulp and beet pulp pellets* from points in Washington and Oregon to points in California; (2) *Sodium phosphate* from Long Beach, Calif., to points in Oregon and Washington; (3) *Sodium chlorate* from Portland, Oreg., to points in California; (4) *Dry Glue* from Santa Clara, Calif., to points in Oregon; (5) *Salt cake* from Trona, Calif., to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Phillip Brothers, 1221 Avenue of the Americas, New York, N.Y. 10020; Interpace Corp., 3502 Breakwater Court, Hayward, Calif. 94545; Lone Star Industries, Inc., 2800 Campus Drive, San Mateo, Calif.; Miller & Co., 3868 Carson Street, Torrance, Calif. 90503; and Allied Chemical Corp., 100 Pine Street, San Francisco, Calif. 94111. Send protests to: District Supervisor, A. J. Rodriguez, 211 Main-Suite 500, San Francisco, Calif. 94105.

No. MC 125777 (Sub-No. 205TA), filed December 16, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative:

Edward G. Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, in dump vehicles, between Toledo, Ohio, on the one hand, and, on the other, points in Kentucky, Michigan, Ohio, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Derby & Co., Inc., Frederick O. Frey, Traffic Manager, 400 Holiday Drive, Pittsburgh, Pa. 15220. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 126118 (Sub-No. 156 TA), filed December 6, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid cleaning compounds, floor wax, floor polishers, carpet washers, cleaning systems, vacuum cleaner bags, and related items including advertising displays and promotional materials* moving in mixed shipments (except in bulk) between French Lick, Ind., and Castleton, Ind., on the one hand, and, on the other, points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada (except Wyoming, Montana, and Alaska), restricted to traffic originating at or destined to the facilities of the Earl Grissmer Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Roberts Owens, Traffic Manager, Earl Grissmer Co., Inc., 7950 Castlaway Drive, Indianapolis, Ind. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, Nebr. 68508.

NOTE.—Applicant conducts dual operations in MC-128375 as a contract carrier and in MC 126118 as a common carrier. As pertinent herein applicant holds authority in MC 128375 Sub 102TA which underlies Sub 104 permanent authority. The latter has been denied as it would cause applicant to serve more than a limited number of persons. Applicant is filing a series of conversion applications eliminating contract carriage. MC 126118 Sub 43 is the corresponding permanent application to the instant application.



No. MC 128940 (Sub-No. 32 TA), filed December 19, 1977. Applicant: RICHARD A. CRAWFORD, d.b.a. R. A. Crawford Trucking Service, Post Office Box 722, 9327 Riggs Road, Adelphi, Md. 20783. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, motor vehicle, over irregular routes, transporting: *Laboratory reagents and culture media*, from Cockeysville, Md., and its commercial zone to points in Louisiana, Texas, Alabama, Ohio, Kentucky, Missouri, North Carolina, Tennessee, Mississippi, Georgia, Florida, Michigan, Virginia, Pennsylvania, and New York, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: BBL Micro Biological Systems, 250 Schilling Circle, Cockeysville, Md. 21030. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, District Supervisor W.C. Hersman, Washington, D.C. 20423.

No. MC 133233 (Sub-No. 56TA), filed December 20, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, Neb. 68137. Applicant's representative: Donna Ehrlich, I-80 and Highway 50, P.O. Box 37308, Omaha, Neb. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products, and building materials*, from Phillipsburg, Mont., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin, under a continuing contract with New Idria Mining and Chemical Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lee Ekman, Sales Studs Division, P.O. Box 517, Afton, Wyo. 83110. Send protests to: Carroll Russell, District Supervisor, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 134323 (Sub-No. 101TA), filed December 8, 1977. Applicant: JAY LINES, INC., 720 North Grand Street, Amarillo, Tex. 79107. Applicant's representative: Gailyn Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive care and maintenance supplies* (except commodities in bulk) (1) from the plantsite and storage facilities of or utilized by Union Carbide Corp., at or near Edison, N.J.; to Kansas City, Mo.; Dallas, Tex.; Atlanta, Ga.; Los Angeles, Calif.; Cleveland, Ohio; Chicago,

Ill.; and Milwaukee, Oreg.; (2) from the plantsite and storage facilities of or utilized by Union Carbide Corp., at or near Chicago and Danville, Ill., and Holland and Owasso, Mich., to Edison, N.J.; (3) from the plantsite and storage facilities of or utilized by Union Carbide Corp., at or near Chicago and Danville, Ill.; Camden, N.J.; and Holland and Owasso, Mich., to Los Angeles, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper: Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017. Send protest to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 134375 (Sub-No. 16TA), filed December 16, 1977. Applicant: ELTON GRAVES, d.b.a. ELTON GRAVES TRUCKING, P.O. Box 3044, Union Gap, Wash. 98903. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fibre products, that is, silva fibre, silva wood, and silvacel*, from Snoqualmie and Longview, Wash., to points in California, for 180 days. Supporting shipper: H. J. Stoll & Sons, 2320 Southeast Grand Avenue, Portland, Oreg. 97214. Send protests to: District Supervisor R. V. Dubay, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 134477 (Sub-No. 204TA), filed December 7, 1977. Applicant: SCHANNO TRANSPORTATION, INC., P.O. Box 3496, St. Paul, Minn. 55165. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores* (except foodstuffs, those of unusual value, explosives, commodities in bulk, those requiring special equipment), (1) from points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, to points to Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, and (2) from points in Illinois, Indiana, Michigan, Ohio, and Wisconsin to points to Colorado, Kansas, Minnesota, Nebraska, North Dakota, Oklahoma, South

Dakota, and Texas. Restricted in (1) and (2) above to shipments originating at the above named origins and destined to the facilities of or utilized by Gamble-Skogmo, Ill., and its divisions and subsidiaries at the above named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gamble-Skogmo, Inc., 5100 Gamble Drive, Minneapolis, Minn. 55416. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 135221 (Sub-No. 6TA), filed December 13, 1977. Applicant: DICK SIMON TRUCKING, INC., a Utah corporation, 3700 South 4355 West, Salt Lake City, Utah 84120. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cosmetics, toilet preparations, and materials, supplies and equipment, componentry and compounds used in the manufacture, packaging, and distribution of the aforesaid commodities, in vehicles equipped with mechanical refrigeration*: (a) Between Des Plaines, Ill.; Clearfield, Utah; and Hawthorne, Gardena, and Compton, Calif.; on the one hand, and, on the other, New York, Mamaroneck and Forest Hills, N.Y.; Newark, North Bergen, Kearny, Belleville, Secaucus, and South Plainfield, N.J.; Ashland, Ohio; Philadelphia, Pa.; Baltimore, Md.; Bridgeport, Conn.; Des Plaines, Ill.; Milwaukee, Wis.; Clearfield, Utah and Hawthorne, Gardena and Compton, Calif.; and points in their respective commercial zones; (b) from Clearfield, Utah; to Dallas, Tex.; Atlanta, Ga.; Maspeth, N.Y.; Coldwater, Mich.; Chicago, Ill.; and Minneapolis, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Max Factor & Co., Freight Center Building A-16F, Clearfield, Utah 84016. F. Clent Lewis, Transportation Analyst. Send protest to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 135513 (Sub-No. 9TA), filed December 6, 1977. Applicant: ECHO TRUCKING CO., P.O. Drawer AY, Benson, Ariz. 85602. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in

bulk, from a mine location in Mexico, approximately 5 miles south of Naco, Ariz., to Bisbee, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Phelps Dodge Corp., P.O. Drawer 1199, Douglas, Ariz. 85607. Send protest to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 135684 (Sub-No. 59TA), filed December 16, 1977. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Old Croton Road, Flemington, N.J. 08822. Applicant's representative: Herbert A. Dubin, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., Inc., at or near Warner Robins, Ga., to the plantsite and storage facilities of Anheuser-Busch, Inc., at or near Williamsburg, Va. for 180 days. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. Send protest to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 135797 (Sub-No. 89TA), filed December 13, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri, P.O. Box 200, Lowell, Ark. 72745. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wire tire cord, steel*, from Detroit, Mich. (origin Guelph, Ontario, Canada), Mount Joy, Pa., and Columbiana, Ala., to Stillwater, Okla., and from Stillwater, Okla., to Columbiana, Ala. Restricted to traffic originating at and destined to the plantsite and warehouse facilities of National-Standard Co. and moving in van-type equipment; (2) *powdered processing materials*, in drums from Homer, N.Y., and Coal City, Ill., to Stillwater, Okla. Restricted to traffic destined to the plantsite and warehouse facilities of National-Standard Co., and moving in van-type equipment, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: National-Standard Co., P.O. Box 867, Stillwater, Okla. 74074. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 135874 (Sub-No. 94TA), filed December 20, 1977. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, Minn. 55075. Applicant's representative: K.

O. Petrick, 550 East Fifth Street South, South St. Paul, Minn. 55075. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except commodities in bulk), from the facilities of Terminal Ice and Cold Storage at or near Bettendorf, Iowa, to points in the States of Indiana, Kentucky, Michigan, Ohio, and points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line (near Hancock, Md.), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewiston, Pa.), thence along U.S. Highway 144 (at Potters Mills), thence along Pennsylvania Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to Pennsylvania Highway 449, thence along Pennsylvania-New York line (near Genesee, Pa.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, N.Y. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building, U.S. Court House, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 136371 (Sub-No. 29TA), filed December 7, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Avenue, South Kearny, N.J. 07032. Applicant's representative: Steven Kalish, 1750 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by discount department stores* (except foodstuffs and commodities in bulk), between the facilities of Charming Shoppes of Delaware, Inc., located at Cornwells Heights, Pa., on the one hand, and, on the other hand, points in Kentucky and South Carolina, under a continuing contract or contracts with Charming Shoppes of Delaware, Inc., for 180 days. Supporting shipper: Charming Shoppes of Delaware, Inc., 3100 Marwin Avenue, Cornwells Heights, Pa. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 139495 (Sub-No. 295TA), filed December 16, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East Eighth Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 1000, Federal Bar Building West, 1819 "H" Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drug, industrial, and scientific chemi-*

*cals and related laboratory instruments and kits* (except commodities in bulk), from the facilities of Mallinckrodt, Inc., located at or near Paris, Ky., to points in California, Washington, and Oregon, for 180 days. Supporting shipper: Mallinckrodt, Inc., 675 Brown Road, P.O. Box 5840, St. Louis, Mo. 63134. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, 110 North Market, Wichita, Kans. 67202.

No. MC 139584 (Sub-No. 12TA), filed December 14, 1977. Applicant: JOHN BUSCH, Box 211, Conyngham, Pa. 18219. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood turnings used in the manufacture of furniture, cutting board, and unfinished wood products*, from West Hazleton, Pa., to Michigan, Indiana, Iowa, Alabama, Arkansas, Florida, Kentucky, Mississippi, Tennessee, New Jersey, New York, Maine, Virginia, North Carolina, South Carolina, Ohio, Colorado, Texas, California, and Illinois, and materials and supplies on return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: D & W Products, Inc., Lions Drive, Valmont Industrial Park, West Hazleton, Pa. 18201. Send protests to: Paul J. Kenworth, District supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 140464 (Sub-No. 2TA), filed December 7, 1977. Applicant: DX TRUCKING, INC., an Ohio corporation, 2532 Sylvania Avenue, Toledo, Ohio 43614. Applicant's representative: Michael M. Briley, 300 Madison Avenue, 12th floor, Toledo, Ohio 43604. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, uncrated, from (1) the plantsite and facilities of Guardian Industries Corp., located at or near Carleton, Mich., to the ports of entry between the United States and Canada located at the international boundary line at the St. Clair, Detroit, Niagara, and St. Lawrence Rivers; and (2) from the ports of entry between the United States and Canada located at the international boundary line at the St. Clair, Detroit, Niagara, and St. Lawrence Rivers to points in the States of Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, Minnesota, Iowa, Missouri, Ken-



tucky, Tennessee, North Carolina, and Washington, D.C. Authority under Part (2) above is restricted to transportation of shipments originating at the plantsite and facilities of Pilkington Brothers (Canada) Ltd., and Pilkington Glass, Ltd., located at Toronto, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting Shippers: Guardian Industries Corp., 14600 Romine Road, Carleton, Mich. 48117; Pilkington Brothers (Canada) Ltd., Pilkington Glass, Ltd., 101 Richmond Street West, Toronto, Ontario, Canada M5H1V9. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations-ICC, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 141534 (Sub-No. 4TA), filed December 6, 1977. Applicant: IREDELL MILK TRANSPORTATION, INC., Route 3, Box 3268, Mooresville, N.C. 28115. Applicant's representative: George W. Clapp, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Raw apple juice*, in bulk, in tank vehicles from Ranson, W. Va., to Hendersonville, N.C. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ranson Fruit Co., Inc., Fairfax Boulevard, Ranson, W. Va. 25438. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 141853 (Sub-No. 2TA), filed December 15, 1977. Applicant: M. A. CREEKMORE, AND JASPER V. BENNETT, C-B-C Transport Co., 845 Percy Street, P.O. Box 1143, Greenville, Miss. 38701. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* except cement in containers, commodities in bulk, household goods as defined by the Commission, and commodities which, because of size, weight, or value require the use of special equipment, (1) between points in Washington and Bolivar Counties, Miss.; (2) between points in Washington and Bolivar Counties, Miss., on the one hand, and on the other, points in Mississippi on and west of U.S. Highways 51 and I-55 and on and north of U.S. Highways 80 and I-20; (Continued on attached sheet), for 180 days. Supporting shippers: There are (51) statements of support attached to this application which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Com-

mission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 142262 (Sub-No. 3TA), filed December 20, 1977. Applicant: BERNARD PAVELKA TRUCKING, INC., Route 1, Box 122, Glenvil, Nebr. 68941. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverage* (except in bulk), from Milwaukee, Wis., and Peoria, Ill., to Hastings and McCook, Nebr., under a continuing contract or contracts, with Nebraskaland Distributors, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Nebraskaland Distributors, Inc., Thomas J. Lauvetz, President, 1019 West Second Street, Hastings, Nebr. 68901. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 142268 (Sub-No. 32TA), filed December 7, 1977. Applicant: GORSKI BULK TRANSPORT, INC., Rural Route No. 4, Harrow, Ontario, Canada NOR 1G0. Applicant's representative: Thad. A. Gorski, 843 Central Avenue, Windsor, Ontario, Canada N8Y 4S2. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen egg beaters* from St. Louis, Mo., to ports of entry on United States-Canada boundary line, located in Michigan and New York, restricted to shipments destined to Toronto, Ontario and Montreal, Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Standard Brands Ltd., One Dundas Street West, Toronto, Ontario, Canada, William Norton, Senior Rate Analyst. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 143147 (Sub-No. 2TA), filed December 16, 1977. Applicant: WALLACE I. HARRIS, JR., d.b.a. W & R TRUCKING, R.D. 1, Box 295, Millington, Md. 21651. Applicant's representative: Wallace I. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Queen Anne's County, Md., to Tampa, Fla., for 150 days. Supporting shipper: Michael D. Pearce, owner, H & M Lumber, R.D. 1, Box 120, Chestertown, Md. 21620. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 143328 (Sub-No. 3TA), filed December 14, 1977. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, Mont. 59801. Applicant's representative: David A. Sutherland, Fulbright & Jaworski, Suite 400, 1150 Connecticut Avenue NW., Washington, D.C. 22036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering and materials, equipment and supplies used in the installation thereof*, from points in California to points in Montana, for 180 days. Supporting shipper: Ernest M. Smith, president, S & D Flooring Distributors, Inc., 1939 South Avenue West, Missoula, Mont. 59801. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143533 (Sub-No. 1TA), filed December 9, 1977. Applicant: DIXON LEASING CO., INC., 2620 Old Egg Harbor Road, Lindewold, N.J. 08021. Applicant's representative: Robert B. Einhorn, Esq., 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials in forms, shapes, and blocks, and materials used in the installation thereof*, (1) from Berlin, N.J., to points in Maryland and Virginia on west of U.S. 15, District of Columbia, Pennsylvania, Louisiana, Arkansas, Missouri, Iowa, Minnesota, Kansas, Oklahoma, Texas, New Mexico, Maine, Vermont, New Hampshire, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Indiana, Ohio, Illinois, Michigan, and Wisconsin, (2) from plantsite of Fibreboard Corp., at or near Grambling, La., to points in Maine, Vermont, Connecticut, New Hampshire, Rhode Island, Massachusetts, New York, New Jersey, Pennsylvania, Delaware, West Virginia, Virginia, Maryland, Ohio, and District of Columbia, for 180 days. Supporting shippers: There are approximately (2) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 143813TA, filed December 2, 1977. Applicant: P/C TRANSPORTATION LINES, INC., 850 West Fifth Avenue, Columbus, Ohio 43212. Applicant's representative: A. Charles Tell, Esq., George, Greek, King, McManon & McConaughy, Columbus Center, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to oper-

ate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Show or display cases and parts thereof, and materials used in the manufacture, distribution, or sale thereof*, between Bellevue and Columbus, Ohio, on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with The Columbus Show Case Co. of Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Columbus Show Case Co., 850 West Fifth Avenue, Columbus, Ohio 43212. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143946 (Sub-No. 2TA), filed December 14, 1977. Applicant: ROYAL TRANSPORT, INC., P.O. Box 4097, Irving, Tex. 75061. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals NOI, Esters (fatty acid of animal oils NOD), esters (fatty acid of vegetable oils NOD), fatty alcohol NOI, inedible fatty alcohol, coconut oil, softeners textile NOI, cleaning and washing compounds NOI (liquid), lubricating oils NOI (other than petroleum), lubricating oil NOI (petroleum), wax NOI and fireproofing compounds* (except in bulk), from Mauldin, S.C., Lock Haven, Pa., Linden, N.J., and Santa Fe Springs, Calif., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Emery Industries, Inc., P.O. Box 628, Mauldin, S.C. 29662. Send protests to: Opal M. Jones, Transport Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 143973 (Sub-No. 1TA), filed November 23, 1977. Applicant: JAN-AIR DELIVERY, INC., BAC Building, Greater Buffalo International Airport, Cheektowaga, N.Y. 14225. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between airfreight facilities at or near the Greater Buffalo International Airport, Buffalo, N.Y., on the one hand, and, on

the other, points in Allegany, Cattaraugus, Chautauque, Erie, Genesee, Livingston, and Wyoming counties, N.Y., and points in Elk, McKean, and Warren Counties, Pa. restrictions: (1) restricted to the transportation of shipments having an immediate prior or subsequent movement by air. (2) Restricted to the transportation of shipments to be picked up and delivered on the same day, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (12) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Anne Siler, Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 144035 (Sub-No. 1TA), filed December 7, 1977. Applicant: MINUTE AIR, INC., 6 Northway Lane, Latham, N.Y. 12110. Applicant's representative: John J. Ingemie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, restricted to the transportation of traffic having an immediately prior or subsequent movement by air, between Albany County Airport, Albany, N.Y., and Latham, N.Y., on the one hand, and, on the other, points in Ulster and Dutchess Counties, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Rotron, Inc., Woodstock, N.Y. 12498; Boice Gage, Division of MTI, 10 Boice Road, Hyde Park, N.Y.; Western Publishing Co., Inc., North Road, Poughkeepsie, N.Y. 12601; Delaval Separator Co., Poughkeepsie, N.Y. 12602; National Microneutics, Inc., Route 28, West Hurley, N.Y. 12491; Superior Concrete Accessories, Inc., 64 South Broadway, Red Hook, N.Y. 12571; Hucktrol, Inc., 85 Grand Street, Kingston, N.Y. 12401; Airborne Freight Corp., Albany County Airport, N.Y. Send protest to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 144066 TA, filed December 7, 1977. Applicant: GORDON A. PADGETT TRUCKING, INC., 306 Production Drive, Fairfield, Ohio 45014. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, in dump vehicles,

from the plantsites of Amercian Materials Corp., in Bulter County, Ohio, to the plantsite of Johns-Manville Products Corp., at or near Alexandria, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operation authority. Supporting shippers: James L. Leugers, Assistant District Manager, American Materials Corp., P.O. Box 291, 600 Augsperger Road, Hamilton, Ohio 45012. Send protest to: Paul J. Lowry, District Supervisor, Bureau of Operations-ICC, 5514-B Federal Building, 550 Mann Street, Cincinnati, Ohio 45202.

No. MC 144067 TA, filed December 6, 1977. Applicant: HARTFORD CITY WRECKER SERVICE, State Road 26, West, R.R. No. 2, Hartford City, Ind. 47348. Applicant's representative: Robert G. Forbes, Esq., 300 South Jefferson Street, Hartford City, Ind. 47348. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled vehicles* (primarily semitractors) between points in the States of Indiana, Illinois, Michigan, Wisconsin, Iowa, Missouri, Kentucky, Tennessee, Ohio, Pennsylvania, New York, New Jersey, Virginia, Minnesota, South Dakota, Maryland, Delaware, North Carolina, West Virginia, Georgia, Alabama, Mississippi, Texas, Oklahoma, Kansas, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: McCammon Trucking, Inc., Road 400 North, Hartford City, Ind. 47348. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 144068 TA, filed December 9, 1977. Applicant: RUSSELL GRILLS, d.b.a. GRILLS TRUCKING, 2225 East 33 Avenue, Vancouver, British Columbia, Canada. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98174. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and shingles* from ports of entry on the U.S. international boundary line at or near Blaine, Wash., to points in California, restricted to traffic moving under a continuing contract or contracts with Bestwood Industries Ltd. Traffic will originate at Vancouver, B.C., Canada. *Foundry supplies, in sacks, and drums, including moulding sand, coal dust, sea coal, and carbon raiser from Oakland*, Ione and Rodeo, Calif., to ports of entry on the U.S.-Canada boundary line at or near Blaine, Wash., moving under a continuing contract or contracts with Balfour Guthrie (Canada) Ltd. Traffic



destined for Vancouver, B.C. for 180 days. Supporting shippers: There are approximately (2) statements of support attached to this application which may be examined at the field office named below. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, ICC, 858 Federal Building, Seattle, Wash. 98174.

No. MC 144069 TA, filed December 7, 1977. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, N.C. 28225. Applicant's representative: Ralph McDonald, P.O. Box 2246, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prestressed concrete building members*, from the plantsite of Gifford-Hill & Co., Inc., Charlotte, N.C., to Bristol, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gifford-Hill & Co., Inc., P.O. Box 5204, Charlotte, N.C. 28225. Send protests to: District Supervisor, Terrell Price, 800 Briar Creek Road, Room CC516, Mart Office Building, Charlotte, N.C. 28205.

No. MC 144100 TA, filed December 16, 1977. Applicant: CIVIC CENTER TOWING, 1960 Hayes Street, San Francisco, Calif. 94117. Applicant's representative: James C. Clay, 3106 Fillmore Street, San Francisco, Calif. 94117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Towing of wrecked and disabled motor coaches* for Greyhound Lines West, Inc., from all points in Washington, Oregon, Utah, Nevada, and Idaho, to San Francisco, Calif., under a continuing contract, or contracts, with Greyhound Lines, Inc., for 180 days. Supporting shipper: Greyhound Lines, Inc., Western Division, 480 Irwin Street, San Francisco, Calif. 94107. Send protests to: District Supervisor Michael M. Butler, 211 Main, Suite 500, San Francisco, Calif. 94105.

#### PASSENGER APPLICATION

No. MC 144086 TA, filed December 2, 1977. Applicant: MANUEL VERA, d.b.a. SOUTHERN TRANSPORTATION (Transportes de Sur), 620 North Lincoln Avenue, Aurora, Ill. 60505. Applicant's representative: William F. Castillo, 10 North Spring Street, Elgin, Ill. 60120. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and baggage of passengers in the same vehicle*; and also special and charter operations, in vehicles with 13 passenger seating capacity, not including drivers, between Aurora, Kane County, Ill., and Laredo, Tex., for 180 days. Supporting shipper(s): There are approximately (50) statements of support attached to this application which may be examined at

the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, EMD Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1661 Filed 1-19-78; 8:45 am]

[7035-01]

[Notice No. 168 TA]

#### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 28, 1977.

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 2392 (Sub-No. 108TA), filed December 8, 1977. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D.

Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Resin* and; (2) *resin-water soluble*, in bulk, in tank vehicles, from Detroit, Mich., to Denver, Colo.; Chicago, Decatur, Mapleton, Moline, Peoria, and Rockford, Ill.; Elkhart, Gary, Hammond, Indianapolis, Kendallville, Mishawaka, South Bend, and Warsaw, Ind.; Bettendorf, Cedar Rapids, Davenport, Dubuque, and Waterloo, Iowa; Kansas City and Wichita, Kans.; Beatrice, Lincoln, and Omaha, Nebr.; Defiance, Lima, and Toledo, Ohio; Beloit, Kenosha, Madison, Milwaukee, and Racine, Wis., and their respective commercial zones on all of the above cities listed, for 180 days. Supporting shipper(s): Frank P. Tobakos, General Manager, IMC Foundry Products, 17350 Ryan Road, Detroit, Mich. 48212. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 32882 (Sub-No. 89TA), filed November 23, 1977. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, P.O. Box 17039, Portland, Ore. 97217. Applicant's representative: Edward G. Rawle, P.O. Box 17039, Portland, Ore. 97217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections, and accessories* (except iron or steel and commodities because of size or weight require the use of special equipment), from the plant or warehouse sites of Armco Steel Corp., Metal Products Division, in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the above plant or warehouse sites and destined to points indicated above, and further restricted against the transportation of oilfield commodities as defined in Mercer-Extension-Oilfield Commodities, 74 MCC 459, for 180 days. Supporting shipper: Armco Steel Corp., 24 North Main Street, Middletown, Ohio 45043. Send protests to: R. V. Dubay, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 114 Pioneer Courthouse, Portland, Ore. 97204.

No. MC 49387 (Sub-No. 51TA), filed November 25, 1977. Applicant: ORSCHLERN BROS. TRUCK LINES, INC., U.S. Highway 24 East, P.O. Box 658, Moberly, Mo. 65270. Applicant's representative: Frank W. Taylor, Jr., Suite 680, 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by wholesale, retail, chain grocery and food business houses, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Arkansas, Kansas, Oklahoma, Texas, and New Mexico, restricted to traffic originating at the above-named origin and destined to the above-named destination states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft, Inc., 500 Peshtigo Court, Chicago, Ill. 60690. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo.

No. MC 61231 (Sub-No. 113TA), filed December 8, 1977. Applicant: ACE LINES, INC., 4143 East 43d Street, Des Moines, Iowa 50317. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation systems and parts of irrigation systems*, from Brooten, Minn., to points in Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming, for 180 days. Supporting shipper(s): Valmont Industries, Inc., Valley, Nebr. 68084. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 82079 (Sub-No. 57TA), filed December 9, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue, SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in mechanically refrigerated vehicles, (except in bulk), from the plantsites and warehouse facilities of General Foods Corp. in Bettendorf, Iowa, to points in Indiana and Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): General Foods Corp., White Plains, N.Y. 10605. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 100666 (Sub-No. 372TA), filed December 12, 1977. Applicant:

MELTON TRUCK LINES, INC., P.O. Box 7666, 1129 Grinnett Drive, Shreveport, La. 71107. Applicant's representative: William P. Barker, 3535 Northwest 58th Street, National Foundation Life Building, Suite 280, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from the facilities of MacMillan Bloedel, Inc., located at Ashtabula, Ohio, to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MacMillan Bloedel, Inc., 6540 Powers Ferry Road, Atlanta, Ga. 30339. Send protests to: Ray C. Armstrong, Jr., District Supervisor, T-9038 U.S. Postal Service Building, New Orleans, La. 70113.

No. MC 107403 (Sub-No. 1049TA), filed December 12, 1977. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Landsdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent aluminum chloride*, in bulk, in tank vehicles, from Freeport, Tex., to Baton Rouge and Bayou Sorrel, La., restricted to the transportation of shipments moving in carbo-glass lined trailers, for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., P.O. Box 1031, Baton Rouge, La. 70821. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Washington, D. C. 20423.

No. MC 110525 (Sub-No. 1218TA), filed December 8, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic products and chemicals* (except in bulk), from Rochester, N.Y., to points in New Jersey, restricted to traffic handled in continuous movement with Liquid Chemicals, in Bulk, in Sealed tanks, from Grasse, N.J., to Rochester, N.Y., for 180 days. Supporting shipper(s): E. I. DuPont de Nemours & Co., 1007 Market Street, Wilmington, Del. 19898. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 721TA), filed December 12, 1977. Applicant: PUROLATOR COURIER CORP.,

3333-New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds*, between Birmingham, Ala., on the one hand, and, on the other, Louisville, Owensboro, and Paducah, Ky., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Durr-Fillauer Medical, Inc., 645 South McDonough Street, Montgomery, Ala. (2) South Central Bell Telephone Co., 302 Phoenix Building, 1706 2d Avenue North, Birmingham, Ala. 35203. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112989 (Sub-No. 56TA), filed November 23, 1977. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Ore. 97405. Applicant's representative: John W. White, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections, and accessories* (except iron or steel and commodities because of size and weight, require the use of special equipment), from the plant or warehouse sites of Armco Steel Corp., Metal Products Division, in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the above plant or warehouse sites and destined to points indicated above, and further restricted against the transportation of oil field commodities as defined in Mercer-Extension-Oilfield Commodities, 74 MCC 459, for 180 days. Supporting shipper: Armco Steel Corp., 24 North Main Street, Middletown, Ohio 45043. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Ore. 97204.

No. MC 116110 (Sub-No. 24TA), filed November 25, 1977. Applicant: P.C. WHITE TRUCK LINE, INC., P.O. Box 1488, Murray Rd., Donthan, Ala. 36301. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel doors, mirrors, plastic articles, moldings and metal shapes, and materials and accessories thereto*, and



items used in the installation thereof, from the plantsite of Slimfold Manufacturing Co., Inc., located at or near Dothan, Ala., to points in the United States (except Alaska and Hawaii), and (2) materials, equipment, and supplies used or useful in the manufacture or installation of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii), to the plantsite or storage facilities of Slimfold Manufacturing Co., Inc., located at or near Dothan, Ala., for 180 days. Supporting shipper: Slimfold Manufacturing Co., Inc., P.O. Box 6416, Dothan, Ala. 37301. Send protests to: Mable E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 133937 (Sub-No. 23TA), filed November 25, 1977. Applicant: CAROLINA CARTAGE CO., INC., P.O. Box 45096, Atlanta Airport, Atlanta, Ga. 30320. Applicant's representative: Henry P. Willimon, P.O. Box 1075, Greenville, S.C. 29602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel*, on hangers, in polyethylene bags, flats, racks, and packs, (1) between points in Alabama, Florida, Georgia, Mississippi, and Tennessee, on the one hand, and, on the other, Dallas, and Fort Worth, Tex., Houston, Tex., New Orleans, La., St. Louis and Kansas City, Mo., Detroit, Mich., Los Angeles and San Francisco, Calif., and Chicago, Ill., and (2) between points in Alabama, Florida, Mississippi, and Tennessee, on the one hand, and, on the other, Atlanta, Ga., for 180 days. Supporting shippers: There are approximately 18 statements of support attached to the application. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, Ga. 30309.

No. MC 134105 (Sub-No. 224TA), filed November 23, 1977. Applicant: Celeryvale Transport, Inc., 1318 East 23d Street, Chattanooga, Tenn. 37402. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products* and articles distributed by meat packing-houses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from the plantsite and warehouse facilities of The Meat Co. at Calhoun, Ga. and Chattanooga, Tenn., to Chicago, Forest Park, and Mount Vernon, Ill.; Evansville, Greensburg, and Pennville,

Ind.; Ely and Fort Madison, Iowa; Detroit and Kalamazoo, Mich.; Newark and Trenton, N.J.; Brooklyn and New York, N.Y.; Akron, Bellefontaine, Cleveland, Cincinnati, Middleville, and St. Marys, Ohio; Allentown, Bernville, Erie, Germyn, Philadelphia, Scranton, and Souderton, Pa.; Knoxville, Memphis, and Nashville, Tenn.; and Eau Claire and Milwaukee, Wis.; and the commercial zones of the above-named points. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Meat Co., Waterworks Road, Calhoun, Ga. Send protests to: District Supervisor Joe J. Tate, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 113459 (Sub-No. 116TA), filed December 8, 1977. Applicant: H.J. JEFFRIES TRUCK LINE, INC., 4720 S. Shields, P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electric cable*, on reels, from the plantsite of Superior Cable Corp., at Brownwood, Tex., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Utah, Wisconsin, and Wyoming, for 180 days. Supporting shipper(s): Superior Cable Corp., 1928 Main Avenue, SE., P.O. Box 489, Hickory, N.C. 28601. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office & Court House Building, 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 113651 (Sub-No. 246TA), filed December 12, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Riggins Road, Muncie, Ind. 47305. Applicant's representative: George E. Batty, P.O. Box 552, Riggins Road, Muncie, Ind. 47305. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products* as described in Sections A and C of Appendix I to the Report in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from Nashville, Tenn., to Atlanta and Dublin, Ga.; Baltimore, Md.; Boston, Mass.; Charleston, S.C.; Chicago, Ill.; Claremont, N.H.; Holly Ridge, N.C.; King George, Va.; Philadelphia and Pittsburgh, Pa.; New York, N.Y.; and Westminster, Vt., restricted to traffic originating at the plantsite and storage facilities of Baltz Brothers Packing Co. at or near Nashville, Tenn., and des-

tined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Baltz Brothers Packing Co., 1612 Elm Hill Road, Nashville, Tenn. 37210. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 115162 (Sub-No. 398TA), filed December 12, 1977. Applicant: POOLE TRUCK LINE, INC., P.O. Box 1247, Evergreen, Ala. 36601. Applicant's representative: Robert E. Tate (Same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board*, from Ashtabula, Ohio, to points in the United States in and east of Texas, Oklahoma, Missouri, Illinois, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MacMillan Bloedel Building Materials, 6540 Powers Ferry Road, Atlanta, Ga. 30339. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 115841 (Sub-No. 583TA), filed December 9, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 666 11th Street, NW., 805 McLachlen Bank Building, Washington, D.C. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned juices*, from Cameron and Hidalgo Counties, Tex., to points in Washington, Oregon, California, Nevada, Idaho, Vermont, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Illinois, Michigan, Ohio, Kentucky, Tennessee, and Mississippi, for 180 days. Supporting shipper(s): (1) Texsun Corp., P.O. Box 327, Weslaco, Tex. 78596. (2) Texas Citrus Exchange, P.O. Box 480, Edinburg, Tex. 78539. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 115841 (Sub-No. 586TA), filed December 12, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Elev-

enth Street, NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting mixes*, from the plantsite and storage facilities of Chelsea Milling Co., at or near Chelsea, Mich., to points in Georgia, North Carolina, South Carolina, and Virginia, for 180 days. Supporting shipper(s): Chelsea Milling Co., Chelsea, Mich. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116133 (Sub-No. 16TA), filed December 12, 1977. Applicant: POLARD DELIVERY SERVICE, INC., Washington National Airport, Hanger No. 8, Room 213, Washington, D.C. 20001. Applicant's representative: Peter A. Greene, Caldwell & Greene, 900 7th Street, NW., Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, household goods as defined by the Commission, and commodities which because of their size and weight require special equipment), between Philadelphia International Airport, Philadelphia, Pa., Newark International Airport, Newark, N.J., and John F. Kennedy International Airport, Jamaica, N.Y., restricted to traffic having a prior or subsequent movement by air, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Circle Air Freight Corp., Baltimore-Washington International Airport, Md. (2) Summit Airlines, Inc., Philadelphia International Airport, Philadelphia, Pa. (3) The Flying Tiger Line, Philadelphia International Airport, Pa. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Room 1413, Washington, D.C. 20423.

No. MC 117119 (Sub-No. 662TA), filed December 12, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: Gerald K. Gimmel, 4 Professional Drive, Suite 145, Gaithersburg, Md. 20760. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Confectionery, cocoa, chocolate, and products related thereto, materials, supplies, and equipment* used in the manufacture, production, distribution, and sale of the above named commodities, from the plantsites and storage facilities of Hershey Foods Corp., at Derry Township, Dauphin County, Pa., to points in and west of Wisconsin,

Illinois, Missouri, Arkansas, Texas, and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hershey Food Corp., 19 East Chocolate Avenue, Hershey, Pa. 17033. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 119443 (Sub-No. 37TA), filed November 25, 1977. Applicant: P. E. KRAMME, Inc., Main Street, Monroeville, N.J. 08343. Applicant's representative: Gerald K. Kramme (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chocolate products*, in bulk, in tank vehicles, from the facilities of Cadbury, Corp., located in the Humboldt Ind. Park, at or near Hazleton, Pa., to the ports of entry on the International Boundary Line between the United States and Canada, located on the Niagara and St. Lawrence Rivers, and at or near Champlain, Rouses Point, and Trout River, N.Y., for 150 days. Traffic to be interlined with Canadian carrier at ports of entry noted above. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cadbury Corp., Humboldt Ind. Park, Hazleton, Pa. 18201. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 119493 (Sub-No. 172TA), filed December 8, 1977. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, West 20th Street Road, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel, P.O. Box 1196, Joplin, Mo. 64801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feeds*, from East St. Louis, Ill., to New Ulm and Wilmar, Minn.; Madison, Wis.; Monmouth and Danville, Ill.; Henderson, Ky.; and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) International Multifoods Corp., 1200 Multifoods Building, Minneapolis, Minn. 55402. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 119789 (Sub-No. 398TA), filed December 8, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a common carrier, by

motor vehicle, over irregular routes, transporting: *Transformers and parts* (except commodities which because of size or weight require the use of special equipment), from Arcadia, Fla., to points in California, Idaho, Iowa, Kansas, Minnesota, Missouri, New Mexico, Oregon, and Washington, for 180 days. Supporting shipper(s): Central Moloney Transformer Division, Colt Industries, Inc., 311 West Palmetto, Arcadia, Fla. 33821. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 119917 (Sub-No. 46TA), filed November 25, 1977. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: William F. Dudley (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., located at or near Warner Robbins, Ga., to Williamsburg, Va. and points in its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midland Glass Co., P.O. Box 557, Cliffwood, N.J. 07721. Send protests to: Sara K. Davis, Transportation Assistant, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 120937 (Sub-No. 4TA), filed December 7, 1977. Applicant: CITY DELIVERY, INC., 1315 East Gibson Lane, P.O. Box 20686, Phoenix, Ariz. 85034. Applicant's representative: A. Michael Bernstein, 1441 East Thomas Road, Phoenix, Ariz. 85014. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, between Phoenix, Ariz., and Grand Canyon, Ariz., serving no intermediate points; and (2) between Flagstaff, Ariz., and Grand Canyon, Ariz., serving no intermediate points; and (3) between Phoenix, Ariz., and Hillside, Ariz., for 180 days. Applicant intends to interline at Phoenix, Flagstaff, and Hillside, Ariz. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately (8) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025.

No. MC 121664 (Sub-No. 30TA), filed December 12, 1977. Applicant: G. A.



**HORNADY, CECIL M. HORNADY, AND B. C. HORNADY**, a partnership, d.b.a. **HORNADY BROTHERS TRUCK LINE**, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue South, Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic pipe fittings, and connections, valves, and materials and supplies* used in the installation thereof, from Geneva County, Ala., to points in the United States in and east of Texas, Oklahoma, Kansas, Missouri, Iowa, and Minnesota, and *materials and supplies* used in the manufacture of commodities named above, from points in the United States in and east of Texas, Oklahoma, Kansas, Missouri, Iowa, and Minnesota, to Geneva County, Ala., for 180 days. Supporting shipper(s): (1) Samson Plastic Conduit and Pipe Corp., P.O. Box 325, Samson, Ala. 36477. (2) Slocumb Plastic Pipe and Products, Inc., P.O. Drawer J, Slocumb, Ala. 36375. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 124078 (Sub-No. 762TA), filed November 15, 1977. Applicant: **SCHWERMAN TRUCKING CO.**, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Spent phosphoric acid*, liquid, in bulk, in tank vehicles, from Carrollton, Franklin, LaGrange, and Newnan, Ga., to Natchez and Laurel, Miss., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobil Chemical Co., Morris L. Creps, P.O. Box 26683, Richmond, Va. 23261. Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 124078 (Sub-No. 769TA), filed December 12, 1977. Applicant: **SCHWERMAN TRUCKING CO.**, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Toledo, Ohio, to Buffalo, N.Y.; Chicago, Ill.; Pittsburgh and Philadelphia, Pa.; Fair Lawn, N.J.; Richmond, Va.; and Atlanta, Ga., for 180 days. Supporting shipper(s): Nabisco, Inc., Toledo Flour

Mill, P.O. Box 2208, Central Station, Toledo, Ohio 43603. (P. R. Reilly, Jr.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 125293 (Sub-No. 10TA), filed December 2, 1977. Applicant: **INDUSTRIAL CONTRACT CARRIERS, INC.**, 14750 Southwest 72d Avenue, Tigard, Ore. 97233. Applicant's representative: Phillip G. Skofstad, 1300 N.E. Linden, Gresham, Ore. 97030. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cellulose fibre products, insulating material, fibered ground cover*, in packages, from Portland, Ore. to points in California, Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming; and (2) *Borates*, in packages, from Wilmington, Richland, and Trona, Calif., to Portland, Ore., under a continuing contract with Fibron Corp., for 180 days. Supporting shipper: Fibron Corp., 8614 North Crawford Street, Portland, Ore. Send protest to: District Supervisor A.E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 SW Yamhill St., Portland, Ore. 97204.

No. MC 125433 (Sub-No. 134TA), filed November 23, 1977. Applicant: **F-B TRUCK LINE CO.**, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections and accessories* (except iron or steel and commodities which because of size and weight require the use of special equipment), from the plant or warehouse facilities of Armco Steel Corp. in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the above plants or warehouse sites and destined to points indicated above, and further restricted against the transportation of oilfield commodities as defined in Mercer-Extension-74 MCC 459, for 180 days. Supporting shipper: Armco Steel Corp., C.W. Hall, Director of Transportation, 24 North Main Street, Middletown, Ohio 45043. Send protests to: District Supervisor Lyle D. Heifer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 133689 (Sub-No. 156TA), filed November 23, 1977. Applicant:

**OVERLAND EXPRESS, INC.**, 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Bettendorf, Iowa, to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and points in that part of Pennsylvania on and west of a line beginning at the Pennsylvania-Maryland State line (near Hancock, Md.), thence along U.S. Highway 522 to junction U.S. Highway 322 (near Lewistown, Pa.), thence along U.S. Highway 322 to junction Pennsylvania Highway 144 to U.S. Highway 6, thence along U.S. Highway 6 to the Pennsylvania-New York State line (near Genesee, Pa.), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Foods Corp., 250 North Street, White Plains, N.Y. 10625. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 14th Street, Minneapolis, Minn. 55401.

No. MC 133741 (Sub-No. 23TA), filed December 2, 1977. Applicant: **OSBORNE TRUCKING CO., INC.**, 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the Phillipsburg, Mont., commercial zone to points in Colorado, Wyoming and that part of Nebraska on and west of U.S. Highway 83. Restrictions: Restricted to a transportation service to be performed under a continuing contract or contracts with Star Studs, Inc. Afton, Wyo., under a continuing contract with Star Studs, Inc., for 180 days. Supporting shipper: Star Studs, Inc. P.O. Box 1730, Afton, Wyo. 83110. Send protests to: District Supervisor, Paul A. Naughton, Interstate Commerce Commission, Room 105 Federal Building and Court House, 111 South Wolcott, Casper, Wyo. 82601.

No. MC 134262 (Sub-No. 15 TA), filed December 5, 1977. Applicant: **FARMERS FEED AND SUPPLY TRANSPORTATION, INC.**, Boyden, Iowa 51234. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and animal feed ingredients* (except liquids in bulk), (a) from Polk and Sullivan Counties, Tenn., and Manistee County, Mich., to points in Kansas,

Nebraska, South Dakota, Missouri, Iowa, Minnesota, and Wisconsin, and (b) from Brown and Marathon Counties, Wis., Blue Earth County, Minn., and Webster and Wright Counties, Iowa, to points in Michigan, Indiana, Kentucky, Alabama, and Tennessee, restricted to a transportation service to be performed, under a continuing contract, or contracts, with Farmers Feed and Supply, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): H. G. Heusinkveld, President, Farmers Feed and Supply, Inc., Boyden, Iowa 51234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 135082 (Sub-No. 58 TA), filed November 23, 1977. Applicant: **BURSCH TRUCKING INC.**, d.b.a. **ROADRUNNER TRUCKING, INC.**, P.O. Box 26748, 415 Rankin Road NE., Albuquerque, N. Mex. 87125. Applicant's representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-fabricated buildings*, (knocked down or in sections), and *materials, equipment and supplies* incidental to the erection and completion of such buildings, from the plantsite of Mid-West Steel Building Co., Inc., at Houston, Tex., to points in New Mexico, Arizona, Colorado, Wyoming, Montana, Idaho, Washington, Oregon, and Utah, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mid-West Steel Building Co., Inc., P.O. Box 40338, Houston, Tex. 77040. Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 135553 (Sub-No. 11TA), filed December 8, 1977. Applicant: **HENRY ANDERSEN, INC.**, P.O. Box 75, King George, Va. 22485. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints, coatings, and resins* (except in bulk), in vehicles equipped with mechanical refrigeration, from Oak Creek, Wis., to points in Texas, Arizona, New Mexico, California, Oregon, Washington, Montana, Idaho, Utah, Nevada, Colorado, and Wyoming, under a continuing contract, or contracts, with PPG Industries, Inc., One Gateway Center, Pittsburgh, Pa. 15222. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): PPG Industries,

Inc., One Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 138054 (Sub-No. 19TA), filed December 8, 1977. Applicant: **CONDOR CONTRACT CARRIERS, INC.**, 656 Wooster Street, Lodi, Ohio 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Infant feeding equipment*, from Tionesta and Oil City, Pa., and Ravenna, Ohio, to points in Arizona, California, Nevada, Washington, and Oregon, under a continuing contract, or contracts, with Questor Corp., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Questor Corp., 1801 Spielbusch Avenue, Toledo, Ohio 43691. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 138438 (Sub-No. 20TA), filed December 7, 1977. Applicant: **D. M. BOWMAN, INC.**, Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Edward N. Buiton, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation and insulating materials*, from Hagerstown, Md., and its commercial zone, to points in the States of Pennsylvania, West Virginia, and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Suburban Insulation, Inc., Maugans Avenue, Hagerstown, Md. 21740. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 138875 (Sub-No. 66TA), filed December 2, 1977. Applicant: **SHOE-MAKER TRUCKING, CO.**, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabricated pipe, control panels and materials* for Nuclear Energy Systems, from the plantsite of Huico, Inc. located at or near Meridian, Idaho to Pasco, Richland and the nuclear testing site located in Benton County, Wash., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operat-

ing authority. Supporting shipper: Huico, Inc., Meridian, Idaho 83642. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1417 Shoreline Drive, Boise, Idaho 83706.

No. MC 138882 (Sub-No. 28TA), filed December 12, 1977. Applicant: **WILEY SANDERS, INC.**, P.O. Drawer 621, Henderson Road, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing products and materials* used or useful in the installation thereof (except commodities in bulk), from the Celotex Corp. plantsite and facilities located at or near Camden, Ark., to points in Arizona, New Mexico, and California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Celotex Corp., 1500 North Dale Mabry, Tampa, Fla. 33607. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 140040 (Sub-No. 12TA), filed November 23, 1977. Applicant: **JOSEPH MOVING & STORAGE CO., INC.**, d.b.a. **ST. JOSEPH MOTOR LINES**, 573 Dutch Valley Road NE., Atlanta, Ga. 30309. Applicant's representative: Richard M. Tettelbaum, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in or used by automotive service stations (except commodities in bulk and except commodities which, because of size or weight, require the use of special equipment), between Fulton County, Ga., on the one hand, and, on the other, points in the United States in and east of Wisconsin, Illinois, Missouri, Oklahoma, and Texas; and (2) *plastic granules* (except in bulk), from Houston, Baytown, and Orange, Tex., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, under a continuing contract or contracts with Gulf Oil Company—U.S., a Division of Gulf Oil Corp., for 180 days. Applicant has also filed an underlying ETA for up to 90 days of operating authority. Supporting shipper: Gulf Oil Company—U.S., Division of Gulf Oil Corp., P.O. Box 3706, Houston, Tex. 77701. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 141033 (Sub-No. 33TA), filed December 8, 1977. Applicant: **CONTI-**



**MENTAL CONTRACT CARRIER CORP.**, 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: James I. Mendenhall, P.O. Box 1257, City of Industry, Calif. 91749, or R. A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mattresses, box springs, and bedding products*, from Memphis, Tenn., to points in Alabama, Arkansas (except points in Mississippi and Crittenden Counties), Louisiana, Mississippi, Oklahoma, and Texas, restricted to the transportation of traffic originating at the plantsite and facilities of Slumber Products Corp., d.b.a. Sealy Southeast, for 180 days. Supporting shipper(s): Slumber Products Corp., d.b.a. Sealy Southeast, 1429 Riverside Drive, Memphis, Tenn. 38109. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142559 (Sub-No. 5TA), filed December 12, 1977. Applicant: **BROOKS TRANSPORTATION, INC.**, 30650 Carter Road, Solon, Ohio 44319. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural limestone and gypsum* (except in bulk), from Irvington, Ky., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, for 180 days. Supporting shipper: American Pelletizing Corp., Box 3628, 7200 Hickman Road, Des Moines, Iowa 50322. Send protests to: James Johnston, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 143236 (Sub-No. 6TA), filed December 8, 1977. Applicant: **WHITE TIGER TRANSPORTATION, INC.**, 115 Jacobus Avenue, Kearny, N.J. 07032. Applicant's representative: George Olsen, 69 Tonnelle Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Mitsubishi International Warehouse Corp., South Plainfield, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mitsubishi In-

ternational Warehouse Corp., 100 Ware Avenue, South Plainfield, N.J. 07080. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143276 (Sub-No. 5TA), filed December 5, 1977. Applicant: **WEAVER TRANSPORTATION CO.**, 5432 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: Jack Weaver, 5452 Oakdale Road, Smyrna, Ga. 30080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition roofing and roofing materials, viz: roofing materials rolls, asphalt prepared roofing, composition shingles, asphalt composition roofing felt or paper, saturated and coated with asphalt, pitch, tar or other similar materials*, from the plantsite of Fry Division Owens-Corning Fiberglas Corp., Fulton County, Atlanta, Ga., to all points in Alabama, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fry Division, Owens-Corning Fiberglas, 4795 Frederick Drive, SW., Atlanta, Ga. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, Ga. 30309.

No. MC 143357 (Sub-No. 4TA), filed November 25, 1977. Applicant: **STANLEY W. BYBEE, d.b.a. WESTERN APPLICATORS**, P.O. Box 2361, Nyssa, Ore. 97913. Applicant's representative: Steven James Pierce, 14 South Second Street, Nyssa, Ore. 97913. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber mill products, plywood, particle board, hardboard and hardboard paneling*, from points in Idaho, Montana, Oregon, and Washington, to points in Idaho, Montana, Oregon, Washington, Nevada, Utah, Colorado, North Dakota, South Dakota, and Wyoming, and (2) gypsum wall board, from points in Nevada and Utah, to points in Idaho, Montana, Oregon, Washington, Nevada, Utah, Colorado, North Dakota, South Dakota, and Wyoming, for 180 days. Applicant has also filed an underlying ETA for up to 90 days of operating authority. Supporting shipper: Fox Lumber Sales, Inc., P.O. Box 1023, Hamilton, Mont. 59840. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, Idaho 83706.

No. MC 143894 (Sub-No. 1TA), filed December 5, 1977. Applicant: **JEROLD J. BUCHAN, JR.** d.b.a. BUCHAN

**TRUCKING CO.**, 830 W28538 Sunset Drive, Waukesha, Wis. 53186. Applicant's David V. Purcell, 111 E. Wisconsin, Milwaukee, Wis. 53202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products* as described in Section A of Appendix I to the report in Descriptions and Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk), in mechanically refrigerated vehicles, from the plantsite and warehouse facilities of Lindsay Meats, Inc., at Milwaukee, Wis., to points in Georgia, Indiana, the Lower Peninsula of Michigan, Ohio, that part of New York on and west of State Highway 14, New York, N.Y., that part of Pennsylvania on and west of U.S. Highway 15, Philadelphia, Pa., Norfolk and Richmond, Va., and Washington, D.C., under a continuing contract, or contracts, with Lindsay Meats, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lindsay Meats, Inc., 2127 West National Avenue, Milwaukee, Wis. 53204. (Joel W. Lindsay) Send protests to: Gall Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 144013 (Sub-No. 1TA), filed November 23, 1977. Applicant: **CARLEY'S BEST MOVERS, INC.**, 405 Douglas Street, Hammond, Ind. 46320. Applicant's representative: James R. Carley, 925 175th Place, Hammond, Ind. 46320. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects* in accordance with U.S. Government pack and crate contract, between air and surface terminals and U.S. Department of Defense facilities in Lake, Porter and LaPorte Counties, Ind. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Department of Defense, Dellon E. Coker, Office of the Judge Advocate General, Department of the Army, Washington, D.C. 20310. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 144031 (Sub-No. 1TA), filed November 30, 1977. Applicant: **DALE LUTTON, d.b.a. D & L TRUCKING**, 2408 Cherry Street, Hoquiam, Wash. 98550. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular

routes, transporting: *Malt beverages and wine*, from points in California, to points in King, Kitsap, and Pacific Counties, Wash. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Pacific Beverage, 1002 Hewitt Street, Bremerton, Wash. 98310; Sid Eland, Inc., 1212 6th Avenue South, Seattle, Wash. 98134. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 144033 (Sub-No. 1TA), filed December 2, 1977. Applicant: **PHIL PRESLEY TRUCKING, INC.**, 2136 Loch Drive, Springfield, Ore. 97477. Applicant's representative: Nick I. Goyak, 1 Southwest Columbia, Suite 555, Portland, Ore. 97258. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Shakes and shingles*, from Forks, Aberdeen, and Humptulips, Wash.; to Reno and Sparks, Nev.; points in Los Angeles County, Calif.; points in Alameda, Contra Costa, San Mateo, San Francisco, and Marin Counties, Calif.; and Lake Tahoe, Calif.; (b) *roofing and wallboard materials*, from Los Angeles, Calif.; to Seattle, Tacoma, Redmond, and Everett, Wash.; (c) *rubber*, from Los Angeles, Calif.; to Eugene and Salem, Ore.; (d) *materials* used for the manufacture and construction of blocks and bricks, from Fernley, Nev.; and Bishop, Calif.; to Woodenville, Wash., for 180 days. Supporting shipper: There are approximately six (6) statements of support attached to application which may be examined at Interstate Commerce Commission, in Washington, D.C., or copies may be obtained at the field office below. Send protests to: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill St., Portland, Ore. 97204.

No. MC 144048 TA, filed November 25, 1977. Applicant: **BAY TRANSCORP, INC.**, 209 South La Salle Street, Chicago, Ill. 60603. Applicant's representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *Bakery goods and confectionery*, from Chicago, Ill., Detroit, Mich. and points in their commercial zones, to Chicago, Ill., Detroit, Mich., Grand Rapids, Mich., Louisville, Ky., Baltimore, Md., Pittsburgh, Pa., Bedford Heights, Ohio, New York, N.Y., New Berlin, Wis., and points in their commercial zones; and (B) *Ingredients* (raw materials and supplies), for the baking, manufacture, packaging, and distribution of bakery goods and confectionery, (1)

from Chicago, Ill. and points in its commercial zone, to Detroit, Mich., and Pittsburgh, Pa., and points in their commercial zones, and (2) from Detroit, Mich., Pittsburgh, Pa., Manistee, Mich., Minneapolis, Minn., Rittman, Ohio, Mt. Vernon, Ind., and their commercial zones, to Chicago, Ill., Detroit, Mich., and points in their commercial zones, under a continuing contract or contracts with Bays Foods, Inc., Bays-Michigan Corp., Bay English Muffin Corp. of Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bays Foods, Inc., Bays-Michigan Corp., Bays English Muffin Corp. of Illinois, Martin S. Kunder, General Manager, 209 South La Salle Street, Chicago, Ill. 60604. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 144056 TA, filed December 3, 1977. Applicant: **INTERNATIONAL MOVERS, INC.**, 847 West 45th Street, Norfolk, Va. 23508. Applicant's representative: Hunter W. Sims, Jr., 1530 Virginia National Bank Building, Norfolk, Va. 23510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage, and personal effects*, as defined by the Commission, between points and places in the Cities of Norfolk, Portsmouth, Chesapeake, Virginia Beach, Suffolk, Hampton, Newport News, and Williamsburg, Va., and the Counties of Isle of Wight, York, James City, Gloucester, Mathews, Accomack, Northampton, and Southampton, Va.; restricted to (1) traffic having a prior or subsequent movement in containers, beyond points authorized, and (2) pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: There are approximately 5 (five) statements of support attached to application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies may be examined at the field office below. Send protests to: Bureau of Operations, Interstate Commerce Commission, Room 10, 502 Federal Building, 400 North 8th Street, Richmond, Va., 23240.

No. MC 144083 (Sub-No. 1TA), filed December 12, 1977. Applicant: **RALPH WALKER, INC.**, P.O. Box 3222, Jackson, Miss. 39207. Applicant's representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *New furniture* from the facilities of Shannon Chair Co., Houston, Miss., to points in Arizona, California, Oregon, Utah, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Shannon Chair Co., Houston, Miss. 38851. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 144092 TA, filed December 12, 1977. Applicant: **TRANSPORTATION ENTERPRISES, INC.**, 1135 Gunter, Austin, Tex. 78702. Applicant's representative: Don Felts, P.O. Box 2207, Austin, Tex. 78768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter and special operations, beginning and ending at points in Texas (except points in Cameron, Hidalgo, Starr, Willacy, and Zapata Counties, Tex.), and extending to points in the United States, (including Alaska and excluding Hawaii), for 180 days. Supporting shipper(s): There are approximately 240 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Richard H. Dawkins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room B-400, Federal Building, 727 East Durango Boulevard, San Antonio, Tex. 78206.

By the Commission

H. G. HOMME Jr.,  
Acting Secretary.

[FR Doc. 78-1662 Filed 1-19-78; 8:45 am]

#### IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

##### Elimination of Gateway Letter Notices

JANUARY 13, 1978.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before January 30, 1978. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.



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## NOTICES

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 8973 (Sub-No. E180), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between points in Hudson County, N.J. on the one hand, and, on the other, points in that part of New York on and north of a line beginning on the New Jersey-New York State line at New Milford, thence along New York Highway 94 to New York Highway 17A, thence along New York Highway 17A to junction New York Highway 210, thence along New York Highway 210 to junction U.S. Highway 9W, thence along U.S. Highway 9W to the west bank of the Hudson River at Haverstraw, thence along the river and along Interstate Highway 87 to the east bank of the Hudson River, thence along the east bank of the river to the Bronx County-Westchester County boundary line, thence along the county line to the Long Island Sound, and points in that part of Long Island, New York on and east of a line beginning on the north shore at head of the harbor, thence along an unnumbered road to New York Highway 25A, thence along New York Highway 25A to junction New York Highway 46, thence along New York Highway 46 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E181), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between points in

Hudson County, N.J., on the one hand, and, on the other, points in that part of Pennsylvania on and west of a line beginning on the New Jersey-Pennsylvania State line with Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 209, thence along U.S. Highway 209 to the Pennsylvania-Turnpike NE. Extension, thence along on the Pennsylvania Turnpike NE. Extension to Pennsylvania State Highway 895, thence along Pennsylvania State Highway 895 to junction Pennsylvania State Highway 309, thence along Pennsylvania State Highway 309 to junction Pennsylvania State Highway 143, thence along Pennsylvania State Highway 143 to junction Pennsylvania State Highway 737, thence along Pennsylvania State Highway 737 to junction Pennsylvania State Highway 73, thence along Pennsylvania State Highway 73 to junction Pennsylvania State Highway 100, thence along Pennsylvania State Highway 100 to junction Interstate Highway 202, thence along Interstate Highway 202 to the Delaware-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC-8973 (Sub-No. E182), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between points in Middlesex County, N.J., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Wisconsin, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corp., and Witco Chemical, at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC-8973 (Sub-No. E183), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment), between points in Middlesex County, N.J., on the one hand, and, on the other, points in that part of New York on and north of a line beginning on the Pennsylvania-New York State line with an unnumbered road at Cohecton, thence along the road to New York Highway 17B, thence along New York Highway 17B to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 17M, thence along New York Highway 17M to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 210, thence along New York Highway 210 to the Palisade Interstate Parkway, thence along the Palisade Interstate Parkway to junction U.S. Highway 202, thence along U.S. Highway 202 to junction New York Highway 306, thence along New York Highway 306 to the New York-New Jersey State line, thence along the New York-New Jersey State line to Interstate Highway 95, thence along Interstate Highway 95 to junction New York Highway 9A, thence along New York Highway 9A to junction 125th Street thence along 125th Street to the Bronx County-Queens County boundary line, thence along the Bronx County-Queens County line to the North Shore of Long Island, thence along the shore to Shoreham, thence along an unnumbered road to New York Highway 25A, thence along New York Highway 25A to junction New York Highway 66, thence along New York Highway 66 to Moriches Bay, thence along the Bay to the Shinnecock Inlet, thence along the Atlantic Ocean, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corp., and Witco Chemical, at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E184), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of

unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment, between points in Middlesex County, N.J., on the one hand, and, on the other, points in that part of North Carolina on, west and south of a line beginning at the Virginia-North Carolina State line with U.S. Highway 501, thence along U.S. Highway 501 to junction U.S. Highway 158, thence along U.S. Highway 158 to junction North Carolina Highway 39, thence along North Carolina Highway 39 to junction North Carolina Highway 56, thence along North Carolina Highway 56 to junction North Carolina Highway 58, thence along North Carolina Highway 58 to junction North Carolina Highway 64, thence along North Carolina Highway 64 to the Pamlico Sound, thence along the Sound to the Hatteras Inlet, thence through the Inlet to the Atlantic Ocean, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E185), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods, commodities in bulk, and commodities requiring special equipment, between points in Middlesex County, N.J., on the one hand and, on the other, points in that part of Pennsylvania west of a line beginning on the New York-Pennsylvania State line with U.S. Highway 15, thence along U.S. Highway 15 to junction New York Highway 49, thence along New York Highway 49 to junction New York Highway 44, thence along New York Highway 44 to junction U.S. Highway Route 6, thence along U.S. Highway 6 to Pennsylvania Highway 66, thence along Pennsylvania Highway 66 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to junction Pennsylvania Highway 13, thence along Pennsylvania Highway 13 to junction U.S. Highway 22, thence along U.S. Highway 22 to an unnumbered road, thence along unnumbered road to Pennsylvania Highway 231, thence along Pennsylvania Highway 231 to

junction Interstate Highway 70, thence along Interstate Highway 70 to the Ohio-Pennsylvania State line, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E186), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Middlesex County, N.J., on the one hand and, on the other, points in that part of Virginia on and west of a line beginning on the West Virginia-Virginia State line near Sweetsprings, W. Va., thence along Virginia Highway 311 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction U.S. Highway 501, thence along U.S. Highway 501 to Virginia-North Carolina State line, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E187), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Middlesex County, N.J., on the one hand, and, on the other, points in that part

of West Virginia on and west of a line beginning on the Pennsylvania-West Virginia State line with West Virginia Highway 69, thence along West Virginia Highway 69 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction Highway 60, thence along U.S. Highway 60 to the Virginia-West Virginia State line, restricted against the transportation of traffic originating at or destined to the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E208), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Union County, N.J., on the one hand, and, on the other, points in that part of New York on and north of a line beginning on the Pennsylvania border with New York Highway 282, thence along New York Highway 282 to junction New York Highway 283, thence along New York Highway 283 to junction New York Highway 38, thence along New York Highway 38 to junction New York Highway 79, thence along New York Highway 79 to junction New York Highway 206, thence along New York Highway 206 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 52, thence along New York Highway 52 to the Neversink River, thence along the river to New York Highway 17, thence along New York Highway 17 to junction New York Highway 17K, thence along New York Highway 17K to junction New York Highway 416, thence along New York Highway 416 to junction New York Highway 207, thence along New York Highway 207 to junction New York Highway 208, thence along New York Highway 208 to junction New York Highway 17M, thence along New York Highway 17M to junction New York Highway 17, thence along New York Highway 17 to New York Highway 210, thence along New York Highway 210 to the Palisades Interstate Parkway, thence along the Parkway to

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the New York-New Jersey State line, thence along the New Jersey-New York State line to Interstate Highway 95, thence along Interstate Highway 95 to the east bank of the Hudson River, thence along the River to 125th Street, thence along 125th Street to Bronx County-Queens County Boundary line, thence along the line to Interstate Highway 678, thence along Interstate Highway 678 to the Cross Island Parkway, thence along the Parkway to Interstate Highway 78, thence along Interstate Highway 78 to junction New York Highway 495, thence along New York Highway 495 to Willis Avenue, thence along Willis Avenue to Franklin Street, thence along Franklin Street to Fulton Avenue, thence along Fulton Avenue to New York Highway 24, thence along New York Highway 24 to New York Highway 109, thence along New York Highway 109 to junction New York Highway 27A, thence along New York Highway 27A to the Robert Moses Causeway, thence along the Causeway to Fire Island Inlet, thence through the Inlet to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E209), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Union County, N.J., on the one hand, and, on the other, points in that part of Pennsylvania on and west of a line beginning at the Maryland-Pennsylvania State line with U.S. Highway 220, thence along U.S. Highway 220 to Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to an unnumbered road at its intersection with Interstate Highway 80, thence along the unnumbered road to Pennsylvania Highway 879, thence along Pennsylvania Highway 879 to an unnumbered road just west of Karthaus, thence along the road to Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to Pennsylvania Highway 872, thence along Pennsylvania Highway 872 to an unnumbered road at Wharton, thence along the road to U.S. Highway 6 at

Galeton, thence along U.S. Highway 6 to Towanda, thence along U.S. Highway 220 to New York Highway 17, thence along New York Highway 17 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E210), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Union County, N.J., on the one hand, and, on the other, points in that part of Virginia on and south and west of a line beginning on the Virginia-West Virginia State line with Interstate Highway 81, thence along Interstate Highway 81 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Virginia Highway 50, thence along Virginia Highway 50 to junction Interstate Highway 66, thence along Interstate Highway 66 to Virginia Highway 234, thence along Virginia Highway 234 to junction U.S. Highway 1, thence along U.S. Highway 1 to Woodbridge, the Potomac River and the Maryland-Virginia State line. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E211), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Union County, N.J., on the one hand, and, on the other, points in that part of West Virginia on and west of a line beginning on the West Virginia-Maryland State line with U.S. Highway 522, thence along U.S. Highway 522 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E212), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture of and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, North Dakota, Tennessee, Texas, Vermont, and Wisconsin, restricted against service at the facilities of Celotex Corp. and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E213), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in that part of Connecticut on and east of a line beginning on the Connecticut-Massachusetts State line with Connecticut Highway 181, thence along Connecticut Highway 181 to junction Connecticut Highway 20, thence along Connecticut Highway 20 to junction Connecticut Highway 10, thence along Connecticut Highway 10 to junction Connecticut Highway 4, thence along Connecticut Highway 4 to junction Interstate Highway 84, thence along Interstate Highway 84 to junction Connecticut Highway 72, thence along Connecticut Highway 72 to junction Connecticut Highway 66, thence along Connecticut Highway 66 to junction Connecticut Highway 9, thence along Connecticut Highway 9 to U.S. Highway 1, thence along U.S. Highway 1 to

Saybrook Manor and the Long Island Sound, restricted against service at the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E214), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y., on the one hand, and, on the other, points in that part of Maryland on and west of a line beginning on the Pennsylvania-Maryland State line with an unnumbered road just north of Flintstone, Md., thence along the road to the Maryland-West Virginia State line, restricted against service at the facilities of Celotex Corporation and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E215), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of Massachusetts on and east of a line beginning on the Massachusetts-Connecticut State line with Massachusetts Highway 8, thence along Massachusetts Highway 8 to junction Massachusetts Highway 23, thence along Massachusetts Highway 23 to an unnumbered road at West Otis, thence along the road to Interstate Highway 90, thence along Interstate Highway 90 to the New York-Massachusetts State line, restricted against service at the facilities of Celotex Corp. and Witco Chemical Co., at or near Perth

Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E216), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, North Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of New York on and south of a line beginning on the Pennsylvania-New York State line with New York Highway 52, just west of Narrowsburg, thence along New York Highway 52 to New York Highway 17B, thence along New York Highway 17B to junction New York Highway 55, thence along New York Highway 55 to an unnumbered road at Grahamsville, thence along the road to New York Highway 28A, thence north on New York Highway 28A to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 212, thence along New York Highway 212 to junction U.S. Highway 9W, thence along U.S. Highway 9W to junction New York Highway 23, thence along New York Highway 23 to New York Highway 9G, thence south on New York Highway 9G to junction New York Highway 402, thence along New York Highway 402 to the Taconic State Parkway, thence along the Parkway to Interstate Highway 90, thence along Interstate Highway 90 to the Massachusetts-New York State line, restricted against service at the facilities of Celotex Corp. and Witco Chemical Co. at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E217), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of Virginia on and south of a line beginning on the West Virginia-Virginia State line with U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 340, thence along U.S. Highway 340 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Virginia Highway 54, thence along Virginia Highway 54 to junction U.S. Highway 1,

commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of Pennsylvania on and west of a line beginning on the Maryland-Pennsylvania State line with Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to junction U.S. Highway 220, thence along U.S. Highway 220 to Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction Pennsylvania Highway 53, thence along Pennsylvania Highway 53 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 414, thence along Pennsylvania Highway 414 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 706, thence along Pennsylvania Highway 706 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Pennsylvania Highway 106, thence along Pennsylvania Highway 106 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 652, thence along Pennsylvania Highway 652 to the New York-Pennsylvania State line, restricted against service at the facilities of Celotex Corp. and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E218), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of Virginia on and south of a line beginning on the West Virginia-Virginia State line with U.S. Highway 522, thence along U.S. Highway 522 to junction U.S. Highway 340, thence along U.S. Highway 340 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction Virginia Highway 54, thence along Virginia Highway 54 to junction U.S. Highway 1,



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thence along U.S. Highway 1 to junction Virginia Highway 30, thence along Virginia Highway 30 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction Virginia Highway 684, thence along Virginia Highway 684 to junction U.S. Highway 17, thence along U.S. Highway 17, to junction Virginia Highway 640, thence along Virginia Highway 640 to the Pappahannock River, thence along the River to the Chesapeake Bay, thence across the Bay to Cape Charles, thence along Virginia Highway 184 to junction U.S. Highway 13, thence along U.S. Highway 13 to Cape Charles and the Atlantic Ocean, restricted against service at the facilities at Celotex Corp. and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E219), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and material, equipment, and supplies used in the manufacture and sale of plastic articles (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, N.Y. on the one hand and, on the other, points in that part of West Virginia on and west of a line beginning on the Maryland-West Virginia State line with West Virginia Highway 9 at Great Cacapon, thence along West Virginia Highway 9 to the Hampshire County-Morgan County Boundary line, thence along the County line to the Virginia-West Virginia State line, restricted against service at the facilities of Celotex Corp. and Witco Chemical Co., at or near Perth Amboy, N.J. The purpose of this filing is to eliminate the gateway of Ridgefield, N.J.

No. MC 8973 (Sub-No. E220), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and materials, equipment, and supplies used in the manufacture and sale of plastic articles (except those commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in

bulk, and commodities requiring special equipment), from points in Connecticut to points in Delaware and Ohio. The purpose of this filing is to eliminate the gateways of Ridgefield, N.J. and Woodbridge, N.J.

No. MC 8973 (Sub-No. E221), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose*, in mixed loads with plastic pellets, in bulk, and materials, equipment, and supplies used in the manufacture and sale of plastic articles (except those commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Connecticut to points in that part of New Jersey on and south of a line beginning on the New Jersey-Pennsylvania State line with U.S. Highway 22, thence along U.S. Highway 22 to Interstate Highway 78, thence along Interstate Highway 78 to junction New Jersey Secondary Highway 531, thence along New Jersey Secondary Highway 531 to junction New Jersey Highway 28, thence along New Jersey Highway 28 to an unnumbered road at Garwood, thence along the road to the Garden State Parkway, thence along the Parkway to the Union County-Middlesex County Boundary line, thence along the line to the State boundary. The purpose of this filing is to eliminate the gateways of Ridgefield, N.J. and Woodbridge, N.J.

No. MC 8973 (Sub-No. E222), filed December 17, 1976. Applicant: METROPOLITAN TRUCKING, INC., 2424 95th Street, N. Bergen, N.J. 07047. Applicant's representative: E. Stephen Heisley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic hose* in mixed loads with plastic pellets, in bulk, and materials, equipment, and supplies used in the manufacture and sale of plastic articles (except those commodities of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in Delaware to points in Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Ridgefield, N.J. and Woodbridge, N.J.

No. MC 59292 (Sub-No. E20), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J.

Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, liquor requiring special permit, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Montgomery County, Md. on the one hand and, on the other, points in Maryland and Pennsylvania within 150 miles of Brunswick, Md., and on and north of a line beginning near Brave, Pa. on the Pennsylvania-West Virginia State line and continuing to the Maryland-West Virginia State line to Interstate Highway 81, to junction Maryland Highway 68, to junction U.S. Highway 40, to junction U.S. Highway 15, to junction U.S. Highway 11, to junction U.S. Highway 322, to Pennsylvania Highway 39, to junction U.S. Highway 22, to junction Pennsylvania Highway 419, to junction Pennsylvania Highway 183, to junction Pennsylvania Highway 443, to junction Pennsylvania Highway 895, to junction Pennsylvania Highway 61, to junction Interstate Highway 78 to a point near Glendon, Pa., at or near the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of Frederick, Md.

No. MC 59292 (Sub-No. E22), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silos, silo parts, and materials, and supplies* used by silo manufacturing plants, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Delaware, on the one hand, and, on the other, points in Maryland, New York, Pennsylvania, Virginia, and West Virginia on and west of a line beginning at Olcott, N.Y., York and Lake Ontario and extending along New York Highway 78 to junction New York Highway 16, to junction New York Highway 98, to junction U.S. Highway 219, to junction Pennsylvania Highway 46, to junction U.S. Highway 6, to junction Pennsylvania Highway 155, to junction Pennsylvania Highway 120, to junction U.S. Highway 219 to junction Pennsylvania Highway 729, to junction Pennsylvania Highway 53, to junction Pennsylvania Highway 253, to junction Pennsylvania Highway 453, to junction Pennsylvania Highway 45, to junction Pennsylvania Highway 350 to junction U.S. Highway 22, to junction U.S.

Highway 522, to junction U.S. Highway 30, to junction U.S. Highway 11, to junction Pennsylvania Highway 316, to junction Pennsylvania Highway 997, to junction Maryland Highway 64, to junction Maryland Highway 77, to junction Maryland Highway 550 to junction Maryland Highway 26, to junction Maryland Highway 75, to junction Maryland Highway 80 to junction Maryland Highway 85, to junction Maryland Highway 28, to junction U.S. Highway 15 to the Virginia-North Carolina State line. The purpose of this filing to eliminate the gateway of Frederick, Md.

No. MC 59292 (Sub-No. E26), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, liquor requiring special permit, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between points in Montgomery County, Md., on the one hand, and, on the other, (1) points in Lawrence and Butler Counties, Pa. on and south of U.S. Highway 422, and (2) points in Allegheny, Washington, Greene, and Beaver Counties, Pa., restricted in (1) and (2) above, against service to points within 150 miles of Brunswick, Md. The purpose of this filing is to eliminate the gateway of Frederick, Md., and Pittsburgh, Pa.

No. MC 59292 (Sub-No. E27), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise* as is dealt in by wholesale grocery business houses, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, livestock, films, alcoholic beverages, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, points in Maryland, Pennsylvania, and Virginia within 150 miles of Brunswick, Md., and on and west of a line beginning north of Brookville, Pa. and extending along Pennsylvania Highway 36, to junction Pennsylvania Highway 164, to junction Pennsylvania Highway 26, to junction Pennsylvania Highway 915, to junction U.S.

Highway 30, to junction U.S. Highway 522, to junction Pennsylvania Highway 16, to the Pennsylvania-Maryland State line continuing on Maryland Highway 97 to junction U.S. Highway 15 to junction Maryland Highway 76 to junction Maryland Highway 77, to junction Maryland Highway 194 to junction Maryland Highway 550, to junction Maryland Highway 26, to junction Maryland Highway 27, to junction Maryland Highway 80, to junction Maryland Highway 85, to junction Maryland Highway 28, to junction U.S. Highway 15, to junction Virginia Highway 7, to junction Virginia Highway 123, to junction Interstate Highway 66, to junction Virginia Highway 28, to junction U.S. Highway 15 to junction U.S. Highway 522 to junction U.S. Highway 33, to junction Interstate Highway 95, to junction Virginia Highway 10, to junction Virginia Highway 36, to junction Interstate Highway 95 to a point near Stony Creek, Va. The purpose of this filing is to eliminate the gateway of Frederick, Md., and Baltimore, Md.

No. MC 59292 (Sub-No. E28), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise* as is dealt in by wholesale grocery business houses, except those of unusual value, Classes B and B explosives, livestock, films, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, (1) points in Lawrence and Butler Counties, Pa., on and south of U.S. Highway 422, and (2) points in Allegheny, Washington, Greene and Beaver Counties, Pa., restricted in (1) and (2) above, against service to points within 150 miles of Brunswick, Md. The purpose of this filing is to eliminate the gateways of Baltimore, Md., Frederick, Md., and Pittsburgh, Pa.

No. MC 59292 (Sub-No. E29), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, Classes A and B explosives, livestock, films, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and

those injurious or contaminating to other lading, between Frederick, Md., on the one hand, and, on the other, Atlantic City, N.J., Ocean City, Md., and Roebling, N.J. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 59292 (Sub-No. E30), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such general merchandise* as is dealt in by wholesale grocery business houses, except those of unusual value, Classes A and B explosives, livestock, films, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Philadelphia, Pa., on the one hand, and, on the other, points in Pennsylvania, Maryland, Virginia, and West Virginia, within 150 miles of Brunswick, Md., on and west of a line beginning at a point near Worthington, Pa. and extending along U.S. Highway 422 to junction Pennsylvania Highway 66, to junction Pennsylvania Highway 819, to junction Interstate Highway 76, to junction U.S. Highway 219 to the Pennsylvania-Maryland State line and extending along U.S. Highway 48 to junction U.S. Highway 40, to junction Interstate Highway 70, to junction U.S. Highway 15, to junction U.S. Highway 522, to junction U.S. Highway 33, to junction Interstate Highway 95, to junction Virginia Highway 10, to junction Interstate Highway 95 to a point near Stony Creek, Va. The purpose of this filing is to eliminate the gateway of Baltimore, Md., and Brunswick, Md.

No. MC 59292 (Sub-No. E31), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *lumber*, except commodities of unusual value, and those commodities requiring special equipment, from Petersburg, Va., to points, in Maryland, Pennsylvania, Delaware, New Jersey, Virginia, and West Virginia within 150 miles of Brunswick, Md., and located on and north of a line beginning near Clarksburg, W. Va., and extending along U.S. Highway 50 to junction U.S. Highway 15, to junction Maryland Highway 28, to junction Maryland Highway 109, to junction Maryland Highway 75, to junction Mary-



land Highway 123, to junction Maryland Highway 122, to junction Maryland Highway 27, to junction Maryland Highway 482, to junction Maryland Highway 30, to junction Maryland Highway 88, to junction Maryland Highway 25, to junction Maryland Highway 137, to junction Interstate Highway 83, to junction Pennsylvania Highway 851, to junction Pennsylvania Highway 74, to junction Pennsylvania Highway 372, to junction Pennsylvania Highway 472, to junction U.S. Highway 1, to junction Pennsylvania Highway 41, to junction U.S. Highway 13, to junction Interstate Highway 295, to junction the Delaware River, thence along the Delaware River to a point near Bristol, Pa. The purpose of this filing is to eliminate the gateway of Brunswick, Md.

No. MC 59292 (Sub-No. E32), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, except commodities of unusual value, commodities in bulk, and those requiring special equipment, for Petersburg, Va. to (1) points in Lawrence and Butler Counties, Pa., on and south of U.S. Highway 422, and (2) points in Allegheny, Washington, Greene, and Beaver Counties, Pa., restricted in (1) and (2) above, against service to points within 150 miles of Brunswick, Md. The purpose of this filing is to eliminate the gateway of Brunswick, Md., and Pittsburgh, Pa.

No. MC 59292 (Sub-No. E33), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and lumber products, except commodities in bulk, those of unusual value, household goods as defined by the Commission, and those requiring special equipment from Baltimore, Md., to points in Virginia, Pennsylvania, and Maryland within 150 miles of Brunswick, Md., and located on and west of a line beginning near Eagles Mere, Pa. and extending along Pennsylvania Highway 87 to junction Pennsylvania Highway 973, thence along Pennsylvania Highway 973 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction Pennsylvania Highway 284, thence along Pennsylvania Highway 284 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction U.S. Highway 220,

thence along U.S. Highway 220 to junction Pennsylvania Highway 144, thence along Pennsylvania Highway 144 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Pennsylvania Highway 641, thence along Pennsylvania Highway 641 to junction Pennsylvania Highway 433, thence along Pennsylvania Highway 433 to junction Pennsylvania Highway 533, thence along Pennsylvania Highway 533 to junction Pennsylvania Highway 696, thence along Pennsylvania Highway 696 to junction Pennsylvania Highway 997, thence along Pennsylvania Highway 997 to the Pennsylvania-Maryland State line, thence extending along Maryland Highway 64 to junction Maryland Highway 153, to junction Maryland Highway 355, to junction Maryland Highway 80, to junction Maryland Highway 85, to junction Maryland Highway 28, to junction U.S. Highway 15, to junction Virginia Highway 7, to junction Virginia Highway 659, to junction Virginia Highway 647, to junction Virginia Highway 642, to junction Virginia Highway 659, to junction U.S. Highway 50, to junction Virginia Highway 626, to junction Virginia Highway 55, to junction Virginia Highway 647, to junction U.S. Highway 522, to junction Virginia Highway 231, to junction Virginia Highway 230, to junction Virginia Highway 20, to junction Virginia Highway 604, to junction Virginia Highway 608, to junction Virginia Highway 601, to junction Virginia Highway 652, to junction Virginia Highway 719, to junction U.S. Highway 522, to junction Virginia Highway 1002, to junction Virginia Highway 13, to junction Virginia Highway 609, to a point near Blackstone, Va. The purpose of this filing is to eliminate the gateway of Frederick, Md.

No. MC 59292 (Sub-No. E34), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and lumber products (except commodities in bulk, those of unusual value, household goods as defined by the Commission, and those requiring special equipment), from Washington, D.C., to points in Pennsylvania and Maryland within 150 miles of Brunswick, Md., located on and north of a line beginning at the Pennsylvania-West Virginia State line near Garrison, Pa., extending along the Pennsylvania-West Virginia State line to the Pennsylvania-Maryland State line, then continuing along the Maryland-

West Virginia State line to junction Maryland Highway 34, to junction U.S. Highway 40, thence to junction Maryland Highway 75, thence to junction Maryland Highway 26, thence to junction Maryland Highway 31, thence to junction Maryland Highway 97, thence to junction Maryland Highway 194, thence to the Maryland-Pennsylvania State line, extending along Pennsylvania Highway 194 to junction Pennsylvania Highway 216, thence to junction Pennsylvania Highway 116, thence to junction U.S. Highway 30, thence to junction Pennsylvania Highway 462, thence to junction Pennsylvania Highway 23, thence to junction Pennsylvania Highway 100, thence to junction Interstate Highway 78, thence to a point near Glendon, Pa. The purpose of this filing is to eliminate the gateway of Frederick, Md.

No. MC 59292 (Sub-No. E35), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and lumber products (except commodities in bulk, those of unusual value, household goods as defined by the Commission, and those requiring special equipment), from Baltimore, Md., to (1) points in Lawrence and Butler Counties, Pa., on and south of U.S. Highway 422, and (2) points in Allegheny, Washington, Greene, and Beaver Counties, Pa., restricted in (1) and (2) above against service to points within 150 miles of Brunswick, Md. The purpose of this filing is to eliminate the gateway of Frederick, Md., and Pittsburgh, Pa.

No. MC 59292 (Sub-No. E36), filed June 4, 1974. Applicant: THE MARYLAND TRANSPORTATION CO., 1111 Frankfur Avenue, Baltimore, Md. 21225. Applicant's representative: Charles J. Braun, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber and lumber products (except commodities in bulk, those of unusual value, household goods as defined by the Commission, and those requiring special equipment), from Washington, D.C., to (1) points in Lawrence and Butler Counties, Pa., which are on and south of U.S. Highway 422, and (2) points in Allegheny, Washington, Greene, and Beaver Counties, Pa., restricted in (1) and (2) above against service to points within 150 miles of Brunswick, Md. The purpose of this filing is to eliminate the gateway of Frederick, Md., and Pittsburgh, Pa.

No. MC 61825 (Sub-No. E1182), filed May 13, 1974. Applicant: ROY STONE

TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from points in Henry County, Va., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Martinsville, Va., and Elizabeth City, N.C.

No. MC 61825 (Sub-No. E1183), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Furniture parts (except commodities in bulk), from points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, those points in Vermont on and east of a line beginning at the United States-Canadian International Boundary line, and extending along Vermont Highway 114, to junction U.S. Highway 5, to junction Vermont Highway 11, to junction U.S. Highway 7, to junction Vermont Highway 9, thence along Vermont Highway 9 to the Vermont-New York State line; those points in New York, on and east of a line beginning at the New York-Vermont State line, and extending along New York Highway 7, to junction U.S. Highway 9W, to junction New York Highway 32, to junction New York Highway 23, to junction New York Highway 30, to junction New York Highway 17, thence along New York Highway 17 to the New York-Pennsylvania State line; those points in Pennsylvania on and east of a line beginning at the Pennsylvania-New York State line, and extending along Pennsylvania Highway 370, to junction Pennsylvania Highway 247, to junction U.S. Highway 6, to junction Interstate Highway 81, to junction U.S. Highway 22, to junction U.S. Highway 11, thence along U.S. Highway 11, to the Pennsylvania-Virginia State line; those points in Virginia on and east of a line beginning at the Virginia-Pennsylvania State line, and extending along U.S. Highway 11 to junction Virginia Highway 16, to junction Virginia Highway 614, to junction Virginia Highway 749, to junction U.S. Highway 21, to junction Virginia Highway 805, to junction Virginia Highway 94, to junction U.S. Highway 58, to the Atlantic Ocean, to points in Alabama, Arizona, Arkansas, California, Idaho, Louisiana, Mississippi, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and points in

North Carolina, Virginia, and those points in North Dakota on and west of a line beginning at the United States-Canadian International Boundary line and extending along U.S. Highway 85 to junction North Dakota Highway 200, thence along North Dakota Highway 200 to the North Dakota-Montana State line; those points in Montana on and west of a line beginning at the Montana-North Dakota State line and extending along Montana Highway 200, to junction Montana Highway 16, to junction U.S. Highway 10, to junction U.S. Highway 312, to junction U.S. Highway 212, to junction Montana Highway 59, thence along Montana Highway 59 to the Montana-Wyoming State line; those points in Wyoming on and west of a line beginning at the Wyoming-Montana State line, and extending along Wyoming Highway 59, to junction U.S. Highway 87, thence along U.S. Highway 87 to the Wyoming-Colorado State line; those points in Colorado on and west of a line beginning at the Colorado-Wyoming State line, and extending along U.S. Highway 85 to junction U.S. Highway 34, to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Nebraska State line, those points in Nebraska on and west of a line beginning at the Nebraska-Colorado State line, and extending along U.S. Highway 6 to junction U.S. Highway 83, to the Nebraska-Kansas State line; those points in Kansas on and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 83 to junction U.S. Highway 36, to junction U.S. Highway 281, to junction U.S. Highway 24, thence along U.S. Highway 24 to the Kansas-Missouri State line; those points in Missouri on and west and south of a line beginning at the Missouri-Kansas State line, and extending along Missouri Highway 7, to junction U.S. Highway 50, to junction U.S. Highway 63, to junction Missouri Highway 68, to junction Missouri Highway 8, to junction U.S. Highway 67, to junction Missouri Highway 32, to junction U.S. Highway 61, to junction Missouri Highway 51, thence along Missouri Highway 51 to the Missouri-Illinois State line; those points in Illinois on and west and south of a line beginning at the Illinois-Missouri State line, and extending along Illinois Highway 3, to junction Illinois Highway 149, to junction Illinois Highway 13, to junction U.S. Highway 51, to junction Illinois Highway 14, to junction U.S. Highway 460, thence along U.S. Highway 460 to the Illinois-Indiana State line; those points in Indiana on and south of a line beginning at the Indiana-Illinois State line, and extending along U.S. Highway 460 to junction Indiana Highway 66, to junction U.S. Highway 231, thence along U.S. Highway 231 to the Indiana-Kentucky State line; those

points in Kentucky on and south and west of a line beginning at the Kentucky-Indiana State line, and extending along Kentucky Highway 54, to junction Kentucky Highway 259, to junction Kentucky Highway 80, to junction Kentucky Highway 15, to junction U.S. Highway 119, to junction U.S. Highway 23, to junction U.S. Highway Alternate 58, to junction U.S. Highway 19, to junction U.S. Highway 19W, to junction U.S. Highway 411, to junction U.S. Highway 441, to junction U.S. Highway 64, thence along U.S. Highway 64 to the Kentucky-North Carolina State line; those points in North Carolina on and west of a line beginning at the North Carolina-Kentucky State line, and extending along North Carolina Highway 69 to junction U.S. Highway 76, thence along U.S. Highway 76 to the North Carolina-Georgia State line; those points in Georgia on and west of a line beginning at the Georgia-North Carolina State line, and extending along North Carolina Highway 69 to junction U.S. Highway 76, to junction Georgia Highway 52 to junction U.S. Highway 41, to junction Georgia Highway 53, to junction U.S. Highway 24, to the Chattahoochee River at Columbus, Ga., to the Apalachicola River, to the Gulf of Mexico.

The purpose of this filing is to eliminate the gateway of Smyth County, Va.

No. MC 61825 (Sub-No. E1184), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Furniture parts, except commodities in bulk, from points in North Carolina and Virginia on and bounded by a line beginning at Virginia Beach, Va., and extending west along U.S. Highway 58 to junction Virginia Highway 93, to junction North Carolina Highway 93, to junction U.S. Highway 21, to junction North Carolina Highway 67, to junction U.S. Highway 601, to junction North Carolina Highway 801, to junction U.S. Highway 64, to junction North Carolina Highway 8, to junction North Carolina Highway 47, to junction North Carolina Highway 109, to junction North Carolina Highway 27, to junction U.S. Highway 220, to junction North Carolina Highway 211, to junction North Carolina Highway 20, to junction North Carolina Highway 87, to junction U.S. Highway 76, to junction U.S. Highway 421, to the Atlantic Ocean, and thence north along the Atlantic Ocean Coast to the point of beginning, to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Montana,



Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming, and those points in Alabama, Louisiana, Mississippi, Ohio, Tennessee, Virginia and West Virginia on and west of a line beginning at the United States-Canadian International Boundary line near Sault Ste. Marie, Mich., and extending south along the eastern coast of Michigan to Lexington, Mich., thence west along Michigan Highway 90 to junction Michigan Highway 24, to junction Michigan Highway 46, to junction Michigan Highway 52, to junction Michigan Highway 57, to junction Michigan Highway 66, to junction Interstate Highway 94, to junction U.S. Highway 27, to junction U.S. Highway 12, to junction Michigan Highway 49, to junction Ohio Highway 34, to junction Ohio Highway 15, to junction Ohio Highway 65, to junction U.S. Highway 30-N, to junction Ohio Highway 235, to junction U.S. Highway 30-S, to junction Ohio Highway 31, to junction U.S. Highway 33, to junction U.S. Highway 23, to junction U.S. Highway 35, to junction West Virginia Highway 34, to junction West Virginia Highway 3, to junction West Virginia Highway 10, to junction West Virginia Highway 80, to junction West Virginia Highway 83, to junction West Virginia Highway 16, to junction Virginia Highway 16, to junction Interstate Highway 81, to junction Interstate Highway 40, to junction U.S. Highway 11, to junction U.S. Highway 72 Alternate, to junction U.S. Highway 31, to junction Alabama Highway 24, to junction Mississippi Highway 23, to junction U.S. Highway 78, to junction Mississippi Highway 6, to junction Mississippi Highway 15, to junction Mississippi Highway 19, to junction U.S. Highway 11 to New Orleans, La., and thence along the Mississippi River to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-No. E1185), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Furniture parts*, except commodities in bulk, from points in North Carolina, South Carolina, and Virginia on and bounded by a line beginning at the Atlantic Ocean at U.S. Highway 421, thence northwest along U.S. Highway 421 to junction U.S. Highway 76, to junction North Carolina Highway 87, to junction North Carolina Highway 20, to junction North Carolina Highway 211, to junction U.S. Highway 220,

to junction North Carolina Highway 27, to junction North Carolina Highway 109, to junction North Carolina Highway 47, to junction North Carolina Highway 8, to junction U.S. Highway 64, to junction North Carolina Highway 801, to junction U.S. Highway 601, to junction North Carolina Highway 67, to junction U.S. Highway 21, to junction North Carolina Highway 93, to junction Virginia Highway 16 to Smyth County, Va. thence in a southeast direction along Virginia Highway 16 to junction North Carolina Highway 113, to junction North Carolina Highway 18, to junction North Carolina Highway 16, to junction U.S. Highway 321, to junction U.S. Highway 21, to the Atlantic Ocean, thence northeast along the coast of South Carolina and North Carolina to the point of beginning, to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming, and those points in Illinois, Indiana, Kentucky, Missouri, New York, Oklahoma, Pennsylvania, Texas, Virginia, and West Virginia on and west of a line beginning at the Canadian-United States International Boundary line at U.S. Highway 62, thence south along U.S. Highway 62 to junction Pennsylvania Highway 36, to junction Pennsylvania Highway 66, to junction U.S. Highway 322, to junction Pennsylvania Highway 68, to junction Pennsylvania Highway 66, to junction Interstate Highway 70, to junction Pennsylvania Highway 819, to junction U.S. Highway 119, to junction U.S. Highway 19 to Bluefield, W. Va., to junction Virginia Highway 16 to Smyth County, Va., and points west and north of a line beginning at Smyth County, Va. and extending along Virginia Highway 16 to junction U.S. Highway 460, to junction Kentucky Highway 80, to junction U.S. Highway 421, to junction Interstate Highway 75, to junction Kentucky Highway 52, to junction U.S. Highway 150, to junction U.S. Highway 62, to junction U.S. Highway 31-W, to junction U.S. Highway 60, to junction U.S. Highway 60 Bypass, to junction Kentucky Highway 56, to junction Illinois Highway 13, to junction Illinois Highway 149, to junction Illinois Highway 3, to junction Missouri Highway 51, to junction Missouri Highway 72, to junction Missouri Highway 106, to junction Missouri Highway 17, to junction Missouri Highway 38, to junction U.S. Highway 66, to junction Interstate Highway 44, to junction U.S. Highway 62, to junction U.S. Highway 87, to junction Texas Highway 349, to junction U.S. Highway 90 to the Terrell-Val Verde County line, thence south along the Terrell-Val Verde County line to the

Texas-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va.

No. MC 61825 (Sub-No. E1194), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, commodities requiring special equipment, from points in Maine on and north of a line beginning at the New Hampshire-Maine State line and extending along Maine Highway 16 to junction Maine Highway 4-16, to junction Maine Highway 4, to junction Maine Highway 142, to junction Maine Highway 16, to junction Maine Highway 6-16, to junction Maine Highway 6-155, to junction U.S. Highway 2, to junction Maine Highway 6, to junction U.S. Highway 1 to the United States-Canadian International Boundary line, to points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1195), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, liquid commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from points in Maine on and south of a line beginning at the New Hampshire-Maine State line and extending along Maine Highway 16, to junction Maine Highway 4-16, to junction Maine Highway 4, to junction Maine Highway 142, to junction Maine Highway 16, to junction Maine Highway 6-16, to junction Maine Highway 6-155, to junction U.S. Highway 2, to junction Maine Highway 6, to junction U.S. Highway 1 to the United States-Canadian International Boundary line, to points in Mississippi on, south, and west of a line beginning at the Arkansas-Mississippi State line, and extending along U.S. Highway 82 to junction U.S. Highway 51, to junction Mississippi Highway 35, to junction Mississippi Highway 28, to junction U.S. Highway 84 to the Mississippi-Al-

abama State line. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, Va., and Martinsville, Va.

No. MC 78228 (Sub-No. E223), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Pennsylvania on or west of a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line to points in Kentucky. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E224), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in New York on or west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line to points in Kentucky. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E225), filed September 25, 1977. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of West Virginia bounded by a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 40 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction West Virginia Highway 7, thence along West Virginia Highway 7 to junction U.S. Highway 250 to Fairmont, W. Va., thence along U.S. Highway 19 to Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the place of be-

ginning to points in Kentucky south or west of a line beginning at the Indiana-Kentucky State line, thence along Interstate Highway 65 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E226), Filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Ohio bounded by a line beginning at Lake Erie, thence along the Lake Erie-Ohio Border to Cleveland, Ohio, thence along Ohio Highway 14 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction Ohio Highway 18, thence along Ohio Highway 18 to junction Interstate Highway 77, thence along Interstate Highway 77 to Canton, Ohio, thence along U.S. Highway 30 to junction Ohio Highway 43, thence along Ohio Highway 43 to junction Ohio-West Virginia State line, thence along Ohio-West Virginia State line to junction Ohio-Pennsylvania State line, thence along Ohio-Pennsylvania State line to the place of beginning to points in Kentucky on or west of a line beginning to points in Kentucky on or west of a line beginning at the Kentucky-Indiana State line, thence along U.S. Highway 231 to junction Interstate Highway 65, thence along Interstate Highway 65 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E227), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to junction U.S. Highway 422, thence along U.S. Highway 422 to New Castle, Pa., thence along Pennsylvania Highway 108, to junction Pennsylvania Highway 8, thence along Pennsylvania Highway 8 to Franklin, Pa., thence along U.S. Highway 62 to Warren, Pa., thence along

Pennsylvania Highway 59 to junction U.S. Highway 219, thence along U.S. Highway 219 to the place of beginning to points in Michigan on or north of a line beginning at Lake Huron, thence along Michigan Highway 32 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E228), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, dump vehicles, from points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 68 to Clarion, Pa., thence along Interstate Highway 80 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line, thence along Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in that part of Michigan beginning at Lake Huron, thence along Michigan Highway 21 to Flint, Mich., thence along Michigan Highway 56 to junction Michigan Highway 21, thence along Michigan Highway 21 to Grand Rapids, Mich., thence along U.S. Highway 131 to junction Interstate Highway 96, thence along Interstate Highway 96 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E229), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Pennsylvania bounded by a line beginning at Butler, Pa., thence along Pennsylvania Highway 68 to junction Pennsylvania Highway 861, thence along Pennsylvania Highway 861 to junction Pennsylvania Highway 536, thence along Pennsylvania Highway 536 to junction Pennsylvania Highway 36, thence along Pennsylvania Highway 36 to Punxsutawney, Pa., thence along U.S. Highway 119 to Dubois, Pa., thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line, thence along Pennsylvania-West Virginia State line to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 40, thence along U.S. Highway 40 to Washington,



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Pa., thence along U.S. Highway 19 to Pittsburgh, Pa., thence along Pennsylvania Highway 8 to the place of beginning to points in Michigan. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E230), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 62 to Mercer, Pa., thence along Pennsylvania Highway 965 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Pennsylvania-New York State line, thence along Pennsylvania-New York State line to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to junction Pennsylvania-Ohio State line, thence along Pennsylvania-Ohio State line to the place of beginning to points in Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E231), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in New York on or west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line, to points in Michigan on or north of a line beginning at Lake Huron, thence along Michigan Highway 142 to junction Michigan Highway 25, thence along Michigan Highway 25 to Bay City, Mich., thence along U.S. Highway 10 to junction Michigan Highway 20, thence along Michigan Highway 20 to junction Michigan Highway 37, thence along Michigan Highway 37 to junction Michigan Highway 46, thence along Michigan Highway 46 to Lake Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E232), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in New York bounded by a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, New York, thence along U.S. Highway 20 to Leicester, New York, thence along New York Highway 36 to junction New York Highway 63 to Batavia, N.Y., thence along New York Highway 98 to New York Highway 31, thence along New York Highway 31 to the New York-Canadian International border line, thence along the International Boundary line between the United States and Canada to Lake Ontario, thence along Lake Ontario to the place of beginning to points in Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E233), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Ohio bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Ohio Highway 82 to Warren, Ohio, thence along Ohio Highway 45 to junction Ohio Highway 9, thence along Ohio Highway 9 to junction Ohio Highway 43, thence along Ohio Highway 43 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Ohio-West Virginia State line, thence along Ohio-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in Michigan on or north of a line beginning at Lake Huron, thence along Michigan Highway 55 to Lake Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E234), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in West Virginia bounded by a line beginning at the Pennsylvania-West Virginia

State line, thence along U.S. Highway 22 to junction West Virginia Highway 2, thence along West Virginia Highway 2 to junction West Virginia Highway 18, thence along West Virginia Highway 18 to junction U.S. Highway 50, thence along U.S. Highway 50 to the West Virginia-Maryland State line, thence along the West Virginia-Maryland State line to the West Virginia-Pennsylvania State line, thence along West Virginia-Pennsylvania State line to the place of beginning to points in Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E235), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in West Virginia on or north of U.S. Highway 50, to points in Michigan on or north of a line beginning at Bay City, Mich., thence along U.S. Highway 10 to Midland, Mich., thence along Michigan Highway 20 to junction U.S. Highway 131, thence along U.S. Highway 131 to junction Michigan Highway 57, thence along Michigan Highway 57 to junction Michigan Highway 46, thence along Michigan Highway 46 to Lake Michigan. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E236), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Ohio on and west of a line beginning at Lake Erie, thence along U.S. Highway 250 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line, to points in Pennsylvania (except Philadelphia, Pa., and points in its commercial zone) on and east of a line beginning at the Pennsylvania-New York State line, thence along Pennsylvania Highway 244 to junction Pennsylvania Highway 49, thence along Pennsylvania Highway 49 to junction Pennsylvania Highway 44, thence along Pennsylvania Highway 44 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Pennsylvania Highway 155, thence along Pennsylvania Highway 155 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to junction U.S.

Highway 219, thence along U.S. Highway 219 to the Pennsylvania-West Virginia State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E237), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, from points in West Virginia on or north of U.S. Highway 50 to points in Pennsylvania on or north and east of a line beginning at the Pennsylvania-New Jersey State line, thence along U.S. Highway 219 to junction Pennsylvania Highway 59, thence along Pennsylvania Highway 59 to junction U.S. Highway 6, thence along U.S. Highway 6 to Wellsboro, Pa., thence along Pennsylvania Highway 287, to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 442, thence along Pennsylvania Highway 442 to junction Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to Ashland, Pa., thence along Pennsylvania Highway 54 to junction U.S. Highway 209, thence along U.S. Highway 209 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E238), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 62 to Mercer, Pa., thence along Pennsylvania Highway 58 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 68, thence along Pennsylvania Highway 68 to Clarion, Pa., thence along U.S. Highway 322 to junction Pennsylvania Highway 66, thence along U.S. Pennsylvania Highway 66 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, thence along Pennsylvania-New York State line to the Pennsylvania-Ohio State line, thence along Pennsylvania-Ohio State line to the place of beginning to points in West Virginia on and south of a line beginning at the West Virginia-Ohio

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State line, thence along U.S. Highway 50 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E239), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 68 to Butler, Pa., thence along U.S. Highway 422 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in West Virginia on and south of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 60 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E240), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of New York on or west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A, to the New York-Pennsylvania State line to points in West Virginia on or south of a line beginning at the West Virginia-Ohio border, thence along U.S. Highway 50 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E241), filed September 25, 1975. Applicant: J.

MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Ohio on or north of a line beginning at the Pennsylvania-Ohio State line, thence along Ohio Highway 39 to East Liverpool, Ohio, thence along U.S. Highway 30 to the Ohio-Indiana State line, to points in West Virginia on or east of a line beginning at the Pennsylvania-West Virginia State line, thence along U.S. Highway 19 to junction U.S. Highway 33, thence along U.S. Highway 33 to Elkins, W. Va., thence along U.S. Highway 219 to junction West Virginia Highway 39, thence along West Virginia Highway 39 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E242), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Ohio bounded by a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 20 to junction Ohio Highway 44, thence along Ohio Highway 44 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Ohio Highway 39, thence along Ohio Highway 39 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning at points in West Virginia on or south of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 50 to the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E243), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Pennsylvania (except Philadelphia, Pa., and points in its commercial zone) on or east of a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 219 to the Pennsylvania-



Maryland State line. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E244), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicone scrap metals*, in dump vehicles, from points in that part of Ohio south or west of a line beginning at Lake Erie, thence along U.S. Highway 322 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the Ohio-West Virginia State line thence along the Ohio-West Virginia State line to the Ohio-Kentucky State line points Vermont. The purpose of this filing is to eliminate the gateway of East Liverpool, Ohio.

No. MC 78228 (Sub-No. E245), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in that part of Ohio south or west of a line beginning at Lake Erie, thence along U.S. Highway 322 to the Pennsylvania-Ohio State line, thence along Pennsylvania-Ohio State line to the Ohio-West Virginia State line, thence along the Ohio-West Virginia State line to the Ohio-Kentucky State line to points in New Hampshire. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E246), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in that part of West Virginia on or north of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 50 to West Virginia-Maryland State line to points in Vermont. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E247), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate

as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in that part of West Virginia on or north of a line beginning at the West Virginia-Ohio State line, thence along U.S. Highway 50 to the West Virginia-Maryland State line to points in New Hampshire. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E248), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in Vermont, to points in Michigan. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E249), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in that part of Maine on or north of a line beginning at the Maine-New Hampshire State line, thence along U.S. Highway 2 to junction Maine Highway 26, thence along Maine Highway 26 to junction with Maine Highway 121, thence along Maine Highway 121 to Auburn, Me., thence along U.S. Highway 202 to Augusta, Me., thence along Maine Highway 9 to the International Boundary line between the United States and Canada, to points in Ohio on or west of a line beginning at or near Lake Erie, thence along Ohio Highway 19 to junction Ohio Highway 53, thence along Ohio Highway 53 to junction U.S. Highway 23, thence along U.S. Highway 23 to the Ohio-Kentucky State line. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 78228 (Sub-No. E250), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in New Hampshire to points in Michigan. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E251), filed September 25, 1975. Applicant: J.

MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in Vermont to points in Kentucky. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E252), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in New Hampshire, to points in Kentucky. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E253), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in Vermont, to points in that part of West Virginia on and west of Route 522. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E254), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys and silicon scrap metals*, in dump vehicles, from points in New Hampshire, to points in that part of West Virginia on and west of Route 522. The purpose of this filing is to eliminate the gateway of Braddock, Pa.

No. MC 78228 (Sub-No. E255), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Maine, to points in Michigan. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 78228 (Sub-No. E256), filed September 25, 1975. Applicant: J.

MILLER EXPRESS, 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, (except scrap metals), in dump vehicles, from points in Maine to points in Indiana. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 78228 (Sub-No. E257), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Maine to points in that part of Kentucky north or west of a line beginning at the Kentucky-Ohio State line, thence along U.S. Highway 23 to junction Kentucky Highway 460, thence along Kentucky Highway 460 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Braddock, Pa., and Niagara Falls, N.Y.

No. MC 78228 (Sub-No. E258), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Maine to points in that part of West Virginia bounded by a line beginning at the West Virginia-Kentucky State line, thence along Interstate Highway 64 to junction U.S. Highway 119, thence along U.S. Highway 119 to Logan, W. Va., thence along West Virginia Highway 65 to the West Virginia-Kentucky State line, thence along the West Virginia-Kentucky State line to the place of beginning. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 78228 (Sub-No. E259), filed September 25, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alloys, ores, and silicon metals*, in dump vehicles, from points in Maine

to points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 68 to Butler, Pa., thence along Pennsylvania Highway 8 to Pittsburgh, Pa., thence along U.S. Highway 19 to Washington, Pa., thence along Interstate Highway 70 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line, to the point of beginning. The purpose of this filing is to eliminate the gateway of Niagara Falls, N.Y.

No. MC 83539 (Sub-No. E408), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and, related machinery parts, *related contractors' materials and supplies* when moving in mixed loads with such commodities, between points in Indiana, on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points in Pennsylvania.

No. MC 83539 (Sub-No. E409), filed May 31, 1974. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and *related machinery, parts, related contractors' materials, and supplies* when moving in mixed loads with such commodities, between points in Indiana, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of points in Pennsylvania.

No. MC 83539 (Sub-No. E410), filed May 31, 1974. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and *related parts*, when moving in mixed loads with such commodities, (A) between points in that part of Indiana in, west and south of Vigo, Clay, Owen, Greene, Martin, Dubois, and Perry Counties, on the one hand, and, on the other, points in that part of North Carolina; (B) between points in that part of Indiana in and west of La Porte, Starke, Pulaski, Cass, Howard,

Tipton, Hamilton, Marion, Johnson, Bartholomew, Jackson, Scott, and Clark Counties, on the one hand, and, on the other, points in Robeson, Bladen, Columbus, Brunswick, and New Hanover Counties, N.C. The purpose of this filing is to eliminate the gateway of Kentucky and within a 50 mile radius of Nashville, Tenn.

No. MC 83539 (Sub-No. E411), filed May 31, 1974. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in Indiana, on the one hand, and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E412), filed May 31, 1974. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery, parts, when moving in mixed loads with such commodities, (A) between points in that part of Indiana in and west of Saint Joseph, Starke, Pulaski, White, Tippecanoe, Montgomery, Parke, Vigo, Sullivan, Knox, Gibson, and Vanderburgh Counties; (B) between points in that part of Indiana in, west, and north of Vanderburgh, Gibson, Pike, Davless, Greene, Monroe, Brown, Bartholomew, Decatur, and Franklin Counties, on the one hand, and, on the other, points in that part of South Carolina, in and east of York, Chester, Fairfield, Newberry, Saluda, and Edgefield Counties. The purpose of this filing is to eliminate the gateway of Kentucky within a 50 mile radius of Nashville, Tenn., and North Carolina, or Georgia.

No. MC 83539 (Sub-No. E413), filed May 31, 1977. Applicant: C & H Transportation, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related parts, when moving in mixed loads with such commodities, between points in that part of Indiana, in and west of La Porte, Jasper, Benton, Tippecanoe, Montgomery,



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Putnam, Owen, Monroe, Lawrence, Orange, and Crawford Counties, on the one hand, and, on the other, points in that part of Tennessee in and south of Tipton, Haywood, Madison, Henderson, Decatur, Perry, Hickman, Williamson, Davidson, Rutherford, Cannon, Warren, Van Buren, Bledsoe, Rhea, Meigs, McMinn and Monroe Counties. The purpose of this filing is to eliminate the gateways of Kentucky, and points within a 50-mile radius of Nashville, Tenn.

No. MC 83539 (Sub-No. E414), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment and, related machinery parts, moving in mixed loads with such commodities between points in Iowa, on the one hand, and, on the other, points in Maryland. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of Illinois, Indiana, and Pennsylvania.

No. MC 83539 (Sub-No. E415), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts, when moving in mixed loads with such commodities, between points in Iowa, on the one hand, and, on the other, points in Ohio. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of Illinois and Indiana.

No. MC 83539 (Sub-No. E416), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of

tion of which, because of size or weight, require the use of special equipment; and related machinery parts, when moving in mixed loads with such commodities, between points in Iowa, on the one hand, and, on the other, points in Virginia. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateway in Illinois and Indiana.

No. MC 83539 (Sub-No. E417), filed May 31, 1977. Applicant: C & H TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts, when moving in mixed loads with such commodities, between points in Iowa on the one hand and, on the other, points in West Virginia. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of Illinois and Indiana.

Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts, when moving in mixed loads with such commodities, between points in Kansas on the one hand and, on the other, points in Ohio. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) no service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of Missouri, Illinois, and Indiana.

No. MC 83539 (Sub-No. E419), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of

which, because of size or weight, require the use of special equipment, and related machinery parts and related contractors' materials and supplies when moving in mixed loads with such commodities, between points in Kentucky on the one hand and, on the other, points in Maryland. The purpose of this filing is to eliminate the gateway of points in Pennsylvania.

No. MC 83539 (Sub-No. E420), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in Kentucky on the one hand and, on the other, points in Massachusetts. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E421), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, related machinery parts and supplies when moving in mixed loads with such commodities, between points in Kentucky on the one hand and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateway of points in Pennsylvania.

No. MC 83539 (Sub-No. E422), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts and related contractors' materials and supplies when moving in mixed loads with such commodities, between points in Kentucky on the one hand and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of points in Pennsylvania.

No. MC 83539 (Sub-No. E423), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

*Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts when moving in mixed loads with such commodities, (A) between points in that part of Kentucky in and west of Hardin, Grayson, Edmonson, Barren, and Allen Counties on the one hand and, on the other, points in that part of North Carolina in, east, and south of Vance, Franklin, Wake, Harnett, Lee, Moore, Montgomery, Stanly, Cabarrus, and Mecklenburg Counties; (B) between points in that part of Kentucky in and west of Jefferson, Bullitt, Hardin, Grayson, Edmonson, Barren, and Allen Counties on the one hand and, on the other, points in that part of North Carolina in, east, and south of Robeson, Columbus, Pender, Onslow, Jones, Craven, Pamlico, and Carteret Counties. The purpose of this filing is to eliminate the gateway of Kentucky and points within a 50 mile radius of Nashville, Tenn.

No. MC 83539 (Sub-No. E424), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, between points in Kentucky on the one hand and, on the other, points in Rhode Island. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 83539 (Sub-No. E425), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts when moving in connection with such commodities, (A) between points in that part of Kentucky in and west of Jefferson, Bullitt, Hardin, Grayson, Edmonson, Barren, and Allen Counties on the one hand and on the other, points in South Carolina; (B) between points in Trimble and Oldham Counties, Ky. on the one hand and, on the other, points in that part of South Carolina in, east, and south of Anderson, Abbeville, Greenwood, Edgefield, Aiken, Orangeburg, Calhoun, Sumter, Florence, and Dillon Counties; (C) between points in Monroe, Metcalfe, Hart and Larue, Spencer, Nelson, Washington, Marion, Taylor, Adair, and Cumberland Counties, Ky. on the one hand and, on the other, points in

that part of South Carolina in, east, and south of Anderson, Abbeville, Greenwood, Edgefield, Ailsen, Orangeburg, Berkeley, Williamsburg, Georgetown, and Horry Counties; (D) between points in the State of Kentucky in Henry, Shelby, Russell, and Clinton Counties, Ky. on the one hand and, on the other, points in that part of South Carolina in, east, and south of Aiken, Barnwell, Bamberg, and Colleton Counties; (E) between points in Gallatin, Owen, Franklin, Anderson, Woodford, Mercer, Boyle, and Casey on the one hand and, on the other, points in that part of South Carolina in, east, and south of Aiken, Barnwell, Allendale, Hampton, and Beaufort Counties; (F) between points in Kenton, Grant, and Boone Counties, Ky. on the one hand and, on the other, points in that part of South Carolina in, east, and south of Aiken, Barnwell, Allendale, Hampton, and Beaufort Counties. Restriction: The authority granted above shall be restricted against the transportation of aircraft and missiles and parts thereof. The purpose of this filing is to eliminate the gateways of Kentucky; points within a 50-mile radius of Nashville and North Carolina or Georgia.

No. MC 83539 (Sub-No. E426), filed May 31, 1977. Applicant: C. & H. TRANSPORTATION, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: H. N. Cunningham III (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, because of size or weight, require the use of special equipment, and related machinery parts, when moving in mixed loads with such commodities, (A) between points in Louisiana, on the one hand, and, on the other, points in that part of Minnesota in, north and east of Clay, Otter Tail, Douglas, Pope, Kandiyohi, Meeker, McLeod, Sibley, Nicollet, Blue Earth, and Faribault Counties; (B) between points in that part of Louisiana in, south, and east of Morehouse, Quachita, Caldwell, LaSalle, Rapides, Allen, Jefferson Davis, and Calcasieu Counties, on the one hand, and, on the other, points in Minnesota. Restrictions: (1) No service shall be performed in the stringing or picking up of any of the above commodities in connection with main or trunk pipelines. (2) No service shall be performed in the stringing or picking up of pipe in connection with oil or gas pipelines. The purpose of this filing is to eliminate the gateways of points in Mississippi, Kentucky, Indiana and Illinois.

No. MC 107012 (Sub-No. E286), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as

above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) From points in Maine, to points in Alabama, Florida, and Georgia. (2) From points in Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo, and Washington Counties, Maine, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Allamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Franklin, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Union, Vance, Wake, and Warren Counties, N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C.; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, and Webster Counties, W. Va. (3) From points in Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc, and York Counties, Maine, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Kentucky and Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E287), filed May 13 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as



a common carrier, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) From points in New Hampshire, to points in Alabama, Florida, Georgia, (2) From points in Coos, Carroll, and Grafton Counties, N.H., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Allendale, Bamberg, Barnwell, Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. (3) From points in Cheshire, Hillsboro, Sullivan, Belknap, Merrimack, Rockingham, and Strafford Counties, N.H., to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E288), filed May 13, 1974.

Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, from points in Massachusetts, to points in Alabama, Florida, Georgia; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Cal-

houn, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E289), filed May 13, 1974.

Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, from points in Maryland, to points in Alabama; (2) from points in Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, and Talbot Counties, Md., to points in Fla.; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooley, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, and Whitfield Counties, Ga.; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C.; (4) from points in Allegany, Garrett, and Washington Counties, Md., to points in Florida, Georgia; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C.; (5) from points in Dorchester, Somerset, Wicomico, and Worcester Counties, Md., to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madi-

son, Suwannee, Taylor, and Wakulla Counties, Fla.; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooley, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattall, Toombs, Ware, Wayne, Wheeler, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, and Whitfield Counties, Ga.; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C.; (5) from points in Dorchester, Somerset, Wicomico, and Worcester Counties, Md., to points in Charlotte, De Soto, Glades, Hardee, Hendry, Highlands, Lee, Manatee, Okeechobee, Sarasota, Broward, Collier, Dade, Martin, Monroe, Palm Beach, Saint Lucie, Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, Washington, Columbia, Dixie, Franklin, Gadsden, Gilchrist, Hamilton, Jefferson, Lafayette, Leon, Liberty, Madi-

son, Suwannee, Taylor, and Wakulla Counties, Fla.; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooley, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, and Whitfield Counties, Ga.; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, and Pickens Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E290), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in New Jersey, to points in Alabama, and Florida. (2) From points in Atlantic, Burlington, Cape May, Monmouth, Ocean, Hunterdon, Mercer, Middlesex, Somerset, and Union Counties, N.J., to points in Georgia; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union, and York Counties, S.C.; (3) From points in Camden, Cumberland, Gloucester, and Salem Counties, N.J., to points in Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chatta-

hoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooley, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, De Kalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Bartow, Chattooga, Carroll, Catoosa, Dade, Douglas, Floyd, Gordon, Haralson, Heard, Murray, Paulding, Polk, Walker, and Whitfield Counties, Ga.; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey Counties, N.C.; Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. (4) From points in Morris, Sussex, Warren, Bergen, Essex, Hudson, and Passaic Counties, N.J., to points in Georgia; Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, and Yadkin Counties, N.C.; Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Oconee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Tennessee (except points in Hamblen County, Tenn.).

No. MC 107012 (Sub-No. E296), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D.

Bishop and Gary M. Crist (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Nevada, to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. (2) From points in Clark, Lincoln, Esmeralda, Eureka, Lander, and Nye Counties, Nev., to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, Ark.; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La. (3) From points in Elko and Whitepine Counties, Nev., to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, Ark.; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapides, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, and West Feliciana Parishes, La. (4) From points in Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, Nev., to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, Ark.; Avoyelles, Catahoula, Concordia, Evangeline, Grant, La Salle, Rapides, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaque-



Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge, West Feliciana, Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster Parishes, La.; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, Tex. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 109633 (Sub-No. E1), filed April 7, 1974. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, Ill. 60627. Applicant's representative: John E. Arbet (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: General commodities (except those of unusual value, and except dangerous explosives, commodities in bulk, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, and commodities requiring special equipment), (a) between points in that part of Indiana and Illinois on and east of U.S. Highway 45, within 45 miles of Chicago, Ill., including Chicago, on the one hand, and, on the other, Louisville and Paducah, Ky., (b) between points bounded by a line beginning at Lake Michigan and extending along the western boundary line of La Porte County, Ind., thence along the La Porte County line to junction Indiana Highway 8, thence along Indiana Highway 8 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 55, thence along Indiana Highway 55 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Illinois State line, to the point of beginning, Chicago, Ill., and points in Illinois bounded by a line beginning at the Illinois-Indiana State line, and extending along U.S. Highway 6, to junction Interstate Highway 94, thence along Interstate Highway 94 to the south boundary line of Chicago, Ill., thence along the south boundary line of Chicago, to the Illinois-Indiana State line, on the one hand, and, on the other, St. Louis, Mo., (c) between points in that part of Indiana within 45 miles of Chicago, Ill., on the one hand, and, on the other, Burlington, Iowa, (d) between points in that part of Indiana bounded by a line beginning at Lake Michigan and extending along the western boundary line of La Porte County, Ind., to junction Indiana Highway 8, thence along Indiana Highway 8 to

junction western boundary line of Porter County, Ind., thence along the Porter County line to junction Indiana Highway 130, thence along Indiana Highway 130 to Gary, Ind., including Gary, Ind., on the one hand, and, on the other, Davenport, Iowa, (e) between points in that part of Indiana and Illinois on and east of U.S. Highway 45, within 45 miles of Chicago, Ill., including Chicago, on the one hand, and, on the other, Piqua and Cincinnati, Ohio, and points in that part of Ohio located on and south of U.S. Highway 36 from the Indiana-Ohio State line to Piqua, and on and west of U.S. Highway 25 from Piqua to Cincinnati, (f) between points in that part of Indiana bounded by a line beginning at Lake Michigan and extending along the western boundary line of La Porte County, Ind., to junction U.S. Highway 6, thence along U.S. Highway 6 to the Indiana-Illinois State line, to the point of beginning, on the one hand, and, on the other, points in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 50 to junction Illinois Highway 130, thence along Illinois Highway 130 to junction Illinois Highway 33, thence along Illinois Highway 33 to junction Illinois Highway 128, thence along Illinois Highway 128 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction Illinois Highway 97, thence along Illinois Highway 97 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Iowa State line, (g) between points in that part of Indiana bounded by a line beginning at Lake Michigan and extending along the western boundary line of La Porte County, Ind., to junction U.S. Highway 30, thence along U.S. Highway 30 to junction the western boundary line of Porter County, Ind., thence along the Porter County line to Lake Michigan, on the one hand, and, on the other, points, in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 33 to junction Illinois Highway 32, thence along Illinois Highway 32 to junction Illinois Highway 121, thence along Illinois Highway 121 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Iowa State line, and (h) between points in that part of Indiana and Illinois on and east of U.S. Highway 45, within 45 miles of Chicago, Ill., including Chicago, on the one hand, and, on the other, Holland, Grand Rapids, and Lansing, Mich., and points in that part of Michigan located on and south of Michigan Highway 21 from Holland to Grand Rapids, on the south of U.S. Highway 16 from

Grand Rapids to Lansing, and on and west of U.S. Highway 27 from Lansing to the Michigan-Indiana State line.

The purpose of this filing is to eliminate the gateway of points in La Porte County, Ind. within 45 miles of Chicago, Ill.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-1663 Filed 1-19-78; 8:45 am)

#### [7035-01]

(Docket No. AB-105)

#### THE WESTERN PACIFIC RAILROAD CO.

Abandonment in the City of Stockton, San Joaquin County, Calif.

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on November 14, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandonment—Goshen, 354 ICC 76, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by The Western Pacific Railroad Co. of that portion of its line known as the "North Channel Branch" which begins at engineer's station 169+85.97, milepost 96.18 of WP's main line, and extends to the end of the branch line at milepost 5.892, a total distance of 5.892 miles all in the City of Stockton, San Joaquin County, Calif. A certificate of abandonment will be issued to The Western Pacific Railroad Co. based on the above-described finding of abandonment, February 21, 1978, unless before February 21, 1978, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agree-

ment, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or

the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

N. G. HOMMER, Jr.,  
Acting Secretary.

(FR Doc. 78-1667 Filed 1-19-78; 8:45 am)



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### [6351-01]

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 24, 1978.

PLACE: 2033 K Street NW., Washington, D.C. 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Report on State Advisory Committee and Review of Bankruptcy Act.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

(S-130-78 Filed 1-18-78; 9:57 am)

### [6712-01]

#### FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 2 p.m., Special Open Meeting, Wednesday, January 18, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Subpoena of FCC records in MCI-AT&T Anti-trust suit.

The prompt and orderly conduct of Commission business requires that less than 7-days' notice be given. This meeting may be continued the following work day to allow the Commission to complete appropriate action.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 16, 1978.

(S-135-78 Filed 1-18-78; 3:08 pm)

### [6714-01]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m., January 25, 1978.

PLACE: Room 6135, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Northgate Bank of Tallahassee, a proposed new bank to be located at the northwest corner of Thomasville Road and Timberlane Road, Unincorporated Leon County (P.O. Tallahassee), Fla., for Federal deposit insurance.

Citizens State Bank of Shakopee, a proposed new bank to be located at the intersection of County Roads 16 and 17, Shakopee, Minn., for Federal deposit insurance.

Citizens Bank, an operating noninsured bank located in Amsterdam, Mo., for Federal deposit insurance.

Applications for consent to establish branches:

Community State Bank, Albany, N.Y., for consent to establish branches at the northeast corner of Route 9 and Maxwell Road, Newtonville (Unincorporated Area), Town of Colonie, N.Y., and at the corner of Second Avenue and 123rd Street, North Troy, N.Y.

Request pursuant to section 19 of the Federal Deposit Insurance Act for the Corporation's consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee of an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Applications for consent to merge and establish branches:

The Lewis State Bank, Tallahassee, Fla., an insured State nonmember bank, for consent to merge under its

charter and title with the Gulf National Bank, Tallahassee, Fla., and for consent to establish the main office and the approved but unopened branch of the Gulf National Bank as branches of the resultant bank.

Commercial Security Bank, Ogden, Utah, an insured State nonmember bank, for consent to merge under its charter and title with Commercial Security Bank of Salt Lake, Salt Lake County (P.O. Salt Lake City), Utah, and for consent to establish the two offices of the latter bank as branches of the resultant bank.

Application for consent to consolidate and establish one branch:

The Citizens Bank of Montezuma, Montezuma, Ga., an insured State nonmember bank, for consent to consolidate under a new charter, and with the title of "The Bank of Macon County," with Bank of Oglethorpe, Oglethorpe, Ga., and for consent to establish the sole office of Bank of Oglethorpe as a branch of the resultant bank.

Recommendations regarding liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 43,204-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 43,361-L—Algoma Bank, Algoma, Wis.

Case No. 43,363-NR—Swope Parkway National Bank, Kansas City, Mo.

Case No. 43,372-L—Chicopee Bank & Trust Co., Chicopee, Mass.

Memorandum re: Franklin National Bank, New York, N.Y.—in liquidation.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings or termination of insurance proceedings against certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and

(c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(6)).

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

(S-137-78 Filed 1-18-78; 3:41 pm)

### [6714-01]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3 p.m., January 25, 1978.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Applications for Federal deposit insurance:

Independent Bank of Manassas, a proposed new bank to be located at 8751 Sudley Road, Manassas, Va., for Federal deposit insurance.

The Sound Bank, a proposed new bank to be located at the intersection of South 324th Street and Pacific Highway South, Federal Way, Washington, for Federal deposit insurance.

Application for consent to establish a branch:

Florida State Bank of Tallahassee, Tallahassee, Fla., for consent to establish a branch at 1415 Timberlane Road, Unincorporated Leon County (P.O. Tallahassee), Fla.

Request for an extension of time in which to establish a branch:

The Mechanics Bank of Richmond, Richmond, Calif., for an extension of time to October 28, 1978 in which to establish a branch at 3170 Hilltop Mall Road, Richmond, Calif.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Trager and Trager, Fairfield, Conn., in connection with the liquidation of the Monroe Bank & Trust Co., Monroe, Conn.

Pryor, Cashman, Sherman & Flynn, New York, N.Y., in connection with the receivership of American Bank & Trust Co., New York, N.Y.

Recommendation with respect to the amendment of Corporation rules and regulations:

Memorandum and resolution proposing the publication for comment of amendments to section 337.3 of the Corporation's rules and regulations, relating to insider transactions.

Appeal, pursuant to the Freedom of Information Act, from the Corpora-

tion's earlier partial denial of a request for records.

Resolution approving the Budget of Administrative Expenses for Budget Year 1978, the supporting Manning Tables, and certain delegations of authority in connection therewith.

Memorandum proposing the approval of a first dividend of 35 percent in connection with the receivership of Citizens State Bank, Carrizo Springs, Tex.

Memorandum proposing a change in the grade level and title of the Legal Division's Administrative Officer position.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of security transactions authorized by the Chairman.

CONTACT PERSON FOR MORE INFORMATION:

Alan R. Miller, Executive Secretary, 202-389-4446.

(S-138-78 Filed 1-18-78; 3:42 pm)

### [6140-02]

#### FEDERAL ENERGY REGULATORY COMMISSION.

Meeting—January 18, 1978

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b: AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 25, 1978, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda. (NOTE.—Items listed on the agenda may be deleted without notice.)

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information, Room 1000.

GAS AGENDA, 49TH MEETING—JANUARY 25, 1978, REGULAR MEETING

## I. PIPELINE RATE MATTERS

### A. Pipeline rates (PGA)

RP-1. Docket No. RP76-148 (PGA Nos. 78-1 and 78-1a), Gas Gathering Corp.

RP-2. Docket No. RP73-35 (PGA78-1), and RP74-89, Trunkline Gas Co.

RP-3. Docket No. RP72-133 (PGA77-2), United Gas Pipe Line Co.

RP-4. Reserved.

RP-5. Reserved.

RP-6. Reserved.

### B. Pipeline rates

RP-7. Docket Nos. RP71-107, (phase II), and RP72-127 (PGA78-1), Northern Natural Gas Co.

RP-8. Docket Nos. CP75-104, et al., High Island Offshore System.

## II. PRODUCER MATTERS

### A. Small producer

CI-1. Docket No. RM76-15, regulation of small producers.

CI-2. Reserved.

CI-3. Reserved.

CI-4. Reserved.

### B. Producer rate

CI-5. Docket No. RI78-9, Curry Resources.

CI-6. Reserved.

CI-7. Reserved.

CI-8. Reserved.

### C. Special relief

CI-9. Docket No. RI77-58, Outline Oil Corp.

CI-10. Reserved.

CI-11. Reserved.

CI-12. Reserved.

### D. Producer certificate and abandonment

CI-13. Docket Nos. CI78-57 and CI78-58, Mobil Oil Corp.

CI-14. Docket No. CI78-128, Keisling Farms, Inc.

CI-15. Docket No. CI77-718, South Louisiana Production Co., Inc., (operator), et al.

## III. PIPELINE CERTIFICATE MATTERS

### A. Pipeline certificates

CP-1. Docket No. CP77-529, Delhi Gas Pipeline Corp.

CP-2. Reserved.

CP-3. Reserved.

CP-4. Reserved.

### B. Order No. 533 authorizations

CP-5. Docket No. CP76-181, Transcontinental Gas Pipe Line Corp.

CAG-1. Docket No. RP78-30, Arkansas Louisiana Gas Co.

CAG-2. Docket No. CP73-329 (PGA78-3), Chattanooga Gas Co.

CAG-3. Docket No. RP77-108, Transcontinental Gas Pipe Line Corp.

CAG-4. Docket No. RP73-48 (PGA78-2), Northern Natural Gas Co. (Peoples Division).



## SUNSHINE ACT MEETINGS

CAG-5. Docket No. RP76-31, Louisiana-Nevada Transit Co.  
CAG-6. Docket No. RP77-128 (PGA78-3), Mid Louisiana Gas Co.  
CAG-7. Docket No. G-1704, Cities Service Gas Co.

CAG-8. Docket No. CP70-239, Kansas-Nebraska Natural Gas Co. Inc. Docket No. CP70-258, Cities Service Gas Co.

CAG-9. Docket Nos. CP75-286 and CP76-106, Northwest Pipeline Corp.

CAG-10. Docket No. CP78-58, Columbia Gulf Transmission Co.

CAG-11. Docket No. CP78-83, Panhandle Eastern Pipe Line Co.

CAG-12. Docket No. CP78-81, Trunkline Gas Co.

CAG-13. Docket No. CP78-82, Panhandle Eastern Pipe Line Co.

CAG-14. Docket No. CP78-40, Northern Natural Gas Co.

CAG-15. Docket No. CP77-655, Colorado Interstate Gas Co.

CAG-16. Docket No. CP77-83, et al., Northern Natural Gas Co.

CAG-17. Docket No. CP76-500, Cities Service Gas Co.

CAG-18. Docket No. CI75-201, et al., Atlantic Richfield Co., et al.

CAG-19. Docket No. CP77-641, Natural Gas Pipeline Co. of America.

Docket No. CP78-7, Sea Robin Pipeline Co. Docket No. CP78-23, United Gas Pipe Line Co.

Miscellaneous Agenda, 49th Meeting—January 25, 1978, Regular Meeting

M-1. Docket No. RM78-2 (formerly ex parte No. 308), valuation of common carrier pipelines.

Power Agenda 49th Meeting—January 25, 1978, Regular Meeting

## I. LICENSED PROJECT MATTERS

P-1. Project No. 2506, Escanaba Paper Co.

## II. ELECTRIC RATE MATTERS

ER-1. Docket No. ER78-72, Montaup Electric Co.

ER-2. Docket No. ER78-145, Arizona Public Service Co.

ER-3. Docket No. ER78-63, Central Telephone & Utilities Corp.

ER-4. Docket No. ER77-578, Kansas Gas & Electric Co.

ER-5. Docket No. ER77-465, Oklahoma Gas and Electric Co.

ER-6. Docket No. ER78-1, Kansas Power & Light Co.

ER-7. Docket No. ER77-529, Columbus & Southern Ohio Electric Co.

ER-8. Docket Nos. E-8641, E-8476, E-8251, and E-8169, New England Power Co.

CAP-1. Project No. 2075, The Washington Water Power Co.

CAP-2. Project No. 2183, Grand River Dam Authority.

CAP-3. Docket No. ER78-132, Indianapolis Power & Light Co.

CAP-4. Docket Nos. ER77-43 and ER77-569, Montana Light & Power Co.

CAP-5. Docket No. ES78-4, Iowa Public Service Co.

CAP-6. Docket No. ES78-13, Pacific Power & Light Co.

Lois D. CASHELL,  
Acting Secretary.

[S-136-78 Filed 1-18-78; 3:40 pm]

[6740-02]

## FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 13, 1978, 43 FR 2045.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 18, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company  
OR-2—Docket No. —, Organization of the Commission Establishment of Suspension and Valuation Board; delegation of authority to suspension and valuation Board.

Lois D. CASHELL,  
Acting Secretary.

[S-129-78 Filed 1-18-78; 9:43 am]

[6740-02]

## FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 13, 1978, 43 FR 2045.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 18, 1978, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company  
ER-5—E-9609, Connecticut Municipal Electric Energy Cooperative, Complainant v. Power Authority of the State of New York, Respondent.

Lois D. CASHELL,  
Acting Secretary.

[S-128-78 Filed 1-18-78; 9:41 am]

[6720-01]

## FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., January 25, 1978.

PLACE: 1700 G Street, Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Branch office application—State Federal Savings & Loan Association of Beatrice, Beatrice, Nebr.

Consideration of association request for commitment to insure accounts—Chester County Savings & Loan Association, Henderson, Tenn. (proposed).

Consideration of an amendment of charter—Change of corporate title for Midland Federal Savings & Loan Association, Midland, Mich.

Consideration of holding company debt application—Guarantee Financial Corp. of California, Fresno, Calif.

Consideration of association request for compromise or mitigation of liquidity penalties—Port Angeles Savings & Loan Association, Port Angeles, Wash.

No. 125, January 17, 1978.

[S-127-78 Filed 1-18-78; 9:41 am]

[6750-01]

## FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, January 24, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTER TO BE CONSIDERED:

## NONADJUDICATIVE MATTER

Approval of minutes of nonadjudicative matters considered at meeting of January 10, 1978.

## ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

(1) Approval of minutes of adjudicative matters considered at meetings of December 20, 1977, and January 10, 1978.

(2) Consideration of final opinion in Coca-Cola Co., et al., Docket No. 8855, and PepsiCo, Inc., Docket No. 8856.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message 202-523-3806.

[S-131-78 Filed 1-18-78; 11:12 am]

[6750-01]

## FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, January 25, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, January 25, 1978, the meeting will automatically be canceled. Any item that is placed on the agenda before that time will be announced in accordance with the additional information procedures posted with Commission meeting notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message 202-523-3806.

[S-132-78 Filed 1-18-78; 11:12 am]

[7590-01]

## NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 16, 1978 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

## SUNSHINE ACT MEETINGS

MATTERS TO BE CONSIDERED:

WEDNESDAY, JANUARY 18

2 p.m.—1. Discussion of proposed publication of final export/import regulations (approximately 1 hour) (public meeting) (as scheduled).

2. Appellate review in Midland (approximately 1 hour) (rescheduled from 1-19-78). (Closed—Exemptions 6 and 10.) (Replaces "Briefing on MBO on Decommissioning," public meeting, which is postponed to the week of January 23.) (The affirmation items are cancelled.)

3. Discussion of personnel matter (approximately 1½ hours). (Closed—Exemption 6.) (As scheduled.)

THURSDAY, JANUARY 19

2 p.m.—Meeting with industry representatives is cancelled.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 17, 1978.

[S-133-78 Filed 1-18-78; 11:12 am]

[7590-01]

## NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 23, 1978.

PLACE: Commissioners' Conference

Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (additional items).

MATTERS TO BE CONSIDERED:

MONDAY, JANUARY 23, 1:30 P.M. SESSION

Add: 3. Briefing on MBO on decommissioning (approximately 1 hour) (public meeting).

TUESDAY, JANUARY 24, 1:30 P.M. SESSION

Delete: 2. Discussion of personnel matter (approximately 1½ hours). (Closed—Exemption 6.)

Add: 2. Discussion of FOIA appeal for EICSB report (approximately 1 hour) (Open—Portions may be closed should the Commission so determine.)

3. Briefing on supergrade study (approximately 1 hour.) (Open—Portions may be closed should the Commission so determine.)

4. Affirmation of: Amendment to 10 CFR 9.103 to permit tape recording of open meeting; Detroit Edison petition re transmission lines; policy statement on camera coverage at hearings; policy statement on improving nuclear power plant licensing.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 17, 1978.

[S-134-78 Filed 1-18-78; 11:12 am]



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FRIDAY, JANUARY 20, 1978  
PART II



DEPARTMENT OF  
LABOR

Employment Standards  
Administration

■

MINIMUM WAGES FOR  
FEDERAL AND  
FEDERALLY ASSISTED  
CONSTRUCTION

General Wage  
Determination Decisions



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[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration  
MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION  
General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage condition and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein. Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued

NOTICES

subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C.

20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

RAY J. DOLAN  
Assistant Administrator,  
Wage and Hour Division.

Alabama:		
AL76-5090.....	Oct. 8, 1976.	
Arkansas:		
AL76-5090.....	Do.	
AR76-5041.....	May 7, 1976	
AR77-4286.....	Sept. 30, 1977.	
Delaware:		
DE77-3134.....	Do.	
Florida:		
AL76-5090.....	Oct. 8, 1976.	
Georgia:		
GA77-1118.....	Sept. 30, 1977.	
Iowa:		
IA77-4291.....	Dec. 23, 1977.	
Kentucky:		
AL76-5090.....	Oct. 8, 1976.	
Louisiana:		
AL76-5090.....	Do.	
AR76-5041.....	May 7, 1976.	
Maine:		
ME77-3138.....	Dec. 16, 1977.	
Massachusetts:		
MA77-3065.....	Sept. 2, 1977.	
MA77-3069.....	Oct. 7, 1977.	
MA77-3071.....	July 22, 1977.	
Mississippi:		
AL76-5090.....	Oct. 8, 1976.	
AR76-5041.....	May 7, 1976.	
Missouri:		
AL76-5090.....	Oct. 8, 1976.	
New Jersey:		
NJ77-3079.....	June 17, 1977.	
NJ77-3092.....	Oct. 7, 1977.	
Oklahoma:		
OK77-4275; OK77-4276;	Sept. 30, 1977.	
OK77-4278.....		
Ohio:		
OH77-2135.....	Dec. 9, 1977.	
Pennsylvania:		
PA77-3032.....	Jan. 28, 1977.	
Tennessee:		
AL76-5090.....	Oct. 8, 1976.	
AR76-5041.....	May 7, 1976.	
Texas:		
AL76-5090.....	Oct. 8, 1976.	
West Virginia:		
WV77-3083.....	Sept. 30, 1977.	
WV77-3101.....	July 22, 1977.	

SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedes decision numbers are in parentheses following the numbers of the decisions being superseded.

South Dakota		
SD76-5039(SD78-5001).....	Apr. 23, 1976.	
Texas		
TX77-4255(TX78-4005).....	Sept. 30, 1977.	

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General Wage Determination Decision Nos. NY77-3005, pertaining to Wayne County, N.Y., NY77-3007, pertaining to Steuben County, N.Y., NY77-3008, pertaining to Chautauqua County, N.Y., NY77-3099, pertaining to Jefferson County, N.Y., NY77-3114,

Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b) (2), the incorporation of Decisions Nos. NY77-3005, NY77-3007, NY77-3099, NY77-3114, in contract specifications the opening of bids for

pertaining to Broome County, N.Y., are cancelled. Agencies with building, heavy and highway construction projects pending in these locations should utilize the project determination procedure by submitting Form SF-308, See Regulations Part 1 (29 CFR), § 1.5.

MODIFICATIONS P. 1

MODIFICATIONS P. 2

DECISION #	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
DECISION #AL76-5090-Mod. #2 (41 FR 15017 - May 7, 1976) Alabama, Arkansas, Florida, (west of the Aucilla River), Kentucky, Louisiana, Mississippi, Missouri, Tennessee, and Texas.	\$ 2.65				
CHANGE: Cook, Halper-Ness Boy Janitor-Cabin Boy	2.65				
DECISION #AR76-5041-Mod. #2 (41 FR 15017 - May 7, 1976) Arkansas, Louisiana, Mississippi, and Tennessee.	2.65				
CHANGE: Laborers: Unskilled Reentrant and others Truck drivers: 1-2 tons or less	2.65				
DECISION NO. AR77-4286 - Mod. #3 (43 FR 32800 - September 30, 1977) Union & Ouchita Counties, Arkansas					
CHANGE: ELECTRICIANS: Electrical contracts \$20,000 or less: Electricians Cable splicers Electrical contracts over \$20,000: Electricians Cable splicers LINE CONSTRUCTION: Electrical contracts \$20,000 or less: Electricians Cable splicers	\$10.49 10.79 11.28 11.56				1/42 1/42 1/42 1/42
CHANGE: ELECTRICIANS: Electrical contracts \$20,000 or less: Electricians Cable splicers	10.79 10.49				32 32
CHANGE: Lineman Operator Truck driver (pick-up & jeep) Groundman	10.79 10.24 9.39 9.39				32 32 32 32
CHANGE: Electrical contracts over \$20,000: Cable splicers Lineman Operator Truck driver (pick-up & jeep) Groundman	11.58 11.28 10.03 10.03				32 32 32 32

DECISION #	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
DECISION #DE77-3134 - Mod. #4 (42 FR 52590 - September 30, 1977) State of Delaware	\$10.12	.90			.01
CHANGE: Plasterers					
DECISION #GA77-1118 - Mod. #1 (42 FR 53000 - September 30, 1977) Richmond County, Georgia	\$10.25 8.45	.75	1.05		.02 .02
CHANGE: Boilermakers Carpenters Elevator Constructors: Mechanic Helper Millwrights Painters: Brush, 9" roller, & drywall finishers Paperhanging, glazing, structural steel (painting & cleaning) excluding metal frames and doors Power tools, spray, glove, stage work, window jacks, boatwain chair, ladder, jacks & build-up scaffold, extension ladder over 36' (other than not spray & sandblasting) Hot spray & all types of blasting Piledriversmen Plumbers & Pipefitters	9.15 6.405 9.05 7.50 8.00 8.50 8.90 9.15 8.75 10.53	.745 .745 .30 .30 .30 .30 .30 .30 .30 .50	.56 .56 .30 .30 .30 .30 .30 .30 .30 .50	1.05 1.05 1.05 1.05 1.05 1.05 1.05 1.05 1.05 1.05	.035 .035 .02 .02 .02 .02 .02 .02 .02 .02
FOOTNOTES: a. Seven Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday after Thanksgiving, Christmas Day					

DECISION #IA77-4291 - Mod. #1 (42 FR 64513 - December 23, 1977) IOWA-STATEWIDE

CHANGE: DESCRIPTION OF WORK: Heavy and Highway Construction (does not include building structures in wet area projects and work on or pertaining to the Mississippi or Missouri Rivers).



MODIFICATIONS P. 3

DECISION NO. ME77-3138- Mod #1 (42 FR 63621- December 16, 1977) Statewide, Maine Change: Laborers: Cumberland County	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
	\$2.65				
DECISION NO. MA77-3065- Mod #4 (42 FR 44434- September 2, 1977) Essex County, Massachusetts Add: All work, including demolition, repair, and alteration of any existing structure which is in- tended for predominantly resid- ential use: Bricklayers; plasterers, and cement masons; Commander of County: Carpenters: Groveland, Haverhill, New- bury, Newburyport, Rousey, Salisbury, W. Newbury, Lynn, Lynnfield, Nahant, Saugus, and Swampscott Electricians: Andover, Law- rence, Methuen, Ipswich Plumbers: Remainder of County	8.84	.85	.60		.06
	8.67	.60	1.00		.07
	9.36	374.73	.55		.05
	8.92	.70	1.50		.06
	8.42	1.35	.52		.05
DECISION NO. MA77-3069- Mod #3 (42 FR 54719- October 7, 1977) Middlesex County, Massachusetts Add: All work, including demolition, repair, and alterations of any existing structure which is in- tended for predominantly residen- tial use: Belmont, Concord, Lexington,					

NOTICES

DECISION NO. MA77-3069 - Mod #3 (Continued) Sudbury, Walham, Watertown, Wayland, and Weston Painters: Belmont, Concord, Lex- ington, Sudbury, Walham, Wat- ertown, Wayland, & Weston: Brush Spray  Only: Electricians: Abbey, Ayer, Ft. Devens, Groton, Pepperell, Shirley, Townsend: Residential	Basic Hourly Rates	Fringe Benefits Payments			Education App. Tr.
		H & W	Pensions	Vacation	
	\$8.67	.75	1.00		.05
	7.48	.98	.60		.04
	8.12	.98	.60		.04
	6.40	.45	374.35		.02
DECISION NO. MA77-3071- Mod #6 (42 FR 37733- July 22, 1977) Plymouth County, Massachusetts  Change: Plasterers: Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridge- water, and Whitman Allwork, including demolition, repair, and alteration of any existing structure which is intended for predominantly residential use Pipefitters: Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridge- water, and Whitman: All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use	10.35	.85	1.15		.06
	8.80	.85	1.15		.06
	9.31	.80	.80		.05

NOTICES

MODIFICATIONS P. 5

DECISION #N77-3079 - Mod. #7 (42 FR 31080 - June 17, 1977) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean & Salem Counties, New Jersey  Change: Drywall Tapers & Finishers: Zone 1 Laborers, Building Construction: Zone 1 Laborers, masons' & Plasterers Tenders and Concrete Workers Tool operators (except small hand tools) including operation of motorized buggies Gunite men and gun nozzle operators for gunnite and asbestos sandblasting Line Construction: All education and/or Apprentice training con- tribution payments to 3/4 of 1% Plumbers & Pipefitters: Zone 2	Basic Hourly Rates	Fringe Benefits Payments			Education App. Tr.
		H & W	Pensions	Vacation	
	\$10.60	1.50	.50		.10
	8.20	.55	.40		.02
	8.45	.55	.40		.02
	8.60	.55	.40		.02
	11.30	.77	1.45	1.00	.05
DECISION #N77-3092 - Mod. #3 (42 FR 34726 - October 7, 1977) Bergen, Essex, Hudson & Passaic Counties, New Jersey  Change: Marble Setters, Terrazzo Workers & Tile Setters: Terrazzo Workers Marble Setters, Terrazzo Workers & Tile Setters Finishers: Terrazzo Workers Finishers Pipefitters: Bergen & Hudson Counties Plumbers & Steamfitters: Bergen (Lodi, Garfield & Wallington) and Passaic (Passaic) Counties: Steamfitters	\$11.18	1.21	1.50		
	9.84	.76	1.95		
	11.50	1.00	1.00	1.00	.25
	11.50	1.00	1.00	1.00	.25

MODIFICATIONS P. 6

DECISION NO. OK77-4276 - Mod. #3 (42 FR 53099 - September 30, 1977) Wagoner County, Oklahoma CHANGE: TRUCK DRIVERS: GROUP I GROUP II GROUP III	Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
		H & W	Pensions	Vacation	
	\$8.43				
	8.48				
	8.58				
CHANGE TRUCK DRIVERS CLASSIFICATION DEFINITION GROUP III TO READ: 3 tons or 6 yards and over including heavy equipment such as pole trucks, winch trucks, euclids, mississippi wagons, semi-dumps, tournapulls, or other heavy material moving equipment; tractor trailer drivers and simi- lar equipment, such as tractors, ten wheelers; ready-mix concrete truck drivers.					
ONLY - TRUCK DRIVERS CLASSIFICATION DEFINITIONS AND RATES FOR GROUPS IV & V GROUP IV - Ready-mix concrete trucks up but not including 3 yards GROUP V - Ready-mix concrete trucks 3 yards and over	8.18 8.33				
DECISION NO. OK77-4278 - Mod. #6 (42 FR 53103 - September 30, 1977) Tulsa, Creek, Craig, Ottawa, Delaware, Hayes & Rogers Cos., Oklahoma CHANGE: TRUCK DRIVERS (Tulsa, Creek, Ottawa, Hayes & Rogers Counties) Group I Group II Group III Group IV Group V	8.43 8.48 8.58 8.58 8.58				
DECISION NO. OK77-4275 - Mod. #5 (42 FR 53097 - September 30, 1977) Comanche County, Oklahoma CHANGE: ELECTRICIANS	10.25	.40	3%		1 1/2%



### MODIFICATIONS P. 7

DECISION NO. 0047-2135 - Mod. #1 (42 FR 67303 - December 9, 1977) Statewide, Ohio	Basic Hourly Rates	H & W	Positions	Vestibule	Fringe Benefits Payments	
					Election and/or App. Fr.	
<u>Change:</u> Carpenters & Pile-driversmen: Allen, Auglaize, Champaign, Clark, Coshocton, Delaware, Fairfield, Franklin, Garretts- Hardin, Holmes, Knox, Lick- ing, Logan, Madison, Marion Meigs, Ross, Scioto, Adams, Washington, Noble, Putnam, Pickaway, Putnam, Union, Van Wert, & Wyandot Cos. Carpenters Truck Drivers (Zone I - Cuyahoga, Lake, & Geauga Cos.)	\$10.14	.53	.70			.02
	6.20 8.35 8.70 8.70	\$26.00a 26.00a 26.00a 26.00a	\$26.00a 26.00a 26.00a 26.00a	bdc bdc bdc bdc		
DECISION #P47-3032 - Mod. #7 (42 FR 5640 - January 28, 1977) Butler, Cuyahoga, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana Warren, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin Fulton, Huntingdon, Mifflin and Potter Counties, Pennsylvania						
<u>Change:</u> Power Equipment Operators: Zone 1 Class 1 Class 2 Class 3 Class 4 Class 5 Zone 2 Class 1 Class 2 Class 3 Class 4 Class 5	\$11.13 10.87 8.51 8.06 7.91  10.84 10.56 8.22 7.73 7.62	.95 .85 .82 .82 .85  .95 .90 .95 .80 .95	.80 .80 .80 .80 .80  .80 .80 .80 .80 .80			.09 .09 .09 .09 .09  .09 .09 .09 .09 .09

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MODIFICATIONS P. 8

DECISION #4477-1083 - Mod. 43 (42 FR 53172 - September 30, 1977) Statewide, West Virginia	Basic Monthly Rates	Flight Benefits Payments			
		H & W	Pensions	Vacation	Education end/or Appr. Yr.
Change: Bricklayers & stonemasons:					
Area 8	\$ 9.30				
Carpenters:					
Area 1	9.30	.50	.35		.02
Heavy	9.13	.50	.35		.02
Highway					
Area 2	9.30	.50	.35		.02
Heavy	9.13	.50	.35		.02
Carpenters working inside tunnels shall receive an additional 25¢ per hour.					
Cement Masons:	10.02	.25			
Heavy	9.84	.25			
Highway					
Electricians:					
Area 8	11.12	.50	3½-.62	1.02	.04
Wiremen	11.69	.50	3½-.62	1.02	.04
Cable splicers					
Area 9	11.57	.50	3½-.62	1.02	.04
Wiremen	12.15	.50	3½-.62	1.02	.04
Cable Splicers					
Area 10	11.32	.50	3½-.62	1.02	.04
Wiremen	11.89	.50	3½-.62	1.02	.04
Cable splicers					
Laborers:					
Heavy:					
Group 1	8.93	.50	.50		.03
Group 2	8.51	.50	.50		.03
Group 3	8.21	.50	.50		.03
Group 4	7.88	.50	.50		.03
Group 5	7.64	.50	.50		.03
Group 6	7.14	.50	.50		.03
Highway:					
Group 1	8.77	.50	.50		.03
Group 2	8.36	.50	.50		.03
Group 3	8.04	.50	.50		.03
Group 4	7.72	.50	.50		.03
Group 5	7.42	.50	.50		.03
Group 6	6.96	.50	.50		.03

MODIFICATIONS P. 9

Basic Monthly Rates	Fringe Benefit Payments				Education end/or App. Tr.
	H & W	Pensions	Vacation		
<b>LABORERS - Continued</b>					
All classifications who are required to work in open vertical ditches and manholes that are 6' or more in depth shall receive 15¢ per hour above their regular rate of pay.					
<b>Line Construction:</b>					
<b>Area 6</b>					
12.95	.64	9A	8A	1/4 of 1A	
13.35	.64	9A	8A	1/4 of 1A	
8.42	.64	9A	8A	1/4 of 1A	
<b>Area 2</b>					
Brush, roller, spray					
8.50					
11.50					
Structural steel, industrial					
Power cleaning tools and lining machine work - 50¢ over appropriate scale					
Material emitting toxic vapors - \$1.00 over appropriate scale					
Height clause - Additional \$1.00 per hour per 100' Piledriven:					
<b>Area 1</b>					
9.63	.50	.35		.02	
Heavy					
9.45	.50	.35		.02	
<b>Area 2</b>					
9.63	.50	.35		.02	
Heavy					
9.45	.50	.35		.02	
<b>Highway</b>					
10.45	.40	.84	1.05	.05	
<b>Area 1</b>					
<b>Plumbers &amp; pipefitters:</b>					
<b>Area 1</b>					
Power equipment operators:					
<b>Group 1</b>					
10.28	.50	.60		.04	
Group 2					
9.48	.50	.60		.04	
Group 3					
8.74	.50	.60		.04	
Group 4					
8.50	.50	.60		.04	
Group 5					
8.17	.50	.60		.04	
Group 6					
7.85	.50	.60		.04	
Group 7					
9.06	.50	.60		.04	

MODIFICATIONS P. 10

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.14	.50	.60		.04
9.31	.50	.60		.04
8.57	.50	.60		.04
8.33	.50	.60		.04
8.00	.50	.60		.04
7.68	.50	.60		.04
8.90	.50	.60		.04
All classifications performing tunneling and all other underground work shall receive an additional 25¢ per hour.				
Truck drivers:				
Heavy:				
Group 1	b	c		
Group 2	b	c		
Group 3	b	c		
Group 4	b	c		
Group 5	b	c		
Group 6	b	c		
Group 7	b	c		
Group 8	b	c		
Highway:				
Group 1	b	c		
Group 2	b	c		
Group 3	b	c		
Group 4	b	c		
Group 5	b	c		
Group 6	b	c		
Group 7	b	c		
Group 8	b	c		
All classifications performing tunneling and all other underground work shall receive an additional 25¢ per hour.				

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NOTICES

Page 2

DECISION NO. TX78-4005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	\$ 8.065	.40	1.00		.10
GROUP 2	8.85	.40	1.00		.10
GROUP 3	9.25	.40	1.00		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oilier-Fireman  
GROUP 2 - Air Compressor, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; All other equipment of similar nature coming under the Light Equipment Classification, when power operated  
GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixersmobile; Locomotives; Mixers, 14 cubic ft. or over; Blade Graders, self-propelled; Cableways; Cranes-power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractostors; Scrapers and Pulls; Welders; Tronching Machines; Roller, ten tons or over; Air Compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Classification, when power operated

[FR Doc. 78-1374 Filed 1-19-78; 8:45 am]

FRIDAY, JANUARY 20, 1978  
PART III



DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Food and Drug  
Administration

ANIMAL FEEDS  
CONTAINING PENICILLIN  
AND TETRACYCLINE

not  
registered  
prior



[4110-03]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 558]

[Docket No. 77N-0318]

NEW ANIMAL DRUGS FOR USE IN ANIMAL  
FEEDSAnimal Feeds Containing Penicillin and  
Tetracycline

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

**SUMMARY:** The Commissioner of Food and Drugs, based on the recommendations of the National Advisory Food and Drug Committee concerning evidence of the development and transfer of antibiotic resistance, is proposing to limit the distribution of animal feed premixes containing penicillin and tetracycline (chlortetracycline and oxytetracycline) to feed mills that hold approved medicated feed applications which permit the mills to manufacture such medicated feeds. He is also proposing to restrict further the distribution of such feeds to the order of a licensed veterinarian as part of the record maintenance requirements of the Federal Food, Drug, and Cosmetic Act.

**DATES:** Written comments by April 20, 1978. The Commissioner will also hold two informal public hearings in accord with the provisions of 21 CFR Part 15, to provide the opportunity for oral comments on the proposal by interested persons. The hearings will be held in agricultural areas, and the time and place of those meetings will be announced in future FEDERAL REGISTER notices.

**ADDRESS:** Comments to the hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION  
CONTACT:

Gerald B. Guest, Bureau of Veterinary Medicine (HFV-130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4313.

## SUPPLEMENTARY INFORMATION:

## I. INTRODUCTION

## A. REGULATORY BACKGROUND

Antibacterial drugs have been used at subtherapeutic levels (lower levels than those necessary to cure disease) in animal feed for over 25 years for growth promotion, improved feed efficiency, and disease prevention.

Growth promotant benefits from this use were first observed when animals were fed the discard products from the fermentation process that was originally used in the manufacture of chlortetracycline; however, the precise mechanism of that action remains unclear.

Initially, antibiotics for use in animal feed were regulated under the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357). Unlike the basic private licensing system applicable to new drugs, the provisions of section 507 created a public regulation or monograph system for regulating these products, in part because of the complexities in manufacturing the products and the lack of knowledge of their chemical structures. Antibiotic residues in food from food-producing animals were then regulated under the provisions of the act dealing with adulteration and misbranding. After enactment of the Food Additives Amendment of 1958 (Pub. L. 85-929), the residues were principally regulated by section 409 of the act (21 U.S.C. 348) which also establishes a public monograph system of premarket approval.

Under the antibiotic monograph procedure, the pioneer manufacturer generates and submits the basic safety and effectiveness data in a form FD-1675 (formerly FD Form 5). A regulation is subsequently published setting forth the standards of identity, strength, quality, and purity and the requirements for packaging and labeling which the product must meet. The Commissioner of Food and Drugs' approval of the same product made by another manufacturer is then conditioned solely upon a demonstration that it meets the requirements of the regulation, and this is normally accomplished by batch certification. Section 507(c) of the act, however, permits the Commissioner to exempt by regulation any drug or class of drugs from the certification requirement when he concludes that certification is unnecessary for the manufacture of the drugs. Antibiotics for use in animal feeds as feed ingredients were exempted from the certification requirement in 1951 by publication in the FEDERAL REGISTER of April 28, 1951 (16 FR 3647), and those for use as drugs were exempted in 1953 by publication in the FEDERAL REGISTER of April 22, 1953 (18 FR 2335). These are now set out in §§ 510.510 and 510.515 (21 CFR 510.510 and 510.515).

The Animal Drug Amendments (Pub. L. 90-399) consolidated the provisions of the act then dealing with the premarket approval of drugs intended for use in animals (sections 409, 505, and 507) into new section 512 (21 U.S.C. 360b), to more efficiently and effectively regulate these articles (Senate Committee on Labor and

Public Welfare, Animal Drug Amendments of 1968, S. Rep. No. 1308, 90th Cong., 2d Sess. (1968)). One side effect of this legislation brought the manufacture of antibiotics under the same private licensing system applicable to new drugs (id; Hearing on S. 1600 and H.R. 3639 Before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare, 90th Cong., 2d Sess. (1968)). To efficiently accomplish this change, Pub. L. 90-399 contained a transition clause (section 108(b)) which provided that all prior approvals for the use of drugs in animals and animal feeds would continue in effect and be subject to change in accordance with the provisions of the basic act as amended. In summary, all persons legally marketing antibiotics under the provisions of sections 409, 505, and 507 of the act on August 1, 1969, the effective date of the Animal Drug Amendments of 1968, were awarded the equivalent of an approved new animal drug application (NADA); but all holders of such approvals were also subjected to all the requirements imposed by the act and regulations on such persons.

## B. SAFETY CONCERNS

The Food and Drug Administration (FDA) first became concerned about the potential for harm to man and animals associated with subtherapeutic antibiotic use in animal feed in the mid-1960's, and it began to study the effects of low-level subtherapeutic feeding of antibiotics extensively. The agency supported research, held symposia, and consulted with outside experts to review these nonmedical uses of antibiotics in animal feeds. Following a report issued by the British Government Joint Committee (the Swann Committee), "On the Use of Antibiotics in Animal Husbandry and Veterinary Medicine," the Commissioner established a Task Force of scientists, with consultants from government, universities, and industry, to review comprehensively the use of antibiotic drugs in animal feeds in April 1970.

The Task Force's conclusions were published in a February 1, 1972 (37 FR 2444) notice of proposed rulemaking which initiated the mandatory testing procedure outlined in § 558.15 (21 CFR 558.15) to resolve conclusively the issues of safety surrounding the subtherapeutic use of antibiotics in animal feeds. The Task Force's principal conclusions were the following:

(1) The use of antibiotics and sulfonamide drugs, especially in growth promotant and subtherapeutic amounts, favors the selection and development of single and multiple antibiotic resistant and R-plasmid-bearing bacteria.

(2) Animals which have received either subtherapeutic and/or therapeutic amounts of antibiotic and sulfonamide drugs in feeds may serve as a

reservoir of antibiotic resistant pathogens and nonpathogens. These reservoirs of pathogens can produce human infections.

(3) The prevalence of multiresistant R-plasmid-bearing pathogenic and nonpathogenic bacteria in animals has increased and has been related to the use of antibiotics and sulfonamide drugs.

(4) Organisms resistant to antibacterial agents have been found on meat and meat products.

(5) There has been an increase in the prevalence of antibiotic and sulfonamide resistant bacteria in man.

(6) The Task Force also identified three areas of primary concern: human health hazards, animal health hazards, and antibiotic effectiveness; and it established guidelines to measure whether use of any antibiotic or antibacterial agent in animal feed presents a hazard to human and animal health.

Principally, the February 1972 proposal announced that all currently approved subtherapeutic uses of antibiotics, nitrofurans, and sulfonamides in animal feeds would be revoked unless data were submitted to resolve conclusively the issues concerning safety to man and animals in accordance with the Task Force guidelines. The notice also proposed to establish a time table for filing commitments, conducting studies, and submitting relevant data and information. Briefly, the guidelines may be summarized as follows:

## HUMAN AND ANIMAL HEALTH SAFETY CRITERIA

1. Transfer of drug resistance: (a) An antibacterial drug fed at subtherapeutic levels to animals must be shown not to promote increased resistance to antibacterials used in human medicine. Specifically, increased multiple resistance capable of being transferred to other bacteria in animals or man should not occur. (b) If increased transferable multiple resistance is found in coliforms, studies may be done to show whether this resistance is transferable to man.

2. The *Salmonella* reservoir: The use of an antibacterial drug at subtherapeutic levels in animal feed must be shown not to result in (a) an increase in quantity, prevalence or duration of shedding of *Salmonella* in medicated animals as compared to nonmedicated controls; (b) an increase in the number of antibiotic resistant *Salmonella* or in the spectrum of antibiotic resistance; (c) disease (caused by *Salmonella* or other organisms) that is more difficult to treat with either the same medication or other drugs.

3. The use of subtherapeutic levels of an antibacterial drug should not enhance the pathogenicity of bacteria, e.g., by increasing enterotoxin production. The association of toxin-produced characteristics with transfer factors must be investigated in well-designed studies. (Final resolution of this question was not expected within the 2-year period. Drug sponsors were expected to show evidence of work underway which would lead toward answers to this question.)

4. An antibacterial drug used at subtherapeutic levels in the feed of animals shall not result in residues in food ingested by man

which may cause either increased numbers of pathogenic bacteria or an increase in the resistance of pathogens to antibacterial agents used in human medicine. Hypersensitivity to residues was to be addressed by a literature survey.

The February 1972 proposal further addressed the issue of future antibiotic use in animal feed if the Commissioner were ultimately to conclude, after evaluating the data to be submitted, that the subtherapeutic use of antibiotics in animal feeds should be curtailed. The Commissioner proposed to restrict any remaining uses of antibiotics in animal feeds to short-term therapeutic use on the order of a licensed veterinarian.

Some 380 responses were received on the proposal, and the Commissioner promulgated the final order on April 20, 1973 (38 FR 9811.) One issue specifically discussed in the preamble to the final regulations was the practicality of the veterinarian's order option. The agency's Task Force on the Use of Antibiotics in Animal Feeds initially suggested this restriction, and the Commissioner agreed with it. He concluded that adopting this restriction would insure the continued availability of useful products while at the same time limiting the improper use of products that have exhibited a safety hazard.

With the promulgation of the final order, the requirements imposed became legally binding on all firms marketing antibacterial drugs for subtherapeutic use in feed. Therefore, in the FEDERAL REGISTER of August 6, 1974 (39 FR 28393), the Commissioner proposed to withdraw all approvals held by persons who had not complied with the initial requirement of filing commitments to conduct the necessary studies, and all such approvals were withdrawn by his order issued on February 25, 1976 (41 FR 8282). Thus, only those products now listed in Part 558 (21 CFR Part 558) can be legally marketed at this time.

By April 20, 1974, the date established for the first submissions of data under § 558.15, the Bureau of Veterinary Medicine had begun a review of the data submitted for penicillin and tetracycline (chlortetracycline and oxytetracycline), which are the most significant antibiotics used both subtherapeutically in animal feeds and in human medicine, and by April 20, 1975, data concerning the safety and efficacy criteria for all antibiotic and sulfonamide drugs had been received. At the Bureau's request, the Commissioner asked FDA's National Advisory Food and Drug Committee (NAFDC) to review the data and the issues involved and to make recommendations on the future uses of subtherapeutic antibiotics in animal feeds.

The NAFDC appointed a subcommittee of three members, the Antibiot-

ics in Animal Feeds Subcommittee (AAFS), to work in conjunction with four expert consultants from disciplines related to the issue. The Bureau of Veterinary Medicine prepared detailed analyses of the evidence concerning penicillin and the tetracyclines which were presented to the AAFS during 5 days of open meetings. Comments were also heard at these meetings from the drug industry, animal scientists, and other interested parties. The Bureau prepared a comprehensive summary report for the subcommittee with tentative recommendations. Two additional meetings were held during which the subcommittee deliberated and proponents and opponents of subtherapeutic antibiotic use gave statements. In September 1976, the AAFS presented its preliminary report of the parent committee (Ref. 1). The subcommittee made general recommendations on the future uses of antibiotics in animal feed and specific recommendations on the future use of penicillin and the tetracyclines.

For penicillin, the subcommittee recommended that FDA discontinue its use in all species for growth promotion and feed efficiency. It further recommended that use of penicillin be discontinued in all species for disease prevention where effective substitutes are available.

The recommendations of the AAFS concerning continued tetracycline use were less stringent. It recommended that FDA discontinue tetracycline use for growth promotion, feed efficiency, and disease prevention in all species where effective substitutes are available. The subcommittee also recommended that the remaining subtherapeutic tetracycline uses be limited to those periods of time when a particular animal species is threatened with a specific animal disease.

The subcommittee's general recommendations were far ranging. Recognizing that a potential for harm is inherent in widespread use of antibiotics in animal feeds, it recommended that FDA establish regulatory measures to assure that antibacterial drugs are used judiciously in animal feeds by limiting sale of tetracycline- and penicillin-containing products to feed mills and producers who hold an approved medicated feed application. The subcommittee recognized that this action would remove these products from direct dispensing by veterinarians who do not own registered feed mills, and accordingly the subcommittee suggested that the order of a licensed veterinarian be incorporated into the distribution system. It further recommended careful monitoring procedures to assure compliance with the proposed use restrictions. The remaining recommendations concerned future monitoring, research, and goals.



At its January 24, 1977 meeting, the NAFDC agreed that a potential for harm exists with subtherapeutic antibiotic use in animal feed and accepted both the subcommittee's recommendation on penicillin use and the basic context of the general recommendations. But, for tetracyclines, the committee concluded that only distribution be restricted in conjunction with the conditions imposed by the general recommendations (Ref. 2). The Commissioner agreed with the NAFDC's recommendations on penicillin. However, he concluded that more stringent action against the use of tetracycline was necessary, and at the April 15, 1977 NAFDC meeting he announced that FDA would propose to discontinue all nonessential tetracycline uses in animal feed.

The Commissioner also recognized the importance of the NAFDC's general recommendations to restrict the distribution and unsupervised use of these antibiotics in animal feeds. For this reason, he announced that FDA would propose to add the requirements for an approved medicated feed application (Form FD-1800) and the veterinarian's order (1) to insure, to the extent possible, that the drugs will be placed in the hands of individuals with training and background who are qualified to administer the drug products, (2) to assist the use of the most effective level of antibiotic for the shortest time necessary to achieve the desired results, and (3) to insure that a valuable management tool, i.e., the tetracyclines, continues to be available when necessary (Ref. 3).

Since that time, FDA has initiated a series of administrative actions that ultimately propose to eliminate all uses of penicillin- and tetracycline-containing medicated animal feeds that have not been shown to be safe and effective, or for which there are safe and effective alternatives. This will assure that any potential for harm associated with the use of these products will be minimized if not eliminated.

In the FEDERAL REGISTER of May 27, 1977 (42 FR 27264), the Commissioner issued a call for data on the potential environmental impact of FDA's proposed actions. He further announced that the Bureau of Veterinary Medicine would propose (1) to terminate all subtherapeutic uses of penicillin in animal feed, (2) to restrict the use of tetracyclines to situations where there are no viable alternatives, (3) to impose restrictions on the distribution and the uses of penicillin and tetracycline in animal feed, and (4) to expedite the drug efficacy study implementation notices proposing to withdraw approval of all penicillin and tetracycline combination products that lack substantial evidence of effectiveness.

The Director of the Bureau of Veterinary Medicine, in the FEDERAL REG-

ISTER of June 10, 1977 (42 FR 2999), then issued a notice of opportunity for hearing proposing to withdraw approval of the NADA's for all penicillin-streptomycin premixes intended for use in animal feed on the ground that new information now before him indicates that they lack substantial evidence of the effectiveness that is required for their indications for use.

Next, in the FEDERAL REGISTER of August 30, 1977 (42 FR 43772), the Director issued a notice of opportunity for hearing proposing to withdraw approval of all NADA's for penicillin-containing new animal drugs intended for use in animal feed principally because the evidence surrounding this use demonstrates that they have not been shown to be safe. He issued a similar notice of opportunity for hearing concerning certain subtherapeutic uses of tetracycline in animal feed on October 21, 1977 (42 FR 56264).

## II. FUNCTION OF THIS NOTICE

The function of this notice is to provide a forum for public debate on the need to revise FDA's prior policy on the control and distribution of penicillin and tetracycline in animal feed. These products are now available without the need for a veterinarian's order, and no approved application is required to manufacture a medicated feed containing them. The Commissioner is proposing to impose regulatory procedures that will eliminate the routine and unnecessary use of antibiotics in animal feeds. The FDA Task Force on the Use of Antibiotics in Animal Feeds, the AAFS, and the NAFDC have all recommended this course of action independently from recommendations about the safety of these drugs, and the Commissioner agrees that dealing with the distribution and control issue separately is the appropriate way to proceed. As the discussion in Part III of this preamble outlines, the evidence before FDA demonstrates that a potential for harm to animals and man exists from the development of R-plasmid-mediated resistance to antibacterial agents which may be aggravated by uncontrolled subtherapeutic use of these antibiotics in animal feed. An effort must be made to assure the future utility of these life-saving products because use of the antibiotics is extensive for both humans and animals.

In 1960, the annual production of antibiotics in the United States was 4.16 million pounds, of which 2.95 million pounds were used for therapeutic purposes in human and veterinary medicine and 1.20 million pounds were added to animal feed. By 1970, 9.6 million pounds were used in human and veterinary medical pharmaceuticals, and the animal feed additive use was 7.3 million pounds. Moreover, according to "Synthetic Organic Chemicals,

United States Production and Sales (1971-1975)," U.S. International Trade Commission Publication 804, the 5-year average production of antibiotics between 1971 and 1975 was 11.16 million pounds for medicinal uses and 7.68 million pounds for nonmedicinal uses, including feed additive uses. Over those 5 years, the aggregate average of the total production for those nonmedicinal uses was 40.8 percent—but 48.6 percent in 1975. Thus the use of antibiotics in animal feeds is a considerable element in the overall use of antibiotics in this country and consequently must be considered a significant contributor to the problem of R-plasmid antibiotic resistance. Penicillin and the tetracyclines are important among the antibiotics used in animal feeds.

Several methods of restricting the use of penicillin and tetracycline in animal feed, and thereby reducing the potential for harm associated with subtherapeutic antibiotic use, are available to the Commissioner. The most drastic method is to terminate their use completely in animal feed whether intended for therapeutic or subtherapeutic use, and this could perhaps be accomplished under the imminent hazard provision of section 512(e)(1) of the act. Another approach is to withdraw approval of all therapeutic and subtherapeutic uses that have not been shown to be safe or effective or that have available substitutes, and in the Commissioner's opinion, this is the most appropriate course of action at the present time. Accordingly, FDA has embarked on the latter course.

But a third supplementary method of controlling the use of these drugs is also available. The Commissioner can minimize the potential for harm associated with the widespread use of penicillin and tetracycline in animal feed by limiting their distribution through his authority to promulgate regulations under section 701(a) of the act (21 U.S.C. 371(a)) in conjunction with his substantive authority under sections 502(f), 512 (a), (b), (d), (l), and (m) (21 U.S.C. 352(f), 360b (a), (b), (d), (l), and (m)), to the order of a licensed veterinarian from feed mills holding approved medicated feed applications permitting the manufacture of such feed. The issues involved are generic, legally severable, and essentially policy; and such action also accomplishes the three functions that are identified in the Commissioner's April statement to the NAFDC. Moreover, that action is consistent with his earlier discussions in this area (see § 58.15(f)(1) (21 CFR 558.15(f)(1))) and all the recommendations from the independent groups advising the agency of this matter. For these reasons, the Commissioner is proposing such restrictions on the distribution of animal

feeds containing penicillin and tetracycline for comment although he is not foreclosing a reevaluation of the alternatives.

## III. SCIENTIFIC BASIS FOR THE REGULATIONS

Soon after his discovery of penicillin, Sir Arthur Fleming noted that some bacterial organisms could become resistant to the antibiotic. As the use of antibiotics has increased, the numbers and types of bacterial resistance have also multiplied. There is a serious concern in the scientific and medical communities that extensive, unnecessary exposure to antibiotics will lead to their declining usefulness in the treatment of both human and animal diseases. Currently, FDA is primarily concerned with that portion of increased antibiotic resistance in the ecological system which may result from the practice of feeding subtherapeutic levels of penicillin and tetracycline in animal feed for prolonged periods because this practice provides an ideal environment for selective pressure to operate. When exposed to an antibiotic, the organisms that are drug resistant survive while the growth of other (drug-sensitive) bacteria is inhibited. Eventually, the antibiotic resistant organisms predominate in the bacterial population, and continuous pressure perpetuates this abnormal situation.

Bacterial antibiotic resistance is primarily determined by genetic elements termed "R-plasmids" (R-factors, R+). The Commissioner's specific concern, therefore, is with the health hazard that may arise through an increase in the pool of R-plasmids in the animal population and the potential transfer of R-plasmid-bearing organisms from the animal to the human population and surrounding environment. R-plasmids are small lengths of DNA that are separate from the bacterial chromosome. These R-plasmids carry transferable drug resistance genes as well as the capacity to reproduce themselves. Plasmids may determine resistance to more than one antibiotic, and resistance to several antibiotics is common. Moreover, plasmids can transfer from one bacteria to another and from nonpathogenic to pathogenic strains. Transfer occurs, although with varying frequency, between all members of the enteric bacteria and also the members of other families of bacteria. The pool of normal Gram-negative bacterial intestinal flora (largely *Escherichia coli*) serves as a reservoir of R-plasmids, and the R-plasmid-bearing bacteria interchange among animals, man, and the environment. The potential for harm increases as the R-plasmid reservoir increases because the probability of R-plasmid transfer to pathogens increases. When the Commissioner re-

quired all holders of approved NADA's for the subtherapeutic use of antibiotics (penicillin, tetracycline, etc.) in animal feed to submit data to resolve the safety questions raised, he was principally concerned with the effect of the antibiotics approved for subtherapeutic use in animal feed on the emergence of transferable drug resistance in *Salmonella* and the *E. coli* reservoir of animals.

Evidence demonstrates that the use of subtherapeutic levels of penicillin and tetracycline in animal feed contributes to the increase in antibiotic resistant *E. coli* and in the subsequent transfer of this resistance to *Salmonella*. Further, many strains of *E. coli* and *Salmonella* infect both man and animals.

There is extensive evidence showing that the use of subtherapeutic antibiotics contributes to the development of the pool of R-plasmid-bearing organisms, particularly in *E. coli* (Refs. 4 through 71). These *E. coli* contribute their R-plasmids to man through several mechanisms: through man's direct contact with animals, through man's contact with *E. coli*-contaminated food, and through the widespread presence of plasmid-bearing *E. coli* in the environment (Refs. 8 through 38). Various strains of bacteria inhabit and infect man and animals. The strains of bacteria that infect man and animals are not mutually exclusive; they overlap. In particular, the R-plasmid-bearing strains that colonize man and animals overlap. This has been shown by epidemiological investigations (Refs. 39 through 46) and direct ingestion evidence (Refs. 47 through 51). In vivo studies also show that the R-plasmids transfer from *E. coli* to pathogens, e.g., *Salmonella*, and that this actually occurs in humans (Refs. 52 through 68). Of critical importance also is the fact that plasmid transfer occurs among nongut bacteria (Refs. 151-154).

An agency study measuring the ability of R-plasmids to exist on the same bacterium suggests that human and animal bacterial populations overlap (Ref. 61). Moreover, studies using DNA-DNA hybridization techniques and restriction endonuclease activity confirm that the R-plasmids isolated from enteric organisms in man and animals are indistinguishable (Refs. 62 through 64). Studies also indicate that R-plasmid-bearing *E. coli* donate antibiotic resistance plasmids to *Salmonella*. Patterns of drug resistance seen in *E. coli* and *Salmonella* isolates from man and animals are similar and develop in a like manner. *E. coli* first develops R-plasmid-mediated antibiotic resistance, and then the *Salmonella* develop a similar and frequently identical pattern of resistance. Studies also show that the number of R-plasmid-bearing strains of pathogenic *Salmo-*

*nella* are increasing. More importantly the number of multiply resistant strains is increasing (Refs. 65 through 124).

According to the analysis of the Director of the Bureau of Veterinary Medicine, the evidence submitted pursuant to § 558.15 has failed to resolve the issues conclusively, and the potential for harm associated with the continued extensive use of subtherapeutic antibiotics in animal feeds continues to increase. Furthermore, evidence undermining the arguments that the unrestricted use of these products is safe continues to grow. For example, recent studies show that toxin production is plasmid mediated and may be transferred in conjunction with antibiotic resistance (Refs. 125 through 148). All these points are set forth in considerably more detail in the Director's notices. Accordingly, the Commissioner concludes that transmissible drug resistance is a complex phenomenon with a potential for harmful effect that is not easily understood. Therefore, he finds that these drugs are not safe for use except under the order of a licensed veterinarian, to assure that the appropriate drugs are used for the shortest term possible or other measures are employed when for example, patent disease exists in the animals.

## IV. IMPACT ON THE MEDICATED FEED INDUSTRY

The Director outlined his prima facie case in both the penicillin and tetracycline notices, and if unrebutted the Commissioner will issue an administrative summary judgment withdrawing approval of the NADA's for the affected drugs. If requests for hearing are filed that demonstrate that genuine and substantial issues of fact exist which require a formal evidentiary hearing for resolution, such a hearing will be granted to resolve those issues. But if a hearing is necessary, final resolution of the issues may take several years. Based on the evidence now before the Commissioner, he believes it appropriate at this point at least to propose to restrict the distribution and use of penicillin and tetracycline in animal feed. In his opinion, the evidence supports such action as a matter of policy, even if NADA holders demonstrate that approvals for the use of the drugs in animal feeds should not be withdrawn.

Issuing the proposal at this time accomplishes two objectives. First, although the Commissioner has previously considered the restrictive distribution alternative, this alternative has always been a minor element of the other proposals, and the Commissioner has never received focused comment on its feasibility and merit. Some contend that veterinarians lack the training, expertise, or willingness to deal with the potential for harm asso-



ciated with unbridled use of subtherapeutic antibiotics or pressures that may be applied to retain wide access to these drugs (Refs. 149, 150).

Second, the Commissioner also would like comment on the potential impact that additional recordkeeping requirements will have on feed mills.

Finally, FDA has already issued FEDERAL REGISTER notices proposing to withdraw approval of the NADA's covering the subtherapeutic use of penicillin and tetracycline in animal feeds; therefore, the Commissioner has at least two options for selecting the effective date of regulations promulgated pursuant to this informal rulemaking procedure. The Commissioner can wait until the adjudications are concluded to issue a final order, or he can issue a final order before the adjudications are completed because this is a severable policy matter. If he should opt for the latter effective date, all approved uses of penicillin and tetracycline in animal feed then would be subject to the distribution restrictions in this regulation, and if any NADA's are ultimately withdrawn, corrections for the claims would be made with the final order in the adjudication proceedings. This approach will provide a stimulus for the expeditious conduct of any hearing that may be justified, and it will further reduce the imminence of any hazard that may exist. Accordingly, the Commissioner requests comments on the most appropriate effective date for this proposal.

#### V. LEGAL BASIS FOR THIS ACTION

As noted above, the Commissioner's authority to impose controls on the distribution of new animal drugs derives from several substantive sections of the act, sections 502(f)(1); 512 (a), (b), (d), (l), and (m), in conjunction with his rulemaking authority under section 701(a). In the aggregate they permit the Commissioner to restrict the distribution of new animal drugs and to require affected parties to keep certain records and reports on both drugs and medicated animal feeds that will permit the Commissioner to determine whether the continued use of the drugs under those circumstances is safe, effective, or otherwise appropriate.

#### A. STATUTORY AUTHORITY UNDER SECTION 502(f)(1)

Historically, FDA has restricted use of certain drugs in man and animals to the order of a practitioner under section 502(f)(1) of the act, which requires drug labeling to bear adequate directions for use, and an implementing exempting regulation. Under this approach, the labeling of certain drugs intended for human use was required to contain the statement: "Caution—To be used only by or on the prescription of a physician." Because of the

dangers of incident to the use of certain drugs, only this warning could constitute adequate directions for use, and the Supreme Court has recognized this mechanism for restricting the use of drugs (*United States v. Sullivan*, 332 U.S. 689, 691, n.2 (1949)).

Subsequently, in a case decided before enactment of the Durham-Humphrey Amendment of 1951, the Ninth Circuit directly affirmed FDA's statutory authority to restrict the sale of a drug to the order of a licensed practitioner under section 502(f)(1) of the act and the companion implementing regulations:

A liberal construction of the Act, having in mind its background and purposes, requires us to sustain the action of the Administrator on the ground that he was empowered under the statute to exempt the regulation the drugs in question from the requirement that the label bear adequate directions for use, conditioned upon its bearing an inscription that it be used only on the prescription of a physician. Under such construction, the regulation is not contrary to law, arbitrary, or unreasonable. (*United States v. El-O-Pathic Pharmacy*, 192 F. 2d 62, 75 (9th Cir. 1951).)

Although Congress enacted specific legislation that in part covers FDA authority to restrict the distribution of human drugs to a physician (Durham-Humphrey Amendment of 1951; 65 Stat. 648-649 (1951)), the legislative history of that amendment makes clear that Congress intended for FDA to retain this authority to restrict certain drugs to use according to a veterinarian's order under section 502(f)(1) of the act.

In limiting prescription drugs to those intended for use by man this new subsection differs from the present law, which refers to prescription drugs to include not only those dispensed on prescription of physicians and dentists, but also those dispensed on prescription of a veterinarian. Under the committee bill, drugs intended for use under the supervision of a veterinarian will not require a prescription, although it will be possible under section 502(f) to exempt such drugs from adequate direction for use if they are to be used by or under the supervision of a veterinarian. In the absence of any exempting regulation, these drugs will be subject to the labeling and dispensing requirements of the act applicable to over-the-counter drugs. (S. Rep. No. 946, 82d Cong., 1st Sess., p. 8 (1951).)

The Commissioner promulgated such an exempting regulation for veterinary drugs under §201.105 (21 CFR 201.105), and the regulation lays out the factors to be considered in assessing whether an animal drug should be restricted to a veterinarian's order. The factors are toxicity, potentiality for harmful effect, and the safety of the method of the drug's use. Thus, both the legislative history and case law demonstrate the Commissioner's authority to restrict the use of certain animal drugs to the order of a licensed veterinarian under the authority of

section 502(f)(1) of the act, and the evidence surrounding the unrestricted use of penicillin and tetracycline in animal feed illustrates a potential for harm.

#### B. STATUTORY AUTHORITY UNDER SECTION 512 OF THE ACT

1. *Overview.* When Congress enacted the Animal Drug Amendments of 1968 and consolidated into section 512 the various provisions of the Federal Food, Drug, and Cosmetic Act governing the premarket approval of articles intended for use in animals and animal feeds, one primary force supporting the amendments was the medicated animal feed industry. (See, e.g., hearings on S. 1600 and H.R. 3639 before the Subcommittee on Health of the Senate Committee on Labor and Public Welfare, 90th Cong., 2d Sess. (1968).) Before passage of the amendments, articles intended for use in both food-producing and companion animals and in animal feed were subject to premarket review and clearance under sections 409, 505, and 507 of the act, and the consolidation incorporated the standards in those individual sections into section 512 (S. Rep. No. 1308, 90th Cong., 2d Sess. 1 (1968)).

Because new animal drugs are used extensively in food-producing animals, Congress imposed the same rigid legal standard on the intended uses of these articles that it applied to food additives. Therefore, when a new animal drug is intended for a use for which there is no approved NADA or the labeling of the new animal drug fails to conform to that in the approved NADA, the new animal drug is deemed unsafe as a matter of law (section 512(a)(1) of the act). The new animal drug is thereby adulterated per se under section 501(a)(5) of the act (21 U.S.C. 351(a)(5)), and food containing the new animal drug or conversion product thereof is also adulterated as a matter of law under section 402(a)(2)(D) of the act (21 U.S.C. 342(a)(2)(D)). Similarly, animal feed containing a new animal drug is unsafe as a matter of law under section 512(a)(2) unless the following conditions are satisfied: (a) There is an approved NADA for that specific use of the drug in animal feed; (b) there is an approved medicated feed application (FD Form 1800) under section 512(m)(1) for that use; and (c) the animal feed, its labeling, and use conform with a regulation issued under section 512(l). A medicated animal feed which does not conform with these requirements is adulterated under section 501(a)(6) of the act.

2. *Sections 512 (b) and (d).* The statutory criteria that FDA must use to evaluate the safety and effectiveness of new animal drugs are set forth in sections 512 (b) and (d) of the act and the corresponding amplifying regula-

tions under Parts 500 and 514 (21 CFR Parts 500 and 514). Unlike section 505 of the act, which covers new human drugs, section 512(d)(2) enumerates several specific factors that are to be considered by the agency in determining whether a new animal drug will be safe under its proposed conditions of use. The factors, which were taken directly from considerations associated with the safety of human food additives under section 409(c)(5) of the act, are the following:

(A) The probable consumption of such drug and of any substance formed in or on food because of the use of such drug,

(B) The cumulative effect on man or animal of such drug, taking into account any chemically or pharmacologically related substance,

(C) Safety factors which in the opinion of experts, qualified by scientific training and experience to evaluate the safety of such drugs, are appropriate for the use of animal experimentation data, and

(D) Whether the conditions of use prescribed recommended, or suggested in the proposed labeling are reasonably certain to be followed in practice.

Thus, these provisions clearly envision the exercise of FDA's authority to impose restrictions on the distribution and use of new animal drugs, particularly when the drug is intended for use in food-producing animals.

3. *Section 512(i).* Section 512(i) of the act requires FDA to publish a notice of approval for every NADA, which becomes effective as a regulation upon publication in the FEDERAL REGISTER. The function of the new animal drug regulations under this provision is analogous to the function of food additive regulations issued under section 409 of the act (hearings on S. 1600 and H.R. 3639 supra at 80; S. Rep. No. 1308 supra at 5). They are to provide public notice, particularly to manufacturers of medicated animal feeds, of the conditions and restrictions of use that are imposed on the new animal drugs. But the new animal drug regulations provide more than general notice. Section 512(i) identifies several factors that are to be addressed in the regulations in order to assure that a new animal drug will be properly used in the field. Among these factors are the specific conditions of use under which the drug has been shown to be safe and effective, any other use restriction imposed, and such other information as the agency deems necessary to assure the safe and effective use of the new animal drug. Therefore, Congress provided FDA with another statutory provision by which it can restrict the distribution of a new animal drug.

4. *Section 512(m).* Subsection (m) of section 512 of the act presents a microcosm of the entire section. Basically, this provision was added to simplify the procedural and substantive requirements of the act as they pertain

to medicated feed mills. It establishes a private licensing section for feed mills to manufacture medicated animal feeds which is substantially similar to the NADA review and approval procedures. As a condition of having the license (in this case a medicated feed application) approved, the feed mill must identify a new animal drug regulation providing for the manufacture and use of the new animal drug under the conditions or indications of use for which the mill proposes to manufacture the medicated feed.

Section 512(m)(1) of the act outlines the basic information that a feed mill must submit to FDA to obtain an approved medicated feed application for a specific medicated animal feed, and section 512(m)(3) lists the bases on which the agency can refuse to approve the application. The agency shall refuse to approve an application when it finds among other facts:

(A) That there is not in effect a regulation under subsection (l) (identified in such application) on the basis of which such application may be approved;

(B) That such animal feed (including the proposed use of any new animal drug therein or thereon) does not conform to an applicable regulation published pursuant to subsection (l) referred to in the application, or that the purposes and conditions or indications of use prescribed, recommended, or suggested in the labeling of such feed do not conform to the applicable purposes and conditions or indications of use (including warnings) published pursuant to subsection (l) or such labeling omits or fails to conform to other applicable information published pursuant to subsection (l).

Section 512(m) of the act also contains a provision for recordkeeping requirements on the feed mills, and this provision is identical to that applicable to the manufacturers of new animal drugs (sections 512(d)(2)(A); 512(1)). In addition to the normal records required by good manufacturing practice, etc., the manufacturers of medicated animal feeds must keep all records and make all such reports that the Commissioner imposes on them by general regulation when those records and reports are necessary to determine or facilitate a determination of whether the medicated animal feed may be safely, effectively, or otherwise appropriately used. And these records and reports must be available to FDA for inspection.

#### C. STATUTORY AUTHORITY UNDER SECTION 701(A) OF THE ACT

The agency's authority to promulgate substantive regulations under section 701(a) defining and explaining the operative provisions of the act and applying those provisions to particular classes of products has been consistently, if not uniformly, upheld by the courts, e.g., *National Nutritional Foods Association v. Weinberger*, 512

F. 2d 688 (2d Cir. 1974). (See also *In re Permain Basin Rate Cases*, 390 U.S. 766 (1968); *Federal Power Commission v. Texaco, Inc.* 377 U.S. 33 (1964); *Air Lines Pilots Association, International v. Quesada*, 276 F. 2d 892 (2d Cir. 1960).) Moreover, FDA's authority to determine whether a new animal drug has been shown to be safe and effective under the restrictive distribution system of a veterinarian's order is well established (*Diamond Laboratories, Inc. v. Richardson*, 452 F. 2d 803 (8th Cir. 1972)), as has its authority to restrict the use of a new animal drug to only those conditions of use that have been shown to be safe and effective (*Agri-Tech, Inc. v. Richardson*, 482 F. 2d 1148 (8th Cir. 1973)).

#### D. CONCLUSION

The agency regularly imposes distribution requirements on new animal drugs pursuant to Parts 520 through 555 (21 CFR Parts 520 through 555). Given the evidence on the unrestricted use of penicillin and tetracycline in animal feed, the Commissioner believes there is ample statutory authority for him to promulgate regulations restricting all uses of penicillin and tetracycline in animal feed to the order of a veterinarian, which order must be retained by the holder of an approved medicated feed application permitting manufacture of the feed or by other persons subsequently dispensing restricted feed obtained from the holder of the application.

#### VI. SUMMARY OF THE PROPOSAL

To implement this action, the Commissioner is proposing to amend the regulations to establish a new medicated animal feed category called restricted medicated animal feeds, which will require an approved medicated feed application for manufacture and for distribution on the order of a licensed veterinarian. This category will include, with two minor exceptions, all feeds containing penicillin, chlortetracycline, and oxytetracycline. Accordingly, he is proposing to revoke all existing waivers from the requirements of section 512(m) of the act for the manufacture of such animal feeds, and the manufacture of these animal feeds will then require an approved medicated feed application. Because veterinarians may require a form of the drug for immediate dispensing (i.e., either directly by a veterinarian or by a feed mill on the order of a licensed veterinarian) in their practices to deal with exigencies, the Commissioner is proposing an exemption from the requirements of section 512(m) for the manufacture of restricted animal feeds from a restricted article containing 2 grams per pound of the antibiotics penicillin, chlortetracycline, or oxytetracycline as the sole drug in medicated feed in 50-pound packages. He selected this



size for its convenience for dispensing and for use by livestock producers.

Proposed § 558.7(a) (21 CFR 558.7(a)) defines animal feeds containing penicillin or chlortetracycline (except feeds for laboratory mice and psittacine birds) or oxytetracycline as restricted medicated animal feeds. The Commissioner has excluded the uses of chlortetracycline in feeds for laboratory mice and psittacine birds from the restricted category because of the limited and special nature of those uses.

Proposed § 558.7(b)(1) establishes the basic requirement for the manufacturers of restricted medicated animal feeds. Under this provision, all feed mills will require an approved medicated feed application for each restricted medicated animal feed they produce. This section also contains the exemption for the manufacture of a restricted medicated animal feed under the order of a licensed veterinarian. The exemption applies only when such feed is prepared from a concentrated restricted medicated animal feed which contains 2 grams per pound of penicillin, chlortetracycline, or oxytetracycline as the sole drug in medicated feed in 50-pound packages. This permits the veterinarian to deal with urgent situations by dispensing a concentrated medicated feed directly to the livestock producer, who will be able to mix a complete feed without having an approved medicated feed application. The Commissioner will permit manufacturers 60 days from the date of publication of a final order based upon this approval to submit a medicated feed application.

Proposed § 558.7(b)(2) requires the manufacturers of intermediate premixes (proposed Type B medicated feed articles) containing penicillin, chlortetracycline, or oxytetracycline to have approved medicated feed applications for the manufacture of these products. Currently manufacturers of these intermediate premixes are exempt, under § 558.15(g) (21 CFR 558.15(g)), from having an approved NADA if the intermediate premix contains no drug ingredient whose use in or on an animal feed requires an approved medicated feed application. Since the Commissioner is proposing to revoke this exemption for the manufacture of medicated feeds containing penicillin, chlortetracycline, or oxytetracycline, codifying this requirement will simplify regulation of this area.

Ostensibly, revocation of the exemption would also require manufacturers of intermediate premixes to have approved new animal drug applications for their products. However, the Commissioner intends to issue a proposal in the near future to regulate the intermediate premixes as Type B medicated feed articles under sections

201(x) and 512(m) of the act (21 U.S.C. 321(x) and 360b(m)), for administrative and regulatory efficiency. For these reasons, the Commissioner is now proposing to regulate intermediate premixes for the restricted medicated animal feeds also under section 512(m) of the act for consistency. This will permit an orderly transition to more extensive regulation via medicated feed applications. The Commissioner will permit manufacturers of the restricted feeds 60 days from the date of publication of the final order in this procedure to submit a medicated feed application for these medicated feed articles. If these provisions are placed into effect prior to completion of the adjudication concerning penicillin and tetracycline premixes, manufacturers of intermediate premixes (or Type B medicated feed articles) may identify the appropriate provision of § 558.15 as the basis for approving their medicated feed application for those uses which have been permitted interim marketing and for which a regulation under section 512(i) of the act has not been published.

Proposed § 558.7(c)(1) requires restricted medicated animal feeds to be dispensed only if accompanied by and in accordance with the order of a licensed veterinarian. Although restricted medicated animal feeds containing 2 grams of penicillin, chlortetracycline, or oxytetracycline as the sole drug in 50-pound packages may be sold to licensed veterinarians for dispensing purposes in their practices, the feed mills must retain records for these transactions also.

Proposed § 558.7(c)(2) describes the recordkeeping requirements. The veterinarian's order must be either a signed written order or an oral order given directly to the party who is to dispense the restricted medicated animal feed and such order must be promptly reduced to writing. The order shall include the following information:

1. Veterinarian's name, address, and telephone number;
2. Client's name and address;
3. Type of feed (e.g., starter, grower, finishing ration), including the quantitative level of the drug(s) involved (e.g. grams per ton);
4. Species to be treated, and indications for use;
5. Total amount of feed to be mixed and number of refills permitted. The amount of feed prescribed shall not exceed the amount reasonably necessary to treat the number of animals involved; and
6. Date.

The records must be retained at the point of sale by the dispensing party for a period not less than 2 years because the agency has a statutory obligation to inspect every feed mill at least once every 2 years. This require-

ment is also applicable to integrated livestock producers who have approved medicated feed applications for restricted medicated animal feeds and who manufacture such feeds for their own use.

Proposed § 558.7(d) explains how FDA will regulate feed stores or other distributors of medicated animal feeds that may be restricted. These segments of the medicated animal feed industry are essentially consignees who are not the users of the articles. Under section 512(a)(1) of the act, consignors may ship new animal drugs to such consignees if they are holders of approved medicated feed applications or, if the consignees are not users, to such consignees that will ship only to holders of approved medicated feed applications. Because the mechanism of distribution by the feed stores is merely a further step in the chain, the Commissioner is proposing to permit holders of approved applications for restricted medicated animal feeds to dispense those feeds to feed stores and other distributors on the condition that those consignees supply the feed mill with a signed statement indicating that they will dispense restricted medicated animal feeds on and in accordance with the order of a licensed veterinarian, that they will maintain the required records of such dispensing for at least 2 years, and that they will permit inspection of the records at all reasonable hours by any duly authorized officer or employee of FDA or other employee acting on behalf of the Secretary of HEW. This will permit a distributor, who does not have approved medicated feed applications under section 512(m) of the act, to receive restricted medicated animal feeds and to dispense them in accord with the rationale for the regulation. Failure of holders of approved applications to comply with these requirements will result in the Commissioner's proposing to withdraw approval of the feed mill's medicated feed application for the restricted feed and to take any other appropriate legal action that is warranted.

Proposed § 558.7(e) sets forth specific label and labeling requirements for (1) articles that are to be manufactured into restricted medicated animal feeds and (2) restricted medicated animal feeds, in addition to all the other labeling requirements of the act. Articles that are to be further manufactured into restricted feed must bear the statement: "For use only in the manufacture of restricted medicated animal feeds to be used on the order of a licensed veterinarian".

For complete restricted medicated animal feeds, the label and labeling shall bear the statement "For use only on the order of a licensed veterinarian".

Proposed § 558.7(e)(3) requires that all restricted medicated animal feeds

dispensed on the order of a licensed veterinarian be appropriately labeled for use and that such use shall include only those conditions for which the article has been approved under Part 558.

Proposed § 558.7(f) provides that an animal feed which contains two or more animal drugs is a restricted medicated animal feed if any ingredient alone would cause a feed containing it to be a restricted medicated animal feed.

Finally, proposed § 558.7(g) establishes the implementation plan. A veterinarian's order will be required for the dispensing of any restricted medicated animal feed 150 days after publication of a final regulation based upon this proposal. This will permit an orderly transition period for processing medicated feed applications that form the bases for this proposal.

The Commissioner has carefully considered the environmental effects of this action, and he has concluded that an environmental impact statement is not required for this notice. A copy of the environmental impact assessment is on file with the Hearing Clerk. Moreover, in the FEDERAL REGISTER of May 27, 1977 (42 FR 27264), the Commissioner of Food and Drugs requested data concerning the potential environmental impact of a series of regulatory actions, including this one, designed to restrict the subtherapeutic use of antibacterials in animal feeds. A comprehensive environmental impact statement will be prepared, evaluating the impact of all the actions as a single program.

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149. Statement of the National Cattle-men's Association before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry, September 22, 1977.

150. Testimony of the Northeast Egg Marketing Association before the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry, September 22, 1977.

151. Roberts, M. and S. Falkow, "Conjugal Transfer of R-plasmids in *Neisseria gonorrhoea*," Nature, 266:630-631, 1977.

152. Eisenstein, B., T. Sox, G. Biswas, E. Blackman, P. Spauling, "Conjugal Transfer of the Gonococcal Penicillinase Plasmid," Science, 195:998-999, 1977.

153. Elwell, L. P., J. deGraaf, D. Seibert, and S. Falkow, "Plasmid-linked Ampicillin Resistance in *Haemophilus influenzae* Type b," Infection and Immunity 12:404-410, 1975.

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A copy of each reference cited in this notice not appearing in journals designated by §§310.9 and 510.95 (21 CFR 310.9 and 510.95) is on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between 9 a.m. and 4 p.m. Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 512, 701, 52 Stat. 1050-1051 as amended, 1055-1056 as amended, 59 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 352, 357, 360b, 371)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 558 be amended, as follows:

1. By amending §558.3 by adding new paragraph (b)(7) to read as follows:

#### § 558.3 Definitions and interpretations.

(b) \* \* \*

(7) A "restricted medicated animal feed" is a medicated animal feed which is limited to use on the order of a licensed veterinarian.

2. By adding new §558.7 to read as follows:

#### § 558.7 Restricted medicated animal feeds.

(a) Animal feeds containing penicillin, or chlortetracycline (except feeds for laboratory mice or psittacine birds), or oxytetracycline are restricted medicated animal feeds.

(b)(1) The manufacture of complete, restricted medicated animal feeds require an approved application pursuant to section 512(m) of the act, unless such feed is manufactured under the order of a licensed veterinarian from a restricted medicated animal feed containing 2 grams per pound of penicillin, chlortetracycline, or oxytetracycline as the sole drug in 50-pound packages.

(2) The manufacture of intermediate premixes (Type B medicated feed articles) requires an approved application pursuant to section 512(m) of the act.

(c)(1) A restricted medicated animal feed shall be dispensed only if accompanied by and in accordance with an order of a licensed veterinarian.

(2) An order by a licensed veterinarian for the dispensing of a restricted

medicated animal feed shall be either a signed, written order or an oral order given directly to the party dispensing the feed who promptly reduces it to writing. All such orders must be retained at the point of sale by the party dispensing the feed for a period of not less than 2 years. The order shall include:

(i) Veterinarian's name, address, and telephone number;

(ii) Client's name and address;

(iii) Type of feed (e.g., starter, grower, finishing ration), including the quantitative level of the drug(s) involved (e.g. grams per ton);

(iv) Species to be treated, and indications for use;

(v) Total amount of feed to be mixed and number of refills permitted. The amount of feed prescribed shall not exceed the amount reasonably necessary to treat the number of animals involved; and

(vi) Date.

(d)(1) A premix (Type A medicated feed article) used in the manufacture of a restricted animal feed shall be distributed in accordance with the provisions of §510.7 of this chapter.

(2) A restricted medicated animal feed may be distributed to a consignee who is not the user of the article if he provides the consignor with a signed statement that he will only dispense such articles to those permitted to receive them (i.e. persons having an order from a licensed veterinarian), that he will maintain the required records to establish such dispensing, and that the consignee will permit the Food and Drug Administration to inspect the records at all reasonable hours upon request by any duly authorized officer or employee of the Food and Drug Administration or other employee acting on behalf of the Secretary of Health, Education, and Welfare.

(e)(1) The label and labeling of premixes (Type A medicated feed articles), intermediate premixes (Type B medicated feed articles), and restricted medicated animal feeds containing 2 grams per pound of penicillin, chlortetracycline, or oxytetracycline in 50-pound packages shall bear, in addition to the other information required by the act, the statement "For use only in the manufacture of restricted medicated animal feeds to be used on the order of a licensed veterinarian".

(2) The label and labeling of complete restricted medicated animal feeds shall bear, in addition to the other information required by the act, the statement "For use only on the order of a licensed veterinarian".

(3) All restricted medicated animal feeds dispensed on the order of a licensed veterinarian shall be appropriately labeled for use. Such use shall include only those conditions for which the article has been approved under this part.

(f) An animal feed containing two or more animal drugs is a restricted medicated animal feed if any ingredient alone would cause a feed containing it to be a restricted medicated animal feed.

(g) A veterinarian's order is required for the dispensing of any restricted medicated animal feed 150 days after publication of a final regulation.

3. By amending §558.15 by adding new paragraph (h) to read as follows:

§ 558.15 Antibiotic, nitrofurans, and sulfonamide drugs in the feed of animals.

4. By amending §558.55 by adding new paragraph (c)(3) to read as follows:

(c) \* \* \*

(3) Feeds manufactured from premixes in paragraph (g)(1) or (2) of this section containing penicillin, chlortetracycline, or oxytetracycline are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

5. By amending §558.55 by adding new paragraph (c)(3) to read as follows:

§ 558.55 Amprolium.

(c) \* \* \*

(3) Feeds containing amprolium in combination with chlortetracycline or penicillin are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

6. By amending §558.58 by revising paragraph (c) to read as follows:

§ 558.58 Amprolium and ethopabate.

(c) \* \* \*

(c) *Special considerations.* (1) Finished feeds containing amprolium and ethopabate as the sole drugs, processed from feed supplements containing not more than 0.05 percent amprolium and 0.016 percent ethopabate, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing amprolium and ethopabate in combination with chlortetracycline or penicillin are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

7. By amending §558.76 by revising paragraph (c)(2) and adding new paragraph (c)(3) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

(c) \* \* \*

(2) Finished feeds containing bacitracin methylene disalicylate as the sole drug and conforming to the requirements of paragraph (e)(1) and (2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(3) Feeds containing bacitracin methylene disalicylate in combination with penicillin are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

8. By amending §558.78 by revising paragraph (c)(2) and adding new paragraph (c)(3) to read as follows:

§ 558.78 Bacitracin, zinc.

(c) \* \* \*

(2) Finished feeds containing zinc bacitracin as the sole drug and conforming to the requirements of paragraph (d)(1) and (2) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(3) Feeds containing zinc bacitracin in combination with penicillin are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

9. By amending §558.105 by revising paragraph (d) to read as follows:

§ 558.105 Buquinolate.

(d) \* \* \*

(d) *Special considerations.* (1) Maximum level permitted in medicated feed: 0.011 percent (100 grams per ton). Do not use in feeds containing bentonite.

(2) Feeds containing buquinolate in combination with chlortetracycline or penicillin are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

10. By amending §558.128 by revising paragraph (c) to read as follows:

§ 558.128 Chlortetracycline.

(c) \* \* \*

(c) *Special considerations.* (1) Finished feeds containing chlortetracycline and conforming to the requirements of paragraph (e)(1) and (2) of this section and finished feeds manufactured from medicated feed articles containing 2 grams per pound chlortetracycline as the sole drug in 50-pound packages are not required to comply with the provisions of section 512(m)

of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing chlortetracycline (except as provided in paragraph (e)(1) and (2) of this section) are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

11. By amending §558.145 by revising paragraph (d) to read as follows:

§ 558.145 Chlortetracycline, procaine penicillin, and sulfamethazine.

(d) \* \* \*

(d) *Special considerations.* This is a restricted medicated animal feed and its distribution must be in accordance with §558.7.

12. By amending §558.155 by revising paragraph (d) to read as follows:

§ 558.155 Chlortetracycline, procaine penicillin, and sulfathiazole.

(d) \* \* \*

(d) *Special considerations.* This is a restricted medicated animal feed and its distribution must be in accordance with §558.7.

13. By amending §558.175 by adding new paragraph (f) to read as follows:

§ 558.175 Clopidol.

(f) \* \* \*

(f) *Special considerations.* Feeds containing clopidol in combination with chlortetracycline are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

14. By amending §558.195 by revising paragraph (f) to read as follows:

§ 558.195 Decoquinolate.

(f) \* \* \*

(f) *Special considerations.* (1) Bentonite should not be used in decoquinolate feeds.

(2) Feeds containing decoquinolate in combination with chlortetracycline are restricted medicated animal feeds and their distribution must be in accordance with §558.7.

15. By amending §558.225 by revising paragraph (c) to read as follows:



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§ 558.225 Diethylstilbestrol.

(c) *Special considerations.* (1) Maximum level of diethylstilbestrol permitted in concentrate for cattle is 0.0044 percent.

(2) Feeds containing diethylstilbestrol in combination with either chlortetracycline or oxytetracycline are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

15. By amending § 558.274 by revising paragraph (c) to read as follows:

§ 558.274 Hygromycin B.

(c) *Special considerations.* (1) Complete chicken feeds containing hygromycin B as a sole drug, processed from feed supplements containing not more than 32 grams per ton hygromycin B, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing hygromycin B in combination with chlortetracycline or penicillin are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

16. By amending § 558.355 by adding new paragraph (d)(5) to read as follows:

§ 558.355 Monensin.

(d) . . . . .  
(5) Feeds containing monensin in combination with oxytetracycline are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

17. By amending § 558.365 by revising paragraph (e) to read as follows:

§ 558.365 Nequinat.

(e) *Special considerations.* (1) Do not use in feeds containing bentonite.

(2) Feeds containing nequinat in combination with oxytetracycline are restricted medicated animal feeds whose distribution must be in accordance with § 558.7.

18. By amending § 558.450 by revising paragraph (c) to read as follows:

PROPOSED RULES

§ 558.450 Oxytetracycline.

(c) *Special considerations.* (1) Finished feeds manufactured from medicated feed articles that contain 2 grams per pound oxytetracycline as the sole drug in 50-pound packages are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing oxytetracycline are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

(3) The amount of oxytetracycline is expressed in terms of an equivalent amount of oxytetracycline hydrochloride.

19. By amending § 558.460 by adding new paragraph (d) to read as follows:

§ 558.460 Penicillin.

(d) *Special considerations.* (1) Finished feeds manufactured from medicated feed articles that contain 2 grams per pound penicillin as the sole drug in 50-pound packages are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing penicillin are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

20. By amending § 558.515 by revising paragraph (d) to read as follows:

§ 558.515 Robenidine hydrochloride.

(d) *Special considerations.* (1) Finished feed containing robenidine hydrochloride must be fed within 50 days from the date of manufacture.

(2) Do not use in feeds containing bentonite.

(3) Feeds containing robenidine hydrochloride in combination with either chlortetracycline or oxytetracycline are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

21. By amending § 558.680 by revising paragraph (c) to read as follows:

§ 558.680 Zoalene.

(c) *Special considerations.* (1) Complete poultry feeds containing zoalene as a sole drug, processed from feed supplements containing not more than

0.0375 percent zoalene, and conforming to the requirements of paragraph (e) of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(2) Feeds containing zoalene in combination with chlortetracycline or penicillin are restricted medicated animal feeds and their distribution must be in accordance with § 558.7.

Interested persons may, on or before April 20, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Because of the broad public interest in and concern about the proposed restriction on the distribution of penicillin and tetracycline-containing animal feeds, the Commissioner has determined that, in addition to the 90 day comment period for receipt of written comments, two informal public hearings, in accord with the provisions of 21 CFR Part 15, should be held on the proposal in geographic areas where it will have its major impact. The purpose of the informal hearings is to provide an open forum for the presentation of information and views concerning all aspects of the proposal by interested persons, be they consumers, scientists, farmers, feed manufacturers, or representatives of manufacturers of regulated products.

In preparing a final regulation, the Commissioner will consider the administrative record of these hearings along with all other written comments received during the comment period specified in the proposal. The hearings will be held during the comment period, and the Commissioner will issue separate FEDERAL REGISTER notices announcing them when the final arrangements for their conduct are completed. The hearings will be open to the public. Any interested person who files a written notice of participation may be heard with respect to matters relevant to the issues under consideration.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the

PROPOSED RULES

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Hearing Clerk, Food and Drug Administration.

The Food and Drug Administration has also determined that the notices jointly pertaining to penicillin and tetracyclines in animal feeds do not comprise a major economic impact (see the FEDERAL REGISTER of June 10, 1977 (42 FR 29928), August 30, 1977 (42 FR 43770), October 21, 1977 (42 FR 56254), and this notice). A copy of the

combined economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration in this docket file and in the docket files of the three other actions.

Dated: January 17, 1978.

DONALD KENNEDY,  
Commissioner of Food and Drugs.

(FR Doc. 78-1482 Filed 1-17-78; 8:45 am)



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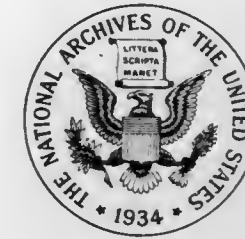
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PART IV



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**DEPARTMENT OF  
DEFENSE**

**Corps of Engineers,  
Department of Army**

■  
**FEDERAL  
PARTICIPATION IN  
SHORE, HURRICANE,  
AND TIDAL AND  
LAKE FLOOD  
PARTICIPATION**



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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of Army  
[33 CFR Part 282]

FEDERAL PARTICIPATION IN SHORE, HURRICANE, AND TIDAL AND LAKE FLOOD PROTECTION

Proposed Rulemaking

AGENCY: Department of the Army.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation prescribes policies used by the Corps of Engineers in determining the extent to which they are authorized to recommend and provide measures for shore, hurricane, and tidal and lake flood protection. This regulation is needed to update previous regulations on the subject to reflect recent changes in legislation and policy.

EFFECTIVE DATE: Comments must be received by February 20, 1978.

ADDRESS: Write Office of Chief of Engineers, Department of the Army, Corps of Engineers, Washington, D.C. 20314, Attn: DAEN-CWR-R (202-693-6807).

FOR FURTHER INFORMATION CONTACT:

Robert Kaighn, 202-693-6807.

It is therefore, proposed to amend 33 CFR by adding Part 282 as set forth below.

Dated: November 21, 1977.

C. A. SELLECK, Jr.,  
Colonel, Corps of Engineers,  
Executive Director of Civil Works.

PART 282—WATER RESOURCE POLICIES AND AUTHORITIES: FEDERAL PARTICIPATION IN SHORE, HURRICANE AND TIDAL AND LAKE FLOOD PROTECTION

- Sec  
282.1 Purpose.  
282.2 Applicability.  
282.3 References.  
282.4 Definitions.  
282.5 Synopsis of relevant legislative authorities.  
282.6 Synopsis of related legislative authorities.  
282.7 Eligibility criteria.  
282.8 Federal interest and Corps responsibility.  
282.9 Plan formulation and evaluation.  
282.10 Cost sharing.  
282.11 Recommendation.  
282.12 Local cooperation requirements.  
282.13 Effective date.  
APP A—Sample Computation of Federal Costs.  
APP B—Example of Computations of Cost Sharing.

§ 282.1 Purpose.

This regulation provides policies and guidelines for determining the extent

of Federal participation in potential Federal projects for shore erosion control, and hurricane, abnormal tidal and lake flood protection.

§ 282.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities. The policies and guidelines set forth in this regulation are applicable to all preconstruction studies (level C and Phase I GDM) including small project studies conducted under the authority of Section 103, Pub. L. 87-874.

§ 282.3 References.

- (a) Section 2, Pub. L. 71-520, July 3, 1930, as amended by Section 103, Pub. L. 86-645, July 14, 1960.  
(b) Pub. L. 79-727, August 13, 1946, as amended.  
(c) Pub. L. 84-71, June 15, 1955.  
(d) Pub. L. 84-826, July 28, 1956, as amended.  
(e) Section 103, Pub. L. 86-645, July 14, 1960.  
(f) Sections 103 and 110, Pub. L. 87-874, October 23, 1962, as amended.  
(g) Pub. L. 88-172, November 7, 1963.  
(h) Section 215, Pub. L. 90-483, August 13, 1968.  
(i) Section 208, Pub. L. 91-611, December 31, 1970.  
(j) ER 1105-2-50, "Continuing Authorities Program," (Part 263 of this title).  
(k) ER 1105-2-200, "Multiobjective Planning Framework," (Part 290 of this title).  
(l) ER 1165-2-18, "Reimbursement for Advance Non-Federal Participation in Civil Works Projects," (§ 209.345 of this title).

§ 282.4 Definitions.

As used in this regulation:  
(a) "Construction costs" are the project first costs associated with initial construction or periodic nourishment less the costs of the lands, easements, rights-of-way and relocations.  
(b) "Historical shoreline" is the most seaward position of the mean low water/mean lower low water position recorded by previous surveys or interpreted from previous photographs, other historical record, or other sufficiently reliable means to permit comparison with the present position.  
(c) "Hurricane and abnormal tidal flooding" result from abnormal rises in tidal levels due to hurricanes and storms.  
(d) "Lake flooding" results from storm-induced inundation superimposed on the ordinary cyclic changes of the lake level.  
(e) "Periodic nourishment" is the deposit of sand fill at intervals of time to replenish a beach.  
(f) "Project first costs" are the total costs of initially constructing a project

including advance engineering and design, interest/luring construction, and the costs of lands, easements, rights-of-way, and relocations. (Interest during construction is not included when benefits accrue as the project is constructed.)

(g) "Public use" means available for use by any and all of the general public on equal terms (see § 282.7(d)).

(h) "Publicly-owned" means ownership by a State, municipality, or other political subdivision. Federal ownership is not included within this definition.

(i) "Shore damage" is primarily the result of erosion by ocean and lake waves and currents and the battering action of storm waves.

(j) "Shore protection" is provided by works to prevent or reduce damages caused by erosion. The terms "beach erosion control" and "shores restoration and protection" are used interchangeably. Protection of bluffs and dunes as well as beaches is involved.

§ 282.5 Synopsis of relevant legislative authorities.

- (a) *Beach Erosion Control*. (1) Section 2 of Pub. L. 71-520 as amended by Section 103, Pub. L. 86-645, authorized the Chief of Engineers to conduct shore erosion control studies in cooperation with appropriate agencies of various cities, counties, or States.  
(2) Pub. L. 79-727 expanded the Federal role by providing for Federal aid in the construction, but not maintenance, of works for the improvement and protection of publicly-owned shores of the United States.  
(3) Pub. L. 84-826, enacted in 1956, further expanded the Federal role by authorizing Federal participation in the cost of works for protection and restoration of the shores of the U.S. including private property if such protection was incidental to the protection of publicly-owned shores or if such protection would result in public benefits. It also provided for Federal assistance for periodic nourishment on the same basis as new construction, for a period to be specified by the Chief of Engineers, when it would be the most suitable and economical remedial measure. Section 156 of Pub. L. 94-587 allows the Secretary of the Army, acting through the Chief of Engineers, to extend that period to 15 years after the date of the initiation of construction if desirable.  
(4) Pub. L. 87-874 increased the proportion of construction costs borne by the Federal Government and made the total cost of preauthorization studies a Federal responsibility. In addition, it provided for reimbursement of local interests for work done by them on project construction, after initiation of survey studies which form the basis for the project, on authorized projects which did not exceed \$1,000,000.

(5) Section 215 of Pub. L. 90-483, enacted in 1968, modified the reimbursement authority mentioned above by giving the Secretary of the Army acting through the Chief of Engineers, authority to enter into agreements providing for reimbursement to States or political subdivisions for work to be performed by them at authorized projects. The amount of reimbursement is limited to \$1,000,000. Unless specifically authorized by Congress, reimbursement for work commenced by local interests subsequent to August 13, 1969 may be made only in accordance with this authority. Implementing policies and procedures may be found in § 209.345 of this chapter.

(b) *Hurricane, abnormal tidal and lake flood protection*. The Federal interest in projects to protect against hurricane, abnormal tidal and Great Lakes flood damage is not explicitly defined by legislation. Pub. L. 84-71 enacted June 15, 1955, authorized the Secretary of the Army, in cooperation with the Secretary of Commerce and other Federal agencies concerned with hurricanes, to make studies of the Atlantic and Gulf coasts of the United States to secure data on the behavior and frequency of hurricanes and to determine means of preventing loss of life and damages to property. It did not specify the degree of Federal cost sharing for construction of protective works. However, in authorizing projects proposed in the first three of these studies, the 1958 Flood Control Act established a precedent of limiting the Federal share of project first cost to a maximum of 70 percent.

(c) *Multiple-Purpose Projects*. Pub. L. 87-874 introduced the multiple-purpose concept in shore erosion control studies by providing for surveys of coastal areas of the United States and its possessions, including the shores of the Great Lakes, in the interest of shore erosion control, hurricane protection and related purposes. Generally, costs associated with each purpose were apportioned in accordance with applicable laws and policies. However, section 208 of the Flood Control Act of 1970 provides discretionary authority for a Federal share up to 70 percent of the project costs exclusive of land costs for combined hurricane protection and shore erosion control projects.

§ 282.6 Synopsis of related legislative authorities.

(a) Section 103 of the River and Harbor Act of 1962, as amended, provides the Secretary of the Army, acting through the Chief of Engineers, with the authority for planning and constructing small shore and beach restoration and protection projects within certain limits without specific Congressional authorization. Implementing policies and procedures for

this authority may be found in part 263 of this chapter.

(b) Section 111 of the River and Harbor Act of 1968 provides the Secretary of the Army, acting through the Chief of Engineers, the authority to study, construct, and maintain projects for the mitigation of shore damages attributable to Federal navigation works. Projects for which the Federal cost does not exceed one million dollars do not require specific Congressional authorization. This authority applies to both public and privately-owned shores along the coastal and Great Lakes shorelines. Implementing policies and procedures for this authority may be found in Part 263 of this chapter.

(c) The Coastal Zone Management Act of 1972, as amended, declares that it is national policy to: Preserve, protect, develop and, where possible, to restore and enhance the resources of the coastal zone; encourage the States to develop and administer management programs for the coastal zones giving consideration to ecological, cultural, historic, and aesthetic values and need for economic development; insure cooperation between Federal agencies having programs affecting the coastal zone with State, local, and regional agencies; insure public participation in the development and management of coastal zone programs; and encourage interstate and regional agreements for coastal zone management.

(d) Section 22 of Pub. L. 93-251 provides authority for cooperating with any State in preparation of comprehensive plans for water resources development, utilization, and conservation, and for submitting to Congress reports and recommendations with respect to appropriate Federal participation in carrying out such plans.

(e) A Demonstration Program is provided by section 54 of Pub. L. 93-251 which authorizes the Chief of Engineers, in cooperation with the Secretary of Agriculture and other Federal, State, and local agencies and private organizations, to develop and construct, but not maintain, a number of demonstration projects to emphasize the development of low-cost shoreline erosion control devices on sheltered or inland waters.

(f) Section 55 of Pub. L. 93-251 authorizes the provision of technical and engineering assistance to non-Federal public interests in developing structural and nonstructural methods of preventing damages attributable to beach erosion.

§ 282.7 Eligibility criteria.

(a) *Geographic Area*. Shore erosion control, hurricane, and abnormal tidal flooding authorities are applicable to the shores of the Atlantic and Pacific Oceans, the Gulf of Mexico, the Great

Lakes, estuaries, and bays directly connected therewith of each of the States, the Commonwealth of Puerto Rico, and the possessions of the United States. Authority for shore erosion control activities extend only the distance up tributary streams where it can be demonstrated that the dominant causes of erosion and damage are ocean tidal action and wind-generated waves. They will not address erosion at upstream locations caused by streamflows or vessels. Lake flood protection activities are generally limited to the Great Lakes.

(b) *Beach Creation*. Existing shore erosion control authority provides for "restoration" and "protection." It does not provide for Federal cost sharing in extending a beach beyond its historic shoreline unless the extension is needed for engineering reasons to provide protection from erosion. If extension of the beach beyond the historic shoreline for another reason is desirable from an economic, social and environmental viewpoint, reporting officers may recommend such extension. However, prior to making such a recommendation, reporting officers should contact HQDA-(DAEN-CWR) WASH DC 20314 to determine appropriate cost sharing requirements.

(c) *Shore Categories*. Five general categories of shore, based on ownership and use, and incidence and type of benefits, must be considered in determining Federal aid toward the cost of shore restoration and erosion protections. These categories, and the levels of Federal aid applicable thereto, are listed in Table 1. There are no restrictions regarding shoreline categories for hurricane, tidal, and lake flooding.

TABLE 1.—Categories of shore

Shore category	Maximum level of Federal aid	
	Construction	Maintenance
	percent	percent
I. Federally owned .....	100	100
II. Publicly owned, non-Federal parks and conservation areas <sup>1</sup> .....	*70	*None.
III. Publicly owned, non-Federal other than parks and conservation areas .....	*50	*None
IV. Privately owned, protection will result in public benefits <sup>2</sup> .....	*50	None
V. Privately owned, protection will not result in public benefits susceptible of evaluation <sup>3</sup> .....	None	None

<sup>1</sup> See § 282.10(a)(2).

<sup>2</sup> See § 282.8(d) concerning periodic beach nourishment.

<sup>3</sup> Privately owned shores under public control, as through a sufficiently long-term lease assuring realization of public benefits throughout the economic life of the project, may be treated as category III shores in determining Federal aid.

<sup>4</sup> See § 282.10(a)(5) concerning incidental protection of privately owned shores.



(d) *Public use.* Public use is not a condition for Federal participation in hurricane, abnormal tidal or lake flood protection projects. However, current shore erosion control law provides that "Shores other than public (i.e., privately owned) will be eligible for Federal assistance if there is a benefit such as that arising from public use. . . ." Public use means use by all on equal terms. This means that there will be no limitation, by any device, to limit use of project beaches to a segment of the public. Unless the protection of privately-owned beaches is incidental to protection of public beaches (see § 282.10(a)(5)), they must be open to all visitors regardless of origin or home area or provide protection to nearby public property to be eligible for Federal aid. Items affecting public use are discussed below.

(1) *User fees.* A reasonable beach fee, uniformly applied to all, for use in payment of local project costs is allowable. Normal charges made by concessionaires and municipalities for use of facilities such as bridges, parking areas, bath houses and umbrellas are not construed as a charge for the use of the Federal Beach project, if they are commensurate with the value of the service they provide and return only a reasonable profit. Fees for such service must be applied uniformly to all concerned and not as a prerequisite to beach use.

(2) *Parking.* Lack of sufficient parking facilities for the general public (including non-resident users) located reasonably near and accessible to the project beaches would constitute a de facto restriction on public access and use of such beaches, thereby precluding eligibility for Federal assistance. Generally, parking on free or reasonable terms should be available within a reasonable walking distance of the beach. Street parking is not considered acceptable in lieu of parking lots unless curb-side capacity will accommodate existing and new demands. Parking should be sufficient to accommodate the peak demand. In some instances public transportation facilities may substitute for or complement parking facilities. However, reports which consider public transportation in this manner must provide justification which indicates how the public transportation system would be adequate for the needs of beach users.

(3) *Access.* Unobstructed safe access must be provided to the beach from street ends or parking areas.

(4) *Beach use by private organizations.* Federal aid to private shores owned by beach clubs and hotels is incompatible with the intent of the Pub. L. 84-826 if the beaches are limited to use by members or paying guests.

\*Cost-sharing percentages do not apply to lands, easements and rights-of-way and facilities.  
\*Multiplied by the ratio of public benefits along category IV shore to total benefits along category IV shore.

(5) *Public shores with limitations.* Publicly-owned beaches which are limited to use by residents of the community or a group of communities are not considered to be open to the general public and will be treated as private beaches.

(e) *Improvements for recreation.* Improvements can be made to enhance the recreational value of coastal protection projects. Examples of such improvements are bathhouses, access facilities, toilet facilities and parking areas. Provision of those facilities is considered to be a local responsibility not eligible for Federal aid through the Corps of Engineers programs.

#### § 282.8 Federal interest and Corps responsibility.

The Congress has established a Federal interest in shore erosion control, hurricane, abnormal tidal, and lake flooding in the legislative authorities and specific authorizations discussed in § 282.5. The Corps of Engineers is the primary Federal agency with the responsibility for implementing those authorities. The Corps' responsibility in various phases of project development is discussed below:

(a) *Studies.* The Corps of Engineers may undertake specific studies relating to shore erosion and hurricane, abnormal tidal and lake flood problems with the authorization of Congress, either in response to resolutions adopted by the Committee on Environment and Public Works of the United States Senate or the Committee on Public Works and Transportation of the House of Representatives, or by an Act of Congress. Studies are authorized to be 100 percent Federally funded. Studies may be initiated without specific Congressional authorization under the authority of section 103 of Pub. L. 87-874.

(b) *Construction.* Construction of authorized shore restoration and protection projects is a responsibility of the Corps of Engineers. However, local interests may construct portions of projects, after they are authorized by Congress, and be reimbursed by the Federal Government within a one million dollar limitation if prior approval is obtained from the Chief of Engineers (reference § 209.345 for approval procedures and policies). If local interests desire to proceed with construction of the project, they may do so with the understanding that:

(1) Federal participation would be limited to the Federal shares of the costs of the elements constructed which are in accordance with the authorized plan, and

(2) Local interests provide assurances that they will bear any increased costs of measures which may result from advance work, unless there are extenuating circumstances which warrant omission of this condition.

(c) *Maintenance.* Maintenance is a non-Federal responsibility. However, if a portion of the benefited area is in Federal ownership the Federal maintenance responsibility shall be established as the same portion as the length of Federal shoreline is to the length of total shoreline. By definition, periodic nourishment is not maintenance.

(1) Where Federal responsibility for a part of the maintenance is established, but maintenance for the project as a whole could be carried out more effectively by non-Federal interests, the entire maintenance responsibility should be assigned to non-Federal interests with appropriate Federal cash contributions during the project life or by reducing the initial non-Federal cost by the capitalized value of future Federal maintenance costs.

(2) In the case of multipurpose projects providing for navigation and hurricane flood protection projects, particularly those which involve complex operating procedures, operation and maintenance responsibility for the entire project might best be vested in the Federal Government. In such cases, non-Federal interests should be obligated to contribute their share of costs to the Federal Government on a scheduled basis throughout the project life or to make a cash contribution of the capitalized value of the non-Federal share of the maintenance cost. Future maintenance costs are to be capitalized using the water supply repayment interest rate.

(d) *Periodic nourishment.* Periodic nourishment is considered "construction" for cost-sharing purposes when in the opinion of the Chief of Engineers, such nourishment is found to be a more suitable erosion protection measure than other construction, i.e., breakwaters or seawalls. When periodic nourishment is proposed as a maintenance measure, as for example when it would serve to maintain protection accompanied by structures intended to confine the benefits of nourishment within a beach compartment rather than serving as a full or partial alternative to such structures, Federal Aid toward its cost should not be recommended, except to the extent warranted in paragraph (c) of this section. It may be considered eligible for Federal aid in projects where short low-profile groins are included to maintain a shore alignment, but not to prevent littoral drift from nourishing down-draft beaches. Federal aid for periodic nourishment may continue throughout the economic life of the project, but a specified period of time, usually the economic life of the project, must be recommended in planning reports. If there is reason to doubt the technical viability of periodic nourishment for such a period of time, a shorter period may be recommended. After that period, the project should be re-

examined to determine if periodic nourishment is the most efficient and economic solution.

(e) *Work for another Federal Agency.* Work to protect lands under the jurisdiction of another Federal agency shall be accomplished by the Corps only on a reimbursable basis, upon request from the responsible agency. Protection of Army lands used for military purposes will be accomplished with military funds, not Civil Works funds.

#### § 282.9 Plan formulation and evaluation.

(a) Projects shall be formulated in accordance with policies and procedures contained in Part 290 of this chapter. Consideration shall be given to both structural and nonstructural solutions. Plan formulation should be accomplished to arrive at the best solution, considering all factors, including engineering, economic, environmental, and social.

(b) As required by Part 290 of this chapter benefits will be determined to evaluate the alternative in terms of the planning objectives. Benefits normally associated with beach erosion control and hurricane, abnormal tidal, and lake flood protection projects are:

(1) Benefits from beach restoration,  
(2) Prevention of land loss and other physical damages,  
(3) Avoidance of emergency costs to residences, businesses, and governmental entities,  
(4) Enhancement of property values,  
(5) Increased recreational usage, and where appropriate, relief of overcrowding for existing recreational usage, and

(6) Prevention of loss of historic and scenic aspects of the environment.

(c) Incidental benefits, such as reduction in shoaling at navigation projects, reduction in tidal flood damages, and incidental benefits to property down-drift of a shore protection project, may be credited to a beach erosion control project. In like manner, incidental damages should be charged against the project as an adjustment of the benefit estimate.

#### § 282.10 Cost sharing.

(a) *Beach erosion control.* Federal participation in the costs of beach erosion control projects is based on shore ownership, use, type and incidence of benefits as discussed below.

(1) *Federally-owned lands* are protected at Federal expense. All costs allocated to restoration and protection are to be borne fully by the Federal Government.

(2) *Publicly-owned shore park and conservation areas* are eligible for Federal cost sharing up to 70 percent of the construction cost if all the following conditions are met:

(i) The land is publicly owned.  
(ii) The park includes a zone extending landward from MLW or MLLW

line which excludes all permanent human habitation. This excludes summer residences, but does not preclude residences of park personnel or buildings for park management and administration.

(iii) The park includes a beach suitable for recreational use.

(iv) The park provides for conservation and development of the natural resources of the environment.

(v) The park or conservation area extends landward a sufficient distance to include where appropriate, protective dunes, bluffs or other natural features which will absorb and dissipate wave energy and flooding effects of storm tides. The purpose of this requirement is to provide a protective buffer zone which would prevent damage of upland property and development.

(vi) The park provides full park facilities for appropriate public use.

(vii) Publicly-owned shores are eligible for Federal participation up to 50 percent of the construction cost.

(viii) Privately-owned shores may be eligible for Federal cost sharing of up to 50 percent if there would be significant public benefits arising from public use or from direct protection of nearby public facilities. Federal participation is adjusted in accordance with the ratio of public benefits to total benefits. Recreation benefits resulting from beaches not open for public use are considered to be private benefits for cost apportionment purposes.

(ix) Benefits to private shores beyond project limits of shore protection works, if trivial in amount, may be considered as incidental and not involved in cost-sharing considerations.

(b) *Hurricane, tidal and lake flood control.* For hurricane, tidal, and lake flood control protection projects, the Federal share of the project first costs (including lands, easements, rights-of-way, and relocations), is limited up to a maximum of 70 percent. When the normal local costs of lands, easements, rights-of-way, and relocations amount to less than 30 percent of total first costs, the difference is required as a local cash contribution. When the aforementioned local costs exceed 30 percent, they become the minimum requirement.

(c) *Multiple-purpose projects.* For multiple-purpose hurricane protection and beach erosion control projects, the Secretary of the Army acting through the Chief of Engineers, has discretionary authority to authorize a Federal share up to 70 percent of the construction costs. This discretionary authority will not be used unless normal cost allocation procedures produce inadvertent inequities in specific cases. Cases possibly warranting such adjustments are to be submitted to HQDA-(DAEN-CWR) WASH DC 20314 for consideration.

If this discretionary authority is not used, the costs of the beach erosion control features required to stabilize the shore against wave action are considered to be joint costs and allocated between the hurricane and beach erosion control functions by the Separable Costs Remaining Benefits (SCRB) method.

#### § 282.11 Recommendation.

Any statement in a beach erosion control report as to the percentage of construction costs to be borne by local interests or the Federal Government must be qualified as tentative since the final apportionment will be based on the extent of shore frontage in public ownership or use at the time of construction.

#### § 282.12 Local cooperation requirements.

Reporting officers must obtain formal assurances from a public agency fully authorized under State law to fulfill the non-Federal obligations of any projects recommended for Federal participation. The assurance will indicate that subsequent to project authorization and prior to construction, the sponsor will enter into a written agreement, as required by Section 221 of Pub. L. 91-611, to provide assurances of local cooperation satisfactory to the Secretary of the Army. Such assurances include the contributions computed from the policies given in § 282.10 and the following non-Federal responsibilities:

(a) Provide without cost to the United States all necessary lands, easements, rights-of-way and relocations required for construction of the project, including that required for periodic nourishment.

(b) Hold and save the United States free from claims for damages which may result from construction and subsequent maintenance of the project, except damages due to the fault or negligence of the United States or its contractors.

(c) Assure continued conditions of public ownership and use of the shore upon which the amount of Federal participation is based during the economic life of the project.

(d) Assure maintenance and repair, and local share of periodic beach nourishment, where applicable, during the economic life of the project as required to serve the intended purposes.

(e) Provide and maintain necessary access roads, parking areas, and other public use facilities, open and available to all on equal terms.

(f) Specific cases may also warrant assigning other additional local responsibilities, such as providing appurtenant facilities required for realization of recreational benefits.

(g) In the case of single-purpose hurricane, tidal, or lake flood protection projects, the requirements of local



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## PROPOSED RULES

cooperation will normally consist of §§ 282.12 (a), (b) and (d) in addition to the contributions required by § 282.10.

(h) Comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646).

(i) The wording given in § 282.12(a)-(h) should be considered standard for all recommended plans which include shore protection as a plan purpose. Deviations from such wording should not be made unless the reporting officer has justifiable circumstances warranting such action.

## § 282.13 Effective date.

This regulation is effective \_\_\_\_\_, as published in the FEDERAL REGISTER and codified as 33 CFR \_\_\_\_\_.

## APPENDIX A.—COMPUTATION OF FEDERAL COSTS FOR SHORE PROTECTION PLANS

1. *Projects Benefiting Only One Category of Shore.* The Federal share of the cost of construction of a project which will benefit only one category of shore, see § 282.7(c) of the regulation, if any, may be computed by multiplying the cost of construction by the appropriate percentage of Federal participation from § 282.10 of the regulation.

2. *Projects Benefiting Several Categories of Shore.* The Federal share of the cost of construction of a project which will benefit more than one category of shore, defined in § 282.7(c) of the basic regulation, may be computed by assigning proportionate shares of the total construction cost to each shore category involved, multiplying the costs thus assigned by the appropriate percentage of Federal participation from § 282.10 of the basic regulation, and summing the products thus obtained.

a. When the cost of construction per unit of benefited shore length is reasonably uniform for the entire project area, the total Federal cost of construction may be computed as a percentage of the total construction cost by the following formula:

Federal share of total construction cost, in percent =  
$$\frac{[(\text{Category I frontage/Total frontage}) + (\text{Category II frontage/Total frontage} \times 0.7) + (\text{Category III frontage/Total frontage} + \text{Category IV frontage/Total frontage}) \times 0.5] \times 100}{\text{Public benefits along Category IV frontage/Total benefits along Category IV frontage} \times 0.5 \times 100}$$

b. When the cost of construction per unit

of benefited shore length is not reasonably uniform for the entire project area, the project should be subdivided into compartments within which this condition is met. For each such compartment, the Federal cost of construction may be computed as a percentage of the total construction cost for the compartment by application of the formula in paragraph 2a, using frontage figures for the compartment rather than the project as a whole. The cost of construction for individual project compartments should be developed on a physical occurrence basis, insofar as possible, by first assigning costs which are specific to individual compartments and then distributing costs applicable to more than one compartment on a frontage basis. The total Federal cost of construction is obtained by adding the Federal costs computed for individual compartments.

c. When the cost of construction per unit of benefited shore length is not reasonably uniform for the entire project area, and division into relatively few substantial compartments within which this condition is met is not practicable, it will be necessary to compute the Federal share of construction cost on a section-by-section basis for all or part of the benefited shore length. Then applying this method in extreme cases, it may be necessary to treat each individual parcel of benefited shore in a given category as a separate section. From a computational standpoint the net effect is the same as division of the benefited shore length into a large number of compartments and the procedure outlined in paragraph 2b is applicable.

3. *Projects Including Beach Nourishment as a Construction Measure* is discussed in § 282.8(d) of the basic regulation. Periodic beach nourishment may be recommended as a construction measure. In the case of the projects for which the costs of initial work (beach restoration or structures) and of periodic nourishment are uniformly distributed over the frontage, the formula given in paragraph 2a will be applied and the percentage of Federal participation will be given the same for both initial work and periodic nourishment. In cases of nonuniform cost distribution for either the initial construction or the periodic nourishment, or both, the level of Federal participation will be computed in accordance with paragraphs 2b and 2c, and will not necessarily be the same for initial construction and periodic nourishment.

4. *Projects Providing Minor or Indefinite Incidental Benefits to Privately Owned Shores.* a. When the cost of works designed to benefit only publicly-owned shores would equal or exceed the cost of works which would in addition, benefit adjoining privately-owned shores, the benefits to the private-

ly-owned shores, if trivial in amount, may be considered as incidental and the Federal share of construction costs may be computed by the following formula:

Federal share of total construction cost, in percent =  
$$\frac{[(\text{Category I frontage/Total frontage}) + (\text{Category II frontage/Total frontage} \times 0.7)] \times 100}{\text{Public benefits along Category IV frontage/Total benefits along Category IV frontage} \times 0.5 \times 100}$$

b. When, as may occur in the case of periodic beach nourishment, private shores beyond projects limits ultimately may receive benefits of indefinite nature and amount from the project, such benefits will be classed as incidental and these benefits and the shores involved will not be considered in determining the Federal share of project costs.

5. *Projects Which Reduce Federal Cost of Maintaining Authorized Navigation Projects.* Federal aid may be recommended for that portion of the project cost allocated to navigation, in addition to the aid determined pursuant to paragraphs 2 through 4. For purposes of this computation allocations will be made on a proportionate benefit basis with benefits limited to the alternative costs. The total Federal share of costs expressed as percentage (T) for the feature which results in the navigation benefits may be computed as a percentage of the total first cost for that feature by application of the following formula:

$$T = \frac{N}{N+B} \times 100 + \frac{B}{N+B} \times T_1$$
  
Where:  
N = Navigation benefits of feature, limited to alternative costs of dredging.  
B = Beach erosion control benefits, limited to cost of beach fill from cheapest source (navigation spoil or other).  
T<sub>1</sub> = Federal share of cost of the shore protection features which results in navigation benefits, in percent, computed in accordance with paragraphs 1 through 4.

6. *Multiple-Purpose Projects.* In the case of multiple purpose projects, such as those for shore protection and other purposes as hurricane protection and navigation (where new navigation features are involved rather than maintenance of an existing Federal project), the procedures outlined in paragraph 2 through 4 will be applied only to the portion of the total construction costs allocated to shore protection. Allocation of costs between functions will normally be made by the Separable Costs-Remaining Benefits (SCRB) method (see ER 1160-2-101).

## APPENDIX B

## Example Computations for Cost Sharing on Shores Protection Plans

1. Example 1. The following is a simplified example of cost apportionment between Federal and local interests for an economically justified shore protection project where shores in both public and private ownership are involved and significant public benefits are generated through protection of private shores. It is assumed that a coordinated plan is proposed, that no section can be omitted, that the benefits to private shores are not incidental, that public benefits can be associated with only a portion of the private shores protected, and that the cost of protection per unit of benefited shore length is reasonably uniform for the entire project area. If periodic nourishment is involved in this case, cost apportionment therefor would be on the same basis.

Item	Shore Capacity					Total
	I	II	III	IV	V	
Length, feet	500	10,000	3,000	4,500	2,000	20,000
Ownership	Federal	Public	Public	Private	Private	
Benefits (av. ann. \$)						
Public	5,000	75,000	30,000	50,000	-	160,000
Private	-	-	-	25,000	40,000	65,000
Total	5,000	75,000	30,000	75,000	40,000	225,000

The formula given in paragraph 2a of Appendix A is applicable. The Federal share expressed as a percent of the total first cost would be:

$$\left\{ \left[ \frac{500}{20,000} \right] + \left[ \frac{10,000}{20,000} \times 0.7 \right] + \left[ \frac{3,000}{20,000} \right] \times \left\{ \left[ \frac{500}{20,000} \right] + \left[ \frac{10,000}{20,000} \times 0.7 \right] + \left[ \frac{3,000}{20,000} \right] \times 100 \right\} \times 100 = 52.5 \text{ percent} \right.$$

2. Example 2. is substantially the same as Example 1, except that the cost of protection per unit of shore length is not reasonably uniform and division into two compartments is necessary. For simplicity, shore categories in each of these compartments have been limited to four. In actual cases shores in all five categories might be found in all compartments.

## PROPOSED RULES

Item	Reach of Shore		Total
	Compartment 1	Compartment 2	
Length, feet	15,000	5,000	20,000
Construction cost, \$:			
Total	750,000	625,000	1,375,000
Per foot of shore	50.00	125.00	68.75
Shore length by shore categories, feet:			
I	500	-	500
II	9,000	1,000	10,000
III	2,000	1,000	3,000
IV	3,500	1,000	4,500
V	2,070	2,070	4,140
Total	75,000	5,000	20,000
Benefits by shore categories, av. ann. \$1,000:			
I	5	-	5
II	60	15	75
III	15	15	30
IV	20	30	50
V	10	40	50
Total	100	100	200

Computation of Federal share of construction cost

The formula given in paragraph 2a of Appendix A is applicable and is applied separately for each compartment.

Compartment 1  
Federal share of construction cost for compartment, in percent =  
$$\left\{ \left[ \frac{500}{15,000} \right] + \left[ \frac{9,000}{15,000} \times 0.7 \right] + \left[ \frac{2,000}{15,000} \right] \times \left\{ \left[ \frac{500}{15,000} \right] + \left[ \frac{9,000}{15,000} \times 0.7 \right] + \left[ \frac{2,000}{15,000} \right] \times 100 \right\} \times 100 = 59.7 \text{ percent} \right.$$

Compartment 2  
$$\left\{ \left[ \frac{1,000}{5,000} \right] + \left[ \frac{1,000}{5,000} \times 0.7 \right] + \left[ \frac{1,000}{5,000} \right] \times 100 = 30.7 \text{ percent} \right.$$

Total Project  
Federal share of construction cost =  
$$\left\{ \left[ \frac{750,000}{1,375,000} \times 59.7 \right] + \left[ \frac{625,000}{1,375,000} \times 30.7 \right] \right\} \times 100 = 46.5 \text{ percent}$$

Compartment	Federal Share of Construction Cost	
	Cost, \$	%
1	750,000	59.7
2	625,000	30.7
Total Project	1,375,000	46.5



3. Example 3 is substantially the same as Example 1 except that it is assumed that certain features of the project involved would reduce Federal costs of maintaining an authorized Federal navigation project by \$10,000 annually. This benefit is in addition to those shore protection benefits shown in Example 1. The proportionate share of shore protection benefits also accruing from those same features is assumed to be \$70,000. Average annual benefits for those project features thus would be:

Shore protection	\$70,000
Navigation	10,000
Total	\$80,000

The Federal share of construction costs of those project features which do not contribute to the navigation benefit would be 52.5 percent, as computed in Example 1. The Federal share of construction costs for the project features contributing the navigation benefit, computed in accordance with the formula given in paragraph 5 of Appendix A and expressed as a percent of total construction cost for those features, would be:

$$\left( \frac{10,000}{80,000} \times 100 \right) + \left( 52.5 \times \frac{70,000}{80,000} \right) = 58.5 \text{ percent}$$

4. Example 4 is similar to Example 2, except that the construction plan includes provision for periodic beach nourishment at an estimated average annual cost of \$100,000 which would benefit the entire project frontage.

Item	Compartment 1	Compartment 2	Total
Length, feet	15,000	5,000	20,000
Construction cost, \$			
Initial measures:			
Total	545,000	455,000	1,000,000
Per foot of shore	36.33	91.00	50.00
Periodic nourishment: (*)			
Total (Av. Ann.)	75,000	25,000	100,000
Per foot of shore (Av. Ann.)	5.00	5.00	5.00

(\*) Total cost of periodic nourishment distributed between compartments on a frontage basis.

Shore length by shore categories, feet:	Same as Example 2	Same as Example 2	Same as Example 2
Benefits by shore categories, Av. Ann. \$1,000	Same as Example 2	Same as Example 2	Same as Example 2

Computation of Federal share of construction cost  
The formula given in paragraph 2a of Appendix A is applicable and is applied separately for each compartment. The Federal aid percentages are as in Example 2:

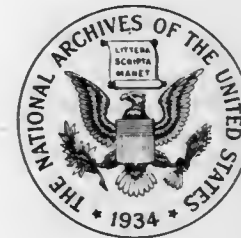
Compartment 1	59.7 percent
Compartment 2	30.7 percent

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PART V



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

## NATIONAL GUIDELINES FOR HEALTH PLANNING

3054

Federal aid for the project as a whole is computed as follows:

Compartment	Initial Measures		Federal Share of Construction Cost, %
	Construction Cost, \$		
1	545,000	59.7	325,000
2	455,000	30.7	139,500
Total	1,000,000	46.5(*)	465,000

(\*) This figure is the same as the result for Example 2 because the lengths and benefits by shore categories, and the relative compartment costs, are the same as for Example 2.

Compartment	Periodic Nourishment		Federal Share of Cost for Periodic Nourishment for Period to be Specified, %
	Nourishment Cost, \$		
1	75,000	59.7	44,800
2	25,000	30.7	7,700
Total	100,000	52.5(*)	52,500

(\*) Note that the Federal share of periodic nourishment costs for the project as a whole is not the same as the Federal share of other construction costs. (See paragraph 3 of Appendix A.)

5. Comment on Examples. The foregoing examples have been simplified for purposes of illustration, particularly in regard to the matter of uniformity of cost. In typical project cases, shore categories may be extensively intermixed and there may be a wide range of unit costs of protection in each category. Choice of the method for computation of Federal costs must be made on the basis of the conditions encountered in individual cases. The principal alternatives available are based on computation on the basis of the project as a whole as opposed to computation on a compartment-by-compartment or section-by-section basis. Reports should contain sufficient detail on costs, benefit occurrence, and alternative costs to support selection of the method of computation used.

[FR Doc. 78-1514 Filed 1-19-78; 8:45 am]



[4110-83]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

[42 CFR Part 121]

## NATIONAL GUIDELINES FOR HEALTH PLANNING

Proposed Rulemaking

AGENCY: Public Health Service,  
HEW.ACTION: Notice of proposed rulemak-  
ing.

SUMMARY: This Notice sets forth, pursuant to section 1501 of the Public Health Service Act, proposed National Guidelines for Health Planning with respect to the following types of health services and facilities:

General hospital beds.  
Obstetrical inpatient services.  
Neonatal special care units.  
Pediatric inpatient services.  
Open heart surgery units.  
Cardiac catheterization units.  
Radiation therapy.  
Computed tomographic scanners.  
End-stage renal disease.

A purpose of these guidelines is to assist Health Systems Agencies in developing Health Systems Plans and to help clarify and coordinate national health policy. The guidelines being proposed here are to be followed by later issuances setting forth national health planning goals and additional standards respecting the appropriate supply, distribution, and organization of health resources, as required by the Act.

This Notice follows up on the initial Notice of Proposed Rule Making on this subject which was issued on September 23, 1977 (42 CFR Part 121). In view of the widespread interest in the earlier proposed rules, the Department believes it advisable to provide an additional 30-day period for public review and comment on the revised Guidelines. It is the Department's intent to publish final regulations on this matter about 15 days after the end of this comment period. Since interested parties have had an opportunity to review the proposed Guidelines previously, they are urged to submit comments on the revised Guidelines as soon as possible.

The Notice invites all interested parties to submit written comments and recommendations concerning the proposed National Guidelines for Health Planning. After consideration of the material received in response to this Notice, the Secretary of Health, Education, and Welfare will by regulation issue final Guidelines on the specified health services and facilities.

DATE: Comments must be received not later than February 21, 1978.

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ADDRESS: Written comments and recommendations should be submitted to: Office of Planning, Evaluation, and Legislation, Health Resources Administration, Room 10-22, 3700 East-West Highway, Hyattsville, Md. 20782. All materials received in response to this Notice and background material which has contributed to the development of the proposed National Guidelines will be available for public inspection and copying at the above location during regular business hours.

FOR FURTHER INFORMATION  
CONTACT:

Daniel I. Zwick, Associate Administrator for Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, Md. 20782, 301-436-7270.

## SUPPLEMENTARY INFORMATION:

### A. OVERVIEW

On September 23, 1977, the Secretary of Health, Education, and Welfare published a Notice of Proposed Rulemaking (42 FR 45802 et seq.) proposing an initial set of National Guidelines for Health Planning, as required by section 1501 of the Public Health Service Act, as amended by the Health Planning and Resources Development Act of 1974 (Pub. L. 93-641). The attached document presents a revised version of these Guidelines that reflect extensive analysis of the many comments that were received as well as consultation with expert groups subsequent to the September Notice. The revision also seeks to clarify certain statements that were not understood by or were confusing to many readers of the initial issuance.

Through the enactment of the Health Planning Act, Congress sought to strengthen the development of health care planning at the State and local levels. By designating health service areas throughout the country; by requiring the establishment of Health Systems Agencies (HSAs) to plan locally to meet the health needs and goals of those areas; and by requiring the designation of State Health Planning and Development Agencies (SHPDAs) and State Health Coordinating Councils (SHCCs), the Act provided support for an essential State and local foundation, for bringing about comprehensive, long range health planning.

The Act requires the Secretary to issue the National Guidelines concerning national health planning policy which include (1) standards respecting the appropriate supply, distribution, and organization of health resources and (2) a statement of national health planning goals developed after consideration of the national health priorities set forth in section 1502 of the Act. As specified in the statute, these

goals, to the maximum extent practicable, are to be expressed in quantitative terms.

The goals and standards issued as part of the National Guidelines are to provide guidance to HSAs, SHPDAs, and SHCCs in the development of local and State health plans. This initial set of standards represents the first segment of what will become a rational, comprehensive set of health planning goals and standards designed to achieve for all Americans "equal access to quality health care at a reasonable cost", as expressed in section 2(a)(1) of the Act.

The Department has determined that the complete set of National Guidelines will include a wide range of goals and standards, addressing such issues as cost containment, access to care, availability and distribution of health care resources, quality of care and health status.

A second set of the National Guidelines, consisting of a set of goals relating to health status, health promotion and prevention, and access to health care will be proposed in the near future. A third issuance, to be issued in the Spring, will propose standards relating to these goals. Additional goals and standards will be issued on a periodic basis.

In publishing the initial set of Guidelines proposed on September 23, the Department decided to focus on a limited number of issues relating to hospital resources that present important short-term opportunities for the containment of costs and the enhancement of the quality of care. In enacting the Health Planning Act, Congress found (section 2(a)) that increases in the cost of health care, particularly of hospital stays, have been uncontrollable and inflationary, and that past public and private sector responses have not resulted in the restraint of costs. If unchecked, hospital costs are likely to double within 5 years. A hospital stay, which cost less than \$350 in 1965 and costs \$1,300 today, could increase to \$2,600 in five years and reach \$5,200 in ten years.

### B. PROCESS OF INITIAL STANDARD DEVELOPMENT

The standards published for comment on September 23 and revised here concern general hospital beds; obstetrical, pediatric, and neonatal special care units; open heart surgery and cardiac catheterization units; radiation therapy; computed tomographic scanners; and end-stage renal disease.

Each of the standards relate to a health care resource which has been widely discussed and is based on and adapted from a recommendation, guideline, or standard previously developed by one or more medical groups, health planning organizations, or other professional bodies. Addition-

ally, documentation of health standards was obtained through searches undertaken by the National Library of Medicine and the National Health Planning Information Center and systematically reviewed by Department staff.

Materials included in these analyses were reports of such organizations as the Institute of Medicine, the Office of Technology Assessment, the American College of Obstetrics and Gynecology, American Academy of Pediatrics, American College of Radiology, Committee on Perinatal Health, and the Inter-Society Commission on Heart Disease Resources.

Proposed guidelines concerning hospital bed supply were included in a draft of National Guidelines that was widely distributed after October 1976. Some 1,300 comments were received on that material.

### C. PROCESS OF PUBLIC CONSULTATION

Section 1501(c) requires the Secretary to consult with and solicit recommendations and comments from a wide range of planning agencies, medical associations and other interested parties in developing the Guidelines. This has been accomplished through consultations, public notices, public meetings, review by the National Council on Health Planning and Development and other activities.

In publishing the Notice of Proposed Rulemaking on September 23, 1977, the Department allotted a period of 60 days for public comments and later (42 FR 59888) extended this period for an additional 17 days. During this period, more than 55,000 communications were received. Among those who wrote were more than 100 Health Systems Agencies, 30 State Health Planning and Development Agencies, 50 Hospital Associations, 80 Medical Societies, 35 medical schools, 60 national associations as well as thousands of individual hospitals, practitioners and consumers.

During this period, a series of five public meetings were held, during which individuals from the fields of medicine, health administration and consumer interest were actively consulted. Comments and recommendations were also received as the result of the Department's direct request for the views of all State and local health planning agencies and numerous professional and consumer groups. Many other suggestions were received in public hearings before the Subcommittee on Health and the Environment of the House Interstate and Foreign Commerce Committee, and from individual Members of Congress.

The National Council on Health Planning and Development began its consideration of the proposed guidelines at its first formal meeting on September 23, 1977. The Council de-

voted three days, December 9, 10, and 21, to the review of the proposed guidelines. At the latter meeting, it passed 11 resolutions providing comments and recommendations to the Secretary on this matter.

The Department is grateful to those who participated in the public hearings and to the large number of local and State planning agencies and medical, health, consumer and other groups who have contributed their comments and criticisms. It is also grateful to the many thousands of private citizens who have expressed their views. All have contributed to the development of the revised Guidelines published below.

The process of consultation, thus, has been extensive. At times, the comments received have been spirited. The broad attention to and debate over the National Guidelines are important and necessary steps in increasing understanding of the purposes of the health planning program and the complexities of health care issues. The urgency of containing rapidly rising health costs in order to make possible the achievement of equal access to high quality health care has been further highlighted by the initial issuance of the National Guidelines. The Guidelines have been modified and improved on the basis of the comments received.

### D. MAJOR ISSUES

Most of the comments received expressed concern about the anticipated impact of the proposed Guidelines on local hospital services, especially in rural communities. Other comments were focused on the details of one or more of the 11 proposed standards. The major, general issues are discussed in this section. Major comments concerning the specific standards are discussed in the next section.

### 1. LOCAL CONTROL

It is the clear intent of the Health Planning Act that health planning be conducted at State and local levels. Nothing in the Act nor in the National Guidelines will or could take planning concerning individual facilities out of local and State hands. The Guidelines provide national benchmarks to help local and State agencies draw up local and State plans. These plans should, and indeed must, recognize special local circumstances and requirements, and the Guidelines provide for recognizing such circumstances.

The Guidelines are aimed at guiding the development of local plans respecting the organization and delivery of health services. They do not include any Federal authority to close any hospitals or to eliminate any services. Neither the Act nor the Guidelines authorize any local Agency, any State Agency, or the Secretary to close any existing hospital or hospital services,

such as obstetrical or pediatric services. Decisions with respect to new facilities and services are to be made under State Certificate-of-Need programs, after consideration of the advice of local Health Systems Agencies.

Local Health Systems Agencies have the responsibility to analyze and plan how the Guidelines apply to local conditions and needs. These analyses are to be reflected in the Health Systems Plans. As part of his periodic assessment of the performance of the agencies, the Secretary will review how well this has been done.

Section 1513(b)(2) calls for Health Systems Agencies to develop plans "(B) which are responsive to the unique needs and resources of the area; and (C) which take into account and [are] consistent with the national guidelines . . . respecting supply, distribution and organization of health resources and services." Both these criteria must be met in the establishment of Health Systems Plans.

HSAs are expected to give careful consideration to the National Guidelines in drawing up their HSPs and to use the quantitative standards as benchmarks against which local needs and conditions can be assessed. In planning for the local supply and distribution of health care services specifically described in these National Guidelines, HSAs should determine where the National Guidelines are appropriate planning targets for their local needs and resources, as well as where specific adjustments might be appropriate, due to special local needs or conditions.

In some cases, the Agency may need to adjust a quantitative standard upward or downward to meet a specific local situation. The Guidelines contain a number of specific local conditions which may justify such adjustments to one or more of the standard, such as the age of the local population, seasonal population fluctuations, or the rural nature of an area.

In addition, the Guidelines now contain a general provision which recognizes that other special local conditions may exist which justify adjustment of a national standard. This provision permits the HSA, pursuant to its own detailed analyses, to include adjustments to take account of those local conditions that involve special needs concerning access to needed care and unreasonable costs. Such adjustments will then be reviewed by the SHPDAs and the SHCCs as part of their responsibilities.

The initial Guidelines thus reflect a careful balance between the Federal role in providing national health planning leadership and guidance and the needs of local and State agencies to take account of local health conditions and requirements.



## 2. RURAL AREAS

Much concern has been expressed in some States that the Guidelines might force many small rural and community hospitals to close. This was not the intention of the proposal; on the contrary, a Departmental objective is to improve access to needed, high quality health care for those living in rural and other underserved areas. As noted above, neither the Act nor the Guidelines provide any authority to close any hospital or eliminate any services.

The proposed Guidelines included a number of provisions addressing the specific conditions and needs of rural areas. The Guidelines published below contain a number of revisions to take further account of the special conditions and needs of rural areas and emphasize the responsibilities of HSAs to make adjustments to take these into account.

In particular, the Guidelines have been modified to emphasize that hospital care should be accessible within a reasonable period of time and to recognize that smaller hospitals are likely to have lower occupancy rates. The standard for obstetrical services has been revised to exempt rural hospitals that provide services primarily for uncomplicated maternity cases and the standard for pediatric services has been limited to urbanized areas. Additional provisions dealing with situations involving travel difficulties have been added to the standards respecting neonatal and radiation therapy units. It has been emphasized that HSAs have the responsibility to analyze and determine travel times.

The House of Representatives passed a resolution on December 6, 1977, indicating that the "Guidelines should include sufficient flexibility to allow a Health Systems Agency to recognize special characteristics in rural areas and, on the basis of these special characteristics, to establish a Health Systems Plan that varies from the National Guidelines, in order to provide health care services to rural residents." The provisions of the Guidelines have been revised to reflect the concerns expressed in that resolution.

## 3. OTHER ISSUES

a. *Scope of the Guidelines.* As discussed above, the standards published here do not constitute a full array of National Guidelines for Health Planning. The National Guidelines are to be a comprehensive statement of national health planning goals and resource standards. They will provide health policy direction and guidance. They are to encompass all the issues of major importance in developing local Health Systems Plans and State Health Plans.

However, the development of such a comprehensive statement will be a long-term, progressive process. In

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many cases, there is currently incomplete agreement respecting health goals and resource standards. Thus, as local and State health plans are extended and refined over many years, so will the National Guidelines. These refinements will be based on analyses of local Health Systems Plans and other experiences and analyses.

Additional National Guidelines for Health Planning respecting national health planning goals and other resource standards are under development. It is anticipated that they will be issued for public review and comment early in 1978. They will address such issues as advancement of health status, strengthening health promotion and prevention, and improvements in the accessibility, organization and quality of needed health care.

An initial emphasis on short-term opportunities for cost containment and quality improvement is appropriate if adequate resources are to be available to help achieve longer-term goals with respect to health status, health promotion and prevention, and access to needed care. As noted above, rapid increases in hospital costs are absorbing an exaggerated share of available resources. Planning and actions to contain these increases are essential first steps to make possible the achievement of the statutory aim, viz., equal access to quality health care at a reasonable cost.

b. *Unnecessary utilization.* Standards for minimum utilization of resources involve a risk of encouraging unnecessary utilization. A tendency could develop in certain cases to increase utilization in order to reach the established targets.

Any tendency toward unnecessary utilization is contrary to the intent and purpose of the National Guidelines. The established target levels are meant to include only medically necessary hospital admissions and services.

The Guidelines have been revised to emphasize these principles. Evaluation of their implementation will give continuing attention to these concerns. Continuing efforts will also be made to develop additional population-based standards.

c. *Premature issuance.* The Preamble to the September 23 FEDERAL REGISTER Notice stated that "the state of the art of establishing quantitative resource standards is still in its infancy." Some commentators have emphasized this point and have questioned the adequacy of the data base used in developing the proposed standards.

Others have pointed out that Health Systems Agencies do not have the authority necessary to achieve the target levels or to require anyone to do so. They have felt, therefore, that the development of plans consistent with the proposed standards would be meaningless.

While it is recognized that the process of developing quantitative standards is still in its early stages, the Department believes that sufficient progress has been made to support the standards as issued. Many groups, both public and private, have devoted substantial efforts to the review and evaluation of past experiences and available knowledge. Carefully considered judgments have been applied. The Department, in turn, has reviewed and benefited from this work in formulating the proposed standards. Further, the Department has had the benefit of a substantial amount of additional thoughtful comments as the result of the FEDERAL REGISTER Notice and has used these recommendations in revising the Guidelines.

As stated earlier, the standards will require periodic review and revision as knowledge is increased concerning the most appropriate use and configuration of resources to provide services which meet health needs of the population. The Guidelines will then be reviewed periodically, at least every two years, and revised as necessary based upon further analyses and experiences with their use. It is expected that publication of the Guidelines will contribute to the more rapid maturation of the standards development process.

With respect to the roles of Health Systems Agencies in achieving the established target levels, it is clear that their current authority is limited. As noted before, Health Systems Agencies have no authority under Federal law to close existing hospitals or services nor is the Federal Government authorized to do so. However, the Department believes that Health Systems Plans can and should be important occasions and vehicles for advancing public understanding of these issues and other factors contributing to rises in health care costs and other pressing health problems. Health Systems Plans will be of little value if they do not seriously address these issues.

The Guidelines have been revised to make clear that the Health Systems Plans are to include provisions which, if implemented, will achieve the established targets. The issuance of the Guidelines and the development of the plans should also speed the process of public debate and decision-making on the best approaches to implementation.

(d) *Educational programs.* Some writers have expressed concern that the proposed standards might impair training programs, especially for family practice and other types of primary care. It is expected that Health Systems Agencies will give full consideration to the special needs of training programs as they develop Health Systems Plans. Revisions made in the

standards should be helpful to those who are developing programs to prepare additional physicians and nurses for primary care. The importance of these programs and their extension are strongly supported.

The standards provide adequate flexibility to accommodate most training programs. If adjustments are needed, they should be based on thorough analyses by the institutions involved and by the Health Systems Agencies, especially if they are likely to involve substantial additional costs.

(e) *Federal facilities.* Many persons wrote that it is inappropriate and uneconomical that the Guidelines do not apply to Federal health care facilities. Pub. L. 93-641 does not provide authority to do so.

There are, however, many occasions where these planning activities interact with Federal programs. The principal health officers of the Department of Defense and the Veterans Administration as well as the Surgeon General of the Public Health Service serve as members of the National Council on Health Planning and Development. Local officials of the Veterans Administration participate as members of local Health Systems Agency governing bodies and on Statewide Health Coordinating Councils. In addition, plans for changes in the services of Defense Department, Veterans Administration and Public Health Service facilities are normally reviewed by the relevant Health Systems Agencies and recommendations are made by the Agencies.

The Guidelines have been modified to indicate that local Agencies are to take into account the services which Federal health facilities provide local residents. This can be an important factor in planning; for example, needs for local hospital beds may be reduced where a substantial number of residents are receiving care from Federal hospitals.

## E. COMMENTS ON SPECIFIC STANDARDS

While it is not possible to make individual reply to all the suggestions and comments which have been received and taken into account in revising the 11 proposed standards, the following discussion reviews major substantive issues.

## COMMENTS ON GENERAL PROVISIONS

In response to widespread concern and comment, the Department has modified the originally proposed general provisions in several respects.

If a Health System Agency (HSA) concludes on the basis of in-depth analysis that one or more standards should be adjusted in light of special conditions or needs, it may include such an adjustment in its Health Systems Plan, along with detailed documentation of the circumstances justifying the adjustment. The State Health Planning and Development Agency (SHPDA) and the State Health Coordinating Council (SHCC) will review proposed adjustments and the related analyses and, if appropriate, accept proposed adjustments as part of the State Health Plan.

The Department has further included general provisions to indicate that appropriate adjustments should be made to deal with the special needs and circumstances of Health Maintenance Organizations, and to take into account the services provided local residents by Federal health care facilities.

The effective date by which Health Systems Plans are to be consistent with the established Guidelines has been changed. Health Systems Plans established after December 31, 1978 are to be consistent with these standards. HSAs are urged to consider the Guidelines in current planning and review activities.

HSAs, under the regulations, are to establish goals and set forth plans which, if implemented, will achieve the targets set within five years. The Department recognizes that HSAs do not have all the means that may be necessary to achieve such targets.

## 1. COMMENTS ON STANDARD I REGARDING HOSPITAL BED SUPPLY

Numerous commentators questioned whether this standard should be applied to individual health service areas. They recommended that the standards be focused on the nation as a whole or on States, multiple areas or smaller service areas. Many objected to a uniform approach for all health service areas.

Pub. L. 93-641 calls for the use of the National Guidelines by HSAs which serve the needs of health service areas. The standard is not intended to be applied uniformly across the country. It identifies a number of factors which may justify an adjustment, either upward or downward, on the basis of analyses of local conditions and needs. Other adjustments due to unique local circumstances may also be proposed. It is believed that the standard (less than 4.0 beds/1000 population) is an appropriate and reasonable target as a ceiling and a useful starting point for analyses by HSAs. In many cases, it has been shown that necessary, high quality care can be provided with a much lower supply of hospital beds.

Some comments suggested that, in order to take into account the wide variations in bed supply which exist across the country, a percentage figure (such as 10%) be set as a target for the reduction in beds by health services areas. It was pointed out the proposed standard may involve major decreases in some areas and little or no de-

creases in other areas. It was suggested a 10% reduction is more in line with current levels and may be more easily achievable in many areas. This approach has not been accepted. An across-the-board reduction would tend to penalize those areas which in the past have limited the number of hospital beds.

Some letters pointed out that many other factors need to be considered, such as demographic characteristics of the population, specific types of facilities and beds, patient mix, and the availability of alternative forms of care. In a few instances, a formula approach was suggested to help identify the most appropriate target level. The established standard is only intended to set a ceiling. Individual HSAs are expected to undertake more refined analysis to identify the most appropriate local target, usually below the ceiling, and to identify desirable variations within the health service area.

Several comments addressed the relationship between the general hospital bed supply standard and the supply of beds in specific services, such as general medical/surgical, obstetrical, pediatric, etc. Several recommended that service-specific standards be developed. Others suggested that the Guidelines address different levels of care, e.g., primary, secondary and tertiary, within the content of regionalized systems. The importance of such sophisticated targets is recognized. It seems premature, however, to set such standards on a national basis at the present. Individual HSAs may extend their analysis to address such issues based upon the resources, information, and the technical capabilities at hand.

Several commentators suggested that 4.0 beds per 1000 population is too high a target ceiling. It is not intended that HSAs plan for a level of resources in excess of that needed to adequately serve the needs of the community. Areas with a lower ratio should seek to reduce the supply further except in those cases where it can be demonstrated that reductions would result in serious problems of access to needed services or an adverse affect on quality.

Several persons recommended that the standard should focus on utilization rates (i.e. patient days/1000 population) rather than on bed supply. The statute calls upon the Department to issue resource standards, not utilization standards. The intimate relationship between utilization rates, occupancy rates, and bed supply is recognized, however. HSAs are urged, in cooperation with PSROs and other utilization review mechanisms, to analyze the utilization of hospital services by residents of their areas and to plan for appropriate reductions whenever feasible.

Several comments questioned the cost savings resulting from reductions



in bed/population ratios. Differences among licensed beds, available beds and staffed beds were pointed out. HSAs are urged to consider entire facilities in their planning. While analyses are usually based on licensed beds, it is recognized that other factors must be considered as well.

Numerous commentators suggested that the standard be clarified to indicate the specific type of beds to be included, e.g. psychiatric. This suggestion has been accepted and revisions made. It is recognized that a relatively broad definition is presented. A similar approach will be used in the regulations to be issued on State Medical Facilities Plans.

Some viewed the proposed exception for age (i.e. 33 percent above the national average of those aged 65 and over) as too restrictive in view of the recognized significant increase in need for hospital care by the elderly. A lower threshold was recommended, usually 20 percent or so above the national average. This suggestion has been accepted.

Numerous comments expressed concern that the exception for rural areas, based upon a 45-minute travel time to care, was too restrictive. It was pointed out that travel time frequently depends upon weather conditions and that local health planning agencies often use 30 minutes travel time as a planning factor. The suggestion has been accepted. The responsibility of HSAs to analyze and determine travel time in light of local conditions and the importance of ensuring access to needed hospital care have been more explicitly emphasized.

Some comments suggested that greater flexibility be provided for seasonal population fluctuations through the incorporation of a provision for adjustments due to seasonal factors other than those specified. This suggestion has been accepted.

Others suggested that, in view of the range of needs and circumstances which exist across the country, other exceptions be provided. As noted above, adjustments other than those specified may be appropriate. Such adjustments are to be presented by the HSA based upon its analyses, reviewed by the SHPDA and SHCC, and if appropriate accepted as part of the State Health Plan.

A number of requests were received for further specificity regarding use of the identified adjustments factors. The provision concerning referral hospitals has been clarified. However, other terms have not been specified in the belief that HSAs should have the flexibility to determine the most appropriate uses as part of their analyses.

Others recommended that attention be given to the potential impact of local Federal health care facilities and

Health Maintenance Organizations on the need for beds and to the importance of supporting local activities aimed at achieving the national health priorities set forth in Section 1502 of Pub. L. 93-641. These recommendations have been accepted and changes made in the "Discussion" section.

Other special circumstances were also identified, including needs of programs of medical education and research; patterns of morbidity and mortality; socio-economic and racial characteristics; personal and ethical preferences; and facilities with low per diem costs. It is recognized that such factors should often be taken into account and it is anticipated that HSAs will do so in the development of their plans.

#### 2. COMMENTS ON STANDARD II CONCERNING HOSPITAL OCCUPANCY RATES

Many commentators applied the proposed occupancy rate (i.e. over 80%) to their institution rather than on an area-wide basis. The standard has been revised to make clear that it is to be applied on an area-wide basis, in line with the emphasis in Pub. L. 93-641 on planning on a community-wide basis.

Numerous comments expressed concern that the specification of a minimum occupancy rate may provide an incentive for unnecessary hospital admissions or extended lengths of stay. Revisions have been made to emphasize that it is not intended that increased rates be achieved through unnecessary utilization.

A number of suggestions were made for changes in the occupancy rate, including recommendations for a lower percentage for rural areas. The Guidelines have been revised to recognize that lower average annual occupancy rates are usually experienced by smaller hospitals, including those in rural areas, to accommodate normal fluctuations in admissions.

Several comments pointed out that empty beds may not be so costly since they are often not staffed. This condition is recognized. However, excess beds not only involve substantial investment costs but often present irresistible temptations for over-utilization. It is believed these resources are better devoted to more socially useful purposes. In determining excess beds, potential changes in population must be analyzed, of course.

A number of comments were received suggesting that occupancy rates are best applied to specific services. It was pointed out that specialized services should operate at different occupancy rates in light of their size and nature. Others proposed raising the target level or limiting the standard to general medical/surgical beds. It is recognized that various specialty services have different requirements for optimal utilization and that more so-

phisticated approaches are often appropriate in analyzing occupancy rates. Many HSAs will choose to use such approaches. However, in view of the lack of available data in many areas on the number and utilization of beds assigned to specific services, it seems premature to set national standards of occupancy by service, except for obstetrical and pediatric services.

A number of suggestions were made to provide more specific definitions and additional adjustments. It is believed that such determinations are best left to local analyses.

#### 3. COMMENTS ON STANDARD III CONCERNING OBSTETRICAL SERVICES

Many comments were received suggesting that the standard be revised to take into consideration the recommendations of numerous groups respecting regional development of perinatal services. This approach emphasizes the importance of planning comprehensively for pregnant women and for mothers and their infants, for establishing effective linkages among various levels of care, and for providing the level of care most appropriate to differing conditions and risks. A regionalized system of care should integrate various levels of care: Level I for uncomplicated cases; Level II for services of uncomplicated problems and the majority of complicated problems and certain neonatal services; and Level III for handling all serious types of illnesses and abnormalities.

In response to these comments, the standard has been rewritten to emphasize a regionalized approach. Primary attention has been focused on the development and support of linkages among various facilities providing obstetrical and related services so that pregnant women will receive the most appropriate care for their needs and on the efficient and economical operation of the more expensive Level II and III facilities.

Many persons in rural areas and smaller communities expressed considerable concern that the proposed standard would threaten obstetrical services in their local hospitals. The proposed exception for rural areas appeared difficult to apply and inadequate. It was pointed out that the costs in such smaller hospitals are usually relatively low. The revised standard does not set any limits for smaller hospitals that primarily provide care for uncomplicated births. It encourages such hospitals to join in regionalized arrangements so that there will be early and prompt referral of any women requiring more specialized care.

Numerous commentators argued that the proposed standard for the minimum number of deliveries was too high. Some suggested that there is a lack of empirical evidence that smaller

units are more costly or provide lower quality care. Some felt that the larger facilities can impair access, increase inconvenience, raise costs due to the increasing specialization of services, threaten family-centered maternity services and depersonalize care.

The revised standard lowers the threshold to 1,500 annually, to be applied to Level II and III facilities only. No minimum is established for Level I facilities or for other facilities providing care for uncomplicated cases. The lower minimum is in line with the policies of many local and State health planning agencies.

Comments were also received expressing concern that the distinction between SMSA and non-SMSA areas is unrelated to health care. In line with the emphasis on regionalization, this distinction has been dropped.

Comments were received recommending the identification of additional factors, such as birth rates, age, high risk populations, teaching institutions, and ethical and religious preferences. It is recognized that such circumstances will often warrant specific analyses and consideration. Such adjustments should be based on local circumstances and be part of local Health Systems Plans.

Some suggested that transportation of high risk mothers to the appropriate level of care prior to delivery be emphasized. This suggestion has been accepted.

Several persons indicated that the proposed occupancy standard was too high and may foster more extended lengths of obstetrical stays than are required. Others felt that the proposed standard was unrealistic for hospitals with units of varying size, given the variability of obstetrical demand. The revised standard establishes a standard of 75% occupancy only for larger units (Levels II and III). It is not intended that increased occupancy rates be achieved through unnecessary hospital admissions or stays.

#### 4. COMMENTS ON STANDARD IV CONCERNING NEONATAL SERVICES

(Numbered Standard VI in NPRM)

Many commentators urged that the standard emphasize a regionalized approach, closely relating services for expectant mothers and newborns. This approach would be in line with recommendations of many professional associations. The standard has been revised to emphasize a regionalized approach, including various levels of care.

Many comments urged the standard be clarified to indicate whether it was intended to cover only intensive care. The revised statement focuses on neonatal intensive and intermediate care beds and Level II and III facilities.

Some commentators felt that the standard should be more specifically

related to the number of patients at risk. A newly added dimension recognizes upward adjustments for areas with a large number of high-risk pregnancies.

The relation of this standard to emergency medical services programs was questioned. The standard is not intended to disrupt these programs; rather, it should work in concert with these services. Extant infant transport services can augment regionalized systems.

The standard regarding minimum number of beds was the subject of comment. Suggested changes ranged from 10 to 18 beds per unit. The standard has been lowered to 15 beds and no specific breakdown is given in order to provide flexibility. The purpose of this standard is to ensure that the specially staffed and equipped special care unit will serve a sufficiently large population to justify its costs.

Some commentators pointed out that special arrangements are sometimes necessary to ensure that services are available to geographically remote areas because of the difficult travel problems involved for both the child and parents. A provision has been included to recognize that in some cases smaller Level II units may be justifiable. Because of the more specialized services necessary, smaller Level III units are not indicated. Additional emphasis has also been included on the importance of ensuring adequate transportation arrangements.

#### COMMENTS ON STANDARD V CONCERNING PEDIATRIC UNITS

(Numbered Standard IV in NPRM)

The term "pediatric units" has caused confusion. Some writers interpreted the term to refer to all pediatric services and expressed alarm that the care of children in smaller hospitals, especially rural hospitals, would be impaired. Others expressed concern that the closing of smaller units might result in poorer care for children if they were relocated among adults. It was frequently noted that hospitals in smaller communities, especially in rural areas, do not include discrete pediatric units. It was also urged that the definition include children's hospitals.

The standard has been revised to specifically include children's hospitals and to limit its focus to hospitals in urbanized areas. This is aimed at clarifying the intent to focus attention on larger, more costly facilities and to encourage inter-institutional arrangements in areas with multiple resources.

Many writers objected to limiting the definition of pediatric care to patients under 15 years old. Suggested changes ranged from under 16 years to age 21. The definition has been expanded to age 18 in order to be more

consistent with national norms. A larger patient population will broaden the base for both service and training.

Several comments mentioned that the size of pediatric units should reflect the socio-economic and health needs of the community. The concept of regionalized plans responds to this concern inasmuch as each plan should consider community-related resources and requirements.

Many noted that volume alone does not ensure quality or cost-effectiveness. The intention of the minimum bed standard is to encourage consolidation of services specifically related to pediatric care in order to better meet the special needs of children.

The minimum number of beds set for a pediatric unit caused problems for some respondents. Several commentators stated that a range would be more appropriate while others felt that the 20-bed minimum was too high. Since the standard has been focused on urbanized areas (communities exceeding 50,000 population) with larger hospitals, the target level seems appropriate.

With regard to the travel time provision, commentators suggested changes ranging from 20 minutes to 60 minutes as well as the need to consider the location of alternative units. The 30-minute standard has been retained inasmuch as it insures close proximity to parents.

Several respondents questioned whether or not the 30-minute requirement was under normal travel conditions. It is the responsibility of the HSA to analyze and determine travel times.

Several writers questioned whether the reference to 10 percent or more of the population refers to the pediatric population or the entire population. It includes the entire population since adults as well as children are involved in traveling to the units.

#### 6. COMMENTS ON STANDARD VI REGARDING PEDIATRIC OCCUPANCY RATES

(Numbered Standard V in NPRM)

Some comments questioned the proposed occupancy rates. Some stated they were too permissive for densely populated areas; others suggested one standard regardless of the unit size; and many recommended that the variable rates be retained but the levels decreased. Some warned that in order to attain the occupancy requirements, patients marginally in need of care might be admitted or average length of stay might be increased. Several writers suggested the need for an occupancy rate for units with fewer than 20 beds.

Variable occupancy rates have been retained in order to focus on varying requirements of differently sized units. The levels have been reduced by 5 percent for larger units to reflect the



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concerns expressed by many. The standard is not intended to encourage questionable admissions or increased lengths of stay.

7. COMMENTS ON STANDARD VII CONCERNING OPEN HEART SURGERY

Numerous comments were received recommending the inclusion of a specific provision differentiating between adult and pediatric cardiac surgery. A provision has been added for a minimum of 100 open heart procedures annually in any institution in which pediatric surgery is performed, of which at least 75 should be open heart surgery.

Several comments emphasized the importance of the surgical team and recommended that the standard for the minimum number of surgical procedures be made to apply to surgical teams rather than institutions. While the importance of the surgical team is recognized, the suggestion for change in the standard has not been adopted in view of the other costly resources involved in the work of the open heart surgical team, and the focus of the standards on institutional capacities.

Several comments were received requesting further definition of terms, such as "open heart" surgery and "procedures". A request was also made that the ICDA codes constituting open heart surgery procedures be specified. A definition has been added in the "Discussion" section.

A few comments recommended that population-based need criteria be included. While the importance of population-based guidelines is recognized, there are currently no broadly recognized criteria for determining a population base for open heart surgery procedures.

Numerous comments were received pointing out the need for a developmental period of time for phasing in new open heart units. The suggestion has been accepted and a provision has been added for a phase-in period of three years for new services.

A suggestion was made that the 200 minimum caseload be limited to SMSA areas with over 100,000 population. In view of the highly specialized nature of open heart surgery, this suggestion has not been accepted.

Numerous comments were specifically addressed to the requirement for 350 open heart surgery procedures prior to opening up a new unit. Some comments objected to the requirement as too high and suggested lower alternative thresholds. Others pointed out that some existing programs could not economically be expanded to that level. Others were concerned by the potential constraints on competition. The target level has not been revised since it is believed to be a reasonable level. In extraordinary situations, however, HSAs are expected to prepare appropriate analyses and develop a justifiable adjustment in the standard.

A number of other reasons for exceptions were suggested, including teaching institutions, research purposes, geographic configurations, and other circumstances. HSAs are expected to consider these needs as they develop their Health Systems Plans.

8. COMMENTS ON STANDARD VIII CONCERNING CARDIAC CATHETERIZATION UNIT SERVICES

A number of comments were received regarding the minimum volume of procedures specified in Part A. While some endorsed the recommended caseload, others recommended that the volume be reduced in view of the restrictive definition of procedures used. The minimum volume encompassing overall procedures has not been revised downward, but a provision has been added to clarify that intracardiac and/or coronary artery catheterization procedures should constitute at least 200 of the total procedures.

Several comments expressed the need for a period of time for phasing in new units. This suggestion has been accepted and the Guidelines revised to reflect a phase-in of three years.

Suggestions were also received for lowering the minimum volume for pediatric cardiac catheterization units. In view of the highly specialized nature of these procedures, the standard has not been revised.

Several comments were received requesting further definition of terms. A request was also made that the ICDA codes be indicated. While the ICDA codes have not been specified, it should be noted that the guidelines refer specifically to intracardiac and/or coronary artery catheterization.

Some comments were received objecting to the requirement that new cardiac catheterization units be opened only in facilities performing open heart surgery. Recommendations were made that the provision be deleted, that HSAs determine the optimal location of facilities, or that requirements for inter-institutional agreements be substituted. It was pointed out that some existing units have close, effective working relations with open heart surgery programs. While different views on this subject are recognized, the standard has not been revised since it is believed to be the most desirable approach for new units in terms of quality and cost.

Some comments objected to the requirement that no additional units be opened unless the projected number of studies is greater than 500. A variety of suggestions were made, including higher levels. The standard has not been revised since it is reasonable and soundly based. Concern was also expressed with the possible effect on

competition of requiring a threshold of 500 procedures in existing units prior to opening a new unit. It was suggested that this requirement might preclude the development of new units and create monopolistic situations. It is believed that expansion of costly resources should usually take place only where there is adequate utilization of existing resources.

A number of exceptions were suggested, including provisions for geography, accessibility, referral centers, teaching hospitals, and other circumstances. No exceptions have been included but it is expected that HSAs will carefully consider these circumstances in the development of Health Systems Plans.

Several comments were received on the importance of quality controls in cardiac catheterization. The importance of utilization reviews and outcome evaluations in assuring the necessity and quality of procedures is recognized. The minimum volume standards are designed to promote quality through specialized facilities and the maintenance and development of necessary skills.

9. COMMENTS ON STANDARD IX CONCERNING RADIATION THERAPY

Confusion resulted from the reference in the proposed standard to 450 new cancer cases, of which two-thirds were expected to require radiation therapy. Some suggested that this be changed to a minimum of 300 cases requiring treatment. Such a revision has been made.

A few writers pointed out that the incidence of cancer varies among areas and that, therefore, the 150,000 population base will not always apply. Such variation is recognized and the standard provides sufficient flexibility for HSAs to take this fact into account as part of their analyses in developing Health Systems Plans.

It was pointed out that a period of time is usually necessary for a new unit to build up to a minimum workload. A provision has been added for a three-year developmental period.

Some comments objected to the requirement that all units in an area should be operating at capacity before a new unit is approved. They noted that since the process of approval is often long, arrangements may need to be made several years in advance; furthermore, it may not be practical for certain units to expand their load and desirable competition may be discouraged. The standard provides flexibility for advance approval of new units when an existing unit is expected to achieve the target level. In special cases when all existing units can not reasonably be expected to reach the target level and a new unit is appropriate, the HSA may call for an adjustment in the standard as part of its

plan, based on its analyses of local conditions and needs.

A number of writers recommended the target level be reduced below 7,500 treatments. Suggested changes ranged between 5,000 and 6,500. It was also pointed out that the difference in patient mix affects the number of treatments that can be handled. The standard has been reduced to 6,000 treatments per year in line with the suggestions received.

The importance of defining the term "treatment" was often pointed out. This has been done in the "Discussion" section.

Many writers proposed a provision to address the needs of geographically isolated areas. They emphasized that many patients experience serious difficulties in traveling substantial distances to obtain necessary courses of treatment. A provision has been added to address these situations, based on analyses by the local HSA.

10. COMMENTS ON STANDARD X CONCERNING COMPUTED TOMOGRAPHIC SCANNERS

Some commentators objected to the issuance of a standard on this topic. They emphasized the CT scanning techniques and equipment are rapidly changing and that more extensive uses and less costly machines are being developed. The important contribution of these procedures as a diagnostic tool, when appropriately used, is recognized. The standard provides substantial flexibility to ensure that further desirable developments will not be impaired, while encouraging increased emphasis on appropriate utilization and cost consciousness. The standard will be evaluated periodically to determine whether revisions are needed in light of new knowledge and practices.

Many communications emphasized that body scans usually require more time than head scans. It was urged that these differences be reflected in the standard; one suggested approach was a weighting formula. These differences are recognized, but it is believed that sufficient flexibility has been included in the standard to take them into account. It does not seem desirable to set separate standards for head and body procedures since this could result in more costly arrangements. As additional information is available, a weighting scheme may be proposed in the future.

Many objected to the threshold of 4,000 patient procedures. It was argued that such an intensive work schedule could impose hardships on patients and staff. The standard has been modified to re-emphasize the 2,500 target. It does not seem unreasonable that this equipment should be used routinely more than 40 hours a week, as is done in most hospitals.

Some comments urged that the standard concerning the use of existing

equipment be deleted and each proposal for new equipment be considered by itself. They argued that it was unfair and undesirable to delay purchase by one facility because an existing unit was not being effectively used. These views do not appear to take into account the community-wide planning concepts that are integral to Pub. L. 93-641.

The proposed standard concerning the determination of charges was questioned by many writers as being beyond the scope of the National Guidelines. Others suggested a uniform cost-based methodology be introduced. This provision has been deleted. It is urged that charges for scanning be carefully re-evaluated and be reduced to the maximum extent feasible in light of more widespread and efficient utilization.

The proposed provision concerning data collection was felt by many to be undesirable as a routine requirement and to involve excessive costs. The detailed specifications have been deleted; a recommended data set will be published separately in the near future. Provision for a supplementary routine utilization review mechanism has been added, in line with a number of suggestions.

Questions were raised concerning the definition of "patient procedure." This issue has been addressed in the "Discussion" section.

Many commentators expressed the concern that imposition of a standard would encourage unnecessary utilization. The standard has been modified to specify that only "medically necessary" procedures are to be considered.

It has been urged that the standard emphasize that it applies to all operators of scanners regardless of location. This has been done.

11. COMMENTS ON STANDARD XI CONCERNING END-STAGE RENAL DISEASE

Many of the comments received urged the current regulations be amended to give further support to self dialysis and to encourage increased utilization of existing units. Clarification of relationships between the end-stage renal dialysis program and the health planning program was recommended by some writers. The Health Care Financing Administration is currently reassessing the established regulations; the comments received have been made available to them for consideration in that process.

Accordingly, it is proposed 42 CFR be amended by adding thereto a Part 121 as set forth below.

NOTE.—The Department of Health, Education, and Welfare has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

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Dated: January 18, 1978.

JULIUS B. RICHMOND,  
Assistant Secretary for Health.

Approved: January 18, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

PART 121—NATIONAL GUIDELINES FOR HEALTH PLANNING

Subpart A—General Provisions

- Sec. 121.1 Definitions.
- 121.2 Purpose and scope.
- 121.3 Applicability of national guidelines to Health Systems Plans.
- 121.4 Applicability of national guidelines to State health plans.
- 121.5 Responsibility of health systems agencies.
- 121.6 Adjustment of standards for particular Health Systems Plans.

Subpart B—National Health Planning Goals (Reserved)

Subpart C—Standards Respecting the Appropriate Supply, Distribution, and Organization of Health Resources

- 121.201 General hospitals—Supply.
- 121.202 General hospitals—Occupancy rate.
- 121.203 Obstetrical services.
- 121.204 Neonatal special care units.
- 121.205 Pediatric inpatient services—Number of beds.
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- 121.207 Open heart surgery.
- 121.208 Cardiac catheterization unit services.
- 121.209 Radiation therapy.
- 121.210 Computed Tomographic Scanners.
- 121.211 End-stage renal disease (ESRD).

AUTHORITY.—Sec. 1501, Public Health Service Act, 88 Stat. 2227 (41 U.S.C. 300k-1).

Subpart A—General Provisions

§ 121.1 Definitions.  
Terms used herein shall have the meanings given them in 42 CFR 122.1.

§ 121.2 Purpose and scope.  
Section 1501 of the Public Health Service Act requires the Secretary to issue, by regulation, national guidelines for health planning. The guidelines are to include national health planning goals (section 1501(b)(2)) and standards respecting the supply, distribution, and organization of health resources (section 1501(b)(1)). This subpart includes general provisions applicable to such goals and standards; Subpart B of this part sets forth specific national health planning goals; and Subpart C sets forth specific standards respecting the supply, distribution, and organization of health resources.

§ 121.3 Applicability of national guidelines to Health Systems Plans.

Section 1513(b)(2) of the Act requires health systems agencies, in the development of their Health Systems



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Plans, to give "appropriate consideration" to the national guidelines for health planning. Health Systems Plans must also "take into account" and be "consistent with" the standards respecting the supply, distribution, and organization of health resources set forth in Subpart C of this part.

(a) *Meaning of "consistent with."* A Health Systems Plan will be considered "consistent with" a standard set forth in Subpart C of this part where it: (1) Establishes a goal which is not in excess of the level set forth in the standard where that level is stated as a maximum, or not less than the level set forth in the standard where that level is stated as a minimum, and (2) includes plans which, if implemented, are reasonably calculated to achieve that goal within five years, except where a specific adjustment is justified in accordance with Subpart C of this Part or § 121.6.

(b) *Effective date.* Health Systems Plans established after December 31, 1978, must be consistent with each standard set forth in Subpart C of this part.

#### § 121.4 Applicability of national guidelines to State health plans.

Each State's State health plan developed under Title XV of the Act must be "made up of" the Health Systems Plans of the health systems agencies within the State, revised as found necessary by the Statewide Health Coordinating Council to achieve their appropriate coordination with each other or to deal more effectively with Statewide health needs. Section 1524(c)(2)(A) of the Act. Since Health Systems Plans must individually give appropriate consideration to the national guidelines for health planning and take into account and be consistent with the standards respecting the supply, distribution, and organization of health resources, the State health plan will accordingly reflect the guidelines.

#### § 121.5 Responsibility of health systems agencies.

Subject to the authority of the Statewide Health Coordinating Council to require the revision of Health Systems Plans under section 1524(c)(2)(A) of the Act, each health systems agency is responsible for analyzing the needs and conditions in its health service area and applying the national guidelines for health planning in the development of its Health Systems Plan, including the need for adjustments.

#### § 121.6 Adjustments of standards for particular Health Systems Plans.

Subpart C of this part includes provisions for adjustment of individual standards. In addition:

(a) Health systems agencies must make such adjustments as may be necessary:

(1) To take into account special needs and circumstances of Health Maintenance Organizations; and

(2) To take into account services available to local residents from Federal health care facilities.

(b) Whenever a health systems agency concludes, on the basis of a detailed analysis, that development of a Health Systems Plan consistent with one or more of the standards set forth in Subpart C of this part would result in:

(1) Residents of the health service area not having access to necessary health services;

(2) Significantly increased costs of care for a substantial number of patients in the area; or

(3) The denial of care to persons with special needs resulting from moral and ethical values;

and that result cannot be avoided through use of the adjustments specifically provided for in the standard or in paragraph (a) of this section, the agency may include in the Health Systems Plan a special adjustment of the standard or standards which will avoid this result. Whenever a special adjustment is so included, the plan must also contain a detailed justification for the adjustment and documentation of the circumstances that are the basis of the justification. In the case of an adjustment included on the basis of subparagraph (1) or (2) of this paragraph, the plan must further include an analysis indicating whether the need for such an adjustment is permanent. If it is, the supporting rationale must be documented and if it is not, an estimate must be included of how long inclusion of the adjustment will be required along with a detailed justification for that length of time.

(c) Any proposed adjustment under this section and the analyses supporting it must be reviewed by the State health planning and development agency in its preparation or review of the preliminary State health plan under section 1523(a)(2) of the Act and by the Statewide Health Coordinating Council in its preparation or review of the State health plan under section 1524(c)(2) of the Act. On the basis of that review, and consistent with Statewide health needs and the need to coordinate Health Systems Plans as determined by the Statewide Health Coordinating Council, the adjustment may be made part of the State health plan. The Statewide Health Coordinating Council shall report its comments on and disposition of the proposed adjustments to the Secretary under section 1524(c)(1) of the Act.

#### Subpart B—National Health Planning Goals [Reserved]

#### Subpart C—Standards Respecting the Appropriate Supply, Distribution, and Organization of Health Resources

##### § 121.201 General hospitals—Bed supply.

(a) *Standard.* There should be less than four non-Federal, short-stay hospital beds for each 1,000 persons in a health service area except under extraordinary circumstances. For purposes of this section, short-stay hospital beds include all non-Federal short-stay hospital beds (including general medical/surgical, children's, obstetric, psychiatric, and other short-stay specialized beds). Conditions which may justify adjustments to this ratio for a health service area are:

(1) *Age.* Individuals 65 years of age and older have a higher hospital utilization rate—up to four times that of the general population—than any other age group. Bed-population ratios for health service areas in which the percentage of elderly people is significantly higher (more than 12 percent of the population) than the national average may be planned at a higher ratio, based on analyses by the HSA.

(2) *Seasonal population fluctuations.* Large seasonal variations in hospital utilization may justify higher ratios. Plans should reflect vacation and recreation patterns as well as the needs of migrant workers and other factors causing unusual seasonal variations.

(3) *Rural areas.* Hospital care should be accessible within a reasonable period of time. For example, in rural areas in which a majority of the residents would otherwise be more than 30 minutes travel time from a hospital, the HSA may determine, based on analyses, that a bed-population ratio of greater than 4.0 per 1,000 persons may be justified.

(4) *Urban areas.* Large numbers of beds in one part of a Standard Metropolitan Statistical Area (SMSA) may be compensated for by fewer beds in other parts of the SMSA. Health service areas which include a part of an SMSA may plan for bed-population ratios higher than 4.0 per 1,000 persons reflecting existing patterns if there is a joint plan among all HSAs serving the SMSA which provides for less than 4.0 beds per 1,000 persons in the SMSA as a whole.

(5) *Areas with referral hospitals.* In the case of referral institutions which provide a substantial portion of specialty services to individuals not residing in the area, the HSA may exclude from its computation of bed-population ratio the beds utilized by referred patients who reside outside both the SMSA and the HSA in which the facility is located.

(b) *Discussion.* There is general agreement that the number of general

hospital beds in the United States is significantly in excess of what is needed and that utilization of acute in-patient care resources is often higher than necessary. Excess bed capacity and use contribute to the high cost of hospital care with little or no health benefits. Empty beds are often filled by patients who could be cared for as well or better in less expensive ways, such as ambulatory care or home care. The Institute of Medicine's Report on "Controlling the Supply of Hospital Beds" in 1976 recommended that the nation should achieve at least a 10 percent reduction in the bed population ratio in the next five years and further significant reductions thereafter. The Institute statement noted: "This would mean a reduction from the current national average of approximately 4.4 non-Federal short-term general hospital beds per 1,000 population to a national average of approximately 4.0 in five years and well below that in the years to follow." Similarly a study reported by InterStudy of Minneapolis, Minn. the same year concluded that a 10 percent reduction in hospital bed supply would be a desirable and reasonable first step toward reducing excess hospital capacity. As part of the process for determining this standard, the Department reviewed projections in State health facilities planning plans. Such plans have set targets for future hospital bed supply that, on an aggregate nationwide basis, project just under 4.0 beds per thousand. Many States set lower targets. Health Maintenance Organizations and similar groups have shown that high quality care can be provided with less than 3.0 beds per 1,000 population. Thus, 4.0 beds per 1,000 population is a ceiling, not an ideal situation. HSAs are expected to identify the desirable local ratio, working closely with the State Health Planning and Development Agency and the Statewide Health Coordinating Council. It is anticipated that in subsequent plans HSAs will be required to indicate how they will reach a bed-population ratio of less than 3.7 per 1,000 population, except under extraordinary circumstances. HSAs whose areas are now below the 4.0 per 1,000 level are urged to attempt to decrease bed-population ratios below 3.7 per 1,000 population. In areas where Federal medical facilities and Health Maintenance Organizations provide substantial services to local residents, lower ratios should be readily achievable. Population growth must be carefully analyzed; in many cases, this factor alone will bring the area below the target level if no unnecessary additional beds are built. Under some conditions, a higher target ceiling may be justified by the HSA. Travel distance to the nearest hospital is one of the most important factors to be analyzed, espe-

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cially in rural areas. A planning criteria of 30 minutes has been set, in line with the policies of many local and State health planning agencies around the country. In analyzing ways of reducing bed supply, it should be recognized that greater savings will be achieved when entire facilities are considered. In developing such plans, priority consideration should be given to maintaining and strengthening resources that are emphasizing activities identified as national health priorities in Section 1502 of the Act.

##### § 121.202 General Hospitals—Occupancy Rate.

(a) *Standard.* There should be an average annual occupancy rate of at least 80% for all non-Federal, short-stay hospital beds considered together in a health service area, except under extraordinary circumstances. Conditions which may justify an adjustment to this standard for a health service area are:

(1) *Seasonal population fluctuations.* In some areas, the influx of people for vacation or other purposes may require a greater supply of hospital beds than would otherwise be needed. Large seasonal variations in hospital utilization which can be predicted through hospital and health insurance records may justify an average annual occupancy rate lower than 80% based on analyses by the HSA.

(2) *Rural areas.* Lower average annual occupancy rates are usually required by small hospitals to maintain empty beds to accommodate normal fluctuations of admissions. In rural areas with significant numbers of small (fewer than 4,000 admissions per year) hospitals, an average occupancy rate of less than 80% may be justified, based on analyses by the HSA.

(b) *Discussion.* There is substantial evidence that excess capacity and use contribute significantly to high hospital costs. The 1976 report by the Institute of Medicine, for example, found that "there is a growing concern that the surpluses of hospital beds are contributing significantly to the recent rise of health care costs at a rate well beyond that of general inflation. This concern has not only to do with the cost of maintaining unused hospital bed capacity, but also with the unnecessary and inappropriate uses of hospital beds, especially those in the short-term care category." Occupancy rates currently average about 75% nationwide. Many hospital capacity studies, including those by InterStudy and the Bureau of Hospital Administration of the University of Michigan, indicate that an average hospital occupancy rate exceeding 80% is a reasonable target. In addition, many State and local health planning agencies have established higher occupancy targets. For example, health planning agencies

in Illinois, New Jersey, New York, Massachusetts, Michigan and Wisconsin, have recommended occupancy rates higher than 80% for larger hospitals. Higher averages have been advocated, especially for medical-surgical units. While past studies typically apply these rates to individual institutions, the Department, in line with the objectives of community-wide planning, has extended this concept to apply on an area-wide basis. Within local health service areas, hospitals of varying size and circumstances will have varying occupancy rates; a collective rate exceeding 80% on an area-wide basis is a reasonable, achievable goal except in rural areas and when situations present extraordinary circumstances. Increases are to be attained through constrained capacity growth and improved planning and management. It is not, of course, intended that increased rates be achieved through unnecessary hospital admissions or stays.

##### § 121.203 Obstetrical Services.

(a) *Standard.* (1) Obstetrical services should be planned on a regional basis with continuing linkages among all obstetrical services and with neonatal services.

(2) Hospitals providing care for complicated obstetrical problems (Levels II and III) should have at least 1,500 births annually.

(3) There should be an average annual occupancy rate of at least 75 percent in each obstetrical unit with more than 1,000 births per year.

(b) *Discussion.* The importance of developing regional systems of care for maternal and perinatal health services has been broadly recognized. The Committee on Perinatal Health, representing the American Academy of Family Physicians, American Academy of Pediatrics, American College of Obstetricians and Gynecologists, and the American Medical Association issued a report in 1976, "Toward Improving the Outcome of Pregnancy." The report identified opportunities to reduce rates of maternal, fetal, and neonatal mortality as well as to improve deployment of scarce resources, especially those needed to provide comprehensive services for high-risk patients. The impact on quality of care of both under-utilization and over-utilization was emphasized.

The report states: "A systematized, cohesive regional network including a number of differentiated resources is the approach most likely to achieve the objective. Each component of the regional system must provide the highest quality care, but the degree of complexity of patient needs determines where, and by whom, the care should be provided." Level I hospitals provide services primarily for uncomplicated maternity and newborn cases.



Level II hospitals provide services for uncomplicated cases and for the majority of complicated problems, and certain neonatal services. Level III hospitals are able also to handle all the serious types of illness and abnormalities. Established arrangements should provide for early access of high-risk pregnant women and prompt referrals among levels of care as appropriate. Regional planning should include a cooperative, coordinated network of hospitals, physicians and other health care professionals, providing (1) expert consultation and referral (2) basic and continuing education for health professionals and consumers, (3) transport of selected patients to facilities possessing more specialized maternal and neonatal services, (4) a continuing evaluation of the effectiveness and costs of regionalized programs. In 1972 the American College of Obstetrics and Gynecology identified a minimal target of 1,500 births per year for facilities in communities of 100,000 population or more to provide a full range of obstetrical services in an efficient manner. In 1974, this figure was revised: "The experience of many obstetric departments indicate that the size, equipment, services and personnel adequate to maintain a consistently high standard of ordinary obstetrical care and a reasonably economic operation generally require more than 2,000 deliveries." "Standards for Obstetrical and Gynecological Services," Committee on Professional Standards of the American College of Obstetricians and Gynecologists, 1974.) The Committee on Perinatal Health also identified the 2,000 minimum figure for facilities identified as Level II facilities. In determining the 1,500 target, the Department took into consideration these reports as well as the comments received from the public and from members of the expert advisory panel, particularly the criticism that a 2,000 target was too strict. The 1,500 level is in line with the policies of many local and State health planning agencies and can help assure more economic use of specialized resources. The Department also recognizes that there are substantial differences among facilities which provide different ranges of services and there are circumstances, such as those involving special moral and ethical preferences, which may necessitate the HSA providing an adjustment to this standard. In addition, in order to promote more economical use of resources the Department has established the 75 percent minimum occupancy rate in each obstetrical unit for Level II and III facilities. The 75 percent figure was derived from an analysis of various occupancy rate figures in a number of source documents, whose recommendations range from 50 percent to over 80 percent. The Hill-

Burton Program recommended an occupancy level for obstetrical units of at least 75 percent. The Department anticipates that institutions operating at Level II and III will usually be able to exceed this level. In keeping with the national priority set forth in Section 1502 of the Act for the consolidation and coordination of institutional health services, the consolidation of multiple, small obstetrical units with low occupancy rates should be undertaken unless such action is undesirable because of needs to assure ready access and sensitive care.

#### § 121.204 Neonatal Special Care Units.

(a) *Standard.* (1) Neonatal services should be planned on a regional basis with continuing linkages with obstetrical services.

(2) The total number of neonatal intensive and intermediate care beds should not exceed 4 per 1,000 live births per year in a defined neonatal service area. An adjustment upward may be justified when the rate of high-risk pregnancies is unusually high, based on analyses by the HSA.

(3) A single neonatal special care unit (Level II or III) should contain a minimum of 15 beds. An adjustment downward may be justified for a Level II unit when travel time to an alternate unit is a serious hardship due to geographic remoteness, based on analyses by the HSA.

(b) *Discussion.* For this standard, the Department has adopted the professionally endorsed concept of regionalization, involving various levels of care. Under this concept, Level III units are staffed and equipped for the intensive care of newborns as well as intermediate and recovery care. Level II units provide intermediate and recovery care as well as some specialized services. Level I units provide recovery care. Neonatal special care is a highly specialized service required by only a very small percentage of infants. The Department believes that four neonatal special care beds for intensive and intermediate care per thousand live births will usually be adequate to meet the needs, taking into account the incidence of high risk pregnancies, the percentage of live births requiring intensive care, and the average length of stay. ("Bed" includes incubators or other heated units for specialized care, and bassinets.) In addition, the Department has established a minimum of 15 beds per units for Levels II and III as the minimum number necessary to support economical operation for these services. Both standards are supported and recommended by the American Academy of Pediatrics. The American Academy of Pediatrics has noted that "the best care will be given to high risk and seriously ill neonates if intensive care units are developed in a few adequately qualified institutions

within a community rather than within many hospitals. Properly conducted, early transfer of these infants to a qualified unit provides better care than do attempts to maintain them in inadequate units." This regionalized approach is reflected in the minimum size standard which is designed to foster the location of specialized units in medical centers which have available special staff, equipment, and consultative services and facilities. Since perinatal centers, which include neonatal units, will serve the patient load resulting from a representative population of more than one million, a defined neonatal service area should be identified by the relevant HSAs in conjunction with the State Agency. Special attention must also be given to ensure adequate communication and transportation systems. Hospitals with such units should have agreements with other facilities to serve referred patients. The regional plan should include a structured ongoing system of review, including assessment of changes in health status indicators.

#### § 121.205 Pediatric Inpatient Services—Number of Beds.

(a) *Standard.* There should be a minimum of 20 beds in a pediatric unit in urbanized areas. An adjustment downward may be justified when travel time to an alternate unit exceeds 30 minutes for 10 percent or more of the population, based on analyses of the HSA.

(b) *Discussion.* The 1977 report of the Committee on Implications of Declining Pediatric Hospitalization Rates, for the National Research Council, states that "for a policy of housing children separately to be effective, certain minimum services and facilities are needed, thus requiring bed capacity utilization to make provision for these services and facilities economically feasible." This standard was developed by the Department in this context. Pediatric services should be planned on a regionalized basis with linkages among hospitals and other health agencies to provide comprehensive care.

A number of sources support a minimum unit size of 20 pediatric beds, including planning agencies in California, Massachusetts, Ohio, Pennsylvania, and Wisconsin. Consolidation of pediatric care in units of at least 20 beds in urbanized areas will promote the concentration of nursing and support staff with special pediatric knowledge and skills, the increased training of staff, and the provision of special treatment and other ancillary facilities which meet the special needs of children. (A pediatric inpatient unit is a specific section, ward, wing, hospital or unit devoted primarily to the care of medical and surgical patients less than 18 years old, not including spe-

cial care for infants.) The criteria of 30 minutes travel time reflects interest in ensuring that children remain close to their homes, family, and friends. Frequent visits to hospitalized children are highly desirable and can be an aid to improvement and recovery. The American Academy of Pediatrics has recommended to its State Chapters that child health plans should provide that primary care for children should be available within 30 minutes. This access standard is consistent with those of many local and State planning agencies such as those in Massachusetts, New York, Pennsylvania, and Wisconsin.

#### § 121.206 Pediatric Inpatient Services—Occupancy Rates.

(a) *Standard.* Pediatric units should maintain average annual occupancy rates related to the number of pediatric beds (exclusive of neonatal special care units) in the facility. For a facility with 20-39 pediatric beds, the average annual occupancy rate should be at least 65 percent; for a facility with 40-79 pediatric beds, the rate should be at least 70 percent; for facilities with 80 or more pediatric beds, the rate should be at least 75 percent.

(b) *Discussion.* Variable occupancy rates are designed to reflect the need for smaller units to maintain the capacity to accommodate normal day-to-day fluctuations in admissions and to set aside pediatric beds for particular ages and types of cases. Such scheduling problems are less severe in pediatric units of a greater capacity. Moreover, large units are able to sustain higher occupancy rates because they are frequently associated with regional centers which serve patients needing types of care that can be scheduled on a more flexible basis. It is not intended, of course, to encourage unnecessary admissions or stays to achieve these levels. This standard is identical to that recommended by the American Academy of Pediatrics.

#### § 121.207 Open Heart Surgery.

(a) *Standard.* (1) There should be a minimum of 200 open heart procedures performed annually, within three years after initiation, in any institution in which open heart surgery is performed for adults.

(2) There should be a minimum of 100 pediatric heart operations annually, within three years after initiation, in any institution in which pediatric open heart surgery is performed, of which at least 75 should be open heart surgery.

(3) There should be no additional open heart units initiated unless each existing unit in the health service area(s) is operating and is expected to continue to operate at a minimum of 350 open heart surgery cases per year in adult services or 130 pediatric open heart cases in pediatric services.

(b) *Discussion.* Open heart surgery for congenital and acquired heart and coronary artery disease represents a marked advance in patient care. Highly specialized open heart procedures require very costly, highly specialized manpower and facility resources. Thus, every effort should be made to limit duplication and unnecessary resources related to the performance of open heart procedures, while maintaining high quality care. Minimum case loads are essential to maintain and strengthen skills. (Open heart surgery procedures are defined as procedures which use a heart-lung by-pass machine to perform the functions of circulation during surgery.) A minimum of 200 adult open heart surgery procedures should be performed annually within an institution to maintain quality of patient care and make most efficient use of resources. This standard is based on recommendations of the Inter-Society Commission on Heart Disease Resources. In order to prevent duplication of costly resources which are not fully utilized, the opening of new units should be contingent upon existing units operating, and continuing to operate, at a level of at least 350 procedures per year. The 350 level assumes an average of 7 operations a week, a schedule that in the Department's judgment is feasible in most institutions providing these services. In units that provide services to children, lower targets are indicated because of the special needs involved. The established level for pediatric units is consistent with the recommendation of the Pediatric Cardiology Section of the American Academy of Pediatrics. In determining the utilization target of 130 pediatric open heart cases, the Department used the same ratio as for adult units. In the case of units that provide services to both adults and children, at least 200 open heart procedures should be performed, including 75 for children. Data collection and quality assessment and control activities should be part of all open heart surgery programs.

#### § 121.208 Cardiac Catheterization Unit Services.

(a) *Standard.* (1) There should be a minimum of 300 cardiac catheterizations, of which at least 200 should be intracardiac or coronary artery catheterizations, performed annually in any adult cardiac catheterization unit within three years after initiation.

(2) There should be a minimum of 150 pediatric cardiac catheterizations performed annually in any pediatric cardiac catheterization unit within three years after initiation.

(3) There should be no new cardiac catheterization units opened in any facility not performing open heart surgery.

(4) There should be no additional adult cardiac catheterization units

opened unless the number of studies per year in each existing unit in the health service area(s) is greater than 500.

(b) *Discussion.* The modern cardiac catheterization unit requires a highly skilled staff and expensive equipment. Safety and efficacy of laboratory performance requires a case load of adequate size to maintain the skill and efficiency of the staff. In addition, the underutilized unit represents a less efficient use of an expensive resource and frequently reflects unnecessary duplication. Based on recommendations from the Inter-Society Commission on Heart Disease Resources, the Department believes that a minimum level of 300 cardiac catheterizations per year is indicated to achieve economic use of resources. Several State health planning agencies, such as New Jersey, suggested a higher minimum level and the Department will be considering whether a higher level should be established in the future. The Department has also determined the existing units should be performing more than 500 cardiac catheterizations before any new unit is opened. The 500 level is based on an average of two catheterizations a day, a rate that is in the Department's judgment readily achievable in most institutions providing these services and that will foster more effective use of current resources prior to the development of additional resources. More than 600 cardiac procedures are performed annually in some institutions. Pediatric cardiac catheterizations require special facilities and support services. Lower target numbers are presented in these cases because of the special conditions and needs of children. The established levels are consistent with the recommendations of the Section on Cardiology of the American Academy of Pediatrics and the Inter-Society Commission on Heart Disease Resources. The patient studied in the cardiac catheterization unit is frequently recommended for open heart surgery. While acceptable inter-institutional referral patterns exist in some areas, cardiac catheterization units should optimally be located within a facility in which cardiac surgery is performed.

#### § 121.209 Radiation Therapy.

(a) *Standard.* (1) A megavoltage radiation therapy unit should serve a population of at least 150,000 persons and treat at least 300 cancer cases annually, within three years after initiation.

(2) There should be no additional megavoltage units opened unless each existing megavoltage unit in the health service area(s) is performing at least 6,000 treatments per year.

(3) Adjustments downward may be justified when travel time to an alternate unit is a serious hardship due to



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geographic remoteness, based on analyses by the HSA.

(b) *Discussion.* While various types of radiation are indicated and used for tumors with different characteristics, megavoltage equipment is accepted as the most efficacious for treatment of deep-seated tumors. Megavoltage equipment is expensive to purchase, install, and support on a continuing basis. Every effort should thus be made to avoid unnecessary duplication of this costly resource. Established standards should provide needed treatment capabilities while preventing unnecessary duplication of radiation therapy units and underutilization of existing capacity. A unit refers to a single megavoltage machine or energy source. The most common types of units to deliver megavoltage therapy are cobalt 60 and linear accelerators. Treatments are meant to be the same as patient visits. A treatment or visit averages 2.2 fields, according to reports from the American College of Radiology. They also report that about half of new cancer patients require megavoltage radiation therapy, and that many require subsequent courses of treatment. The American College of Radiology has indicated that at least 300 cancer cases annually are a reasonable minimum loan for a megavoltage radiation therapy unit in order to maintain an efficient high quality operation. Based on the information and recommendations of the College, as well as comments received from the public and from members of the expert advisory panel which reviewed the standard, the Department has set a minimum standard of at least 300 cancer cases per unit per year. In 1974, the Department commissioned a study of the use of radiation therapy units. A committee appointed by the American College of Radiology and the American Society of Therapeutic Radiology to review that study suggested that economical operation of radiation units would call for existing units to do 5,000-8,700 treatments per year. The 7,500 level was included in the September 23, 1977, NPRM. This target would have required units to treat an average of 30 patients per day. Based on comments received from the profession and the general public, the Department has adjusted the standard downwards to 6,000 treatments per year, an average of about 25 patients per day to take into account variations in patient mix and work schedules. Since many institutions meet and exceed these targets, this standard in the Department's judgment represents an attainable, efficient level of operation. The indicated target levels are minimal and should generally be exceeded. Special purpose and extra high energy machines which have limited but important applications may not perform 6,000 treat-

ments per year and should be evaluated individually by HSAs in the development of Health Systems Plans.

#### § 121.210 Computed Tomographic Scanners.

(a) *Standard.* (1) A Computed Tomographic Scanner (head and body) should operate at a minimum of 2,500 medically necessary patient procedures per year.

(2) There should be no additional scanners approved unless each existing scanner in the health service area is performing at a rate greater than 2,500 medically necessary patient procedures per year.

(3) There should be no additional scanners approved unless the operators of the proposed equipment will set in place data collection and utilization review systems.

(b) *Discussion.* Because CT scanners are expensive to purchase, maintain and staff, every effort must be made to contain costs while providing an acceptable level of service. Full and appropriate utilization of all existing units, regardless of location, will prevent needless duplication and limit unnecessary increases in health care costs. Estimates and surveys for full utilization of CT scanners range from 1,800 to over 4,000 patient procedures a year. (One patient procedure includes, during a single visit, the initial scan plus any necessary additional scans of the same anatomical region.) The Institute of Medicine, the Office of Technology Assessment and others have carefully reviewed these data and the capabilities of various available units.

The Department has reviewed these analyses as well as the extensive literature that has been developed on CT scanners. In arriving at a standard for the minimum use of these machines, the Department has considered a variety of factors, including the difference in time required for head scans and body scans, variations in patient mix, the special needs of children, time required for maintenance, and staffing requirements. Moreover, the Department considered the actual operating experience of hospitals and institutions reflected in reports on the use of CT scanners. The standard set in the Department's guidelines is intended to assure effective utilization and reasonable cost for CT scanning. These machines are expensive, and therefore must be fully used if excessive costs are to be limited. The Department recognizes that the cost of some machines is declining, particularly those that perform only head scans which require less time. For machines that do predominantly head scans, the standard represents an extremely minimum level appropriate to insure efficient and effective utilization.

For scanners capable of performing both head and body scans, it is impera-

tive that they be effectively used in order to spread the high capital expenditures over as much operating time as possible. As the Institute of Medicine report stated, "The high fixed costs of operating a scanner argue for as high a volume of use as the equipment allows without jeopardizing the quality of care." The Department believes that a 50-55 hour operating week both is consistent with the actual operating experience of many hospitals, and also a reasonable target. Based on reported experience for the time required for both head scans and body scans, the Department estimated that a patient mix of about 60 percent head scans and about 40 percent body scans, making allowance for the other factors identified above, would allow a CT scanner to perform about 2,500 patient procedures per year if it is efficiently used about 50-55 hours per week. This estimate assumes a higher percent of body scans than is currently being performed. If fewer than 40 percent body scans are performed, then 2,500 patient procedures would involve even less than 50-55 hours per week. Basing the standard on a higher percentage of body scans also takes account of current trends toward increased proportions of such scans.

The Department believes that sharing arrangements in the use of CT scanners is desirable, in line with the national health priorities of section 1502. Individual institutions or providers should not acquire new machines until existing capacity is being well utilized. In planning for CT scanners, the HSA should take into consideration special circumstances such as: (1) An institution with more than one scanner where the combined average annual number of procedures is greater than 2,500 per scanner although the unit doing primarily body scans is operating at less than 2,500 patient procedures per year; (2) units which are or will be operating a significant portion of the time under collaborative fixed protocol clinical trials, and (3) units which are, or will be, servicing predominantly seriously sick or pediatric patients. A summary of the data collected on CT scanners should be submitted by the operators to the appropriate HSA to enable it to adequately plan the distribution and use of CT scanners in the area. The data to be collected should include information on utilization and a description of the operations of a utilization review program.

#### § 121.211 End-Stage Renal Disease (ESRD).

(a) *Standard.* The Health Systems Plans established by HSAs should be consistent with standards and procedures contained in the DHEW regulations governing conditions for cover-

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age of suppliers of end-stage renal disease services, 20 CFR Part 405, Subpart U.

(b) *Discussion.* The ESRD Program was created pursuant to Section 2991 of the Social Security Amendments of 1972 (Pub. L. 92-603), which extends Medicare benefits to any individual who has end-stage renal disease requiring dialysis or transplantation, provided that such individual: (1) Is fully or currently insured or entitled to monthly benefits under Title II of the Social Security Act; or (2) is the spouse or dependent child of an individual so insured or entitled to such monthly benefits. In order for an ESRD facility to qualify for reimbursement under the program, the facility must meet the conditions for coverage of suppliers of end-stage renal disease services as established by

regulation. These conditions incorporate standards which relate to the supply, distribution, and organization of ESRD facilities. The standards were developed by the Department of Health, Education, and Welfare and were based on extensive consultation with professionals and other persons knowledgeable in the areas of nephrology and transplant surgery. Because these standards are already published as regulations, they are not republished here. The regulations do not try to encourage any particular type of dialysis setting. It is widely recognized that self-care dialysis can significantly contain costs without impairing the quality of care of the suitably chosen patient. The organization of resources to support self-care dialysis is therefore encouraged to the maximum extent practicable.

[FR Doc. 78-1562 Filed 1-19-78; 8:45 am]



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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
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[3195-01]

## Title 3—The President

PROCLAMATION 4546

## American Heart Month, 1978

*By the President of the United States of America*

## A Proclamation

Diseases of the heart and blood vessels afflict some thirty million Americans. Each year cardiovascular disorders claim nearly one million lives and cost our economy nearly forty-eight billion dollars in lost wages, lost productivity, and medical expenses.

Since 1948, a concerted national effort has been under way to reduce illness, disability, and death from heart and blood vessel diseases through nationwide programs of biomedical research in the cardiovascular field, training of research workers and clinicians, information and education programs for health professionals and for the general public, and community service activities concerned with prevention, detection, and control of cardiovascular disorders.

These efforts have been spearheaded by the National Heart, Lung, and Blood Institute, a federal agency, and the American Heart Association, a voluntary health organization supported through private contributions. Since 1948, their combined outlay in support of the national battle against cardiovascular diseases has totaled nearly three billion dollars.

During these thirty years, an immense amount of new knowledge about the cardiovascular system and its diseases has been amassed and much of it has found application in better methods of prevention, diagnosis, and treatment. In addition, many Americans have modified their diets, established sensible and regular exercise programs, changed their smoking habits, or have otherwise altered their lifestyles to achieve better cardiovascular health. As a result, mortality rates have declined steadily since 1950 in nearly all major cardiovascular disease categories and the total number of deaths among Americans from these diseases is the lowest it has been since 1965.

But these encouraging results are no excuse for complacency. On the contrary, they show that it is only through sustained dedication and cooperation among public officials, community leaders, private institutions, and the American people that we have any chance of controlling this threat to the health of our Nation.

Recognizing the need for all Americans to join forces in the battle against cardiovascular disease, the Congress, by joint resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b) has requested the President to issue annually a proclamation designating February as American Heart Month.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim the month of February, 1978, as American Heart Month. I invite the Governors of the States, the appropriate officials of all other areas subject to the jurisdiction of the United States and the Ameri-



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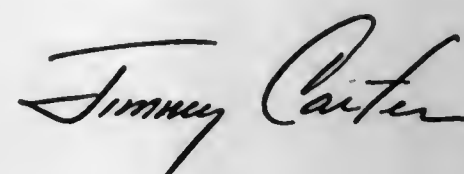
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THE PRESIDENT

can people to join with me in reaffirming our commitment to the search for new ways to prevent, detect and control cardiovascular disease in all its forms.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of January, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.



[FR Doc. 78-2068 Filed 1-20-78; 12:17 pm]

THE PRESIDENT

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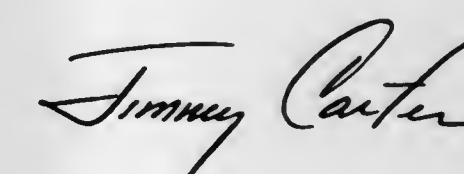
[3195-01]

Executive Order 12035

January 20, 1978

Relating to Certain Positions in Level IV of the Executive Schedule

By virtue of the authority vested in me by Section 5317 of Title 5 of the United States Code, and as President of the United States of America, Section 1 of Executive Order No. 11861, as amended, placing certain positions in Level IV of the Executive Schedule, is further amended by deleting "Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury" in subsection (13) and inserting in lieu thereof "Assistant Secretary (Enforcement and Operations), Department of the Treasury".



THE WHITE HOUSE,  
January 20, 1978.

[FR Doc. 78-2069 Filed 1-20-78; 12:18 pm]



## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-07]

Title 7—Agriculture

### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

[FmHA Instruction 424.1]

#### PART 1804—PLANNING AND PERFORMING DEVELOPMENT WORK

##### Subpart A—Planning and Performing Development Work

##### THERMAL PERFORMANCE STANDARDS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation concerning thermal performance standards. This action is necessary for clarification to correct several typographical errors which appeared in the initial publication of the regulation, and to refer to Appendix D. The intended effect is to clarify the document by answering the public questions caused by the errors in typing.

EFFECTIVE DATE: March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Daniel J. Ball, 202-447-3394.

##### SUPPLEMENTARY INFORMATION:

1. Introduction; 2. Determination of Allowable U Values; 3. Insulation of Basement Walls; 4. Vapor Barriers.

##### 1. INTRODUCTION

On Tuesday, October 25, 1977, at page 56444, the Farmers Home Administration published a new Appendix D to Subpart A, Part 1804, Chapter XVIII, Title 7, Code of Federal Regulations. This publication inadvertently omitted a change to § 1804.3(d)(1), contained a paragraph which does not read as intended, several references to standards and testing methods were incorrectly noted and a reference to Appendix D was omitted. In addition, several persons who have commented on the standards have pointed out items which require additional clarification for proper implementation at the field office level. This amendment applies to new construction approved or conditional commitments issued after the effective date.

##### 2. DETERMINATION OF ALLOWABLE U VALUES

Several comments questioned the manner in which U values were to be calculated, i.e., through the cavity or with framing corrections and to what degree of precision the required values were to be interpreted. The regulation has been amended to indicate that U values do not include framing corrections and that values calculated for component sections may be rounded using standard mathematical techniques.

##### 3. INSULATION OF BASEMENT WALLS

Several FmHA field offices have indicated that clarification is necessary as to the requirements for basement walls. After consultation with other government agencies and other interested persons an amendment has been developed to clarify the requirements. These requirements state the U value of the wall section, the applicable area and the required value for glazing.

##### 4. VAPOR BARRIERS

In the FEDERAL REGISTER Publication of Exhibit D, on October 25, 1977, paragraph III D 3 a was not phrased correctly. In addition, several interested persons have submitted data concerning the relative efficiency of various vapor barriers in conjunction with a variety of other structural materials. After a review of this data and consultation with other government agencies it has been determined that an amendment is required.

1. As amended, § 1804.3(d)(1) reads as follows:

##### § 1804.3 Planning development

(d) Construction. (1) All new buildings to be constructed and all alterations and repairs to buildings will be planned to conform with good construction practices. All improvements to the property will conform to applicable laws, ordinances, codes, regulations which relate to safety and the sanitation of buildings and Appendix D of this subpart, which supercedes the applicable MPS as related to thermal performance standards.

2. As amended, Appendix D to Subpart A of Part 1804 reads as follows:

(Effective on March 15, 1978; FmHA Instruction 424.1)

##### EXHIBIT

UNITED STATES DEPARTMENT OF AGRICULTURE  
(FARMERS HOME ADMINISTRATION)

##### Construction Standards

I. Purpose: This exhibit prescribes construction standards to be used in all Rural Housing (RH) loan and grant programs. These requirements shall supercede those listed in the Minimum Property Standards (MPS) No. 4900.1, "One and Two Family Dwellings," and 4910.1, "Multifamily Housing," as applicable.

II. Policy: Construction commencing, all applications for new construction approved, or conditional commitments issued after the effective date of this exhibit shall have drawings and specifications prepared to comply with paragraph III A or III C and III D of this exhibit. All existing dwellings to be bought with RH loan funds shall be considered in accordance with paragraph III B or III C of this exhibit.

III. Minimum Requirements: A. All dwellings, single family or multifamily to be constructed with RH loan and grant funds shall comply with the following:

##### NEW CONSTRUCTION

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTION OF VARIOUS CONSTRUCTION

NOTE.—U values are not adjusted for framing; values calculated for components may be rounded.

Winter Degree Days (Base 1)	Floors (Base 1)	Walls (Base 1)	Floors (Base 2)	Walls (Base 2)	Roofs (Base 1)
1000	.05	.05	.05	1.0	—
2000	.05	.05	.05	1.0	—
3000	.05	.05	.05	1.0	—
4000	.05	.05	.05	1.0	—
5000	.05	.05	.05	1.0	—
6000	.05	.05	.05	1.0	—
7000	.05	.05	.05	1.0	—
8000	.05	.05	.05	1.0	—
9000	.05	.05	.05	1.0	—
10000	.05	.05	.05	1.0	—

Winter Degree Days (Base 1)	Minimum U Value (2)	Minimum U Value (3)
1000 or less	2.0	—
1000	1.5	—
2000	1.0	2.5
3000	1.0	2.5
4000	1.0	2.5
5000	1.0	2.5
6000	1.0	2.5
7000	1.0	2.5
8000	1.0	2.5
9000	1.0	2.5
10000 or greater	1.0	2.5



# RULES AND REGULATIONS

NOTE.—\*(1) For increments between degree days shown, U values may be interpolated.

NOTE 1.—Winter degree days may be obtained from the ASHRAE Guide; the "NAHB Insulation Manual for Homes Apartments"; local utilities; and the National Climatic Center, Federal Building, Asheville, N.C.

Manuals are available from NAHB RF, Rockville, Md. 20850, or NMWIA, 382 Springfield Avenue, Summit, N.J. 07901.

Other sources of degree day data may be used if available from a recognized authority.

NOTE 2.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces the U value of floor section shall not exceed the value shown.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50° F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total heat loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. The U value of foundation wall sections shall not exceed the value shown. This requirement shall include all foundation wall area, including header joist (band joist), to a point 50 percent of the distance from finish grade to the basement floor level.

Maximum U Values of the Foundation Wall Sections of Heated Basement not Containing Habitable Living Area or Heated Crawl Space.

Winter Degree Days (65° F Base)	Maximum U Value	Glazing
2500 or less	No Requirement	1.11
2501 to 4500	0.17	1.11
4501 or more	0.10	.69

\*NOTE.—Glazing in heated basement shall be limited to 5 percent of floor area unless alternative U<sub>o</sub> combination is documented.

NOTE 3.—1½ inch metal faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than .50 cfm per foot of crack length tested according to ASTM E-283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

B. All existing dwellings to be purchased with RH loan and grant funds shall be insulated in accordance with the following:

## EXISTING CONSTRUCTION

MAXIMUM U VALUES FOR CEILING, WALL AND FLOOR SECTIONS OF VARIOUS CONSTRUCTION

NOTE.—U values are not adjusted for framing; values calculated for components may be rounded.

Winter Degree Days (65° F Base)	Walls (Note 1)	Walls (Note 2)	Floors (Note 3)	Glazing (Note 4)	Attic (Note 5)
2500 or less	.05	.08	.08	1.11	—
2501 to 4500	.05	.08	.08	1.11	—
4501 or more	.05	.08	.08	.69	—

NOTE 1.—Winter degree days may be obtained from the ASHRAE Guide; the "NAHB Insulation Manual for Homes Apartments"; local utilities; and the National Climatic Center, Federal Building, Asheville, N.C.

Manuals are available from NAHB RF, Rockville, Md. 20850, or NMWIA, 382 Springfield Avenue, Summit, N.J. 07901.

Other sources of degree day data may be used if available from a recognized authority.

NOTE 2.—Walls shall be insulated as near to new construction standards as economically feasible. Any exterior wall framing exposed during repair or rehabilitation work shall have vapor barrier installed and be fully insulated.

NOTE 3.—For floors of heated spaces over unheated basements, unheated garages or unheated crawl spaces the U value of floor section shall not exceed the value shown.

A basement, crawl space or garage shall be considered unheated unless it is provided with a positive heat supply to maintain a minimum temperature of 50° F. Positive heat supply is defined by ASHRAE as "heat supplied to a space by design or by heat losses occurring from energy-consuming systems or components associated with that space."

Where the walls of an unheated basement or crawl space are insulated in lieu of floor insulation, the total loss attributed to the floor from the heated area shall not exceed the heat loss calculated for floors with required insulation.

Insulation may be omitted from floors over heated basement areas or heated crawl spaces if foundation walls are insulated. The U value of foundation wall sections shall not exceed the value shown. This requirement shall include all foundation wall area, including header joist (band joist), to a point 50 percent of the distance from finish grade to the basement floor level.

Maximum U Values of the Foundation Wall Sections of Heated Basement not Containing Habitable Living Area or Heated Crawl Space.

Winter Degree Days (65° F Base)	Maximum U Value	Glazing
2500 or less	No Requirement	1.11
2501 to 4500	0.17	1.11
4501 or more	0.10	.69

\*NOTE.—Glazing in heated basement shall be limited to 5 percent of floor area unless alternative U<sub>o</sub> combination is documented.

NOTE 4.—Slab edge insulation should be provided wherever practical in areas of 2,500 or more winter degree days. Rigid insulation placed on the exterior face of the slab shall be protected by a durable and weather resistant material.

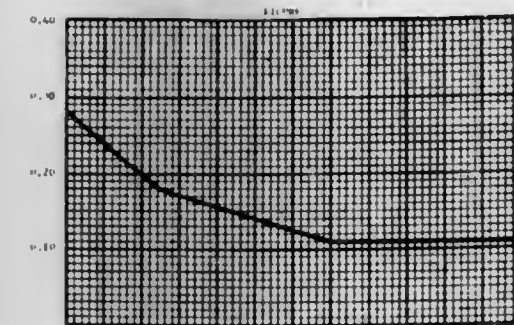
NOTE 5.—Storm doors not required for double doors, sliding doors or others where installation would be economically infeasible. 1½ inch metal faced door systems with rigid insulation core and durable weatherstripping providing a "U" value equivalent to a wood door with storm door and an infiltration rate no greater than .50 cfm per foot of crack length, tested according to ASTM E-283 at 1.567 psf of air pressure, may be substituted for a conventional door and storm door. All doors shall be weatherstripped.

C. Optional Standards. Housing designs not in compliance with the requirements of paragraphs III A or III B of this exhibit may be approved in accordance with the provisions of this paragraph. Requests for acceptance proposed under paragraph C 1 which will be marketed solely within the jurisdictional area of one FmHA State Office may be approved by the State Director. Requests for acceptance proposed under paragraph C 1 which will be marketed within the jurisdictional areas of two or more FmHA State Offices and all requests for acceptance under paragraph C 2 may be approved by the Administrator.

All submissions of proposed options to the State Director or Administrator shall contain complete engineering data and calculations to document the validity of the proposal. All data and calculations will be based upon the current edition of the ASHRAE Handbook of Fundamentals or other universally accepted data sources.

1. Overall "U" values for envelope components. The following requirements shall be used in determining acceptable options to the requirements of paragraphs III A and III B.

a. U<sub>o</sub> (gross wall)—Total exterior wall area (opaque wall and window and door) shall have a combined thermal transmittance value (U<sub>o</sub> value) not to exceed the values shown in Figure 1. Equation 1 shall be used to determine acceptable combinations to meet the requirements of Figure 1.



ANNUAL FAHRENHEIT HEATING DEGREE DAYS (65° F BASE) (IN THOUSANDS)

EQUATION 1 FORMULA FOR DETERMINING COMBINATIONS (SEE FIG. 1)

$$U_o = U_{wall} A_{wall} + U_{window} A_{window} + U_{door} A_{door} / A_o$$

Where:

U<sub>o</sub> = the average thermal transmittance of the gross wall area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K).

A<sub>o</sub> = the gross area of exterior walls, ft<sup>2</sup> (m<sup>2</sup>) of heated living areas.

U<sub>wall</sub> = the thermal transmittance of all elements of the opaque wall area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K) of heated living areas.

A<sub>wall</sub> = opaque wall area, ft<sup>2</sup> (m<sup>2</sup>) of heated living areas.

U<sub>window</sub> = the thermal transmittance of the window area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K).

A<sub>window</sub> = window area (including sash) ft<sup>2</sup> (m<sup>2</sup>).

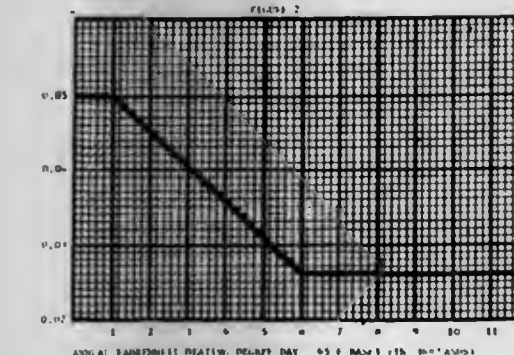
U<sub>door</sub> = the thermal transmittance of the door area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K).

A<sub>door</sub> = door area, ft<sup>2</sup> (m<sup>2</sup>).

NOTE.—Where more than one type of wall, window and/or door is used, the U x A term for that exposure shall be expanded into its sub-elements, as:

$$U_{wall} A_{wall} + U_{wall} A_{wall}, \text{ etc.}$$

b. U<sub>o</sub> (gross ceiling)—Total ceiling area (opaque ceiling and skylights) shall have a combined thermal transmittance value (U<sub>o</sub> value) not to exceed the values shown in Figure 2. Equation 2 shall be used to determine acceptable combinations to meet the requirements of Figure 2.



EQUATION 2 FORMULA FOR DETERMINING ROOF/CEILING COMBINATIONS

$$U_o = U_{roof} A_{roof} + U_{skylight} A_{skylight} / A_o$$

# RULES AND REGULATIONS

Where:

U<sub>o</sub> = the average thermal transmittance of the gross roof/ceiling area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K).

A<sub>o</sub> = the gross area of a roof/ceiling assembly, ft<sup>2</sup> (m<sup>2</sup>).

U<sub>roof</sub> = the thermal transmittance of all elements of the opaque roof/ceiling area, Btu/h-ft<sup>2</sup>-F (W/m<sup>2</sup>-K).

A<sub>roof</sub> = opaque roof/ceiling area, ft<sup>2</sup> (m<sup>2</sup>).

U<sub>skylight</sub> = skylight area (including frame) ft<sup>2</sup> (m<sup>2</sup>).

NOTE.—Where more than one type of roof/ceiling and/or skylight is used, the U x A term for that exposure shall be expanded into its sub-elements, as:

$$U_{roof} A_{roof} + U_{roof} A_{roof}, \text{ etc.}$$

c. U<sub>o</sub> (gross floor)—Reserved.

2. Overall structure performance. The following requirements shall be used in determining acceptable options to the requirements of paragraphs III A and III B:

a. The methodology must be cost effective to the energy user.

b. The methodology must not adversely affect the structural capacity, durability or safety aspects of the structure.

c. All data and calculations must show valid performance comparisons between the proposed option and a structure comparable in size, configuration, orientation and occupant usage designed in accordance with paragraph III A or III B. Structures may be considered for FmHA loan consideration which can be shown by accepted engineering practice to have energy consumption equal to or less than those which would be attained in a representative structure utilizing the requirements of paragraphs III A or III B.

D. Energy efficient construction practices. This section prescribes those items of design and quality control which are necessary to guarantee the energy efficiency of homes built according to the standards of this exhibit. Also included are recommendations for extra energy efficiency in homes.

1. Infiltration: a. Requirements: All construction shall be performed in such a manner as to provide a building envelope free of excessive infiltration.

(1) Caulking and sealants. Exterior joints around windows and door frames, between wall cavities and window or door frames, between wall and foundation, between wall and roof, between wall panels, at penetrations of utility services through walls, floors and roofs, and all other openings in the exterior envelope shall be caulked, gasketed, weatherstripped, or otherwise sealed. Caulking shall be silicone rubber base or butyl rubber base, conforming to Federal Specifications TT-S-1543 and TT-S-1657 respectively, or materials demonstrating equivalent performance in resilience and durability.

(2) Windows shall comply with ANSI 134.1, NWMA I.S.2.; the air infiltration rate shall not exceed 0.5 ft<sup>3</sup>/min per ft. of sash crack.

(3) Sliding glass doors shall comply with ANSI 134.2, NWMA I.S.3.; the air infiltration rate shall not exceed .5 ft<sup>3</sup>/min per square ft. of door area.

(4) All insulation placed in open cavity walls shall be installed so that all spaces

behind electrical switches and receptacles, plumbing, ductwork and other obstructions in the cavity are insulated as completely as possible. Insulation shall be omitted on the side facing the conditioned area.

Recommendations: Wrap outside corners of wall sheathing with 15 lb. asphalt impregnated building felt before siding application.

(2) Utilize vestibules for entry doors, especially those facing into the direction of winter wind.

(3) In design of the home, place plumbing, mechanical and electrical in interior partitions as much as possible.

2. Heating and/or Cooling Equipment: a. Requirements: All mechanical equipment for heating and/or cooling habitable space shall be designed to provide economy of operation.

(1) All space heating equipment (including fireplaces) requiring combustion air shall be sealed combustion types, or be located in a nonconditioned area or adequate combustion air must be provided from outside the conditioned space.

(2) All ductwork shall be designed and installed so as to minimize leakage. All metal to metal connections shall be mechanically joined and taped.

b. Recommendations: (1) Wherever possible, locate ductwork inside of conditioned areas in dropped ceilings, interior partitions or other similar areas.

(2) Locate outside cooling units in areas not subject to direct sunlight or heat build-up.

3. Vapor Barrier: a. Requirements: Adequate vapor barriers must be provided adjacent to the interior finish material of the wall.

(1) A vapor barrier at the inside of the envelope component must have a perm rating less than that of any other material in that component and in no case have a perm rating greater than one. All vapor barriers must be sealed around all openings in the interior surface.

(2) All vapor producing or exhausting equipment shall be ducted to the outside and be equipped with dampers.

B. Arrange plantings with evergreen wind buffers on north side and deciduous trees on south.

C. Wherever possible, orient entry door away from winter winds.

D. Design house with simple shape to minimize exterior wall area.

E. Minimize glass areas within constraints of required light and ventilation, applicable safety codes and other appropriate considerations.

F. Minimize the amount of paved surface adjacent to the structure where heat gain is not desirable.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)



Dated: January 11, 1978.

GORDON CAVANAUGH,  
Administrator, Farmers  
Home Administration.

[FR Doc. 78-1880 Filed 1-20-78; 8:45 am]

# [8025-01]

## Title 13—Business Credit and Assistance

### CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 2, Amdt. 1]

#### PART 105—STANDARDS OF CONDUCT

##### Reporting of Acts of Malfeasance, Misfeasance and Other Irregularities

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: (i) The Agency is amending SBA's Standards of Conduct Regulations to provide that all acts of malfeasance or misfeasance or other irregularities, either actual or suspected, arising in connection with the performance by SBA of any of its official functions will be reported only to the Director, Security and Investigations Division.

(ii) This action arose as a result of the need to centralize the reporting of suspected irregularities which primarily fall within the purview of the Security and Investigations Division.

(iii) The effect of said action will be that all acts of malfeasance or misfeasance or other irregularities, either actual or suspected, arising in connection with the performance by SBA of any of its official functions will be reported only to the Security and Investigations Division rather than to the Director, Office of Personnel and the Director, Security and Investigations Division.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald W. Farrell, Associate General Counsel, 1441 L Street NW., Washington, D.C. 20461, 202-653-6660.

SUPPLEMENTARY INFORMATION: Inasmuch as the amendment set forth below is a procedural change, notice of proposed rulemaking and public proceedings thereon are not required by section 553 of Title 5 of the United States Code. This amendment to Part 105 was approved by the Civil Service Commission on January 9, 1978.

Accordingly, pursuant to the authority contained in section 5 of the Small Business Act, 72 Stat. 384 (15 USC 631 et seq.) and E.O. 11222, 3 CFR 1964-65, Comp.; 5 CFR 735.104 notice is hereby given that the Small Business Administration amends § 105.515 to read as follows:

## § 105.515 Duty to report irregularities.

(a) Every employee shall immediately report to the Director, Security and Investigations Division any acts of malfeasance or misfeasance or other irregularities, either actual or suspected, arising in connection with the performance by SBA of any of its official functions.

Dated: January 17, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-1920 Filed 1-20-78; 8:45 am]

# [4910-13]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 71-WE-28-AD;  
Amdt. 39-3126]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### McDonnell Douglas Model DC-9 Series and C-9A (DC-9-32F) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment further amends an existing AD which currently requires repetitive inspection and corrective action on DC-9 main landing gear attach fittings. This amendment revises the repetitive inspection interval from 2,500 hours or 375 days to 3,000 hours or 375 days. This amendment is required to provide operators with additional maintenance scheduling flexibility by increasing the inspection interval. This increase in inspection interval is justified by an engineering evaluation of service experience since the initial AD was issued in 1972.

EFFECTIVE DATE: January 23, 1978.  
Compliance schedule—As prescribed in body of AD.

ADDRESSES: Persons affected by this AD may obtain copies of McDonnell Douglas DC-9 Service Bulletins 57-86 and 57-88 by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L. A. Eisenberg, C1-750, 54-60.

Also, a copy of the service bulletins may be reviewed at, or copies obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary,  
Airworthiness Directives Review

Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: This amendment further amends amendment 39-1378 (37 FR 665), AD 72-23-06, as amended by amendments 39-1399 (37 FR 4702) and 39-1766 (38 FR 35299) which currently requires repetitive inspections and corrective maintenance on main landing gear attach fittings of McDonnell Douglas Model DC-9 Series airplanes. After issuing amendment 39-1766 the FAA has determined, based upon engineering evaluation and intensive service experience, that there is an adequate basis to justify increasing the repetitive inspection interval from 2,500 hours time in service or 375 days to 3,000 hours time in service or 375 days. Therefore the FAA is further amending Amendment 39-1378, as amended, by increasing the hourly element of the repetitive inspection interval specified in the AD on McDonnell Douglas Model DC-9 Series airplanes.

The FAA evaluation of the repetitive inspection interval was prompted by a petition for exemption by an operator to permit extension of the 2,500 hours time in service repetitive inspection intervals required by Paragraphs A.1.(a) and A.2.(c) of the AD. This operator desired to perform the inspections of his fleet of 35 McDonnell Douglas Model DC-9 airplanes on an annual (365 day) basis.

In support of his position, the operator stated that he had recently revised his "C" check basis from 2,000 hours, at which time the required inspections were accomplished, to an annual, or 365 day inspection interval basis. As a result of this change to the "C" check time intervals, he can meet the 375 day limitation prescribed in the AD, but will exceed the 2,500 hours time in service limitations. The petitioner further presented information on his service experience which indicates the inspection intervals are conservative.

The FAA has evaluated the fleet service experience and concurs that an increase in inspection interval is warranted. Since this finding is not limited to conditions peculiar to the petitioner's situation, the AD is being amended to reflect this change in lieu of the issuance of an exemption limited to the petitioner.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

#### DRAFTING INFORMATION

The principal authors of this document are Harry J. Irwin, Aircraft En-

gineering Division, and DeWitte T. Lawson, Jr., Office of the Regional Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by further amending Amendment 39-1378 (37 FR 665), AD 72-2-3 as amended by Amendment 39-1399 (37 FR 4702) and Amendment 39-1766 (38 FR 35299), as follows:

(1) By revising Paragraph A.1.(a) to read, in pertinent part as follows:

" \* \* \* repeat the inspections and interim anti-corrosion treatment at intervals not to exceed 3,000 hours time in service or 375 calendar days, \* \* \* "

(2) By revising Paragraph A.2.(c) to read, in pertinent part as follows:

" \* \* \* and at intervals not to exceed 3,000 hours time in service or 375 calendar days, whichever occurs earlier, inspect and treat \* \* \* "

This amendment becomes effective January 23, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on January 6, 1978.

ROBERT H. STANTON,  
Director, FAA Western Region.

[FR Doc. 78-1580 Filed 1-20-78; 8:45 am]

# [4910-13]

[Docket No. 77-EA-81; Amdt. 39-3128]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-23 type aircraft. It requires an inspection of the stabilizers for cracks and other deficiencies and an alteration or replacement where necessary. The inspection arises from findings made during routine inspections which indicated other aircraft might be involved. The amendment is needed to preclude weakening of the stabilizer structure and loss of the trim tab and counter balance weight.

EFFECTIVE DATE: January 26, 1978.  
Compliance is required as set forth in

the body of the airworthiness directive.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745. A copy of the service bulletin is contained in the docket in the Office of Regional Counsel, FAA, Eastern Region, Jamaica, N.Y.

FOR FURTHER INFORMATION CONTACT:

C. Kallis, Airframe Section, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of cracks developing in the stabilizer structure of Piper PA-23-250 (Aztec) airplanes. The discrepancies consisted of cracks in the tip balance weight, abnormal trim tab horn bushing wear, and skin and nose rib cracks. These defects could cause weakening of the complete structure leading to loss of the trim tab and counter balance weight. The airworthiness directive requires an inspection, alteration and replacement where necessary. Since a situation exists which affects air safety, notice or public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

#### DRAFTING INFORMATION

The principal authors of this document are C. Kallis, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

#### ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

PIPER: Applies to PA-23-250 airplanes with Serial Nos. as shown below certificated in all categories.

To prevent possible hazards in flight associated with weakening of the stabilizer, accomplish the following unless previously accomplished:

(a) The following Serial Nos. pertain to S.B. 540 dated January 4, 1977

(1) Serial Nos. 27-7654001 thru 27-7754057. Within the next 10 hours in service after the effective date of this AD, inspect both stabilizer tip tube and weight assemblies for cracks in accordance with the inspection procedures of 1. and 2. under "Instructions" on the sketch/instructions page of S.B. 540, or equivalent procedures.

(1) If cracks are present alter both tube and weight assemblies as indicated in 2.

under "Instructions" on the first page of S.B. 540 or equivalent procedures, prior to further flight.

(ii) If cracks are not present alter both tube and weight assemblies within the next 100 hours in service as indicated in 4. under "Instruction" on the first page S.B. 540, or by equivalent procedures.

(iii) For altered parts, the inspection procedures of (a)(1) must be repeated within the next 100 hours in service and thereafter at intervals not to exceed 100 hours in service from the last inspection. If cracks are present replace all cracked parts with new or equivalent parts before further flight.

(2) Serial Nos. 27-7754058 and up. Within the next 100 hours in service after the effective date of this AD and every 100 hours thereafter, inspect both stabilizer tip tube and weight assemblies for cracks in accordance with inspection procedures of 1. and 2. under "Instructions" on the sketch/instructions page S.B. 540 or equivalent procedures. If cracks are present replace all cracked parts with new or equivalent parts before further flight.

(b) The following Serial Nos. pertain to Service Bulletin 547 dated March 1, 1977

(1) Serial Nos. 27-7654001 thru 27-7754054. Within the next 50 hours in service after the effective date of this AD, inspect both stabilizer tip ribs for missing rivets and missing tube and weight assembly attachment screws and if necessary alter in accordance with S.B. 547 or equivalent procedures.

(c) The following Serial Nos. pertain to Service Bulletin 569 dated August 24, 1977

(1) Serial Nos. 27-7654001 thru 27-7754127; 27-7754130, 27-7754131, 27-7754133 thru 27-7754136; 27-7754138 thru 27-7754144. To prevent abnormal stabilizer tab horn bushing wear, within the next 50 hours in service after the effective date of this AD replace the right and left stabilizer tab forward inboard rib/horn assemblies by installing Piper Kit 761 143 or equivalent kit.

(d) The following Serial Nos. pertain to Service Letter 807A dated September 8, 1977

(1) Serial Nos. 27-7654001 thru 27-7754041 equipped with stabilizers Piper part number 15658-2, 15658-3, 15658-22 or 15658-23. Within the next 50 hours in service after the effective date of this AD, reinforce the mounting of the stabilizer tube and weight assemblies by installing additional nose-ribs by means of Piper Kit 761 141 or equivalent kit.

(e) Refer to paragraph 4-65 in the Piper PA-23-250 "Aztec" Service Manual and balance the stabilizer when the alterations in paragraphs (a), (c), or (d) of this AD are incorporated.

(f) Upon submission of substantiating data through an FAA Maintenance Inspector, the compliance times specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(g) The affected airplanes may be flown in accordance with FAR 21.197 to a location where the AD compliance procedures can be accomplished.

(h) Equivalent procedures and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

Effective Date: This amendment is effective January 26, 1978.



(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on January 12, 1978.

L. J. CARDINALI,  
Acting Director, Eastern Region.  
(FR Doc. 78-1585 Filed 1-20-78; 8:45 am)

## [4910-13]

(Docket No. 17553; Amdt. 39-3130)

## PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd. BH/HS 125-600A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of the pitot heads (L/H and R/H) on Hawker Siddeley Aviation, Ltd., Model BH/HS 125-600A airplanes. The AD is necessary to prevent possible loss of accuracy of both the pilot and co-pilot airspeed indicators, when operating in icing conditions, due to failure of the heating elements of pitot heads which could result in loss of control of an aircraft. The AD is prompted by an unusually high in-service failure rate of the heating elements of each of the two pitot heads on Hawker Siddeley Aviation, Ltd., Model BH/HS 125-600A airplanes.

EFFECTIVE DATE: February 6, 1978. Compliance is required within 10 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from: Hawker Siddeley Aviation, Inc., Suite 206, Blake Building, 1025 Connecticut Avenue NW., Washington, D.C. 20036, telephone 202-223-9350.

A copy of the service bulletin is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

## FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA has determined that an un-

usually high in-service failure rate of the heating element of the Aviomini pitot head on Hawker Siddeley Aviation, Ltd., Model BH/HS 125-600A airplanes could result in loss of heat to both pitot heads on these airplanes. If this were to occur during flight in icing conditions, the accuracy of both the pilot and co-pilot airspeed systems would be adversely affected. Since this condition is likely to exist or develop in other airplanes of the same type design, an AD is being issued which requires replacement of the existing pitot heads (L/H and R/H) with a new design pitot head on Hawker Siddeley Aviation, Ltd., Model BH/HS 125-600A airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

## DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F. Kelley, Flight Standards Service, and S. Podberesky, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model BH/HS 125-600A airplanes certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent possible loss of airspeed reference to both the pilot and co-pilot due to failure of the heating elements of both pitot heads, within 10 hours time in service after the effective date of this AD, remove the Aviomini pitot heads (L/H and R/H) and replace with Rosemount Model 853 JA pitot heads in accordance with the section entitled "Accomplishment Instructions" and the associated installation drawing, both included in Hawker Siddeley Aviation, Limited Service Bulletin 34-128(2436), Revision 1, dated June 21, 1977, or an FAA-approved equivalent.

This amendment becomes effective February 6, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 16, 1978.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.  
(FR Doc. 78-1928 Filed 1-20-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-RM-4)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

AGENCY: Final rule.

SUMMARY: These amendments realign and redesignate the existing Salt Lake City and Provo, Utah, transition areas. Such action will provide additional controlled airspace for the radar vectoring of aircraft and provide controlled airspace for aircraft executing a new NDB approach procedure developed for the Michael Army Air Field, Dugway, Utah. These actions are designed to improve and provide more efficient use of the navigable airspace in and around the Salt Lake City area through more direct routings and increased fuel/time savings.

EFFECTIVE DATE: 0901 G.m.t., March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On November 7, 1977, the FAA published for comment a notice of proposed rule making (NPRM) to realign and redesignate the existing Salt Lake City and Provo, Utah, transition areas (42 FR 57969). No objections were received in response to this notice.

## THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns and redesignates the transition areas at Salt Lake City and Provo, Utah.

In the notice of proposed rule making (NPRM) dated November 7, 1977, an error was made in the description of that portion of the Salt Lake City, Utah, transition area floored at 700 feet above the surface. Specifically, the words: "Thence east along latitude 41°00'00" N. to the point of begin-

ning," were omitted immediately following that portion of the proposed description which reads: "Thence north along longitude 112°22'00" W., to latitude 44°00'00" N." The following rule corrects this error.

## DRAFTING INFORMATION

The principal authors of this document are Mr. David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Mr. Daniel J. Peterson, Office of Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 G.m.t., March 23, 1978, as follows:

By amending Subpart G, section 71.181 as follows:

1. Redesignate the Salt Lake City, Utah, transition area as follows:

## SALT LAKE CITY, UTAH

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 41°00'00" N., longitude 111°45'00" W., thence south along longitude 111°45'00" W. to latitude 40°22'30" N., thence southeast to latitude 40°10'20" N., longitude 111°35'00" W., thence southwest to latitude 40°03'30" N., longitude 111°48'30" W., thence northwest to latitude 40°43'00" N., longitude 112°22'00" W., thence north along longitude 112°22'00" W. to latitude 41°00'00" N., thence east along latitude 41°00'00" N. to the point of beginning; that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 41°00'00" N., on the east by longitude 111°25'30" W., on the south by latitude 39°56'30" N., and on the west by the east edge of R-6402 and longitude 113°00'00" W.; that airspace east of Salt Lake City extending upward from 11,000 feet M.S.L. bounded on the northwest by the southeast edge of V-32, on the southeast by the northwest edge of V-235, on the southwest by the northeast edge of V-101 and on the west by longitude 111°25'30" W.; and that airspace southeast of Salt Lake City extending upward from 13,500 feet M.S.L. bounded on the northeast by the southwest edge of V-484, on the south by the north edge of V-200 and on the west by longitude 111°25'30" W.; excluding the portion within Restricted Area R-6403 and the Bonneville, Utah, transition area.

2. Cancel the Provo, Utah, transition area in its entirety.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of a Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on January 11, 1978.

M. M. MARTIN,  
Director, Rocky Mountain Region.  
(FR Doc. 78-1584 Filed 1-20-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-GL-31)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration to Control Zone and Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter controlled airspace near Sault Ste. Marie, Mich., to accommodate the transfer of aircraft operating from the existing Sault Ste. Marie Municipal Airport to the new Chippewa County Airport (formerly Kincheloe AFB).

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: On August 22, 1977, a notice to airmen was issued stating that effective September 1, 1977, the Sault Ste. Marie, Mich. (Kincheloe AFB), control zone would be decommissioned. The intended effect of the notice was to advise the public that, by reason of the closure of Kincheloe AFB, the control zone would not be effective until further notice. The airport at the former Air Force Base is being transferred to Chippewa County, Mich., and will become the new Municipal Airport (Chippewa County Airport) serving Sault Ste. Marie, Mich. Since the instrument approach procedures established for the new airport are less restrictive to airspace users than the previous Air Force operations and the existing Sault Ste. Marie Municipal Airport will be closed to coincide with the opening of the new Chippewa County Airport, it has been determined that the nature of the alteration required to the airspace does not impose an additional burden on the users of this airspace. Therefore, notice and public procedure normally requiring a notice of proposed rule-making (NPRM) are unnecessary and that good reason exists for making this alteration as a final rule effective March 23, 1978. The development of new instrument approach procedures into Chippewa County Airport necessi-

tates the FAA to slightly alter the controlled airspace to insure that the procedures will be conducted within controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument approach procedure which will enable other aircraft to circumnavigate the area in order to comply with visual flight rule requirements. When the existing Sault Ste. Marie Airport is closed and all airspace requirements are known for continued operations at the Sault Ste. Marie Canada Airport, we shall issue an additional rulemaking docket to alter the Sault Ste. Marie, Mich., and Sault Ste. Marie Canada Airports airspace.

## DRAFTING INFORMATION

The principal authors of this document are Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, and Joseph T. Brennan, Office of the Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective March 23, 1978, as follows:

In § 71.181 (43 FR 440) the following transition area is amended to read:

## SAULT STE. MARIE, MICH.

That airspace extending upward from 700 feet above the surface within 8.5 miles radius of the Chippewa County International Airport (latitude 46°14'52", longitude 84°28'15"); within 2 miles each side of the 032° bearing of the Chippewa County International Airport from the 6-mile radius area extending to the Sault Ste. Marie VORTAC, excluding that portion which overlies the Sault Ste. Marie, Mich., transition areas.

In § 71.171 (43 FR 355) the following control zone is amended to read:

## SAULT STE. MARIE, MICH.

Within a 5.5-mile radius of Chippewa County International Airport, latitude 46°14'52", longitude 84°28'15"; within one and three-fourths miles each side of the 329° bearing from the Chippewa County International Airport extending from the 5.5-mile radius zone to 6.5 miles northwest of the airport; within one and three-fourths miles each side of the 032° bearing from the airport extending from the 5.5-mile radius zone to 6 miles northeast of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. This effective date and time will thereafter be continuously published in the Airmen's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring



preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill., on January 11, 1978.

JOHN M. CYROCKI,  
Director, Great Lakes Region.  
[FR Doc. 78-1581 Filed 1-20-78; 8:45 am]

## [4910-13]

[Airspace Docket No. 77-RM-8]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Alamosa, Colo., control zone. The alteration is necessary because certain portions of the control zone are based on a private owned nondirectional beacon which has been decommissioned.

EFFECTIVE DATE: 0901 G.m.t., March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On November 28, 1977, the FAA published, for comment, a proposal to alter the Alamosa, Colo., control zone (42 FR 60569). The only comment received expressed no objection.

## THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FAR's) redefines the control zone at Alamosa, Colo.

The present control zone contained airspace for a private NDB approach for Frontier Airlines which has been cancelled and the NDB has been decommissioned.

## DRAFTING INFORMATION

The principal authors of this document are Joseph T. Taber, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator,

tor, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective March 23, 1978, as follows:

By amending Subpart F 71.171 so as to alter the following control zone to read:

## ALAMOSA, COLO.

Within a 5-mile radius of Alamosa Municipal Airport (latitude 37°26'15" N., longitude 105°51'40" W.) within 3.5 miles each side of the Alamosa VORTAC 127° and 335° radials extending from the 5-mile radius zone to 11.5 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Aurora, Colo., on January 11, 1978.

M. M. MARTIN,  
Director, Rocky Mountain Region.  
[FR Doc. 78-1582 Filed 1-20-78; 8:45 am]

## [4910-13]

[Airspace Docket No. 77-CE-22]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Designation of Transition Area—Sioux Center, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at Sioux Center, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Sioux Center Municipal Airport which is based on a Non-Directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64108, telephone 816-374-3408.

## SUPPLEMENTARY INFORMATION:

The city of Sioux Center, Iowa, is in-

stalling a Non-Directional Radio Beacon (NDB) on the Sioux Center Municipal Airport. This navigational aid will provide additional guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above the ground (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedure at the Sioux Center Municipal Airport.

## DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

## DISCUSSION OF COMMENTS

On pages 59389 and 59390 of the FEDERAL REGISTER dated November 17, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Sioux Center, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. March 23, 1978, by adding the following transition area:

## SIOUX CENTER, IOWA

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Sioux Center Municipal Airport (latitude 43°08'05" N., longitude 96°11'15" W.) and within 3 miles each side of the 006° (true) bearing from the Sioux Center Municipal Airport extending from the 5 mile radius to 8.5 miles north of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on January 11, 1978.

C. R. MELUGIN, Jr.,  
Director, Central Region.  
[FR Doc. 78-1583 Filed 1-20-78; 8:45 am]

## [4910-13]

[Airspace Docket No. 77-RM-10]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

## Alteration and Designation of Federal Airways and Jet Routes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of December 12, 1977, Vol. 42, page 62359, the Hayes Center 287° radial was incorrectly stated in line four of the fourth amendatory paragraph to § 71.123 on page 62360. This correction reflects the correct radial of Hayes Center as 276°.

EFFECTIVE DATE: January 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION: FEDERAL REGISTER Document 77-35248 was published on December 12, 1977 (42 FR 62359), with an effective date of January 26, 1978, and designated a segment of V-172 via the INT of Hayes Center, 287° and North Platte, Nebr., 245° radials. An incorrect radial from Hayes Center was inadvertently published. The correct radial should have been 276°. Action is taken herein to correct this error.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FEDERAL REGISTER Document 77-35248, as published on December 12, 1977, on page 62359, is amended in the description of a segment of V-172 by deleting the fourth line of the fourth amendatory paragraph to § 71.123 on page 62360 and substituting "dials; INT Hayes Center 276° and North" therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on January 13, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.  
[FR Doc. 78-1579 Filed 1-20-78; 8:45 am]

## [4910-13]

[Airspace Docket No. 77-SO-53]

## PART 73—SPECIAL USE AIRSPACE

## Establishment of Solid Shield 78 Temporary Restricted Areas in Puerto Rico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes six temporary restricted areas in Puerto Rico to contain a major joint service military exercise known as "Solid Shield 78." This action provides for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted areas during the time they are in use for the exercise.

EFFECTIVE DATE: May 10, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8488.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On December 1, 1977 (42 FR 61049), the FAA proposed to amend Part 73 of the Federal Aviation Regulations (FARs) (14 CFR Part 73) to establish three temporary restricted areas near the southern coast of Puerto Rico to provide military only special use airspace between the dates of May 10, 1978, and May 23, 1978, to conduct the joint service military exercise called "Solid Shield 78." Subsequent to the publication of that notice, it was determined that additional restricted area airspace would be needed. Accordingly, on December 15, 1977 (42 FR 63181), a supplemental notice of proposed rulemaking was published to establish a total of six temporary restricted areas for the exercise. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No objectionable comments were received. Except for editorial changes, this amendment is the same as was proposed in the notices.

Establishment of a temporary warning area W-372 is being established concurrently south of the temporary

restricted areas through nonrule making procedures.

## THE RULE

This amendment to Part 73 of the Federal Aviation Regulations (FARs) establishes six temporary restricted areas near the southern coast of Puerto Rico to contain a major joint service military exercise known as "Solid Shield 78." The six restricted areas reflect different designated areas and altitudes which will be in effect from May 10, 1978, through May 23, 1978. Some of the restricted areas will be effective continuously during that period, and others will be effective only a part of that period.

Exercise plans provide for airborne and amphibious operations within the Puerto Rico area and airborne operations on Vieques. Land and naval based aircraft, both fixed and rotary wing, will support all phases of the exercise. Ground forces will be continuously supported and resupplied by aircraft employing a variety of delivery means. Jet fighter and attack aircraft will conduct extensive close air support missions including simulated bombing, rocket, and strafing attacks. Jet reconnaissance aircraft will conduct missions throughout the exercise area. Total exercise sorties from all the military services are estimated at 248 daily for fixed wing and 623 daily for helicopters. Exercise activity will be of such intensity that entry of non-exercise aircraft into the areas would seriously degrade aircraft safety. Pilots engaged in this type activity may not be able to properly clear the area to avoid nonparticipating aircraft, and a hazardous situation could exist if nonexercise aircraft were permitted in the areas while the exercise is in progress. There will be no live ordnance expended nor supersonic flights conducted within the exercise airspace.

The Commander in Chief, U.S. Atlantic Fleet, will designate an exercise airspace manager who will issue notices in pictorial and textual form announcing and describing air activity within the approved exercise airspace. These notices will be in addition to NOTAMS published by the FAA. The designated airspace manager will establish communications with appropriate air route traffic control centers so that nonexercise aircraft may be cleared through the restricted/warning areas when not being used for exercise purposes.

## DISCUSSION OF COMMENTS

Two comments were received. Neither comment objected to the proposed action.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air



Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

**ADOPTION OF THE AMENDMENT**

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 660) is amended, effective 0001 local time, May 10, 1978, as follows:

In § 73.71 (43 FR 711) the following temporary restricted areas are added:

1. R-7105A Ponce, P.R.  
Boundaries: Beginning at Lat. 18°15'00" N., Long. 66°30'00" W.; to Lat. 18°15'00" N., Long. 66°01'00" W.; to Lat. 18°07'00" N., Long. 65°59'20" W.; to Lat. 18°07'00" N., Long. 66°30'00" W.; thence to point of beginning.

Altitudes: 8,000 feet MSL to but not including FL 250.  
Time of use: Continuous, May 10, 1978, through May 23, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

2. R-7105B Ponce, P.R.  
Boundaries: Beginning at Lat. 18°07'00" N., Long. 66°30'00" W.; to Lat. 18°07'00" N., Long. 65°59'20" W.; to Lat. 17°55'30" N., Long. 65°56'30" W.; thence west 3 NM from and parallel to the shoreline to Lat. 17°56'30" N., Long. 66°30'00" W.; thence to point of beginning.

Altitudes: Surface to but not including FL 250.

Time of use: Continuous, May 10, 1978, through May 23, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

3. R-7105C Ponce, P.R.  
Boundaries: Beginning at Lat. 18°15'00" N., Long. 66°45'00" W.; to Lat. 18°15'00" N., Long. 66°30'00" W.; to Lat. 17°48'00" N., Long. 66°30'00" W.; thence northwest and west along Warning Area W-371B to Lat. 17°56'00" N., Long. 66°45'00" W.; thence to point of beginning.

Altitudes: Surface to but not including FL 280, excluding the airspace within R-7105E.

Time of use: Continuous, May 10, 1978, through May 23, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

4. R-7105D Ponce, P.R.  
Boundaries: Beginning at Lat. 18°15'00" N., Long. 66°30'00" W.; to Lat. 18°15'00" N., Long. 66°01'00" W.; to Lat. 18°07'00" N., Long. 65°59'20" W.; to Lat. 18°07'00" N., Long. 66°30'00" W.; thence to point of beginning.

Altitudes: Surface to but not including 8,000 feet MSL.

Time of use: Continuous, May 10, 1978, through May 23, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

5. R-7105E Ponce, P.R.  
Boundaries: Beginning at Lat. 18°15'00" N., Long. 66°45'00" W.; to Lat. 18°04'30" N., Long. 66°35'30" W.; thence east along the 5 SM arc of the Ponce control zone to Lat. 18°03'00" N., Long. 66°30'00" W.; to Lat.

17°48'00" N., Long. 66°30'00" W.; thence west along W-371B to Lat. 17°56'00" N., Long. 66°45'00" W.; thence to point of beginning.

Altitudes: Surface to but not including 8,000 feet MSL.

Time of use: 0000 to 1000 local time, May 15, 1978, through May 17, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

6. R-7105F Ponce, P.R.  
Boundaries: Beginning at Lat. 18°05'00" N., Long. 67°15'00" W.; to Lat. 18°05'00" N., Long. 66°45'00" W.; to Lat. 17°55'00" N., Long. 66°45'00" W.; thence west 3 NM from and parallel to the shoreline to point of beginning.

Altitudes: 8,000 feet MSL to FL 280.

Time of use: Continuous, May 10, 1978, through May 23, 1978.

Controlling agency: FAA, San Juan ARTC Center.

Using agency: U.S. Atlantic Command, Norfolk, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 16, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-1929 Filed 1-20-78; 8:45 am)

**[4910-13]**

[Docket No. 17551; SFAR No. 36]

**PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT**

**PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS**

**PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT**

**PART 145—REPAIR STATIONS**

Special Federal Aviation Regulation No. 36; Operations Review Program Amendment No. 2A; Development of Major Repair Data

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment, being issued as a part of the FAA's Operations Review Program, adopts a new Special Federal Aviation Regulation (SFAR) that provides for the use of data for accomplishing major repairs that have been developed by repair

stations, air carriers, air taxis, and commercial operators of large aircraft but which have not been specifically approved by the FAA. The SFAR will relieve affected certificate holders of the burden attendant to obtaining FAA-approval of major repair data on a case-by-case basis if certain requirements necessary in the interest of safety are met. The SFAR is also needed to develop information upon which to base a permanent rule change.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Donald A. Schroeder, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTARY INFORMATION:

**BACKGROUND**

The aviation industry in the United States and abroad has grown substantially during the last 10 years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies, and aircraft operators function.

To enable the FAA to become more responsive to the needs of the general public and the aviation community in fulfilling the agency's aviation safety responsibilities, the FAA issued Notice No. 75-9 (40 FR 8585; February 28, 1975), inviting all interested persons to submit proposals for consideration during the Operations Review Program.

In response to that invitation, the FAA received more than 5,000 individual comments contained in 123 submissions. Based on those comments and on the Compilation of Proposals, the FAA prepared a number of working documents for the Operations Review Conference held in Arlington, Va., on December 1-5, 1975. The FAA distributed those documents to each person who participated in the Operations Review Program and to all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all the scheduled agenda items during the conference. Summaries were given by the FAA Committee Chairman at the close of the discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited and combined with an attendee list for the conference and with transcripts of certain plenary session speeches and were distributed to all

attendees and to all persons requesting them in accordance with a Notice of Availability (Notice No. 75-9A; 41 FR 9413; March 4, 1976).

This amendment deals with Proposal No. 882, concerning § 145.51, that was submitted by the Air Transport Association for the Operations Review Program and is being issued as a part of that program.

**DISCUSSION OF AMENDMENT**

Under § 145.51 of the Federal Aviation Regulations (FAR), repair stations are allowed to approve aircraft, airframes, aircraft engines, propellers, or appliances for return to service after maintenance, preventive maintenance, or alterations. However, in the case of major repairs or major alterations, the work must have been done in accordance with FAA-approved technical data. Similar requirements exist in § 127.140(b), which is applicable to scheduled air carriers utilizing helicopters, and in § 121.379(b) which is applicable to air carriers and commercial operators of large aircraft. In addition, under § 135.2, air taxi operators using large aircraft are subject to the requirements of § 121.379(b).

While FAA-approved major alteration data may be developed under the Designated Alteration Station (DAS) provisions of Subpart M of FAR Part 21, similar provisions do not exist under which FAA-approved major repair data can be developed by those certificate holders subject to the requirements of §§ 121.379, 127.140, and 145.51. Because of this, affected certificate holders have, in the past, been required to submit major repair data and supporting information to FAA Regional Offices on a case-by-case basis for approval. Due to the large number of major repairs being performed and the financial need to have damaged aircraft repaired and returned to service as quickly as possible, the requirement for applying for case-by-case approvals has proven to be especially burdensome to affected certificate holders. In this connection, the FAA has recently been receiving an increasing number of petitions for exemption from the provisions of §§ 121.379 and 145.51. Several exemptions have been issued, subject to a number of conditions and limitations, allowing air carriers and repair stations to utilize major repair data they have developed which have not been specifically FAA-approved. Based on the experience gained under these exemptions and in view of the increasing number of exemption requests, the FAA believes it appropriate to adopt an SFAR to provide similar relief to all affected certificate holders and to enable the FAA to obtain additional information that is needed to determine the course of action to be taken with respect to §§ 121.379(b), 127.140(b), and 145.51.

**SPECIAL FEDERAL AVIATION REGULATIONS**

1. *General.* Contrary provisions of §§ 121.379(b), 127.140(b) and 145.51 of the Federal Aviation Regulations notwithstanding, a certificate holder may approve an aircraft, airframe, aircraft engine, propeller, or appliance for return to service after accomplishing a major repair if the data used for the repair was developed by that certificate holder in accordance with an authorization issued under this Special Federal Aviation Regulation.

2. *Application.* The applicant for an authorization to develop and use its own technical data for major repairs must submit an application, in writing and signed by an officer of the applicant, to the FAA District Office for the region in which the applicant is located. The application must contain—

(a) The repair station certificate number held by the repair station applicant, the current ratings covered by the certificate, and a copy of the repair station's operations specifications;

(b) The air carrier, air taxi, or commercial operator operating certificate number held by the air carrier, air taxi, or commercial operator applicant, and the products that it may maintain under the certificate;

(c) The names, signatures, and titles of the persons for whom authorization to approve the use of technical data for major repairs is requested; and

(d) A description of the applicant's staff with which compliance with section 3 of this Special Federal Aviation Regulation is to be shown.

3. *Eligibility.* (a) To be eligible for an authorization to develop its own technical data for major repairs, the applicant must—

(1) Hold a current domestic repair station certificate under Part 145, an air carrier certificate under Part 121 or 127, or a commercial operator certificate under Part 121, or be an air taxi operator subject to the requirements of § 135.2;

(2) Have adequate personnel, in the United States, appropriate to the products that it may maintain under its certificate; and

(3) Employ, or have available, a staff of engineering personnel who can determine compliance with the applicable airworthiness requirements of the Federal Aviation Regulations.

(b) At least one member of the staff required by paragraph (a)(3) of this section must have all of the following qualifications:

(1) A thorough working knowledge of the applicable requirements of the Federal Aviation Regulations.

(2) A position, on the applicant's staff, with authority to establish repair programs that ensure that repaired products meet the applicable requirements of the Federal Aviation Regulations.

(3) At least one year of satisfactory experience in direct contact with the FAA while processing engineering work for type certification or major repair projects.

(4) At least eight years of aeronautical engineering experience (which may include the one year required by paragraph (b)(3) of this section).

4. *Procedure Manual.* (a) No person holding an authorization issued under this Special Federal Aviation Regulation may exercise any authority under the authorization unless he obtains FAA approval of and complies with a procedure manual containing—

(1) The procedures for developing and determining the adequacy of technical data for major repairs; and

**DRAFTING INFORMATION**

The principal authors of this document are Mr. Eli Newberger, Flight Standards Service, and Mr. Samuel Podberesky, Office of the Chief Counsel.

**THE AMENDMENT**

Accordingly, Special Federal Aviation Regulation No. 36 is adopted effective January 23, 1978, to read as follows:



(2) The names, signatures, and responsibilities of officials and of each staff member required by section 3 of this Special Federal Aviation Regulation, identifying those persons who—

(i) Have authority to make changes in procedures that require a revision to the procedure manual; and

(ii) Are to prepare or determine the adequacy of technical data, or both, plan or conduct tests, and approve the results of tests.

(b) No person holding an authorization issued under this Special Federal Aviation Regulation may continue to perform any authorized function affected by any change in staff necessary to continue to meet the requirements of section 3 of this Special Federal Aviation Regulation, or affected by any change in procedures from those approved under paragraph (a) of this section, unless that change is FAA-approved and entered in the manual. For this purpose, the manual must contain a "log-of-revisions" page with space for the identification of each revised item, page, date, and the signature of the person approving the change for the Administrator.

5. *Duration of Authorization.* Each authorization issued under this Special Federal Aviation Regulation is effective for a period of two years unless it is surrendered or the Administrator suspends, revokes, or otherwise terminates it at an earlier date.

6. *Maintenance of Eligibility.* Each holder of an authorization issued under this Special Federal Aviation Regulation shall continue to meet the requirements for issue of the authorization or shall notify the Administrator within 48 hours of any change (including a change of personnel) that could affect the ability of the holder to meet those requirements.

7. *Transferability.* An authorization issued under this Special Federal Aviation Regulation is not transferable.

8. *Inspections.* Upon request, each holder of an authorization issued under this Special Federal Aviation Regulation and each applicant for an authorization shall let the Administrator inspect his facilities, products, and records.

9. *Limits of Applicability.* (a) An authorization issued under this Special Federal Aviation Regulation applies only to products—

(1) Covered by the rating of the repair station applicant and its operations specifications; and

(2) Covered by the operating certificate and maintenance manual of the air carrier, air taxi, or commercial operator applicant.

(b) Each holder of an authorization issued under this Special Federal Aviation Regulation must comply with any additional limitations prescribed by the Administrator and made a part of the authorization.

10. *Data Review and Service Experience.* (a) If the Administrator finds that a product for which repair data was developed under this Special Federal Aviation Regulation does not meet the applicable airworthiness requirements, or that an unsafe feature or characteristic caused by a defective repair exists, the holder of the authorization, upon notification by the Administrator, shall investigate the matter and report to the Administrator the results of the investigation and the action, if any, taken or proposed.

(b) If corrective action by the user of the product is necessary for safety because of any noncompliance or defect specified in paragraph (a) of this section, the holder of

the authorization shall submit the information necessary for the issuance of an airworthiness directive under Part 39 of the Federal Aviation Regulations.

11. *Current Records.* (a) Each holder of an authorization issued under this Special Federal Aviation Regulation shall maintain, at its facility, current records containing—

(1) For each product for which it has developed and used major repair data, a technical data file that includes any data and amendments thereto (including drawings, photographs, specifications, instructions, and reports) necessary for the major repair;

(2) A list of products by make, model, manufacturer's serial number and, if applicable, any FAA identification, that have been repaired under the authorization; and

(3) A file of information from all available sources on difficulties of products repaired under the authorization.

(b) The records prescribed in paragraph (a) of this section shall be—

(1) Made available by the holder of the authorization, for examination, upon the Administrator's request; and

(2) In the case of the data file prescribed in paragraph (a)(1) of this section, identified by the holder of the authorization and sent to the Administrator as soon as the holder of the authorization no longer utilizes it.

This Special Federal Aviation Regulation terminates January 23, 1980.

NOTE.—The reporting and recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Secs. 313(a), 601, 604, and 607, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1424, and 1427); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 17, 1978.

LANGHORNE BOND,  
Administrator.

[FR Doc. 78-1622 Filed 1-20-78; 8:45 am]

#### [6320-01]

##### CHAPTER II—CIVIL AERONAUTICS BOARD

##### SUBCHAPTER A—ECONOMIC REGULATIONS (Regulation ER-1040, Amdt. 14)

##### PART 207—CHARTER TRIPS AND SPECIAL SERVICES

###### Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.  
AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning

the performance of emergency commercial charters by a certificated scheduled air carrier for another direct air carrier. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated December 19, 1977.

DATES: Effective: January 17, 1978.  
Adopted: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 207 of its economic regulations (14 CFR 207) by adding the following note at the end of Part 207:

NOTE.—The reporting requirements contained in § 207.10 have been approved by the U.S. General Accounting Office under No. B-180226 (R0107).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1912 Filed 1-20-78; 8:45 am]

#### [6320-01]

[Regulation ER-1041, Amdt. 13]

##### PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

###### Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.  
AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning the performance of emergency commercial charters by a certificated supplemental air carrier for another direct air carrier. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated December 19, 1977.

DATES: Effective: January 17, 1978.  
Adopted: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Con-

necticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 208 of its economic regulations (14 CFR 208) by adding the following note at the end of Part 208:

NOTE.—The reporting requirements contained in § 208.5 have been approved by the U.S. General Accounting Office under No. B-180226 (R0107).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1911 Filed 1-20-78; 8:45 am]

#### [6320-01]

[Regulation ER-1042, Amdt. 23]

##### PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

###### Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.  
AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning the performance of emergency commercial charters by a foreign air carrier for another direct air carrier. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated December 19, 1977.

DATES: Effective: January 17, 1978.  
Adopted: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 212 of its economic regulations (14 CFR 212) by adding the following note at the end of Part 212:

NOTE.—The reporting requirements contained in § 212.14 have been approved by the U.S. General Accounting Office under No. B-180226 (R0107).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324)

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1910 Filed 1-20-78; 8:45 am]

#### [6320-01]

[Regulation ER-1043, Amdt. 21]

##### PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

###### Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.  
AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning the performance of emergency commercial charters by a foreign charter air carrier for another direct air carrier. This approval is required by the Federal Reports Act and was transmitted to the Civil Aeronautics Board by letter dated December 19, 1977.

DATES: Effective: January 17, 1978.

Adopted: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

Accordingly, the Civil Aeronautics Board amends Part 214 of its Economic Regulations (14 CFR 214) by adding the following note at the end of Part 214:

NOTE.—The reporting requirements contained in § 214.5 have been approved by the U.S. General Accounting Office under Number B-180226 (R0107).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR § 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1909 Filed 1-20-78; 8:45 am]

#### [6320-01]

##### SUBCHAPTER D—SPECIAL REGULATIONS (Regulation SPR-145, Amdt. 9)

##### PART 371—ADVANCE BOOKING CHARTERS

###### Approval by Comptroller General

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice of approval by the Comptroller General of the reporting requirements contained in a regulation concerning free and reduced-rate transportation offered to travel agents on Advance Booking Charters. This approval is required by the Federal Reports Act.

DATES: Effective: December 27, 1977.  
Adopted: January 17, 1978.

FOR FURTHER INFORMATION CONTACT: Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

SUPPLEMENTARY INFORMATION: In Regulation SPR-136, 42 FR 56722, October 28, 1977 (Docket 29818), the Board amended Part 371 of its Special Regulations to provide, among other things, new reporting requirements in §§ 371.25a and 371.50(c). Regulation SPR-136 contained the following note:

NOTE.—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

By letter dated December 13, 1977, the Comptroller General approved the reporting requirements in §§ 371.25a and 371.50(c) under Number B-180226 (R0480) and the effective date of Regulation SPR-136 remains unchanged: December 27, 1977.

Accordingly, in order to reflect such review and approval by the Comptroller General, the note which follows paragraph (c) of § 371.50 is hereby amended to read as follows:

§ 371.50 Charter trip reporting.

NOTE.—The reporting requirements contained in §§ 371.25a and 371.50(c) have been approved by the U.S. General Accounting Office under No. B-180226 (R0480).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1908 Filed 1-20-78; 8:45 am]



**[6320-01]**

(Regulation SPR-146, Amdt. 21)

**PART 378—INCLUSIVE TOUR CHARTERS****Approval by Comptroller General**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

**SUMMARY:** This final rule gives notice of approval by the Comptroller General of a reporting requirement contained in a regulation concerning free and reduced-rate transportation offered to travel agents on Inclusive Tour Charters. This approval is required by the Federal Reports Act.

**DATES:** Effective: December 27, 1977.  
Adopted: January 17, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

**SUPPLEMENTARY INFORMATION:** In Regulation SPR-137, 42 FR 56725, October 28, 1977 (Docket 29818), the Board amended Part 378 of its Special Regulations to provide, among other things, a new reporting requirement in § 378.32(b). Regulation SPR-137 contained the following note:

**NOTE.**—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

By letter dated December 13, 1977, the Comptroller General approved the reporting requirement in § 378.32(b) under Number B-180226 (R0480) and the effective date of Regulation SPR-137 remains unchanged: December 27, 1977.

Accordingly, in order to reflect such review and approval by the Comptroller General, the note which follows paragraph (c) of § 378.32 is hereby amended to read as follows:

§ 378.32 Free and reduced-rate transportation of travel agents.

**NOTE.**—The reporting requirement contained in section 378.32(b) has been approved by the U.S. General Accounting Office under Number B-180226 (R0480).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR 385.24(b).

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(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-1907 Filed 1-20-78; 8:45 am)

**[6320-01]**

(Regulation SPR-147, Amdt. 17)

**PART 378a—ONE-STOP-INCLUSIVE TOUR CHARTERS****Approval by Comptroller General**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

**SUMMARY:** This final rule gives notice of approval by the Comptroller General of a reporting requirement contained in a regulation concerning free and reduced-rate transportation offered to travel agents on One-Stop-Inclusive Tour Charters. This approval is required by the Federal Reports Act.

**DATES:** Effective, December 27, 1977.  
Adopted, January 17, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Raymond Kurlander, Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5270.

**SUPPLEMENTARY INFORMATION:** In Regulation SPR-138, 42 FR 56726, October 28, 1977 (Docket 29818), the Board amended Part 378a of its Special Regulations to provide, among other things, a new reporting requirement in § 378a.50(d). Regulation SPR-138 contained the following note:

**NOTE.**—The Civil Aeronautics Board is submitting this rule to the Comptroller General for such review as may be appropriate under the Federal Reports Act, 44 U.S.C. 3512. The effective date of this rule accordingly reflects the inclusion of the 45-day period which that statute allows for such review. 44 U.S.C. 3512(c)(2).

By letter dated December 13, 1977, the Comptroller General approved the reporting requirement in § 378a.50(d) under Number B-180226 (R0480) and the effective date of Regulation SPR-138 remains unchanged: December 27, 1977.

Accordingly, in order to reflect such review and approval by the Comptroller General, the note which follows paragraph (c) of § 378a.50 is hereby amended to read as follows:

§ 378a.50 Charter trip reporting.

**NOTE.**—The reporting requirement contained in § 378a.50(d) has been approved by

the U.S. General Accounting Office under Number B-180226 (R0480).

This amendment is issued by the undersigned pursuant to the delegation of authority from the board to the Secretary in 14 CFR 385.24(b).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; U.S.C. 1324.)

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-1906 Filed 1-20-78; 8:45 am)

**[7510-01]****CHAPTER V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****PART 1245—PATENTS****Subpart 1—Patent Waiver Regulations**

AGENCY: National Aeronautics and Space Administration.

ACTION: Correction.

**SUMMARY:** This document corrects a final rule which appeared on page 57454 in the FEDERAL REGISTER of November 3, 1977.

**DATE:** The previous document became effective November 3, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Robert F. Kempf, 202-755-3932.

**SUPPLEMENTARY INFORMATION:** In FR Doc. 77-31792 appearing at page 57449 in the FEDERAL REGISTER of November 3, 1977, effective date statement following § 1245.117 appearing on page 57454 is corrected in the last sentence by changing "on or before" to "on or after."

**DATED:** January 17, 1978.

ROBERT F. KEMPF,  
Assistant General Counsel  
for Patent Matters.

(FR Doc. 78-1900 Filed 1-20-78; 8:45 am)

**[6750-01]****Title 16—Commercial Practices****CHAPTER 1—FEDERAL TRADE COMMISSION****SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE****PART 2—NONADJUDICATIVE PROCEDURES****PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS**

**Disclosure of Material Pertaining to Consent Order Settlements; Withdrawal of Matter from Adjudication to Consider Consent Agreements**

AGENCY: Federal Trade Commission.

ACTION: Final rule.

**SUMMARY:** On August 5, 1977 (42 FR 39658), the Commission published changes in rules 2.34 and 3.25(f), de-

signed to place on the public record certain material related to consent agreements accepted by the Commission. Although the summary published in the FEDERAL REGISTER accurately reflected the Commission's intent that only documents received by the Commission from the investigated party would be subject to the disclosure requirements of the rules, the language of the rules omitted this fact. This change is being made to clarify the rule in accordance with the Commission's original intent.

In addition, the Commission is delegating to its General Counsel the authority to make public the documents that these rules require be disclosed. This is similar to the authority to grant Freedom of Information Act appeals which the Commission has also delegated to its General Counsel, 16 CFR § 4.11.

**EFFECTIVE DATE:** January 20, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3865.

Accordingly, and pursuant to 15 U.S.C. § 46(f), (g) and 5 U.S.C. § 552, the Commission hereby amends its Rules of Practice §§ 2.34 and 3.25(f), 16 CFR §§ 2.34 and 3.25(f), as set forth below.

1. By revising § 2.34 to read as follows:

**§ 2.34 Disposition.**

(a) Upon receiving an executed agreement conforming with the requirements of § 2.32, the Commission may: (1) Accept it; (2) reject it and issue its complaint; or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place the order contained therein and any initial report of compliance submitted pursuant to § 2.33 on the public record, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby, material submitted to the Commission by the investigated party related to the merits of the order that is determined by the General Counsel not to be exempt from disclosure under the Freedom of Information Act, and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any inter-

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ested person. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

2. By revising § 3.25(f) to read as follows:

**§ 3.25 Consent agreement settlements.**

(f) After the matter has been withdrawn from adjudication, the Commission may: (1) Accept the agreement, (2) reject it and return the matter to adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place it on the public record, together with any initial report of compliance submitted pursuant to § 2.33, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby; material submitted to the Commission by the investigated party reasonably related to the merits of the order that is determined by the General Counsel not to be exempt from disclosure under the Freedom of Information Act; and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER, for a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested person. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will return the matter to adjudication for further proceedings or take such other action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

By direction of the Commission dated January 10, 1978.

CAROL M. THOMAS,  
Secretary.

(FR Doc. 78-1795 Filed 1-20-78; 8:45 am)

**[6750-01]**

(Docket No. 8995)

**PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS**

Chrysler Corp.

AGENCY: Federal Trade Commission.

**ACTION:** Modified order to cease and desist.

**SUMMARY:** This modified order to cease and desist replaces an earlier order issued to Chrysler Corp. on April 13, 1976, (41 FR 20653, 87 F.T.C. 719). In accordance with the decision and judgment rendered by the Court of Appeals for the District of Columbia on July 6, 1977, (561 F.2d 357 (1977)), this order deletes Paragraphs 2 and 3 of the original order, which pertain to performance tests and results.

**DATES:** Complaint issued Oct. 9, 1974. Final order issued Apr. 13, 1976. Modified order to cease and desist issued Dec. 5, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Albert H. Kramer, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580, 202-523-3727.

**SUPPLEMENTARY INFORMATION:** In the Matter of Chrysler Corporation, a corporation. The prohibited trade practices and/or affirmative corrective actions as codified under 16 CFR 13, appearing at 41 FR 20653, are modified by the deletion of § 13.210 Scientific tests, and § 13.1730 Results.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The Modified Order to Cease and Desist, is as follows:

**MODIFIED ORDER TO CEASE AND DESIST**

Respondent having filed in the United States Court of Appeals for the District of Columbia on June 30, 1976, a petition to review an order to cease and desist issued on April 13, 1976; and the court having rendered its decision and judgment on July 6, 1977, affirming and enforcing the Commission's order with the deletion of Paragraphs 2 and 3, and respondent not having filed a petition for certiorari within the time permitted by law;

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be, and it hereby is, modified in accordance with the decision and judgment of the Court to read as follows:

**ORDER**

It is ordered, That respondent Chrysler Corp., and its officers, representatives, and agents and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of products sold by the respondent in or affecting commerce, as

Copies of the Modified Order to Cease and Desist, filed with the original document.



"commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, by reference to a test or tests, that any of respondent's automobiles are superior with regard to fuel economy to any other automobiles whether manufactured by respondent or others unless:

(a) such superiority has been demonstrated as to the model(s) for which it is claimed by such test or tests with respect to each sample, or the valid average of all identical samples, of each model represented to have been tested; or

(b) the valid test results for each sample, or the valid average of all identical samples, of each model so compared, including the advertised model as well as such makes and models to which the advertised model is compared, are clearly and conspicuously disclosed.

For the purpose of this Order, "sample" shall mean an actual automobile tested.

2. Misrepresenting in any manner the fuel economy of any automobile or the superiority of any automobile over competing products in terms of fuel economy.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this Order to each of its operating divisions.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

It is further ordered, That respondent shall, within sixty (60) days after this order becomes "final," file with the Commission a report, in writing, setting forth in detail the manner and form of its compliance with this Order.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 70-1837 Filed 1-20-78; 8:45 am]

[6750-01]

[Docket No. C-2914]

PART 13—PROHIBITED TRADE PRACTICES,  
AND AFFIRMATIVE CORRECTIVE ACTIONS

Grand Spaulding Dodge, Inc.

AGENCY: Federal Trade Commission.

ACTION: Order to cease and desist.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent

order, among other things, requires a Chicago, Ill. automobile dealer to cease failing to furnish in a timely manner, Spanish-speaking customers relevant bilingual disclosures and documents. Additionally, the firm is required to display notices in Spanish, as set forth in the order, and to maintain prescribed records for a period of two years.

DATES: Complaint and order issued Oct. 25, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Paul W. Turley, Director, Chicago Regional Office, Federal Trade Commission, 55 East Monroe St., Suite 1437, Chicago, Ill. 60603, 312-353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, Jan. 27, 1977, there was published in the FEDERAL REGISTER 42 FR 5133, a proposed consent agreement with analysis in the Matter of Grand Spaulding Dodge, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

Comments were filed and considered by the Commission.

The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows:

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-25 Displays, in-house; 13.533-45 Maintain records. Subpart—Failing to Provide Foreign Language Translations; § 13.1052 Failing to provide foreign language translations. Subpart—Neglecting, Unfairly or Deceptively, to Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-1838 Filed 1-20-78; 8:45 am]

Copies of the Complaint and the Decision and Order filed with the original document.

[1505-01]

Title 22—Foreign Relations

CHAPTER 1—DEPARTMENT OF STATE

[Dept. Reg. 108.751]

PART 51—PASSPORTS

New Passport Requirements

Correction

In FR Doc. 78-764, appearing on page 1791 in the issue of Thursday, January 12, 1978, the bracketed heading, which was inadvertently omitted, should read as set forth above.

[4210-01]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. F13795]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The date listed in the fourth column.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance if such assistance is: (1) For acquisition and construction purposes, and (2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program and insurance is

purchased. Accordingly, for communities listed under this Part such restriction exists as of the effective date of suspension because insurance, which is required, cannot be purchased.

Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted

adequate flood plain management measures with effective enforcement measures. The communities suspended in this notice no longer meet that statutory requirement for compliance with program regulations (24 CFR Part 1909 et seq.). Accordingly, the communities are suspended on the effective date in the list below.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public inter-

est. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of suspended communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Colorado	Alamosa	Unincorporated areas	June 8, 1973, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	Aug. 2, 1974	080009
Do	Arapahoe	Greenwood Village, city of	Mar. 16, 1976, emergency; Jan. 5, 1978, regular; Jan. 19, 1978, suspended.	Dec. 27, 1974	080195
Do	Routt	Steamboat Springs, town of	Oct. 10, 1973, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	Dec. 27, 1974	080159
Georgia	Lowndes	Valdosta, city of	Dec. 17, 1973, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	Mar. 7, 1974	130200-A
Kansas	Leavenworth	Leavenworth, city of	May 1, 1973, emergency; Jan. 5, 1975, regular; Jan. 19, 1978, suspended.	Mar. 26, 1976	200190
Michigan	Berrien	Royalton, township of	May 17, 1973, emergency; Jan. 5, 1978, regular; Jan. 19, 1978, suspended.	June 21, 1974	260043-A
Missouri	St. Louis	Penton, city of	Feb. 25, 1972, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	May 17, 1974	290350
Do	do	Ferguson, city of	May 3, 1973, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	Sept. 16, 1973	290351-A
New Jersey	Somerset	Warren, township of	Feb. 4, 1972, emergency; Jan. 5, 1978, regular; Jan. 19, 1978, suspended.	June 18, 1976	340446
Pennsylvania	Schuylkill	Port Carbon, borough of	Sept. 15, 1972, emergency; Jan. 19, 1978, regular; Jan. 19, 1978, suspended.	Oct. 1, 1976	420783-A
Washington	Pacific	Unincorporated areas	Jan. 17, 1974, emergency; Jan. 5, 1978, regular; Jan. 19, 1978, suspended.	Oct. 25, 1974	530126
West Virginia	Logan	Mitchell Heights, town of	Jan. 29, 1971, emergency; Aug. 27, 1976, regular; Jan. 19, 1978, suspended.	Aug. 17, 1971	540095-A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 21, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1626 Filed 1-20-78; 8:45 am]

[4210-01]

[Docket No. F1 3874]

PART 1915—IDENTIFICATION AND MAPPING  
OF SPECIAL HAZARD AREAS

List of Communities with Special Hazard Areas

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood,

mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of these areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, and other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or February 22, 1978, whichever is later.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, re-

quires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood



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RULES AND REGULATIONS

prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin February 22, 1978, or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin February 22, 1978, or the effective date of the Flood

Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBMs in effect).

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STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	HAZARD	IDENTIFICATION (DATE)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR	Cochise	City of Sierra Vista (01-04)	040017 A	E-8,11,12, 14	I F	10 MAY 74	6 DEC 77	Mr. George P. Michael, Jr. - Director of Public Works - 200 Sherman, Northwest - Sierra Vista, AZ 86355 (602) 468-2840
AR	Uninc. Area	Crittenden County (0001-0011)	050429 A	N-5	I F	6 DEC 77	6 DEC 77	Honorable Jack Brawley - County Judge - Crittenden County Courthouse - Office of the County Judge - Marion, AR 72364 (501) 733-5200
AR	Uninc. Area	Jefferson County (0001-0014)	050440 A	N-5,9	I F	6 DEC 77	6 DEC 77	Honorable Joe Henslee - County Judge - Office of the County Judge - County Courthouse - Pine Bluff, AR 71601 (501) 534-4120
HI	Uninc. Area	ISLANDS OF MOLOKAI AND MAUI (0001-0016)	150003 A	E-5	C F	6 DEC 77	6 DEC 77	Mr. Ted A. Hines, City Engineer - 1100 W. Waiola - Honolulu, HI 96813
IA	Uninc. Area	Frederick County (0001-0005, 0008-0009, 0012-0014, 0017-0019, 0021-0024)	160061 A	N-5	I F	6 DEC 77	6 DEC 77	Mr. Edward Kirkham - Chairman - Board of County Commissioners - County Courthouse - Mt. Vernon, IA 52745 (319) 641-0100
IA	Uninc. Area	Pottawattamie County (0001-0011)	190232 A	N-5	I F	6 DEC 77	6 DEC 77	Mr. Frank Gilman - Chairman - Board of County Supervisors - County Courthouse - Council Bluffs, IA 51501 (712) 330-8700
IA	Uninc. Area	Ford County (0001-0012)	200101 A	N-5	I F	6 DEC 77	6 DEC 77	Mr. Ed Stibb - Chairman - Board of County Commissioners - County Courthouse - Dodge City, KS 67801 (316) 228-4700
LA	Uninc. Area	Saint Landry Parish (01-29, 32-38, 41-54, 56-67)	220165 A	E-5,9	I F	6 DEC 77	6 DEC 77	Mr. Ivan Ryder - President - Office of the Police Jury - Parish Courthouse - Opelousas, LA 70570 (337) 548-5000
MA	Barnstable	Town of Brewster (0001-0006)	250003 B	E-12	C F	15 MAR 74	6 DEC 77	Mr. Dennis D. Hanson - Superintendent-Engineer - Department of Public Works - Brewster, MA 02631 (617) 656-3212
MA	Middlesex	Town of Stow (01-11)	250216 A	E-10,11,12	I F	18 OCT 74	6 DEC 77	Mr. Don Rising - Planning Board - Office of the Planning Board - P.O. Box 901 - Stow, MA 01775 (617) 275-5200
OK	Uninc. Area	Bryan County (0001-0013)	400482 A	N-5	I F	6 DEC 77	6 DEC 77	Mr. Joe Franklin - Chairman - Board of County Commissioners - County Courthouse - Durant, OK 74701 (405) 524-2201
OR	Uninc. Area	Hood River County (0001-0006, 0008)	410096 A	E-5	I F	6 DEC 77	6 DEC 77	Mr. Richard D. Smith - Chairman - Board of County Commissioners - County Courthouse - Hood River, OR 97031 (503) 335-3570
OR	Uninc. Area	Linn County (0001-0007, 0009-0017, 0019, 0021-0022)	410136 A	E-5	I F	6 DEC 77	6 DEC 77	Mr. Vernon Schreck - Chairman - Board of County Commissioners - County Courthouse - Albany, OR 97321 (503) 567-3025
TX	Jim Wells	City of Alice (0001-0002)	480394 B	E-8,11,12, 14	I F	28 DEC 73	6 DEC 77	Mr. Ralph Gomez - Asst. City Manager - P.O. Box 119 - Alice, TX 78532 (512) 654-2465
TX	Uninc. Area	Collin County (0001-0012)	480130 A	N-5	I F	6 DEC 77	6 DEC 77	Honorable Nathan E. White - County Judge - Office of the County Judge - County Courthouse - McKinney, TX 75069 (214) 542-2501



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STATE	COUNTY	COMMUNITY NAME & NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Uninc. Area	Coryell County (0001-0016)	480768	A N-5	I	F	6 DEC 77	6 DEC 77	Honorable Douglas H. Smith - County Judge - Office of the County Judge - County Courthouse - Gatesville, TX 76528 (817) 665-5911
TX	Uninc. Area	Potter County (0001-0012)	481241	A N-5	I	F	6 DEC 77	6 DEC 77	Honorable Branch T. Archer - County Judge - Office of the County Judge - County Courthouse - Amarillo, TX 79101 (806) 376-6591
STATE	COUNTY	COMMUNITY NAME & NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MINN	Washington	City of Cokdale 01-05	270511C	E-11,12, 14	I	F	May 24, 1974 July 25, 1975 April 1, 1977	Dec. 9, 1977	Dennis Zylla, City Asst. 1584 Hasky Ave., N. Cokdale, MN 55119 Phone: 8130719-5956
MS	Cathoun	Cathoun County (Uninc. 0001A-0008A Areas)	280288	E-5	I	F	Dec. 9, 1977	Dec. 9, 1977	John Whittier, President Board of Supervisors Dixfield, MS 39111 Phone: 601-933-2434
MS	Sharkey	Sharkey County (Uninc. 0001A-0008A Areas)	280152	E-5	I	F	Dec. 9, 1977	Dec. 9, 1977	H.G. Greer, President Board of Supervisors County Courthouse Rolling Fork, MS Phone: 601-679-2261
MS	Tunica	Tunica County (Uninc. 0001A-0003A Areas)	280236	E-10,11, 12,14	I	F	Jan. 10, 1975	Dec. 9, 1977	William L. Leatherman Board of Supervisors County Courthouse Tunica, MS Phone: 601-333-2374
NY	Westchester	Village of Mount Kisco 0001A	360918	E-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Henry Kensing, Mayor 164 Main Street Mount Kisco, NY 10549 Phone: 914-741-0570
NC	Brunswick	Brunswick County (Uninc. 0001A-0013A Areas)	370295	E-5	C & I	F	Dec. 9, 1977	Dec. 9, 1977	Steve Wardlaw, Chairman County Commissioners P.O. Box 876 Southport, NC 28461 Phone: 919-457-5539
NC	Rutherford	Town of Spindale 01	370356A	N-3,12, 14	I	F	June 27, 1975	Dec. 9, 1977	C.B. Davenny, Mayor P.O. Box 135 Spindale, NC 28160 Phone: 704-631-3466
OH	Athens	Athens County (Uninc. 0001A-0005A Areas)	390760	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Max Adkins, Chairman County Commissioners County Courthouse Athens, OH 45701 Phone: 614-593-7933
OH	Clinton	Clinton County (Uninc. 0001A-0008A Areas)	390764	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Sam E. Fry, Chairman County Commissioners County Courthouse Wilmington, OH 45177 Phone: 513-612-2078
OH	Columbiana	Columbiana County (Uninc. 0001A-0008A Areas)	390076	E-5	I	F	Dec. 9, 1977	Dec. 9, 1977	John Ursel, Chairman County Commissioners County Courthouse Lisbon, OH 44132 Phone: 216-434-0111
OH	Fayette	Fayette County (Uninc. 0001A-0006A Areas)	390164	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Fry Warner, Chairman County Commissioners County Courthouse Washington, OH 43160 Phone: 614-315-9725
OH	Geauga	Geauga County (Uninc. 0001A-0006A Areas)	390190	E-5	I	F	Dec. 9, 1977	Dec. 9, 1977	James Mueller, Chairman County Commissioners County Courthouse Olson, OH 44024 Phone: 216-265-2222
OH	Warren	City of Lebanon 0001C-0002C	390557	E-11,12, 14	I	F	May 10, 1974 July 23, 1976 June 10, 1977	Dec. 9, 1977	Darryl A. Platen, Mayor City Hall 31 S. Broadway Lebanon, OH 45036

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STATE	COUNTY	COMMUNITY NAME & NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OH	Noble	Noble County (Uninc. 0001A-0008A Areas)	390428	E-10,11, 12,14	I	F	Jan. 10, 1975	Dec. 9, 1977	James E. Brown, Chairman County Commissioners County Courthouse Chillicothe, OH 43124 Phone: 614-732-4400
SC	Dillon	Dillon County (Uninc. 0001A-0007A Areas)	450054	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Charles Graham, Co. Manager City-County Complex Dillon, SC 29535 Phone: 803-774-2391
TN	Stewart	Town of Dover 0001A	470237	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	W.H. Tappan, Mayor P.O. Box 13 Dover, TN 37758 Phone: 615-200-5607
TN	Fentress	Fentress County (Uninc. 0001A-0010A Areas)	470343	N-5	I	F	Dec. 9, 1977	Dec. 9, 1977	Casta Knepp, Co. Judge County Courthouse P.O. Box 727 Jacksboro, TN 37556 Phone: 615-879-5352
STATE	COUNTY	COMMUNITY NAME & NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR	Yell	City of Danville (01-03)	050318	A E-11,12	I	F	12 DEC 77 7 FEB 78	13 DEC 77	Mr. James Mueller - City Administrator - Box 116 - Danville, AR 72823 (501) 455-2013
AR	Uninc. Area	Greene County (0001-0009)	050435	A N-5	I	F	13 DEC 77	13 DEC 77	Honorable Buford Duggs - County Judge - Office of the County Judge - County Courthouse Fayetteville, AR 72430 (501) 236-5554
AR	Uninc. Area	Sevier County (0001-0009)	050463	A N-5,9	I	F	13 DEC 77	13 DEC 77	Honorable B. A. Mauldin - County Judge - Office of the County Judge - County Courthouse De Queen, AR 71832 (501) 564-2425
AR	Uninc. Area	Union County (0001-0014)	050205	A N-5,9	I	F	13 DEC 77	13 DEC 77	Honorable Homer Park - County Judge - Office of the County Judge - County Courthouse El Dorado, AR 71720 (501) 863-6224
CA	Los Angeles	City of Los Angeles (01-11, 14-21,23-65,67,70-87,89- 93,100-108,110,111,113, 114,116-119,122-124,129, 131,132,134-137,139-150)	060137	A E-5	C	F	13 DEC 77	13 DEC 77	Mr. Donald C. Tillman - Chief Engineer - Suite 750 - City Hall East - 200 North Main Street - Los Angeles, CA 90012 (213) 465-3071
CA	Uninc. Area	Shasta County (0001-0002, 0004-0009,0311-0015, 0017-0019,0021-0022, 0024-0036)	060358	A N-5	I	F	13 DEC 77	13 DEC 77	Mr. Don Gaver - Chairman - Board of Supervisors - County Courthouse Redding, CA 96001 (916) 246-5157
CA	Uninc. Area	Trinity County (03-05-06,08- 11,13-16,19-21,23-24,26- 27,29-30,36,38-44,46-49)	060401	A N-15	I	F	13 DEC 77	13 DEC 77	Mr. Mike McMillan - County Planner Planning Board - P.O. Box 935 - Weaverville, CA 95993 (916) 623-5554
KS	Uninc. Area	Anderson County (0001-0006)	200569	A N-5	I	F	13 DEC 77	13 DEC 77	Mr. Wayne Pracht - Chairman - Board of County Commissioners - County Courthouse - Garnett, KS 66032 (913) 448-5924
ME	Cumberland	Town of Baldwin (0001-0002)	230200	A N-3,9,11,12	I	F	14 FEB 75	13 DEC 77	Mr. Otis Thomas, Jr. - Chairman - Board of Selectmen - West Baldwin, ME 04031 (207) 625-6755
MA	Middlesex	Town of Framingham (02-11)	250193	A E-10,11,12	I	F	2 AUG 74	13 DEC 77	Mr. Christy Maltes - Planning Director - Planning Department - Town Hall - Framingham, MA 01701 (617) 875-8570
MA	Middlesex	Town of Stoneham (02)	250215	A E-9,10,12	I	F	2 AUG 74	13 DEC 77	Mr. Thomas H. Leahy, Esq. - Town Counsel - Suite 7 - 335 Main Street - Stoneham, MA 02120 (617) 430-2403



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## RULES AND REGULATIONS

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER AND SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/AL/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
IN	Cheshire	Town of Chesterfield (01-04-06,08,10-14,16-17)	330183	A N-5	I	F	13 DEC 77	13 DEC 77	Mr. Winston H. Gray - Chairman of Selection - Town Hall - Chesterfield, NH 03443 (602) 363-4627
PI	Uninc. Area	American Samoa (0001-0004)	600001	A N-5	C	F	13 DEC 77	13 DEC 77	Mr. Eufele Li'a - Public Safety Director - Pago Pago, American Samoa 92799 653-4127
TX	Uninc. Area	Howard County (0001-0012)	481227	A N-5	I	F	13 DEC 77	13 DEC 77	Honorable Bill Ture - County Judge - Office of the County Judge - County Courthouse 816 Spring, TX 75720 (915) 263-7132
TX	Uninc. Area	Kerr County (01-05-07-11, 13-28,30-47, 49-56,58-70)	480419	A E-5,9	I	F	13 DEC 77	13 DEC 77	Honorable Julius Reunhoffer - County Judge - Office of the County Judge - County Courthouse Kerrville, TX 78723 (512) 257-7093
TX	Uninc. Area	Polk County (0001-0014)	480526	A N-5	I	F	13 DEC 77	13 DEC 77	Honorable Wayne R. Baker - County Judge - Office of the County Judge - County Courthouse 77351 (713) 327-8113
TX	Uninc. Area	Swisher County (01-54)	481010	A N-5,9	I	F	13 DEC 77	13 DEC 77	Honorable Jack Driskill - County Judge - Office of the County Judge - County Courthouse Sulist, TX 75550 (806) 505-3501
UT	Uninc. Area	Wasatch County (01-03-05,08-11,15-16,21-25,27-30,32-36,38-43,46-53,55-57,59-61,70,73)	490164	B E-12	I	F	31 MAY 77	13 DEC 77	Mr. Belard Javes - County Commis- sioner - Board of County Commis- sioners - County Courthouse - Huber City, UT 84032 (801) 654-2211
VT	Orleans	City of Newport (01-05)	500066	A N-5	I	F	13 DEC 77	13 DEC 77	Honorable William V. Segots - Mayor - City Hall - Newport, VT 05555 (609) 331-7117
VT	Bennington	Town of Sunderland (0001-0003)	500021	B E-8	I	F	1 FEB 74	13 DEC 77	Mr. William H. Bohm - Town Clerk - Town Hall - Sunderland, VT 05250 (602) 375-6092
VT	Bennington	Town of Winhall (0001-0004)	500022	B E-8,11,14	I	F	20 SEP 74	13 DEC 77	Mrs. William F. Coleman - Town Clerk - Town Hall - Winhall, VT 05350 (602) 297-1574
WA	Leads	City of Centralia (0001-0002)	530103	A E-9,10,11, 12	I	F	15 MAR 74	13 DEC 77	Honorable Donald A. Rasmith - Mayor - City Hall - Centralia, WA 98531 (206) 735-4552
WA	Uninc. Area	Kitsap County (01-03-06,08-10,12-14,17-19,22-25,27-31,33-37,39-44)	530092	A E-9,11,11, 12	C	F	14 FEB 75	13 DEC 77	Mr. Gene Lobe - Chairman - Board of County Commissioners - 614 Division Street - Port Orchard, WA 98366 (206) 876-7145
WA	Uninc. Area	Snohomish County (0001-0011, 0013-0017,0019-0023)	535534	A E-5	I	F	13 DEC 77	13 DEC 77	Mr. Hill - Chairman - Board of County Commissioners - County Courthouse - Everett, WA 98201 (206) 259-9357
FL	Levy	Levy County (Uninc. Areas) 0001A-0016A	120145	E - 10,11, 12,14	I & C	F	Jan. 24, 1975	Dec. 16, 1977	Charles Hardee, Chairman Co. Commissioners P.O. Box 306 Bronson FL 32621 Phone: 904-495-2442
KY	Bracken	City of Augusta 01-02	2100228	E - 11,12, 14	I	F	May 24, 1974 Feb. 27, 1976	Dec. 16, 1977	Thomas L. Appleman, Mayor Main Street, P.O. Box 96 Augusta, KY 41002 Phone: 606-756-2474
KY	Cumberland	Cumberland County (Uninc. Areas) 0001A-0007A	210060	N - 10,11, 12,14	I	F	Jan. 3, 1975	Dec. 16, 1977	Lyle Webb, Co. Judge County Courthouse Burkeville, KY 42717 Phone: 502-864-1414

## RULES AND REGULATIONS

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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER AND SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/AL/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MN	Washington	City of Forest Lake 0001A	270693	N - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	Jore A. Screen, Mayor 220 North Lake Street Forest Lake, MN 55025 Phone: 612-464-3550
MN	Mower	City of Teopli 01	270604A	N - 11,12, 14	I	F	Jan. 24, 1975	Dec. 16, 1977	Harold Eschens, Mayor City Hall Teopli, MN 55977 Phone: 507-433-1846
MN	St. Louis	St. Louis County (Uninc. Areas) 0001A-0007A	270416	E - 10,11, 12,14	I & C	F	Dec. 20, 1974	Dec. 16, 1977	Chairman County Bd. of Commissioners County Courthouse Duluth, MN 55802 Phone: 216-723-3428
MS	Washington	Washington County (Uninc. Areas) 0001A-0012A	280177	E - 10,11, 12,14	I	F	Oct. 18, 1974	Dec. 16, 1977	Lon D. Pepper, President Board of Supervisors County Courthouse Greenville, MS 38701 Phone: 601-312-1595
NY	Rockland	Town of Clarkstown 01-05	3606798	E - 12,14	I	F	April 12, 1974 Sept. 10, 1976	Dec. 16, 1977	Leslie F. Bollman, P.E. Director, Town Hall New City, NY 10956 Phone: 914-634-4100
NY	Pulnam	Village of Nelsonville 01	361019A	N - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	John D. Meyer, Mayor 258 Main Street Nelsonville, NY 10516 Phone: 914-265-3241
NY	Cattaraugus	Town of Yorkshre 0001A-0004A	361104	E - 11,12, 14	I	F	April 11, 1975	Dec. 16, 1977	Frank Smith, T. Supr. Church Street Yorkshre, NY 14177 Phone: 716-492-1125
OH	Guernsey	Guernsey County (Uninc. Areas) 0001A-0009A	390198	E - 10,11, 12,14	I	F	Mar. 21, 1975	Dec. 16, 1977	J.O. McHaffie, Chairman County Board County Courthouse Cambridge, OH 43725 Phone: 614-432-2234
OH	Highland	Highland County (Uninc. Areas) 0001A-0008A	390769	N - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	Richard Hall, Chairman County Commissioners Co. Adm. Bldg. Gov. 4, Acie Place Hillsboro, OH 45133 Phone: 513-393-1911
OH	Fairfield	Village of Pickerington 0001C	390162	E - 8,11, 12,14	I	F	June 28, 1974 Feb. 28, 1975 June 25, 1976	Dec. 16, 1977	Paul McMullen, Mayor 22 North Center Street Pickerington, OH 43147 Phone: 614-837-3974
PA	Wyoming	Township of Falls 0001A-0003A	422198	E - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	Eugene Dzik, Chairman Township Supervisors R.D. 1 Falls, PA 18615 Phone: 717-388-6298
TN	Dickson	Dickson County (Uninc. Areas) 0001A-0006A	470046	N - 10,11, 12,14	I	F	Dec. 6, 1974	Dec. 16, 1977	William Field Co. Judge County Courthouse Charlotte, TN 37036 Phone: 615-789-4106
TN	Sumner	Sumner County (Uninc. Areas) 0001A-0008A	470349	E - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	Bethel Brown, Co. Judge County Courthouse, Rm. 107 Gallatin, TN 37066 Phone: 615-452-3604
TN	Weekley	Weekley County (Uninc. Areas) 0001A-0008A	470364	N - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	Charles Butts, Co. Judge County Courthouse Dresden, TN 38225 Phone: 901-364-2279
WV	Berkeley	Berkeley County (Uninc. Areas) 0001A-0005A	540282	E - 5	I	F	Dec. 16, 1977	Dec. 16, 1977	John E. Wright, Pres. County Commissioners Room 5, Co. Courthouse Martinsburg, WV 25401 Phone: 304-263-3511



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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Franklin	Town of Vine 0001A	010335	N-5	I	F	Dec. 16, 1977	Dec. 16, 1977	Mrs. Gloria Brown, M. S. Town Hall, Vine, AL 35593, Phone: 205-356-4318
GA	Wilkinson	Town of Ivey 0001A	130420	N-5	I	F	Dec. 16, 1977	Dec. 16, 1977	W.H. Lord, Mayor, P.O. Box 2, Gordon, GA 31031, Phone: 912-528-2600
MI	Barry	Township of Hastings 0001A-0002A	260648	E-5	I	F	Dec. 16, 1977	Dec. 16, 1977	Richard Thomas, Twp. Sup. 1895 E. Woodlawn, Hastings, MI 48038, Phone: 810-945-2751
MI	Bay	Township of Kawkawlin 0001A-0002A	260658	N-5	I	F	Dec. 16, 1977	Dec. 16, 1977	Lloyd Pajot, Twp. Sup. 1375 E. Beaver Road, Kawkawlin, MI 48031, Phone: None
OR	Delaware	Delaware County (Uninc. Areas) 0001A-0008A	390146	E-5	I	F	Dec. 16, 1977	Dec. 16, 1977	James W. Whitson, Chair. County Comm. 300 S. 1st, County, P.O. Box 12, Delaware, OH 43015, Phone: 614-426-1250
STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AR	Uninc. Area	Pope County (0001-0012)	050458	A N-5,9	I	F	20 DEC 77	20 DEC 77	Honorable Ernil Grant - County Judge - Office of the County Judge - County Courthouse, Russellville, AR 72801 (501) 968-7487
IL	Uninc. Area	Keokuk County (01-11,17-19, 25-26,31-33,35-38,41-44, 46-53,55-58)	150002	A E-8,10,11, 12	C	F	20 DEC 74	20 DEC 77	Mr. James Ishiguro, County Clerk, Office of County Clerk, County Courthouse, Walluku, HI 96793
KS	Uninc. Area	Pottawatomie County (0001-0012)	200621	A E-5	I	F	20 DEC 77	20 DEC 77	Mr. Gerald Minick - Chairman - Board of County Commissioners - County Courthouse - Westmoreland, KS 66549 (913) 457-2314
MT	Yellowstone	City of Billings (04,07,10)	300085	B E-11,12	I	F	15 FEB 74 16 APR 76	20 DEC 77	Mr. James L. Kraft - Flood Plain Administrator - P.O. Box 1178 - Billings, MT 59103 (406) 252-5619
MT	Fergus	City of Lewistown (01)	300022	B E-8,11,12	I	F	22 MAR 74 14 June 76	20 DEC 77	Honorable Robert E. Lafountain - Mayor - 312 Fourth Ave., South - Lewistown, MT 59457 (406) 538-8768
NY	Uninc. Area	Santa Fe County (0001,0003-0004,0006-0014,0016-0023)	350069	A E-5	I	F	20 DEC 77	20 DEC 77	Mr. Leo David Catanach - Chairman - Board of County Administrators - County Courthouse - Santa Fe, NM 87501 (505) 983-4351
SD	Uninc. Area	Brookings County (0001-0009)	460253	A N-5	I	F	20 DEC 77	20 DEC 77	Mr. George Hassner - Chairman - Board of County Commissioners - County Courthouse - Brookings, SD 57006 (605) 692-6234
SD	Uninc. Area	Butte County (0001-0025)	460236	A N-5	I	F	20 DEC 77	20 DEC 77	Mr. William Olson - Chairman - Board of County Commissioners - County Courthouse - Belle Fourche, SD 57717 (605) 852-3183
SD	Uninc. Area	Grant County (0001-0008)	460266	A N-5	I	F	20 DEC 77	20 DEC 77	Mr. Knute Erickson - Chairman - Board of County Commissioners - County Courthouse - Milbank, SD 57252 (605) 432-6711
TX	Uninc. Area	Fort Bend County (02-20,22-63)	400228	A N-11,12	I	F	9 JUL 76	20 DEC 77	Mr. Stanley L. Kucherka, Jr. - County Engineer - Ft. Bend County Drainage District - P.O. Box 1028 3403 Avenue F - Rosenberg, TX 77471 (713) 342-2225

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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
TX	Uninc. Area	Grayson County (0001-0014)	480829	A N-5	I	F	20 DEC 77	20 DEC 77	Honorable Les Trittle - County Judge - Office of the County Judge - County Courthouse, Sherman, TX 75690 (214) 892-5623
TX	Uninc. Area	Havert County (0001-0016)	480470	A N-5	I	F	20 DEC 77	20 DEC 77	Honorable Ramon Saucedo, Jr. - County Judge - Office of the County Judge - County Courthouse, Eagle Pass, TX 78852 (512) 773-3024
TX	Uninc. Area	Rusk County (0001-0015)	480993	A N-5	I	F	20 DEC 77	20 DEC 77	Honorable James B. Porter - County Judge - Office of the County Judge - County Courthouse, Henderson, TX 75632 (214) 657-5584
TX	Uninc. Area	San Jacinto County (0001-0016)	480553	A N-5	I	F	20 DEC 77	20 DEC 77	Honorable K.P. Bryant - County Judge - Office of the County Judge - County Courthouse, Coldsprings, TX 77331 (713) 653-2265
VT	Addison	Town of Goshen (0001-0002)	500004	A E-5	I	F	20 DEC 77	20 DEC 77	Mr. Benjamin Hesth - Chairman - Board of Selectmen - Town Hall - R.F.D. #3 - Brandon, VT 05733 (802) 247-5932
STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
FL	Gulf	Gulf County (Uninc. Areas) 0001A-0008A	120098	E-5	I & C	F	Dec. 23, 1977	Dec. 23, 1977	Everett Owens, Chairman - County Commissioners - County Courthouse, Port St. Joe, FL 32456 Phone: 904-229-6113
FL	Nassau	Town of Hilliard 0001A	120573	N-5	I	F	Dec. 23, 1977	Dec. 23, 1977	Troy Quinn, Mayor, P.O. Box 247, Hilliard, FL 32046 Phone: 904-845-2478
IL	Effingham	Effingham County (Uninc. Areas) 0001A-0006A	170227	N-5	I	F	Dec. 23, 1977	Dec. 23, 1977	Richard Davis, Chairman - County Board - County Courthouse, Effingham, IL Phone: 217-342-6525
IL	Mercer	Mercer County (Uninc. Areas) 0001A-0006A	170806	E-5	I	F	Dec. 23, 1977	Dec. 23, 1977	Lyle Tyrrell, Chairman - County Board - N. Henderson, IL 61456 Phone: 269-582-7021
IL	Warren	Warren County (Uninc. Areas) 0001A-0008A	170673	E-10,11, 12,14	I	F	Dec. 27, 1974	Dec. 23, 1977	James P. Tull, Chairman - County Bd., Co. Courthouse, Menomouth, IL 61452 Phone: 309-734-2541
IN	Hamilton	Hamilton County (Uninc. Areas) 0001A-0006A	180080	N-10,11, 12,14	I	F	Dec. 13, 1974	Dec. 23, 1977	Jere Roudsbush, Pres. - County Commissioners - County Courthouse, Noblesville, IN 46060 Phone: 317-773-6110
KY	Carter	Carter County (Uninc. Areas) 0001A-0006A	210050	E-10,11, 12,14	I	F	Dec. 13, 1974	Dec. 23, 1977	David C. McDavid - County Judge - County Courthouse, Grayson, KY 41143 Phone: 606-474-5366
KY	Crittenden	Crittenden County (Uninc. Areas) 0001A-0009A	210254	N-5	I	F	Dec. 23, 1977	Dec. 23, 1977	J.E. Keeling, Co. Judge - County Courthouse - Marion, KY 42054 Phone: 502-955-3620
KY	Fulton	Fulton County (Uninc. Areas) 0001A-0005A	210336	N-5	I	F	Dec. 23, 1977	Dec. 23, 1977	James C. Merceus, Co. Judge - County Courthouse, Box 31, Hickman, KY 42053 Phone: 502-236-2594
KY	Powell	Powell County (Uninc. Areas) 0001A-0004A	210194	E-10,11, 12,14	I	F	Nov. 29, 1974	Dec. 23, 1977	Billy Joe Martin, Co. Judge - Box 506, Stanton, KY 40320 Phone: 606-663-4957



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RULES AND REGULATIONS

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	ISLAND OR COASTAL	HAZARD FIVE	IDENTIFICATION DATE IS	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
MI	Antrim	Township of Benke 0001A-0004A	260643	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Paul Doctor, Twp. Supr. R # 1 Ellsworth, MI 49729 Phone: 616-599-2238
MI	Cheboygan	Township of Beeugrand 0001A-0002A	260646	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Roland LaHais, Twp. Supr. R # 3 Cheboygan, MI 49721 Phone: 616-627-4778
MI	St. Joseph	Village of Colon 0001A	260511	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	O. F. Decker, Vtl. Pres. N. Black Stone Ave. Colon, MI 49040 Phone: 616-422-3766
MI	Oceana	Township of Newfield 0001A-0002A	260697	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Lawrence Herin, Twp. Supr. R # 1 Hesperia, MI 49421 Phone: 616-654-7318
MN	Pine	Pine County (Uninc. Areas) 0001A-0017A	270704	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Chairman Board of Commissioners County Courthouse Pine City, MN 55363 Phone: 612-629-3351
MN	Pope	Pope County (Uninc. Areas) 01-42	270368	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Chairman Co. Bd. of Commissioners County Courthouse Glenwood, MN 56334 Phone: 612-634-3338
MS	Bolivar	Bolivar County (Uninc. Areas) 0001A-0015A	280011	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Elmer Previtt, Pres. Board of Supervisors P.O. Box 763 Cleveland, MS 38732 Phone: 601-843-2071
MS	Grenada	Grenada County (Uninc. Areas) 01-28	280060A	E - 10, 11, 12, 14	I	F	Sept. 13, 1974	Dec. 23, 1977	Robert C. Burks, Jr., Pres. Bd. of Supervisors County Courthouse Grenada, MS 38331 Phone: 601-628-5340
MS	Marion	Marion County (Uninc. Areas) 0001A-0007A	280230	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Billy Ray McKenzie, Pres. Bd. of Suprs. County Courthouse Columbia, MS 39423 Phone: 601-726-7281
MS	Noxubee	Noxubee County (Uninc. Areas) 0001A-0009A	280305	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	V. S. Mullins, Pres. Bd. of Supervisors County Courthouse Macon, MS 39341 Phone: 601-722-4513
NY	Greene	Town of Jewett 0001A-0006A	361114	N - 15	I	F	Dec. 23, 1977	Dec. 23, 1977	William G. Maben, Tn. Sup. Town Hall Jewett, NY 12444 Phone: 518-734-3036
NY	Washington	Town of Whitehall 0001A-0005A	361239	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Horace Scott, Tn. Supr. 50 Elm Street Whitehall, NY Phone: 515-499-0636
NC	Alamance	Alamance County (Uninc. Areas) 0001A-0006A	370001	E - 10, 11, 12, 14	I	F	Jan. 3, 1975	Dec. 23, 1977	Don Flowers, Co. Manager 124 West Elm Street Graham, NC 27233 Phone: 519-228-1312
NC	Camden	Camden County (Uninc. Areas) 0001A-0005A	370042	E - 10, 11, 12, 14	I	F	Dec. 20, 1974	Dec. 23, 1977	T. F. Leary, Chairman County Comm. on Areas County Courthouse Camden, NC Phone: 519-316-4220
OH	Butler	Butler County (Uninc. Areas) 0001A-0009A	390037	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Kyle Loerpon, Pres. Co. Comm. 132 High St. Hamilton, OH 45011 Phone: 513-867-5000
OH	Champaign	Champaign County (Uninc. Areas) 0001A-0006A	390055	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Robert Ward, Chairman Co. Comm. Co. Courthouse Urbana, OH 43070 Phone: 513-653-5896

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STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	ISLAND OR COASTAL	HAZARD FIVE	IDENTIFICATION DATE IS	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
OH	Lorain	Town of LaGrange 0001A	390806	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Mayor West Main Street LaGrange, OH Phone: 216-458-5241
OH	Muskingum	Muskingum County (Uninc. Areas) 0001A-0012A	390425	E - 10, 11, 12, 14	I	F	Mar. 28, 1975	Dec. 23, 1977	William Embree, Chairman Co. Comm. Co. Courthouse Zanesville, OH 43701 Phone: 614-452-4587
OH	Shelby	Shelby County (Uninc. Areas) 0001A-0006A	390503	N - 10, 11, 12, 14	I	F	Dec. 20, 1974	Dec. 23, 1977	Donald Conklin, Chairman Co. Board, Co. Courthouse Sidney, OH 45365 Phone: 513-492-1153
OH	Greene	City of Xenia 0001A	390197	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Robert Stewart, City Manager 101 N. Linden Street Xenia, OH 45385 Phone: 513-372-7611
PA	Lancaster	Borough of Ephrata 0001B-0003B	420551	E - 8, 10, 11, 12, 14	I	F	March 22, 1974 May 17, 1974	Dec. 23, 1977	Carl W. Fuchrer, So. Mngr 114 East Main St. Ephrata, PA 17512 Phone: 717-733-1277
PA	Lycoming	Township of Franklin 0001B-0004B	420973	E - 11, 12, 14	I	F	July 19, 1974 March 4, 1977	Dec. 23, 1977	H. L. Cardner, Sec. R. D. 1 Millville, PA 17346 Phone: 717-456-5771
PA	Blair	Township of Snyder 0001A-0005A	421393	E - 11, 12, 14	I	F	Jan. 10, 1975	Dec. 23, 1977	R. J. Charles, Sec. R. D. 3, Box 518 Tyrone, PA 16866 Phone: 814-684-1048
SC	Dorchester	Dorchester County (Uninc. Areas) 0001A-0014A	450068	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	J. F. Wilbanks, Co. Adm. P.O. Box 416 St. George, SC 29577 Phone: 803-563-2331
SC	Pickens	Pickens County (Uninc. Areas) 0001A-0011A	450166	E - 10, 11, 12, 14	I	F	FEB. 14, 1975	Dec. 23, 1977	Marvin W. Ellenburg Chairman, Co. Council P.O. Box 275 Pickens, SC 29571 Phone: 803-655-4036
TN	Bedford	Bedford County (Uninc. Areas) 0001A-0006A	470006	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Dorothy Orr, Co. Judge County Courthouse Shelbyville, TN Phone: 615-684-7944
TN	Henderson	Henderson County (Uninc. Areas) 0001A-0006A	470068	N - 10, 11, 12, 14	I	F	Dec. 20, 1974	Dec. 23, 1977	J. T. Todd, Co. Judge Box 455 Lexington, TN 38251 Phone: 601-958-7141
TN	Roane	Roane County (Uninc. Areas) 0001A-0007A	470267	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Wallace Brewer, Co. Judge County Courthouse P.O. Box 643 Kingston, TN 37763 Phone: 615-376-6541
TN	Scott	Scott County (Uninc. Areas) 0001A-0007A	470341	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Verda Cope, Jr., Co. Judge County Courthouse, Box 61 Huntsville, TN 37756 Phone: 615-683-2355
WI	Waukesha	Village of Elm Grove 0001A	550578	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Thomas W. Godfrey Vtl. Pres. 14280 Woodlawn Circle Elm Grove, WI 53122 Phone: 414-271-5135
WI	Walworth	Village of Fontene on Geneva Lake 0001A	550592	N - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Charles Patten, Mayor P.O. Box 313 Fontene, WI 53125 Phone: 414-275-6136
WI	Portage	Portage County (Uninc. Areas) 0001A-0016A	550572	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Ted Schuler, Chairman County Board 1516 Church Street Stevens Point, WI 54481 Phone: 715-346-2478
MN	Renville	Renville County (Uninc. Areas) 01-64	270634A	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Chairman County Board of Comm. County Courthouse Olivia, MN 56277 Phone: 612-523-2071



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## RULES AND REGULATIONS

STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY		
MI	Calhoun	Township of Albion 0001A-0004A	260639	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Fred Kinney, Twp. Sup. 7123 - 25 Mile Road Genoa, MI 48127 Phone: None	
MI	Eaton	Charter Township of Delta 0001B-0004B	260066	E - 8	I	F	Sept. 13, 1974 July 16, 1976	Dec. 23, 1977	Joseph D. Burt, Twp. St. Township Hall 7710 W. Springw Lansing, MI 48917 Phone: 517-627-6031	
MI	Huron	Township of Fairhaven 0001A-0004A	260628	E - 5	I	F	Dec. 23, 1977	Dec. 23, 1977	Nicholas Pantalis, Twp. Township Hall Bay Port, MI 49720 Phone: 517-656-9348	
PA	Luzerne	Township of Dallas 0001A-0002A	420602	E - 15	I	F	Dec. 23, 1977	Dec. 23, 1977	Philip Walter, Chairman Twp. Supervisors P.O. 332A Dallas, PA 15512 Phone: 717-675-5125	
AR	Baxter	Town of Norfolk (01)	050267	A	E-11,12	I	F	27 JUN 75	27 DEC 77	Honorable Vero Hall - Mayor - Box 16 - Norfolk, AR 72658 (501) 499-5555
CA	Uninc. Area	Butte County (03-04,07,20, 21,28-30,36-40,46-50,53-59,61-62,64-70,72-79,82-88,91-94,97-103,105-109, 111-113)	060017	A	N-11,12	I	F	6 SEP 74	27 DEC 77	Mr. Clifford C. Nickelson - Administrative Officer - Butte County Administrative Office - 1859 Bird Street - Croville, CA 95965 (916) 534-4224
CA	Sacramento	City of Sacramento (02-11, 13-15,17,19-21,24-26,28-35)	060266	A	E-8,11,12	I	F	10 JAN 75	27 DEC 77	Mr. R.H. Parker - City Engineer - Department of Engineering - City Hall Room 207 - 915 I Street - Sacramento, CA 95814 (916) 448-5281
LA	Livingston	Town of Livingston (01)	22011A	A	N-11,12	I	F	19 SEP 75	27 DEC 77	Honorable Nick Erday - Mayor - P.O. Box 425 - Livingston, LA 70754 (504) 636-7153
MA	Worcester	Town of Barre (01-12)	250293	A	E-11,12	I	F	17 MAY 74	27 DEC 77	Mr. Chuck Hudson - Administrator Assistant to the Selectmen - Board of Selectmen - Barre, MA 01005 (617) 255-2534
MD	McDonald	City of Noel (0001-0002)	290218	B	E-8,11,12	I	F	24 MAY 74 11-14-75	27 DEC 77	Honorable Martin Stauber - Mayor - 505 North Kings Highway - Noel, MO 64854 (417) 475-3056
MT	Uninc. Area	Glacier County (0001-0016)	300151	A	N-5	I	F	27 DEC 77	27 DEC 77	Mr. Fred Johnson - Chairman - Board of County Commissioners - County Courthouse - Butte, MT 59427 (406) 873-6722
MT	Uninc. Area	Sanders County (0001-0010, 0012-0015,0017-0031,0033-0035,0037-0038,0041-0045, 0049-0051)	300072	A	N-5,9	I	F	27 DEC 77	27 DEC 77	Mr. Henry L. Gille - Chairman - Board of County Commissioners - County Courthouse - Thompson Falls, MT 59873 (406) 827-3491
ND	Uninc. Area	Antelope County (0001-0008)	310412	A	N-5	I	F	27 DEC 77	27 DEC 77	Mr. Harold Krebs - Chairman - Board of County Commissioners - County Courthouse - Belfield, ND 58756 (402) 837-6610
ND	Uninc. Area	Red Willow County (0001-0009)	310469	A	N-5	I	F	27 DEC 77	27 DEC 77	Mr. Kenneth McCoy - Chairman - Board of County Commissioners - County Courthouse - McCook, ND 58001 (308) 345-1552
NV	Uninc. Area	Churchill County (0001-0004,0006-0007,0009-0012, 0014-0015,0017-0031,0033-0035,0037-0038,0041-0045, 0049-0051)	320030	A	N-5	I	F	27 DEC 77	27 DEC 77	Mr. Mario Peraldo - Chairman - Board of County Commissioners - County Courthouse - Fallon, NV 89406 (702) 423-4092
NH	Cheshire	Town of Richmond (0001-0004)	330188	A	N-8,11,12	I	F	3 JAN 75	27 DEC 77	Mr. Leland B. Robbins - Chairman - Board of Selectmen - Rt. 32 - North Richmond, NH 03470 (603) 239-4429

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## RULES AND REGULATIONS

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STATE	COUNTY	COMMUNITY NAME & NUMBER OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM & CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOS TOP	
OR	Benton	City of Corvallis (01-07)	410009	B	E-8,11,12, 14	I	F	14 JUN 74 12-26-75	27 DEC 77	Mr. Rollie Baxter - City Engineer P.O. Box 1083 - Corvallis, OR 97330 (503) 757-6941
TX	Uninc. Area	Cherokee County (0001-0015)	480739	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable Oruan B. Jones - County Judge - Office of the County Judge - County Courthouse Rusk, TX 75785 (214) 663-2324
TX	Uninc. Area	Erath County (0001-0016)	480218	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable L. L. Martin - County Judge - Office of the County Judge - County Courthouse Stephenville, TX 76631 (817) 965-4310
TX	Uninc. Area	Hopkins County (0001-0011)	480869	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable L. E. Goldsmith - County Judge - Office of the County Judge - County Courthouse Sulphur Springs, TX 75482 (214) 685-3526
TX	Uninc. Area	Nacogdoches County (0001-0014)	480947	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable Steve Burgess - County Judge - Office of the County Judge - County Courthouse Nacogdoches, TX 75961 (713) 565-7921
TX	Uninc. Area	Navarro County (0001-0014)	480950	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable Robert C. Dunn - County Judge - Office of the County Judge - County Courthouse Corsicana, TX 75110 (214) 874-7321
TX	Uninc. Area	Parker County (0001-0012)	480520	A	N-5	I	F	27 DEC 77	27 DEC 77	Honorable Jerry Tidwell - County Judge - Office of the County Judge - County Courthouse Weatherford, TX 76087 (817) 594-5454
TX	Uninc. Area	Terrell County (0001-0024)	480619	A	E-5	I	F	16 AUG 74	27 DEC 77	Honorable Charles Stanley - County Judge - Office of the County Judge - County Courthouse Sanderson, TX 76081 (817) 594-5454
STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD F/M/E	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION		
IL	Champaign	Champaign County 0001A-0012A (Uninc. Areas)	170894	E-5	I	F	Dec. 30, 1977	Dec. 30, 1977	Gary A. ... County ... Champaign, IL 61820 Phone: 217-244-2121	
IL	Cook	Village of Lansing 0001C	170116	E-11,12, 14	I	F	Feb. 1, 1974 April 23, 1976 July 23, 1976	Dec. 30, 1977	Jack C. ... Mayor 3104 Lansing Lansing, IL 60438 Phone: 312-474-0170	
IN	Fayette	Fayette County (Uninc. Areas) 0001A-0004A	180417	E-5	I	F	Dec. 30, 1977	Dec. 30, 1977	... County ... of ... 401 Central Crownsville, IN 47424 Phone: 317-222-1141	
MI	Leelanau	Township of Glen Arbor 0001A-0004A	260604	E-5	I	F	Dec. 30, 1977	Dec. 30, 1977	John ... Twp. Expt. ... Char ... MI 49823 Phone: 616-914-4111	
MIN	Aitkin	Aitkin County (Uninc. Areas) 0001A-0020A	270628	E-5	I	F	Dec. 30, 1977	Dec. 30, 1977	... County ... Aitkin, MN 56007 Phone: 507-327-1100	
MIN	Polk	Polk County (Uninc. Areas) 0001A-0022A	270503	E-5	I	F	Dec. 30, 1977	Dec. 30, 1977	... County ... County Courthouse Crookston, MN 57116 Phone: 616-291-2554	
NJ	Gloucester	Township of Logan 0001B-0004B	340206	E-11,12, 13	I	F	Sept. 13, 1974 Nov. 28, 1975	Dec. 30, 1977	Earl ... Township Engineer Route 72 Aston, NJ 08003 Phone: 609-880-2350	

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## RULES AND REGULATIONS

STATE	COUNTY	AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	HAZARD P/F/M/S	HAZARD P/F/M/S	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY	
NY	Cattaraugus	Town of Carrollton 01-12	360063C	E - 11	I	F	Sept. 20, 1974 May 7, 1976 Jan. 21, 1977	Dec. 30, 1977	Joseph B. Smith, Jr., Nine North Street Limestone, NY Phone: 716-925-1555	
NY	Cattaraugus	Town of Red House 01-04	361366A	N - 11	I	F	Feb. 28, 1975	Dec. 30, 1977	Michael J. Hayes, County Planning Board 302 Court Street Littlefield, NY 14715 Phone: 716-935-9111	
OH	Hancock	Hancock County (Uninc. Areas)	390767	N - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	David Green, Chairman County Commissioners County Courthouse Findlay, OH 45120 Phone: 419-422-7467	
OH	Hocking	Hocking County (Uninc. Areas)	390272	E - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	Jim McLean, Chairman County Commissioners County Courthouse Lodi, OH 43150 Phone: 614-325-1000	
OH	Jackson	Jackson County (Uninc. Areas)	390290	E - 10, 11, 12, 14	I	F	January 10, 1975	Dec. 30, 1977	Ray Littlejohn, Chairman County Commissioners County Courthouse Jackson, OH 43001 Phone: 614-265-1731	
PA	Bucks	Township of Heycock 0001A-0002A	421127	E - 10, 11, 12, 14	I	F	July 26, 1974	Dec. 30, 1977	Paul H. Huber, Chairman Board of Supervisors P.O. Box 1 Clemensville, PA 17004 Phone: 717-846-2744	
TX	Haywood	Haywood County (Uninc. Areas)	470227	N - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	Dwight Fred, Co. Judge County Courthouse Eatonville, TX 75822 Phone: 817-772-1410	
TX	Henry	Henry County (Uninc. Areas)	470228	N - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	Jim McLean, Co. Judge County Courthouse P.O. Box 7 Paris, TX 75666 Phone: 817-562-5211	
TX	Sullivan	Sullivan County (Uninc. Areas)	470181	N - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	Lon M. Smith, Co. Judge County Courthouse P.O. Box 96 Blountville, TN 37617 Phone: 615-932-7111	
TX	Tipton	Tipton County (Uninc. Areas)	470340	E - 5	I	F	Dec. 30, 1977	Dec. 30, 1977	Henry Vaughan, County Judge County Courthouse P.O. Box 103 Covington, TN 38019 Phone: 901-725-2604	
TX	Williamson	Williamson County (Uninc. Areas)	470204	E - 10, 11, 12, 14	I	F	Dec. 6, 1974	Dec. 30, 1977	William H. Hays, Co. Judge County Courthouse Franklin, TN 37064 Phone: 615-724-2503	
TX	Wilson	Wilson County (Uninc. Areas)	470207	E - 10, 11, 12, 14	I	F	Sept. 13, 1974	Dec. 30, 1977	Don Simpson, Co. Judge County Courthouse Lobanov, TN 37037 Phone: 615-444-1033	
STATE	COUNTY	COMMUNITY NAME AND NUMBER OF PANELS	COMMUNITY NUMBER AND SUFFIX	PROGRAM AND CHANGE CODE	HAZARD P/F/M/S	HAZARD P/F/M/S	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY	
CA	Modoc	City of Ukiah (01-02)	060186	B	E-3,11	I	F	9 AUG 74	3 JAN 78	Mr. James Swaine - City Administrator - 203 South School Street Ukiah, CA 95462 (707) 462-2371
CO	Uninc. Area	Pueblo County (0001-0027)	080147	A	E-8,10,11, 12	I	F	25 OCT 74	3 JAN 78	Mr. Charles J. Finley - Pueblo County Land Use Administrator - Pueblo Regional Planning Commission - 1 City Hall Place - P.O. Box CO 81063 (303) 543-6706
ND	McLean	City of Washburn (02)	380063	B	N-11	I	F	22 MAR 74	3 JAN 78	Honorable James Stroup - Mayor - City Hall - Washburn, ND 58577 (701) 462-3220
CA	Uninc. Area	Saddo County (0001-0016)	400479	A	N-5	I	F	3 JAN 78	3 JAN 78	Mr. Bill Clark - Chairman - Board of County Commissioners - County Courthouse - Andover, CA 92005 (408) 247-6609

## RULES AND REGULATIONS

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STATE	COUNTY	COMMUNITY NAME AND NUMBER OF PANELS	COMMUNITY NUMBER AND SUFFIX	PROGRAM AND CHANGE CODE	HAZARD P/F/M/S	HAZARD P/F/M/S	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY	
OK	Wagoner	City of Wagoner (01-02)	400219	B	E-8,11,12, 14	I	F	26 JUN 74	3 JAN 78	Mr. Ed Caldwell - City Superintendent - P.O. Box 406 - Wagoner, OK (918) 485-2554
TX	Uninc. Area	Dallas County (01-02,05-08, 10-12,17-18,20,23-24,26, 29-32,35-38,40-54)	480165	A	E-10,11,12, 14	I	F	1 SEP 70	3 JAN 78	Honorable John Whittington - County Judge - Office of the County Judge - County Courthouse Dallas, TX 75221 (214) 749-8585
TX	Uninc. Area	Freestone County (0001-0012)	480822	A	N-5	I	F	3 JAN 78	3 JAN 78	Honorable Sam Carroll - County Judge - Office of the County Judge - County Courthouse Fairfield, TX 75840 (214) 389-3335
TX	Uninc. Area	Gregg County (0001-0005)	480261	A	N-5	I	F	3 JAN 78	3 JAN 78	Honorable Henry Atkinson - County Judge - Office of the County Judge - County Courthouse Longview, TX 75601 (214) 758-6181
TX	Uninc. Area	Hale County (0001-0012)	481223	A	N-5	I	F	3 JAN 78	3 JAN 78	Honorable Henry Heck - County Judge - Office of the County Judge - County Courthouse Plainview, TX 75072 (806) 293-2586
TX	Uninc. Area	Midland County (0001-0012)	481239	A	N-5	I	F	3 JAN 78	3 JAN 78	Honorable Barbara G. Culver - County Judge - Office of the County Judge - County Courthouse Midland, TX 79701 (915) 682-9481
TX	Uninc. Area	Smith County (0001-0016)	481185	A	N-5	I	F	3 JAN 78	3 JAN 78	Honorable Billy Williamson - County Judge - Office of the County Judge - County Courthouse Taylor, TX 75701 (214) 597-6347
UT	Uninc. Area	Summit County (0001-0025)	490134	A	E-5	I	F	3 JAN 78	3 JAN 78	Ms. Alva J. Dearden - Chairman - Board of County Commissioners - County Courthouse - Coalville, UT 84017 (801) 335-5551

STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER AND SUFFIX	PROGRAM AND CHANGE CODE	HAZARD P/F/M/S	HAZARD P/F/M/S	IDENTIFICATION DATE(S)	EFFECTIVE DATE OF THIS MAP ACTION	LOCAL MAP REPOSITORY
AL	Macon	Macon County (Uninc. Areas) 0001A-0008A	010148	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Lawrence F. Maygood, Chairman, Co. Comm. P.O. Box 127 Tuskegee, AL 36083 Phone: 205-727-5120
IL	Fayette	Fayette County (Uninc. Areas) 0001A-0011A	170232	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Glen Burmyard, Chairman County Board Route 2 Vandalia, IL 62471 Phone: 618-233-0394
IL	Logan	Logan County (Uninc. Areas) 0001A-0008A	170427	E-10,11, 12,14	I	F	March 21, 1975	Jan. 6, 1978	Dwight Zimmerman, Chairman County Board County Courthouse Lincoln, IL 62556 Phone: 217-735-3207
IL	Macoupin	Macoupin County (Uninc. Areas) 0001A-0008A	170930	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	James Sargent, Chairman County Board County Courthouse Decatur, IL 62526 Phone: 217-335-2000
IL	Piatt	Piatt County (Uninc. Areas) 0001A-0002A 0002A-0003A	170542	E-10,11, 12,14	I	F	Jan. 31, 1975	Jan. 6, 1978	Robert Lieb, Chairman County Board County Courthouse Monticello, IL 61856 Phone: 217-762-2709
IN	Jay	Jay County (Uninc. Areas) 0001A-0004A	180440	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Mr. Fred Teller, Chairman County Commissioners County Courthouse Portland, IN 47371 Phone: 219-726-7595



STATE	COUNTY	COMMUNITY NAME AND NO. OF PANELS	COMMUNITY NUMBER & SUFFIX	PROGRAM AND CHANGE CODE	INLAND OR COASTAL	HAZARD TYPE	IDENTIFICATION DATE (S)	EFFECTIVE DATE OF THIS MAP ACTION	CONTACT
MD	Caroline	Caroline County (Uninc. Areas) 0001A-0007A	210346	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	So Bell, County Judge County Courthouse P.O. Box 155 Monticello, MD 22503 Phone: 606-342-4241
MD	Caroline	Caroline County (Uninc. Areas) 0001A-0007A	240130	E-9, 11, 12, 14	I & C	F	April 4, 1975	Jan. 6, 1978	A. Curtis Andrew, Pres. County Board P.O. Box 227 Denton, MD 21622 Phone: 301-478-1230
MD	Houston	Houston County (Uninc. Areas) 0001A-0008A	270190	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	M.R. Sumner, Chairman Board of Commissioners County Courthouse Caledonia, MD 20521 Phone: 507-315-3559
MS	Montgomery	Montgomery County (Uninc. Areas) 0001A-0007A	280212	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	John L. Daskin, President Board of Supervisors County Courthouse Winona, MS 38527 Phone: 601-253-1477
NY	Cayuga	Town of Conquest 0001B-0003B	360108	E-11, 12, 14	I	F	Aug. 16, 1974 Sept. 12, 1975	Jan. 6, 1978	Margaret E. Young, Tr. & R.D. 2, Port Byron, NY 13140 Phone: 315-537-4555
OH	Lake	Lake County (Uninc. Areas) 0001A-0003A 0001A-0003A	390771	E-5	C & I	F	Jan. 6, 1978	Jan. 6, 1978	Joan F. Miller, Chairman County Commissioners 165 Main Street Kalamazoo, OH 43077 Phone: 216-350-1211
OH	Marion	Marion County (Uninc. Areas) 0001A-0005A	390774	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	John F. Hiler, Chairman County Commissioners County Courthouse Marion, OH 43022 Phone: 614-382-4371
OH	Warren	Warren County (Uninc. Areas) 0001A-0006A	390757	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Carl Brachman, Chairman 325 East 30th Street Lebanon, OH 45035
PA	Fayette	Township of Springhill 0001A-0002A	421639	E-5	I	F	Jan. 8, 1978	Jan. 6, 1978	Omar Watts, Chairman Township of Springhill R.D. 1, Box 115 Lake View, PA 15111 Phone: 412-509-2259
SC	Kershaw	Kershaw County (Uninc. Areas) 0001A-0012A	450115	E-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Austin Shalheen, Chairman County Council P.O. Box 418 Camden, SC 29220 Phone: 803-422-1024
SC	Marion	Marion County (Uninc. Areas) 0001A-0011A	450141	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	M. Gault-Jensen, Co. Adm. Box 183 Marion, SC 29571 Phone: 803-423-1614
TN	Greinger	Greinger County (Uninc. Areas) 0001A-0006A	470068	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Morrison Acuff, County Judge County Courthouse P.O. Box 126 Rutledge, TN 37681 Phone: 615-825-1511
TN	Robertson	Robertson County (Uninc. Areas) 0001A-0008A	470158	N-5	I	F	Jan. 6, 1978	Jan. 6, 1978	Robert M. Crawford, Co. J. 104 County Courthouse Springfield, TN 37162 Phone: 615-294-1476
WV	Grant	Grant County (Uninc. Areas) 0001A-0007A	540030	E-11, 12, 14	I	F	Jan. 10, 1975	Jan. 6, 1978	Lester Carr, Tr. Pres. County Commissioners P.O. Box 129 Petersburg, WV 25147 Phone: 304-749-3215

## FINAL LIST CODES

1. Conversion to Regular Program with FIRM (elevations determined).
  2. Conversion to Regular Program with FIRM (no elevations determined).
  3. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM.
  4. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM; rescission of FIRM effective on same date as conversion.
  5. Initial FIRM.
  6. Revision—Change of elevation; revised FIRM.
  7. Revision—Change of zone designation; revised FIRM.
  8. Revision—Corporate limit changes.
  9. Revision—Drafting corrections; Printing errors.
  10. Revision—Curvilinear.
  11. Revision—Add Flood Hazard Area.
  12. Revision—Reduce Flood Hazard Area.
  13. Revision—Federal Register omission.
  14. Revision—Refunds possible.
  15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
- R—Regular program.  
E—Emergency program.  
N—Not in program.

(National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1627 Filed 1-20-78; 8:45 am)

[4830-01]

## Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE,  
DEPARTMENT OF THE TREASURYSUBCHAPTER A—INCOME TAX  
(T.D. 7532)PART I—INCOME TAX; TAXABLE YEARS  
BEGINNING AFTER DECEMBER 31, 1953

## Reserves for Losses on Loans of Banks

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the reserves for losses on loans of banks. Changes in the applicable tax law were made by the Tax Reform Act of 1969. These regulations provide neces-

sary guidance to certain financial institutions for compliance with the law.

DATE: Generally, the regulations are effective for taxable years beginning after July 11, 1969.

FOR FURTHER INFORMATION  
CONTACT:

Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-4454, not a toll-free call).

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On September 20, 1976, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 585 of the Internal Revenue Code of 1954 (41 FR 40477). The amendments were proposed to conform the regulations to section 431 (a) of the Tax Reform Act of 1969 (83 Stat. 616). A public hearing was held on January 6, 1977. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

## SUMMARY OF CHANGES

Section 166 (c) permits a deduction for a reasonable addition to a reserve for bad debts. Section 585, as added by the Tax Reform Act of 1969, provides special rules for certain financial institutions for determining a reasonable addition to the reserve for losses on loans. The Treasury decision implements section 585.

The Treasury decision is identical to the notice of proposed rulemaking of September 20, 1976, with the exception of minor changes.

In response to taxpayers' comments and to prevent hardship, the minimum addition rule will be applied only to taxable years beginning after December 31, 1976. Section 1.585-2 (a) (2) has been revised to reflect that decision.

Under the notice of proposed rulemaking, the method adopted by the taxpayer to compute the reserve addition was unclear when the amount claimed was consistent under both the percentage and the experience method. To solve the problem, the fourth sentence of § 1.585-1 (a) has been modified to require the taxpayer to show in its return the method used to determine the amount of the addition.

Under § 1.585-2 (a) (2) of the notice, the term "minimum addition" was defined as an amount equal to the lesser of the maximum amount allowable under the experience method or the maximum amount allowable under the percentage method. The maximum amount determined under the experi-

ence method is the amount necessary to increase the balance of the reserve to the six-year moving average amount or the base year amount, whichever is greater. Whenever the amount determined under the experience method is less than the amount determined under the percentage method, and the base year amount exceeds the six-year moving average amount, the taxpayer's addition would be the amount necessary to increase the reserve to the base year amount. However, under section 57 (a) (7) of the Code, if a financial institution's reasonable addition to a reserve for bad debts exceeds the amount determined on the basis of its actual experience (i.e., the six-year moving average amount), a tax preference item is created. To avoid requiring financial institutions to make an addition to the reserve for bad debts which results in a tax preference item, the Treasury decision changes the minimum addition under the experience method to an amount computed by reference to the six-year moving average of section 585 (b) (3) (A).

The first sentence of § 1.585-2 (b) (1) (ii) (A) and the first sentence of § 1.585-2 (b) (1) (iii) of the notice use the term "the allowable percentage of eligible loans outstanding." The phrase is confusing in that the reserve referred to is a dollar amount rather than a percentage. Accordingly, the sentences have been revised by striking out the above-quoted phrase and inserting in lieu thereof "the allowable percentage for the taxable year multiplied by the eligible loans outstanding," wherever it appears.

The fourth sentence of § 1.585-2 (b) (1) (ii) (A) of the notice incorrectly stated that a reasonable addition could be made for a portion of an increase in the amount of eligible loans outstanding at the close of the taxable year over the amount of those loans at the close of the preceding year. The notice could be misinterpreted to limit the reserve addition to an amount equal to the applicable percentage multiplied by the increase in eligible loans during the taxable year. The interpretation would not be in accord with section 585 (b) (2) and would be inconsistent with the example contained in § 1.585-2 (b) (2) (ii) (B) of the notice. The problem is remedied in the Treasury decision by deleting the words "preceding year" where they appear in the fourth sentence of § 1.585-2 (b) (1) (ii) (A) and inserting in lieu thereof "base year".

Section 1.585-2 (e) (2) (ii) (B), and (C) is modified to make prospective only the exclusion of commercial paper and debts evidenced by a security from the definition of "loan". Subdivision (F) has been added to § 1.585-2 (e) (2) (ii) to make clear that any loan which violates a Federal or State statute may not be included in the term "loan" for purposes of computing the loan base.



In response to taxpayer comments, § 1.585-2(e)(3)(i) has been clarified. The change is designed to prevent the exclusion from the loan base of legitimate loans made by a financial institution entering a lending market in which it had not previously participated.

#### DRAFTING INFORMATION

The principal author of this regulation was Lawrence M. Axelrod of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

#### ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the amendments to 26 CFR Part 1 are adopted as proposed subject to the following changes:

PARAGRAPH 1. Paragraph (a) of § 1.585-1 is amended by revising the fourth sentence to read as follows:

§ 1.585-1 *Reserves for losses on loans of banks.*

(a) *General rule.* . . . For each taxable year the taxpayer must include in its income tax return (or amended return) for that year a computation of the amount of the addition determined under this section showing the method used to determine that amount. . . .

PAR. 2. Section 1.585-2 is amended as follows:

1. Paragraph (a)(1) is amended by deleting the second sentence.

2. Paragraph (a)(2) is revised.

3. Paragraph (b)(1)(ii)(A) is amended by revising the first sentence, and by deleting "preceding year" from the fourth sentence and inserting in lieu thereof "base year".

4. Paragraph (b)(1)(iii) is amended by revising the first sentence.

5. Paragraph (c)(1)(ii) is revised.

6. Paragraph (d)(2) is amended by deleting ", in the case of taxable years beginning before 1988," from the first sentence.

7. Paragraph (e)(1)(i) is revised.

8. Paragraph (e)(2)(i)(A) is revised.

9. Paragraph (e)(2)(ii) is changed by revising subdivisions (B) and (C), by deleting "and" from the end of subdivision (D), by inserting "; and" in place of the period at the end of subdivision (E), and by adding a new subdivision (F).

10. Paragraph (e)(3)(i) is amended by adding a new sentence at the end.

The new and revised provisions read as follows:

§ 1.585-2 *Addition to reserve.*

(a) *In general.* . . .

(2) *Minimum addition.* For taxable years beginning after December 31, 1976, and

before January 1, 1988, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans as defined in paragraph (e)(2) of this section. For purposes of this subparagraph, the term "minimum addition" means an addition to the reserve for losses on loans in an amount equal to the lesser of (i) the amount allowable under section 585(b)(3)(A) and paragraph (c)(1)(ii) of this section, or (ii) the maximum amount allowable under section 585(b)(2) and paragraph (b) of this section. For taxable years beginning after December 31, 1987, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans for each taxable year in an amount equal to the amount allowable under section 585(b)(3)(A) and paragraph (c)(1)(ii) of this section.

(b) *Percentage method.*—(1) *In general.*

(ii) *Reserve less than allowable percentage of eligible loans.* (A) If the reserve for losses on loans as of the close of the base year is less than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year, the amount determined under this subdivision for the taxable year is the amount necessary to increase the balance of the reserve for losses on loans as of the close of the taxable year to an amount equal to the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of that year, except that the amount determined with respect to the reserve deficiency shall not exceed one-fifth of the reserve deficiency. . . .

(iii) *Reserve equal to or greater than allowable percentage and eligible loans have not declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year and if the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the reserve to the greater of (A) the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the year, or (B) the balance of the reserve as of the close of the base year. . . .

(c) *Experience method.*—(1) *In general.*

(ii) *Six-year moving average amount.* The amount determined under this subdivision is the amount which bears the same ratio to loans outstanding at the close of the taxable year as (A) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (B) the sum of the loans outstanding at the close of such 6 (or fewer) taxable years. For purposes of applying this subdivision, a period shorter than 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a bank's portfolio of loans changes from agricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than 6 years may be

appropriate. Similarly, a bank which has recently altered its lending practices to include in its portfolio of loans consumer-installment loans, when it had previously made only commercial loans, may also qualify to use a period shorter than six years. A decline in the general economic conditions in the area, which substantially increase the risk of loss, is a relevant factor which may be considered. In any case, however, approval to use a shorter period will not be granted unless the taxpayer supplies specific evidence that the loans outstanding at the close of the taxable years for the shorter period requested are not comparable in nature and risk to loans outstanding at the close of the six taxable years. The fact that a bank's bad debt experience has shown a substantial increase is not, by itself, sufficient to justify use of a shorter period. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall not be considered unless it is sent to the Commissioner at least 30 days before the close of the first taxable year for which such approval is requested.

(e) *Definitions.*—(1) *Base year.*—(i) *Percentage method.* For purposes of paragraph (b) of this section (relating to the percentage method), the term "base year" means: For years beginning before 1976, the last taxable year beginning on or before July 11, 1969; for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976; and, for taxable years beginning after 1981, the last taxable year beginning before 1982. However, for purposes of section 585 (b) (2) (A) the term "base year" means the last taxable year before the most recent adoption of the percentage method, if later than the base year as determined under the preceding sentence.

(2) *Loan.*—(i) *General rule.* . . . (A) An overdraft in one or more deposit accounts by a customer in good faith whether or not other deposit accounts of the same customer have balances in excess of the overdraft;

(ii) *Exceptions.* . . .

(B) For taxable years beginning after December 31, 1976, commercial paper, however acquired by the bank, including, for example, short-term promissory notes which may be purchased on the open market;

(C) For taxable years beginning after December 31, 1976, a debt evidenced by a security (as defined in section 165 (g) (2) (C) and the regulations thereunder);

(F) Any transaction which is in violation of a Federal or State statute that governs the activities of the financial institution.

(3) *Eligible loan.*—(i) *General rule.* . . . Nothing within the preceding sentence will be construed to exclude the term "eligible loan" a bona fide loan in a new market or under a novel repayment arrangement if the likelihood of nonrepayment is at least as great as that of other customer loans of the financial institution.

PAR. 3. Paragraph (a) of § 1.585-3 is amended by revising the last sentence to read as follows:

§ 1.585-3 *Special rules.*

(a) *Treatment of reserve.* . . . No item other than a loan as defined in § 1.585-2 (e) (2) shall be charged to the reserve for losses on loans.

(Secs. 585(b)(4), 7805 of the Internal Revenue Code of 1954 (83 Stat. 618, 68A Stat. 917; (26 U.S.C. 585(b)(4), 7805).)

JEROME KURTZ,  
Commissioner of  
Internal Revenue.

Approved: January 14, 1978.

DONALD C. LUBICK,  
Acting Assistant Secretary  
of the Treasury.

The Income Tax Regulations (26 CFR Part 1) are amended by adding the following new sections immediately after § 1.584-6:

Sec.

§ 1.585-1 Reserve for losses on loans of banks.

§ 1.585-2 Addition to reserve.

§ 1.585-3 Special rules.

§ 1.585-4 Reorganizations and asset acquisitions.

§ 1.585-1 Reserve for losses on loans of banks.

(a) *General rule.* As an alternative to a deduction from gross income under section 166(a) for specific debts which become worthless in whole or in part, a financial institution to which section 585 and this section apply shall be allowed a deduction under section 166(c) for a reasonable addition to a reserve for bad debts provided such financial institution has adopted or adopts the reserve method of treating bad debts in accordance with paragraph (b) of § 1.166-1. In the case of such a taxpayer the amount of the reasonable addition to such reserve for a taxable year beginning after July 11, 1969, shall be an amount determined by the taxpayer which does not exceed the amount computed under § 1.585-2. Such reasonable addition for the taxable year shall be an amount at least equal to the amount provided by § 1.585-2(a)(2). For each taxable year the taxpayer must include in its income tax return (or amended return) for that year a computation of the amount of the addition determined under this section showing the method used to determine that amount. The use of a particular method in the return for a taxable year is not a binding election by the taxpayer to apply such method either for such taxable year or for subsequent taxable years. A financial institution to which section 585 and this section apply which adopts the reserve method is not entitled to charge off any bad debts pursuant to section

166(a) with respect to a loan (as defined in § 1.585-2(e)(2)). Except as provided by § 1.585-3, the reserve for bad debts of a financial institution to which section 585 and this section apply shall be established and maintained in the same manner as is provided by section 166(c) and the regulations thereunder with respect to reserves for bad debts. Except as provided by this section, no deduction is allowable for an addition to a reserve for losses on loans as defined in § 1.585-2(e)(2) of a financial institution to which section 585 and this section apply. For rules relating to deduction with respect to debts which are not loans (as defined in § 1.585-2(e)(2)), see section 166(a) and the regulations thereunder. For rules relating to a debt evidenced by a security (as defined in section 165(g)(2)(C)), see sections 166 (a), (b), and (c) and 582(a) and the regulations thereunder. For the definition of certain terms, see paragraph (e) of § 1.585-2. For rules relating to a transaction to which section 381(a) applies, see § 1.585-4.

(b) *Application of section.* Section 585 and this section apply only to the following financial institutions—

(1) Any bank (as defined in section 581 and the regulations thereunder) other than a mutual savings bank, domestic building and loan association, or cooperative bank, to which section 593 applies, and

(2) Any corporation to which subparagraph (1) of this paragraph would apply except for the fact that it is a foreign corporation and in the case of any such foreign corporation, the rules provided by section 585, this section, §§ 1.585-2, 1.585-3, and 1.585-4 apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

§ 1.585-2 Addition to reserve.

(a) *In general.*—(1) *Maximum addition.* For taxable years beginning before January 1, 1988, the maximum reasonable addition to the reserve for losses on loans as defined in paragraph (e)(2) of this section is the amount allowable under the percentage method provided by paragraph (b) of this section or the experience method provided by paragraph (c) of this section, whichever is greater. For taxable years beginning after December 31, 1987, the maximum reasonable addition to the reserve for losses on loans is the amount determined under the experience method provided by paragraph (c) of this section.

(2) *Minimum addition.* For taxable years beginning after December 31, 1976, and before January 1, 1988, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans as defined

in paragraph (e)(2) of this section. For purposes of this subparagraph, the term "minimum addition" means an addition to the reserve for losses on loans in an amount equal to the lesser of (i) the amount allowable under section 585 (b)(3)(A) and paragraph (c)(1)(ii) of this section, or (ii) the maximum amount allowable under section 585 (b)(2) and paragraph (b) of this section. For taxable years beginning after December 31, 1987, a taxpayer to which this section applies shall make a minimum addition to the reserve for losses on loans for each taxable year in an amount equal to the amount allowable under section 585 (b)(3)(A) and paragraph (c)(1)(ii) of this section.

(b) *Percentage method.*—(1) *In general.*—(i) *Maximum addition.* Except as limited under subparagraph (2) of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method for a taxable year is the amount determined under subdivision (ii), (iii), or (iv) of this subparagraph, whichever is applicable. For purposes of this paragraph, the term "allowable percentage" means 1.8 percent for taxable years beginning before 1976; 1.2 percent for taxable years beginning after 1975 but before 1982; and 0.6 percent for taxable years beginning after 1981 and before 1988. This paragraph does not apply for taxable years beginning after 1987.

(ii) *Reserve less than allowable percentage of eligible loans.* (A) If the reserve for losses on loans as of the close of the base year is less than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year, the amount determined under this subdivision for the taxable year is the amount necessary to increase the balance of the reserve for losses on loans as of the close of the taxable year to an amount equal to the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of that year, except that the amount determined with respect to the reserve deficiency shall not exceed one-fifth of the reserve deficiency. For purposes of this section, the term "reserve deficiency" means the excess of the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year over the reserve for losses on loans as of the close of the base year. Where a taxpayer has recoveries of bad debts for a taxable year which exceed the bad debts sustained for such year, the taxpayer is not required to reduce its otherwise permissible current addition by the amount of the net recovery. A reasonable addition attributable to an increase in eligible loans outstanding at the close of the taxable year over eligi-



ble loans outstanding at the close of the base year may be made only for the portion of such increase which does not exceed the excess of eligible loans outstanding at the close of the taxable year over the sum of the amount of eligible loans outstanding at the close of the base year and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year. For purposes of this subdivision, the order in which the factors which make up the annual reserve addition shall be claimed is:

(1) An amount equal to one-fifth of the reserve deficiency;

(2) Net bad debts charged to the reserve; and

(3) An amount attributable to an increase in the amount of eligible loans outstanding.

(B) For its first taxable year, a newly organized financial institution to which § 1.585-1 and this section apply shall be considered to have no reserve deficiency. For example, a new financial institution would compute its annual reserve addition by including in such addition an amount not in excess of the sum of (1) the amount of its net bad debts charged to the reserve for the taxable year, and (2) the allowable percentage of the increase in its eligible loans outstanding at the close of the taxable year over the amount of its loans outstanding (zero) at the end of the year preceding its first taxable year. Such amount would be subject to the 0.6 percent limitations provided in subparagraph (2) of the paragraph.

(C) The application of the rules provided by this subdivision may be illustrated by the following example:

*Example.* The X Bank is a commercial bank which has a calendar year as its taxable year. X adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, X has \$1,000,000 of outstanding eligible loans and a balance of \$13,000 in its reserve for losses on loans. The base year is 1969 and, consequently, X has a reserve deficiency of \$5,000 ( $(1.8\% \times \$1,000,000) - \$13,000$ ).

(a) During 1970, X has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1970, X has \$1,050,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is \$2,900 which consists of \$1,000 of reserve deficiency ( $\frac{1}{5} \times \$5,000$ ), the \$1,000 in net bad debts charged to the reserve for losses on loans, and \$900 attributable to the increase in the balance of eligible loans ( $1.8\% \times (\$1,050,000 - \$1,000,000)$ ). Assuming that X makes an addition to the reserve for losses on loans of \$2,900 for the year, the balance of the reserve as of December 31, 1970 is \$14,900 ( $\$13,000 - \$1,000 + \$2,900$ ).

(b) During 1971, X has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1971, X has \$800,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$14,400 ( $1.8\% \times \$800,000$ ). The maximum

reasonable addition under the percentage method is \$500 which is a portion of one-fifth of the reserve deficiency. Assuming that X makes an addition to the reserve for losses on loans of \$500 for the year, the balance of the reserve as of December 31, 1971, is \$14,400 ( $\$14,900 - \$1,000 + \$500$ ).

(c) During 1972, X has net bad debts of \$600 charged to the reserve for losses on loans. On December 31, 1972, X has \$850,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$15,300 ( $1.8\% \times \$850,000$ ). The maximum reasonable addition under the percentage method is \$1,500 which consists of \$1,000 of reserve deficiency ( $\frac{1}{5} \times \$5,000$ ) and \$500 of the net bad debts charged to the reserve for losses on loans in 1971. Even though the full addition with respect to the reserve deficiency in 1971 was not made, the amount of the addition that can be made in 1972 with respect to the reserve deficiency is limited to one-fifth of such deficiency. Assuming that X makes an addition to the reserve for losses on loans of \$1,500 for the year, the balance of the reserve as of December 31, 1972, is \$15,300 ( $\$14,400 - \$600 + \$1,500$ ).

(d) During 1973, X did not have any net bad debts charged to the reserve for losses on loans. On December 31, 1973, X has \$1,000,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$18,000 ( $1.8\% \times \$1,000,000$ ). The maximum reasonable addition under the percentage method is \$2,100 which consists of \$1,000 of reserve deficiency ( $\frac{1}{5} \times \$5,000$ ), \$500 of net bad debts charged to the reserve for losses in 1971, and \$600 of net bad debts charged to the reserve in 1972. Although outstanding eligible loans increased from \$850,000 in 1972 to \$1,000,000 in 1973, no addition is permitted with respect to the increase because the amount of eligible loans outstanding at the close of 1973 (\$1,000,000) does not exceed the sum of the amount of such loans at the close of the base year (\$1,000,000) and the amount of previous increases in such loans for which an addition was made in taxable years ending after the close of the base year (\$500,000 loan increase in 1970). Assuming that X makes an addition to the reserve for losses on loans of \$2,100, the balance of the reserve as of December 31, 1973, is \$17,400 ( $\$15,300 + \$2,100$ ).

(iii) *Reserve equal to or greater than allowable percentage and eligible loans have not declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the base year and if the amount of eligible loans outstanding at the close of the taxable year is equal to or greater than the amount of eligible loans outstanding at the close of the base year, the amount determined under this subdivision is the amount necessary to increase the reserve to the greater of (A) the allowable percentage for the taxable year multiplied by the eligible loans outstanding at the close of the year, or (B) the balance of the reserve as of the close of the base year. The application of the rule provided by this subdivision may be illustrated by the following example:

*Example.* The M Bank is a commercial bank which has a calendar year as its tax-

able year. M adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, M has \$1,000,000 of outstanding eligible loans and a balance of \$20,000 in its reserve for losses on loans.

(a) During 1970, M has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1970, M has \$1,100,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$19,800 ( $1.8\% \times \$1,100,000$ ). The maximum reasonable addition under the percentage method is \$1,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the 1969 base year (\$20,000). Assuming that M makes an addition to the reserve for losses on loans of \$1,000 for the year, the balance of the reserve as of December 31, 1970, is \$20,000 ( $\$20,000 - \$1,000 + \$1,000$ ).

(b) During 1971, M has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1971, M has \$1,300,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$23,400 ( $1.8\% \times \$1,300,000$ ). The maximum reasonable addition under the percentage method is \$4,400 which is the amount sufficient to increase the balance of the reserve to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M makes an addition to the reserve for losses on loans of \$4,400 for the year, the balance of the reserve as of December 31, 1971, is \$23,400 ( $\$20,000 - \$1,000 + \$4,400$ ).

(c) During 1972, M has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1972, M has \$1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$21,600 ( $1.8\% \times \$1,200,000$ ). No reasonable addition may be made under the percentage method because the reserve for losses on loans (\$22,400, i.e.,  $\$23,400 - \$1,000$ ) is greater than the allowable percentage of eligible loans outstanding at the close of the taxable year (\$21,600) and the balance of the reserve as of the close of the base year (\$20,000). Assuming that no amount is added under the experience method provided by paragraph (c) of this section, the balance of the reserve for losses on loans as of December 31, 1972, is \$22,400 ( $\$23,400 - \$1,000$ ).

(d) During 1973, M has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1973, M has \$1,200,000 of outstanding eligible loans. The allowable percentage of eligible loans is \$21,600 ( $1.8\% \times \$1,200,000$ ). The maximum reasonable addition under the percentage method is \$200 which is the amount sufficient to increase the reserve for losses on loans to the allowable percentage of eligible loans outstanding at the close of the taxable year. Assuming that M makes an addition to the reserve for losses on loans of \$200 for the year, the balance of the reserve as of December 31, 1973, is \$21,600 ( $\$22,400 - \$1,000 + \$200$ ).

(iv) *Reserve greater than allowable percentage and eligible loans have declined.* If the reserve for losses on loans as of the close of the base year is equal to or greater than the allowable percentage of eligible loans outstanding at such time and if the amount of eligible loans at the close of the taxable year is less than the amount of eligible loans outstanding at the close

of the base year, the amount determined under this subdivision is the amount necessary to increase the balance of the reserve to the amount which bears the same ratio to eligible loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of eligible loans outstanding at the close of the base year. The application of the rule provided by this subdivision may be illustrated by the following example:

*Example.* The N Bank is a commercial bank which has a calendar year as its taxable year. N adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, N has \$1,000,000 of outstanding eligible loans and a balance of \$20,000 in its reserve for losses on loans.

(a) During 1970, N has net bad debts of \$3,000 charged to the reserve for losses on loans. On December 31, 1970, N has \$900,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method is \$1,000, which is the amount necessary to increase the balance of the reserve to the amount (\$18,000) which bears the same ratio to eligible loans outstanding at the close of the taxable year (\$900,000) as the balance of the reserve as of the close of the base year (\$20,000) bears to the amount of the eligible loans outstanding at the close of the base year (\$1,000,000). Assuming that N makes an addition to the reserve for losses on loans of \$1,000 for the year, the balance of the reserve as of December 31, 1970, is \$18,000 ( $\$20,000 - \$3,000 + \$1,000$ ).

(b) During 1971, N has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1971, N has \$1,100,000 of outstanding eligible loans. The maximum reasonable addition under the percentage method, determined under subdivision (iii) of this subparagraph, is \$3,000 which is the amount necessary to increase the balance of the reserve to the greater of the allowable percentage of eligible loans outstanding at the close of the taxable year (\$19,800) or the balance of the reserve at the close of the base year (\$20,000). Assuming that N makes an addition to the reserve for losses on loans of \$3,000 for the year, the balance of the reserve as of December 31, 1971 is \$20,000 ( $\$18,000 - \$1,000 + \$3,000$ ).

(2) *Limitations.* Notwithstanding any other provision of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method shall not exceed the greater of—

(i) Six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year, or

(ii) An amount sufficient to increase the reserve for losses on loans at the close of the taxable year to six-tenths of 1 percent of the eligible loans outstanding at the close of the taxable year.

The application of the rules provided by this subparagraph may be illustrated by the following example:

*Example.* The Y Bank begins business as a commercial bank on July 1, 1974. Y adopts the calendar year as its taxable year and the reserve method of accounting for bad debts.

(a) During 1974, Y has net bad debts of \$1,000. On December 31, 1974, Y has \$1,000,000 of outstanding eligible loans. Under subparagraph (1)(ii)(B) of this paragraph, because Y is a newly-organized financial institution, there is no reserve deficiency. Except for the limitations of this subparagraph, the maximum reasonable addition under subparagraph (1)(ii)(A) of this paragraph would be the amount of net bad debts charged to the reserve for losses (\$1,000) plus the allowable percentage of outstanding eligible loans at the close of the taxable year (\$18,000 ( $1.8\% \times \$1,000,000$ )). However, because of the limitations of this subparagraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method is an amount sufficient to increase the balance of the reserve for losses on loans to \$6,000 which is 0.6 percent of the eligible loans outstanding at the close of the taxable year. Assuming that Y makes an addition to the reserve for losses on loans of \$7,000 for the year, the balance of the reserve as of December 31, 1974, is \$6,000 ( $\$7,000 - \$1,000$ ). The \$7,000 consists of the \$1,000 in net bad debts and \$6,000 attributable to the increase in eligible loans outstanding.

(b) During 1975, Y has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1975, Y has \$1,000,000 of outstanding eligible loans. Except for the limitations of this subparagraph, the maximum reasonable addition under subparagraph (1)(ii)(A) of this paragraph would be the amount of net bad debts charged to the reserve for losses (\$1,000) plus an amount attributable to the increase in the amount of eligible loans outstanding with respect to which no reasonable addition was allowed in 1974 (\$12,000, i.e.,  $\$18,000 - \$6,000$ ). However, because of the limitations of this paragraph, the maximum reasonable addition to the reserve for losses on loans under the percentage method is \$6,000 which is an amount equal to 0.6 percent of the eligible loans outstanding at the close of the taxable year. This amount consists of net bad debts of \$1,000 and \$5,000 attributable to a portion of the increase in eligible loans in 1974 with respect to which no reasonable addition was allowable for 1974. Assuming that Y makes an addition to the reserve for losses on loans of \$6,000 for the year, the balance of the reserve as of December 31, 1975, is \$11,000 ( $\$6,000 - \$1,000 + \$6,000$ ).

(c) During 1976, Y has net bad debts charged to the reserve for losses on loans of \$1,000. On December 31, 1976, Y has \$1,000,000 in outstanding eligible loans. At the close of 1975 (Y's base year for 1976), the amount of outstanding eligible loans was also \$1,000,000. Consequently, there is a reserve deficiency of \$1,000 ( $(1.2\% \times \$1,000,000) - \$11,000$ ). The maximum reasonable addition to the reserve for losses under subparagraph (1)(ii)(A) of this paragraph is \$1,200 which consists of one-fifth of the reserve deficiency ( $\$1,000 \times \frac{1}{5} = \$200$ ) and the net bad debts charged to the reserve for losses on loans for the year (\$1,000). Because that amount is less than 0.6 percent of the eligible loans outstanding at the close of the taxable year ( $0.6\% \times \$1,000,000 = \$6,000$ ), the limitations of this subparagraph do not apply. Assuming that Y makes an addition to the reserve for losses on loans of \$1,200 for the year, the balance of the reserve as of December 31, 1976, is \$11,200 ( $\$11,000 - \$1,000 + \$1,200$ ).

(c) *Experience method—(1) In general.*—(i) *Maximum addition.* The amount determined under this paragraph for a taxable year is the amount necessary to increase the balance of the reserve for losses on loans (as of the close of the taxable year) to the greater of the amount determined under subdivision (ii) or (iii) of this subparagraph. For special rules for a new financial institution, see subparagraph (2) of this paragraph.

(ii) *Six-year moving average amount.* The amount determined under this subdivision is the amount which bears the same ratio to loans outstanding at the close of the taxable year as (A) the total bad debts sustained during the taxable year and the 5 preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to (B) the sum of the loans outstanding at the close of such 6 (or fewer) taxable years. For purposes of applying this subdivision, a period shorter than 6 years generally would be appropriate only where there is a change in the type of a substantial portion of the loans outstanding such that the risk of loss is substantially increased. For example, if the major portion of a bank's portfolio of loans changes from agricultural loans to industrial loans which results in a substantial increase in the risk of loss, a period shorter than 6 years may be appropriate. Similarly, a bank which has recently altered its lending practices to include in its portfolio of loans consumer-installment loans, when it had previously made only commercial loans, may also qualify to use a period shorter than six years. A decline in the general economic conditions in the area, which substantially increase the risk of loss, is a relevant factor which may be considered. In any case, however, approval to use a shorter period will not be granted unless the taxpayer supplies specific evidence that the loans outstanding at the close of the taxable years for the shorter period requested are not comparable in nature and risk to loans outstanding at the close of the six taxable years. The fact that a bank's bad debt experience has shown a substantial increase is not, by itself, sufficient to justify use of a shorter period. If approval is granted to use a shorter period, the experience for those taxable years which are excluded shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall not be considered unless it is sent to the Commissioner at least 30 days before the close of the first taxable year for which such approval is requested.

(iii) *Base year amount.* The amount determined under this subdivision is the lower of (A) the balance of the re-



serve as of the close of the base year, or (B) if the amount of loans outstanding at the close of the taxable year is less than the amount of loans outstanding at the close of the base year, the amount which bears the same ratio to loans outstanding at the close of the taxable year as the balance of the reserve as of the close of the base year bears to the amount of loans outstanding at the close of the base year.

(2) *Special rules for new financial institutions*—(i) *In general.* In the case of any taxable year preceded by less than 5 authorization years (as defined in paragraph (e)(5) of this section), subparagraph (1) of this paragraph shall be applied with the adjustments provided by subdivision (ii) of this subparagraph.

(ii) *Adjustments.* (A) The total bad debts for the 6-year period computed under subparagraph (1)(ii)(A) of this paragraph shall be the sum of:

(1) The bad debts sustained by the taxpayer during its authorization years, adjusted for recoveries of bad debts for such years; and

(2) That fraction of the total bad debts sustained by a comparable bank (as defined in paragraph (e)(7) of this section) during the comparison years (as defined in paragraph (e)(6) of this section), adjusted for recoveries of bad debts for such years, which bears the same ratio to such total as the average loans outstanding of the taxpayer during the authorization years bears to the average loans outstanding of the comparable bank during the comparison years.

(B) The total amount of loans outstanding during the 6-year period computed under subparagraph (1)(ii)(B) of this paragraph shall be six times the average loans outstanding of the taxpayer during the authorization years.

(d) *Change in accounting method from specific charge-off method to reserve method of treating bad debts*—(1) *In general.* If a bank is granted permission in accordance with § 1.446-1(e)(3) to change its method of accounting for bad debts from a method under which specific bad debt items are deducted to the reserve method of treating bad debts, the taxpayer shall effect the change as provided in subparagraphs (2) and (3) of this paragraph.

(2) *Initial balance of the reserve.* The initial balance of the reserve at the close of the year of change shall be no less than the minimum addition as described in paragraph (a)(2) of this section and shall be no larger than the greater of—

(i) The allowable percentage of eligible loans outstanding at the close of the taxable year of change; or

(ii) The amount which bears the same ratio to loans outstanding at the close of the taxable year as the total bad debts sustained during the taxable year and the 5 preceding taxable years

(or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period, bears to the sum of the loans outstanding at the close of such 6 or fewer taxable years.

In the case of taxable years beginning after 1987, the initial balance of the reserve at the end of the year of change shall be the amount specified in subdivision (ii) of this subparagraph.

(3) *Deduction with respect to initial balance.* The deduction with respect to the initial balance of the reserve at the close of the taxable year of change, determined under subparagraph (2) of this paragraph, is allowable ratably over a period of 10 years commencing with the taxable year of change (or a shorter period as may be approved by the Commissioner). Thus, the bad debt deduction under section 166 for the taxable year of change will consist of the amount of debts determined to be wholly or partially worthless and charged-off during such taxable year plus one-tenth (if a 10-year period is used) of the amount of the reserve determined under subparagraph (2) of this paragraph. For each of the 9 taxable years following the taxable year of change, the bad debt deduction will consist of the reasonable addition to the reserve for bad debts for each such year as provided by section 585, as otherwise determined, plus one-tenth of the amount determined to be the initial balance of the reserve under subparagraph (2) of this paragraph. The amount established as a bad debt reserve for the taxable year of change under subparagraph (2) of this paragraph shall be considered as the balance of the reserve for purposes of determining the amount of subsequent additions to such reserve, even though the entire amount of the reserve may not have been deducted under section 166(c) because of the requirement that it be deducted over a number of years.

(e) *Definitions*—(1) *Base year*—(i) *Percentage method.* For purposes of paragraph (b) of this section (relating to the percentage method), the term "base year" means: For years beginning before 1976, the last taxable year beginning on or before July 11, 1969; for taxable years beginning after 1975 but before 1982, the last taxable year beginning before 1976; and, for taxable years beginning after 1981, the last taxable year beginning before 1982. However, for purposes of section 585(b)(2)(A) the term "base year" means the last taxable year before the most recent adoption of the percentage method, if later than the base year as determined under the preceding sentence.

(ii) *Experience method.* For purposes of paragraph (c) of this section (relating to the experience method), the

term "base year" means (A) the last taxable year before the most recent adoption of the experience method, or (B) the last taxable year beginning on or before July 11, 1969, which ever is later; and for taxable years beginning after 1987, the last taxable year beginning before 1988.

(iii) *Example.* The application of the rules provided by this subparagraph may be illustrated by the following example:

*Example.* The T Bank is a commercial bank which has a calendar year as its taxable year. T adopted the reserve method of accounting for bad debts in 1950. On December 31, 1969, T has \$1,000,000 of outstanding eligible loans and a balance of \$19,300 in its reserve for losses on loans.

(a) During 1970, T has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1970, T has \$1,050,000 of outstanding eligible loans. T elects the percentage method. The base year is 1969. The maximum reasonable addition under the percentage method of \$1,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the base year 1969 (\$19,300). Assuming that T makes an addition to the reserve for losses on loans of \$1,000 for the year, the balance of the reserve for losses on loans as of December 31, 1970, is \$19,300 (\$19,300 + \$1,000).

(b) During 1971, T has net bad debts of \$8,000 charged to the reserve for losses on loans. On December 31, 1971, T has \$1,100,000 of outstanding eligible loans. T elects the experience method. The base year is 1970. The maximum reasonable addition under the experience method is \$8,000 which is the amount sufficient to increase the balance of the reserve as of the close of the taxable year to the balance of the reserve as of the close of the 1970 base year (\$19,300). Assuming that T makes an addition to the reserve for losses on loans of \$8,000 for the year, the balance of the reserve for losses on loans as of December 31, 1971, is \$19,300 (\$19,300 + \$8,000 + \$8,000).

(c) During 1972, T has net bad debts of \$1,000 charged to the reserve for losses on loans. On December 31, 1972, T has \$1,200,000 of outstanding eligible loans. T elects the percentage method. The base year is 1971 and there is a reserve deficiency of \$500  $(1.8\% \times \$1,100,000) - \$19,300$ . The maximum reasonable addition under the percentage method is \$2,900 which consists of \$100 of reserve deficiency  $(\frac{1}{2} \times \$500)$ , the \$1,000 in net bad debts charged to the reserve for losses on loans, and \$1,800 attributable to the increase in the balance of eligible loans  $(1.8\% \times (\$1,200,000 - \$1,100,000))$ . Assuming that T makes an addition to the reserve for losses on loans of \$2,900 for the year, the balance of the reserve for losses on loans as of December 31, 1972, is \$21,200 (\$19,300 + \$1,000 + \$2,900).

(2) *Loan*—(i) *General rule.* For purposes of this section and §§ 1.585-1, 1.585-3, and 1.585-4, the term "loan" means debt as the term "debt" is used in section 166 and the regulations thereunder. The term "loan" includes (but is not limited to) the following items:

(A) An overdraft in one or more deposit accounts by a customer in good

faith whether or not other deposit accounts of the same customer have balances in excess of the overdraft;

(B) A bankers acceptance purchased or discounted by a bank; and

(C) A loan participation to the extent that the taxpayer bears a risk of loss.

For purposes of (B) of this subdivision (i), a bankers acceptance shall be considered as a loan made by the bank which purchased or discounted the bankers acceptance and not a loan made by the originating bank.

(ii) *Exceptions.* Notwithstanding the provisions of subdivision (i) of this subparagraph, the term "loan" does not include the following items:

(A) Discount or interest receivable reflected in the face amount of an outstanding loan, which discount or interest has not been included in gross income;

(B) For taxable years beginning after December 31, 1976, commercial paper, however acquired by the bank, including, for example, short-term promissory notes which may be purchased on the open market;

(C) For taxable years beginning after December 31, 1976, a debt evidenced by a security (as defined in section 165(g)(2)(C) and the regulations thereunder);

(D) Any loan which is entered into or acquired for the primary purpose of enlarging the otherwise available bad debt deduction;

(E) Loans which have been contractually committed to the extent that funds have not been disbursed to the borrower or disbursed on behalf of the borrower; and

(F) Any transaction which is in violation of a Federal or State statute that governs the activities of the financial institution.

(3) *Eligible loan*—(i) *General rule.* For purposes of this section and §§ 1.585-3 and 1.585-4, the term "eligible loan" means a loan (as defined in subparagraph (2) of this paragraph) which is incurred in the course of the normal customer loan activities of a financial institution and which is not a loan described in subdivision (ii) of this subparagraph. Nothing within the preceding sentence will be construed to exclude from the term "eligible loan" a bona fide loan in a new market or under a novel repayment arrangement if the likelihood of nonrepayment is at least as great as that of other customer loans of the financial institution.

(ii) *Exceptions.* Loans which do not constitute eligible loans include:

(A) A loan to a bank (as defined in section 581 and the regulations thereunder) or to a domestic branch of a foreign corporation to which § 1.585-1 applies, including a repurchase transaction or other similar transaction;

(B) Bank funds on deposit in any bank (foreign or domestic) such as a

deposit represented by a certificate of deposit or any other form of instrument evidencing the deposit of a sum of money with the issuing bank that will be available on or after a stated date or period of time;

(C) A sale or loan of Federal funds irrespective of the purchaser or borrower;

(D) A loan, to the extent that it is directly or indirectly made to, guaranteed by, or insured by the United States, a possession or instrumentality thereof, or a State or political subdivision thereof; and

(E) A loan which is secured by a deposit in the lending financial institution or in a bank as defined in section 581 or a domestic branch of a foreign corporation to which this section applies to the extent that the financial institution has control over withdrawal of such deposit.

(iii) *Definition of loan which is secured by a deposit.* For purposes of subdivision (ii)(E) of this subparagraph—

(A) A loan is considered secured if the loan is on the security of any instrument which makes the deposit specific security for the payment of the loan, provided that such instrument is of such a nature that in the event of default the deposit could be subjected to the satisfaction of the loan;

(B) A deposit includes a guarantee deposit in the form of a "holdback", pledged collateral that has been reduced to cash, and loan payments that are maintained in a separate account; and

(C) Control over the withdrawal of a deposit is evidenced by possession of a passbook, certificate of deposit, note, or other similar instrument the possession of which is normally required to permit withdrawal. The lending financial institution does not have control over withdrawal of the deposit if the deposit can be withdrawn without consent of the lending financial institution. Thus, the lending financial institution normally does not have control over the withdrawal of a deposit in an account merely because the borrower agrees to maintain a minimum, average, or compensating balance.

(4) *Predecessor.* For purposes of this section, the term "predecessor" means (i) any taxpayer which transferred more than 50 percent of the total amount of its assets to the taxpayer and is described in § 1.585-1, or (ii) any predecessor of such predecessor.

(5) *Authorization years.* For purposes of this section, the term "authorization years" means the number of years, containing 12 complete months, between (i) the first day of the first full taxable year of the taxpayer for which it (or any predecessor) was authorized to do business as a financial institution described in § 1.585-1, and (ii) the taxable year.

(6) *Comparison years.* For purposes of this section, the term "comparison years" means those consecutive taxable years containing 12 complete months of a comparable bank, the last of which ends within 12 months immediately preceding the beginning of the first taxable year of the taxpayer, which are equal in number to six minus the number of authorization years of the taxpayer.

(7) *Comparable bank.* For purposes of this section, the term "comparable bank" means all the financial institutions described in § 1.585-1 located within the same Federal Reserve district.

(8) *Average loans outstanding.* For purposes of this section, the term "average loans outstanding" means the sum of the loans outstanding at the close of each taxable year of a period divided by the number of taxable years in such period.

(9) *Adjusted for recoveries of bad debts.* For purposes of this section, the term "adjusted for recoveries of bad debts" means an adjustment for the full amount recovered with respect to bad debts previously charged to the reserve during any of the applicable taxable years.

#### § 1.585-3 Special rules.

(a) *Treatment of reserve.* For taxable years beginning after July 11, 1969, if a financial institution to which section 585 and § 1.585-1 apply establishes a reserve pursuant to section 166(c), any bad debt in respect of a loan (whether or not such loan is an eligible loan) must be charged to the reserve for losses on loans provided for by § 1.585-1 for the taxable year in which the bad debt occurs. For such a year, any recovery of a bad debt previously charged to the reserve account in respect of a loan (whether or not such loan is an eligible loan) must be credited to such reserve in the taxable year of recovery regardless of whether such credit causes the reserve to exceed the permissible amount. If, as a result of net recoveries during the taxable year, the reserve balance exceeds the permissible amount, a taxpayer is not required to report the excess as taxable income. In such a case, the excess over the otherwise permissible amount in the reserve account precludes current reasonable additions to the reserve and may affect future reasonable additions. Recoveries of bad debts which were not charged to the reserve shall not be credited to such reserve, but shall be treated as taxable income subject to the provisions of § 1.111. No item other than a loan as defined in § 1.585-2 (e)(2) shall be charged to the reserve for losses on loans.

(b) *Accounting for reserve.* A financial institution to which section 585 and § 1.585-1 apply which establishes a



reserve pursuant to section 166(c) shall establish and maintain a permanent record of such reserve. Copies of Federal income tax returns and amended returns with attached schedules satisfy the requirements of this paragraph provided that such returns are permanently maintained by the financial institution and the balance of the reserve for losses on loans established pursuant to section 166(c) can be readily reconciled with the reserve for losses on loans maintained by the financial institution for financial statement purposes. The requirements of this paragraph would also be satisfied if a financial institution establishes and maintains a permanent subsidiary ledger reflecting an account for the reserve for losses on loans established pursuant to section 166(c) provided the balance in such account can be readily reconciled with the balance of the reserve for losses on loans for financial statement purposes maintained in any other ledger. The permanent records maintained pursuant to this section must reflect any changes in the amount initially added to the reserve for losses on loans and the amount finally determined by the taxpayer to be a reasonable addition to the reserve for losses on loans.

**§ 1.585-4 Reorganizations and asset acquisitions.**

(a) *In general.* In computing a reasonable addition to the reserve for losses on loans for the first taxable year ending after a transaction to which section 381(a) applies and for subsequent taxable years, the separate reserves for losses on loans, the amount of loans outstanding, the total bad debts sustained (adjusted for recoveries), and the amount of eligible loans outstanding of the distributor or transferor corporation and the acquiring corporation (or, in the case of a consolidation, the transferor corporations) shall be combined for all applicable years. Thus, for example, in applying § 1.585-2(c)(1)(i) for the first taxable year ending after the distribution or transfer, the total bad debts sustained during the 5 preceding taxable years are the sum of the bad debts sustained by the acquiring corporation for the 5 preceding taxable years and bad debts sustained by the distributor or transferor corporation for the taxable year ending on the date of distribution or transfer and the 4 preceding taxable years.

(b) *Base year and base year amounts of acquiring corporation.*—(1) *Base year.* For transactions to which section 381(a) applies, the base year of the acquiring corporation for the first taxable year ending after the date of distribution or transfer shall be the last taxable year ending on or before the date of distribution or transfer. The

balance of the reserve, the amount of loans outstanding, and the amount of eligible loans outstanding at the close of such base year shall be determined in accordance with the provisions of subparagraph (2)(i) of this paragraph. For taxable years subsequent to the first taxable year ending after the date of distribution or transfer, the base year of the acquiring corporation shall be the more recent of the base year provided by the first sentence of this subparagraph or the base year provided by § 1.585-2(e)(1). If § 1.585-2(e)(1) provides the more recent base year, the balance of the reserve for losses on loans, the amount of loans outstanding, and the amount of eligible loans outstanding shall be determined at the close of such base year without regard to this paragraph.

(2) *Base year amounts.*—(i) *Method of determination.* The balance of the reserve for losses on loans, the amount of loans outstanding, and the amount of eligible loans outstanding at the close of the base year provided by the first sentence of subparagraph (1) of this paragraph shall be the total of such amounts of the distributor or transferor corporation and the acquiring corporation (or, in the case of a consolidation, the transferor corporations) at the close of what would have been their respective base years determined under § 1.585-2(e)(1) if the distribution or transfer to which section 381(a) applies had not occurred, except that the method (experience or percentage) used or adopted by the acquiring corporation to determine its reasonable addition to a reserve for losses on loans for the first taxable year ending after the date of the distribution or transfer shall be considered to be the method that the distributor or transferor corporation (or, in the case of a consolidation, that the transferor corporation) would have used or adopted for its first taxable year ending after the date of distribution or transfer if the distribution or transfer had not occurred.

(ii) *Examples.* The application of the rule provided by this subparagraph may be illustrated by the following examples:

*Example (1).* The X Corporation and the Y Corporation are commercial banks both of which have a calendar year as a taxable year. Both X and Y adopted the reserve method of accounting for bad debts prior to July 11, 1969. For the taxable year 1970 through 1973, X and Y determined their reasonable additions to a reserve for losses on loans as defined in § 1.585-2(e)(2) under the percentage method. On June 30, 1974, the X Bank is merged into the Y Bank; for its short taxable year ending on June 30, 1974, X determines its reasonable addition under the percentage method. If, for the taxable year ending on December 31, 1974 (the first taxable year ending after the date of distribution or transfer), Y determines its reasonable addition to a reserve for losses

on loans under the percentage method, then at the close of the base year the reserve balance, the amount of outstanding loans, and the amount of eligible loans outstanding are the sum of X's and Y's respective amounts at the close of the taxable year ending December 31, 1969 (the base year of both X and Y determined under § 1.585-2(e)(1) as if the distribution or transfer had not taken place). If, instead of the above, Y adopts the experience method of determining its reasonable addition to a reserve for losses for the taxable year 1974, then at the close of the base year (1973) the reserve balance, the amount of loans outstanding, and the amount of eligible loans outstanding are the sum of X's respective amounts at the close of its short taxable year ending on June 30, 1974 (X's last taxable year before its (Y's) most recent adoption of the experience method) and of Y's respective amounts at the close of its taxable year 1973 (Y's last taxable year before its most recent adoption of the experience method).

*Example (2).* The M Corporation and the N Corporation are commercial banks. M has a fiscal year ending September 30, as its taxable year and N has a calendar year as its taxable year. Both M and N adopted the reserve method of accounting for bad debts prior to July 11, 1969. For the taxable years ending in 1970, 1971, and 1972, M determined its reasonable addition to a reserve for losses under the percentage method; for the taxable year ending in 1973 M adopted the experience method. For the taxable years 1970 through 1973 N determined its reasonable addition under the percentage method. M is merged into N on June 30, 1974, and for its short taxable year ending on June 30, 1974, M determines its reasonable addition under the experience method. If, for the taxable year ending on December 31, 1974 (the first taxable year ending after the date of distribution or transfer), N determines its reasonable addition to a reserve for losses under the percentage method, then at the close of the base year (1973) the reserve balance, the amount of loans outstanding, and the amount of eligible loans outstanding are the sum of M's respective amounts at the close of (a) if M had a reserve deficiency as of June 30, 1974, its short taxable year ending on June 30, 1974 (M's last taxable year before its (N's) most recent adoption of the percentage method), or (b) if M did not have a reserve deficiency, the taxable year ending on September 30, 1969, and N's respective amounts at the close of its taxable year 1973. If, instead of the above, N adopts the experience method for the taxable year 1974, then at the close of the base year the reserve balance, the amount of outstanding loans, and the amount of eligible loans outstanding are the sum of M's respective amounts at the close of its taxable year ending on September 30, 1972 (the last taxable year before M's most recent adoption of the experience method), and N's respective amounts at the close of the taxable year 1973 (the last taxable year ending before N's most recent adoption of the experience method).

[FR Doc. 78-1704 Filed 1-18-78; 8:45 am]

[4410-01]

**Title 28—Judicial Administration**

**CHAPTER I—DEPARTMENT OF JUSTICE**

[Order No. 764-78]

**PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE**

**Litigation Involving Environmental Protection**

AGENCY: Department of Justice.

ACTION: Final rule.

**SUMMARY:** In a Memorandum of Understanding between the Department of Justice and the Environmental Protection Agency concerning the conduct of litigation in which EPA is a party, the Attorney General has undertaken certain administrative functions and responsibilities which, by express provision in that Memorandum, may be delegated to other officials of the Department of Justice. This order delegates to the Assistant Attorney General in charge of the Land and Natural Resources Division and the Assistant Attorney General in charge of the Civil Division functions and responsibilities of the Attorney General under the Memorandum of Understanding relating to litigation for which their respective Divisions are responsible. The order also amends the regulations assigning functions to the Land and Natural Resources Division to reflect additional matters now being handled by that Division as a result of recent legislation and transfers of responsibility within the Department.

**EFFECTIVE DATE:** January 11, 1978.

**FOR FURTHER INFORMATION CONTACT:**

James W. Moorman, Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, 202-739-2701.

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Subpart I, which assigns functions to the Civil Division, is amended by adding a new § 0.45a immediately after § 0.45, to read as follows:

**§ 0.15a Litigation involving Environmental Protection Agency.**

With respect to any matter assigned to the Civil Division in which the Environmental Protection Agency is a party, the Assistant Attorney General in charge of the Civil Division, and such members of his staff as he may specifically designate in writing, are authorized to exercise the functions and responsibilities undertaken by the Attorney General in the Memorandum of Understanding between the Department of Justice and the Environmental

Protection Agency (42 FR 48942), except that Subpart Y of this part shall continue to govern as authority to compromise and close civil claims in such matters.

2. Section 0.65 of Subpart M, which assigns functions to the Land and Natural Resources Division, is amended by revising paragraphs (d) and (e) and adding new paragraphs (f) and (g), to read as follows:

§ 0.65 General functions.

(d) Civil and criminal suits and matters involving air, water, noise, and other types of pollution, the regulation of solid wastes, toxic substances, pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act, and the control of the environmental impacts of surface coal mining.

(e) Civil and criminal suits and matters involving obstructions to navigation, and dredging or filling (33 U.S.C. 403).

(f) Civil and criminal suits and matters arising under the Atomic Energy Act of 1954 (42 U.S.C. 2011, et seq.) insofar as it relates to the prosecution of violations committed by a company in matters involving the licensing and operation of nuclear power plants.

(g) Civil and criminal suits and matters relating to the natural and biological resources of the coastal and marine environments, the outer continental shelf, the fishery conservation zone and, where permitted by law, the high seas.

3. Subpart M is further amended by adding a new § 0.65a immediately after § 0.65, to read as follows:

**§ 0.65a Litigation involving Environmental Protection Agency.**

With respect to any matter assigned to the Land and Natural Resources Division in which the Environmental Protection Agency is a party, the Assistant Attorney General in charge of the Land and Natural Resources Division, and such members of his staff as he may specifically designate in writing, are authorized to exercise the functions and responsibilities undertaken by the Attorney General in the Memorandum of Understanding between the Department of Justice and the Environmental Protection Agency (42 FR 48942), except that Subpart Y of this part shall continue to govern as authority to compromise and close civil claims in such matters.

Dated: January 11, 1978.

GRIFFIN B. BELL,  
Attorney General.

[FR Doc. 78-1809 Filed 1-20-78; 8:45 am]

[3710-92]

**Title 33—Navigation and Navigable Waters**

**CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY**

**PART 207—NAVIGATION REGULATIONS**

**Navigation Locks and Approach Channels, Columbia and Snake Rivers**

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final Rule.

**SUMMARY:** This rule amends regulations which govern the use, administration and navigation of the locks and approach channels on the Columbia and Snake Rivers, Oregon and Washington. The amendment is necessary because of operation of the recently completed Lower Granite Lock and Dam on the Lower Snake River and to provide additional safety requirements for controlling passage of vessels through the eight locks.

**DATE:** Effective on February 15, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Ralph T. Eppard, 202-693-5070.

or write:

Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N.

**SUPPLEMENTARY INFORMATION:** The proposed revision was published in the FEDERAL REGISTER, (42 FR 58960) with the comment period expiring on December 15, 1977. We received no comments and accordingly, pursuant to the provisions of Section 7 of the River and Harbor Act approved 8 August 1917 (40 Stat. 266; 33 U.S.C. 1) we are hereby amending the regulations in 33 CFR 207.718 as set forth below:

(40 Stat. 266; 33 U.S.C. 1.)

Date: January 10, 1978.

CHARLES R. FORD,  
Acting Assistant Secretary  
of the Army (Civil Works).

**§ 207.718 Navigation Locks and Approach Channels, Columbia and Snake Rivers, Oregon and Washington.**

(a) *General.* All locks, approach channels, and all lock appurtenances, shall be under the jurisdiction of the District Engineer, Corps of Engineers, U.S. Army, in charge of the locality. His representative at the locks shall be the Project Engineer, who shall issue orders and instructions to the Lock Master in charge of the lock. Hereinafter, the term "Lock Master" shall be used to designate the person in immediate charge of the lock at any given time. In case of emergency and on all routine work in connection with the



operation of the lock, the Lock Master shall have authority to take action without waiting for instructions from the Project Engineer.

(b) *Lockage Control.* The Lock Master shall be charged with immediate control and management of the lock, and of the area set aside as the lock area, including the lock approach channels. Upstream and downstream approach channels extend to the end of the wing or the guide wall, whichever is longer. At Bonneville lock the upstream approach channel extends to the upstream end of Bradford Island and the downstream approach channel extends to the downstream end of the lower moorage. The Lock Master shall demand compliance with all laws, rules and regulations for the use of the lock and lock area and is authorized to issue necessary orders and directions, both to employees of the Government or to other persons within the limits of the lock or lock area, whether navigating the lock or not. Use of lock facilities is contingent upon compliance with regulations, Lock Master instructions and the safety of people and property.

(c) *Authority of Lock Master.* No one shall initiate any movement of any vessel in the lock or approaches except by or under the direction of the Lock Master. ("Vessel" as used herein includes all connected units, tugs, barges, tows, boats or other floating objects.)

(d) *Signals—(1) Radio.* All locks are equipped with two-way FM radio operating on channel 14, frequency of 156.700 MHz, for both the calling channel and the working channel. Vessels equipped with two-way radio desiring a lockage shall call WUJ 33 Bonneville, WUJ 34 The Dalles, WUJ 35 John Day, WUJ 41 McNary, WUJ 42 Ice Harbor, WUJ 43 Lower Monumental, WUJ 44 Little Goose, or WUJ 45 Lower Granite, at least one-half hour in advance of arrival since the Lock Master is not in constant attendance of the locks. Channel 14 shall be monitored constantly in the vessel pilot house from the time the vessel enters the approach channel until its completion of exit. Prior to entering the lock chamber, the commercial freight or log-tow vessel operator shall report the nature of any cargo, the maximum length, width and draft of the vessel and whether the vessel is in any way hazardous because of its condition or the cargo it carries or has carried.

(2) *Pull-cord signal stations.* Pull-cord signal stations marked by large instructional signs and located near the end of the upstream and downstream lock entrance walls may be used in place of radios to signal the Lock Master for a lockage.

(3) *Entering and exit signals.* Signal lights are located outside each lock gate. When the green (go) light is on,

all vessels will enter in the sequence prescribed by the Lock Master except at Bonneville where freight and log-tow vessels only will enter on the amber light. When the red (stop) light is on, the lock is not ready for entrance and vessels shall stand clear. In addition to the above visual signals, the Lock Master will signal that the lock is ready for entrance by sounding one long blast on the lock air horn. The Lock Master will signal that the lock is ready for exit by lighting the green exit light and sounding one short blast on the air horn.

(4) *Craft lockage-readiness signal.* Upon query from Lock Master, a vessel operator will signal when he is properly moored and ready for the lockage to begin.

(e) *Permissible dimensions of vessels.* Nominal overall dimensions of vessels allowed in the lock chamber are 84 feet wide and 650 feet long, except at Bonneville where these dimensions are 74 feet wide and 500 feet long. Depth of water in the lock depends upon river levels which may vary from day to day. Staff gauges showing the minimum water level depth over gate sills are located inside the lock chamber near each lock gate and outside the lock chamber near the end of both upstream and downstream guide walls. Vessels which do not have a draft of at least one foot less than a gauge reading shall not pass that gauge. Information concerning allowable draft for vessel passage through the locks may be obtained from the Lock Master.

Minimum lock chamber water level depth is 15 feet except at Ice Harbor where it is 14 feet and at Bonneville where it is 24.2 feet. When the river flow at Lower Granite exceeds 330,000 cubic feet per second the normal minimum 15-foot depth may be decreased to as little as eight feet. At Bonneville, a tow may be rearranged to less than clear lock dimensions (74 feet by 500 feet) prior to entering the lock, and be passed in one lockage. Such rearrangements at Bonneville may be done at the moorage in the downstream lock approach channel or above the upstream guide wall and with the Lock Master's permission at the upstream guide wall. In consideration of river and swing bridge traffic at Bonneville the Lock Master may authorize rearrangement of vessels within the lock chamber only when both miter gates at the open end of the lock are in their recesses in the lock walls and rearrangement will not be hazardous to them. Vessels wider than 50 feet will not be permitted to enter the Bonneville Lock during extreme high water when tailwater at the lock is higher than 35 feet above m.s.l. since the downstream guide wall will be inundated.

(f) *Precedence at Lock.* Ordinarily, the vessel or tow arriving first at the lock will be locked through first; how-

ever, depending upon whether the lock is full or empty this precedence may be modified at the discretion of the Lock Master. When several vessels are waiting for a lockage, precedence shall be given as follows:

First: Vessels owned or operated by the United States whose mission requires immediate passage.

Second: Commercial freight and log-tow vessels.

Third: All other vessels.

(g) *Loss of turn.* Vessels that fail to enter the lock with reasonable promptness, after being authorized to do so, shall lose their turn.

(h) *Lockage—(1) Multiple lockage.* The Lock Master shall decide whether one or more vessels or tows may be locked through at the same time. Vessels with flammable or highly hazardous cargo will be passed separately from all other vessels. Hazardous materials are described in Part 171, Title 49, Code of Federal Regulations. Flammable materials are defined in the National Fire Code of the National Fire Protection Association.

(2) *Small Craft.* At the discretion of the Lock Master, the lockage of pleasure, fishing, and other small vessels may be coordinated with the lockage of commercial vessels. If no commercial craft is scheduled to be locked through within a reasonable time, not to exceed one (1) hour after arrival of the small craft at the lock, separate lockage will be made for such small craft.

(i) *Mooring in approaches prohibited.* Mooring or anchoring in the approaches to the lock is prohibited where such mooring will interfere with navigation.

(j) *Waiting for Lockage.* Vessels waiting for lockage shall wait in the clear outside of the lock approach channel, or contingent upon permission by the Lock Master, may at their own risk, lie inside the approach channel at a place specified by the Lock Master. At Bonneville, vessels may at their own risk, lay-to at the downstream moorage facility on the south shore downstream from the guide wall: *Provided*, That a 100-foot-wide open channel is maintained and vessels upstream may lay-to against the guide wall, at their own risk, provided they remain not less than 400 feet upstream of the upstream lock gate; or contingent upon prior radio clearance by the Lock Master they may, at their own risk, tie to the upstream guide wall.

(k) *Mooring in lock.* All vessels must be moored within the lock chamber so that no portion of any vessel extends beyond the lines painted on the lock walls. Moorage within the lock chamber will be to floating mooring bits only and will be accomplished in a proper no-slip manner. Small vessels will not be locked with a large vessel

unless the large vessel is so moored (two mooring bits) that no lateral movement is possible. The vessel operator will constantly monitor the position of his vessel and his mooring bits to assure that there is no fore or aft movement of his vessel and lateral movement is minimized. Propulsion by vessels within the lock chamber will not be permitted during closure operation of a lock chamber gate or as otherwise directed by the Lock Master.

(l) *Crew to move craft.* During the entire lockage, the vessel operator shall constantly attend the wheelhouse, be aware of the vessel's position, and monitor radio channel 14 on frequency 156.700 MHz, or otherwise be constantly able to communicate with the Lock Master. At a minimum, vessels shall be as vigilantly manned as if underway.

(m) *Speed.* Vessels shall be adequately powered to maintain a safe speed and be under control at all times. Vessels shall not be raced or crowded alongside another in the approach channels. When entering the lock, speed shall be reduced to a minimum consistent with safe navigation. As a general rule, when a number of vessels are entering the lock, the following vessel shall remain at least 200 feet astern of the vessel ahead.

(n) *Delay in lock.* Vessels shall not unnecessarily delay any operation of the locks.

(o) *Landing of freight.* No freight, baggage, personnel, or passengers shall be landed on or over the walls of the lock, except by permission and direction of the Lock Master.

(p) *Damage to lock or other structures.* The regulations in this section shall not relieve owners and/or operators of vessels from liability for any damage to the lock or other structures or for the immediate removal of any obstruction. No vessel in less than stable floating condition or having unusual sinking potential shall enter the locks or its approaches. Vessels must use great care not to strike any part of the lock, any gate or appurtenance thereto, or machinery for operating the gates, or the walls protecting the banks of the approach channels. All vessels with projecting irons, or rough surfaces which may damage the gates or lock walls, shall not enter the lock unless provided with suitable buffers and fenders. Vessels having chains, lines, or drags either hanging over the sides or ends or dragging on the bottom for steering or other purposes will not be permitted to pass.

(q) *Tows.* Prior to a lockage, the person in charge of a vessel towing a second vessel by lines shall, at a safe distance outside of the incoming approach channel, secure the second vessel to the towing vessel and keep it secured during the entire course of a lockage and until safely clear of the outgoing approach channel.

(r) *Violation of regulations.* Any violation of these regulations may subject the owner or master of any vessel to any or all of the following: (1) Penalties prescribed by law of the United States Government (33 U.S.C. 1); (2) Report of violation to the titled owner of the vessel; (3) Report of violation to the U.S. Coast Guard; (4) Refusal of lockage at the time of violation.

(s) *Refuse in locks.* No material of any kind shall be thrown or discharged into the lock, or be deposited in the lock area. Vessels leaking or spilling cargo will be refused lockage and suitable reports will be made to the U.S. Coast Guard. Deck cargo will be so positioned so as not to be subject to falling overboard.

(t) *Handling valves, gates, bridges, and machinery.* No person, unless authorized by the Lock Master, shall open or close any bridge, gate, valve, or operate any machinery in connection with the lock. However, the Lock Master may call for assistance from the master of any vessel using the lock, should such aid be necessary; and when rendering such assistance, the person so employed shall be directly under the orders of the Lock Master. Masters of vessels refusing to provide such assistance when it is requested of them may be denied the use of the lock by the Lock Master.

(u) *Statistics.* On each passage through the lock, masters or pursers of vessels shall furnish to the Lock Master, a written statement of passengers, freight, and other information as indicated on forms furnished boat operators by the Lock Master.

(v) *Hazardous areas.* At McNary, Ice Harbor, Lower Monumental, Little Goose, and Lower Granite Dams, all water from the downstream face of the dam to a line straight across the river at the downstream end of the downstream lock guide wall is considered hazardous and vessels may enter only at their own risk.

(w) *Restricted areas.* No vessel shall enter or remain in any restricted area at any time without first obtaining permission from the District Engineer, Corps of Engineers, U.S. Army, or his duly authorized representative.

(1) *At Bonneville Dam.* The waters restricted to only Government vessels are described as all waters of the Columbia River and Bradford Slough within 1,000 feet above and 2,000 feet below the powerhouse. The restricted areas will be designated by signs.

(2) *At the Dalles Dam.* The waters restricted to only Government vessels are described as all downstream waters other than those of the navigation lock downstream approach channel which lie between the Wasco County Bridge and the project axis including those waters between the powerhouse and the Oregon shore and all upstream waters other than those of the

navigation lock upstream approach channel which lie between the project axis and a line projected from the upstream end of the navigation lock guide wall to the junction of the concrete structure with the earth fill section of the dam near the upstream end of the powerhouse.

(3) *At the John Day Dam.* The waters restricted to only Government vessels are described as all of the waters within a distance of about 1,000 yards above the dam lying south of the navigation channel leading to the lock and bounded by a line commencing at the upstream end of the guide wall, and running in a direction 54°01'37" true for a distance of 771 yards, thence 144°01'37" true across the river to the south shoreline. The downstream limit is marked by orange and white striped monuments on the north and south shores.

(4) *At McNary Dam.* The waters restricted to only Government vessels are described as all waters within a distance of about 1,000 yards above the dam lying south of the guide wall and bounded by a line commencing at the upstream end of the guide wall and running in a direction 93°30' true for a distance of 495 yards, thence 175°15' true for 707 yards, thence 179°00' true for 441 yards, thence 235°00' true for 585 yards, thence 268°00' true for 146 yards to the head of the fishladder.

(5) *At Ice Harbor Dam.* The waters restricted to only Government vessels are described as the waters within a distance of about 800 yards upstream of the dam lying south of the navigation channel leading to the lock and bounded by a line commencing at the upstream end of the guide wall, and running a direction 83°00' true for a distance of 600 yards, thence 175°00' true for a distance of 250 yards, thence 241°00' true to the upstream face of the dam.

(6) *At Lower Monumental Dam.* The waters restricted to only Government vessels are described as the waters within a distance of about 1,200 yards upstream of the dam lying north of the navigation channel leading to the lock and bounded by a line commencing at the upstream end of the fixed guide wall and running in a direction 48°00' true for a distance of 340 yards, thence 326°00' true for a distance of 366 yards, thence 260°00' true for a distance of 160 yards, thence 270°00' true to the north shore.

(7) *At Little Goose Dam.* The waters restricted to only Government vessels are described as those within a distance of 800 yards above the dam lying north of the guide wall and bounded by a line commencing at the upstream end of the guide wall and running in a direction 64°13' true for a distance of 567 yards, thence 349°03' true for a distance of 610 yards to the north shoreline.



(8) *At Lower Granite Dam.* The waters restricted to only Government vessels are described as those within a distance of 800 yards above the dam lying south of the guide wall and bounded by a line commencing at the upstream end of the guide wall and running in a direction 136° true for a distance of 586 yards±, thence 214° true for a distance of 250 yards to the south shoreline.

Drawings which depict the hazardous and restricted areas in paragraphs (v) and (w) of this section are available from the District Engineers for areas within their respective jurisdictions.

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation under Executive Order 11821 and OMB Circular A-107. (40 Stat. 266; (33 U.S.C. 1).)

[FR Doc. 78-1878 Filed 1-20-78; 8:45 am]

[7710-12]

#### Title 39—Postal Service

#### CHAPTER I—U.S. POSTAL SERVICE

#### PART 111—GENERAL INFORMATION ON POSTAL SERVICE

##### Use of Labels on Second-Class and Third-Class Packages

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Postal regulations are hereby revised to permit mailers the option of using either a Red Label D or no label to show the destination of direct bundles of second-class and third-class mail. In addition, the requirement that facing slips (nonstandard package labels) cover the entire address portion of the top mail piece is deleted. These changes in the regulations are being made to avoid further misinterpretation of the Postal Service's package-labeling requirements and to respond to the difficulty of compliance with existing regulations pointed out by a mailer.

EFFECTIVE DATE: February 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Harvey Altergott, 202-245-4353.

SUPPLEMENTAL INFORMATION: On August 12, 1977, the Postal Service published for comment in the FEDERAL REGISTER a proposal on pressure sensitive package labels (42 FR 40922). Two comments were received, one of which recommended that mailers be required to prepare bundles even when there is only one piece of mail for a state, for a split within a state, or for a foreign country. We believe that it would be excessive to require mailers to make up packages even when there is only

one piece of mail being handled. Accordingly, we are not adopting the suggestion.

The other commenter demonstrated that it would be difficult for a mailer to cover with a facing slip (nonstandard label) the entire address portion of the top mail piece of a bundle when a facing slip is used to indicate the level of presort for pieces that are larger than a business size envelope. He argued that we should delete the requirement. We agree with the commenter and have therefore deleted it.

It may be noted that the phrase "nonstandard package labels" is being dropped in favor of the older and better understood phrase "facing slips". Also, we have revised, for the sake of clarity, subsection b of 125.321 and 134.431 and thereby completely eliminated subparagraphs (1) and (2).

In view of the considerations discussed above, the Postal Service revises its proposal and adopts the following revision of the Postal Service Manual:

#### PART 125—SECOND-CLASS BULK MAILINGS

1. In 125.32 revise .321 and .321a(1) and b to read as follows:

##### 125.32 PREPARATION BY THE MAILER OF COPIES IN PACKAGES AND SACKS

###### .321 PACKAGE LABELS

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the make-up and destination of all packages that require a package label. All pieces in a package must be faced in one way and the top piece must be plainly addressed, including the ZIP Code.

###### a. Use of package labels

(1) Five-Digit Package—Place six or more pieces for the same ZIP Code area in a bundle. Use of a package label is optional. When such packages are labeled, Affix Red Label D.

• • • • •

###### b. Package labels—general

Pressure sensitive package labels shall be applied to the lower left corner of the address side of the top piece on letter size packages and next to the address on larger packages. Facing slips shall be placed on the face of mixed states and foreign packages. While the preparation of split state bundles is optional when such bundles are prepared, they must also be labeled with facing slips. Pressure sensitive labels and facing slips are available at post offices.

#### PART 134—THIRD CLASS

2. In 134.43 revise .431 and .431a(1) and b to read as follows:

#### 134.43 PREPARATION BY THE MAILER OF PIECES IN PACKAGES AND SACKS

##### .431 PACKAGE LABELS

Pressure sensitive labels are made available to mailers through local customer services representatives and postmasters and must be used to indicate the make-up and destination of all packages that require a package label. All pieces in a package must be faced in one way and the top piece must be plainly addressed including the ZIP Code.

###### a. Use of package labels

(1) Five-Digit Package—Place ten or more pieces for the same ZIP Code area in a bundle. Use of a package label is optional. When such packages are labeled, Affix Red Label D.

• • • • •

###### b. Package labels—general

Pressure sensitive package labels shall be applied to the lower left corner of the address side of the top piece on letter size packages and next to the address on larger packages. Facing slips shall be placed on the face of mixed states and foreign packages. While the preparation of split state bundles is optional, when such bundles are prepared, they must also be labeled with facing slips. Pressure sensitive labels and facing slips are available at post offices.

A Post Office Services (Domestic) transmittal letter making these changes in the pages of the Postal Service Manual will be published and will be transmitted to subscribers automatically. These changes will be published in the FEDERAL REGISTER as provided in 39 CFR 111.3.

(39 U.S.C. 401(2).)

ROGER P. CRAIG,  
Deputy General Counsel.

[FR Doc. 78-1885 Filed 1-20-78; 8:45 am]

[4110-35]

#### Title 42—Public Health

#### CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

##### State Medicaid Fraud Control Units

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Rule.

SUMMARY: This regulation sets forth the terms and conditions under which State Medicaid Fraud Control Units can receive 90 percent Federal matching funds for investigations and prosecutions of fraud in State Medicaid programs. Because the Medicare-Medicaid Anti-Fraud and Abuse Amendments, Pub. L. 95-142, requires that a regulation be promulgated within 90 days of the enactment of the statute, it is adopted as a final rule

without notice and opportunity for comment.

The purpose is to implement this statute and thereby to prevent fraud and abuse in the State Medicaid programs funded under title XIX of the Social Security Act.

EFFECTIVE DATE: This regulation is effective on January 23, 1978.

Notice of Proposed Rulemaking has been waived because of the time limits imposed by the statute. Nevertheless, written comments or suggestions received by March 9, 1978, will be considered with a view to revising this regulation, and a response to comments will be published in the FEDERAL REGISTER by June 7, 1978.

In commenting please refer to PCO-183-RC. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection beginning approximately 2 weeks after publication, in room 5225 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m., 202-245-0950.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013.

FOR FURTHER INFORMATION, CONTACT:

Don E. Nicholson, Director, Office of Program Integrity, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 500, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, 301-594-8763.

SUPPLEMENTARY INFORMATION: Pub. L. 95-142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments, contains several measures designed to prevent fraud and abuse in the provision of medical assistance and health services in programs authorized by the Social Security Act. Section 17 of Pub. L. 95-142 authorizes Federal funding for State Medicaid Fraud Control Units, to support the investigation and prosecution of fraud in State Medicaid programs administered under title XIX of the Social Security Act.

The authorizing legislation sets forth the basic organizational requirements, functions, and responsibilities for State Fraud Control Units and, as an incentive to States to create such units, authorizes the Secretary of HEW to reimburse units which qualify under these prerequisites for 90 percent of their costs during Fiscal Years 1978 through 1980. After Fiscal Year 1980, the activities of those units are expected to bring about sufficient savings in the Medicaid program to sustain their continued operation if they receive Federal funding at the normal

rate for the administration of Medicaid programs.

This regulation sets forth the statutory requirements for State Fraud Control Units and establishes policies and procedures for applications, access to medical records, reporting, and cost reimbursement.

#### MAJOR PROVISIONS

##### 1. LOCATION OF THE UNIT

The statute provides for three alternative organizational locations. The Fraud Control Unit can be a part of the State Attorney General's office (or another state agency having statewide prosecuting authority); it can be located outside the Office of the Attorney General (or other statewide prosecuting authority) if it has an effective working relationship with the Attorney General's Office for the referral and prosecution of alleged criminal violations; or, if there is no State agency with statewide authority for criminal fraud prosecution, the Unit may be located outside the Office of the Attorney General, provided it has effective procedures for referring cases of alleged fraud to all appropriate prosecuting authorities.

In promulgating the law, Congress emphasized its conclusion that strong leadership from the Office of the Attorney General greatly enhances the effectiveness of State efforts to detect and prosecute fraud in Medicaid. Congress also indicated that the primary purpose of the third alternative was to provide for those States whose constitutions prohibit prosecution by a statewide authority. (See Senate Report 95-453, page 36, and House Report 95-393, Part II, page 80.) The statute, however, states that this alternative is only available "in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority."

This regulation interprets the statutory language to limit the third alternative to States where there is, in fact, no State agency with the authority and the capability for prosecuting fraud on a statewide basis. Thus, for example, if the State Attorney General exercises statewide prosecuting authority with respect to criminal fraud, even though the State constitution does not expressly provide for him to do so, the Fraud Control Unit would have to be a part of his Office or have an effective working relationship with it. The regulation also interprets the statutory language to consider unexercised common-law authority for statewide prosecution as not being sufficient to preclude a State from establishing a unit under this third alternative.

This regulation requires that when some prosecuting authority other than the Attorney General is to prosecute a

case, the Unit will insure that those responsible for the prosecutive decision and the preparation of the case for trial have the fullest possible opportunity to participate in the investigation from its inception and will provide all necessary assistance to the prosecuting authority throughout all resulting prosecutions.

##### 2. SEPARATION FROM THE MEDICAID AGENCY

The statute also requires that the Fraud Control Unit be "separate and distinct" from the State Medicaid agency. Consequently, these regulations, in paragraph (e), preclude the State Medicaid agency from monitoring the Fraud Control Unit or interfering with its referral of cases to the prosecuting authority. The regulations also prohibit HEW payments to the Fraud Control Unit from being channeled through the State Medicaid agency. They do not preclude HEW's approving a Fraud Control Unit located in a larger State agency, of which the redesignated State Medicaid agency is also a part, so long as the Fraud Control Unit and the Medicaid agency operate independently of each other. If the larger agency is designated as the Medicaid agency, it would not be an acceptable location for the Unit unless the designation is changed.

##### 3. COOPERATION BETWEEN THE UNIT AND THE MEDICAID AGENCY

It is evident that a comprehensive, effective fraud-control program can be achieved only through close cooperation between the Fraud Control Unit and the Medicaid agency. The Unit must have access to information in the possession of, or available to, the Medicaid agency. A Unit may not qualify unless the State permits access by the Unit to medical records of Medicaid patients, in order to determine the extent of the care provided. These records must be made available regardless of whether the patient or any other person consents. In amendments to existing regulations (42 CFR 450.21) made necessary by sec. 9 of Pub. L. 95-142, the Secretary will consider making direct access by a Unit to patient records a condition of participation by providers.

It is necessary that the Medicaid agency use its administrative authority or available judicial remedies to follow up on improprieties discovered by the Unit. In order to assure cooperation, a companion regulation at § 450.80(a)(8) imposes State plan requirements on the State Medicaid agency to cover these points. The statute envisions that the Unit will have full responsibility for all Medicaid fraud investigations and must have the capability to perform adequately this responsibility. Therefore, the



companion regulation requires the Medicaid agency to agree to refer all suspected cases of Medicaid fraud to the Unit which will then have full responsibility for each case.

Medicaid regulations in 42 CFR 450.80 impose certain fraud control requirements on State Medicaid agencies. Another companion regulation at § 450.80(d) makes conforming amendments to the existing regulations so that the Medicaid agency's responsibility under them will be met by the Fraud Control Unit to the extent of the Unit's responsibilities under this regulation.

#### 4. STAFFING REQUIREMENTS

The statute requires that the Unit employ the staff necessary for effective and efficient performance of its responsibilities. The regulation sets forth some minimum staffing requirements, with respect to attorneys, auditors, and investigators. Although the regulation uses the term "employ", if the Fraud Control Unit is not part of the Attorney General's Office, it may receive Federal reimbursement for attorneys who are not directly employed by the Unit, but are assigned to it by the Attorney General or other appropriate State agency, to provide legal service on a full-time basis.

#### 5. FEDERAL PAYMENTS

HEW will reimburse the Fraud Control Unit for 90 percent of the costs of getting established and for training necessary personnel, as well as for its ongoing operations. However, because of statutory limitations, HEW will reimburse only for activities which pertain directly to the investigation, prosecution, and recovery efforts directed to health care providers for Medicaid fraud and the review of complaints alleging abuse or neglect of patients in health care facilities. If, in the course of its activities, the Fraud Control Unit comes upon instances or allegations of non-fraudulent program abuse or non-fraudulent violations of programmatic requirements, it must refer such matters to another appropriate agency or unit for proper follow-through. Moreover, payments from HEW under this section shall not be used to reimburse the State Medicaid agency for the management functions and initial screening responsibilities currently required of that agency under 42 CFR 450.80.

If the Unit finds instances of possible conspiracy among providers and recipients to defraud Medicaid, an investigation and possible prosecution of the conspiracy, including the recipient's part, would be reimbursable since this is a case of possible fraud in "the provision of medical assistance . . ." (Section 1903(q)(3) of the Act). We do not believe that fraud in a recipient's application for AFDC or SSI, which

then entitled the person to free medical care, can properly be construed as fraud in "the provision of medical assistance", since only providers may thus defraud the Medicaid program.

The Unit may be reimbursed for all approved expenditures during the quarter in which the Unit is certified and, upon a finding that the Unit met all requirements as of a given date, the Secretary may retroactively certify the Unit effective on that date. Establishment costs are limited to clearly identifiable costs of personnel devoted full-time to the establishment of a Unit which does achieve certification if such personnel are intended to, and in fact do, continue as full-time employees after the Unit is certified. All establishment costs are to be deemed made in the first quarter of certification.

#### WAIVER OF PROPOSED RULEMAKING

Section 17 of Pub. L. 95-142 requires that HEW promulgate regulations necessary to implement that section within 90 days of enactment. The statute was enacted on October 25, 1977, so the 90 days expire on January 23, 1978. Moreover, it is important and desirable that these State Fraud Control Units be established and begin operating as soon as possible. For these reasons, the Secretary has determined that there is good cause to waive Notice of Proposed Rulemaking and opportunity for public comment prior to implementing Section 17.

#### DEMONSTRATION PROJECTS

Section 17 also authorizes funding for projects "to develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act". This provision is not covered in these regulations, but information about such projects may be obtained from:

James M. Kaple, Acting Assistant Administrator for Demonstrations and Evaluations, Health Care Financing Administration, Department of Health, Education, and Welfare, Room 5074, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-245-0697.

42 CFR Part 450 is amended as set forth below:

1. Section 450.80 is amended by adding new paragraphs (a)(8) and (d) to read as follows:

§ 450.80 Fraud in the medical assistance programs.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(8) In a State with a State Medicaid Fraud Control Unit established and

certified under § 450.310, provide that the State agency will:

(i) Refer all cases of suspected fraud to the Unit;

(ii) Comply promptly with a request from the Unit for access to, and free copies of, any records or information in the possession of the Medicaid agency or its contractors, if the Unit determines that it may be useful in carrying out its responsibilities under this section;

(iii) Comply promptly, and without charge, with a request from the unit for computerized data stored by the Medicaid agency or its contractors in such form as the Unit may request, if the Unit determines that this data may be useful in carrying out its responsibilities;

(iv) On appropriate referral, initiate any appropriate administrative or judicial actions available to recover sums identified by the Unit as improperly paid to a provider under the State Medicaid plan; and

(v) Arrange for the Unit to have access to any records or information kept by a provider of services under the State Medicaid plan which the Medicaid agency is authorized access by sec. 1902(a)(27) of the Act, if the Unit determines that this access may be necessary in carrying out its responsibilities under this section. In using such records and information, the Unit must protect the privacy rights of individual patients.

(Sec. 1902(a)(7) of the Act.)

(d) *Coordination of responsibility.* In a State with a State Medicaid Fraud Control Unit established and certified under § 450.310, the State plan requirements on the Medicaid agency under this section shall be considered satisfied to the extent that they are the same as the responsibilities placed on the Unit under § 450.310.

2. A new Subpart D, Program Integrity is added as follows:

#### Subpart D—Program Integrity

§ 450.310 State Medicaid fraud control units.

(a) *Definitions.* As used in this section, unless otherwise indicated by the context:

(1) "Act" means the Social Security Act and references to titles are to titles of that Act.

(2) "FFP" stands for Federal financial participation.

(3) "Medicaid agency" means the single State agency designated to administer or supervise the administration of the State plan under title XIX of the Act. (Section 1902(a)(5).)

(4) "Unit" means the State Medicaid Fraud Control Unit.

(b) *Scope and Purpose.* This section implements section 1903(a)(6), 1903(b)(3) and 1903(q) of the Social Security Act, as amended by the Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95-142 of October 25, 1977). The statute authorizes the Secretary to pay a State 90 percent of the costs of establishing and operating a State Medicaid Fraud Control Unit, as defined by the statute, for the purpose of eliminating fraud in the State Medicaid program.

(c) *Basic requirement.* A State Medicaid Fraud Control Unit must be certified by the Secretary as meeting the requirements of paragraphs (d) through (g) of this section.

(d) *Organization and location requirements.* Any of the following three alternatives is acceptable:

(1) The Unit is located in the Office of the State Attorney General or another Department of State Government which has statewide authority to prosecute individuals for violations of criminal laws with respect to fraud in the provision or administration of medical assistance under a State plan implementing title XIX of the Act; or

(2) If there is no State agency with statewide authority and capability for criminal fraud prosecutions, the Unit has established formal procedures which assure that the Unit refers suspected cases of criminal fraud in the State Medicaid program to the appropriate State prosecuting authority or authorities, and provides assistance and coordination to such authority or authorities in the prosecution of such cases; or

(3) The Unit has a formal working relationship with the Office of the State Attorney General and has formal procedures for referring to the Attorney General suspected criminal violations occurring in the State Medicaid program and for effective coordination of the activities of both entities relating to the detection, investigation and prosecution of those violations. Under this requirement, the Office of the State Attorney General must agree to assume responsibility for prosecuting alleged criminal violations referred to it by the Unit: *Provided, however,* That if the Attorney General finds that another prosecuting authority has the demonstrated capacity, experience and willingness to prosecute an alleged violation, he may refer a case to that prosecuting authority, as long as his office maintains oversight responsibility for the prosecution and for coordination between the Unit and the prosecuting authority.

(e) *Relationship to, and agreement with, the Medicaid agency.* (1) The Unit must be separate and distinct from the Medicaid agency.

(2) No official of the Medicaid agency shall have authority to review the activities of the Unit or to review or overrule the referral of a suspected criminal violation to an appropriate prosecuting authority.

(3) The Unit shall not receive funds paid under this section either from or through the Medicaid agency.

(4) The Unit shall enter into an agreement with the Medicaid agency under which the Medicaid agency will agree to comply with all requirements of § 450.80(a)(8) (ii), (iii), and (v).

or overrule the referral of a suspected criminal violation to an appropriate prosecuting authority.

(3) The Unit shall not receive funds paid under this section either from or through the Medicaid agency.

(4) The Unit shall enter into an agreement with the Medicaid agency under which the Medicaid agency will agree to comply with all requirements of § 450.80(a)(8) (ii), (iii), and (v).

(f) *Duties and responsibilities of the Unit.* (1) The Unit shall conduct a statewide program for investigating and prosecuting (or referring for prosecution) violations of all applicable State laws pertaining to fraud in the administration of the Medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State Medicaid plan.

(2) The Unit shall also review complaints alleging abuse or neglect of patients in health care facilities receiving payments under the State Medicaid plan.

(i) If the initial review indicates substantial potential for criminal prosecution, the Unit shall investigate the complaint.

(ii) If the initial review does not indicate a substantial potential for criminal prosecution, the Unit shall refer the complaint to an appropriate State agency.

(3) If the Unit, in carrying out its duties and responsibilities under paragraphs (f)(1) and (2) of this section, discovers that overpayments have been made to a health care facility or other provider of medical assistance under the State Medicaid plan, the Unit shall either attempt to collect such overpayment or refer the matter to an appropriate State agency for collection.

(4) Where a prosecuting authority other than the Unit is to assume responsibility for the prosecution of a case investigated by the Unit, the Unit shall ensure that those responsible for the prosecutive decision and the preparation of the case for trial have the fullest possible opportunity to participate in the investigation from its inception and will provide all necessary assistance to the prosecuting authority throughout all resulting prosecutions.

(g) *Staffing requirements.* (1) The unit shall employ sufficient professional, administrative and support staff to carry out its duties and responsibilities in an effective and efficient manner. The staff must include:

(i) One or more attorneys experienced in the investigation or prosecution of civil fraud or criminal cases, who are capable of giving informed advice on applicable law and procedures and providing effective prosecution or liaison with other prosecutors;

(ii) One or more experienced auditors capable of supervising the review

of financial records and advising or assisting in the investigation of alleged fraud;

(iii) A senior investigator with substantial experience in commercial or financial investigations who is capable of supervising and directing the investigative activities of the unit.

(2) The unit shall employ, or have available to it, professional staff who are knowledgeable about the provision of medical assistance under title XIX and about the operation of health care providers.

(h) *Application, certification, and recertification.*—(1) *Initial application.* In order to receive FFP under this section, the Unit must submit to the Secretary, an application approved by the Governor, containing the following information and documentation:

(i) A description of the applicant's organization, structure, and location within State government, and an indication of whether it seeks certification under paragraph (d)(1), (d)(2), or (d)(3) of this section;

(ii) A statement from the State attorney general that the applicant has authority to carry out the functions and responsibilities set forth in this section. If the applicant seeks certification under paragraph (d)(2) of this section, the statement must also specify either that there is no State agency with the authority to exercise statewide prosecuting authority for the violations with which the Unit is concerned, or that, although the State Attorney General may have common law authority for statewide criminal prosecutions, he has not exercised that authority.

(iii) A copy of whatever memorandum of agreement, regulation, or other document sets forth the formal procedures required under paragraph (d)(2) of this section or the formal working relationship and procedures required under paragraph (d)(3) of this section;

(iv) A copy of the agreement with the Medicaid agency required under paragraph (e) of this section;

(v) A statement of the procedures to be followed in carrying out the functions and responsibilities of this section;

(vi) A projection of the caseload and a proposed budget for the 12-month period for which certification is sought; and

(vii) Current and projected staffing, including the names, education, and experience of all senior professional staff already employed.

(2) *Conditions for, and notification of, certification.* (i) The Secretary will approve an application only if he has specifically approved the applicant's formal procedures under paragraph (d)(2) or (d)(3) of this section, if either of those provisions is applicable, and



has specifically certified that the applicant meets the requirements of paragraph (d) of this section.

(ii) The Secretary will promptly notify the applicant whether the application meets the requirements of this section and is approved. If the application is not approved, the applicant may submit an amended application at any time. Approval and certification will be for a period of one year.

(3) *Conditions for recertification.* In order to continue receiving payments under this section, a unit must submit a reapplication to the Secretary at least 60 days prior to the expiration of the 12-month certification period. A reapplication must:

(i) Advise the Secretary of any changes in the information or documentation required under paragraph (h)(1)(i) through (v) of this section.

(ii) Provide projected caseload and proposed budget for the recertification period; and

(iii) Include or incorporate by reference the annual report required under paragraph (i) of this section.

(4) *Basis for recertification.* (i) The Secretary will consider the unit's reapplication, the reports required under paragraph (i) of this section, and any other reviews or information he deems necessary or warranted, and will promptly notify the unit whether he has approved the reapplication and recertified the unit.

(ii) In reviewing the reapplication, the Secretary will give special attention to whether the unit has used its resources effectively in investigating cases of possible fraud, in preparing cases for prosecution, and in prosecuting cases or cooperating with the prosecuting authorities.

(i) *Reporting requirements.*—(1) *Annual report.* At least 60 days prior to the expiration of the certification period, the unit shall submit to the Secretary a report covering the last 12 months (the first 9 months of the certification period for the first annual report), and containing the following information:

(i) The number of investigations initiated and the number completed or closed, categorized by type of provider;

(ii) The number of cases prosecuted or referred for prosecution; the number of cases finally resolved and their outcomes; and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence;

(iii) The number of complaints received regarding abuse and neglect of patients in health care facilities; the number of such complaints investigated by the unit; and the number referred to other identified State agencies;

(iv) The number of overpayments to providers of medical assistance for which collection was initiated; the

number of overpayments referred to another agency for collection; and the total amount collected;

(v) The number of recovery actions initiated by the medicare agency under its agreement with the unit, the number of successful recovery actions, and the total amount recovered;

(vi) Projections for the succeeding 12 months for items listed in paragraphs (i)(1) (i) through (v) of this section;

(vii) The costs incurred by the unit, by major budget category; and

(viii) A narrative that evaluates the unit's performance; describes any specific problems it has had in connection with the procedures and agreements required under this section; and discusses any other matters that have impaired its effectiveness.

(2) The unit shall also provide any additional reports that the Secretary requests, and shall comply with any measures the Secretary deems necessary to assure the accuracy and completeness of all reports required under this paragraph (i).

(j) *Federal financial participation (FFP).*—(1) *Rate of FFP.* Subject to the limitations specified in this paragraph, the Secretary will reimburse each certified State medicare fraud control unit, by an amount equal to 90 percent of the costs incurred by that unit which are attributable to carrying out its functions and responsibilities under this section.

(2) *Basis and period of payment.* (i) Payment will be made for each quarter, based on quarterly reports submitted by the unit in the format and containing the information requested by the Secretary.

(ii) Payments are available for each quarter during fiscal years 1978, 1979, and 1980.

(iii) For any quarter during which the unit is certified, the Secretary will provide reimbursement for the entire quarter.

(3) *Amount of FFP.* The amount paid during any quarter shall not exceed the higher of \$125,000 or one-quarter of one percent of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State medicare program.

(4) *Costs subject to FFP.* FFP is available under this section for the expenditures attributable to the establishment and operation of the unit, including the cost of training personnel employed by the unit. Reimbursement shall be limited to costs attributable to the specific responsibilities and functions set forth in this section in connection with the investigation and prosecution of suspected fraudulent activities and the review of complaints of alleged abuse or neglect of patients in health care facilities. Establishment costs are limited to clearly identifiable costs of personnel that:

(i) Devote full-time to the establishment of the unit which does achieve certification; and

(ii) Continue as full-time employees after the unit is certified.

All establishment costs will be deemed made in the first quarter of certification.

(5) *Costs not subject to FFP.* FFP is not available under this section for expenditures attributable to:

(i) Investigation of nonfraudulent abuse or of failure to comply with applicable laws and regulations; or

(ii) Programmatic screening and early detection activities required of the Medicare agency under § 450.80 (a)(1)(i), (a)(5), (a)(6), and (a)(7).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Programs No. 13.775, State Medicare Fraud Control Units.)

Dated: January 6, 1978.

ROBERT A. DERZON,  
Administrator, Health Care  
Financing Administration.

Approved: January 17, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.  
(FR Doc. 78-1914 Filed 1-20-78; 8:45 am)

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HS-3, Notice No. 11]

PART 228—HOURS OF SERVICE OF RAILROAD EMPLOYEES

Amendments to Implementing Regulations

AGENCY: Federal Railroad Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal Railroad Administration (FRA) Hours of Service Act record keeping and reporting regulations, which are designed to facilitate the administration and enforcement of the Act. In 1976, the Act was amended to cover new groups of railroad employees. These changes to the regulations address the new types of covered service in response to the statutory amendments and make several other technical adjustments.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONCERNING THIS RULEMAKING CONTACT:

John A. McNally, Office of Safety, Federal Railroad Administration, Washington, D.C. 20590, 202-426-9178.

FOR FURTHER INFORMATION CONCERNING APPLICATION OF THE REGULATIONS AMENDED HEREIN CONTACT:

G. R. Eberz, Federal Railroad Administration, Room 1020, Independence Building, 434 Walnut Street, Philadelphia, Pa. 19106, 215-597-0750.

J. J. Egan, Federal Railroad Administration, 1307 Analox Building, 150 Causeway Street, Boston, Mass. 02114, 617-223-2775.

W. A. Rogers, Federal Railroad Administration, Suite 216-B, 1568 Willingham Drive, College Park, Ga. 30337, 404-763-7801.

R. J. Galvin, Federal Railroad Administration, Room 210, 536 South Clark Street, Chicago, Ill. 60605, 312-353-6203.

L. A. Straight, Federal Railroad Administration, Room 1807, 911 Walnut Street, Kansas City, Mo. 64106, 816-374-2497.

C. N. Johnston, Federal Railroad Administration, Room 11A23, 819 Taylor Street, Fort Worth, Tex. 76102, 817-334-3601.

J. D. Commons, Federal Railroad Administration, Suite 630, Two Embarcadero Center, San Francisco, Calif. 94111, 415-556-6411.

W. B. Ingham, Federal Railroad Administration, Georgia Pacific Building, Suite 450, 900 S.W. Fifth Avenue, Portland, Ore. 97204, 503-221-3011.

SUPPLEMENTARY INFORMATION: The Federal Railroad Administration (FRA) has determined that it is necessary to issue amendments to its regulations implementing the Hours of Service Act (45 U.S.C. 61-64b) (hereafter "Act"). The amendments are responsive to section 4 of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 818, which made several important additions to the requirements of the Hours of Service Act.

The new amendments to the Act, which were signed into law on July 8, 1976, added to the categories of employees covered by the Act "hostlers" and individuals "engaged in installing, repairing or maintaining signal systems". These particular provisions are the focus of this rulemaking.

In addition, the amendments repealed the blanket exemption for crews of wreck and relief trains, and substituted a provision permitting those crews to work a maximum of 4 additional hours beyond the 12 hours normally allowed when "an actual emergency exists". For the first time, carriers were prohibited from providing "sleeping quarters for employees (including crew quarters, camp or bunk cars, and trailers) which do not afford such employees an opportunity

for rest, free from interruptions caused by noise under the control of the railroad, in clean, safe, and sanitary quarters. . . . Finally, carriers were prohibited from beginning to construct or reconstruct any employee sleeping quarters in the immediate vicinity of any area where railroad switching or humping operations are performed. (See 41 FR 53028; December 3, 1976.)

The amendments to Part 228 set forth below are primarily technical in nature, reflecting the addition of hostlers and individuals engaged in signal work to those covered by the Act. The revisions impose the additional responsibility of keeping hours of duty records with respect to the new categories of employees (individuals who work on signal systems and so-called "inside" hostlers; the duties of "outside" hostlers had been covered previously). That action is directly necessitated by Congressional action in expanding the scope of the Act, since, without adequate records, enforcement of the Act would be impossible. Similarly, carriers will be required to report instances of excess service involving the new groups of employees, as they had with respect to train crews, operators, and others in the past. Finally, carriers will be required to record (1) the time spent by a train or engine service employee or a signal employee in transportation to or from a work location, other than personal commuting, and (2) the mode of such transportation. This information should normally be recorded by the carrier in any event, either for purposes of compensation or to assure compliance with the Act. (See FRA Interim Interpretations on signal service at 42 FR 4464; January 25, 1977.)

Specifically, Section 228.5 is amended to include any "hostler" or any "individual engaged in installing, repairing or maintaining signal systems" within the term "employee".

Section 228.7 is amended to emphasize that (1) all hostlers are now covered by the Act and (2) signal employees, like other covered employees, are subject to the principle of commingled service. A "hostler" within the Act and these regulations is one who performs the duties of "hostling" locomotives.

Section 228.11 is amended by adding to the information required to be kept concerning the service of covered employees (1) beginning and ending time of periods spent in transportation, other than personal commuting, to or from a duty assignment and (2) the mode of transportation (train, carrier motor vehicle, personal automobile, etc.). This information is necessary to compute the service and off-duty periods of train and engine service employees subject to the provisions of the Act on deadheading and to compute the service and off-duty time of persons

engaged in signal service. The computation of transportation time for signal service is made more critical to the administration of the Act by the FRA interpretations of section 3A which seek, at the instance of the carriers and covered employees, to achieve a balanced application of the statutory language (42 FR 4464; January 25, 1977).

Section 228.19 is revised to make clear that reports of excess service should be directed to the Associate Administrator for Safety. The reporting requirements for train or engine service ((a)(1)-(4)) are amended to note that those provisions apply to the excess service of all hostlers. New provisions ((a) (7)-(10)) require the reporting of excess service on the part of signal employees paralleling the existing requirements related to train or engine service.

Section 228.21 is corrected to reflect the two-tier penalty provision of section 20 of the Interstate Commerce Act. That is, the penalty for failing to file required reports is \$100 for each day the failure or refusal continues, rather than \$500.

It should be noted that every instance of service in excess of the statutory limit (or in contravention of the requirements for release) must be reported, even though the service may be justified by an emergency or act of God, etc. In other words, the carrier is responsible for reporting all instances of excess service, not merely all violations or conceded violations. Each instance of excess service reported to FRA must be accompanied by an explanation on the prescribed form.

It should also be noted that section 228.11, discussed above, is broadened in its coverage by the expanded definition of "employee" in section 228.5. Therefore, time records will now be required for inside hostlers and individuals engaged in installing, repairing or maintaining signal systems, in addition to employees for whom records are already kept.

The regulations do not prescribe an approved form for keeping time records. Presumably many carriers will elect to maintain daily time returns for inside hostlers similar to those utilized for train crews.

With respect to signal service, FRA recognizes that the record-keeping task will be more difficult. It may be useful to note that some carriers utilize single-employee, bi-weekly sheets for operators which provide a simple display of time on duty, time off duty, meal periods, length of time on duty, assigned hours, name of place, and columns for calls outside assigned hours. This kind of format may be helpful in keeping the hours of employees in signal service. However, some modifications will be necessary to record the information required by section 228.11



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on transportation. FRA Operating Practices Specialists in each of the eight FRA safety regions can provide a suggested format for time records of persons in signal service and provide helpful comments on formats developed by individual carriers. (See listing above.) Under the Department of Transportation statement of regulatory reform published April 15, 1976 (41 FR 16200), no regulatory evaluation is required to be made in connection with these rules since they merely implement requirements expressly mandated by statute.

Since the revisions to Part 228 flow directly from the recent statute and constitute an adaptation of previously existing regulations to meet the requirements of a broadened statutory purview, FRA finds, pursuant to section 4 of the Administrative Procedure Act (4 U.S.C. 553), that public procedure on these revisions is unnecessary. Moreover, since the delay incident to public procedure would inhibit effective enforcement of provisions of law which became effective on July 8, 1976, FRA finds that public procedure on these revisions would be contrary to the public interest. However, the agency will consider any petition for reconsideration submitted under the FRA Rules of Practice (49 CFR Part 211).

The principal program draftsman of this document was Wallace F. Holl, Director of Railroad Safety, Region I. The principal legal draftsman was Grady Cothen, Jr., Office of Chief Counsel.

In consideration of the foregoing, Part 228 of Chapter II, Title 49, Code of Federal Regulations, is amended as follows:

1. By revising the authority citation following the table of contents to read as follows:

AUTHORITY: Sec. 12, 24 Stat. 383, as amended, sec. 20, 24 Stat. 386, as amended, 49 U.S.C. 12, 20; sec. 8, 80 Stat. 937, 49 U.S.C. 1655; sec. 1-4, 34 Stat. 1415, as amended, 45 U.S.C. 61-64b; and sec. 1.49(d) of the regulations of the Office of the Secretary of Transportation, 49 CFR 149(d).

2. By revising the definition of "employee" in § 228.5 to read as follows:

§ 228.5 Definitions.

In this part—

"Employee" means an individual employed by the common carrier who (1) is actually engaged in or connected with the movement of any train, including a person who performs the duties of a hostler, (2) dispatches, reports, transmits, receives, or delivers orders pertaining to train movements by the use of telegraph, telephone, radio, or any other electrical or mechanical device, or (3) is engaged in in-

stalling, repairing or maintaining signal systems.

3. By revising the introductory portion of § 228.7(a) and adding a new paragraph (c) to § 228.7 to read as follows:

§ 228.7 Hours of Service.

(a) For purposes of this part, time on duty of an employee actually engaged in or connected with the movement of any train, including a hostler, begins when he reports for duty and ends when he is finally released from duty, and includes—

(c) For purposes of this part, time on duty of an employee who is engaged in installing, repairing or maintaining signal systems includes all time on duty in other service performed for a common carrier during the 24-hour period involved.

4. By adding a new § 228.11(a)(5) to read as follows:

§ 228.11 Hours of duty records.

(a) . . .

(5) Beginning and ending times of periods spent in transportation, other than personal commuting, to or from a duty assignment and mode of transportation (train, track car, carrier motor vehicle, personal automobile, etc.).

5. By revising § 228.19(a) to read as follows:

§ 228.19 Monthly reports of excess service.

(a) Each carrier shall report to the Associate Administrator for Safety, (RRS-1), Federal Railroad Administration, Washington, D.C. 20590, each of the following instances within 30 days after the calendar month in which the instance occurs:

(1) A member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, is on duty for more than 12 consecutive hours.

(2) A member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, returns to duty after 12 hours of continuous service without at least 10 consecutive hours off duty.

(3) A member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, continues on duty without at least 8 consecutive hours off duty during the preceding 24 hours.

(4) A member of a train or engine crew or other employee engaged in or connected with the movement of any train, including a hostler, returns to duty without at least 8 consecutive

hours off duty during the preceding 24 hours.

(5) An employee who transmits, receives, or delivers orders affecting train movements is on duty for more than 9 hours in any 24-hour period at an office where two or more shifts are employed.

(6) An employee who transmits, receives, or delivers orders affecting train movements is on duty for more than 12 hours in any 24-hour period at any office where one shift is employed.

(7) An employee engaged in installing, repairing or maintaining signal systems is on duty for more than 12 hours in a twenty-four hour period.

(8) An employee engaged in installing, repairing or maintaining signal systems returns to duty after 12 hours of continuous service without at least 10 consecutive hours off duty.

(9) An employee engaged in installing, repairing or maintaining signal systems continues on duty without at least 8 consecutive hours off duty during the preceding 24 hours.

(10) An employee engaged in installing, repairing or maintaining signal systems returns to duty without at least 8 consecutive hours off duty during the preceding 24 hours.

6. By revising § 228.21 to read as follows:

§ 228.21 Civil penalty.

(a) A carrier which fails or refuses to keep a record as required by this part or refuses to make such a record available to the Administrator or any authorized agent of the Administrator for inspection or copying is liable for a civil penalty of \$500 for each such offense and for each day during which such failure or refusal continues, as prescribed by section 20, par. (7)(a) of the Interstate Commerce Act (49 U.S.C. § 20, par. (7)(a)).

(b) A carrier which fails or refuses to report an instance of excess service as required by this part is liable for a civil penalty of \$100 for each such offense and for every day such failure or refusal continues, as prescribed by section 20, par. (7)(d) of the Interstate Commerce Act (49 U.S.C. § 20, par. (7)(d)).

Instances involving tours of duty that are broken by four or more consecutive hours off duty time at a designated terminal which do not constitute more than a total of 12 hours time on duty are not required to be reported, provided such tours of duty are immediately preceded by 8 or more consecutive hours off-duty time. Instances involving tours of duty that are broken by less than 8 consecutive hours off duty which constitute more than a total of 12 hours time on duty must be reported.

Issued in Washington, D.C. on January 17, 1978.

JOHN M. SULLIVAN,  
Administrator.

(IFR Doc. 70-1894 Filed 1-20-78; 8:45 am)

CHAPTER X—INTERSTATE COMMERCE  
COMMISSIONSUBCHAPTER A—GENERAL RULES AND  
REGULATIONS  
(S.O. No. 1296)

## PART 1033—CAR SERVICE

## Substitution of Refrigerator Cars for Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (S.O. No. 1296).

SUMMARY: There is a substantial shortage of boxcars on the Atchison, Topeka & Santa Fe Railway for shipments of cotton. The ATSF has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar. Service Order No. 1296 authorizes ATSF, with consent of the shipper, to substitute two refrigerator cars for each boxcar ordered for shipments of cotton from any station on ATSF in Texas or New Mexico and destined to any other station on ATSF.

DATES: Effective 12:01 a.m., January 18, 1978. Expires 11:59 p.m., April 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 16th day of January 1978.

An acute shortage of boxcars for transporting shipments of cotton exists on the Atchison, Topeka & Santa Fe Railway Co. (ATSF) at stations on its lines in Texas and New Mexico. The ATSF has an available supply of certain refrigerator cars that may be substituted for this traffic at the ratio of two refrigerator cars for each boxcar, and use of these refrigerator cars for the transportation of cotton is precluded by certain tariff provisions, thus curtailing shipments of cotton. There is a need for the use of these refrigerator cars to supplement the supplies of plain boxcars for

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transporting shipments of cotton. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1296 Service Order No. 1296.

(a) Substitution of refrigerator cars for boxcars. Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Substitution of cars. The Atchison, Topeka & Santa Fe Railway Co. (ATSF) may substitute two refrigerator cars as described in subparagraph (2) of this paragraph for each boxcar ordered for shipments of cotton from any station on the ATSF in Texas or New Mexico and destined to any other station on the ATSF, subject to the conditions provided in subparagraphs (2) through (6) of this paragraph.

(2) List of refrigerator cars to be applied:

SFRC 1000-1899  
SFRC 2300-2799  
SFRC 50000-50199  
SFRP 1972-2287

(3) Concurrence of shipper required. The concurrence of the shipper must be obtained before two refrigerator cars are substituted for each boxcar ordered.

(4) Exclusive ATSF movement required. Shipments of cotton for which two refrigerator cars are substituted for one boxcar must originate and terminate at stations on the ATSF and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(5) Minimum weights. The minimum weight per shipment of cotton for which two refrigerator cars have been substituted for one boxcar shall be that specified in the applicable tariff for the car ordered.

(6) Endorsement of billing. Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1296.

(b) Rules and regulations suspended. The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) Application. The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) Effective date. This order shall become effective at 12:01 a.m., January 18, 1978.

(e) Expiration date. The provisions of this order shall expire at 11:59 p.m., April 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,  
Acting Secretary.

(IFR Doc. 78-1903 Filed 1-20-78; 8:45 am)

[7035-01]

[Ex Parte No. MC-19 (Sub-No. 32)]

## PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods (Modification of Performance Report Requirements)

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has modified its household goods transportation regulations by deleting the requirement that household goods carriers file copies of their annual performance reports with the Commission's regional offices. Since this information is accessible to the regional offices through computers, this report requirement is unnecessary and the expense incurred by the carriers in filing and the Commission in processing the reports will be eliminated.

EFFECTIVE DATE: February 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy



## RULES AND REGULATIONS

Director, Office of Proceedings, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, 202-275-7292.

**SUPPLEMENTAL INFORMATION:** As a result of the installation of computer terminals in the Commission's regional offices, the information placed in the computer relating to each carrier's performance report by the staff in the headquarters' office is available to each regional office. No further purpose would be served by continuing to require carriers to file copies of their performance reports with both the regional offices and the Commission's headquarters in Washington, D.C. Elimination of the requirement that these reports be filed with the regional offices will eliminate the expense incurred by the carriers to file these reports and by the Commission to process these reports at the regional offices. Section 1056.7(b) will be modified as set forth below.

By making this action effective February 15, 1978, the Commission intends to eliminate the requirement that carriers meet the March 31, 1978, deadline for filing performance reports covering their 1977 operations with its regional offices.

Because this action will eliminate filing requirements which were intended solely to aid the Commission in its attempt to monitor the performance of motor common carriers of household goods, will clearly benefit the household goods transportation industry by eliminating needless paperwork, and will not affect the shipping public in any manner, public input in this matter is not deemed necessary. Accordingly, the Commission finds that notice and public procedure in this matter are unnecessary.

These rules are promulgated under authority of Part II of the Interstate

Commerce Act and section 553 of the Administrative Procedure Act.

Decided: January 10, 1978.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

**NOTE.**—This action modifies the Commission's household goods transportation regulations (49 CFR 1056) by deleting from § 1056.7(b) of those regulations the phrase "and each of the Commission's regional offices."

[FR Doc. 78-1812 Filed 1-20-78; 8:45 am]

[7035-01]

**SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS**

[No. 36730]

**PART 1201—RAILROAD COMPANIES**

**PART 1240—CLASSES OF CARRIERS**

**PART 1241—ANNUAL, SPECIAL, OR PERIODIC REPORTS—CARRIERS SUBJECT TO PART I OF THE INTERSTATE COMMERCE ACT**

**PART 1243—QUARTERLY OPERATING REPORTS—RAILROADS**

**Uniform System of Accounts for Railroads; Stay of Effectiveness; Correction**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Correction (stay of effective date of regulations).

**SUMMARY:** In the above-captioned proceeding published at 43 FR 1799, January 12, 1978, the title inadvertently referred to Class II Railroads. This correction is to correct the title from Class II Railroads to Class III Railroads.

**FOR FURTHER INFORMATION CONTACT:**

**EFFECTIVE DATE:** January 1, 1978.

Mr. James B. Thomas, Jr., Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7565.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1901 Filed 1-20-78; 8:45 am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1001]

[Docket No. AO-14-A57]

## MILK IN THE NEW ENGLAND MARKETING AREA

Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Public hearing on proposed rulemaking.

**SUMMARY:** The hearing is being held to consider changes in the order that have been proposed by milk distributors and dairy farmer cooperatives. The proposals would adjust the prices for milk throughout the production area. Proponents contend that the proposals are needed to more nearly reflect the costs of transporting milk from farms and supply plants to city bottling plants and to provide better alignment of prices among markets.

**DATE:** February 14, 1978.

**ADDRESS:** Sheraton Inn and Conference Center, Junction Routes 495 (Exit 16) and 111, Boxborough, Mass. 01719, 617-263-8701.

**FOR FURTHER INFORMATION CONTACT:**

Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6273.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a public hearing to be held at the Sheraton Inn and Conference Center, Junction Routes 495 (Exit 16) and 111, Boxborough, Mass. 01719, 617-263-8701 beginning at 9:30 a.m. on February 14, 1978, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New England marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

**PROPOSED BY THE CONNECTICUT MILK DEALERS ASSOCIATION**

**PROPOSAL NO. 1**

Revise paragraph (a) § 1001.50 to read as follows:

§ 1001.50 Class prices.

(a) *Class I price.* The class I price shall be the basic formula price for the second preceding month plus \$2.28.

**PROPOSED BY YANKEE MILK, INC.:**

**PROPOSAL NO. 2**

Revise the pricing structure of the New England market in the following manner:

(a) Establish an Eastern City Plant Location Zone within which the class I price would be the basic formula price for the second preceding month plus \$2.90. Class I and blended prices would be 52 cents per hundredweight over Zone 21 prices. The Eastern City Zone would be comprised of the following area:

Massachusetts (counties of) Barnstable, Bristol, Dukes, Essex, Middlesex (except the townships of Ashby, Groton, Pepperell, Shirley and Townsend), Norfolk, Plymouth, Suffolk, Worcester (only the townships of Berlin, Blackstone, Bolton, Harvard, Hopedale, Mencon, Millis, Northboro, Southboro, Upton, and Westboro).

(b) Establish a Western City Plant Location Zone within which the Class I price would be the basic formula price for the second preceding month plus \$2.774. Class I and blended prices would be 39.4 cents per hundredweight over Zone 21 prices. The Western City Zone would be comprised of the following area:

Connecticut (counties of) Fairfield, Hartford, Litchfield, New Haven, Tolland (only the townships of Ellington and Somers).

Massachusetts (counties of) Hamden (except the townships of Brimfield, Holland, Monson, Palmer, and Wales) Hampshire (except the township of Ware).

(c) Reduce the class I price at Zone 21 (currently between 201 and 210 miles from Boston) from \$2.58 to \$2.38 over the basic formula price for the second preceding month.

(d) Adjust class I and blended prices at all plants (other than those in the Eastern and Western Zones) on the basis of highway mileage from the nearer of Boston or Providence. Prices at plants would be increased by 1.8 cents for each zone (10-mile increments) closer to a basing point than the 21st zone. Prices at plants would be decreased by 1.5 cents per zone beyond the 21st zone. Currently prices are increased by 1.2 cents per zone nearer to Boston than the 21st zone and decreased by 1.0 cent per zone beyond the 21st zone.

(e) In addition to increasing class I and blended prices by 1.8 cents per zone nearer than the 21st zone, such prices would be increased by an additional 16 cents per hundredweight between the 15th and 14th zones as is currently provided in the order.

**PROPOSAL NO. 3**

Revise the class I price differential and location adjustments to the class I and blended prices as follows:

(a) In § 1001.50 change the Zone 21 (201-210 miles from Boston) class I price differential from \$2.58 to \$2.38 above the basic formula price for the second preceding month.

(b) In § 1001.52 increase the class I and blended price location adjustments from 1.2 cents to 1.8 cents per 10-mile zone within 200 miles of Boston and from 1 cent to 1.5 cents per 10-mile zone beyond 210 miles from Boston. Also reduce the additional location adjustment of 16 cents between zones 15 and 14 to 8 cents.

(c) In § 1001.52 divide the "nearby plant" zone into an Eastern Market Zone (class I differential—\$2.82), a Western Market Zone (class I differential—\$2.694) and an area of buffer zones. At plants located in the buffer zones provide location adjustments to



reduce the class I and blended prices below the Eastern Market Zone prices at the rate of 1.8 cents per 10 miles from the closer of Boston, Mass., or Providence, R.I., using the Household Goods Carrier Guide No. 10 to establish mileage. The territory included in the Eastern and Western Market Zones are the same as in Proposal No. 2.

PROPOSED BY THE DAIRY DIVISION,  
AGRICULTURAL MARKETING SERVICE

#### PROPOSAL NO. 4

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 230 Congress Street, Room 403, Boston, Mass. 02110 or from the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture.  
Office of the Administrator, Agricultural Marketing Service.  
Office of the General Counsel.  
Dairy Division, Agricultural Marketing Service (Washington office only).  
Office of the Market Administrator, New England Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 18, 1978.

WILLIAM T. MANLEY,  
Deputy Administrator,  
Marketing Program Operations.  
[FR Doc. 78-1881 Filed 1-20-78; 8:45 am]

[3128-01]

#### DEPARTMENT OF ENERGY

[10 CFR Part 1002]

#### OFFICIAL SEAL AND DISTINGUISHING FLAG

##### Description and Use

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking and request for public comment.

SUMMARY: The DOE hereby proposes rules specifying the description

and authorized uses of its official seal and distinguishing flag.

DATES: Comments must be received on or before February 22, 1978.

ADDRESSES: Comments should be sent to George W. Barrow, Office of Administrative Services, Department of Energy, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

#### FOR FURTHER INFORMATION CONTACT:

George W. Barrow, Director, Office of Administrative Services, 20 Massachusetts Avenue NW., Washington, D.C. 20545, 202-376-4400.

#### SUPPLEMENTARY INFORMATION:

##### A. BACKGROUND

On October 1, 1977, DOE was activated pursuant to the Department of Energy Organization Act of 1977, Pub. L. 95-91. That Act provides at section 654 (42 U.S.C. 7264) that the Secretary of DOE may prescribe an official seal, which shall be noticed judicially. In accordance with that provision, the Secretary hereby proposes to adopt a seal, which shall also be displayed on the Department's distinguishing flag. These proposed regulations describe the seal and flag, and provide for their use and display.

##### B. COMMENT PROCEDURE

Interested persons are invited to submit written comments with respect to the proposed regulations to the address provided above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Official Seal and Flag." Fifteen (15) copies should be received by DOE by the deadline specified, in order to ensure consideration.

In accordance with section 501(c)(1) of the Department of Energy Organization Act, DOE has determined that these regulations present no substantial issue of fact or law, and are unlikely to have a substantial impact on the economy or large numbers of individuals or businesses. Accordingly, no public hearing is required.

##### C. MISCELLANEOUS

Since this document is unlikely to have any significant effect on the environment, DOE has determined that the provisions of section 7(a)(2) of the Federal Energy Administration Act, as amended, requiring that proposals having such effect be submitted to the Environmental Protection Agency for review and comment, does not apply.

DOE has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

(The Department of Energy Organization Act, Pub. L. 95-91.)

In accordance with the foregoing, it is proposed that Part 1002 of Chapter 10, Title 10 of the Code of Federal Regulations, be adopted as set forth below.

Issued in Washington, D.C., January 17, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

10 CFR, Chapter X is amended by adding a new Part 1002, to read as follows:

#### PART 1002—THE SEAL AND FLAG OF THE DEPARTMENT OF ENERGY

##### Subpart A—General

Sec.  
1002.1 Purpose.  
1002.2 Definitions.  
1002.3 Custody of official seal and distinguishing flag.

##### Subpart B—Official Seal

1002.11 Description of official seal.  
1002.12 Use of replicas, reproductions, and embossing seals.

##### Subpart C—Distinguishing Flag

1002.21 Description of distinguishing flag.  
1002.22 Use of distinguishing flag.

##### Subpart A—General

##### § 1002.1 Purpose.

The purpose of this Part is to describe the official seal and distinguishing flag of the Department of Energy, and to prescribe rules for their custody and use.

##### § 1002.2 Definitions.

For purposes of this Part—

(a) "DOE" means all organizational units of the Department of Energy.

(b) "Embossing seal" means a display of the form and content of the official seal made on a die so that the seal can be embossed on paper or other medium.

(c) "Official seal" means the original(s) of the seal showing the exact form, content, and colors thereof.

(d) "Replica" means a copy of the official seal displaying the identical form, content, and colors thereof.

(e) "Reproduction" means a copy of the official seal displaying the form and content thereof, reproduced in only one color.

(f) "Secretary" means the Secretary of DOE.

##### § 1002.3 Custody of official seal and distinguishing flags.

The secretary or his designee shall—

(a) Have custody of:

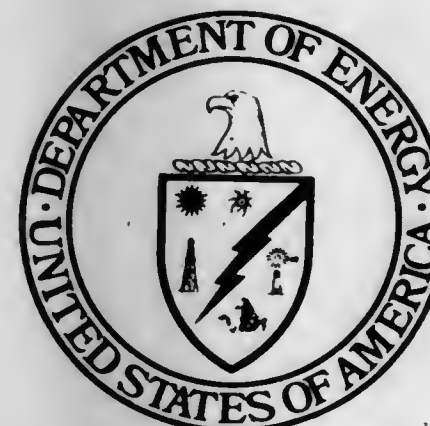
(1) The official seal and prototypes thereof, and masters, molds, dies, and all other means of producing replicas, reproductions, and embossing seals; and

(2) Production, inventory, and loan records relating to items specified in subparagraph (1); and  
(b) Have custody of distinguishing flags, and be responsible for production, inventory, and loan records thereof.

##### Subpart B—Official Seal

##### § 1002.11 Description of official seal.

The Department of Energy hereby prescribes as its official seal, of which judicial notice shall be taken pursuant to section 654 of the Department of Energy Organization Act of 1977, 42 U.S.C. 7264, the imprint illustrated below and described as follows:



(a)(1) The official seal includes a green shield bisected by a gold-colored lightning bolt, on which is emblazoned a gold-colored symbolic sun, atom, oil derrick, windmill, and dynamo. It is crested by the white head of an eagle, atop a white rope. Both appear on a blue field surrounded by concentric circles in which the name of agency, in gold, appears on the green background. Detailing is in black.

(2) The colors used in the configuration are dark green, dark blue, gold, and black and white.

(3) The eagle represents the care in planning and the purposefulness of the efforts required to respond to the Nation's increasing demands for energy. The sun, atom, oil derrick, windmill, and dynamo serve as representative technologies whose enhanced development can help meet these demands. The rope represents the cohesiveness in the development of the technologies and their link to our future capabilities. The lightning bolt represents the power of the natural forces from which energy is derived and the Nation's challenge in harnessing the forces.

(4) The color scheme is derived from nature, symbolizing both the source of energy and the support of man's existence. The blue field represents air and water, green represents

mineral resources and the earth itself, and gold represents the creation of energy in the release of the natural forces. By invoking this symbolism, the color scheme represents the Nation's commitment to meet our energy needs in a manner consistent with the preservation of the natural environment.

##### § 1002.12 Use of replicas, reproductions, and embossing seals.

(a) The Secretary and his designees are authorized to affix replicas, reproductions, and embossing seals to appropriate documents, certifications, and other material for all purposes.

(b) Replicas may be used only for:

(1) Display in or adjacent to DOE facilities, in Department auditorium, presentation rooms, hearing rooms, lobbies, public document rooms.

(2) Office of senior officials.

(3) Official DOE distinguishing flags, adopted and utilized pursuant to Subpart C.

(4) Official awards, certificates, medals, and plaques.

(5) Motion picture film, video tape, and other audiovisual media prepared by or for DOE and attributed thereto.

(6) Official prestige publications which represent the achievements or mission of DOE as a whole.

(7) Non-DOE facilities in connection with events and displays sponsored by DOE, and public appearances of the Secretary or other designated senior DOE officials.

(8) For other such purposes as determined by the Director of the Office of Administrative Services.

(c) Reproductions may be used only on:

(1) DOE letterhead stationery.

(2) Official DOE identification cards and security credentials.

(3) Business cards for designated senior DOE officials.

(4) Official DOE signs.

(5) Official publications or graphics issued by and attributed to DOE, or joint statements of DOE with one or more Federal agencies, State or local governments, or foreign governments.

(6) Official awards, certificates, medals.

(7) Motion picture film, video tape, and other audiovisual media prepared by or for DOE and attributed thereto.

(8) For other such purposes as determined by the Director of the Office of Administrative Services.

(d) Embossing seals may be used only on:

(1) DOE legal documents, including interagency or intergovernmental agreements, agreements with State, foreign patent applications, and similar documents.

(2) For other such purposes as determined by the General Counsel.

(e) Any person who uses the official seal, replicas, reproductions, or em-

bossing seals in a manner inconsistent with this Part shall be subject to the provisions of 18 U.S.C. 1017, providing penalties for the wrongful use of an official seal, and to other provisions of law as applicable.

(f) The official seal is being registered with the World Intellectual Property Organization through the U.S. Patent and Trademark Office.

##### Subpart C—Distinguishing Flag

##### § 1002.21 Description of distinguishing flag

(a) The base or field of the flag shall be white, and a replica of the official seal shall appear on both sides thereof.

(b) (1) The indoor flag shall be of rayon banner, measure 4'4" on the hoist by 5'6" on the fly, exclusive of heading and hems, and be fringed on three edges with yellow rayon fringe, 2 1/2" wide.

(2) The outdoor flag shall be of heavy weight nylon, and measure either 3' on the hoist by 5' on the fly or 5' on the hoist by 8' on the fly, exclusive of heading and hems.

(c) Each flag shall be manufactured in accordance with U.S. Department of Defense Military Specification Mil-F-2692. The official seal shall be screen printed on both sides, and on each side, the lettering shall read from left to right. Headings shall be Type II in accordance with the Institute of Heraldry Drawing No. 5-1-45E.

##### § 1002.22 Use of distinguishing flag.

(a) DOE distinguishing flags may be used only:

(1) In the offices of the Secretarial officers, Chairman of the FERC, and heads of field locations designated below:

Power Administrations  
Regional Offices  
Operations Offices  
Certain Field Offices and other locations as designated by the Director of Administration

(2) At official DOE ceremonies.

(3) In Department auditoriums, official presentation rooms, hearing rooms, lobbies, public document rooms, and in non-DOE facilities in connection with events or displays sponsored by DOE, and public appearances of the Secretary or other designated DOE officials.

(4) On or in front of DOE installation buildings.

(5) Other such purposes as determined by the Director of Administration.

[FR Doc. 78-1923 Filed 1-20-78; 8:45 am]



## PROPOSED RULES

[8025-01]

## SMALL BUSINESS ADMINISTRATION

[13 Part 108]

(Rev. 4, Amdt. 6)

## LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Loans—Administrative Limits and Waivers thereof

AGENCY: Small Business Administration.

ACTION: Proposed rule.

**SUMMARY:** This proposed rule would authorize SBA to establish administrative ceilings on dollar amounts of section 502 Local Development Company Loans, and to waive them in exceptional cases. These administrative ceilings are established to comply with the intent of Congress as expressed in the conference report on Public Law 94-305 which increased the statutory limits on such loans. The intent of this proposed rule is that, while SBA will continue to make most of its loans below the administrative ceiling, it will have authority in exceptional cases to make loans up to the statutory limit.

**DATES:** Comments must be received by February 22, 1978.

**ADDRESS:** Comments, submitted in duplicate, are to be addressed to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

**FOR FURTHER INFORMATION CONTACT:**

William B. Dean; Chief, Development Company Loan Division; Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6842.

**SUPPLEMENTARY INFORMATION:** Section 502 of the Small Business Investment Act, as amended by Public Law 94-305 authorizes SBA to guarantee up to \$500,000 on a loan or to make direct or immediate participation loans up to \$500,000.

Since Congress intended that loans in the amount of the statutory limit should be made only in exceptional cases, administrative ceilings are proposed. In the case of section 502 "Local Development Company Loans" the administrative ceiling is proposed at \$350,000, the prior statutory limitation.

It is the intent of this proposed rule that the administrative ceiling may be waived upon determination that a particular loan furthers a National, Agency or Regional Program objective. Standards or examples of such objectives will be published from time to time. A notice listing National, Agency or Regional program objec-

tives for the loan programs administered under Parts 118 and 122 of this Chapter was published in 42 FR 61906 (FR Doc. 77-34941, December 7, 1977) and is proposed to be used also in waiving the administrative limits established by this regulation.

Accordingly, pursuant to authority contained in Section 308(c) of the Small Business Investment Act of 1958 (SBI Act), 15 U.S.C. 687, as amended, notice is hereby given that SBA proposes to amend §108.502-1 by adding to paragraph (d) two subparagraphs (3) and (4) as follows:

§ 108.502-1 Section 502 loans.

(d) Loan amount.

(1) \* \* \*

(2) \* \* \*

(3) The administrative ceiling on loans to assist each identifiable small business concern shall be \$350,000 on loans made directly, or on immediate participation basis, or on SBA's share of guaranteed loans. However, in circumstances determined by SBA to constitute an exceptional situation the loan may be extended to the statutory limit of \$500,000.

(4) Exceptional situations. An exceptional situation will be deemed to exist where SBA determines that the particular loan furthers a National, Agency, or Regional program objective. SBA may from time to time publish in the FEDERAL REGISTER, on the basis of developing experience, standards or examples illustrating National, Agency and Regional objectives. SBA will not recognize any such objective until it has first been so published either under this part or other parts of this Chapter which establish loan policy.

(Catalog of Domestic Assistance Programs No. 59.013 State and Local Development Company Loans.)

Dated: January 16, 1978.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-1919 Filed 1-20-78; 8:45 am)

[4910-13]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-NW-1 AD]

## AIRWORTHINESS DIRECTIVES

Boeing 747 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This amendment requires a one-time inspection panels in

the forward, aft, and bulk cargo compartment for any adhesive material between the vent panel and supporting structure to assure effectiveness of the vent panels installed to comply with AD 75-15-05. Any adhesive material must be removed from the panel and structure. The vent panel seals would be inspected and repaired as required.

**DATES:** Comments must be received on or before March 15, 1978.

**ADDRESSES:** Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 78-NW-1 AD, 9010 East Marginal Way South, Seattle, Wash. 98108.

**FOR FURTHER INFORMATION CONTACT:**

Iven Connally, ANW-212, Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

**SUPPLEMENTARY INFORMATION:** It has been reported that double-backed tape was found between a cargo compartment depressurization vent panel and adjacent structure, causing the panel to adhere to the structure and significantly increase the force required to disengage the panel. Any increase in the force required to disengage the vent panel will reduce the effectiveness of the depressurization venting system which was installed to comply with the requirements of AD 75-15-05.

## DRAFTING INFORMATION

The principal authors of this document are Iven Connally, Engineering and Manufacturing Branch, Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

## THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend §39.13 of the Federal Aviation Regulation (14 CFR 39.13) by adding the following new Airworthiness Directive:

**BOEING:** Applies to Model 747 series airplanes certificated in all categories. Compliance required as indicated. To assure proper operation of the depressurization vent modification required by AD 75-15-5, inspect the cargo compartment lining depressurization vent panel for evidence of double-back tape between the vent panel and supporting structure. On or before June 30, 1978, inspect and repair vent panel seals in accordance with Boeing Service Bulletin 747-25-2418, dated December 27, 1977, or later FAA approved revision.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a),

## PROPOSED RULES

1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

**NOTE:**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on January 13, 1978.

C. B. WALK, Jr.  
Director, Northwest Region.

(FR Doc. 78-1577 Filed 1-20-78; 8:45 am)

[4910-13]

[14 CFR Part 39]

[Docket No. 78-WE-1-AD]

## AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series  
Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) that would require a modification on DC-10 Series airplanes equipped with Litton inertial systems. The proposed AD is needed to prevent simultaneous loss of both pilots primary attitude and heading indicators. Loss of the primary attitude indicators at a critical point in the takeoff flight path could result in the loss of control of the aircraft.

**DATES:** Comments must be received on or before February 21, 1978.

**ADDRESSES:** Send comments on the proposal in duplicate to Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The applicable DC-10 service bulletin may be obtained from McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI-750, 54-60.

Also, a copy of the service bulletins may be reviewed at or copies obtained from Rules Docket, in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

**FOR FURTHER INFORMATION CONTACT:**

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los

Angeles, Calif. 90009, telephone 213-536-6351.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, at the address given in the opening section of this AD. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA public contact, concerned with the substance of the proposed AD, will be filed in the rules docket.

There have been two reported incidents of simultaneous loss of the primary attitude and heading reference sources on DC-10 Series 30 airplanes. Both incidents were precipitated by severe vibrations as a result of nose tire tread separation. The incidents occurred above the abort speed so that the pilots completed their takeoff roll, rotation, and climb-out with the primary attitude and heading instruments inoperative. Both incidents occurred during VFR conditions. The simultaneous loss of both primary attitude indicators during this critical point in the takeoff flight path could result in the loss of control of the aircraft. Since this situation is likely to exist or develop on other airplanes of the same type design the proposed AD would require modification of the avionics compartment navigation rack to strengthen and improve its dynamic response characteristics on DC-10 Series airplanes equipped with Litton inertial systems.

## DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Frederick C. Woodruff, Office of the Regional Counsel.

## PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend §39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

**McDONNELL DOUGLAS:** Applies to DC-10 -10, -10F, -30, -30F, and -40 Series airplanes

certificated in all categories, that are equipped with Litton -51 or Litton -72 Inertial Navigation Systems or Litton -58 Inertial Sensor Systems. Airplanes to be equipped with Litton Inertial Systems after the closing date of this AD must be modified as defined herein prior to installation of the inertial systems.

Compliance is required as indicated unless already accomplished.

To prevent simultaneous loss of primary attitude and heading information during takeoff roll accomplish the following:

(a) On or before January 31, 1979, unless already accomplished, or unless incorporated in production, modify the airplane's navigation rack in accordance with McDonnell Douglas DC-10 Service Bulletin 25-251, dated August 26, 1977, or later FAA approved revisions.

(b) Equivalent modifications, procedures, or revisions may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with FAR's §§21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

**NOTE:**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on January 10, 1978.

ROBERT H. STANTON,  
Director, FAA Western Region.

(FR Doc. 78-1576 Filed 1-20-78; 8:45 am)

[4910-13]

[14 CFR Part 39]

[Docket No. 17550]

## AIRWORTHINESS DIRECTIVES

Hawker Siddeley Aviation, Ltd., DH-104  
"Dove" Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) that would require inspections for cracks and replacement, as necessary, of the Pre-Modification 779 center section main spar lower booms on Hawker Siddeley Aviation Ltd., Model DH-104 "Dove" airplanes. The proposed AD is directed at ensuring continued wing to fuselage attachment integrity.

**DATES:** Comments must be received on or before March 9, 1978.

**ADDRESS:** Send comments on the proposal in duplicate to: Federal Avi-



ation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 17550, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable technical news sheet may be obtained from: Hawker Siddeley Aviation Ltd., Hatfield Hertfordshire, England, Product Support Department, Telephone: Hatfield 62345.

A copy of the technical news sheet is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

#### FOR FURTHER INFORMATION CONTACT:

D.C. Jacobson, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone: 513.38.30.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that cracking due to stress corrosion could occur in the wing to fuselage attachment lugs of pre-modification 779 center section main spar lower booms on Hawker Siddeley Aviation Ltd., Model DH-104 "Dove" aircraft. This determination is based on reports of cracking in the lugs of the center section main spar upper boom of Hawker Siddeley Model DH-114 aircraft which are of the same design and material as the lugs of the pre-modification 779 lower boom. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed AD would require inspections of the lugs and replacement of the boom, as necessary, on Hawker Siddeley Aviation, Ltd., Model DH-104 "Dove" airplanes.

#### DRAFTING INFORMATION

The principal authors of this document are F. J. Karnowski, Europe, Africa, and Middle East Region, F.

#### PROPOSED RULES

Kelley, Flight Standards Service, and S. Podberesky, Office of the Chief Counsel.

#### THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

**HAWKER SIDDELEY AVIATION LTD.** Applies to Model DH-104 "Dove" airplanes, all Series, certificated in all categories, except those airplanes incorporating Hawker Siddeley Model DH-104 Modification 779.

Compliance is required as indicated. To detect cracking and prevent possible failure of the lugs of the lower center section main spar wing to fuselage attachment, accomplish the following:

(a) Within one month after the effective date of this AD, unless already accomplished within the last month, and thereafter at intervals not to exceed two months from the last inspection, remove the lower wing to fuselage fairings and inspect the center section main spar bottom boom lugs for cracks using an ultrasonic inspection method in accordance with appendix 1 of Hawker Siddeley Aviation, Limited Technical News Sheet (TNS) 238, issue 2, dated January 24, 1977, or an FAA-approved equivalent.

(b) The repetitive inspections required by paragraph (a) of this AD may be terminated upon incorporation of a steel lower boom in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

(c) Within two months after accomplishing six repetitive inspections under paragraph (a) of this AD, a steel lower boom must be incorporated in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

(d) If any crack is found during an inspection required by paragraph (a) of this AD, before further flight, replace the boom with a steel boom in accordance with Hawker Siddeley Model DH-104 Modification 779, or an FAA-approved equivalent.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 13, 1978.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.

(FR Doc. 78-1587 Filed 1-20-78; 8:45 am)

#### [4910-13]

[14 CFR Part 39]  
[Docket No. 17549]

#### AIRWORTHINESS DIRECTIVES

**Hawker Siddeley Aviation, Ltd., DH/BH/HS-125 Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to adopt an airworthiness directive (AD) that would require replacement of the existing radome lightning diverter strips with new externally mounted light alloy strips on Hawker Siddeley Aviation, Ltd., Model DH/BH/HS-125 airplanes. The proposed AD is needed to prevent serious damage to the radome from lightning strikes which could result in a loss of a radome and a possible hazard to persons and property on the ground.

**DATES:** Comments must be received on or before March 9, 1978.

**ADDRESSES:** Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24), Docket No. 17549, 800 Independence Avenue SW., Washington, D.C. 20591.

The applicable service bulletin may be obtained from: Hawker Siddeley Aviation Inc., Suite 206, Blake Building, 1025 Connecticut Avenue NW., Washington, D.C. 20036, telephone 202-223-9350.

A copy of the Service Bulletin is contained in the Rules Docket Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

#### FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules

#### PROPOSED RULES

Issued in Washington, D.C., on January 13, 1978.

J. A. FERRARESE,  
Acting Director,  
Flight Standards Service.  
(FR Doc. 78-1588 Filed 1-20-78; 8:45 am)

#### [4910-13]

[14 CFR Part 71]  
[Airspace Docket No. 77-NW-5]

#### MOSES LAKE, WASH.

#### Proposed Alteration of Transition Area

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to alter the Moses Lake, Wash., 700 foot transition area. The proposal is necessary to provide controlled airspace for a standard instrument approach procedure.

**DATES:** Comments must be received on or before March 3, 1978.

**ADDRESSES:** Send comments on the proposal, in triplicate, to Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: Office of the Regional Counsel, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108.

#### FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist, Operations, Procedures and Airspace Branch (ANW-533), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108; telephone 206-767-2610.

#### SUPPLEMENTARY INFORMATION:

#### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Chief, Operations, Procedures and Airspace Branch, Northwest Region, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Wash. 98108. All communications received on or before March 3, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All com-

ments submitted will be available, both before and after the closing date for comments, in the official docket for examination by interested persons.

#### AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW-530, Northwest Region, FAA Building, Boeing Field, Seattle, Wash. 98108, or by calling 206-767-2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

#### THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot transition area at Moses Lake, Wash. The present 700 foot transition area was found to be inadequate to contain the VOR RWY 14L standard instrument approach to Grant County Airport. Accordingly, the Federal Aviation Administration proposes to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending § 71.181 so as to alter the following transition area to read:

#### MOSES LAKE, WASH.

"That airspace extending upward from 700 feet above the surface within a 19-mile radius of Grant County Airport (latitude 47°12'29" N., longitude 119°19'05" W.), within a 19-mile radius of the Ephrata VORTAC, (latitude 47°22'41" N., longitude 119°25'22" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 47°45'00" N., on the east by the arc of a 52-mile radius circle centered on Fairchild Air Force Base, Wash., (latitude 47°36'55" N., longitude 117°39'20" W.), on the southeast by V-112W, on the south by V-288 and on the west by longitude 120°00'00" W."

#### DRAFTING INFORMATION

The principal authors of this document are Dale C. Jepsen, Air Traffic Division, and Jonathan Howe, Regional Counsel, Northwest Region, Federal Aviation Administration.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

**NOTE.**—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.



Issued in Seattle, Wash., on January 13, 1978.

J. H. TANNER,  
Acting Director,  
Northwest Region.

(FR Doc. 78-1578 Filed 1-20-78; 8:45 am)

#### [4910-13]

[14 CFR Part 71]

(Airspace Docket No. 77-RM-17)

#### ALTERATION OF TRANSITION AREA

San Luis Valley Airport, Colo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to alter the Alamosa, Colo., 700 foot and 1,200 foot transition areas to provide controlled airspace for aircraft executing the new VOR/DME-C standard instrument approach procedure developed for the San Luis Valley Airport, Monte Vista, Colo.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Send comments on the proposal to: Chief, Air Traffic Division, Attention: ARM-500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Airspace Specialist, Operations, Procedures and Airspace Branch (ARM-537), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010, telephone 303-837-3937.

#### SUPPLEMENTARY INFORMATION:

##### COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colo. 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic

#### PROPOSED RULES

Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

##### AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

##### THE PROPOSAL

The Federal Aviation Administration is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition areas at Alamosa, Colo. The present transition areas are inadequate to contain the new VOR/DME-C instrument approach to the San Luis Valley Airport, Monte Vista, Colo. It is proposed to make the transition areas' alteration effective coincident with the effective date of the new standard instrument approach. Accordingly, the Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

By amending § 71.181 so as to alter the following transition areas to read:

##### ALAMOSA, COLO.

That airspace extending upward from 700 feet above the surface within 10 miles northeast and 12 miles southwest of the Alamosa VORTAC 335° and 155° radials extending from 23 miles northwest to 12 miles southeast of the VORTAC; and within 2 miles northwest and 6 miles southeast of the Alamosa VORTAC 200° radial extending from the VORTAC to 16 miles southwest of the VORTAC, and that airspace extending upward from 1200 feet above the surface within 13 miles northeast of the Alamosa VORTAC 335° radial extending from the VORTAC to 31 miles northwest of the VORTAC; within 12 miles southwest of the Alamosa VORTAC 335° radial extending from the VORTAC to 37 miles northwest of the VORTAC; within 5 miles each side of the Alamosa VORTAC 018° radial extending from the VORTAC to 45 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 065° radial extending from the VORTAC to 37 miles northeast of the VORTAC; within 5 miles each side of the Alamosa VORTAC 080° radial extending from the VORTAC to 56 miles east of the VORTAC; within 1.3 miles northeast and 9.5 miles southwest of the Alamosa

VORTAC 127° radial extending from the VORTAC to 19 miles southeast of the VORTAC; and within 5 miles each side of the Alamosa VORTAC 200° radial extending from the VORTAC to 37 miles southwest of the VORTAC. That airspace extending upward from 12,000 feet MSL within 5 miles each side of the Alamosa VORTAC 200° radial extending from 37 to 54 miles southwest of the VORTAC.

##### DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Air Traffic Division, and Mr. Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

(Sec. 307(a), Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Issued in Aurora, Colo., on January 11, 1978.

M. M. MARTIN,

Director, Rocky Mountain Region.

(FR Doc. 78-1586 Filed 1-20-78; 8:45 am)

#### [3510-25]

##### DEPARTMENT OF COMMERCE

Industry and Trade Administration

[15 CFR Part 377]

##### SHORT SUPPLY CONTROLS

Exemption of Agricultural Commodities From Quantitative Limitations on Export

AGENCY: Department of Commerce, Industry and Trade Administration, Bureau of Trade Regulation, Office of Export Administration.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would establish a procedure under which agricultural commodities purchased by or for use in a foreign country may be stored in, and exported from, the United States free from any quantitative restrictions on export which may subsequently be imposed for reasons of short supply. This serves to implement section 105 of the Export Administration Amendments of 1977 (Pub. L. 95-52), amended section 4(f) of the Export Administration Act of 1969, as amended.

DATE: Close of comment period February 28, 1978.

ADDRESS: Send comments to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Mr. Rauter H. Meyer, Director, Office of Export Administration or Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-3795.

SUPPLEMENTARY INFORMATION: Section 105 of the Export Administration Amendments of 1977 (Pub. L. 95-52) amended section 4(f) of the Export Administration Act of 1969, as amended, by adding the following new paragraph:

Upon approval of the Secretary of Commerce, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed pursuant to section 3(2)(A) of this Act subsequent to such approval. The Secretary of Commerce may not grant approval hereunder unless he receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds that such commodities will eventually be exported, that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Secretary of Commerce is authorized to issue such rules and regulations as may be necessary to implement this paragraph.

These regulations propose to (a) establish a procedure under which agricultural commodities may be registered with the Department of Commerce for exemption from future quantitative limitations on export for reasons of short supply; (b) prescribe the documentation which must accompany applications to register such commodities for exemption from export restrictions; and (c) state the conditions under which such applications may be approved.

The regulations are promulgated in proposed form to provide interested parties an opportunity to comment and, thus, assist the Department in developing final regulations on the subject. Interested parties should submit their comments, views or data concerning these regulations, in written form (5 copies), to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations. All other submissions

#### PROPOSED RULES

received before the close of the comment period on February 28, 1978, will be considered prior to the promulgation of final regulations and will be available to the public for inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

Accordingly, the Export Administration Regulations (15 CFR 368 et seq.) are proposed to be amended by adding a new § 377.4 to read as follows:

§ 377.4 Registration of U.S. agricultural commodities for exemption from short supply limitations on export

(a) General. Agricultural commodities of U.S. origin purchased by or for use in a foreign country and stored in the United States for export at a later date may be registered with the Department of Commerce under the provisions of this section for exemption from any quantitative limitations on export which may subsequently be imposed under section 3(2)(A) of the Export Administration Act for reasons of short supply.

(b) Definitions. For the purpose of this § 377.4 the following definitions will apply:

(1) Agricultural commodities are deemed "purchased" by or for use in a foreign country if:

(i) Such commodities are in being and title thereto has been transferred to a foreign purchaser, or they are the subject of a binding contract for sale to a foreign purchaser and such contract describes the commodities by kind, grade and quantity, contains a fixed price or basis for calculating price, and requires the commodities to be exported or delivered for export within a specified time; and

(ii) The purpose of the transaction is the creation of a reserve for later export to and use in a particular foreign country.

(2) The term "stored in the United States" means that the commodities are in storage, either on an identity preserved or commingled basis, in a particular storage facility in the United States.

(c) Findings necessary for approval. Applications to register such commodities may be approved by the Office of Export Administration if that Office receives adequate assurances and in conjunction with the Department of Agriculture determines:

(1) That such commodities will eventually be exported;

(2) That neither the sale nor the export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact;

(3) That storage of such commodities in the United States will not unduly limit the space available for storage of domestically-owned commodities; and

(4) That the purpose of such storage is to establish a reserve of such commodities for later use within a specified foreign country, not including resale to or use by or within another country.

(d) Procedures for filing registration applications. (1) Applications to register agricultural commodities must be submitted by a person or firm subject to the jurisdiction of the United States acting as a duly authorized agent for the foreign purchaser. Such applications shall be submitted, in duplicate, by letter addressed to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230. The letter shall:

(i) Describe the commodities to be registered by kind, grade and quantity;

(ii) Identify the specific storage facility where they are or will be stored and indicate whether they are or will be stored on an identity preserved or commingled basis;

(iii) State the length of time during which it is proposed to keep the commodities in storage in the United States;

(iv) Identify the foreign purchaser of the commodities and the foreign country in which they will ultimately be used;

(v) Set forth any other details that the applicant considers to be relevant to the proposed storage and export transactions; and

(vi) Contain the following certification: "I certify that the commodities described herein have been purchased as a reserve for export to (country) and use therein (not including resale to, or use by or within another country); that they will be stored in the facility identified herein; and that they will be exported to that country prior to the expiration of such period as may be approved by the Office of Export Administration or, in the absence of quantitative limitations on export, within 60 days thereafter. I understand that, if the commodities have not been exported within the registration period approved by the Office of Export Administration, they will be subject to any quantitative limitations on export that may be in effect at the time of proposed export; and that failure to export the commodities in accordance with the terms of the registration approval, or failure to comply with any other conditions of approval, may result in compliance action pursuant to Section 387 of the Export Administration Regulations or any other applicable law."

(2) The following documents shall be submitted with the letter:

(i) Two copies of the contract of sale to the foreign buyer;

(ii) A statement, in duplicate, from an appropriate official representative



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of the government of the country in which the commodities are ultimately to be used, identifying the specific transaction to which the statement relates and describing the commodities by kind, grade and quantity; stating that the commodities are considered part of that country's agricultural commodity reserve for use in that country; and further stating that any necessary import authorizations or other documentation have been or will be issued for the entry of the commodities into that country;

(iii) An affidavit, in duplicate, from the operator of the facility where the commodities are to be stored, stating that storage in that facility of the commodities proposed to be registered will not limit his ability to meet anticipated storage needs of the facility's traditional customers, or if it will limit such ability, the extent of such limitation.

(e) *Preliminary advice.* Before submitting a formal application for registration, the applicant may consult with the Office of Export Administration in person or by letter as to the likelihood of approval of an application for registration. The Office of Export Administration will try to respond promptly and fully to such inquiries. However, a definitive determination on approval of an application can be made only on the basis of a fully documented application in light of all the facts and circumstances at the time of its filing.

(f) *Commerce action on registration applications.* Upon receipt by the Office of Export Administration, a copy of each request and accompanying documentation will be forwarded to the Department of Agriculture for that Department's determination of whether the application meets each of the criteria for approval and its recommendation on whether the application should be approved. No application will be approved unless the Department of Agriculture determines that the criteria for approval have been met. If the application is approved, the applicant will be informed of such approval by letter, identifying the commodities, storage facility and country of destination; stating the period for which the registration is effective; and setting forth any other conditions of approval. The period for which storage is approved will not necessarily equal the period requested in the application. The following general conditions are applicable to all approved registrations.

(1) The applicant will be required to: (i) have the operator of the storage facility place on the original warehouse receipt a legend reading: "These commodities have been registered with the Department of Commerce for export to (country) and may be removed from storage only for purposes of export to

that country, unless other disposal is permitted pursuant to advance written authorization from the Office of Export Administration"; and (ii) within ten days of receipt of the notification of registration approval, provide Commerce with two certified copies of the original warehouse receipt bearing such legend.

(2) Registration approvals will be effective for a specified period, and the registered commodities will be exempt from quantitative limitations on export for reasons of short supply only during such period.

(3) Commodities which are or have been registered must be exported within the period of such registration or, in the absence of quantitative limitations on export, with 60 days thereafter. Should the foreign purchaser, for reasons beyond his control, be prevented from exporting such commodities within the specified period, the Department will consider a request for extension of such period. Such requests should be submitted in writing within the specified period, describe the circumstances which prevent the timely export of such commodities, and state when such commodities will be exported.

(4) Unless otherwise permitted by the Department of Commerce, commodities which are or have been at any time registered may be disposed of only by exporting to the country stated in the registration for use in that country.

(5) Failure to export commodities which are or have been registered as required by this section, the export or reexport of such commodities to a country other than that approved in the registration, or failure to comply with any other condition attached to the registration of these commodities by the Department of Commerce may result in compliance action pursuant to Part 387 of the Export Administration Regulations or any other applicable law.

(g) *Application for extension of registration.* An application for extension of the period for which registered storage approval was initially granted shall be made at least 30 days prior to expiration of that period. Such application shall be made by letter, in duplicate, and shall make reference to the original storage approval and state the reason or reasons why the extension is requested. Accompanying documentation, in duplicate, shall be submitted as necessary to update that submitted with the original application.

The mere filing of an application for extension will not extend the original period, and if approval of extension is not granted before expiration of the original period, such period shall lapse in accordance with the terms of the original registration.

(h) *Export of registered commodities.* Upon export of commodities which are or have been registered, the person receiving registered storage approval shall report the export to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230.

(1) Such report shall be by letter citing the storage approval and date issued and certifying that such commodities have been withdrawn from registered storage and exported. The report shall also transmit (i) a copy of the on board bill of lading and (ii) an independent inspector's certificate of analysis at the port of export attesting to the quantity and grade of the commodity being exported. If the quantity (less normal shrinkage) and grade do not conform to that shown on the warehouse receipt and the registered storage approval, appropriate documentation establishing the continuity of movement from warehouse to exporting carrier must also be transmitted.

(2) Such report shall be submitted within 15 calendar days of export except that if partial shipments are made the report and accompanying documentation may be held until final shipment has been made and then submitted within 15 calendar days of the final shipment.

(i) *Procedure for exporting registered commodities during a period when short supply controls are in effect.* (1) Should short supply export controls be imposed for a commodity being stored in the United States under a valid registered storage approval, the person to whom such approval was granted shall file an Application for Export License, Form DIB 622-P, in accordance with the procedure set forth in Part 372, except that no accompanying documentation shall be required. The application shall cite in Item 12 the relevant registered storage approval issued by the Office of Export Administration and shall state the quantity of the commodities covered by the registered storage approval already exported or which will be exported pursuant to the terms of any Saving Clause contained in the announcement imposing short supply export controls. Upon verification that the registered storage approval is valid, the Office of Export Administration will issue a validated export license for the quantity authorized in the registered storage approval, less any quantities previously exported or in process of being exported under any Saving Clause, without regard to any quantitative short supply export limitations which are then in effect. The license shall be valid through the date specified thereon.

(2) In addition to the report required under paragraph (h) above, the person

to whom an export license has been issued under this provision shall report each export pursuant to such license, within 60 days of the final shipment under the license, to the Office of Export Administration, Attention: Short Supply Division, Room 1617M, Washington, D.C. 20230, by letter citing the applicable registered storage approval and enclosing: (i) a statement from an appropriate official of the government of the importing country attesting to the fact that the commodities—which must be identified by kind, grade and quantity—have been imported into that country for use therein and (ii) the validated export license with the reverse side completed so as to record the shipment data and signature of the licensee or his duly authorized agent.

(j) *Effect of other provisions.* Unless inconsistent with the provisions of this § 377.4, all the provisions of the Export Administration Regulations, including Parts 387 and 388, apply equally to the procedure set forth in this Section. Attention is called particularly to the provisions of § 387.11 under which pertinent records must be kept and made available for inspection and to the administrative and criminal sanctions in § 387.1 for violation of the Export Administration Act of 1969, as amended, or any order, regulation or license issued thereunder.

(Sec. 4, Pub. L. 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization order 10-3, dated Nov. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended.)

NOTE.—The Office of Export Administration has determined that this document does not contain a major action which would require the preparation of an economic impact statement (see Executive Order 11949 and OMB Circular A-107).

STANLEY J. MARCUSS,  
Deputy Assistant Secretary  
Bureau of Trade Regulation.

[FR Doc. 78-1882 Filed 1-18-78; 2:52 pm]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Parts 18, 194, 250, 251]

[Notice No. 317]

PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES, LIQUOR DEALERS, LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS AND IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Record Retention Requirements

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to increase the required time period for retention of records prescribed by the regulations listed above. The new time period would be three years (rather than the present two years), and the regional regulatory administrator would be given discretionary authority to prescribe an additional retention period of not more than three years. The purpose of the change is to insure that records will be available long enough to support any action that might be taken within the applicable statutes of limitation.

COMMENT DATE: Comments must be received on or before March 24, 1978.

ADDRESSES: Comments must be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT:

Steven C. Simon, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, Room 6226B, 1200 Pennsylvania Avenue NW., Washington DC 20226, 202-566-7626.

SUPPLEMENTARY INFORMATION: The statute of limitations in 26 U.S.C. 6531 is three years (six years for some offenses). In 27 U.S.C. 204(i) there is a statute of limitations of 18 months following a criminal conviction, or three years from the violation if there is no criminal conviction. In the light of these statutes, the present two-year record retention requirements of 27 CFR 18.141, 194.242, 250.276, and 251.137 are considered to be inadequate. As these regulations are presently worded, evidence may be destroyed before the statute of limitations has expired. Under the proposed three-year retention period this potential problem should not normally arise. However, to cover unusual situations, such as when administrative action in accordance with 27 U.S.C. 204(i) is contemplated following criminal action, or when there is suspicion of a violation listed in 26 U.S.C. 6531 (1) through (8), the additional discretionary retention period (not more than three additional years) is proposed.

Other proposed amendments merely make conforming changes; instructions relating only to ATF personnel are deleted; and changes are made which reflect the creation and reorganization of the Bureau of Alcohol, Tobacco and Firearms.

Interested persons who wish to participate in the making of the proposed rules are invited to submit written comments or suggestions, in duplicate,

to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, on or before March 24, 1978. Copies of the proposed changes and any comments received are available for public inspection from 8:30 a.m. to 5 p.m. in Room 4408, Federal Building, 12th Street and Pennsylvania Avenue NW., Washington, D.C.

Any person submitting comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his/her request, in writing, to the Director within the 60-day period. However, the Bureau reserves the right to determine, in the light of all the circumstances, whether a public hearing should be held.

DRAFTING INFORMATION

The original drafter of this document was Steven C. Simon of the Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms. However, supervisors and reviewers from both the Bureau and the Department of the Treasury exercised control over the development of the regulations, both as to matters of substance and style.

AUTHORITY

Accordingly, it is proposed to amend the regulations in 27 CFR 18.11, 18.141, 194.11, 194.222, 194.242, 250.11, 250.276, 251.11, 251.137. The proposed regulations are to be issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917).

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

PARAGRAPH A. The regulations in 27 CFR Part 18 are proposed to be amended as follows:

1. Section 18.11 is amended to add, in alphabetical order, a definition of "regional regulatory administrator," and to revise the definition of "regional director." As amended, the affected portions of § 18.11 read as follows:

§ 18.11 Meaning of terms.

Regional director. A regional regulatory administrator as defined in this section.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

2. Section 18.141 is amended to increase the records retention period to three years (rather than two years, as it currently is), and to provide that the regional regulatory administrator may prescribe an additional retention period of up to three years in certain circumstances. (Currently, the regula-



tions have only a two-year discretionary additional period.) The amendment also reflects the change in title from "regional director" to "regional regulatory administrator," and it includes clarifying and stylistic changes. As amended, § 18.141 reads as follows:

**§ 18.141 Records and reports.**

Each proprietor shall keep records and submit reports (including applications and notices) as required by this part. These records, and copies of applications, notices, and reports, shall be maintained on or convenient to the concentrate plant, and be available for inspection by ATF officers during business hours. The records and copies of applications, notices and reports shall be retained for not less than three years from the date they were made, or the date of the last entry required to be made in them, whichever is the later. Furthermore, the regional regulatory administrator may require these records and copies of applications, notices, and reports to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable.

**PART 194 LIQUOR DEALERS**

PAR. B. The regulations in 27 CFR Part 194 are proposed to be amended as follows:

1. Section 194.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; to revise the definitions of "assistant regional commissioner", "internal revenue officer", and "regional director"; and to delete the definition of "regional commissioner". As amended, the affected portions of § 194.11 read as follows:

**§ 194.11 Meaning of terms.**

*Assistant regional commissioner.* A regional regulatory administrator as defined in this section.

*ATF officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

*Internal revenue officer.* An ATF officer as defined in this section.

*Place, or place of business.* . . . .  
*Regional director.* A regional regulatory administrator as defined in this section.

*Regional regulatory administrator.* The principal regional official respon-

sible for administering regulations in this part.

*Sale at retail or retail sale.* . . . .

2. Section 194.222 is amended to change the reference to the records retention period from "not less than two years" to "not less than three years", to substitute "regional regulatory administrators" for "assistant regional commissioners", and to make stylistic changes. As amended, § 194.222 reads as follows:

**§ 194.222 Requirements as to wines and beer.**

Each wholesale dealer in liquors who receives wines, or wines and beer, and each wholesale dealer in beer shall keep at his place of business a complete record of all wines and beer received, showing (a) the quantities thereof, (b) from whom received, and (c) the receiving dates. This record, which must be kept for a period of not less than three years as prescribed in § 194.242, shall consist of all purchase invoices or bills covering wines and beer received or, at the option of the dealer, a book record containing all of the required information. Wholesale dealers are not required to prepare or submit reports to regional regulatory administrators of transactions relating to wines and beer.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

3. Section 194.242 is amended to change the records retention period from "not less than 2 years" to "not less than three years", to change "internal revenue officers" to "ATF officers", to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make stylistic changes. As amended, § 194.242 reads as follows:

**§ 194.242 Retention of records and files.**

All records prescribed by this part, documents or copies of documents supporting these records, and file copies of reports submitted, shall be retained by the person required to keep the documents for a period of not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1395 (26 U.S.C. 5114, 5124, 5146, 5555).)

**PART 250—LIQUOR AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS**

PARAGRAPH C. The regulations in 27 CFR Part 250 are proposed to be amended as follows:

1. Section 250.11 is amended to provide, in alphabetical order, definitions of "ATF officer" and "regional regulatory administrator"; and to revise the definitions of "assistant regional commissioner", "Director, alcohol, tobacco and firearms division", "region" and "regional director." As amended, the affected portions of § 250.11 read as follows:

**§ 250.11 Meaning of terms.**

*Assistant regional commissioner.* A regional regulatory administrator as defined in this section.

*ATF officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

*Director, Alcohol, Tobacco and Firearms Division.* The Director, Bureau of Alcohol, Tobacco and Firearms as defined in this section.

*Region.* A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

*Regional director.* A regional regulatory administrator as defined in this section.

*Regional regulatory administrator.* The principal regional official responsible for administering regulations in this part.

2. Paragraph (b) of § 250.143 is amended to delete instructions that apply only to ATF personnel. As amended, § 250.143 reads as follows:

**§ 250.143 Procurement and custody of red strip stamps.**

(b) *Alternative method.* When the Chief, Puerto Rican Operations, determines that the interest of the government will be best served thereby, the stamps may be shipped directly to the Commonwealth revenue agent at the plant from the Bureau of Engraving and Printing. In this case, orders on Form 428 for standard size red strip stamps shall be in multiples of 100,000

stamps, and orders for small size shall be in multiples of 50 stamps (one sheet).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1358 (26 U.S.C. 5205).)

3. Section 250.276 is amended to replace "assistant regional commissioner" with "regional regulatory administrator"; "internal revenue officers" is replaced with "ATF officers"; and "director of customs" is replaced with "district director of customs." The retention period is changed from "not less than two years" to "not less than three years"; a provision is added that the regional regulatory administrator may require records to be kept for an additional period of not more than three years; and minor stylistic changes are made. As amended, § 250.276 reads as follows:

**§ 250.276 Retention.**

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers.

Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5124, 5146, 5207, 5555).)

**PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER**

PAR. D. The regulations in 27 CFR Part 251 are proposed to be amended as follows:

1. Section 251.11 is amended to revise the definitions of "alcohol, tobacco and firearms officer", "assistant regional commissioner", "Director, alcohol, tobacco and firearms division", "internal revenue officer", "region", and "regional director." A new definition of "regional regulatory administrator" is added in alphabetical order. As amended, the affected portions of § 251.11 read as follows:

**§ 251.11 Meaning of terms.**

*Alcohol, tobacco and firearms officer, or ATF officer.* An officer or em-

ployee of the Bureau of Alcohol, Tobacco and Firearms (ATF) duly authorized to perform any function relating to the administration or enforcement of this part.

*Assistant regional commissioner.* A regional regulatory administrator as defined in this section.

*Director, Alcohol, Tobacco and Firearms Division.* The Director, Bureau of Alcohol, Tobacco and Firearms, as defined in this section.

*Internal revenue officer.* An ATF officer as defined in this section.

*Region.* A geographical region of the Bureau of Alcohol, Tobacco and Firearms.

*Regional director.* A regional regulatory administrator as defined in this section.

*Regional regulatory administrator.* The principal regional official responsible for administering regulations in this part.

2. Section 251.137 is amended to replace "assistant regional commissioner" with "regional regulatory administrator," to change the retention period from "not less than two years" to "not less than three years", to replace "internal revenue officers" with "ATF officers", to replace "director of customs" with "district director of customs," to add a provision that the regional regulatory administrator may require records to be kept for an additional period of not more than three years, and to make minor stylistic changes. As amended, § 251.137 reads as follows:

**§ 251.137 Retention.**

All records required by this part, documents or copies of documents supporting these records, and file copies of reports required by this part to be submitted to the regional regulatory administrator or to the district director of customs, shall be retained for not less than three years, and during this period shall be available, during business hours, for inspection and copying by ATF or customs officers. Furthermore, the regional regulatory administrator may require these records to be kept for an additional period of not more than three years in any case where he determines retention necessary or advisable. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for inspection and copying.

(68A Stat. 731 (26 U.S.C. 6001); Sec. 201, Pub. L. 85-859, 72 Stat. 1342, 1345, 1348, 1361, 1395 (26 U.S.C. 5114, 5146, 5207, 5555).)

Signed: January 3, 1978.

REX D. DAVIS,  
Director.

Approved: January 12, 1978.

BETTE B. ANDERSON,  
Under Secretary of the Treasury.  
(FR Doc. 78-1915 Filed 1-20-78; 8:45 am)

[3710-08]

**DEPARTMENT OF DEFENSE**

Department of the Army

[32 CFR Part 553]

**NATIONAL CEMETERIES**

Army National Cemeteries

AGENCY: Department of the Army.

ACTION: Proposed rule.

SUMMARY: The Department of the Army is proposing to amend its regulations to include specific policy regarding the use of the parking lot in Arlington National Cemetery by the general public. This proposed rule informs the public that it is unlawful for vehicles to remain in the parking lot beyond the currently posted 2-hour limit. The 2-hour limitation is adequate for those visiting the cemetery. It has been noted, however, that many vehicles remain parked in the lot from early morning through most of the day. The prolonged parking of those vehicles interferes with the parking of bona fide visitors to the cemetery.

DATES: Comments must be received on or before February 28, 1978.

ADDRESS: Comments should be submitted to HQDA (DAAG-PED), Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

LTC Ellsworth S. Clarke, (area code 202-693-0882).

SUPPLEMENTARY INFORMATION: On July 8, 1968, the Administrator of General Services delegated to the Secretary of Defense (with authority to redelegate to any officer or employee of the Department of Defense) the power to appoint uniformed guards as special policemen and to make needful rules and regulations for Arlington National Cemetery (Fed. Prop. Man. Reg. D-9, 33 FR 10035). On July 16, 1968, all authority vested in the Secretary of Defense, by delegation from GSA, was redelegated to the Secretary of the Army. The regulatory authority of the GSA delegation was used to promulgate the current Arlington Visitors' Rules.

NOTE.—The Department of the Army has determined that this document does not



contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 13, 1978.

W. J. WINTER, Jr.,  
Colonel, U.S. Army, Director,  
Personal Affairs, TAGCEN.

By authority of the Secretary of the Army.

Accordingly, it is proposed to amend 32 CFR § 553.22 by adding a reference to paragraph (g) in the 14th line of § 553.22(b) and by adding a new paragraph (g) to the section as follows:

§ 553.22 Visitors' Rules for the Arlington National Cemetery.

(a) \* \* \*  
(b) Scope. \* \* \* in paragraphs (c), (d), (e), (f), and (g) of \* \* \*

(g) Parking limitation. There is a 2-hour parking limit in the Visitors' Center Parking Lot at Arlington National Cemetery, and it is unlawful for vehicles to remain in the parking lot beyond the 2-hour limit.

(FR Doc. 78-1879 Filed 1-20-78; 8:45 am)

#### [7035-01]

##### INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1201, 1240, 1241]  
(No. 36730)

##### CLASS III RAILROADS FOR ACCOUNTING AND REPORTING PURPOSES

###### Proposed Designation

AGENCY: Interstate Commerce Commission.

ACTION: Revised Notice of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is proposing the designation of a Class III railroad classification for accounting and reporting purposes, originally published at 42 FR 56347, October 25, 1977. The purpose of revision is to reduce the accounting and reporting burden of smaller railroads subject to Commission regulations.

Initially, railroads with annual operating revenues of \$1 million or less were proposed to be Class III railroads. The Commission is now considering revising this revenue guideline. Railroads with \$10 million of annual operating revenues will be exempt from implementing the Revised Uniform System of Accounts which becomes effective January 1, 1978, until further ordered.

DATES: Effective January 1, 1978. Written comments must be received on or before February 15, 1978.

#### PROPOSED RULES

ADDRESS: Send comments to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7448.

H. G. HOMME, Jr.,  
Acting Secretary.  
(FR Doc. 78-1902 Filed 1-20-78; 8:45 am)

#### [3410-37]

##### DEPARTMENT OF AGRICULTURE

###### Food Safety and Quality Service

###### [7 CFR Part 2853]

##### MEATS, PREPARED MEATS, AND MEAT PRODUCTS

###### Grading Certification and Standards

AGENCY: Food Safety and Quality Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule will revise certain official U.S. standards for grades of meat and the related meat grading regulations and a companion rule proposed under 9 CFR Parts 316 and 317 will revise Federal meat inspection regulations pertaining to marking and labeling requirements. The proposed changes provide that meat will be graded only in the form of carcasses or sides and in the plant in which the animals were slaughtered. Also, certain trimming procedures and chilling conditions necessary for carcasses to be graded are clarified. The changes proposed in meat inspection regulations specify that all carcasses, parts, and meat of cattle and sheep must be identified by USDA quality grade or as ungraded. The proposed changes are designed to make grade determinations more accurate and uniform and less subject to fraud and to provide more complete grade information to consumers.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Written comments to Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR ADDITIONAL INFORMATION ON COMMENTS, SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Jerry Goodall, Acting Director, Meat Quality Division, Food Safety and

Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4727.

#### SUPPLEMENTARY INFORMATION:

The proposal under this part defines a beef carcass more precisely than formerly; specifies that meat from cattle and sheep will be graded only as carcasses or sides and only in establishments in which the animals are slaughtered; specifies that a beef carcass shall be presented for grading only after it has been sufficiently chilled so that its physical attributes (intramuscular fat or marbling; color, texture, and firmness of the lean; etc.) are developed adequately to permit an accurate grade determination; clarifies the conditions under which quality and yield grade designation marks may be removed from officially graded beef; specifies that to be eligible for grading, a beef carcass shall have the kidneys and the kidney, pelvic, and heart fat removed from it prior to presentation for grading; and lastly, specifies that a beef carcass shall have been ribbed for at least 30 minutes prior to the time it is presented for grading.

In addition, this proposal, in several of its parts, solicits specific comments and facts from all interested and affected parties on additional conditions that could be imposed upon the meat grading system but which the Department desires further information as to their beneficial and/or adverse effects upon producers, packers, and consumers.

The changes proposed in this document, as well as those for which additional information is being sought, are intended to: (a) Assist producers of meat animals in receiving a price for live animals that is commensurate with the retail value of the meat that an accurate grade designation predicts; (b) assist consumers in making informed value judgments in the marketplace so as to avoid having to pay more for meat than the true value of the meat purchased; (c) assist Federal graders in making more accurate grade determinations by better controlling those factors that contribute to variation in the present system; (d) assist supervisors and managers of Federal meat grading service to operate the service more efficiently; and (e) minimize the opportunity to defeat or circumvent the grading system by providing greater specificity and delineation to the system.

The change in meat inspection regulations requires that carcasses, parts, and meat of cattle and sheep that have been USDA graded must retain the grademarks until sold to the consumer and meat that has not been USDA graded must be marked or labeled "U.S. Ungraded." The specific changes in inspection regulations (9 CFR Parts 316 and 317) appear else-

where in this issue of the FEDERAL REGISTER.

#### COMMENTS

Changes proposed in meat grade standards and meat grading and labeling regulations are expected to have a significant impact on all parts of the livestock and meat industry and on the consuming public. It is anticipated that there may be widespread interest in the proposed changes. In order that all those affected have ample opportunity to comment, oral as well as written views, data, or arguments will be received on the proposal. In this regard, a public hearing will be held on the proposed changes contained in this notice and those concerning inspection regulations appearing elsewhere in this issue of the FEDERAL REGISTER. Hearing sessions will be held at locations beginning on the dates listed below:

1. March 16, 1978—Washington, D.C. 20250, Jefferson Auditorium, South Agriculture Building, 14th and Independence SW.
2. March 21, 1978—San Francisco, Calif. 94111, Custom's House, 555 Battery Street, Room 503.
3. March 23, 1978—Omaha, Nebr. 68102, Omaha Hilton Hotel, 1610 Dodge Street.
4. March 28, 1978—Atlanta, Ga. 30303, Federal Office Building, Room 556, 275 Peachtree Street NE.

Each day's session of the hearing will commence at 9:30 a.m., local time, unless the presiding official otherwise specifies during the course of the hearing. Any of the sessions may be continued beyond 1 day if necessary. Persons who wish to be heard are requested to notify the Administrator, Food Safety and Quality Service, Washington, D.C. 20250, on or before February 13, 1978, stating the session at which they wish to present a statement and how much time they will need to present the statement. However, any person who wishes to be heard at the hearing will be afforded opportunity to be heard, whether or not that person has given such advance notice.

In addition, all persons who desire to submit written data, views or arguments in connection with this proposal and/or the proposed changes in meat labeling regulations (9 CFR Parts 316 and 317) shown elsewhere in this issue of the FEDERAL REGISTER, are invited to file such material, in duplicate, with the Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250 on or before May 1, 1978. Comments must be signed and include the address of the sender and should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Also, since the comments will be considered in the resolution of these proposals, they should include definitive information

#### PROPOSED RULES

which explain and support the sender's views. All written submissions and transcripts of the comments at the public hearing will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

#### BACKGROUND

The USDA meat grading and inspection programs and the national meat marketing system have been plagued in recent years with bribery and corruption and with merchandising practices which may tend to mislead consumers and other purchasers of meats. The changes proposed by these revisions in grade standards and grading regulations (7 CFR part 2853) are a part of USDA's efforts to improve the integrity of the systems and to increase the dependence which the general public can place in the Federal grading and inspection programs. The changes are needed because of several instances of bribery and other corruptive practices which have occurred in recent years involving meatpackers and USDA meat graders and/or meat inspectors. In 1974-76, for example 17 firms, 36 meatpacking officials, and 17 USDA employees (who were relieved of official duties upon indictment and subsequently discharged from employment) were convicted of bribery and related offenses in California and Arizona. Since early 1975 it has been necessary to take administrative actions against packers in South Dakota, Iowa, Kansas, Texas, and California because of the illegal removal of grade stamps from meats. In this same period, another USDA agency, the Packers and Stockyards Administration, issued four formal complaints and assisted State or local officials with 10 other complaints, many of which were related in whole or part to violations or misrepresentation of USDA meat grades.

Changes in marking and labeling requirements in meat inspection regulations (9 CFR Parts 316 and 317) appear to be necessary because of the widespread use of merchandising practices by retailers, home freezer purveyors, and others that can confuse consumers and other purchasers as to the quality or yield grade and true value of beef and other meats.

This proposed rule and the companion rule proposed in the Federal meat inspection regulations, also discussed in this section, would revise official U.S. standards for grades of meat and related meat grading regulations and would revise marking and labeling requirements for such meats so that the opportunities for actions and practices such as those outlined above would be minimized. These proposals, if adopted, could eliminate certain elements of subjectivity in meat grading and some

possible causes of identifying cuts of meat with inappropriate grades; could increase the efficiency of marketing meat items; and would initiate new rules regarding identification of meat (except pork, which is not federally graded) and the retention of grade identification on all beef carcasses and cuts. In addition to the corrective measures, these changes could help make Federal grades more useful to and more easily understood by producers, processors, and particularly consumers.

The Federal grading of meat is a voluntary service which was originally designed to facilitate marketing. The cost of the service is paid for by fees collected from those who request that meat be graded.

During the 50 years that the service has been provided by the Federal Government, the demand for Federal meat grading has steadily increased. Based on estimates of the number of fed cattle produced in 1976 by USDA's Economics, Statistics, and Cooperatives Service and the quantities of beef graded by FSQS' meat grading service, it is estimated that nearly three-fourths of the fed beef produced is federally graded. Most of the fresh beef cuts reaching consumers through retail stores are from fed beef. Consumers have come to depend upon the Federal meat grade designation as the primary tool for making comparative cost and value judgments in the purchase of meat at the retail level.

This consumer dependence upon and desire for Federal grade designations of meat at the retail level has been largely responsible for the widespread use of the Federal meat grading service by the meatpacking and processing industries. This same consumer acceptance of and desire for grade designations on retail cuts of meat has led to the widespread and common use of meat grades in the promotion and advertising of meats at the retail level. Since Federal grades are used extensively as the basis for trading between meatpackers and others, and relatively wide spreads in price frequently result between grades, it is necessary that Federal meat grading be conducted as accurately and uniformly as possible in order to achieve equity among all persons affected by grades, from the producer to the consumer.

Because of the increased demand for Federal meat grading and its general acceptance by both industry and consumers, it has been necessary to make the meat grading service as widely available as possible while at the same time attempting to meet the needs of both industry and the consumer. In the past, meat has been graded for quality (a prediction of the palatability of the lean meat in a carcass) and for yield (a prediction of the amount



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of retail cuts that may be expected from a carcass) in a number of forms and geographic locations other than as a carcass or at the establishment of slaughter, respectively. Under the current meat grading regulations, meat may be graded as carcasses, quarters, and wholesale cuts in the establishment of slaughter as well as in establishments that are further down the distribution and/or processing and marketing line. These practices were adopted for the reasons cited above but they have resulted in: (1) inaccuracies in grading, (2) difficulties in supervising and managing the grading service, (3) increases in the cost of grading, (4) representations which may mislead or confuse consumers about the quality grade of meat, (5) producers of meat animals being paid a price which may not reflect the true value of their animals marketed for slaughter, and (6) bribery and fraudulent practices on the part of some Federal graders and/or operators of packing plants.

Presently, some beef is offered for grading when certain physical attributes of the carcass (grading factors) that are used for determining grade (e.g., marbling, color, texture, and firmness of the lean) are not developed to the extent necessary to permit an accurate grade determination to be made. This practice results in graders having to reevaluate many carcasses for grade with resultant increases in the cost of grading. The proposed procedures require that grade factors be developed to the extent that an accurate grade determination can be made. The development of these factors is a function of the conditions under which carcasses are chilled and the length of time between ribbing of the carcass and the presentation of the carcasses for grading. Therefore, it is proposed that a requirement of 30 minutes elapsed time between ribbing and presentation for grading be imposed as a means of assuring that grade factors are adequately developed in a carcass prior to its presentation for grading. This requirement should improve the condition of carcasses so that accurate grade designations can be made on increased numbers of carcasses when first offered for grading. The proposed requirement should: (1) Make the beef quality grades more accurate and uniform, (2) make it possible for supervisors to more effectively review graders' work, (3) expedite the handling of carcasses, and (4) decrease the overall cost of grading. However, also requiring that carcasses be chilled for no more than a specified time so as to attain adequate development of time and temperature dependent grade factors in the ribeye may serve to further reduce the variables that affect an accurate grade designation and could lead to consider-

able savings of energy. In connection with a possible chill time and temperature requirement, which is not specified in this proposal, the Department requests comments and facts from all interested and affected parties that would assist in making a decision relative to the merits of mandatory time and temperature requirements for grading.

The proposed requirement that the kidney and all kidney, pelvic, and heart fat be removed from carcasses before they are offered for grading should simplify the determination of yield grade and increase the uniformity of application of the yield grade standards, thereby making the yield grades a more useful means of assuring that producers of animals receive payment and consumers expend payment proportionate to the value offered or received.

Under the present regulations, carcasses can be graded with all of the kidney, pelvic, and heart fat left in place or with some or all of these fats removed. There is little difference in the accuracy of the yield grades for predicting the yield of retail cuts from carcasses in which the kidney, pelvic, and heart fat has been left in place or removed. However, removal of these fats can have a considerable effect on the yield of retail cuts from individual quarters and wholesale cuts. For example, consider two carcasses, both of Yield Grade 3.5, but with carcass No. 1 graded prior to removal of kidney, pelvic, and heart fat and carcass No. 2 graded after removal of these fats. The only reason that carcass No. 2 would be better than carcass No. 1 is that the only reason that carcass No. 2 would qualify as a Yield Grade 3.5 would be because of the removal of kidney, pelvic, and heart fat. Otherwise, carcass No. 2 would have been at least Yield Grade 4.0. Further, because the bulk of these fats are located in the hindquarter, the forequarters of the two carcasses would be very different in fatness and yield of retail cuts. The forequarter of carcass No. 2 is much more typical of a Yield Grade 4 than of Yield Grade 3. Requiring the kidney, pelvic, and heart fat to be removed will eliminate such variations in yields of trimmed retail cuts from individual quarters and wholesale cuts. In recognition of such differences, USDA now identifies carcasses graded after removal of kidney, pelvic, and heart fat differently than carcasses graded with these fats in place. However, the significance of this difference in identification is not fully understood by purchasers of beef, especially small retailers and consumers who buy quarters or wholesale cuts. Removal of these internal fats prior to grading should eliminate this source of confusion and make it possible to uniformly grade and mark beef for yield grade.

Since the emphasis placed on kidney, pelvic, and heart fat in determining yield grade essentially reflects the effect of the weight of this fat on the predicted yields of retail cuts from a carcass, the elimination of these fats as factors in the yield grade equation does not require any change in the emphasis placed on the three remaining grade factors. Also, in order that there will be a minimum of confusion to graders, producers, packers, retailers, and others in adapting to the revised standards, each proposed yield grade would continue to include carcasses with the same general combinations of external fat thickness, area of ribeye and carcass weight as now included in each of these grades.

The yield of retail cuts from a carcass of each yield grade should be substantially increased under the proposed standards. This is because the carcass weight would be decreased by the weight of the kidney and the kidney, pelvic, and heart fat that has been removed, but the weight of the retail cuts would remain the same. Consequently, carcasses of a given yield grade would be worth more per pound than carcasses of that yield grade under the present standards. However, the total value received by a producer is not expected to change significantly because the higher carcass price per pound would be largely offset by the lighter weight of the carcass. At the same time, it is reasonable to expect that certain advantages would accrue to consumers through these changes. For example, the kidney, pelvic, and heart fat would be used more efficiently at the point of slaughter; these fats would not have to be chilled, thus saving energy; and they would not be included as part of a carcass' shipping weight, thus decreasing shipping costs which should be reflected in somewhat lower retail prices. Also, it would be possible to utilize more of these fats for edible purposes than is permitted under present industry processing practices. All of these advantages should result in more efficient marketing of beef.

A change also is being proposed in the conditions under which the yield grade designations may be removed from grade-identified steer, heifer, cow, and bullock beef. Under the proposal, the yield grademark could not be removed from a carcass or its cuts when the natural fat cover is  $\frac{1}{4}$  inch or less thick any place on the carcass or cut. If the fat cover of the carcass is reduced to  $\frac{1}{4}$  inch or less by trimming, the yield grademarks could be removed. Thickness of natural or trimmed fat cover is easily determined by use of a calibrated probe. In that the original yield grade of a carcass was determined, in part, by the thickness of the natural fat cover, trimming of fat cover will significantly affect

the ratio of fat to lean in retail cuts obtained from trimmed carcasses. However, because the price paid for a carcass is most often determined by the yield grade assigned to that carcass and because yield grade is affected by fat cover, it does not appear to be in the best interests of either the producer or consumer to insist that the original yield grade of a carcass be maintained on all subsequent wholesale and retail cuts of meat from which substantial amounts of fat cover have been removed.

Concern also has been expressed to the Department that the value of meat to the consumer at retail is determined by the ratio of intermuscular fat to lean as well as by the ratio of fat on the exterior of the cut and the marbling or intramuscular fat. Because trimming of fat from carcasses and wholesale cuts may be expected to affect the price of meat at retail and may mislead consumers into believing that a trimmed retail cut was derived from a carcass of better yield grade than that from which it actually was derived, the Department is soliciting specific comments and facts on the effect of a requirement that the yield grade of meat be carried through all steps of processing and retailing and that the yield grade be that originally assigned to the carcass. The Department is particularly interested in learning of the benefits and/or adverse effects upon producers, packers, and consumers if such a requirement were imposed.

Changes in terms and definitions are offered in this proposal in order to enhance simplicity and to achieve more universal understanding of the grade standards. The term carcass has been defined in the beef carcass standards and this definition includes an explanation of the manner in which a carcass shall be dressed before it may be presented for grading. This definition also is intended to reduce subjectivity and to increase specificity of the grading process. Achievement of these ends will assure that all persons who are affected by grades are dealt with equitably. To further assure that both producers and consumers are receiving and paying fair market prices for the value delivered or received, the Department has been advised that certain additional requirements be included in the definition of a carcass. These requirements are not included in this proposed regulation, but the Department is requesting that specific comments and facts be provided on the advisability, the benefits, and the disadvantages of including a requirement that such items as the "hanging tender," the "cod" or "udder fat," and the "skirts" (diaphragm) be removed from the carcasses before carcasses are eligible for presentation for grading.

Because of the importance of USDA quality grade information to consum-

ers, the Department is also proposing changes in meat inspection marking and labeling regulations (amendments to 9 CFR Parts 316 and 317 shown elsewhere in this issue of the FEDERAL REGISTER) that will require carcasses, parts, and meat of cattle and sheep sold at retail to be marked or labeled with quality grade information. Such meats would be identified with official USDA quality grades or be marked or labeled as "U.S. UNGRADED." (Other species of livestock which are inspected under the Federal Meat Inspection Act are not included in this rulemaking procedure since USDA does not apply consumer quality grades to such products.)

Accurate information with respect to grade is considered essential to achieving equity in pricing of producers' livestock and for the protection of consumers and other purchasers of meats. USDA grades have become the basis for pricing live slaughter cattle and sheep as well as carcasses and wholesale cuts. The use of such grade terms in advertising, promotion, and labeling of meats also has grown significantly in the retail trade. Consumers have responded with the result that leading retailers in most major market areas feature USDA Choice beef and lamb extensively in their advertising and merchandising programs. Frequently, other retailers in these market areas use ungraded meat and/or a mixture of graded and ungraded meat and advertise and merchandise it in such a manner that consumers could be misled and believe that all such meat is of the same quality as graded meat. In other instances, meat is merchandised and advertised in a way that causes consumers to confuse Federal inspection marks and USDA grade-marks. These practices could misrepresent the quality of meat and permit such meats to compete unfairly with graded meats to the detriment of consumers and the public, generally. As a consequence of consumers not having accurate grade information, they often have to pay greater than the true value for meats they purchase. Therefore, because of the increased use of quality grades and because of the importance of such grades to consumers, it is proposed that carcasses, parts, and meat of cattle and sheep bear quality grade information to assure that their labeling will not be misleading.

Under the proposal to revise inspection regulations, such carcasses, parts, and meat will be required to bear, from the time they leave an official establishment and at all times thereafter, the appropriate USDA quality grade or the words "U.S. UNGRADED." Such carcasses, parts, or meat shall bear this information either thereon or on their containers, as is more specifically detailed in the pro-

posed regulations. These requirements would also be applicable to imports. In addition, since this is a misbranding provision, such requirements would be applicable to retail establishments that are exempt from routine inspection under the Federal Meat Inspection Act.

For the reasons outlined, it is proposed that certain sections of the regulations and standards appearing in 7 CFR Part 2853 (formerly Part 53) as they relate to meats, prepared meats, and meat products be revised as set forth below.

#### Subpart A—Regulations

1. In § 2853.1, the definitions for "Quality grade" and "Yield grade" are revised to read as follows:

#### § 2853.1 Meaning of words.

• • • • •  
*Quality grade.* A designation based on those characteristics of meat which most appropriately predict the palatability characteristics of the lean.

• • • • •  
*Yield grade.* A designation which best reflects the proportion of retail cuts that may be expected from a beef carcass; or which may be expected from a lamb, yearling mutton, or mutton carcass.

2. The second sentence of § 2853.4 is revised to read as follows:

#### § 2853.4 Kind of service.

• • • Class, grade, and other quality may be determined under said standards for meat of cattle, sheep or swine in carcass form only. • • •

#### § 2853.5 [Amended]

3. Except for the first four sentences, all of § 2853.5 is deleted.

4. Section 2853.13, paragraph (b) is revised as follows:

#### § 2853.13 Accessibility and refrigeration of products; access to establishments.

• • • • •  
(b) Grading will be furnished for meat only if it is properly chilled, that is, so that the grade factors are developed to the extent that an accurate grade determination can be made. Determination of class, grade, or other quality of meat under the standards in Subpart B of this part will not be made if such meat is in a frozen state. Carcasses of all species shall be graded only in the establishments where the animals are slaughtered. Also, to be eligible for grading, beef carcasses must be ribbed for a minimum of 30 minutes prior to being offered for grading.



## § 2853.17 [Amended]

5. In § 2853.17, paragraph (a), the words "and wholesale cuts" are deleted.

6. In § 2853.17, paragraph (c), second sentence, the phrase "and eligible cuts from bull and bullock carcasses" is deleted.

## Subpart B—Standards

## CARCASS BEEF

7. Section 2853.102 is revised as follows:

## § 2853.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides." For purposes of these standards, a carcass is defined as the two sides of a slaughtered animal which results from splitting it lengthwise through its approximate median plane and after removal of (a) the head, (b) the legs, (c) all viscera—including the kidneys and the thymus gland, (d) all kidney, pelvic, and heart fat, (e) all but two tail vertebrae, and (f) the spinal cord. The head shall be removed between the occipital bone and the first cervical vertebra, and the front and hind legs not below the knee and hock joints, respectively.

## § 2853.103 [Amended]

8. In § 2853.103, paragraph (b) (5), the last sentence is deleted.

9. In § 2853.104, paragraph (t) is deleted, paragraphs (u), (v), (w), and (x) are designated as (t) (u), (v), and (w), respectively; and paragraphs (a), (i), and (r) are revised as follows:

## § 2853.104 Application of standards for grades of carcass beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated percent of closely trimmed, boneless retail cuts expected to be derived from the four major wholesale cuts of a carcass (round, loin, rib, and chuck) herein referred to as the "yield grade," and (2) the characteristics of the lean which most appropriately predict its palatability, herein referred to as the "quality grade." When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designations must remain on all such grade-identified beef whose natural surface fat thickness is  $\frac{1}{2}$ -inch thick or less at its thickest place on the carcass. Beef whose surface fat has been trimmed after grading to not more than  $\frac{1}{2}$ -inch in thickness at any point may, as a result of such trimming, have the yield grademark re-

moved. Retail beef cuts need not be yield grademarked. In those instances in which removal of the yield grade is permitted, the USDA grade shall consist of the quality grade designation only. The grade of a bull carcass consists of the yield grade only.

(i) To meet the demand of export trade, carcasses ribbed other than between the 12th and 13th ribs may be approved for grading by the Food Safety and Quality Service. In such cases, they shall be identified with the word "EXPORT" in such a manner that will clearly distinguish them from other officially graded beef.

(r) The yield grade of a beef carcass is determined by considering three characteristics: (1) The amount of external fat, (2) the area of the ribeye muscle, and (3) the hot carcass weight.

10. Section 2853.105 is revised as follows:

## § 2853.105 Specifications for official United States standards for grades of carcass beef (yield).

(a) The yield grade of a beef carcass is determined on the basis of the following equation: Yield grade =  $3.40 + (2.50 \times \text{adjusted fat thickness, inches}) + (0.0038 \times \text{hot carcass weight, pounds}) - (0.32 \times \text{ribeye area, square inches})$ . In the above equation, hot carcass weight is the hot weight of the carcass as described in § 2853.102.

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1 usually has only a thin layer of external fat over the ribs, loins, rumps, and clods, and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the outside of the rounds and over the tops of the shoulders and necks. Muscles are usually visible through the fat in many areas of the carcass.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have twenty-five hundredths inch of fat over the ribeye and 12.0 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have thirty-five hundredths inch of fat over the ribeye and 16.5 square inches of ribeye.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2 usually is nearly completely covered with fat but the lean is

plainly visible through the fat over the outside of the rounds, the top of shoulders, and the necks. There usually is a slightly thin layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is slightly thick. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have forty-five hundredths inch of fat over the ribeye and 10.5 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have fifty-five hundredths inch of fat over the ribeye and 15.0 square inches of ribeye.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3 usually is completely covered with fat and the lean usually is visible through the fat only on the necks and the lower part of the outside of the rounds. There usually is a slightly thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is moderately thick. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have seven-tenths inch of fat over the ribeye and 9.5 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have eight-tenths inch of fat over the ribeye and 14.0 square inches of ribeye.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4 usually is completely covered with fat. The only muscles usually visible are those on the shanks and over the outside of the plates and flanks. There usually is a moderately thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is thick. There are large deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one and five-hundredths inch of fat over the ribeye and 9.0 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one and fifteen-hundredths inch of fat over the ribeye and 13.5 square inches of ribeye.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 usually has more fat on all of the various parts and a smaller area of ribeye than a carcass in Yield Grade 4.

## VEAL AND CALF CARCASSES

11. Section 2853.112 is revised as follows:

## § 2853.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

## § 2853.115 [Amended]

12. In § 2853.115, the first sentence in paragraph (d) is deleted; in the first sentence of paragraph (e), the words "or portions of such carcasses" are deleted; and in paragraph (g) the last sentence is deleted.

## LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

13. In § 2853.123, paragraph (c) (5) is revised as follows:

## § 2853.123 Application of standards.

(c) *Yield grade.* . . .

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides.

## § 2853.127 [Amended]

14. In § 2853.127, paragraph (b) is deleted and paragraph (c) is designated as paragraph (b).

NOTE.—A draft Impact Analysis of this proposal has been prepared in accordance with Federal Docket 77-33571 and is available from the Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on this 19th day of January 1978.

ROBERT ANGELOTTI,  
Administrator,  
Food Safety and Quality Service.

[FR Doc. 78-2065 Filed 1-20-78; 11:24 am]

## [3410-37]

## [9 CFR Parts 316 and 317]

## CATTLE AND SHEEP'S CARCASSES, PARTS, AND MEAT

## Grade Marking

AGENCY: Food Safety and Quality Service.

ACTION: Proposed Rule.

SUMMARY: This proposed rule will amend the Federal meat inspection regulations by adding marking and labeling requirements that all carcasses, parts, and meat of cattle and sheep be

identified by USDA quality grade or as ungraded. There has been an ever increasing use of quality grades by industry and a dependence on quality grades by consumers. In conjunction with related changes proposed in grade standards and grading regulations in 7 CFR Part 2853, this proposal is intended to assure that consumers will not be misled when shopping for meat.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Written comments to: Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR ADDITIONAL INFORMATION ON COMMENTS, SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

## SUPPLEMENTARY INFORMATION:

## COMMENTS

Interested persons are invited to submit written comments concerning this proposal. All comments must be sent in duplicate to the Hearing Clerk. Comments should show specific parts of the proposal(s) to which reference is intended. Also, views may be presented at four public hearing sessions to be held in March. Details are shown in a related proposal to change meat grading standards and regulations (7 CFR Part 2853) appearing elsewhere in this issue of the FEDERAL REGISTER. Comments on this proposal and the grading proposal may be combined. All written comments submitted pursuant to this notice and the transcript of the public hearing will be made available for public inspection in the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

## BACKGROUND

A discussion of the background and reasons for these proposed amendments to the Federal meat inspection regulations is included in the Supplementary Information section of a proposal to amend the meat grading standards and regulations (7 CFR Part 2853) included elsewhere in this issue of the FEDERAL REGISTER.

Accordingly, it is proposed that Parts 316 and 317 of the Federal meat inspection regulations (9 CFR Parts

316 and 317) be amended as set forth below.

1. A new § 316.17 (9 CFR 316.17) is added to read as follows:

## § 316.17 Grade marking.

(a) Any carcass or part thereof of cattle or sheep required under the regulations in this Part 316 to be marked with the official inspection legend shall also be marked with the appropriate USDA quality grade, or, if ungraded, shall be marked "U.S. UNGRADED." A USDA grademark shall be applied only under the supervision of Food Safety and Quality Service employees and in the manner prescribed under the regulations in 7 CFR Part 2853. A "U.S. UNGRADED" statement shall be applied continuously and roller marked in letters not less than  $\frac{1}{4}$  inch in height with the letters appearing in not less than 1 inch intervals. Any such carcass, part, or meat cut which has previously been marked with a USDA quality grade and from which said mark has been removed by trimming must either be remarked in accord with this section or labeled with the appropriate USDA quality grade in the type size required by § 317.20.

(b) The requirements of this section shall also be applicable to any such carcass, part, or meat in a retail store which is not required to be marked with the official inspection legend because it has been prepared in compliance with the retail exemptions in Part 303 of this subchapter.

2. A new § 317.20 (9 CFR 317.20) is added to read as follows:

## § 317.20 Grade labeling.

All immediate and shipping containers of any parts of cattle or sheep shall be labeled with the appropriate USDA quality grade, or, if ungraded, shall be labeled as "U.S. UNGRADED." The labeling required by this section shall appear on the principal display panel in type size not smaller than that required for the net weight declaration in § 317.2(h).

NOTE.—A DRAFT Impact Analysis of this proposal has been prepared in accordance with Federal Docket 77-33571 and is available from the Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on this 19th day of January, 1978.

ROBERT ANGELOTTI,  
Administrator,  
Food Safety and Quality Service.

[FR Doc. 78-2066 Filed 1-20-78; 11:24 am]



# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

## DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

### INDUSTRIAL HYDROCARBONS PILOT PROGRAM

#### Extension of Time

The period for receipt of submissions pursuant to the notice published in the FEDERAL REGISTER on October 20, 1977, (42 FR 55904), is extended from February 1, 1978, to April 15, 1978.

Submissions under this notice subsequent to February 1 should be directed to Harry Brown, Energy Research Coordinator, Room 212-A, USDA Administration Building, Washington, D.C. 20250, 202-447-4515.

Items to be covered by tentative descriptions should include in part: proposed site location(s); conversion feedstock(s); boiler (process) fuel; end hydrocarbon product(s); basic information on costs, proposed financing and engineering; and supporting data on energy input/output ratio. Specific information should be included on marketing arrangements for proposed hydrocarbon products and process by-products.

Dated: January 18, 1978.

BOB BERGLAND,  
Secretary.

(FR Doc. 78-1895, Filed 1-20-78; 8:45 a.m.)

[3410-07]

Farmers Home Administration

(Designation No. A549)

### LOUISIANA

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Louisiana Parishes as a result of drought April 22, 1977, through June 11, 1977, and excessive rainfall and wind August 1, 1977, through Septem-

ber 20, 1977, in Lafayette Parish; drought April 15, 1977, through June 15, 1977, and excessive rainfall and insect infestation June 15, 1977, through November 28, 1977, in Rapides Parish; drought May 10, 1977, through June 20, 1977, and excessive rainfall and insect infestation August 8, 1977, through September 20, 1977, in St. Landry Parish.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit D, Paragraph V-B, including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than June 22, 1978, for physical losses and December 26, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 16th day of January 1978.

GORDON CAVANAUGH,  
Administrator, Farmers  
Home Administration.

(FR Doc. 78-1840 Filed 1-20-78; 8:45 am)

[6320-01]

### CIVIL AERONAUTICS BOARD

(Order 78-1-31; Docket No. 31222;  
Agreement CAB 21715-A6)

#### ALLEGHENY AIRLINES, INC. AND SOUTHERN JERSEY AIRWAYS, INC.

##### Order; Correction

Adopted by the Civil Aeronautics Board at its office in Washington,

D.C., on the 10th day of January 1978.

In the matter of application of Allegheny Airlines, Inc., for an exemption pursuant to sections 408(a)(5) and 416(b) of the Federal Aviation Act of 1958, as amended. Docket 31222.

Agreement between Allegheny Airlines, Inc. and Southern Jersey Airways, Inc. Agreement C.A.B. 21715-A6.

In the order published at 43 FR 2418, January 17, 1978, Line 30 of the second full paragraph, first column, page 2419, should read as follows: "of arrangements and factual situations we".

Dated: January 12, 1978.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-1888 Filed 1-20-78; 8:45 am)

[6320-01]

(Order 78-1-67; Docket 30332; Agreement  
C.A.B. 27095)

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

#### Order Relating to Specific Commodity Rates

Issued under delegated authority January 17, 1978.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement would add a specific commodity rate, under an existing commodity description as set forth below, reflecting a reduction from general cargo rates; and was adopted pursuant to unopposed notice to the carriers and promulgated in an IATA letter dated January 5, 1978.

Agreement CAB	Specific commodity item No.	Description and rate*
27095	4431	Resistors and/or rheostats 236 cents per kg., minimum weight 250 kgs., from Bombay to New York.

\*Subject to applicable currency conversion factors as shown in tariffs.  
\*Expires June 30, 1978.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act provided that approval is subject to the conditions ordered.

Accordingly, it is ordered, That:

Agreement CAB 27095 be approved, provided, That: (a) Approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 60 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-1889 Filed 1-20-78; 8:45 am)

[6320-01]

(Docket No. 31955)

### TWIN CITIES-LAS VEGAS/PHOENIX/SAN DIEGO ROUTE PROCEEDING

#### Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on February 14, 1978, at 10 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and six copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) proposed requests for information and for evidence; (4) statements of positions; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material

on or before January 31, 1978, and the other parties on or before February 9, 1978. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., January 18, 1978.

HENRY M. SWITKAY,  
Administrative Law Judge.  
(FR Doc. 78-1887 Filed 1-20-78; 8:45 am)

[6335-01]

### COMMISSION ON CIVIL RIGHTS

#### COLORADO ADVISORY COMMITTEE

##### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. on February 16, 1978 and will end at 12:30 p.m. on February 18, 1978, at the Stanley Hotel Box 1767, Estes Park, Colo. 80517.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is for the newly chartered Rocky Mountain RAC will hold its first meeting to discuss its function and to select future projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1978.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1916 Filed 1-20-78; 8:45 am)

[6335-01]

### NEW JERSEY ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 9:30 p.m. on February 8, 1978, at the Sheraton Regal Inn, Kingsbridge Road, Piscataway, N.J.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss transitional steps and projects.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1978.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1917 Filed 1-20-78; 8:45 am)

[6335-01]

### UTAH ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah Advisory Committee (SAC) of the Commission will convene at 7:00 p.m. and will end at 9:30 p.m. on February 9, 1978 at 440 East 1st South Library, Salt Lake City Board of Education, Salt Lake City, Utah.

Persons wishing to attend this open meeting should contact the Committee chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colo. 80202.

The purpose of this meeting is for the SAC to review final report of their study on employment practices at criminal justice agencies in the state.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., January 18, 1978.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1918 Filed 1-20-78; 8:45 am)

[3510-03]

### DEPARTMENT OF COMMERCE

#### Maritime Administration

(Docket No. S-589)

### COVE TRADING, INC.

#### Application

Notice is hereby given that an application has been filed by Cove Trading, Inc. (Trading), under the Merchant Marine Act, 1936, as amended, (the Act) for operating differential subsidy (ODS) on the SS Cove Trader (former-



ly the *Transeastern*) with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire on December 31, 1978, unless extended.

Inasmuch as Trading and/or related persons or firms employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if Trading's application for ODS is to be granted.

Trading is affiliated with Cove Tankers Corp. (Tankers), a subsidized operator in the grain trade to Russia. Tankers has been granted the following written permissions under section 805(a):

1. For Cove Shipping, Inc. (formerly known as Mount Shipping, Inc.), an affiliate, to operate the USNS's *Susquehanna*, *Neches*, *Columbia*, and *Hudson* in domestic service under MSC or private charters.

2. For Tankers' owned vessel, *Mount Explorer*, and its bareboat chartered vessels, *Mount Navigator* and *Cove Communicator*, to engage in the domestic service under MSC or private charters.

3. For Trading to own the *Cove Trader* for worldwide operation (including domestic operation), and Cove Shipping, Inc., to operate the *Cove Trader* and *Stuyvesant* in the carriage of Alaskan oil in the domestic trade.

4. The right to move the foregoing vessels from one domestic trade to another, and/or from a foreign trade to a domestic trade.

It will be necessary to extend to Trading the foregoing written permissions previously granted to Tankers.

Such written permission is required under section 805(a) notwithstanding the fact that a voyage of the *Cove Trader* in the proposed service for which subsidy is sought on which the vessel engaged in domestic intercoastal or coastwise trade would not be eligible for subsidy.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on February 6, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations: (a) Could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated: January 17, 1978.

By order of the Assistant Secretary for Maritime Affairs/Maritime Subsidy Board.

ROBERT J. PATTON, Jr.,  
Assistant Secretary.

(FR Doc. 78-1926 Filed 1-20-78; 8:45 am)

#### [3510-17]

National Fire Prevention and Control  
Administration

#### ADVISORY COMMITTEE ON FIRE TRAINING AND EDUCATION FOR THE NATIONAL ACADEMY FOR FIRE PREVENTION AND CONTROL

##### Renewal

AGENCY: National Fire Prevention and Control Administration.

SUMMARY: This is a notice of renewal of the Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control.

#### FOR FURTHER INFORMATION CONTACT:

Joseph A. Moreland, Chief Counsel, National Fire Prevention and Control Administration, U.S. Department of Commerce, P.O. Box 19518, Washington, D.C. 20036, telephone 202-632-9685.

**SUPPLEMENTAL INFORMATION:** In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, it has been determined that the renewal of the Advisory Committee on Fire Training and Education for the National Academy for Fire Prevention and Control is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in January 1976, and it was to terminate on January 14, 1978. Its original purpose was to inquire into and make recommendations regarding the desirability of establishing a mechanism

for accreditation of fire training and education programs and courses, and the role the Academy should play if such a mechanism is recommended, and to submit to the Administrator of the National Fire Prevention and Control Administration, within two years after its appointment, a full and complete report of its findings and recommendations. This objective has not been achieved. While the duration of the charter was for two years, the Committee was not fully appointed until January 1977, the charter year. There have been no interim reports issued nor are any anticipated since the Committee effort has been dedicated to the formation of a single final report.

As initially established, the Committee will continue with a balanced representation with the Superintendent of the National Fire Academy serving as Chairman, and 18 other members, selected from among individuals and organizations possessing special knowledge and experience in the field of fire training and education or related fields. The Committee will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress.

Dated: January 11, 1978.

ELSA A. PORTER,  
Assistant Secretary  
for Administration.

(FR Doc. 78-1832 Filed 1-20-78; 8:45 am)

#### [3510-22]

National Oceanic and Atmospheric  
Administration

#### RECEIPT OF APPLICATION FOR PERMIT

Notice is hereby given that an applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the regulations governing the taking and importing of marine mammals (50 CFR Part 216).

1. Applicant: (a) Name: Marineland S.A., Mr. Edward Hugh Thomas, President; (b) Address: Costa D'en Blanes, Palma Nova, Mallorca, Spain.

2. Type of permit: Public display.

3. Name and number of animals: California sea lions (*Zalophus californianus*); 4. bottlenosed dolphins (*Tursiops truncatus*); 4.

4. Type of activity: to take by capture.

5. Location of activities: Sea lions—Channel Islands, Santa Barbara, Calif.; dolphins—Copano Bay, Rockport, Tex.

6. Period of activities: 2 years.

The arrangements and facilities for transporting and maintaining the

marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

As a request for a permit to take a living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11614, March 12, 1975). In this regard, the application:

(a) Was submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the Department of the Ministry of Agriculture, that Department being responsible, among other things, for ensuring the suitable care of animals in captivity;

(b) Includes:

(i) A verification from the Ministry of Agriculture of the information set forth in the application.

(ii) A certification from the Department of the Ministry of Agriculture that the Government of Spain is prepared to monitor compliance with the terms and conditions of the permit, and will do so, if and when necessary; and

(iii) A statement that the Ministry of Agriculture will have no objection to a NMFS decision to amend, suspend or revoke a permit.

In accordance with the above-cited policy, the certification and statements of the Ministry of Agriculture of Spain have been found appropriate and sufficient to allow consideration of this permit application.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before February 22, 1978. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

The Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300

Whitehaven Street NW., Washington, D.C.;  
Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702;  
Regional Director, National Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: January 16, 1978.

ROLAND FINCH,  
Acting Deputy Assistant Director  
for Fisheries Management, National Marine Fisheries Service.

(FR Doc. 78-1925 Filed 1-20-78; 8:45 am)

#### [78-1831]

United States Travel Service

TRAVEL ADVISORY BOARD

##### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974) notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on February 24, 1978, at 10:00 a.m., in Room 4830, of the main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purpose of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements will be allowed.

Sue Barbour, Travel Advisory Board Liaison Officer, the United States Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4752 will respond to public requests for information about the meeting.

FABIAN CHAVEZ, Jr.,  
Assistant Secretary for Tourism,  
Department of Commerce.

(FR Doc. 78-1831 Filed 1-20-78; 8:45 am)

#### [6355-01]

#### CONSUMER PRODUCT SAFETY COMMISSION

[CP 75-25 and CP 76-21]

#### HAND-HELD HAIRDRYERS AND SIMILAR PRODUCTS

##### Denial of Petitions

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission announces the denial of two petitions to develop a mandatory safety standard for hand-held hairdryers and similar hair care products to address the hazards of flaming and overheating. The petitions were denied because these hazards appear to be adequately addressed in a voluntary standard to which there is a high degree of adherence.

FOR FURTHER INFORMATION CONTACT:

Mark Gulak, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6754.

**SUPPLEMENTARY INFORMATION:** Section 10 of the Consumer Product Safety Act ("the CPSA"), 15 U.S.C. 2059, provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the FEDERAL REGISTER.

On April 12, 1975, Esther Peterson, then Vice President for Consumer Programs at Giant Food Inc., petitioned the Commission to develop uniform safety standards for all brands and types of hand-held hair stylers and similar products such as hand-held curlers, dryers, mini-dryers, and electric combs (Petition CP75-25). On July 5, 1975, Georgiann Hawrysz petitioned the Commission to develop a safety standard for mini-hairdryers (Petition CP 76-2). The hazards the petitioners alleged to be associated with hand-held hairdryers and similar hair care products were overheating and flaming.

Giant Food petitioned the Commission (CP 75-25) after receiving several consumer complaints stating that certain units of a particular hair styler either overheated or caught on fire. The petition stated that uniform safety standards were necessary to help retailers determine the safety of the products on the market and to adequately protect the public. The second petition (CP 76-2) described an incident of a mini-hairdryer bursting into flames while in use. The petition



stated that this mini-hairdryer was identical to other mini-dryers marketed under different names which were still available to consumers.

In investigating these petitions, the Commission staff researched injury information on hand-held hairstylers, curlers, dryers, mini-dryers, electric combs, and the like. The National Electronic Injury Surveillance System data showed that the majority of injuries associated with the subject products were burns. Electric shock accounted for a small percentage of hair dryer incidents. However, most of the victims of burn and shock were treated and released from emergency rooms. The incidence of all kinds of injuries associated with these hand-held hair products decreased by 20 percent from 1975 to 1976. At the same time, there was an increase in sales of approximately 50 percent.

The Commission's staff reviewed 100 in-depth investigations of injuries associated with these products. There were a number of hazard patterns identified with hand-held hairdryers. The three most frequent patterns (dryer emitted sparks, flames, or pieces of molten metal or plastic; dryer burst into flames or exploded; and dryer overheated and/or plastic case melted) did not usually result in injury, and, where injury did occur, in most cases they were minor burns which did not require medical attention. The hazard pattern which accounted for the most severe injury occurred when hairdryers fell into filled bathtubs, resulting in the electrocution of 26 victims.

The most frequent hazard pattern associated with curling irons was a child coming into contact with a hot iron. In these cases, the victims sustained burns and were treated and released from the hospital.

There is a voluntary standard, Underwriters Laboratories Standard for Electrical Personal Grooming Appliances (UL 859), that applies to all products within the scope of these two petitions. Since 1975, the UL standard has undergone a number of revisions and amendments, all of which were directed toward providing increased safety for the user. The hazards alleged in both petitions have been addressed in sections of the latest proposed UL requirements. The Commission therefore concludes that UL has made significant improvements in the petitioners' areas of concern and that the tests in the revised voluntary standard are likely to reduce or avoid the overheating and other hazards that have been associated with previously manufactured hairdryers.

Information available to the Commission indicates that there is a high degree of conformance to the presently existing voluntary standard. In view of this voluntary standard, and the

continuing effort by Underwriters Laboratories to address the risks of injury associated with overheating and flaming alleged by petitioners to be associated with hand-held hair dryers and similar products, the Commission is unable to find, at the present time, that a mandatory federal standard is reasonably necessary in order to reduce or eliminate the risks alleged by petitioners. Therefore, the Commission has denied the petitions.

Although the hazard of electrocution is outside the scope of these petitions, the Commission is concerned about the number of electrocutions caused by these products while the victim was in a filled bathtub. The Commission believes that these deaths show that a conspicuous and effective warning label should be placed on these products to warn consumers of this hazard. Since the Commission believes that existing labels, where utilized, are inadequate in these regards, the Commission has directed its staff to strongly encourage UL to develop a voluntary standard that would provide for a conspicuous and effective warning label and that would be adhered to by industry.

Copies of the petitions and the staff's briefing package to the Commission concerning the petitions may be seen in or obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

Dated: January 17, 1978.

SADYE E. DUNN,  
Acting Secretary, Consumer  
Product Safety Commission.  
(FR Doc. 78-1839 Filed 1-20-78; 8:45 am)

[6355-01]

(Petition CP 76-18)

#### OFF-ROAD MOTORIZED RECREATIONAL VEHICLES

##### Denial

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition to develop a consumer product safety standard for off-road recreational vehicles containing accelerator-throttle control and carburetor systems. Currently available information is insufficient to determine that such vehicles present an unreasonable risk of injury to consumers or that a mandatory standard is reasonably necessary.

FOR FURTHER INFORMATION CONTACT:

William Kitzes, Office of Program Management, Consumer Product Safety Commission, Washington,

D.C. 20207, telephone 301-492-6557.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to begin a proceeding to issue a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish in the FEDERAL REGISTER its reasons for denial.

In a petition dated July 28, 1976, Mr. and Mrs. Michael E. Pawlak asked the Commission to develop a consumer product safety standard to address a risk of injury presented by the accelerator-throttle control and carburetor systems of motorized off-road recreational vehicles. The petition describes an incident involving a Honda ATC-90K2 three-wheel, all-terrain cycle which resulted in the death of the petitioners' 6-year-old son and injuries to their 16-year-old son. According to the petition, it was caused by a malfunction in the machine's accelerator-throttle control and carburetor systems and by a resulting "stuck-open throttle."

In its consideration of this petition, the Commission has analyzed the risk of injury discussed in the petition. The Commission's National Electronic Injury Surveillance System (NEISS) contains a category for injuries associated with "motor-scooters, mini-bikes, and other such vehicles—2 or 3 wheels." According to NEISS reports, in fiscal year 1976 there were 733 injuries in this category treated in the 119 hospital emergency rooms that comprise the NEISS statistical sample. NEISS, however, does not further categorize these injuries by the type of vehicle involved or by the cause of the injury.

The Commission supplements its NEISS data with information from in-depth investigations in which Commission investigators report on the details of injury incidents obtained from NEISS and from other sources. Seven in-depth investigations conducted during fiscal years 1975 and 1976 involved stuck throttles on vehicles which are the subject of this petition. Three involved mini-bikes, three involved snowmobiles, and the seventh was the incident involving the petitioners' children. As a result of the three mini-bike incidents, two boys were treated—one for chest burns and one for a nose laceration(s)—before being released. A third boy had no injuries. As a result of the snowmobile incidents, a girl, a boy, and a woman suffered injuries that were treated in hospitals.

With regard to the Honda ATC-90, the particular type of vehicle that the petitioners' children were riding, the Honda Corp. has told the Commission that over 70,000 were sold as of March 1, 1976, and that two incidents involv-

ing them have been reported to the company (aside from the incident described in the petition).

In addition, the Commission has evaluated the design of vehicles which have a carburetor and throttle device similar to that used in the Honda ATC-90. This evaluation revealed that the throttle controls and dial style engine shut-off switches ("kill buttons") used on this Honda are manufactured in compliance with safety standards issued by the Department of Transportation's regulations, even though it need not comply with those standards. Only motorcycles are likely to use the same type of carburetor and throttle combination, according to the evaluation.

Finally, the Commission and the National Bureau of Standards (NBS) conducted tests related to the stuck-open throttle condition that is the subject of the petition. In one Commission test, a throttle-carburetor assembly identical to the one involved in the Pawlak incident was tested for approximately 200,000 cycles. No stuck-open throttle conditions occurred during this test. NBS performed the same test and obtained the same results. In the other Commission test, the throttle-carburetor assembly was tested at 100,000 cycles while the engine was operating (in contrast to the NBS and first Commission test), and no stuck-open throttle conditions occurred. The test cycles range from 1.7 to 3.3 times greater than Honda believes is the normal life.

In the three tests, failures relating to the return coil spring and retaining ring did occur. The Commission staff has written to Honda requesting test data and/or engineering analysis to explain the cause(s) of these failures, as well as assurance that they will not cause safety-related malfunctions during consumer use. The Commission will take whatever regulatory or other action may be appropriate to address these test occurrences.

The Commission has carefully considered the matters raised in the petition, along with the available injury data, test data, and other relevant information. Based on all of this information, the Commission does not believe that there is sufficient data to determine (a) that motorized off-road recreational vehicles containing accelerator-throttle and carburetor systems present an unreasonable risk of injury, or (b) that a consumer product safety standard is reasonable necessary to address such a risk. Accordingly, the petition is denied.

Copies of the petition and the staff's briefing materials may be seen in the Office of the Secretary of the Commission, at 1111 18th Street NW., Washington, D.C. They may be obtained by writing the Office of the Secretary, Consumer Product Safety

Commission, Washington D.C. 20207 or by calling 202-634-7700.

Dated: January 18, 1978.

SADYE E. DUNN,  
Acting Secretary, Consumer  
Product Safety Commission.  
(FR Doc. 78-1884 Filed 1-20-78; 8:45 a.m.)

[3710-08]

#### DEPARTMENT OF DEFENSE

##### Department of the Army

##### PRIVACY ACT OF 1974

##### Notice of System of Record Amendment

AGENCY: Department of the Army, DOD.

ACTION: Notice of an amendment to a system of records.

SUMMARY: The Army proposes to amend an existing system of records subject to the Privacy Act of 1974. The specific change to the system being amended is set forth below followed by the system published in its entirety, as amended.

DATES: This system shall be amended as proposed without further notice in 30 calendar days from the date of this publication unless comments are received on or before February 22, 1978, which would result in a contrary determination.

ADDRESS: Send comments to The Adjutant General, Department of the Army, ATTN: DAAG-AMR-R, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20314

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a(o) (Pub. L. 93-579) have been published in the FEDERAL REGISTER (FR Doc 77-28255) on September 28, 1977, at 42 FR 50396. The Army proposes to amend a record systems identified as A0305.10aDACA, entitled "Joint Uniform Military Pay System—Active Army (JUMPS-AA)" (42 FR 50451) by adding a routine use.

The proposed change to this system is not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the FEDERAL

REGISTER (40 FR 45877) on October 3, 1975.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

JANUARY 17, 1978.

A0305.10aDACA

System name: 305.10 Joint Uniform Military Pay System—Active Army (JUMPS-AA).

##### Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: After "USAFAC . . . taxable earnings information," delete the period and add: "the American Red Cross, and the Department of Health, Education and Welfare." After "American Red Cross: related financial transactions," add: "Department of Health, Education and Welfare: Disclose the name, rank and social security account number of each member of the Armed Services on active duty to The Inspector General of that Department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

System manager(s) and address: Change "United States Army Financing . . ." to "United States Army Finance . . .".

A0305.10aDACA

##### System name:

305.10 Joint Uniform Military Pay System—Active Army (JUMPS-AA).

##### System location:

Primary System—United States Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249. Decentralized Segments—Approximately 122 Army Finance Offices and Finance and Accounting Offices (FAO) world-wide.

Categories of individuals covered by the system:

All active duty military personnel.

##### Categories of records in the system:

Records include individual military pay records, casual payment receipts, substantiating documents, temporary pay records, transmittal letters, locator files, financial data record folders (FDRF), miscellaneous military pay files, and personal financial records (PFR).

##### Authority for maintenance of the system:

Title 37 U.S.C., Section 101 and following (Pay and Allowances of the Uniformed Services).



Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

**USAFAC**—Purpose is to provide a basis for establishment of computation of each active member's military pay entitlement, to provide a history of pay transactions, and to answer inquiries or claims pertaining to such entitlements. This information is also used to provide necessary data to the Treasury Department, the Social Security Administration, the U.S. Army Military Personnel Center, the Veterans Administration, those states and cities which have an agreement with the Department of the Army to receive taxable earnings information, the American Red Cross, and the Department of Health, Education and Welfare.

**Treasury Department:** To record check and bond issue data and to record taxable earnings and taxes withheld from military personnel.

**Social Security Administration:** To record earned wages by member under the Federal Insurance Contributions Act (FICA).

**U.S. Army Military Personnel Center (MILPERCEN):** To compare military personnel identification with the Social Security Administration for purpose of correction and to compare and correct common data elements with USAFAC.

**Veterans Administration:** To record the collection of premiums for National Service Life Insurance and to transfer contributions to Post-Vietnam Era Veterans Education Account.

**States and Cities:** To verify tax liability against members' State and city income tax returns.

**American Red Cross:** To assist military personnel and their dependents in determining the status of monthly pay, dependents allotments, loans, and related financial transactions.

**Department of Health, Education and Welfare:** Disclose the name, rank and social security account number of each member of the Armed Services on active duty to The Inspector General of that Department only for comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

#### Storage:

Paper records in file folders and in bulk storage, card files, computer magnetic tapes, computer paper printout, and microfiche.

#### Retrievability:

Filed by social security number, alphabetically by name, and substantiating document number. Conventional indexing is used to retrieve data.

#### Safeguards:

USAFAC-Buildings employ security guards. An employee badge and visitor registration system is utilized. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained. Access to computer magnetic tape files is restricted to the members' servicing finance and accounting officer. Computer equipment and files are located in a separate secured area.

World-Wide Finance and Accounting Offices-Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

#### Retention and disposal:

Individual military pay records-Records are converted to microfilm which are retained for 56 years. Destruction is by shredding.

Other records-Retention periods vary according to category of record but total retention periods do not exceed 56 years. Disposition is to Federal records centers and destruction thereafter is by burning or salvage as waster paper.

#### System manager(s) and address:

Commander, USAFAC, Indianapolis, Ind. 46249.

Finance and Accounting Officer, United States Army Finance and Accounting Offices, world-wide.

#### Notification procedure:

Information may be obtained from: Commander, USAFAC, ATTN: FINCP, Indianapolis, Ind. 46249.

Individuals may also contact Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Individual must provide full name, social security number and military status.

#### Record access procedures:

Requests from individuals should be addressed to: Commander, USAFAC, ATTN: FINCP, Indianapolis, Ind. 46249; or Finance and Accounting Officers at United States Army Finance and Accounting Offices, world-wide.

Written requests for information should also contain full name, social security number, military status and current address.

Information may be obtained by telephone: Area Code 317/542-2891.

#### Contesting record procedures:

The Army's rules for access to records, contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

#### Record source categories:

Information is received from Department of Defense staff and field installations.

lutions, Social Security Administration, Financing organizations, Treasury Department and automated system interface.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-1855 Filed 1-20-78; 8:45 am]

#### [3810-70]

##### Office of the Secretary

#### DOD ADVISORY GROUP ON ELECTRON DEVICES

##### Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at Naval Research Laboratory, 4555 Overlook Avenue SE., Washington, D.C., on February 3, 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title 5, United States Code, it is hereby determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Office of the Assistant Secretary of Defense  
(Comptroller).

JANUARY 17, 1978.

[FR Doc. 78-1829 Filed 1-20-78; 8:45 am]

#### [3810-70]

#### DOD ADVISORY GROUP ON ELECTRON DEVICES

##### Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory

#### [3810-70]

##### DEFENSE SCIENCE BOARD

##### Advisory Committee Meeting

The Defense Science Board will meet in closed session February 23-24, 1978 at the Pentagon, Arlington, Va.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense, Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting of the Board has been scheduled for February 23-24, 1978, to discuss interim findings and tentative recommendations resulting from ongoing Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communication, and technology issues. The Board will also discuss plans for future considerations of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d), of Appendix I, Title 5, United States Code, it has been determined that this Defense Science Board meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Office of the Assistant Secretary of Defense  
(Comptroller).

JANUARY 17, 1978.

[FR Doc. 78-1828 Filed 1-20-78; 8:45 am]

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Headquarters Services.

JANUARY 17, 1978.

[FR Doc. 78-1830, Filed 1-20-78; 8:45 a.m.]

#### APPENDIX.—List of cases received by the Office of Administrative Review

Week of December 23 through December 30, 1977

Date	Name and location of applicant	Case No.	Type of submission
Dec. 23, 1977	Phillips Petroleum Co. (Puerto Rico) Washington, D.C. If granted: Phillips Petroleum Co. (Puerto Rico) would be permitted to import naphtha as refinery and petrochemical feedstock on a license fee exempt basis.	DPI-0002	Exception from base fee requirements (sec. 213.35).
Do	Shenandoah Oil Corp., Fort Worth, Tex. If granted: The DOE region VI's Dec. 12, 1977, remedial order would be rescinded and the Shenandoah Oil Corp. would not be required to refund overcharges made on sales of crude oil produced from the Morrison Ranch Unit, the Bel Estate Nos. 1, 2, and 5 lease, and the J. C. Strubling, Jr. A Nos. 1, 2, 3, and 4 lease.	DRA-0089	Appeal of DOE region VI's remedial order dated Dec. 12, 1977.
Dec. 27, 1977	ABC Airlines, Inc., Texarkana, Tex. If granted: ABC Airlines, Inc. would be permitted to sell aviation fuel at prices above the maximum allowable price levels.	DEE-0434	Price exception (sec. 212.93).
Do	Vern H. Bolinder, Salt Lake City, Utah. If granted: Vern H. Bolinder's crude oil producing property located in the Grassy Trails Field, Emery county, Utah, would be classified as a stripper well property.	DEE-0438	Price exception (sec. 212.73).
Do	Gary Operating Co., Ardmore, Okla. If granted: The DOE region VI's remedial order issued to the Gary Operating Co. would be rescinded and Gary would not be required to refund overcharges made on sales of crude oil produced from its Ramsey, Pruitt, Williams and Harley D properties.	DRA-0090	Appeal of DOE region VI's remedial order.
Do	Lewtex Oil and Gas Co., Inc., Austin, Tex. If granted: Lewtex Oil and Gas Co., Inc. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Graham, Olney, and Throckmorton plants.	DEE-0435, DEE-0436, and DEE-0437.	Price exception (sec. 212.185).



## APPENDIX.—List of cases received by the Office of Administrative Review—Continued

Date	Name and location of applicant	Case No.	Type of submission
Dec. 27, 1977	Miranda Fuel Oil Co., Inc., Bronx, N.Y. If granted: The DOE region II's Dec. 9, 1977, remedial order would be rescinded and Miranda Fuel Oil Co., Inc., would not be required to refund overcharges made on sales of Nos. 2 and 4 fuel oils.	DRA-0088, DRS-0088	Appeal of DOE region II's remedial order issued Dec. 9, 1977. Stay requested.
Do	Robert W. O'Meara, New Orleans, La. If granted: Robert S. O'Meara would receive an extension of the exception relief granted in the DOE's July 21, 1977 decision and order and would be permitted to sell crude oil produced from the Louisiana Fruit No. 2 well at upper tier ceiling prices for an additional period of time.	DXE-0439	Extension of exception relief granted in Robert W. O'Meara, 6 FEA Par. 83,043 (July 21, 1977).
Dec. 28, 1977	Creston H. Alexander, Dallas, Tex. If granted: Creston H. Alexander would be permitted to increase his prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the East Texas plant.	DEE-0440	Price exception (sec. 212.165).
Do	Glenn E. Alexander, Dallas, Tex. If granted: Glenn E. Alexander would be permitted to increase his prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the East Texas plant.	DEE-0441	Do.
Dec. 28, 1977	C. H. Sprague & Son, Washington, D.C. If granted: The DOE's Nov. 22, 1977, information request denial would be modified and C. H. Sprague & Son Co. would receive access to additional data concerning the DOE's authority and jurisdiction over sales of products outside the United States.	DFA-0091	Appeal of DOE's information request denial dated Nov. 22, 1977.
Do	Creslenn Ranch Co., Dallas, Tex. If granted: The Creslenn Ranch Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the East Texas plant.	DEE-0442	Price exception (sec. 212.165).
Do	Lunday-Thagard Oil Co., South Gate, Calif. If granted: The Lunday-Thagard Oil Co. would be granted a temporary stay of its entitlement purchase obligations for the month of October 1977.	DST-0003	Request for temporary stay.
Do	Mayer, Brown & Platt, Chicago, Ill. If granted: The DOE's Nov. 22, 1977, information request denial would be modified and Mayer, Brown & Platt would receive access to additional DOE data regarding (1) the uranium holdings of Westinghouse Electric Corp., and its subsidiary, Wyoming Mineral Corp., and (2) the supply, availability, or price of uranium.	DFA-0092	Appeal of DOE's information request denial dated Nov. 22, 1977.
Do	Tesoro Petroleum Corp., San Antonio, Tex. If granted: The Tesoro Petroleum Corp. would be granted an exception from the entitlements program (sec. 211.67) which would relieve the firm of a portion of its entitlement purchase obligations for a period of 6 months.	DEE-0444	Exception from entitlements program (sec. 211.67).
Do	Texaco, Inc., New Orleans, La. If granted: Crude oil produced from United Lands Co., Inc., NCT-A Lease, Sorrento Field, Ascension Parish, La., would be sold at upper tier ceiling prices.	DEE-0443	Price exception (sec. 212.73).
Dec. 29, 1977	Davison Oil Co., Mobile, Ala. If granted: The DOE's Nov. 30, 1977, information request denial would be rescinded and Davison Oil Co. would receive access to additional data in connection with Davison Oil Co. and Pride Terminals.	DFA-0097	Appeal of DOE's information request denial.
Do	Davison Oil Co., Mobile, Ala. If granted: The DOE's Dec. 2, 1977, information request denial would be rescinded and Davison Oil Co. would receive access to the February 16, 1974, letter from Acco, Inc. to FEA region IV regarding gasoline suppliers and purchases.	DFA-0098	Do.
Do	Fair-Porter Production Co., Inc., Oklahoma City, Okla. If granted: The Nov. 15, 1977, remedial order issued by DOE region VI would be rescinded and Fair-Porter Production Co., Inc., would not be required to refund overcharges made in its sales of crude oil produced from the Lamle/Davidson, Martin, Thompson, Poling, Parton, Weetsie Johnson, Matthews and Morrison properties.	DRA-0096	Appeal of the Nov. 15, 1977, remedial order issued by DOE region VI.
Do	Getty Oil Co., Los Angeles, Calif. If granted: The Getty Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Bayou Sale plant.	DEE-0445	Price exception (sec. 212.165).
Do	Honeycom Drilling Co., Inc., Oklahoma City, Okla. If granted: The DOE region VI's Dec. 14, 1977, remedial order would be rescinded and Honeycom Drilling Co., Inc., would not be required to refund overcharges made on sales of crude oil produced from the Uri and Haskell properties.	DRA-0095	Appeal of DOE region VI's remedial order issued Dec. 14, 1977.
Do	Natrogas, Inc., Minneapolis, Minn. If granted: The Dec. 8, 1977, decision and order issued to Natrogas, Inc., would be modified.	DEX-0024	Supplemental Order in Natrogas, Inc., 1 DOE (Dec. 6, 1977).
Do	Payne, Inc., Oklahoma City, Okla. If granted: The DOE region VI's Dec. 20, 1977, remedial order would be rescinded and Payne, Inc., would not be required to refund overcharges made on sales of crude oil produced from the Jimmy, Oulise, Action, Wheeler, Knecht No. 2, and Mesia properties.	DRA-0094	Appeal of DOE region VI's remedial order issued Dec. 20, 1977.

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## APPENDIX.—List of cases received by the Office of Administrative Review—Continued

Date	Name and location of applicant	Case No.	Type of submission
Dec. 29, 1977	Southwestern Exploration Consultants, Inc., Oklahoma City, Okla. If granted: The DOE region VI's Dec. 19, 1977, remedial order would be rescinded and Southwestern Exploration Consultants, Inc., would not be required to refund overcharges made on sales of crude oil produced from the Ruth/Hopfer, Baxter, and Polston properties.	DRA-0093	Appeal of DOE region VI's remedial order issued Dec. 19, 1977.
Do	Stephens & Cass, Dallas, Tex. If granted: Stephens & Cass would be granted a stay of the provisions of the DOE region VI's April 12, 1977, remedial order pending a final determination on its application for exception.	DRS-0011	Request for stay.
Do	Sun Company, Inc., Dallas, Tex. If granted: Sun Co., Inc., would receive an extension of the exception relief granted in the DOE's June 30, 1977, decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the Maurice Plant.	DXE-0446	Extension of exception relief granted in Sun Co., Inc., Case No. FKE-4331 (decided June 30, 1977) (unreported decision).

NOTICE OF OBJECTIONS RECEIVED  
Week of Dec. 23 through Dec. 30, 1977

Date	Name and location of applicant	Case No.
Dec. 23, 1977	C&H Refinery, Inc., Lusk, Wyo.	FEE-4318.
Dec. 27, 1977	Dow Chemical U.S.A., Houston, Tex.	FEE-4857.
Dec. 30, 1977	Mobil Petroleum Co., New York, N.Y.	FEE-4296.

(FR Doc. 78-1592 Filed 1-20-78; 8:45 am)

## [3128-01]

## NOTICE OF CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of December 30 Through January 6, 1978

Notice is hereby given that during the week of December 30 through January 6, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the

date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

Dated: January 11, 1978.

MELVIN GOLDSTEIN,  
Director, Office of  
Administrative Review.

APPENDIX—List of cases received by the office of administrative review  
Week of Dec. 30, 1977 through Jan. 6, 1978

Date	Name and location of applicant	Case No.	Type of submission
Dec. 30, 1977	Cotten, Day & Doyle, Washington, D.C. If granted: The DOE's Nov. 17, 1977, information request denial would be modified and Cotton, Day & Doyle would receive access to additional DOE data regarding the Quam Oil and Refining Co.'s responses to a request for additional information, case No. FEE-4105.	DFA-0099	Appeal of DOE's information request denial dated Nov. 17, 1977.
Jan. 3, 1978	Quincy Oil, Inc., Quincy, Mass. If granted: Quincy Oil, Inc. would be granted an exception from the provisions of ruling 1977-5 which would permit the firm to establish its selling price for No. 6 fuel oil above the maximum level permitted under the mandatory petroleum price regulations. The firm would be granted a stay of the refund requirements contained in the remedial order issued to the firm on Nov. 2, 1976, pending a decision on its exception application.	DEE-0447, DRS-0447, and DRT-0004.	Price exception (ruling 1977-5; sec. 212.93). Stay requested.
Jan. 4, 1978	Christmann & Welborn, Lubbock, Tex. If granted: The remedial order issued by DOE region VI on Dec. 22, 1977, would be rescinded and Christmann & Welborn would not be required to refund overcharges made on sales of crude oil produced from the CWC Prentice unit in Yoakum County, Tex.	DRA-0101	Appeal of DOE region VI's remedial order dated Dec. 22, 1977.
Do	Ethyl Corp., Washington, D.C. If granted: The DOE region VI New Orleans Area Office would be directed to cease its investigation of the Ethyl Corp.'s transactions involving No. 2 fuel oil.	DSG-0010	Request for special redress.
Do	Modernistic Gas Service, Inc., Dayton, Ohio. If granted: The remedial order issued by DOE region V to Modernistic Gas Service, Inc., would be rescinded and the firm would not be required to refund overcharges made on sales of propane.	DRA-0100	Appeal of DOE region V's remedial order.

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## APPENDIX.—List of cases received by the Office of Administrative Review—Continued

Date	Name and location of applicant	Case No.	Type of submission
Jan. 4, 1978	Texfel Petroleum Corp., Dallas Tex. If granted: The DOE's Dec. 5, 1977, information request denial would be rescinded and the Texfel Petroleum Corp. would receive access to additional data concerning the DOE audit of Texfel's operation of the McKit-trick McNeil lease.	DFA-0102	Appeal of DOE's information request denial dated Dec. 5, 1977.
Do	Young Refining Corp., Douglasville, Ga. If granted: The Young Refining Corp. would be granted a stay of a portion of its entitlement purchase obligation set forth in the entitlement notice for Oct. 1977, issued on Dec. 20, 1977, pending a final determination of its application for exception.	DES-0023	Stay request.
Jan. 5, 1978	Atlantic Richfield Co., Los Angeles, Calif. If granted: The Atlantic Richfield Co. would be granted a stay of the provisions of the DOE's Dec. 21, 1977, remedial order pending a final determination on an appeal of that order which it intends to file.	DRS-0106	Do.
Do	Atlantic Richfield Co., Los Angeles, Calif. If granted: The Atlantic Richfield Co. would be granted a stay of the provisions of the DOE's Dec. 23, 1977, remedial order pending a final determination on an appeal of that order which it intends to file.	DRS-0107	Do.
Do	J. S. Beebe, Jr., El Dorado, Ark. If granted: The remedial order issued by DOE region VI on Dec. 22, 1977, would be rescinded and J. S. Beebe, Jr. would not be required to refund overcharges made on sales of crude oil.	DRA-0103	Appeal of DOE region VI's remedial order dated Dec. 22, 1977.
Do	Derby & Co., Inc., New York, N.Y. If granted: Derby would be granted additional entitlements in the month of January 1978 to compensate it for the entitlements it was unable to sell in December 1977.	DEE-0451	Exception to the entitlement notice for Oct. 1977, issued Dec. 23, 1977.
Do	E. Lyle Johnson, Moore, Okla. If granted: The remedial order issued by DOE region VI on Dec. 21, 1977, would be rescinded and E. Lyle Johnson would not be required to refund overcharges made on sales of crude oil produced from the Williams lease located in Cleveland County, Okla.	DRA-0104	Appeal of DOE region VI's remedial order dated Dec. 21, 1977.
Do	E. Lyle Johnson/Clayton E. Lee, Moore, Okla. If granted: The remedial order issued by DOE region VI on Dec. 21, 1977, would be rescinded and E. Lyle Johnson and Clayton E. Lee would not be required to refund overcharges made on sales of crude oil produced from the Roberts lease located in Major County, Okla.	DRA-0105	Appeal of DOE region VI's remedial order dated Dec. 21, 1977.
Do	North Pole Refining, North Pole, Alaska. If granted: North Pole Refining would be granted a stay of the requirement that it file form F-102-M-1 pending a final determination on its application for exception.	DES-0024	Stay request.
Do	Joseph I. O'Neill, Jr., Midland, Tex. If granted: Crude oil produced from the Feldman & Pardo lease located in Scurry County, Tex., would be sold at prices above the maximum allowable price specified in the mandatory petroleum price regulations.	DEE-0449	Price exception (sec. 212.73).
Do	Pyrofax Gas Corp., Houston, Tex. If granted: The Pyrofax Gas Corp. would be granted retroactive exception relief which would permit it to calculate its cost of product in inventory prior to May 1, 1978, on the basis of separate inventory computations.	DEE-0448	Exception to separate inventories amendment (section 212.93).
Do	Southland Royalty Co., Fort Worth, Tex. If granted: Crude oil produced from the Southland Royalty Co.'s Aztec Totah Unit located in San Juan County, N. Mex., would be sold at prices above the maximum allowable price specified in the mandatory petroleum price regulations.	DEE-0450	Price exception (sec. 212.73).

NOTICES OF OBJECTION RECEIVED  
Week of December 30 through Jan. 6, 1978

Date	Name and Location of Applicant	Case No.
Dec. 30, 1977	Husky Oil Co. of Delaware, Washington, D.C.	DXE-0079.
Do	Young Refining Corp., Douglasville, Ga.	DXE-0084.
Jan. 3, 1978	Kern County Refinery, Inc., Los Angeles, Calif.	DXE-0088.
	Lunday-Thagard Oil Co., South Gate, Calif.	DXE-0078.
	Tosco Corp., Washington, D.C.	FXE-4841.
Jan. 5, 1978	Maguire Oil Co., Dallas, Tex.	FEE-4404.

[FR Doc. 78-1593 Filed 1-20-78; 8:45 am]

[3128-01]

## CRUDE OIL AND NATURAL GAS PRODUCERS

## Accounting Practices

AGENCY: Department of Energy (DOE).

ACTION: Cross reference to Securities

and Exchange Commission solicitation of comments.

SUMMARY: Title V, Section 503 of the Energy Policy and Conservation Act, Pub. L. 94-163, requires that the Securities and Exchange Commission (SEC), in consultation with the Feder-

al Energy Administration, the General Accounting Office and the Federal Power Commission, assure the development and observance of accounting practices to be followed by persons engaged in the production of crude oil or natural gas in the United States. The EPCA authorizes the SEC to prescribe

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rules with respect to such accounting practices developed by the Financial Accounting Standards Board (the "FASB").

The SEC has previously published for public comment two rulemaking proposals (Release Nos. 33-5861, 42 FR 44972, September 7, 1977 and 33-5877, 42 FR 57662, November 3, 1977) and now seeks comment on the finalized financial accounting standards developed by the FASB.

DATE: Comments are due by February 24, 1978.

ADDRESS: Comments should be directed to: Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, 202-755-1671.

## FOR FURTHER INFORMATION CONTACT:

Fred Santogrossi, Energy Information Administration, Department of Energy, Washington, D.C. 20461, 202-566-9594.

Richard C. Adkerson, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, 202-755-1671.

SUPPLEMENTARY INFORMATION: The SEC, in Securities Act Release No. 33-5892 (43 FR 878, January 4, 1978) is requesting comments from interested persons concerning accounting practices developed by the Financial Accounting Standards Board (the "FASB").

Title V, Section 503 of the Energy Policy and Conservation Act Pub. L. 94-163 (the "EPCA"), requires that, for purposes of developing a reliable energy data base, the SEC assure the development and observance of accounting practices to be followed by persons, including those not subject to the filing requirements of the Federal securities laws, engaged in whole or in part in the production of crude oil or natural gas in the United States. The EPCA authorizes the SEC to prescribe rules with respect to such accounting practices developed by the Financial Accounting Standards Board.

The SEC has previously proposed for public comment rules relating to financial accounting measurement standards (Release No. 33-5861, 42 FR 44972, September 7, 1977) and related disclosure standards (Release No. 33-5877, 42 FR 57662, November 3, 1977). Both of these rulemaking proposals embodied the financial accounting and reporting standards published in July, 1977, by the FASB in an Exposure Draft of a proposed Statement on "Financial Accounting and Reporting by Oil and Gas Producing Companies." As anticipated in the SEC rulemaking proposals, the FASB has recently made final its standards which were published in Statement of Financial Accounting Standards No. 19. As a result, the SEC is soliciting further public comment on whether the Com-

mission should rely on the determinations of the FASB in its Statement No. 19, as authorized by the EPCA and, furthermore, on whether the standards in FASB Statement No. 19, or some alternative accounting standards, would be appropriate for the preparation of financial statements to be included in filings pursuant to the Federal securities laws and in reports filed with the Department of Energy (the "DOE").

Public hearings are tentatively planned beginning March 27, 1978, in Washington, D.C. and Houston, Tex. A formal announcement of the public hearings will be issued by the SEC in a separate release.

The reason for this notice by the DOE is that Title V, section 505 of the EPCA amends section 11(c) of the Energy Supply and Environmental Coordination Act of 1974, Pub. L. 93-319, as amended by Pub. L. 94-163 (ESECA) in the following respect: in order to carry out the responsibility under section 11(a) of ESECA to require the reporting of energy information (as defined in section 11(d) of ESECA) to the FEA, the FEA Administrator shall require that persons engaged in whole or in part in the production of crude oil or natural gas (1) keep energy information in accordance with the accounting practices developed by the SEC pursuant to section 503 of the EPCA and (2) submit reports with respect to energy information kept in accordance with such practices.

The Department of Energy Organization Act (Pub. L. 95-91), made effective on October 1, 1977 by Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977), effected the transfer to the Secretary of Energy of all the functions vested by law in the Administrator of the Federal Energy Administration, so that the DOE is now responsible for implementing the requirements which the EPCA and ESECA statutes placed upon the FEA. Accordingly, the DOE, as successor to the functions of the FEA, encourages all interested parties to submit comments to the Securities and Exchange Commission in response to its release, as referenced above.

Issued in Washington, D.C., on January 17, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

[FR Doc. 78-1794 Filed 1-20-78; 8:45 am]

[3128-01]

## Economic Regulatory Administration

## ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION

## Issuance of Notice of Effectiveness To Make Effective Previously Issued Prohibition Order

Pursuant to section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), 15 U.S.C.

791 et seq., as amended by Pub. L. 95-70, and 10 CFR 303.37(d), the Department of Energy (DOE) hereby gives notice that on January 17, 1978, it issued a notice of effectiveness making effective the prohibition order previously issued on June 30, 1975 (40 FR 28430, July 3, 1975), to the below-listed powerplants. The notice of effectiveness was issued under the authorities granted to DOE by section 2 of the Energy Supply and Environmental Coordination Act of 1974, as amended, and pursuant to 10 CFR Parts 303 and 305.

## Docket Nos., Owner, Powerplant Nos., Generating Station, and Location

OFU-002, OFU-003, OFU-004; Iowa Electric Light & Power Co.; 1, 2, and 3; Sutherland; Marshalltown, Iowa.

The prohibition order issued by the Federal Energy Administration (FEA), on June 30 1975, to the above-listed powerplants prohibits the powerplants from burning natural gas or petroleum products as their primary energy source. In accordance with the requirements of 10 CFR Parts 303 and 305, however, the order provided it would not become effective until DOE had considered the environmental impact of the order and until DOE had served the affected powerplants with a notice of effectiveness.

Subsequent to the issuance of the prohibition order, DOE performed an analysis pursuant to 10 CFR 305.9 and 208.3, of the environmental impact of the issuance of this notice of effectiveness including an assessment of the EPA certification dated November 19, 1976, pursuant to section 119(d)(1)(B) of the Clean Air Act (42 U.S.C. 1857 et seq.), that December 31, 1976, was the earliest date that powerplant Nos. 1, 2, and 3, respectively, could burn coal and comply with the applicable regional limitation. That analysis resulted in a determination that the issuance of the notice of effectiveness making this prohibition order effective is not a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C). Public notice of the negative determination and of the availability for inspection of this analysis was given in the FEDERAL REGISTER (42 FR 45366, September 9, 1977), in accordance with 10 CFR 208.4(c) and 208.15(a).

Upon completion of this environmental analysis, DOE issued this notice of effectiveness of the June 30, 1975, prohibition order to the above-listed powerplants and served the notice on the powerplants by regis-

Effective October 1, 1977, the responsibility of implementing ESECA was transferred by Executive Order No. 12009, (42 FR 46267) pursuant to the Department of Energy Organization Act, (Pub. L. 95-91) (42 U.S.C. 7101 et seq.) from the Federal Energy Administration to the Department of Energy.

FEDERAL REGISTER, VOL. 43, NO. 15—MONDAY, JANUARY 23, 1978



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## NOTICES

tered mail on the same day. The notice makes effective the prohibition order, prohibiting the powerplants from burning natural gas or petroleum products as their primary energy source.

Any person aggrieved by the now effective prohibition order may file an appeal with the DOE Office of Administrative Review (formerly known as the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the notice of effectiveness. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of Part 303, and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Application may be made for modification or rescission of the prohibition order in accordance with the provisions of 10 CFR Part 303, Subpart J. An application for modification or rescission of a prohibition order based on "significantly changed circumstances," which circumstances occurred during the interval between issuance of the order and service of the notice of effectiveness, shall be filed within 30 days of service of such notice. An application for modification or rescission of a prohibition order based on significantly changed circumstances occurring after that interval may be filed at any time after service of the notice of effectiveness.

All terms and conditions of the prohibition order and the notice of effectiveness may be the subject of either an appeal or an application for modification or rescission.

The order made effective by this notice of effectiveness is effective against any persons that, as of the date of service of such notice, own, lease, operate, or control the above-listed powerplants and against any successors-in-interest or assignees of such persons.

The above-listed powerplants have been served this notice of effectiveness by registered mail. In addition, copies of this document will be available for inspection by any interested members of the public at the DOE public docket room located in Room B-120, 2000 M Street NW., Washington, D.C., from 1 to 5 p.m., Monday through Friday. Copies will also be available in the appropriate DOE regional office. The negative determination and environmental analyses are available upon request from the DOE National Energy Information Center, Room 1404, 12th Street and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the documents are also available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th Street and Pennsylvania Avenue NW., Washington, D.C.

Any questions regarding this notice should be directed to Walter A. Romanek, Director, Division of Coal Utilization, Department of Energy, 2000

M Street NW., Washington, D.C. 20461, 202-254-3910.

Issued in Washington, D.C., January 17, 1978.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

(FR Doc. 78-1845 Filed 1-20-78; 8:45 am)

[3128-01]

(ERA Docket No. WAPA 78-1)

**CENTRAL VALLEY PROJECT, WESTERN AREA  
POWER ADMINISTRATION**

**Notice of Intent To Act on Proposal for Interim  
Rates**

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Intent to Act on Proposal for Interim Rates for the Central Valley Project, Western Area Power Administration. ERA Docket No. WAPA 78-1.

SUMMARY: The Acting Assistant Secretary for Resource Applications has requested the Administrator of the Economic Regulatory Administration (ERA) to establish interim power rates for the Central Valley Project (CVP). The purpose of this Notice is to advise the public that the Administrator of ERA intends to act on the request and to invite interested parties to submit written comments relevant to the proposed interim rates.

DATES: Effective date of interim rates—60 days after ERA's approval of the interim rates. Written comments are due on or before February 22, 1978.

ADDRESS: Ten copies of written comments shall be submitted to: Office of Regulations Management, Box RH, Department of Energy, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

**FOR FURTHER INFORMATION  
CONTACT:**

Richard K. Pelz, Office of the General Counsel, 12th and Pennsylvania Avenue NW., Room 3001, Washington, D.C. 20461, 202-566-9341

Richard S. Ugelow, Office of the General Counsel, 12th and Pennsylvania Ave. NW., Room 6144, Washington, D.C. 20461, 202-566-9296.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 302(a)(1) of the Department of Energy Organization Act (Public Law 95-91) the function to establish rates for power previously marketed by the Bureau of Reclamation, Department of the Interior, was transferred to and vested in the Secretary of Energy on October 1, 1977. By Delegation Order No. 0204-4, effective October 1, 1977, the Secretary of Energy delegated the authority to establish rates to the Administrator of

the Economic Regulatory Administration.

On September 13, 1977, in accordance with the Procedures for Public Participation in General Adjustments in Power Rates (Procedures), 40 FR 34431 (August 14, 1975), the Department of Interior announced that it was proposing a rate increase for the Central Valley Project. Interested persons were invited to participate in public forums and to submit written comments relative to the proposed Central Valley rate increase.

The Department of Energy has published in the FEDERAL REGISTER 43 FR 31 (January 3, 1978), proposed amendments to the Procedures to permit the setting of interim rates for power marketed by WAPA. In anticipation of the promulgation of those amended Procedures the Assistant Secretary for Resource Applications has proposed that ERA set the following interim rates for the Central Valley Project:

The proposed initial interim rate would consist of a \$2.00/kW/mo demand charge and a 4.2 mills/kWh energy charge that would become effective 60 days after ERA's approval of the interim rates, and would remain in effect through March 31, 1979. On and after April 1, 1979, the interim rate would consist of a \$2.00/kW/mo demand charge and a dual energy charge of 5.75 mills/kWh for project load and 9.75 mills/kWh for growth load. The proposed interim rates for the Sacramento Municipal Utility District (SMUD) would be the same as described above, however, the Acting Assistant Secretary for Resource Applications has recommended that if an increase above the proposed interim rate would be barred by SMUD's CVP contract, the proposed interim rate would consist of a \$2.00/kW/mo demand charge and a 6.55 mills/kWh energy charge effective May 25, 1978.

The complete statement issued by the Acting Assistant Secretary for Resource Applications with respect to the proposed interim rates has been mailed to all CVP customers. Additional copies may be obtained from: Clark L. Rose, Western Area Power Administration, 18th & C Streets NW., Room 3612, Washington, D.C. 20240, 202-343-4640.

The public is invited to submit comments, as set forth in this Notice, relative to the request of the Acting Assistant Secretary. At the conclusion of the comment procedure the Administrator will evaluate the comments received in response to this Notice and the Notice published by the Department of Interior on September 13, 1977, and will take final action on the request for interim rates.

**COMMENT PROCEDURES:** Interested are invited to submit comments with respect to the subject matter set forth in this Notice to: Office of Regulations Management, Box RH, Room 2313, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

Such written comments may be mailed or hand delivered and should be received by 4:30 p.m., e.s.t. on or before February 22, 1978.

Information relevant to this matter, including public comments, if any, will be available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Issued in Washington, D.C., January 17, 1978.

DOUGLAS C. BAUER,  
Assistant Administrator for Util-  
ity Systems, Economic Regula-  
tory Administration.

(FR Doc. 78-1807 Filed 1-20-78; 8:45 am)

[6740-02]

**FEDERAL ENERGY REGULATORY COMMISSION**

(Project Nos. 2395, 2241, 2473)

**CAPITAL CITIES MEDIA, INC. AND DAM CO.,  
INC.**

**Three Applications for Transfer of Licenses**

JANUARY 12, 1978.

Public notice is hereby given that three applications for transfer of licenses have been filed under the Federal Power Act (16 U.S.C. §§ 791(a)-825(r) (1970)) by Capital Cities Media, Inc., successor in interest of Flambeau Paper Co., (licensee-transferor) and The Dam Co., Inc. (transferee) (correspondence to: Mr. Norman C. Hoeflerle, President, Flambeau Paper Co., Park Falls, Wis. 54552; and Danny R. Carpenter, Esq., Watson, Ess, Marshall & Enggas, 1500 Home Savings Building, 1006 Grand Avenue, Kansas City, Mo. 64108). The applications seek Commission approval of the transfer of minor licenses for three hydroelectric projects: the Pixley Hydro-Electric, Lower Hydro-Electric, and Crowley projects. The Pixley Hydro-Electric Project, FERC Project No. 2395, is located on the North Fork of the Flambeau River in Price County, Wis.; the Lower Hydro-Electric Project, FERC Project No. 2421, is located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wis.; and the Crowley Project, FERC Project No. 2473, is located on the North Fork of the Flambeau River in the vicinity of Fifield and Park Falls, Price County, Wis.

The three applications, filed on July 25, 1977, and supplemented on August 3, 1977, were filed jointly by Flambeau Paper Co. (as transferor) and The Dam Co., Inc. (as transferee). The Dam Co., Inc., was incorporated as a wholly-owned subsidiary of Flambeau Paper Co. in June, 1977. However, Flambeau Paper Co. was merged into Capital Cities Media, Inc., on July 1, 1977, and the three subject applications are signed for Flambeau Paper

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FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the abovementioned authorities.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1846 Filed 1-20-78; 8:45 am)

[6740-02]

(Docket No. CP78-139)

**CITIES SERVICE GAS CO.**

**Application**

JANUARY 12, 1978.

Take notice that on December 29, 1977, Cities Service Gas Co. (Applicant), P.O. Box 25128, filed in Docket No. CP78-139 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon in place and by reclaim its Tallant Compressor Station in Osage County, Okla., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to abandon in place and by reclaim its Tallant Compressor Station, consisting of four 940 horsepower and one 1,000 horsepower compressor units and appurtenant facilities, which units were installed in 1913, 1916, and 1927. Applicant states that these compressor units were originally designed to transport natural gas produced and purchased from a system south of its Drumright Compressor Station, and that the system south of Drumright Compressor Station was reclaimed in 1947 under authorization granted in Docket No. G-898. Tallant Compressor Station then transported natural gas purchased on Applicant's system south of Blackwell, it is said. The application states that due to declines in production, these facilities are no longer required to compress natural gas transported through this portion of Applicant's pipeline system, and that this station has not been operated since March 30, 1975. These compressor units are now considered obsolete, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the

Co. by the president of Capital Cities Media, Inc., (the corporation that survived the merger). Shortly before the Flambeau Paper Co.—Capital Cities Media, Inc., merger, Flambeau Paper Co. quitclaimed all of its right, title, and interest in the projects' real property to its wholly-owned subsidiary, The Dam Co., Inc., while retaining the incorporeal license rights and all physical documents, books, maps, etc. relating to the projects. All three corporations (Flambeau Paper Co., The Dam Co., Inc., and Capital Cities Media, Inc.) are or were subsidiaries within one wholly-owned corporate family which is controlled by a parent corporation, Capital Cities Communications, Inc.

Any person desiring to be heard or to make a protest with reference to said applications should on or before March 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or § 1.10 (1977)). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The applications are on file with the Commission and available for public inspection.

The public is further advised that on October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 Fed. Reg. 48267 (September 15, 1977), the Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the



proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided, for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1847 Filed 1-20-78; 8:45 am]

#### [6740-02]

[Docket No. CP78-141]

#### CONSOLIDATED GAS SUPPLY CORP.

##### Application

JANUARY 12, 1978.

Take notice that on January 4, 1978, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP78-141 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 2,500 Mcf of natural gas per day (or its thermal equivalent) for the Specialty Chemicals Division of Allied Chemical Corp. (Allied), an existing distribution customer of Hope Natural Gas Co. (Hope), a division of Applicant, Moundsville, W. Va., all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to receive natural gas from Texas Eastern Transmission Corp. (Texas Eastern), one of its existing pipeline suppliers, at Texas Eastern's Measuring Station No. 372, an existing point of delivery from Texas Eastern to Applicant located in Marshall County, West Virginia, and to transport such volumes, less 4 per-

cent, through its existing 12-inch line No. H-197 into the facilities of Hope, also in Marshall County, W. Va., pursuant to a transportation agreement dated December 20, 1977, between Applicant and Allied. It is stated that Hope would make the gas so transported available to Allied through its existing distribution facilities.

Applicant indicates that it would charge Allied 9.15 cents per Mcf for the proposed transportation services, which rate is based on the average system-wide unit storage and zone transmission costs, less fuel costs. Applicant proposes to retain for company-use and unaccounted-for gas 4 percent of the total volumes received for Allied's account.

The rate which Applicant proposes to charge is also subject to a surcharge under Applicant's tariff for research and development cost charges in the transmission and storage functions, it is said.

The application states that Allied proposes to use the transportation gas for two high priority uses for which there are no alternate fuel capabilities: as feedstock for the production of toluene diisocyanate (TDI) and chlorinate methanes (CMP), and for various safety-related pilot lights within the Complex. It is indicated that Allied is unwilling to make its ethane available to the interstate market.

There is no gas sales contract since the transportation gas is being transferred from one Division to another Division of the same company, Allied, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary

[FR Doc. 78-1848, Filed 1-20-78; 8:45 a.m.]

#### [6740-02]

[Docket No. CP78-143]

#### CONSOLIDATED GAS SUPPLY CORP.

##### Application

JANUARY 17, 1978.

Take notice that on January 4, 1977, Consolidated Gas Supply Corp. (Applicant), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP78-143 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain transmission facilities and for permission and approval to abandon certain transmission facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes the following:

(1) Construct and operate 19.1 miles of 24-inch Line No. TL-430 from Fleming Junction to Jones Station.

(2) Construct and operate 0.2 mile of 14-inch and 0.1 mile of 16-inch Line No. H-194 to connect 24-inch Line No. TL-430 to 12-inch Line No. H-192 and 14-inch Line No. TL-264 at Jones Station.

(3) Abandon 4.9 miles of 12-inch Line No. H-192 and 5.0 miles of 12-inch Line No. TL-264 from Oka Junction to Minnora Junction.

(4) Reclassify, from dry gas to wet gas transmission service, 14.8 miles of 12-inch Line No. H-192 and 14.7 miles of 12-inch Line No. TL-264 from Minnora Junction to Jones Station, as more fully described at Docket No. CP75-158.

1979

(1) Construct and operate 19.3 miles of 24-inch Line No. TL-430 from Jones Station to Fleming Junction.

(2) Reclassify, from dry gas to wet gas transmission service, 19.4 miles of 12-inch Line No. H-192 and 19.2 miles of 14- and 16-inch Line No. TL-264 from Jones Station to Fleming Junction, as more fully described at Docket No. CP75-158.

1980

(1) Construct and operate 19.1 miles of 24-inch Line No. TL-430 from Fleming Junction to a point 0.3 mile north of Tonkin Station.

(2) Abandon 15.4 miles of 12-inch Line No. H-192 from Fleming Junction to Maxwell Junction.

(3) Abandon 15.0 miles of 16-inch Line No. TL-264 from Fleming Junction to Maxwell Junction.

(4) Abandon 0.3 mile of 12-inch Line No. H-192 north from Tonkin Station.

(5) Abandon 0.3 mile of 16-inch Line No. TL-264 north from Tonkin Station.

(6) Abandon 12.8 miles of 16-inch Line No. TL-227 from Sweeney Station to Oxford Junction.

(7) Abandon 7,200 horsepower Tonkin Compressor Station.

Applicant states that this proposal represents the remaining three years of a five-year plan to replace its West Virginia dry gas transmission system extending from its Cornwell compressor station in Kanawha County to Hastings in Wetzel County.

The application states that Applicant has discovered corrosion in significant portions of Line Nos. H-192 and TL-264 sufficient to make it advisable to remove these pipelines from 1100-1300 psig service. H-192 and TL-264 have been utilized to transport approximately 235,000 Mcf per day of the 255,000 Mcf per day which Applicant is authorized to purchase from Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Tennessee) in Tennessee's Zone 3, it is said. It is stated that this 235,000 Mcf per day represents a substantial portion of Applicant's total authorized pipeline supply of natural gas, and that this proposed pipeline replacement is, therefore, essential to the continuity of service to Applicant's customers. The application states that it is not anticipated that any customer's service would be terminated as a result of the abandonments proposed herein.

It is indicated that the estimated cost of the proposed facilities is \$17,658,217, which cost would be financed from fund on hand and funds to be obtained from Applicant's parent, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate

action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1862 Filed 1-20-78; 8:45 am]

#### [6740-02]

[Docket No. C178-244]

#### CONTINENTAL OIL CO.

##### Limited-Term Application

JANUARY 17, 1978.

Take notice that on December 19, 1977, Continental Oil Co. (Applicant), P.O. Box 2197, Houston, Tex. 77001, filed in Docket No. C178-244 an application for a limited-term certificate of public convenience and necessity with pregranted abandonment authorizing it to engage in the sale of gas.

Applicant states that it proposes to sell gas to United Gas Pipeline Co. (United) under contract dated September 23, 1977, and that Applicant has been informed that arrangements have been made by the Purchaser for transportation of all or a portion of the gas to be sold by Applicant under its contract and that it may be transported by the Purchaser in interstate commerce for resale and/or may be resold by the Purchaser to others for transport in interstate commerce for resale.

Applicant states that the gas to be produced under its contract is from the approximate location of East Fruitvale Field, Van Zandt County, Tex.

Applicant states that it seeks a limited-term certificate with pregranted abandonment to make sales of natural gas to United for a term commencing with the date of first deliveries of gas under such certificate and terminating, in accordance with its contract one year thereafter. Applicant also states that it is advised that United has an existing gas supply emergency on its system and has presented evidence to the Commission in previous dockets demonstrating the emergency. This sale may be terminated at any time following initial delivery and prior to the one-year term.

Applicant states that the purchaser to whom it intends to sell this gas production under a long-term contract does not have facilities installed to accept this gas production and it will be some indeterminate time before such facilities are installed. In view of the fact that the wells should be produced and in view of the need of United Gas Pipeline for the gas, Continental and United have entered into the limited-term contract which is a part of this application.

Applicant is seeking a rate of \$1.48 per Mcf, plus tax, Btu and 1.5 cents gathering allowance.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 8, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it



will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1863 Filed 1-20-78; 8:45 am]

# [6740-02]

(Project No. 2740)

DUKE POWER CO.

Application for Amendment of License

JANUARY 17, 1978.

Public notice is hereby given that an application was filed with the Federal Energy Regulatory Commission on December 9, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Duke Power Co. (Applicant) (correspondence to: L. C. Dall, Chief Engineer, Civil-Environmental Division, Duke Power Co., Box 2178, Charlotte, N.C. 28242) for Commission approval of an amendment to Article 32 of the license for Project No. 2740, the Bad Creek Project, the upper reservoir of which is to be located on Bad and West Bad Creeks in Oconee County, S.C. The project's lower reservoir would utilize existing Lake Jocassee.

Article 32 of the license issued August 1, 1977, requires among other things the filing of a detailed plan to mitigate any adverse impacts of project operations on Lake Jocassee and stream fisheries. The plan was to include, but not be limited to, those measures agreed upon between Applicant and the South Carolina Wildlife and Marine Resources Department (SCWMRD) as set forth in a letter to the Federal Power Commission dated January 10, 1977. One of the provisions of this letter provided for the transfer of property from Applicant to SCWMRD called the Eastatoe Creek Tract. Now Applicant and SCWMRD wish to substitute a tract of land for the Eastatoe Tract. The new tract is a parcel of land along the Whitewater River in Oconee County, but bordering Transylvania County, N.C., containing about 375 acres, presently in the possession of the Crescent Land and Timber Corp., a wholly owned subsidiary of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR § 1.10). All such petitions or protests should be filed on or before February 23, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make pro- testants parties to the proceeding.

## NOTICES

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc 78-1864 Filed 1-20-78; 8:45 am]

# [6740-02]

[Docket Nos. E-8769, E-8770, E-9119, ER78-219 and ER77-356]

FLORIDA POWER & LIGHT CO.

Certification of Offer of Settlement

JANUARY 17, 1978.

Take notice that on November 10, 1977, an offer of settlement, filed by Florida Power & Light Co. (FP&L) on October 28, 1977 (in the above-captioned proceeding) was certified to the Commission by the Presiding Administrative Law Judge. FP&L asserts that its settlement offer is not opposed by the intervenors, the Fort Pierce Utilities Authority of Fort Pierce, Fla., and the Utilities Commission of the City of New Smyrna Beach of New Smyrna Beach, Fla.

Any person desiring to be heard or to protest said offer of settlement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before February 13, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this offer of settlement are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1865 Filed 1-20-78; 8:45 am]

# [6740-02]

[Docket No. C178-278]

GOOD HOPE REFINERIES, INC.

Limited-Term Application

JANUARY 17, 1978.

Take notice that on January 3, 1978, Good Hope Refineries, Inc. (Applicant), 1100 Milam Building, Suite 3730, Houston, Tex., 77002, filed in Docket No. C178-278 an application for a limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing it to engage in the sale of gas.

Applicant states that it is an independent producer of natural gas with its primary leaseholdings in Webb and Zapata Counties, Tex. Applicant's working interest production in these

two counties is approximately 80,000 Mcf/day for more than ninety wells in twenty separate fields. In addition, Applicant markets an additional 20,000 Mcf/day for various other working interest owners in the same area, either through its own contracts with LoVaca Gathering Co., or through purchases by its pipeline subsidiary, Southern Pipe Line Corp., and subsequent resale to LoVaca.

Applicant is seeking to make a sale of natural gas to United Gas Pipe Line Co. from its interest in natural gas produced from certain acreage as described in its contract dated January 3, 1978, attached to Applicant's application.

Under the contract submitted for certification, Applicant proposes to sell 50,000 Mcf of natural gas per day produced from its interest in lands and leaseholds in Webb and Zapata Counties, Tex., to United. The rate shall be \$2.10 per MMBtu in the first year and \$2.15 per MMBtu in the second year. Average heating value of the gas is 1,070 Btu per cubic foot. Transportation charges of \$0.11 per Mcf will be levied for moving the gas through Applicant's intrastate pipeline facility to the point of delivery to United at Agua Dulce in Nueces County, Tex. Gas shall be delivered at a pressure sufficient to enter United's pipeline, but not to exceed 700 psia.

Applicant seeks pregranted abandonment at the end of the two year limited-term sale to United claiming that the gas is available only for a limited period because of a temporary surplus of gas on LoVaca's system.

Applicant states that the public interest, both for LoVaca's intrastate customers and United's interstate customers, would be served if Good Hope received a limited-term certificate to sell the gas in question to United. Applicant further states that United's customers, experiencing severe curtailments because of lack of supply, would be benefited by the gas Good Hope proposes to make available.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 8, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and sub-

ject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1866, Filed 1-20-78; 8:45 am]

# [6740-02]

[Docket No. C177-635]

GULF OIL CORP.

Application for Certificate of Public Convenience and Necessity

JANUARY 12, 1978.

Take notice that on September 26, 1977, Gulf Oil Corp. (Gulf) filed an application for a certificate of public convenience and necessity authorizing it to withdraw natural gas which is produced in the State Domain from a commingled stream with natural gas produced in the Offshore Federal Domain for ultimate use in Gulf's Venice, La. Refinery.

Gulf states that by order issued July 29, 1977, in the above-referenced docket it was required to apply for and obtain a certificate to transport natural gas produced in the State Domain to its Venice Refinery in a commingled stream with gas produced in the federal Domain. Gulf further states that the Commission granted Gulf temporary authorization to continue such commingled transportation of gas to the extent that the use of gas in the Venice Refinery does not exceed the amount produced and transported from the State Domain, and upon further condition that Gulf apply for a permanent certificate to deliver such gas within sixty days from the date of such order. Gulf states that it sells the residue gas available for sale after processing at its Venice Gas Processing Plant to interstate pipeline purchasers and does not serve any community or main line industrial customers with natural gas.

Gulf alleges that the system of pipelines behind its Venice Gas Processing Plant are gathering lines and there-

fore such lines are exempt from the provisions of the Natural Gas Act. Gulf states that it is not requesting authority to operate its gathering system, but rather is requesting authority to remove gas from the commingled stream for its internal use within the Venice Refinery to the extent that the residue volumes withdrawn will not exceed the volumes attributable to gas produced from State Domain leases and gathered in Gulf's Venice Gas Processing Plant gathering system. Gulf requests a certificate which would preserve its status as an independent producer and which exempts Gulf from the regulations of the Commission which are applicable to pipeline companies.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1849 Filed 1-20-78; 8:45 am]

# [6740-02]

[Docket Nos. CP75-104, et al.]

HIGH ISLAND OFFSHORE SYSTEM

Petition for Declaratory Order

JANUARY 12, 1978.

Take notice that on December 14, 1977, High Island Offshore System (HIOS) file a petition for declaratory order that would confirm that the compression horsepower installed by HIOS at Block 264 is in accordance with the authorization granted to HIOS in the certificate of public convenience and necessity issued to it by the Commission on June 4, 1976 in the above referenced proceeding.

HIOS states that in Exhibit K of its original certificate application filed on September 8, 1975, it indicated that it would construct and install two 12,350 horsepower gas compressor units and one 29,000 horsepower gas compressor unit which would initially be derated to 12,350 horsepower. HIOS also states that the Commission, in its certificate issued on June 4, 1976, authorized the installation and operation of these facilities.

## NOTICES

HIOS states that the compressor facilities actually installed at Block 264 are two Frame 3 compressor units with nameplate ratings of 12,200 HP each and one Frame 5 compressor unit with a nameplate rating of 21,700 HP. According to HIOS the two Frame 3 units are the same units as originally proposed at 12,350 HP, but, as installed, are rated at 12,200 HP. HIOS's reason for installation of the Frame 5 unit with a nameplate rating of 21,700 HP is that this would result in an ultimate savings of approximately \$500,000 and would provide a spare unit for both of the other units at this important location of the HIOS system.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1850 Filed 1-20-78; 8:45 am]

# [6740-02]

[Docket No. ER78-181]

IOWA PUBLIC SERVICE CO.

Proposed Cancellation

JANUARY 17, 1978.

Take notice that on January 5, 1978, Iowa Public Service Co. (Iowa), tendered for filing a Notice of Proposed Cancellation of wheeling service provided to the Town of Hinton, Iowa by Iowa Public Service Co.

Iowa states that Rate Schedule FPC No. 44 and Supplement 2 of No. 44, effective August 11, 1968 and filed with the Commission by June 11, 1968, are to be cancelled in part to delete references to the service to the Town of Hinton. Iowa further states that Rate Schedule FPC No. 46, effective August 11, 1968, filed July 11, 1968, is also to be cancelled.

Iowa proposes an effective date of February 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the



Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are available for public inspection with the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1867 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. CI77-427]

## LADD PETROLEUM CORP.

## Amendment to Application for Transportation of Natural Gas

JANUARY 10, 1978.

Take notice that on December 21, 1977, Ladd Petroleum Corp. (Ladd), 830 Denver Club building, Denver, Colo. 80202, filed in Docket No. CI77-427 an amendment to its application of April 25, 1977 in Docket No. CI77-427. Ladd is seeking to amend its application to conform to a letter agreement of November 30, 1977, and requests pregranted abandonment.

On April 25, 1977, Ladd filed an application pursuant to section 7 of the Natural Gas Act covering proposed transportation of natural gas for Northern Natural Gas Co. (Northern Natural) from Block 291, Ship Shoal, South Addition Area, to Block 207, Ship Shoal Area, Offshore Louisiana. The natural gas is owned by Northern Natural and would be transported pursuant to an agreement between Ladd and Northern Natural of March 29, 1977, through an existing crude oil pipeline for the account of Northern Natural. Ladd proposed to charge 4.5 cents per Mcf at 15.025 psia for the transportation service.

Placid Oil Co. is the operator of the crude oil pipeline through which Northern Natural's gas would be transported by Ladd. At the time Ladd and Northern Natural entered into the transportation agreement, Ladd had spare capacity in the crude oil pipeline. Based upon the operator's information, Ladd now estimates that by July 1, 1978, crude oil production from Block 291 Field will fill the crude oil pipeline. Thus, there will be no spare capacity to transport Northern Natural's gas as of that date. Northern Natural has agreed to make other arrangements to transport its gas as of July 1, 1978.

Applicant states that it and Northern Natural have executed an amendment to the Transportation Agreement of March 29, 1977, by letter dated November 30, 1977. The letter amends Article XI of the Transportation Agreement to provide that it shall remain effective until July 1, 1978. Further, Ladd agreed to seek pregranted abandonment for all such transportation services as of that date.

Applicant states that the application filed by Ladd in Docket No. CI77-427 and this Amendment thereto are related to an application and an amendment filed by Placid Oil Co. in Docket No. CI77-331. Therein, Placid seeks authorization with pregranted abandonment to transport natural gas for the account of Michigan Wisconsin Pipe Line Co.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein. If the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1856 Filed 1-20-78; 8:45 am]

## [6740-02]

[Project No. 2800]

## LAWRENCE HYDROELECTRIC ASSOCIATES

## Application for Major License

JANUARY 17, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Public notice is hereby given that an application for a major license was filed on June 30, 1977, under the Federal Power Act (16 U.S.C. §§ 791a-825r) by Lawrence Hydroelectric Associates (correspondence to: Mr. Geoffrey K. Mitchell, Lawrence Hydroelectric Associates, 8 Arlington Street, Boston, Mass. 02116, and Mr. David Ward, Case and Ward, 1050 17th Street NW., Washington, D.C. 20036) for the proposed Lawrence hydroelectric project, FERC No. 2800. The proposed project would be located on the Merrimack River, a navigable waterway of the United States, in the towns of Andover and Methuen (Essex County), Dracut and Tewksbury (Middlesex County), and the cities of Lawrence (Essex County) and Lowell (Middlesex County), Mass.

The proposed 14,200 kW Lawrence hydroelectric project would consist of: (1) The existing 33-foot high and 900-foot long Essex Company dam of

rubble masonry construction; (2) an existing 9.8-mile long reservoir having a surface area of 655 acres at normal high water elevation of 44.17 msl and a maximum storage capacity of approximately 19,900 acre-feet; (3) the 35-foot wide and 10-foot deep South Canal (wider in the vicinity of the gatehouse) which originates at the south abutment of the Essex Dam and generally parallels the Merrimack River bed, below the Essex Dam, for a distance of approximately 3,000 feet; (4) the existing North Canal, approximately 95 feet wide and 15 feet deep, originating at the north abutment of the dam and paralleling the Merrimack River below the dam for a distance of approximately 5,000 feet; (5) a fish elevator supplementing the existing fishway; (6) a powerhouse and tailrace channel located approximately 200 feet northeast of the existing South Canal control gatehouse structure and extending into the Merrimack River Channel; (7) a powerhouse containing two 7.1 MW hydroelectric generating units; and (8) a single circuit overhead 13.8 kV powerline to the Massachusetts Electric Co.'s Lawrence No. 1 substation.

The estimated total cost of the project is \$14,700,000.

Power developed by the project would be sold to the New England Power Co., which would then sell the power to its affiliate, the Massachusetts Electric Co. Massachusetts Electric Co. provides power to residential, business, and industrial customers in the New England area.

The Essex Dam, which is 130 years old, and the North Canal are recognized historical sites. The applicant proposes to preserve these historical properties and provide public access and recreational facilities at the project. Proposed provisions for visitors include picnic tables, trash receptacles, access to a fish viewing window, and walkways.

Any person desiring to be heard or to make protest with reference to said application should, on or before March 27, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1886 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. CP 78-146]

## MICHIGAN WISCONSIN PIPE LINE CO.

## Application

JANUARY 17, 1978.

Take notice that on January 6, 1978, Michigan Wisconsin Pipe Line Co. (applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-146 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 741 Mcf of natural gas per day for Rea Magnet Wire Co., Inc. (Rea Magnet), a wholly owned subsidiary of Aluminum Co. of America (Alcoa), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that pursuant to a gas purchase agreement among Par Oil Corp., et al. (Par), Alcoa, and Rea Magnet, dated August 25, 1977, as amended December 12, 1977, Par agreed to sell Alcoa and Rea Magnet a daily contract quantity of natural gas equivalent to 3,920 Mcf of natural gas having a heating value of 1,000 Btu at a price of \$1.95 per Mcf subject to upward and downward Btu adjustment. It is further indicated that Par would deliver the purchased quantities at a mutually agreeable point on Texas Gas Transmission Corp.'s (Texas Gas) 20-inch pipeline located in Claiborne Parish, La.

The application states that in order to effectuate the receipt of the gas supplies which Alcoa and Rea Magnet agreed to purchase from Par and to obtain transportation and redelivery of a portion of such supplies destined for usage at Rea Magnet's manufacturing facility located in Lafayette, Ind. (the Lafayette Plant), Alcoa and Texas Gas entered into a transportation service agreement dated October 11, 1977, which agreement provides for the transportation of 741 Mcf of natural gas per day which Texas Gas would deliver to applicant for the account of Rea Magnet at an existing point of interconnection between the pipeline systems of Texas Gas and applicant located proximate to applicant's Slaughter Station in Webster County, Ky.

Applicant proposes to take receipt of the proposed volumes of gas at the aforementioned existing intercon-

nection with Texas Gas in Webster County, Ky., and transport and redeliver equivalent volumes for the account of Rea Magnet to Panhandle Eastern Pipe Line Co. (Panhandle) at an existing interconnection of the pipeline systems of applicant and Panhandle located in Defiance County, Ohio. Applicant states that it would provide the transportation service on a best efforts basis and whenever, in its sole judgment, its operating conditions so permit.

It is indicated that in order to effectuate deliveries of gas from the aforementioned interconnection between applicant and Panhandle, Panhandle and Rea Magnet have entered into a transportation contract dated October 21, 1977, which contract provides for the receipt, transportation, and redelivery of the gas by Panhandle to Indiana Gas, Inc. (Indiana Gas). The redelivery is to be made by Panhandle for Rea Magnet at an existing measuring station at the point of interconnection between Panhandle and Indiana Gas located near Crawfordsville, Montgomery County, Ind., it is stated. It is indicated that Rea Magnet has made suitable arrangements with Indiana Gas to effectuate redeliveries at the Lafayette plant.

Applicant states that it would charge Rea Magnet 9 cents per Mcf for all volumes of gas redelivered to Panhandle for Rea Magnet's account, and that it would also retain three percent of the gas delivered to it by Texas Gas for Rea Magnet's account as compensation for compressor fuel and line loss makeup.

It is indicated that the subject gas would be used for priority 2 purposes at Rea Magnet's Manufacturing facility located in Lafayette, Ind. It is further indicated that the subject gas is not available for resale in the interstate market.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon



the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1869 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. CP78-140]

MID LOUISIANA GAS CO.

## Application

JANUARY 17, 1978.

Take notice that on January 3, 1977, Mid Louisiana Gas Co. (applicant), 300 Poydras Street, New Orleans, La. 70130, filed in Docket No. CP78-140 an application pursuant to section 7(c) of the Natural Gas Act and section 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period, February 1, 1978, through January 31, 1979, and operation of facilities to enable applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with applicant.

Applicant states that the total cost of the proposed facilities would not exceed \$680,000 and that the cost of any single project would not exceed \$250,000, which cost would be financed out of working funds.

Applicant states it recognizes that the proposed budget-type authoriza-

tion for the construction of gas-purchase facilities has an estimated total cost for a single project in excess of the amounts specified in subparagraph (1)(ii) of section 157.7(b) of the Commission's regulations. Consequently, pursuant to subparagraph (2) of section 157.7(b) of the Commission's regulations, applicant requests waiver of the provisions of subparagraph (1)(ii) so as to allow for a total cost in excess of the amounts specified in subparagraph (1)(ii). Applicant asserts that such request for waiver is predicated primarily upon the fact that it is virtually impossible to consummate any single project involving gas-purchase facilities in the South Louisiana area for the small amount authorized by subparagraph (1)(ii) of section 157.7(b) of the Commission's regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1870 Filed 1-20-78; 8:45 am]

## [6740-01]

[Docket No. ER78-183]

MISSISSIPPI POWER CO.

## Filing of Agreement

JANUARY 16, 1978.

Take notice that Mississippi Power Co. (Mississippi) on January 9, 1978, tendered for filing a supplemental agreement with Coast Electric Power Association (CEPA) under its FERC Electric Tariff Original Volume No. 1. Mississippi states that this agreement provides for an increase in the delivery voltage and contracted capacity at the Rocky Hill delivery point of CEPA on October 17, 1977.

Mississippi indicates that it agrees to deliver up to a maximum of 3,000 kilowatts of 115,000 volts at the connections to the primary side of CEPA's disconnect switch located at CEPA's substation on the west side of Highway 603 located in the NE¼ of SW¼ of section 6, Township 7 South, Range 14 West, Hancock County, Miss.

Mississippi proposes an effective date of October 17, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1858, Filed 1-20-78; 8:45 a.m.]

## [6740-02]

[Docket No. ER78-848]

MONTANA POWER CO.

## Compliance Filing

JANUARY 17, 1978.

Take notice that on December 15, 1977, Montana Power Co. (Company) tendered for filing in compliance with the Federal Power Commission's order of May 6, 1977, a summary of sales made under the Company's FPC Electric Tariff M-1 during November 1977, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a pro-

test with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 10, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1871 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. ER78-184]

MONTAUP ELECTRIC CO.

## Filing

JANUARY 16, 1978.

Take notice that Montaup Electric Co. (Montaup), on January 10, 1978, tendered for filing a service agreement providing for Montaup's transmission of a power purchase of the Middleborough (Massachusetts) Municipal Gas & Electric Department pursuant to Montaup's generally applicable transmission tariff.

Montaup proposes an effective date of November 1, 1977, and therefore requests waiver of the Commission's notice requirements.

According to Montaup copies of this filing were served upon the Middleborough Municipal Gas & Electric Department and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1978. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1859 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. CP78-138]

NATURAL GAS PIPELINE CO. OF AMERICA

## Application

JANUARY 12, 1978.

Take notice that on December 30, 1977, Natural Gas Pipeline Co. of America (applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-138 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that it has previously entered into short-term arrangements with Colorado Interstate Gas Co. (CIG) to purchase natural gas excess to the needs of CIG during various periods of time, the most recent terminating October 31, 1977. On September 13, 1977, CIG received temporary authorization to sell gas to applicant at Docket No. CP77-445, it is said.

Applicant states that it has now entered into a new limited term agreement with CIG dated December 6, 1977, for the purchase of gas which would be excess to CIG's requirements during calendar year 1978, and that the delivery rates would vary during the term of the agreement, but are expected to increase to approximately 100,000 Mcf per day during the summer months of 1978. Applicant further states that Northwest Pipeline Co. (Northwest) and El Paso Natural Gas Co. (El Paso) would transport and redeliver said gas to applicant for the limited term.

It is stated that pursuant to the December 6, 1977, agreement, CIG would reduce its purchases from Northwest who would deliver to El Paso such volumes of gas as agreed to by applicant and CIG at an existing point of interconnection between Northwest and El Paso in LaPlata County, Colo. It is proposed that El Paso would redeliver equivalent volumes of gas, on an Mcf basis, to applicant at a proposed new point of delivery to be constructed in Lea County, N. Mex., pursuant to an agreement dated December 20, 1977, between El Paso and applicant, whereby said gas would be delivered into applicant's Permian Basin pipeline system.

The application states that in order to implement the proposed delivery arrangement by El Paso, applicant proposes to construct 18-inch measuring facilities and a 12-inch tap connection on its 30-inch pipeline in Lea County, N. Mex., at an estimated cost of \$68,300 which cost applicant proposes to finance from funds on hand. The application further states that applicant would also reimburse El Paso for

its costs to complete the interconnection, which cost is estimated to be \$21,400. Applicant proposes to retain in service the facilities it proposes to construct herein for future exchanges with El Paso, as a balancing point for existing exchanges with El Paso and any other exchange or transportation arrangements that may occur in the future involving movement of gas between El Paso and applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1851 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket No. CP74-162]

NATURAL GAS PIPELINE COMPANY OF AMERICA

## Petition To Amend

JANUARY 17, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act),



Pub. L. 95-91, Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 30, 1977, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Ill., 60603, filed in Docket No. CP74-162 a petition to amend the order of April 2, 1975 (53 FPC —), as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for additional exchange points to the gas exchange agreement dated September 24, 1973, between Petitioner and El Paso Natural Gas Co. (El Paso), which agreement has received prior authorization in the instant docket, all as more fully set forth in the petition on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of April 2, 1975, Petitioner was authorized to exchange natural gas with El Paso, and to construct and operate certain facilities to implement such exchange and that pursuant to an exchange agreement dated September 24, 1973, as amended, Petitioner and El Paso exchange quantities of gas available and tendered from time to time by one to the other subject to quantity limits set forth therein. It is further indicated that on April 28, 1976, the FPC issued temporary authorization in the instant docket to construct and operate additional ex-

change points in Washita County, Okla., and Lea and Eddy Counties, N. Mex., pursuant to an amendment dated June 6, 1975, to the subject gas exchange agreement. Pursuant to the FPC order of April 27, 1977, Petitioner was authorized to construct and operate an additional exchange point in Eddy County, N. Mex., pursuant to an amendment dated November 3, 1975, to the subject gas exchange agreement.

The petition stated that on February 14, 1977, the FPC issued an order authorizing the operation of additional exchange points in Beckham County, Okla., and Ward County, Tex., and to increase the maximum daily volumes of exchange gas to 65,000 Mcf per day pursuant to an amendment dated July 14, 1976, to the subject gas exchange agreement. The petition further states that on August 30, 1977, the FPC authorized the operation of an additional exchange point in Lea County, N. Mex., pursuant to an amendment dated April 28, 1977, to the subject gas exchange agreement.

Petitioner states that on October 12, 1977, it and El Paso further amended the subject gas exchange agreement to provide for an additional exchange point in Eddy County, N. Mex., whereby Petitioner proposes to deliver, or cause to be delivered for its account, gas it has available for purchase under gas purchase contracts with Cities Service Co. (Cities), dated August 1, 1976, and August 1, 1977, from the Government AB No. 3 and No. 4 wells, North Burton Flat Field, Eddy County, N. Mex. It is indicated that Cities would deliver the gas to the Cities Service Oil Co.'s processing plant in Eddy County, N. Mex., and said gas would be delivered at the outlet of the plant to El Paso for Petitioner's account (Eddy No. 7 Exchange Point). Petitioner indicates that it has been purchasing gas from the No. 3 well under a 60-day emergency gas purchase or long-term authorization since November 30, 1976, utilizing Petitioner's gathering facilities in the Burton Flat area. With the imminent completion of Cities' processing plant, Cities has exercised its right under the gas purchase contract to process said gas prior to delivery to Petitioner, it is said. It is stated that El Paso would receive such gas at its existing connection at the outlet of the processing plant; thus, Petitioner would not be required to construct any facilities. Petitioner states that it would retire in place or remove and salvage approximately 5550 feet of 6-inch gathering line constructed to receive gas from the No. 3 well.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 8, 1978, file with the Federal Energy Regulatory Commis-

sion, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1872 Filed 1-20-78; 8:45 am]

#### [6740-02]

[Docket Nos. RP77-56 and RP71-107  
(PGA78-1)]

#### NORTHERN NATURAL GAS CO.

Order Denying Petition for Rehearing,  
Reconsideration and Modification

JANUARY 13, 1978.

On December 14, 1977, Northern Natural Gas Co. (Northern) filed in the captioned dockets a petition for rehearing, reconsideration and modification of the Commission's order issued December 5, 1977, in Docket No. RP77-56. On December 16, 1977, Northern Municipal Defense Group (MDG) and Minnesota Municipal Utilities Association (MMUA) filed a petition joining, with qualification, in Northern's pleading. On December 20, 1977, the Northern Distributor Group (NDG) applied for rehearing of the same Commission order. The December 5th order denied Northern's petition for advance authorization to recoup the costs of an emergency storage transaction between Northern and Northern Illinois Gas Co. (NI Gas). The December 5th order, however, found that the proposed emergency storage arrangement was consistent with section 2.68 of the Commission's Regulations. For the reasons set forth below, the Commission shall deny all of the referenced petitions.

Northern's petition seeks limited review of the Commission's prior order. No longer is an advance ruling on the reasonableness and prudence of the costs of the NI Gas transaction sought. Rather, Northern requests authority to incorporate the costs of the emergency storage service in either base tariff rates or PGA rates and to collect such rates subject to possible refund if it is later found that the costs of the transaction are unreasonable or imprudent.

Northern makes two principal arguments in support of its request: First it states that, unlike other pipelines, its

tariff allows only annual as opposed to semi-annual PGA filings and, consequently, that recoupment of emergency costs will be inordinately delayed if recovery of such costs cannot begin on December 27, 1977, the effective date of Northern's revised PGA rates in Docket No. RP 71-107 (PGA78-1). Second, Northern alleges that the NI Gas transaction "fits well within" its tariff clause which allows Northern to project its cost of purchased gas over the period it will be collecting revised PGA rates. Northern also makes a concession. Should it be allowed to recoup emergency costs through its base tariff rates (filed in Docket No. RP77-56 to become effective on October 27, 1977) Northern agrees to reduce its rates one year after their effective date to reflect elimination of such costs from its cost of service. Northern believes that this condition will obviate any concern that the claimed emergency costs are non-recurring.

Northern's arguments are not persuasive. Its willingness to collect rates subject to refund for a limited, one-year period does not materially alter the relevant facts.

Northern's tariff PGA clause only allows annual filings. While the Commission recognizes that this tariff feature is somewhat unusual it does not provide sufficient reason to depart from the policy enunciated in our December 5th order. Northern always has the option to seek modification of its PGA clause if it believes that benefits accruing under it are outweighed by decreased flexibility in coping with current gas shortages. The Commission also notes that it has not precluded pipelines from recovering prudently incurred emergency costs through rate increase filings made subsequent to the emergency expenditure.

Furthermore, the Commission does not agree with Northern that the NI Gas transaction "fits well within" Northern's currently authorized procedure of projecting or estimating future gas cost increases in its cost of purchased gas. Quite to the contrary, the Commission sees Northern's tariff as barring recoupment of all uncertificated gas supply absent Commission advance approval. Northern's tariff, Third Revised Volume No. 1, First Revised Sheet No. 68, specifically excludes such supply from the normal calculation of Northern's cost of purchased gas:

[Such Cost of Purchased Gas shall not include any amounts for the cost of uncertificated supply and supplies from LNG, SNG, and coal gasification projects without prior approval of the [Commission]. (Emphasis added.)]

Finally, the Commission must deny Northern's request to recoup the costs of the NI Gas transaction through the base tariff rates which became effective

on October 27, 1977, in Docket No. RP77-56 even though Northern now consents to a refund condition and agrees to eliminate such costs from its rates after one year of collections. As in its initial petition, Northern continues to seek to include in rates amounts not yet expended for emergency supplies not yet received. This request fails for the same reasons that Northern's initial petition was denied without prejudice: it is anticipatory, premature and inconsistent with the intent of the Natural Gas Act and the policy of Section 2.68 of the Commission's regulations. In the order issued in *East Tennessee Natural Gas Company*, Docket No. RP78-1, on November 29, 1977, the Commission stated:

Consistent with this intent [Of Section 7(c) of the Natural Gas Act], there is no express or implied provision for approval, prior to commencement of the emergency, of the future recovery of costs to be incurred by a jurisdictional buyer during the anticipated emergency transaction. These costs may be reflected in later rate increase filings (mimeo p. 4). (Emphasis added.)

MDG, MMUA, and NDG all support and incorporate Northern's principal arguments. Insofar as MDG, MMUA, and NDG adopt Northern's pleading, their requests for modification of the December 5, 1977, order shall also be denied.

In addition to supporting the Northern petition, however, the three intervenor groups emphasize that a continuing problem exists with respect to the question of whether ratepayers or Northern should bear the carrying costs which accrue on emergency expenditures. Carrying charges which would result from deferred recovery of costs, it is pointed out, could add \$1.5 million to the costs of the NI Gas emergency service.

MDG, MMUA, and NDG all state that the granting of the relief requested by Northern will avoid the question of whether ratepayers or Northern will bear carrying costs on emergency expenditures. MDG and MMUA in their petition argue that Northern's instant request is fair and should be granted since it permits Northern to recover emergency costs concurrently with expenditures and it requires refunds of any portion of emergency costs found imprudent or unreasonable. NDG claims that fairness demands that Northern be permitted to receive carrying charges on unrecovered emergency costs if the relief requested by Northern is denied.

The Commission finds that the considerations raised by MDG, MMUA and NDG are without merit. Northern, like all other pipelines subject to the Commission's jurisdiction, will be required to absorb carrying charges on unrecovered costs of gas supply, including emergency transactions, unless unique and unforeseen circumstances

are encountered which would warrant waiver of the Commission's existing regulations (18 CFR 154.38(4)(iv)(c)(1) and Account No. 191 of the Uniform System of Accounts).

The Commission finds. The petitions filed in the captioned dockets raise no facts or points of law which warrant any change in or modification of the Commission's order issued December 5, 1977, in Docket No. RP77-56.

The Commission orders. (A) Northern's petition of December 14, 1977, MDG's and MMUA's petition filed December 16, 1977, and NDG's application of December 20, 1977, are all denied.

(B) Northern shall comply with all terms of the Commission's December 5, 1977, order in Docket No. RP77-56.

(C) The Secretary shall cause prompt publication of this order.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1857 Filed 1-20-78; 8:45 am]

#### [6740-02]

[Docket Nos. ER76-304 et al., and Docket Nos. ER77-97 et al.]

#### NEW ENGLAND POWER CO.

Order Denying Motion for Limited Reopening  
and Partial Consolidation

JANUARY 16, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.



The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR — provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On June 6, 1977, the Commission issued Opinion No. 803 (R-8 proceeding, Docket Nos. E-8641 et al.) which, among other things, ordered that New England Power Company's (NEPCO) investment in the Yankee companies\* be excluded from the common equity components of NEPCO's capital structure. The Commission stated that "... the appropriate remedy for any alleged deficiencies in rate of return earned by the joint venture atomic plants should be addressed in rate proceedings before this Commission involving the rates charged by those atomic plants to NEPCO and other utility purchasers of power from these plants." (Opinion No. 803 at p. 31).

The same issue was raised in the R-10 proceeding (Docket Nos. ER76-304 et al.). On June 30, 1977 the initial decision in R-10 issued and followed the Commission's position in Opinion No. 803, supra, on the issue in question except that the Presiding Administrative Law Judge (Judge) attempted to trace the source of the funds NEPCO had invested in the above mentioned Yankee companies and to allocate the exclusion (of NEPCO's investment) between common and preferred equity.

Now we come to the instant motion before us in which NEPCO states that it has available in its historical records a precise method to trace the source of the funds involved. To this end NEPCO filed on November 15, 1977 a motion styled "Motion For Limited Reopening and Partial Consolidation." NEPCO asks the Commission to reopen the record in the R-10 proceeding "for the limited purpose of hearing and considering evidence recently assembled and filed in the R-11 proceeding (Docket Nos. ER77-97 et al.) in regard to the issue of the proper ratemaking treatment to be afforded NEPCO's major investment (over \$38 million) in various nuclear generating companies." Since this evidence has been submitted and will be subject to cross-examination in the R-11 proceeding which commenced November 29, 1977, NEPCO asks the Commission to order a partial consolidation of the R-10 and R-11 proceedings for the limited purpose of hearing and deciding this question.

\*These plants and NEPCO's interests therein are as follows: Yankee Atomic Electric Co. At Row, Mass. (30 percent); Connecticut Yankee Atomic Power Co. at Haddam, Conn. (15 percent); Vermont Yankee Nuclear Power Corp. at Vernon, Vt. (20 percent); and Maine Yankee Atomic Power Co. at Wiscasset, Maine (20 percent).

On November 21, 1977, Commission Staff (Staff) filed an answer to NEPCO's motion styled "Answer Opposing Motion For Limited Reopening And Partial Consolidation". Staff states, inter alia, that NEPCO's late request will delay and have a disruptive effect on both the R-10 and R-11 proceedings, and that NEPCO "does not attempt to justify its request on the basis of evidence that was not available to it at the trial or that it attempted to introduce such evidence at the trial but was precluded by an adverse procedural ruling."

On November 29, 1977, the NEPCO Customer Rate Committee (Committee) and Unaffiliated Resale Customers (Customers) filed, jointly, an answer joining Staff in opposing NEPCO's motion. Committee and Customers states, inter alia, the following: (1) NEPCO has had opportunities in both the R-8 and R-10 proceedings where this issue was raised to submit this evidence; (2) NEPCO's untimely attempt to submit this previously available evidence would place a considerable burden on Committee and Customers; (3) NEPCO's motion, as pointed out by Staff, will delay both the R-10 and R-11 proceedings and "would prolong the collection of the rates filed in the R-10 case, rates found to be unjust, unreasonable and excessive by Judge Kanell."; and (4) The Commission in Opinion No. 803 (R-8 proceeding), issued June 6, 1977, "made a conclusive determination that NEPCO's Yankee investment should be excluded from the common equity component of NEPCO's capital structure."

We shall deny NEPCO's motion for the following reasons. First, to grant NEPCO's motion will delay this proceeding (R-10), a proceeding in which the record is long closed, initial and reply briefs have been written, an initial decision of the Presiding Administrative Law Judge (Judge) has been issued, and briefs on exception and brief opposing exceptions have been filed.

Second, the evidence in question is not new. This evidence has been in NEPCO's possession since before the question at issue here was first raised in the R-8 proceeding.

Third, the issue raised by the instant motion is not new. This issue was raised in the R-8 proceeding, raised again on rehearing in the R-8 proceeding, raised again in the R-10 proceeding, and now raised again by this motion.

Fourth, the R-10 proceeding which NEPCO would like to reopen deals with a locked in period of 11 months, ending February 1, 1977. R-11 is a currently ongoing proceeding in which this issue may be fully addressed by all parties without the attendant delay and adverse consequences of that delay.

Fifth, the NEPCO approach, if accepted, may also require similar information from each of the sponsoring Yankee companies to determine whether an adjustment is also necessary in the purchased power costs. This may well greatly expand the scope of the proceeding beyond its original bounds. Again extensive delays in concluding these proceedings would be incurred.

Finally, the Commission's regulations require that a party seeking to reopen a proceeding "shall set forth grounds requiring reopening the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing." 18 CFR § 1.33(a). NEPCO's motion to reopen does not set forth material changes of either fact or law sufficient to warrant reopening of the R-10 proceeding. Section 1.33(a) of the Commission's rules does not function to provide a party with another opportunity to present its case after its position at hearing has been rejected in the initial decision of the Presiding Judge. The changes of fact or of law referred to in Section 1.33(a) of the Commission's rules must be material, suggesting a substantial and compelling reason for reopening the proceeding. NEPCO simply has failed to sustain such a burden in its instant motion. We emphasize that our disposition herein is not a prejudgment of the merits of the initial decision in R-10 nor does this ruling prejudice NEPCO from presenting the evidence in question in R-11.

In summary, we conclude that NEPCO has not demonstrated good cause to reopen this case for further proceedings and its instant "Motion For Limited Reopening And Partial Consolidation" is, therefore, denied.

The Commission finds, NEPCO has failed to demonstrate material changes of fact or law sufficient to warrant a reopening of this proceeding for further hearings or receipt of evidence.

The Commission orders, NEPCO's "Motion For Limited Reopening And Partial Consolidation" is hereby denied.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1860 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. EL78-3)

#### PACIFIC GAS & ELECTRIC CO.

#### Petition for Issuance of Declaratory Order on Interpretation of Contract

JANUARY 12, 1978.

Take notice that Pacific Gas and Electric Co. (PG&E) on January 3,

1978, tendered for filing a petition for a Commission order declaring that:

If, subsequent to negotiations pursuant to article 21(b) of the Extra High Voltage Contract dated August 1, 1967, among PG&E, Southern California Edison Co. and San Diego Gas & Electric Co. and the Department of Water Resources of the State of California (State), the parties do not agree upon a rate adjustment, PG&E retains the right to submit the matter to the Federal Energy Regulatory Commission for determination. Nothing in the contract requires consummation of an agreement on or before January 1, 1978, or on or before January 1, each five years thereafter. Further, nothing in the contract requires a filing in order to seek determination from FERC earlier than is prescribed in the requirements set forth in the Federal Power Act and applicable Commission Regulations.

PG&E states that said contract is presently on file with the Commission as Rate Schedule FPC No. 36.

PG&E indicates that in discussions with representatives of the State, PG&E sought and was unable to obtain clarification of the contract from the State to the effect that negotiations may continue, or that filing may occur, beyond January 1, 1978, without jeopardy to PG&E's interest. PG&E further indicates that it seeks declaratory relief because representatives of State have argued the contrary interpretation of the contract, in effect that, unless a new rate has been agreed upon by January 1, 1978, or that the matter has been submitted to FERC by that same date, a rate adjustment in 1983 is precluded.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1852 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. ER77-595)

#### POTOMAC EDISON CO.

#### Proposed Tariff Change

JANUARY 12, 1978.

Take notice that the Potomac Edison Company, (Edison) on Novem-

ber 28, 1977, tendered for filing an Electric Service Agreement between the Potomac Edison Company and the Town of Thurmont. Edison indicates that this Electric Service Agreement cancels and supersedes the Agreement between the Company and the Town of Thurmont dated July 1, 1964. Edison further indicates that the changes proposed would produce estimated decreases of \$35,319 for the twelve months ending June 30, 1977 and \$32,908 for the twelve months ending June 30, 1978.

Edison states that the rate set forth in the Agreement is identical to that presently on file and in effect in Schedule WS-HV of FPC Electric Tariff First Revised Volume No. 1 of Edison.

According to Edison, copies of the Electric Service Agreement have been provided to the Town of Thurmont.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1853 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. ER78-105)

#### PUBLIC SERVICE CO. OF INDIANA

#### Proposed Tariff Change

JANUARY 17, 1978.

Take notice that Public Service Co. of Indiana (Company), on December 20, 1977, tendered for filing pursuant to the Service Agreement between Henry County Rural Electric Membership Corp. and Public Service Co. of Indiana, a Third Supplemental Agreement proposed to become effective November 22, 1977. Company requests waiver of the Commission's notice requirements to allow for said effective date.

Said Supplemental Agreement provides for a new delivery point designated at the Johnstown delivery point, according to Company.

A copy of the filing was served upon Henry County Rural Electric Membership Corp., according to Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.0 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are available for public inspection at the Federal Energy Regulatory Commission.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1873 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. CP71-273)

#### SOUTHERN NATURAL GAS CO.

#### Petition to Amend

JANUARY 17, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.



Take notice that on December 30, 1977, Southern Natural Gas Co. (Petitioner), P.O. Box 2563, Birmingham, Ala. 35202, filed in Docket No. CP71-273 a petition to amend the order of October 8, 1971 (46 FPC 813) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to provide for the construction and operation of additional facilities in Petitioner's Muldon Field, Monroe County, Miss. storage facility, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of October 8, 1971, in the instant docket Petitioner was authorized to construct and operate natural gas storage facility in the Muldon Field, and, that pursuant to the FPC order of October 16, 1975, Petitioner was authorized to construct and operate certain facilities necessary to enable Petitioner to expand its gas storage facilities and thereby increase the withdrawal rate in order to protect high priority requirements. The additional wells were estimated to increase working gas inventory from approximately 42,800,000 Mcf to approximately 52,000,000 Mcf, and it was expected that this increase would allow Petitioner to withdraw at the increased maximum daily rate of approximately 750,000 Mcf during the winter season through a cumulative withdrawal of approximately 40,000,000 Mcf, it is said. The petition states that the firm of DeGolyer and MacNaughton (D&M) was commissioned to undertake a study of Muldon Field with a view toward making recommendations of what, if any remedial action could be taken to maintain peak day delivery from the field through a greater, cumulative withdrawal of gas from the field.

It is stated that the first year of operation of expanded withdrawal capability of the Muldon Storage Field showed that the field did not meet the maximum daily withdrawal rate of 750,000 Mcf through as great a cumulative withdrawal as had originally been anticipated, and that Petitioner has, therefore, planned its operations this winter based on the actual performance of the field last winter. It is further stated that Applicant has now received D&M recommendations including certain immediate and future remedial well work, changes in well and reservoir operation and the drilling of additional wells.

Consequently, Petitioner requests authorization to drill an additional six wells and to construct and operate approximately three-tenths of a mile of 8%-inch pipeline and allied facilities to connect the aforementioned wells to the central plant in the field at an estimated cost of \$3,221,630, which cost

Petitioner proposes to finance with cash on hand.

Additionally, Petitioner proposes to go forward with implementing other of the D&M proposals which do not require FERC authorization, such as the remedial well work, use of selective well production pattern in conjunction with a controlled limitation of pressure drop and a change in injection pattern beginning next spring.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1874 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. CP76-222)

#### TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

##### Application

JANUARY 17, 1978.

Take notice that on December 30, 1977, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed pursuant to section 7(c) of the Natural Gas Act an application at Docket No. CP76-222 to amend the prior Orders of the Commission issued April 20, 1976, and April 13, 1977 is said docket.

Tennessee states that by the Commission's April 20, 1976 and April 13, 1977 Orders, Tennessee was authorized to transport up to 65,000 Mcfd of natural gas for Texas Gas Transmission Corp. (Texas Gas) from various points in the Louisiana Offshore Area through the Project 349 pipeline (jointly owned by Tennessee, Texas Gas and Texas Eastern Transmission Corp.) located in the Eugene Island Offshore Area and through the Blue Water Project (BWP) (jointly owned by Tennessee and Columbia Gulf Transmission Co.) for delivery onshore for Texas Gas' account at interconnections between the systems of Tennessee and Transcontinental Gas Pipe

Line Corp. (Transco) located near Crowley Acadia Parish, La. (Crowley delivery point) and near Kinder, Allen Parish, La. (Kinder delivery point). Such service is to be rendered until January 1, 1980.

Tennessee states that Texas Gas has been authorized at Docket No. CP77-362 to construct, and is constructing, pipeline facilities to interconnect its existing facilities near Eunice, La. with the BWP on the western terminus of the BWP near Egan, La., for the purpose of receiving transportation volumes from Tennessee at Egan in lieu of at the Crowley and Kinder delivery points.

Accordingly, Tennessee requests authorization to deliver the authorized transportation volumes to Texas Gas at the Egan delivery point.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 8, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1875 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. ER78-180)

#### TUCSON GAS & ELECTRIC CO.

##### Filing of Transmission Service Agreement

JANUARY 16, 1978.

Take notice that Tucson Gas & Electric Co. (Tucson) on January 9, 1978, tendered for filing a Contract for Non-firm Transmission Service (the Agreement) dated January 1, 1978, between Tucson and the United States Department of Energy, Western Area Power Administration (United States).

Tucson indicates that the primary purpose of this Agreement is to establish terms and conditions relative to the nonfirm transmission of energy for Tucson over certain United States-owned transmission facilities for delivery to the Mead Substation.

Tucson proposes an effective date of January 1, 1978, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1861 Filed 1-20-78; 8:45 am)

#### [6740-02]

(Docket No. ER78-176)

#### WISCONSIN ELECTRIC POWER CO.

##### Succession

JANUARY 17, 1978.

Take notice that Wisconsin Electric Power Co. (WE) on January 3, 1978, tendered for filing a notice of succession of WE to the rates and schedules of Wisconsin Michigan Power Co. (WM). WE indicates that such succession results from a merger of WM into WE, which merger was approved July 28, 1977, by the Commission in Docket No. E-9596. WE states that a notice of succession has been furnished to each customer concerned and to the applicable state public service commissions. WE states that said succession is to be effective upon the merger of WM into WE, at midnight, December 31, 1977.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1876 Filed 1-20-78; 8:45 am)

#### [3128-01]

##### Office of Energy Research

#### HIGH ENERGY PHYSICS ADVISORY PANEL

##### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the High Energy Physics Advisory Panel will meet Thursday, February 9, 1978, at 1:30 p.m., in the Orange Room of the Central Laboratory at the Stanford Linear Accelerator Center, Stanford University, Stanford, Calif. The meeting will reconvene at 9 a.m., February 10 and 11, 1978.

The purpose of the Panel is to provide advice and guidance on a continuing basis with respect to the high energy physics research program.

The tentative agenda is as follows:

1. Review of budget issues at the High Energy Physics Laboratories;
2. Analysis of the final draft report of the Subpanel on High Energy Physics Manpower;
3. Budget status of the High Energy Physics Program;
4. Neutrino interactions;
5. Long term planning; and
6. Public comment (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management 202-566-9996, at least 5 days prior to the meeting and reasonable provision will

be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on January 17, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

(FR Doc. 78-1808 Filed 1-20-78; 8:45 am)

#### [3128-01]

##### Office of Energy Technology

#### ADVISORY COMMITTEE ON GEOTHERMAL ENERGY

##### Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Advisory Committee on Geothermal Energy will hold its fourth meeting Tuesday, February 7, 1978 from 9 a.m. to 5:15 p.m., Suite 285, World Trade Center, 350 South Figueroa Street, Los Angeles, Calif.

The purpose of the Committee is to provide advice to the Department of Energy on the status of social, legal, technological, and institutional problems that inhibit the private sector from exploiting the nation's vast reserves of geothermal energy. The Committee suggests areas of research which will accelerate the private development of geothermal energy into electric and non-electric power and informs DOE on the status of privately supported geothermal research and development.

The purpose of this meeting is to review plans and activities of the Division of Geothermal Energy, DOE, and to discuss and provide advice on programs and approaches to effective government-industry cooperation in the development of geothermal energy.

The tentative agenda for the meeting is as follows:

- 9 a.m. Opening Remarks—Carel Otte, Chairman.
- 9:15 a.m. Minutes of August 12, 1977, Meeting—J. C. Bresee, DOE.
- 9:30 a.m. Fiscal Year 1979, Division of Geothermal Energy, Budget and Program Content—J. C. Bresee, DOE.
- 11 a.m. Technology Utilization Subcommittee Report—Ben Holt, Chairman.
- 12 noon Lunch.



- 1 p.m. Geopressure Subcommittee Report—P. C. Reppe, Chairman.  
 2 p.m. Legal and Institutional Subcommittee Report—J. Aidlin, Chairman.  
 3 p.m. Resource Subcommittee Report—C. W. Berge, Chairman.  
 4 p.m. Commercialization and Marketing Role in the Department of Energy.  
 5 p.m. Date and Location of Next Meeting—Carol Otte, Chairman.  
 5:10 p.m. Public Comment (10 Minute Rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management Office (202) 566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on January 17, 1978.

WILLIAM S. HEFFELFINGER,  
 Director of Administration.

[FR Doc. 78-1877 Filed 1-20-78; 8:45 am]

## [3128-01]

SUBCOMMITTEES OF ADVISORY COMMITTEE  
ON GEOTHERMAL ENERGY

## Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that subcommittees of the Advisory Committee on Geothermal Energy will meet in accordance with the schedule set forth below.

The purpose of the subcommittee meetings is to make recommendations to the parent Committee with regard to the plans and activities of the Division of Geothermal Energy, DOE, and in particular, to provide advice on programs and approaches to effective government-industry cooperation with respect to the following in the development of geothermal energy: resources assessment problems; technology utili-

zation problems; legal and institutional problems; and geothermal geopressure problems.

Meetings will be held on Monday, February 6, 1978, at the time and place and in accordance with the tentative agenda indicated below:

## RESOURCE SUBCOMMITTEE

8:30 a.m. to 12:30 p.m., Suite 285, World Trade Center, 350 South Figueroa Street, Los Angeles, Calif.

Agenda: Division of Geothermal Energy program for introduction; downhole technology; drilling; well stimulation; logging; and summary.

## TECHNOLOGY UTILIZATION SUBCOMMITTEE

8:30 a.m. to 12:30 p.m., Los Angeles Bonaventure Hotel, 404 South Figueroa Street, Los Angeles, Calif.

Agenda: Minutes of June 17, 1977, meeting; Matters arising from minutes; Contents of Division of Geothermal Energy Annual report; fiscal year, 1979 Division of Geothermal Energy budget and program; and content.

## LEGAL AND INSTITUTIONAL SUBCOMMITTEE

1:30 p.m. to 6:30 p.m., Los Angeles Bonaventure Hotel, 404 South Figueroa Street, Los Angeles, Calif.

Agenda: Public Land Policies; Problems Relating to Wheeling, Plant Amortization, and Reservoir Life; Discussion of Draft Interagency Environmental Task Force Proposals; and Review and Assessment of Current Tax Situation.

## GEOPRESSURE SUBCOMMITTEE

1:30 p.m. to 5:30 p.m., Suite 285, World Trade Center, 350 South Figueroa Street, Los Angeles, Calif.

Agenda: Review and Status of Environmental Requirements: Introduction, generic studies, environmental assessments, and site monitoring.

The meetings are open to the public. The Chairmen of the Subcommittees are empowered to conduct the meetings in a fashion that will, in their judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee(s) will be permitted to do so, either before or after the meeting(s). Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9969, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Advisory Committee Management Office.

The transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, DOE, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m.

and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C. on January 17, 1978.

WILLIAM S. HEFFELFINGER,  
 Director of Administration.

[FR Doc. 78-1674 Filed 1-20-78; 8:45 am]

## [6560-01]

ENVIRONMENTAL PROTECTION  
AGENCY

[FRL 847-6]

## CONSTRUCTION GRANTS PROGRAM

## Open Meeting

Notice is hereby given that informal discussion sessions have been scheduled to be held January 30-31 and February 1, 1978. The meetings will be held at Waterside Mall, Room 2814-B, 401 M Street SW., Washington, D.C.

The purpose of the meeting is to receive comments concerning the provisions of the new Clean Water Act of 1977 which affect Title II of the Federal Water Pollution Control Act of 1972 (Pub. L. 92-500) and the Construction Grants Program.

The following is a specific schedule of discussion topics:

## Date, Time, and Subject

- January 30, 9 a.m. to 11 a.m., Individual Treatment Systems.  
 January 30, 11 a.m. to 1 p.m., Amendments to Title II concerning areas of the construction grant program other than here individually scheduled.  
 January 30, 1 p.m. to 3 p.m., State Management Assistance.  
 January 31, 9 a.m. to 11 a.m., Industrial Cost Recovery and User Charges.  
 January 31, 1 p.m. to 3 p.m., Innovative Technology.  
 February 1, 1 p.m. to 3 p.m., State Priority Systems.

The meeting will be open to the public. Any person wishing to attend the meeting should contact, Mr. Joseph H. Easley, Municipal Construction Division, EPA, Washington, D.C. 20460. The telephone number is area code 202-426-4445.

THOMAS C. JORLING,  
 Assistant Administrator for  
 Water and Hazardous Materials.

JANUARY 19, 1978.

[FR Doc. 78-2031 Filed 1-20-78; 9:12 am]

## [6712-01]

FEDERAL COMMUNICATIONS  
COMMISSION

[FCC 77-846; Docket No. 21494; File No. BLH-7102]

INDEPENDENT MUSIC BROADCASTERS, INC.  
Memorandum Opinion and Order; Correction

In the matter of application of Independent Music Broadcasters, Inc., Radio Station WYOR, Coral Gables, Fla., for license to cover construction permit (Docket No. 21494; File No. BLH-7012).

Released: January 18, 1978.

In FR Doc. 78-581 appearing at page 1538 in the FEDERAL REGISTER for Tuesday, January 10, 1978 make the following correction:

The Memorandum Opinion and Order, FCC 77-846, released January 4, 1978, in the above-entitled matter is corrected by changing the file number in the caption and paragraph 1, line 8, to read BLH-7012 in lieu of BLH 7102.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
 Secretary.

[FR Doc. 78-1883 Filed 1-20-78; 8:45 am]

## [6210-01]

## FEDERAL RESERVE SYSTEM

## REPUBLIC OF TEXAS CORP.

## Acquisition of Bank

Republic of Texas Corp., Dallas, Tex., has applied for the Board's approval under §3(a)(3) of the Bank Holding Company Act (12 U.S.C. §1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to Ridglea Bank, Fort Worth, Tex. The factors that are considered in acting on the application are set forth in §3(c) of the Act (12 U.S.C. §1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 14, 1978.

Board of Governors of the Federal Reserve System, January 16, 1978.

GRIFFITH L. GARWOOD,  
 Deputy Secretary of the Board.

[FR Doc. 78-1893 Filed 1-20-78; 8:45 am]

## [1505-01]

FEDERAL TRADE COMMISSION  
COLEMAN CO., INC.

Denial of Application for Waiver

## Correction

In FR Doc. 78-954 appearing at page 1991 in the issue for Friday, January 13, 1978, in the third column of page 1992, the fourth line from the top ends with the word "states". That should have been followed by the paragraph in small type which was inadvertently inserted at the bottom of the column between footnotes 11 and 12.

## [1505-01]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Office of the Secretary

SUPPLEMENTARY MEDICAL INSURANCE FOR  
THE AGED AND DISABLED (PART 8 OF  
MEDICARE)

Monthly Actuarial Rates and Monthly Premium Rate

## Correction

In FR Doc. 77-37134 appearing at page 65275 in the issue for Friday, December 30, 1977, in Table 2 which appears on page 65276, the entries for "Margin for contingencies and to amortize unfunded liabilities" should have read across as follows:

-1.08 .85 .85 .30

## [1505-01]

## PRIVACY ACT OF 1974

New Routine Use for Notice of Systems of Records

## Correction

In FR Doc. 78-1332 appearing at page 2668 in the issue for Wednesday, January 18, 1978, in the middle column, under the paragraph designated "DATES", the third line which presently reads "notice on or before February 17, 1978," should read "notice on February 17, 1978."

## [1505-01]

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[Proposed Oil and Gas Lease Sale No. 45]

OUTER CONTINENTAL SHELF, GULF OF  
MEXICO

## Oil and Gas Leasing

## Correction

In FR Doc. 78-778 appearing at page 2009 in the issue of Friday, January 13, 1978, on page 2010, first column, paragraph "1" should read as follows:

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) and the regulations issued thereunder (43 CFR Part 3300).

On page 2017, third column, fifth line "45-311;" should read "45-111;". In the same column, the fourth complete paragraph beginning with, "Coffee Lump," should read, "B. Coffee Lump."

## [4310-84]

[C-14442]

## COLORADO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal-Correction

The notice of proposed withdrawal, Colorado 14442, appearing as FEDERAL REGISTER document 78-117 in the issue for January 5, 1978 at pages 1012-1013, is hereby corrected to include the following land:

NEW MEXICO PRINCIPAL MERIDIAN

PURGATORY SKI AREA

T. 39 N., R. 9 W.,  
 Sec. 23, SW 1/4 NW 1/4.

Dated: January 16, 1978.

MERRILL G. ANDERSON,  
 Leader, Montrose Team,  
 Branch of Adjudication.

[FR Doc. 78-1797 Filed 1-20-78; 8:45 am]

## [4310-84]

[C-15142]

## COLORADO

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal-Correction

Notice of proposed withdrawal, Colorado 15142, appearing as FEDERAL REGISTER document 77-37175, in the issue for December 30, 1977 at pages 65283 and 65284, is hereby corrected to include the following land:

NEW MEXICO PRINCIPAL MERIDIAN

PROSPECT BASIN SKI AREA

T. 42 N., R. 9 W.,  
 Sec. 1, SW 1/4.

Dated: January 16, 1978.

MERRILL G. ANDERSON,  
 Leader, Montrose Team,  
 Branch of Adjudication.

[FR Doc. 78-1796 Filed 1-20-78; 8:45 am]

## [4310-84]

[AA-6661-H]

## ALASKA

Alaska Native Claims Selection

On December 13, 1974, Eklutna, Inc., filed selection application under the



provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Eagle River area, including lands in T. 14 N., R. 1 W., Seward Meridian.

As to the lands described below, the village selection, as amended, was properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

The surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 157.07 acres, is considered proper for acquisition by Eklutna, Inc., and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

#### SEWARD MERIDIAN (SURVEYED)

T. 14 N., R. 1 W.,

Sec. 5, lot 4;

Sec. 6, lots 1, 2, and 3.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914 (38 Stat. 305; 43 U.S.C. 975d);

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6661-EE, are reserved to the United States and subject to further regulation thereby:

(a) (EIN 52 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

(b) (EIN 53 C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation

with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement; provided, however, that the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1998, shall continue to be in force.

The grant of lands by patent shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. ch. 2, sec. 6(g) (1970)), contract, permit, right-of-way, or easement, and the right of the lessee, contractor, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

2. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

3. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Inc., Eklutna, Inc., and other Cook Inlet village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Eklutna, Inc., serialized AA-6661-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Conveyance of the remaining entitlement to Eklutna, Inc. will be made at a later date. Pursuant to section 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Cook Inlet Region, Inc., when conveyance is granted to Eklutna, Inc., for the surface estate, and shall be subject to the same condition as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described above.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433,

Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until February 2, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If Eklutna, Inc., or Cook Inlet Region, Inc., objects to any easement which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of, and requirement for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT E. SORENSON,  
Chief, Branch of Lands  
and Minerals Operations.

(FR Doc. 78-1891 Filed 1-20-78; 8:45 am)

#### [4310-84]

##### ALASKA

Notice of Filings, Regional Selections Pursuant to Section 14(h)(1) Alaska Native Claims Settlement Act

On the dates listed below, Chugach Natives, Inc., filed the following applications under the provisions of section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601; 1614 (Supp. V, 1975)).

Subject to valid existing rights, the lands described below were segregated from all forms of appropriation under the public land laws as of the date of filing.

#### Copper River Meridian, Alaska (Unsurveyed)

Serial No.	Date of Filing	Description	Approximate acreage
AA-11019	Dec. 18, 1975.	T. 16 S., R. 5 W., sec. 32, S $\frac{1}{2}$ SE $\frac{1}{4}$	25
AA-10781	do	T. 16 S., R. 6 W., sec. 18, E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$	5

#### Copper River Meridian, Alaska—Continued

Serial No.	Date of Filing	Description	Approximate acreage
AA-10782	do	T. 16 S., R. 6 W., sec. 19, NW $\frac{1}{4}$	115
AA-11136	do	T. 17 S., R. 6 W., sec. 12, E $\frac{1}{2}$ SE $\frac{1}{4}$	65
AA-11020	do	T. 17 S., R. 6 W., sec. 13, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	130
AA-11138	do	T. 17 S., R. 6 W., sec. 36, NW $\frac{1}{4}$	145
AA-10781	do	T. 18 S., R. 6 W., sec. 3, NW $\frac{1}{4}$	70
AA-10784	do	T. 18 S., R. 7 W., sec. 21, NW $\frac{1}{4}$	75
AA-10787	do	T. 18 S., R. 7 W., sec. 21, SW $\frac{1}{4}$	40
AA-10785	do	T. 18 S., R. 7 W., sec. 21, SW $\frac{1}{4}$	3
AA-10786	do	T. 16 S., R. 7 W., sec. 21, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$	20
AA-10788	do	T. 18 S., R. 7 W., sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	45
AA-12440	do	T. 16 S., R. 7 W., sec. 19, NE $\frac{1}{2}$ SW $\frac{1}{4}$	35
AA-10789	do	T. 16 S., R. 7 W., sec. 19, W $\frac{1}{2}$ NW $\frac{1}{4}$	20
AA-10783	do	T. 16 S., R. 8 W., sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$	100
AA-10774	do	T. 17 S., R. 7 W., sec. 23, NW $\frac{1}{4}$	160
AA-10771	do	T. 17 S., R. 7 W., sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	155
AA-10762	do	T. 17 S., R. 7 W., sec. 30, SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$	85
AA-10770	do	T. 17 S., R. 7 W., sec. 30, SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 31, NW $\frac{1}{4}$ NW $\frac{1}{4}$	50
AA-10772	do	T. 17 S., R. 8 W., sec. 25, SE $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 38, NE $\frac{1}{2}$ NE $\frac{1}{4}$	150
AA-10763	do	T. 16 S., R. 8 W., sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$	110
AA-11058	do	T. 16 S., R. 8 W., sec. 21, NE $\frac{1}{4}$	45
AA-11058	do	T. 17 S., R. 8 W., sec. 5, NW $\frac{1}{4}$ NW $\frac{1}{4}$	35
AA-11057	do	T. 17 S., R. 8 W., sec. 5, NE $\frac{1}{4}$	10
AA-10764	do	T. 17 S., R. 8 W., sec. 22, S $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$	140
AA-11049	do	T. 17 S., R. 8 W., sec. 31, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$	115
AA-10766	do	T. 17 S., R. 8 W., sec. 33, NE $\frac{1}{4}$	40
AA-11050	do	T. 17 S., R. 8 W., sec. 33, NW $\frac{1}{4}$	15
AA-11051	do	T. 17 S., R. 8 W., sec. 33, SW $\frac{1}{4}$	95
AA-10765	do	T. 17 S., R. 8 W., sec. 33, E $\frac{1}{2}$ NE $\frac{1}{4}$ , sec. 34, W $\frac{1}{2}$ NW $\frac{1}{4}$	90
AA-10767	do	T. 17 S., R. 8 W., sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$	85
AA-12547	Dec. 21, 1976.	T. 17 S., R. 8 W., sec. 33, SE $\frac{1}{2}$ SW $\frac{1}{4}$	40
AA-10769	Dec. 18, 1975.	T. 17 S., R. 8 W., sec. 33, S $\frac{1}{2}$ SE $\frac{1}{4}$	115
AA-10768	do	T. 18 S., R. 8 W., sec. 4, N $\frac{1}{2}$ NE $\frac{1}{4}$ , sec. 34, E $\frac{1}{2}$ NE $\frac{1}{4}$ , sec. 35, W $\frac{1}{2}$ NW $\frac{1}{4}$	135
AA-11054	do	T. 18 S., R. 8 W., sec. 5, E $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$	90
AA-11053	do	T. 18 S., R. 8 W., sec. 5, SE $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , sec. 8, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$	60
AA-10773	do	T. 18 S., R. 8 W., sec. 11, NE $\frac{1}{4}$	140
AA-11055	do	T. 17 S., R. 9 W., sec. 13, SE $\frac{1}{4}$	125
AA-12571	Dec. 21, 1976.	T. 17 S., R. 9 W., sec. 25, SE $\frac{1}{2}$ NW $\frac{1}{4}$	40

In accordance with Departmental regulation 43 CFR 2653.5(h), notice of these selections is being published once in the FEDERAL REGISTER and once a week, for three (3) consecutive weeks, in the Cordova Times. Any party claiming a property interest in lands selected may file a protest with the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501. All protests must be filed on or before February 22, 1978.

ROBERT E. SORENSON,  
Chief, Branch of Lands  
and Minerals Operations.

(FR Doc. 78-1892 Filed 1-20-78; 8:45 am)

#### [4310-31]

##### Geological Survey

#### FINALIZED NORTH ATLANTIC AREA ORDER NOS. 1, 3, AND 4

Notice is hereby given that, pursuant to Title 30 CFR, Part 250.11, the Acting Chief, Conservation Division, U.S. Geological Survey, has approved the issuance of the finalized North Atlantic Outer Continental Shelf (OCS) Area Order Nos. 1, 3, and 4 as set forth

below. These Orders will be effective January 1, 1978. For the purposes of these Orders, the North Atlantic Area shall include those lands subject to Federal oil and gas leasing on the OCS between 40° N. and 42° N. latitude.

The Notice for the finalized North Atlantic Order Nos. 2, 5, 7, and 12 has been previously published in the FEDERAL REGISTER. North Atlantic OCS Order Nos. 1, 3, and 4 incorporate appropriate comments and suggestions which were received in response to the FEDERAL REGISTER publication of July 22, 1976, Vol. 41, No. 142, which solicited comments on the existing Mid-Atlantic OCS Orders as draft Orders for the North Atlantic Area. These Orders also incorporate the comments received in response to the FEDERAL REGISTER publication of June 29, 1977, Vol. 42, No. 125, which solicited comments on the proposed National OCS Order Nos. 1, 3, and 4.

Comments were received from the following organizations:

Amoco, Inc.  
Bureau of Land Management

Conservation Law Foundation of New England  
Exxon Co., U.S.A.  
Gulf Energy & Minerals Co.—U.S.  
Marathon Oil Co.  
Offshore Operators Committee  
Phillips Petroleum Co.  
Paul Purser, Professional Engineer  
Shell Oil Co.  
State of Maine  
State of Massachusetts  
Texaco Inc.  
The Offshore Co.  
U.S. Coast Guard  
U.S. Department of Commerce

We have published below a summary of the comments received, our rationales for accepting or rejecting the suggestions of the commenters, and the final version of the Orders.

For further information, contact Mr. George Brown, Eastern Region Conservation Manager, Conservation Division, U.S. Geological Survey, 1725 K Street, NW., Washington, D.C. 20006, 202-254-7870. The primary authors of this document are Mr. Dwayne E. Hull and Mr. Larry Ake of the Atlantic Area Office.

Copies of the finalized North Atlantic OCS Area Orders are available from:

Conservation Manager, Eastern Region, U.S. Geological Survey, 1725 K Street, NW., Washington, D.C. 20006.

NOTE.—1. It has been determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

2. It has also been determined that issuance of these North Atlantic Orders is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. One of the primary functions of the Orders is the mitigation of potential environmental impacts. The manner in which this is accomplished is discussed in the Final Environmental Statement for OCS Sale No. 42, North Atlantic Area. The North Atlantic Area Orders are based on similar Orders for other OCS Areas. All modifications are designed to incorporate technological advances and improvements and regulatory changes. No revisions have been made which would lessen the Orders' mitigatory impact.

W. A. RADLINSKI,  
Acting Director.

SUMMARY OF COMMENTS, U.S. GEOLOGICAL SURVEY RATIONALES, NORTH ATLANTIC ORDER NOS. 1, 3, AND 4

NORTH ATLANTIC—OCS ORDER NO. 1  
Paragraph Nos. 1 and 2

Comments. Several commenters expressed concern that paragraph Nos. 1 and 2 did not require navigational lights and sounding devices for fixed structures and mobile-drilling units.

Rationale. The order does not address navigational devices on fixed structures and mobile-drilling units since these requirements are prescribed by regulations of the U.S. Coast Guard.

Paragraph No. 4

Comments. A commenter suggested that in the event that equipment was disposed of at sea, whether voluntarily or involuntarily, the operator must notify the public of the hazard.

Rationale. A revision was made to North Atlantic OCS Order No. 7 requiring that



equipment may only be disposed of under emergency conditions and must be reported to the District Supervisor.

**Comments.** A suggestion was made that the order require all personnel to be educated on the legalities and hazards of ocean dumping.

**Rationale.** Stipulation No. 13 to North Atlantic OCS Lease Sale No. 42 requires that lessees train their personnel in the importance and methods of the commercial fishing industry. The Supervisor will require that this training stress the adverse effects of ocean dumping.

**Comments.** A commenter suggested that markers for subsea objects include "all weather" aids to navigation. Another commenter suggested that marker buoys would not remain in place; therefore, the order should require the owner to notify the U.S. Coast Guard and the fishing and shrimp associations of the location of the object.

The U.S. Coast Guard suggested the order should state that the requirements for the marking of submerged objects should be determined by the Coast Guard District Commander.

**Rationale.** Since the determination of hazards to navigation or to commercial fishing operations is a function of the District Commander, we have adopted the suggestion of the Coast Guard and have revised paragraph 4 as follows:

4. **Identification of subsea objects.** All subsea objects resulting from lease operations, which are determined by the Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices, shall be identified by suitable aid to navigation devices if the District Commander so directs. Prior to the establishment of a subsea object, or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 U.S.C. 83, 85; 43 U.S.C. 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains."

U.S. DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION, EASTERN REGION

#### ATLANTIC AREA

North Atlantic—OCS Order No. 1, Effective January 1, 1978

#### Identification of Wells, Platforms, Structures, and Subsea Objects

This order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.37. All departures from the requirements specified in this Order must be approved pursuant to 30 CFR 250.12(b).

1. **Identification of fixed platforms or structures.** Platforms and structures shall be identified at two diagonal corners by a sign with letters and figures not less than 30 centimeters (12 inches) in height with the following information:

(a) The name of the lease operator.  
(b) The area name shown on OCS official protraction diagrams or, where no name has been assigned, the protraction diagram number.

(c) The block number in which the platform or structure is located.

(d) The platform or structure designation. The information shall be abbreviated as in the following example:

The Blank Oil Co. operates "C" platform on Block 999 of the Salisbury area. The identifying sign on the platform would indicate: BOC-SAL-999-C.

2. **Identification of nonfixed platforms or structures.** Floating semi-submersible platforms, bottom-setting mobile rigs, and drilling ships shall be identified by one sign with letters and figures not less than 30 centimeters (12 inches) in height affixed to the derrick so as to be visible to approaching traffic and containing the following information:

(a) The name of the lease operator.  
(b) The area designation based on OCS official leasing maps.  
(c) The block number.  
(d) The OCS lease number.  
(e) The well number.

3. **Identification of wells.** The OCS lease and well number shall be painted on, or a sign affixed to, each singly completed well. In multiply completed wells, each completion shall be individually identified at the wellhead. All identifying signs shall be maintained in a legible condition.

4. **Identification of subsea objects.** All subsea objects resulting from lease operations, which are determined by the Coast Guard District Commander to be hazards to navigation or to the deployment of commercial fishing devices, shall be identified by suitable aid to navigation devices if the District Commander so directs. Prior to the establishment of a subsea object, or in the event of the accidental submergence of an object, the owner shall inform the District Commander of the object's description, location, and unobstructed depth of water above the object's highest point. Based on this information, the District Commander will determine what marking and permits, if any, will be required (14 U.S.C. 83, 85; 43 U.S.C. 1333; 33 CFR 67). The owner shall maintain these navigational markings onsite and properly functioning at all times while the obstruction remains."

#### NORTH ATLANTIC OCS ORDER NO. 3

Subparagraph 1.1.  
**Comments.** It was suggested that the phrase "or to prevent migration of fluids in the well bore" is redundant.

**Rationale.** The intent of the order is to prevent the undesirable migration of well fluids. The subparagraph was revised by changing the title to "Isolation of Zones in Open Hole," by adding the words "saltwater" to the first sentence between "gas" and "fresh water," and by revising the second sentence to read:

"Additional cement plugs to prevent the migration of fluids in the well bore may be required by the District Supervisor."

This revision clarifies the intent and grants the District Supervisor the flexibility to require additional plugs.

**Comments.** A commenter suggested that the requirement for a cement plug to be placed for every 750 meters of uncased hole is unnecessary.

**Rationale.** The order was revised. Subparagraph 1.1 now requires plugs to isolate zones containing oil, gas, saltwater, and such additional plugs as prescribed by the Supervisor. The Supervisor's review of applications to plug and abandon will ensure that wells are properly plugged.

Subparagraph 1.4.  
**Comments.** It was suggested that the phrase "cannot be used" is ambiguous and

that the phrase should read "if the foregoing preferred methods are not used."

**Rationale.** The subparagraph was revised to eliminate the phrase "if the foregoing methods cannot be used." A new lead-in sentence was added as follows:

"If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the stub."

Two new subparagraphs were added, 1.4.1 and 1.4.2, to differentiate between the requirements of stubs terminating inside casing and stubs terminating below the casing strings.

Subparagraph 1.7:

**Comments.** It was suggested that all plugs should be verified in the same manner as the first plug below the top plug.

**Rationale.** The order requires the testing of the first plug below the surface plug. Past well history has indicated that it is not necessary to test the plugs below the surface plug. The subparagraph was reorganized by adding a new lead-in sentence stating that the plug shall be verified by one of the following methods: a or b. The methods were segregated into segments a and b. The revised language also made it clear that if cement were placed above a bridge plug or a retainer, the cement need not be tested.

Subparagraph 1.9.  
**Comments.** There was a divergence of opinion on the wording which provides flexibility for the District Supervisor to approve the severance of casing at depths less than 5 meters (16 feet) below the ocean floor.

**Rationale.** The order states that the approval of the Supervisor should be required to sever casing at depths less than 5 meters (16 feet) "after a review of data on the ocean bottom conditions." There have been instances where it was impossible to remove casing which had been severed at 16 feet. In the Alaska Area, a casing was severed at 16 feet and could not be pulled with a force of 400,000 pounds. The pipe was then cut at 6 feet below the ocean floor and was pulled with a force of 300,000 pounds. The problem is prevalent where hard bottoms exist. In a hard bottom where erosion of the ocean floor is unlikely, the depth of the severance is not critical. In a soft bottom which is subject to erosion or sand waves, review of bottom conditions by the Supervisor will ensure that the casing is severed at an adequate depth.

Paragraph 2.

**Comments.** A comment was made that the order should clarify the difference between temporary and permanent abandonment.

**Rationale.** No time conditions will be set, but temporarily abandoned wells will be sea-floor obstructions which must be marked. Determination as to the type of abandonment will be handled on a case-by-case basis by the Supervisor. The paragraph was also revised in response to comments received by Task Force members in the field. One operator commented that the requirement for setting a cement plug in the open hole of a temporarily abandoned drilling well has caused an unintentional side track while trying to drill out of the 100-foot cement plug below the casing. This can easily occur when the formation is softer than the cement plug. Such side tracking and the resultant dog leg is highly undesirable. The following two sentences were added to the paragraph:

"When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest string. If a

cement plug is set, it shall not be necessary for the cement plug to overlap into the open hole."

It was suggested by USGS personnel that this paragraph should address the requirements for the marking of casing stubs which extend above the ocean floor. The last sentence of the paragraph was revised as follows:

"When casing extends above the ocean floor, the operator shall comply with the following requirements:

(a) A mechanical retrievable or permanent bridge plug, or a cement plug 30 meters (98 feet) in length, shall be set in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

(b) The requirements of Order No. 1, paragraph 4, "Identification of Subsea Objects."

U.S. DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION, EASTERN REGION

#### ATLANTIC AREA

#### NORTH ATLANTIC

OCS ORDER NO. 3—EFFECTIVE JANUARY 1, 1978

#### PLUGGING AND ABANDONMENT OF WELLS

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.15. The operator shall comply with the following minimum plugging and abandonment procedures which have general application to all wells drilled for oil and gas. Plugging and abandonment operations shall not be commenced prior to obtaining approval from the appropriate District Supervisor. Oral or telegraphic approvals shall be in accordance with 30 CFR 250.13. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

1. **Permanent Abandonment.**—1.1 **Isolation of Zones in Open Hole.** In uncased portions of wells, cement plugs shall be spaced to extend 30 meters (98 feet) below the bottom to 30 meters (98 feet) above the top of any oil, gas, saltwater, and freshwater zones so as to isolate them in the strata in which they are found and to prevent them from escaping into other strata. Additional cement plugs to prevent the migration of fluids in the well bore may be required by the District Supervisor.

1.2 **Isolation of Open Hole.** Where there is open hole below the casing, a cement plug shall be placed in the deepest casing string by a or b below. In the event lost circulation conditions exist or are anticipated, the plug may be placed in accordance with c below:

(a) A cement plug placed by displacement method so as to extend a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the casing shoe.

(b) A cement retainer with effective back pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the casing shoe, with a cement plug calculated to extend at least 30 meters (98 feet) below the casing shoe and 15 meters (49 feet) above the retainer.

(c) A permanent type bridge plug set within 45 meters (148 feet) above the casing shoe with 15 meters (49 feet) of cement on top of the bridge plug. This bridge plug shall be tested in accordance with 1.7 prior to placing subsequent plugs.

1.3 **Plugging or Isolating Perforated Intervals.** A cement plug shall be placed oppo-

site all open perforations (perforations not squeezed with cement) extending a minimum of 30 meters (98 feet) above and 30 meters (98 feet) below the perforated interval or down to a casing plug, whichever is less. In lieu of the cement plug, the following two methods are acceptable, provided the perforations are isolated from the hole below:

(a) A cement retainer with effective back pressure control set not less than 15 meters (49 feet) nor more than 30 meters (98 feet) above the top of the perforated interval with a cement plug calculated to extend at least 30 meters (98 feet) below the bottom of the perforated interval and 15 meters (49 feet) above the retainer.

(b) A permanent type bridge plug set within 45 meters (148 feet) above the top of the perforated interval with 15 meters (49 feet) of cement on top of the bridge plug.

1.4 **Plugging of Casing Stubs.** If casing is cut and recovered leaving a stub, one of the following methods shall be used to plug the casing stub:

1.4.1 **Stub Termination Inside Casing String.** A stub terminating inside a casing string shall be plugged by methods a, b, or c as follows:

(a) A cement plug will be set so as to extend 30 meters (98 feet) above and 30 meters (98 feet) below the stub.

(b) A retainer set 15 meters (49 feet) above the stub with 45 meters (148 feet) of cement set below and 15 meters (49 feet) above.

(c) A permanent bridge plug set 15 meters (49 feet) above the stub and capped with 15 meters (49 feet) of cement.

1.4.2 **Stub Termination Below Casing String.** If the stub is below the next larger string, plugging shall be accomplished in accordance with either 1.1 or 1.2.

1.5 **Plugging of Annular Space.** Any annular space communicating with any open hole and extending to the ocean floor shall be plugged with cement.

1.6 **Surface Plug Requirement.** A cement plug of at least 45 meters (148 feet), with the top of the plug 45 meters (148 feet) or less below the ocean floor, shall be placed in the smallest string of casing which extends to the surface.

1.7 **Testing of Plugs.** The setting and location of the first plug below the surface plug shall be verified by one of the following methods:

(a) Placing a minimum pipe weight of 6,800 kilograms (15,000 pounds) on the cement plug, cement retainer, or bridge plug. The cement placed above the bridge plug or retainer need not be tested.

(b) Testing with a minimum pump pressure of 6,900 kPa (1,000 psi) with no more than a 10-percent pressure drop during a 15-minute period.

1.8 **Mud.** Each of the respective intervals of the hole between the various plugs shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such an interval.

1.9 **Clearance of Location.** All casing and piling shall be severed and removed to a depth of at least 5 meters (16 feet) below the ocean floor, or at a depth as approved by the District Supervisor after a review of data on the ocean bottom conditions. The operator shall verify that the location has been cleared of all obstructions.

2. **Temporary Abandonment.** Any drilling well which is to be temporarily abandoned shall be mudded and cemented as required for permanent abandonment except for the

requirements 1.6 and 1.9. When a drilling well is temporarily abandoned, a bridge plug or a cement plug shall be set at the base of the deepest casing string. If a cement plug is set, it shall not be necessary for the cement plug to overlap into the open hole. When casing extends above the ocean floor, the operator shall comply with the following requirements:

(a) A mechanical, retrievable or permanent bridge plug, or a cement plug 30 meters (98 feet) in length, shall be set in the casing between 5 and 60 meters (16 and 197 feet) below the ocean floor.

(b) The requirements of North Atlantic OCS Order No. 1, paragraph 4, "Identification of Subsea Objects."

#### NORTH ATLANTIC OCS ORDER NO. 4

#### PREAMBLE

**Comments.** It was suggested that the fourth sentence of the preamble should be revised by changing the word "may" to "shall" and by adding the phrase "and reasonable and prudent efforts are being made to comply with the requirements."

**Rationale.** The intent of the preamble was not to make it mandatory that the Supervisor grant a suspension of production. The Supervisor has specific guidelines to be used in his determination of the approval or the denial of a suspension of production. The Supervisor has the option of approving or disapproving suspensions of production based on these guidelines.

**Comments.** A commenter suggested that a suspension of production be granted only if all the requirements set forth in OCS Order No. 14 have been met.

**Rationale.** The preamble of the Order was changed to reflect the fact that the conditions of North Atlantic OCS Order No. 14 must be met before a suspension of production is granted. North Atlantic OCS Order No. 14 will be published before North Atlantic OCS exploration progresses significantly.

Paragraphs 1, 2, 3, and 4.

**Comments.** Several commenters indicated that the intent of the Order was not clear. A lack of clarity was cited in the paragraphs which allow the demonstration of production capability through production tests, logs, or other proven formation-evaluation techniques. We agree with these comments and have revised the Order by adding two new sentences to the preamble as follows:

"All pertinent engineering, geologic, and economic data shall be submitted to the District Supervisor for his consideration in determining whether a well is capable of being produced in paying quantities. The District Supervisor shall prescribe which of the following shall be used to determine the capability of a well to produce in paying quantities."

The content of paragraph 4, "Witnessing and Results," was incorporated into the lead-in sentence of paragraph 1, "Production Tests." The production tests for oil wells and gas wells were listed in subparagraphs a and b of paragraph 1. Paragraph 3 was retitled as a new paragraph 2, "Production Capability Determination," and was rewritten as follows:

"When the District Supervisor determines that the open hole evaluation data, such as wireline formation tests, drill stem tests, core data, and logs, has been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities."



**Comments.** It was suggested that the Order require oil produced during a production test to be disposed of by incineration.

**Rationale.** The Order was not revised. Requiring the incineration of the test oil might lead to the waste of significant quantities of valuable mineral resources.

U.S. DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY, CONSERVATION DIVISION, EASTERN REGION

## ATLANTIC AREA

## NORTH ATLANTIC

OCS ORDER NO. 4—EFFECTIVE JANUARY 1, 1978

## SUSPENSIONS AND DETERMINATION OF WELL PRODUCTIVITY

This Order is established pursuant to the authority prescribed in 30 CFR 250.11 and in accordance with 30 CFR 250.12(d)(1). An OCS lease provides for extension beyond its primary term for as long as oil or gas may be produced from the lease in paying quantities. The term "paying quantities" as used herein means production in quantities sufficient to yield a return in excess of operating costs. An OCS lease may be maintained beyond the primary term, in the absence of actual production, when a suspension of production has been approved in accordance with North Atlantic OCS Order No. 14. All departures from the requirements specified in this Order shall be subject to approval pursuant to 30 CFR 250.12(b).

All pertinent engineering, geologic, and economic data shall be submitted to the District Supervisor for his consideration in determining whether a well is capable of being produced in paying quantities.

The District Supervisor shall prescribe which of the following shall be used to determine the capability of a well to produce in paying quantities.

1. **Production Tests.** All tests must be witnessed by an authorized representative of the Geological Survey. Test data, accompanied by operator's affidavit or third-party test data, may be accepted in lieu of a witnessed test, provided prior approval is obtained from the District Supervisor. The following are minimum requirements for test(s):

(a) A production test for oil wells of at least 2-hour duration following the stabilization of flow.

(b) A deliverability test for gas wells of at least 2-hour duration following the stabilization of flow, or a four-point back-pressure test.

2. **Production Capability Determination.** When the District Supervisor determines that open-hole evaluation data, such as wireline formation tests, drill stem tests, core data; and logs, has been demonstrated as reliable in a geologic area, such data may be considered as acceptable evidence that a well is capable of producing in paying quantities.

[FR Doc. 78-1924 Filed 1-20-78; 8:45 am]

[4310-10]

## Office of the Secretary

## OUTER CONTINENTAL SHELF ADVISORY BOARD—MID-ATLANTIC

## Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Mid-Atlantic Regional Board will meet during the period 1 p.m. to 4 p.m., February 10, 1978, in the ABC Conference Room, 3rd Floor, New State Office Building, 820 French Street, Wilmington, Del.

The meeting will cover the following subjects:

1. OCS Sale No. 49—Mid-Atlantic.
2. OCS legislation.
3. Proposed Intergovernmental Planning Program—Transportation of OCS Oil and Gas.
4. Evaluation of OCS environmental studies program.
5. OCS Sale No. 42—North Atlantic.
6. Activities of Geological Survey District Office.

This meeting is open to the public. Interested persons may make oral or written presentations to the Board. Such requests should be made to the Mid-Atlantic Board Chairman:

Simon F. McHugh, Jr., Executive Assistant, Office of the Governor, Annapolis, Md. 21404, 301-261-2176.

Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th and C Streets NW., Washington, D.C.

Dated: January 11, 1978.

ALAN D. POWERS,

Director, Office of  
OCS Program Coordination.

[FR Doc. 78-1798 Filed 1-20-78; 8:45 am]

[4410-01]

## DEPARTMENT OF JUSTICE

## Antitrust Division

## LUBBOCK COUNTY BEVERAGE ASSOCIATION, ET AL

## Proposed Consent Judgment in United States

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b) through (h), that a proposed consent judgment and a competitive impact statement as set out below have been filed with the United States District Court for the Northern District of Texas, Lubbock Division, in Civil Action No. 5-76-126, *United States v. Lubbock County Beverage Association; Cecil's, Inc.; Crossed Keys Package Store, Inc.; Pinkie's, Inc.; and the All Star Co.*

*erage Association; Cecil's, Inc.; Crossed Keys Package Store, Inc.; Pinkie's, Inc.; and the All Star Co.* The complaint alleged that the defendants and co-conspirators had engaged in a combination and conspiracy to raise, fix, stabilize and maintain the price of alcoholic beverages in Lubbock County. The proposed judgment prohibits each defendant corporation from entering into or maintaining any agreement or understanding to raise, fix, stabilize, or maintain prices for the sale of alcoholic beverages. Each defendant is also prohibited from communicating or exchanging with any other retailer of alcoholic beverages the actual or proposed prices for the sale of alcoholic beverages prior to communication to the public generally. Public comment is invited on or before March 13, 1978. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Barry F. McNeil, Chief, Dallas Office, Antitrust Division, Department of Justice, 1100 Commerce Street, Room 8C6, Dallas, Tex. 75242.

Dated: January 9, 1978.

HUGH P. MORRISON, Jr.,  
Acting Assistant Attorney  
General, Antitrust Division.

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS

## LUBBOCK DIVISION

*United States of America v. Lubbock County Beverage Association; Cecil's, Inc.; Crossed Keys Package Store, Inc.; Pinkie's, Inc.; and the All Star Co.*

Civil Action No. 5-76-126.

Filed: January 9, 1978.

## STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that a Final Judgment, in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to plaintiff or defendants in this or any other proceeding.

Dated: January 9, 1978.

For the Plaintiff: Hugh P. Morrison, Jr.,  
Acting Assistant Attorney General;  
Barry F. McNeil, Mary Coleen T.  
Sewell, Attorneys, Department of Jus-

stice; Kenneth J. Mighell, *United States Attorney, Northern District of Texas*; Robert B. Wilson, *Assistant United States Attorney*.

For the Defendants: Key, Carr, Evans & Fouts, Lubbock, Tex. by Rob Becker, *Lubbock County Beverage Association Representative*; Mark Smith & Associates, Lubbock, Tex., by Aubrey J. Fouts, *Attorney for Cecil's, Inc.*; by Mark Smith, *Attorney for Crossed Keys, Package Store, Inc.*; Clark, Thomas, Winters & Shapiro, Austin, Tex., by Donald Scott Thomas, Jr., *Attorney for Pinkie's, Inc.*; Brown & Harding, Lubbock, Tex., by Clifford W. Brown, *Attorney for the All Star Co.*; Jones, Trout, Flygare & Moody, Lubbock, Tex., by James C. Lewis, *Attorneys for Kenneth Odom*.

UNITED STATES DISTRICT COURT, NORTHERN  
DISTRICT OF TEXAS

## LUBBOCK DIVISION

*United States of America, v. Lubbock County Beverage Association; Cecil's, Inc.; Crossed Keys Package Store, Inc.; Pinkie's, Inc.; and The All Star Co.; Defendants.*

Civil No. CA5-76-126.

Filed: January 9, 1978.

## FINAL JUDGMENT

Plaintiff, *United States of America*, having filed its Complaint herein on October 26, 1976, and plaintiff and defendants, by their respective attorneys, having each consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting evidence or admission by plaintiff or defendants, or any of them, in respect to any such issue:

Now, therefore, before any testimony has been taken and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties as aforesaid, it is hereby

Ordered, adjudged, and decreed as follows:

## I

This Court has jurisdiction of the subject matter herein and of the parties hereto. The Complaint states claims upon which relief may be granted against the defendants under Section 1 of the Sherman Act, 15 U.S.C. § 1.

## II

As used in this Final Judgment:

(A) "Person" shall mean any individual, corporation, partnership, firm, association or other business or legal entity.

(B) "Alcoholic beverages" shall refer to beer, wine and distilled spirits.

(C) "Defendant corporation" shall refer to defendants Cecil's, Inc.; Crossed Keys Package Store, Inc.; Pinkie's, Inc.; and The All Star Company.

(D) "Defendant association" shall refer to all directors, officers, members, and employees of Lubbock County Beverage Association.

## III

The provisions of this Final Judgment are applicable to each defendant herein and shall apply also to each of such defendant's subsidiaries, successors, assigns, directors, officers, agents, and employees, and to all persons in active concert or participation with any of them who shall have received

actual notice of this Final Judgment by personal service or otherwise.

## IV

Each defendant corporation is enjoined and restrained from directly or indirectly:

(A) Entering into, maintaining or furthering any contract, agreement, understanding, plan, program, combination or conspiracy with any other retailer of alcoholic beverages to raise, fix, stabilize or maintain prices for the sale of alcoholic beverages to and third person; and

(B) Soliciting, inducing or coercing any other retailer of alcoholic beverages to adopt or adhere to uniform or specific prices for the sale of alcoholic beverages to any third person.

## V

Each defendant corporation is enjoined and restrained from communicating to or exchanging with any other retailer of alcoholic beverages any actual or proposed prices, price changes, or other terms or conditions of sale at or upon which any alcoholic beverage is to be or has been sold to any third person prior to communication of such information to the public or trade generally.

## VI

Each defendant corporation is enjoined and restrained from attending, organizing, joining, furthering, supporting, or participating in any activities of the defendant association or of any other association with knowledge that the purpose, conduct or activities of the same are inconsistent with the prohibitions contained in Sections IV and V of this Final Judgment.

## VII

Each defendant corporation is ordered and directed to:

(A) Furnish within thirty (30) days after the date of the entry of this Final Judgment a copy thereof to each of its officers and directors, and to each of its agents and employees who have any responsibility for the pricing of alcoholic beverages.

(B) Furnish a copy of this Final Judgment to each successor to those officers, directors, agents and employees described in Subsection (A) of this Section VII, within thirty (30) days after each such successor is employed by or becomes associated with such defendant.

(C) File with this Court and serve upon the plaintiff within sixty (60) days from the date of entry of this Final Judgment, an affidavit as to the fact and manner of its compliance with Subsection (A) of this Section VII.

## VIII

(A) The defendant association is enjoined and restrained from directly or indirectly convening meetings or conducting business where the purpose or effect of such is to raise, fix, stabilize or maintain the prices of alcoholic beverages.

(B) The defendant association is ordered and directed to:

(1) Furnish within thirty (30) days after the date of the entry of this Final Judgment a copy thereof to each of its officers, directors, members and employees, and any other retailer of alcoholic beverages in Lubbock County.

(2) File with this Court and serve upon the plaintiff within sixty (60) days from the date of entry of this Final Judgment an affidavit as to the fact and manner of its compliance with Subsection (1) of this Section VIII(B).

## IX

(A) For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) access during the office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of such defendant relating to any matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, directors, agents, or employees of such defendant, who may have counsel present, regarding any such matters.

(B) A defendant, upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, shall submit such reports in writing, under oath if requested, with respect to any of the matters contained in this Final Judgment as may from time to time be requested.

No information or documents obtained by the means provided in this Section IX shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

If at any time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents of a type described in Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a Grand Jury proceeding) to which the defendant is not a party.

## X

Jurisdiction is retained for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further order or directions as may be necessary or appropriate for the construction or the carrying out of this Final Judgment, for the modification of any of the provisions thereof, for the enforcement of compliance therewith and for the punishment of violation thereof.

## XI

Entry of this Final Judgment is in the public interest.

Dated this — day of —, 1977.

United States District Judge.



IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF TEXAS, LUB-  
BOCK DIVISION

*United States of America, Plaintiff, v. Lub-  
bock County Beverage Association; Cecil's,  
Inc.; Crossed Keys Package Store, Inc.; Pin-  
kie's, Inc.; and The All Star Company, De-  
fendants.*

Civil No. CA5-76-126.  
Filed: January 9, 1978.

#### COMPETITIVE IMPACT STATEMENT

Pursuant to section 2(b) of the Antitrust  
Procedures and Penalties Act (15 U.S.C.  
§ 16(b)), the United States of America  
hereby files this Competitive Impact State-  
ment relating to the proposed Final Judg-  
ment submitted for entry in this civil anti-  
trust proceeding.

#### I

##### NATURE AND PURPOSE OF THE PROCEEDING

On October 26, 1976, the United States  
filed a Complaint under section 4 of the  
Sherman Act (15 U.S.C. § 4), alleging that  
beginning sometime around March 1967 and  
continuing thereafter until sometime prior  
to December 1974 the defendants and co-  
conspirators had engaged in a combination  
and conspiracy to raise, fix, stabilize and  
maintain the prices of alcoholic beverages in  
Lubbock County, in violation of section 1 of  
the Sherman Act (15 U.S.C. § 1). The Com-  
plaint requested the Court to rule that the  
defendants had been engaged in an unlaw-  
ful conspiracy in violation of Section 1 of  
the Sherman Act (15 U.S.C. § 1) and to issue  
an injunction prohibiting its continuation.

Entry by the Court of the proposed Final  
Judgment will terminate this action against  
all defendants. The Court will retain juris-  
diction over the matter for any further pro-  
ceedings which might be required to inter-  
pret, modify, or enforce the Judgment, or to  
punish violations of any of the provisions of  
the Judgment.

#### II

##### DESCRIPTION OF PRACTICES INVOLVED IN THE ALLEGED VIOLATION

The defendant retailers and co-conspirators  
are engaged in the sale of alcoholic bever-  
ages at retail to purchasers throughout  
Lubbock County, Texas. These alcoholic  
beverages include beer, wine and distilled  
spirits. In 1975 the defendant retailers to-  
gether had sales of some \$8 million of alco-  
holic beverages. The defendants, along with  
other area retailers, had total sales the  
same year of approximately \$13 million.

The defendants are: Cecil's, Inc., of Lub-  
bock, Tex.; Crossed Keys Package Store,  
Inc., of Lubbock, Tex.; Pinkie's, Inc., of  
Odessa, Tex.; The All Star Company, of  
Lubbock, Tex.; and the Lubbock County  
Beverage Association, an organization of  
area retailers. Members of the Association  
are named as co-conspirators in the case.

The complaint alleges that the defendants  
and co-conspirators engaged in a conspiracy  
to raise, fix, stabilize and maintain prices of  
alcoholic beverages in Lubbock County. The  
conspiracy, which began in 1967, involved  
meetings, discussions and agreements  
among officials of defendants and co-con-  
spirators concerning prices to be charged  
for selling alcoholic beverages at retail.

According to the complaint, the conspir-  
acy had the following effects: (a) Price com-

petition among the defendants and co-con-  
spirators was restrained; (b) prices of alco-  
holic beverages were raised and fixed at ar-  
tificial levels; and (c) customers of the de-  
fendants and co-conspirators were deprived  
of the opportunity to purchase alcoholic  
beverages at competitive prices.

#### III

##### EXPLANATION OF THE PROPOSED CONSENT JUDGMENT

The United States and the defendants  
have agreed that a Final Judgment in the  
form negotiated by the parties may be en-  
tered by the Court at any time after compli-  
ance with the Antitrust Procedures and  
Penalties Act provided the plaintiff has not  
withdrawn its consent. The stipulation pro-  
vides that there has been no admission by  
either party with respect to any issue of fact  
or law. Under the provisions of section 2(c)  
of the Antitrust Procedures and Penalties  
Act, entry of the Judgment is conditioned  
upon a determination by the Court that it is  
in the public interest.

A. *Prohibited conduct.* The proposed  
Judgment prohibits each defendant retailer  
from entering into, maintaining, or further-  
ing any agreements or understandings with  
any other retailer of alcoholic beverages to  
raise, fix, stabilize, or maintain prices for  
the sale of alcoholic beverages to any third  
person. The Judgment restrains each defen-  
dant retailer from soliciting, inducing, or co-  
ercing any other retailer to adopt or adhere  
to uniform or specific prices for the sale of  
alcoholic beverages to any third person. Each  
defendant corporation is also prohibited  
from communicating to, or exchanging with,  
any other retailer of alcoholic beverages  
any actual or proposed prices, price changes  
or other terms or conditions of sale of  
alcoholic beverages prior to communica-  
tion to the public generally. Each defendant  
corporation is enjoined from attending, or-  
ganizing, joining, furthering, supporting, or  
participating in any activities of the defen-  
dant Association or any other association  
with knowledge that the purpose, conduct,  
or activity of such association is inconsistent  
with the prohibitions contained in the Final  
Judgment. The Judgment enjoins and re-  
strains the defendant Association from di-  
rectly or indirectly convening meetings or  
conducting business where the purpose or  
effect of such is to raise, fix, stabilize, or  
maintain the prices of alcoholic beverages.

B. *Scope of the proposed judgment.* The  
Final Judgment applies not only to the de-  
fendants but also to their directors, officers,  
agents and employees, as well as to any suc-  
cessors or assigns of the defendants. It also  
applies to anyone participating with any de-  
fendant who receives actual notice of the  
Judgment.

The Judgment is geographically applica-  
ble. Anywhere the defendants do business.  
In addition, the Judgment perpetually re-  
strains the prohibited conduct. In other  
words, unless the Court either modifies or  
vacates all or part of the Judgment, the de-  
fendants are forever bound by its prohibi-  
tions.

C. *Effect of the Proposed Judgment on  
Competition.* The terms of the Judgment  
are designed to insure that each corporate  
defendant will act completely independently  
in determining the prices, terms and condi-  
tions at which it sells or offers to sell alco-  
holic beverages. Compliance with the pro-  
posed Judgment will ensure competition  
among the defendants in the sale of alcohol-  
ic beverages.

It is the opinion of the Department of  
Justice that the proposed Final Judgment  
contains fully adequate provisions to pre-  
vent the continuance or reoccurrence of the  
violations of the antitrust laws charged in  
the Complaint. The government is also  
given access, upon reasonable notice, to the  
records and employees of the defendants to  
monitor their compliance with the provi-  
sions of the Judgment. In the Department  
of Justice's view, disposition of the lawsuit  
without further litigation is appropriate, in  
that the proposed Judgment provides all  
the relief which the government sought in  
its Complaint.

#### IV

##### ALTERNATIVES TO THE PROPOSED CONSENT JUDGMENT

The proposed Final Judgment is substan-  
tially in the form submitted initially to the  
defendants.

#### V

##### REMEDIES AVAILABLE TO PRIVATE LITIGANTS

Section 4 of the Clayton Act (15 U.S.C.  
§ 15) provides that any person who has been  
injured as a result of conduct prohibited by  
the antitrust laws may bring suit in federal  
court to recover three times the damages  
suffered, as well as costs and reasonable at-  
torney fees. Entry of the proposed Final  
Judgment in this proceeding will neither  
impair nor assist the bringing of any such  
private antitrust actions, nor will it have  
any effect on pending actions. Under the  
provisions of section 5(a) of the Clayton Act  
(15 U.S.C. § 16(a)), this Final Judgment has  
no prima facie effect in any lawsuits which  
might be brought against these defendants.

#### VI

##### PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED JUDGMENT

As provided by the Antitrust Procedures  
and Penalties Act, any person believing that  
the proposed Judgment should be modified  
may submit written comments to Barry F.  
McNeil, Antitrust Division, U.S. Department  
of Justice, 1100 Commerce Street, Room  
8C6, Dallas, Tex. 75242, within the sixty  
(60) day period provided by the Act. These  
comments, and the Department's responses  
to them, will be filed with the Court and  
published in the *FEDERAL REGISTER*. All com-  
ments will be given due consideration by the  
Department of Justice, which remains free  
to withdraw its consent to the proposed  
Judgment at any time prior to its entry if it  
should determine that some modification of  
it is necessary.

#### VII

##### OTHER MATERIALS

No materials and documents of the type  
described in section 2(b) of the Antitrust  
Procedures and Penalties Act (15 U.S.C. Sec-  
tion 16(b)) were considered in formulating

this proposed Judgment, and consequently,  
none are being filed.

ROBERT B. WILSON,  
Assistant U.S. Attorney; U.S. Attor-  
ney, U.S. Department of Justice,  
U.S. Federal Building and Court-  
house, Room C-210, 1205 Texas  
Avenue, Lubbock, Tex. 79401.

BARRY F. McNEIL,  
MARY COLEEN T. SEWELL,  
Attorneys, Department of Justice;  
Antitrust Division, U.S. Depart-  
ment of Justice, 1100 Commerce  
Street, Room 8C6, Dallas, Tex.  
75242.

(FR Doc. 78-1799 Filed 1-20-78; 8:45 am)

#### [4410-01]

##### Low Enforcement Assistance Administration

##### NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVEN- TION

##### Notice of Meeting

Notice is hereby given that the Na-  
tional Advisory Committee for Juve-  
nile Justice and Delinquency Preven-  
tion (the Committee) will meet  
Monday, Tuesday, and Wednesday,  
February 6-8, 1978, at the Sheraton  
National, 900 South Orme Street, Ar-  
lington, Va. The meeting is open to  
the public.

On Monday, February 6, 1978, the  
Committee will convene at 1 p.m. to  
discuss plans for the National Advisory  
Committee Meeting of State Juve-  
nile Justice and Delinquency Preven-  
tion Advisory Groups, co-sponsored by  
the Office of Juvenile Justice and De-  
linquency Prevention, which is sched-  
uled for March 1-3, 1978, in Reston,  
Va.

On Tuesday, February 7, 1978, the  
Committee will reconvene at 9 a.m. in  
plenary session to discuss court juris-  
diction over status offenders. The ses-  
sion will include: (1) presentations by  
Mr. Milton G. Rector, President, Na-  
tional Council on Crime and Delin-  
quency, and Judge Lindsay G. Arthur,  
District Judge, Juvenile Division, Hen-  
nepin County, Minnesota; (2) presen-  
tations by a reactor panel of Commit-  
tee members; and (3) general discus-  
sion and resolution of the Committee's  
position on the status offender issue.  
Following a 12:30 p.m. luncheon  
recess, the Committee will reconvene  
at 2 p.m. in subcommittee sessions.  
The subcommittee that will be meet-  
ing are: the Advisory Committee for  
the National Institute for Juvenile  
Justice and Delinquency Prevention,  
the Advisory Committee on the Con-  
centration of Federal Effort, and the  
Advisory Committee on Standards for  
Juvenile Justice.

On Wednesday, February 8, 1978,  
the full Committee will reconvene in  
plenary session at 9 a.m. The session  
will include subcommittee reports, a  
review of the actions approved during  
the meeting, and public commentary.

#### NOTICES

The meeting is scheduled to adjourn  
at 12 noon.

For further information contact Mr.  
John M. Rector, Administrator of the  
Office of Juvenile Justice and Delin-  
quency Prevention, Law Enforcement  
Assistance Administration, Depart-  
ment of Justice, 633 Indiana Avenue  
NW., Washington, D.C. 20531.

JAY A. BROZOST,  
Attorney-Advisory, Office of  
General Counsel, Law Enforce-  
ment Assistance Administra-  
tion.

(FR DOC. 78-2046 Filed 1-20-78; 10:45 am)

#### [6820-35]

##### LEGAL SERVICES CORPORATION

##### BOARD OF DIRECTORS, COMMITTEE ON PERSONNEL

##### Meeting

FEBRUARY 2, 1978.

A meeting of the Board of Directors  
Committee on Personnel will be held  
on Thursday evening, February 2,  
1978, at the O'Hare Hilton, Chicago,  
Ill.

The meeting will begin at 7:30 p.m.  
and will be for the purpose of review-  
ing the Corporation's personnel poli-  
cies and practices, and such other busi-  
ness as may arise.

The meeting is open to the public.

THOMAS EHRLICH,  
President.

(FR Doc. 78-1943 Filed 1-20-78; 8:45 am)

#### [6820-35]

##### BOARD OF DIRECTORS, COMMITTEE ON REGULATIONS

##### Meeting

FEBRUARY 3, 1978.

A meeting of the Committee on Reg-  
ulations of the Legal Services Corpora-  
tion Board of Directors will be held on  
Friday, February 3, 1978, at the  
O'Hare Hilton, Chicago, Ill.

The meeting will begin at 9:30 a.m.  
and will be for the purpose of consid-  
ering:

1. Proposed amendments to the  
Bylaws of the Corporation;
2. Proposed amendments to Parts  
1608, 1612, 1618, and 1620 of the Regu-  
lations;
3. Repeal of Part 1614 of the Regu-  
lations;
4. A regulation concerning the pro-  
hibited organizing activities of recipi-  
ents; and,
5. Comments on proposed Parts 1606  
(43 FR 16-19), 1622 (43 FR 1807-09),  
and 1623 (43 FR 19-20) of the Regu-  
lations.

The entire meeting is open to the  
public.

THOMAS EHRLICH,  
President.

(FR Doc. 78-1942 Filed 1-20-78; 8:45 am)

#### [7536-01]

##### NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

##### RESEARCH GRANTS PANEL ADVISORY COMMITTEE

##### Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the  
Federal Advisory Committee Act (Pub.  
L. 92-463, as amended,) notice is  
hereby given that a meeting of the Re-  
search Grants Panel will be held at  
806 15th Street NW., Washington,  
D.C. 20506, in room 1130, from 9 a.m.  
to 5:30 p.m. on March 10, 1978.

The purpose of this meeting is to  
review applications submitted to the  
Translations Program of the National  
Endowment for the Humanities, for  
projects beginning July 1, 1978.

Because the proposed meeting will  
consider financial information and dis-  
close information of a personal nature  
the disclosure of which would consti-  
tute a clearly unwarranted invasion of  
personal privacy, pursuant to author-  
ity granted me by the Acting Chair-  
man's Delegation of Authority to  
Close Advisory Committee Meetings,  
dated August 2, 1977, I have deter-  
mined that the meeting would fall  
within exemptions (4) and (6) of 5  
U.S.C. 552b(c) and that it is essential  
to close the meeting to protect the  
free exchange of internal views and to  
avoid interference with operation of  
the Committee.

It is suggested that those desiring  
more specific information contact the  
Advisory Committee Management Of-  
ficer, Mr. Stephen J. McCleary, 806  
15th Street NW., Washington, D.C.  
20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc 78-1805 Filed 1-20-78; 8:45 am)

#### [7536-01]

##### RESEARCH GRANTS PANEL ADVISORY COMMITTEE

##### Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the  
Federal Advisory Committee Act (Pub.  
L. 92-463), as amended, notice is  
hereby given that a meeting of the Re-  
search Grants Panel will be held at  
806 15th Street NW., Washington,  
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to 5:30 p.m. on March 3, 1978.

The purpose of this meeting is to  
review applications submitted to the  
Translations Program of the National  
Endowment for the Humanities, for  
projects beginning July 1, 1978.

Because the proposed meeting will  
consider financial information and dis-



close information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1804 Filed 1-20-78; 8:45 am)

## [7536-01]

## RESEARCH GRANTS PANEL ADVISORY COMMITTEE

## Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on February 27, 1978.

The purpose of this meeting is to review applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning July 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1803 Filed 1-20-78; 8:45 am)

## [7536-01]

## RESEARCH GRANTS PANEL ADVISORY COMMITTEE

## Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on February 21, 1978.

The purpose of this meeting is to review applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning July 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1802 Filed 1-20-78; 8:45 a.m.)

## [7536-01]

## RESEARCH GRANTS PANEL ADVISORY COMMITTEE

## Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on February 17, 1978.

The purpose of this meeting is to review applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning July 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of

personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1801 Filed 1-20-78; 8:45 am)

## [7536-01]

## RESEARCH GRANTS PANEL ADVISORY COMMITTEE

## Meeting

JANUARY 11, 1978.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on February 13, 1978.

The purpose of this meeting is to review applications submitted to the Translations Program of the National Endowment for the Humanities, for projects beginning July 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,  
Advisory Committee  
Management Officer.

(FR Doc. 78-1800 Filed 1-20-78; 8:45 am)

## [7590-01]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS; SUBCOMMITTEE ON REGULATORY ACTIVITIES

## Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on February 8, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

WEDNESDAY, FEBRUARY 8, 1978

THE MEETING WILL COMMENCE AT 8:45 A.M.

A. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

- (1) Proposed Regulatory Guide 1.68.X, "Preoperational Testing of Instrument and Control Air Systems."
- (2) Regulatory Guide 1.68, Revision 2, "Initial Test Programs for Water Cooled Nuclear Power Plants."
- (3) Regulatory Guide 1.117, Revision 1, "Tornado Design Classification."

B. The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the questions raised by the Subcommittee at its meeting on January 4, 1978 regarding Seismic Response Spectra.

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory guides 1.68, Revision 2 and 1.117, Revision 1 may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Further information regarding topics to be discussed, whether the

meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Gary R. Quittschreiber, telephone 202-634-1374, between 8:15 a.m. and 5:00 p.m., e.s.t.

Dated: January 17, 1978.

JOHN C. HOYLE,  
Advisory Committee  
Management Officer.  
(FR Doc. 78-1814 Filed 1-20-78; 8:45 am)

## [7590-01]

(Docket No. 50-255)

## CONSUMERS POWER CO.

## Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating License No. DPR-20, issued to Consumers Power Co. (the licensee), which revised Technical Specifications for operation of the Palisades Plant (the facility), located in Covert Township, Van Buren County, Mich. The amendment is effective as of its date of issuance.

This amendment modifies the augmented inservice inspection program for the Palisades steam generators and allows the sleeving of degraded steam generator tubes as an alternative to plugging.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Provisional Operating License in connection with this action was published in the FEDERAL REGISTER on November 30, 1977 (42 FR 60989). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 10, as supplemented December 7 and 12,

1977, (2) Amendment No. 33 to License No. DPR-20, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Mich. 49006. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 9th day of January 1978.

For the Nuclear Regulatory Commission.

A. SCHWENCER,  
Chief, Operating Reactors  
Branch No. 1, Division of Operating Reactors.

(FR Doc. 78-1816 Filed 1-20-78; 8:45 am)

## [7590-01]

(Docket No. 50-315)

## INDIANA &amp; MICHIGAN ELECTRIC CO. AND INDIANA &amp; MICHIGAN POWER CO.

## Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 23 to Facility Operating License No. DPR-58, issued to Indiana & Michigan Electric Co., and Indiana & Michigan Power Co. (the licensees), which revised the Technical Specifications for operation of the Donald C. Cook Nuclear Plant Unit No. 1 (the facility), located in Berrien County, Mich. The amendment is effective February 22, 1978.

The amendment revised the Technical Specifications to incorporate requirements for use of the Cask Drop Protection System, to add surveillance requirements for certain emergency core cooling system throttle valves, to change the maximum specified pressurizer heatup rate, to exclude certain larger hydraulic shock suppressors from functional testing, to incorporate NRC recommended changes into the Administrative Controls section of the Technical Specifications relating to reporting requirements, and to clarify the requirements for emergency diesel generator load sequencing timers.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment



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does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the June 18, 1976 and February 9, July 13, September 9 and 15, October 13, and November 3, 1977 applications for amendment, (2) Amendment No. 23 to License No. DPR-58, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Mich. 49085. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 4th day of January 1978.

For the Nuclear Regulatory Commission.

DON K. DAVIS,  
Acting Chief, Operating Reactors  
Branch No. 2, Division of  
Operating Reactors.

[FR Doc. 78-1817 Filed 1-20-78; 8:45 am]

[7590-01]

[Docket No. 50-344]

#### PORTLAND GENERAL ELECTRIC CO.; (TROJAN NUCLEAR PLANT)

##### Discontinue Modification of Trojan Nuclear Plant's Spent Fuel Storage Racks

Notice is hereby given that by petition dated December 13, 1977, Susan M. Garrett and the Coalition for Safe Power filed a request for an Order requiring Portland General Electric Co., to discontinue modification of the Trojan Nuclear Plant's spent fuel storage racks or in the alternative to suspend or revoke the operating license for the Trojan Nuclear Plant. In accordance with the procedures specified in 10 CFR 2.206 of the Commission's regulations, appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the local public document room for the Trojan Nuclear Plant located at the Law Library, Columbia County Court House, St. Helens, Oreg. 97501.

#### NOTICES

Dated at Bethesda, Md., this 6th day of January 1978.

For the Nuclear Regulatory Commission.

EDSON G. CASE,  
Acting Director, Office of  
Nuclear Reactor Regulation.

[FR Doc. 78-1815 Filed 1-20-78; 8:45 am]

[7590-01]

[Docket No. STN 50-553 and STN 50-544]

#### TENNESSEE VALLEY AUTHORITY, PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2

##### Issuance of Construction Permits

Notice is hereby given that, pursuant to the Partial Initial Decision dated October 14, 1977 and the Initial Decision of the Atomic Safety and Licensing Board, dated January 12, 1977, the Nuclear Regulatory Commission (the Commission) has issued Construction Permits No. CPPR-162 and CPPR-163 to the Tennessee Valley Authority for construction of two boiling water nuclear reactors at the applicant's site in Hawkins County, approximately 15 miles southeast of Kingsport, Tenn. The proposed reactors, known as the Phipps Bend Nuclear Plant, Units 1 and 2 will operate at a core power level of 3,579 megawatts thermal with a net electrical output of 1,220 megawatts.

The Initial Decision is subject to review by the Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decision or action taken by an Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the construction permit. The application for the construction permit complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of the date of issuance. The earliest date for the completion of the Unit No. 1 is January 1, 1983 and the latest date for completion is April 1, 1984. The earliest and latest dates for Unit No. 2 are January 1, 1984 and April 1, 1985, respectively. The permits shall expire on the latest date for completion of each unit.

A copy of (1) the Partial Initial Decision, dated October 14, 1977 and (2) the Initial Decision, dated January 12, 1978; (3) Construction Permits No. CPPR-162 and No. CPPR-163; (4) the report of the Advisory Committee on Reactor Safeguards, dated May 11, 1977; (5) the Office of Nuclear Reactor

Regulation's Safety Evaluation dated April 1977, and Supplement No. 1, dated September 1977; (6) the Preliminary Safety Analysis Report and amendments thereto; (7) the applicant's Environmental Report, dated March 30, 1976 and supplements thereto; (8) the Draft Environmental Statement dated August 1976; and (9) the Final Environmental Statement dated February 1977, are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and the Kingsport Public Library, Broad and New Streets, Kingsport, Tenn. 37660.

A copy of the construction permits may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation and its Supplement (Document No. NUREG-0101) and the Final Environmental Statement (Document No. NUREG-0168) may be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161.

Dated at Bethesda, Md., this 16th day of January, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,  
Chief, Light Water Reactors  
Branch No. 3, Division of Project Management.

[FR Doc. 78-1821 Filed 1-20-78; 8:45 am]

[7590-01]

[Docket No. 50-320]

#### JERSEY CENTRAL POWER & LIGHT CO. AND METROPOLITAN EDISON CO. (THREE MILE ISLAND NUCLEAR STATION, UNIT 2)

##### Order Extending Construction Completion Date

Jersey Central Power & Light Co. and Metropolitan Edison Co. are the holders of provisional construction permit No. CPPR-66 issued by the Atomic Energy Commission on November 4, 1969, for construction of the Three Mile Island Nuclear Station, Unit 2, presently under construction at the licensees' site in Dauphin County, Pa.

On March 28, 1977, Metropolitan Edison Co. filed a request for an extension of the completion date because construction has been delayed due to:

(1) A direct craft force reduction of 15 percent in June 1976 resulting from budgeting restrictions;

Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and Permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

(2) Increased engineering (750,000 man-hours) and labor (1,170,000 man-hours) resulting from:

(a) Significant increases in previously estimated quantities of electrical cabling, conduit and trays due to late availability of electrical drawings;

(b) Increases in material quantities for process piping resulting from quantity re-evaluations;

(3) Late receipt of valves due to casting difficulties and strike at a nuclear valve manufacturing facility; and

(4) Late availability of cable pull slips as a result of a lack of electrical vendor drawing information.

On December 12, 1977, MetEd amended the request of March 28 to again extend the completion date for the following additional reasons:

(5) A transition was made in construction management responsibilities from the construction manager to a maintenance contractor. The maintenance contractor, because of the unexpectedly large number of construction items left to be completed at the time of this turnover, was not capable of maintaining with assurance the previously requested January 15 construction completion date.

(6) Repairs and repeated hydrostatic tests of the reactor cooling system were required.

(7) The reactor coolant pump shaft seals were replaced.

(8) Reactor coolant pump casing to stuffing box joints leaked and required gasket replacement.

(9) An inspection program of the steam generator tubes has been undertaken.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the extension is for a reasonable period, the bases for which are set forth in a staff evaluation dated January 16, 1978.

Copies of the above documents and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the State Library of Pennsylvania, Commonwealth and Walnut Street, Harrisburg, Pa. 17126.

It is hereby ordered, That the latest completion date for provisional construction permit CPPR-66 is extended from May 1, 1977 to April 30, 1978.

Date of issuance: January 16, 1978.

For the Nuclear Regulatory Commission.

D. B. VASSALLO,  
Assistant Director for Light  
Water Reactors, Division of  
Project Management.

[FR Doc. 78-1819 Filed 1-20-78; 8:45 am]

#### NOTICES

[7590-01]

[Docket No. 50-320]

#### THREE MILE ISLAND NUCLEAR STATION, UNIT NO. 2

##### Negative Declaration Supporting Extension of Construction Permit No. CPPR-66; Expiration Date

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed Metropolitan Edison Co., Jersey Power & Light Co., and Pennsylvania Electric Co.'s (permittee) request to extend the expiration date of the construction permit for the Three Mile Island Nuclear Station, Unit No. 2 (CPPR-66) which is located in Dauphin County, Pa. The permittee requested a ten month extension to the permit through February 28, 1978, to allow for completion of construction of the Three Mile Island plant. The Commission, based on its analysis of the construction work and testing remaining to be done, concluded that a more reasonable latest completion date would be April 30, 1978.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal relative to this change to CPPR-66. Based on this appraisal, the Commission has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the proposed action other than that which has already been described in the Commission's final environmental statement related to operation of Three Mile Island, Unit Nos. 1 and 2, and the Commission's final supplement to the final environmental statement related to operation of Three Mile Island, Unit No. 2.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Harrisburg, Pa.

Dated at Bethesda, Md., this 27th day of December 1977.

For the Nuclear Regulatory Commission.

R. W. FROELICH,  
Acting Chief, Environmental  
Projects Branch 2, Division of  
Site Safety and Environmental  
Analysis.

[FR Doc. 78-1820 Filed 1-20-78; 8:45 am]

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[7590-01]

[Docket No. 50-309]

#### MAINE YANKEE ATOMIC POWER CO.

##### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to facility operating license No. DPR-36, issued to Maine Yankee Atomic Power Co. (the licensee), which revised technical specifications for operation of the Maine Yankee Atomic Power Station (the facility) located in Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment revises the administrative controls section of the technical specifications.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d) (4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for amendment dated June 6, 1975, as supplemented May 25, 1977, (2) amendment No. 34 to license No. DPR-36, and (3) the Commission's related safety evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 11th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-1818 Filed 1-20-78; 8:45 am]



[8025-01]

## SMALL BUSINESS ADMINISTRATION

[License No. 10/13-0025]

## ALASKA BUSINESS INVESTMENT CORP.

## Surrender of License

Notice is hereby given that Alaska Business Investment Corp. (ABIC), National Bank of Alaska Building, Anchorage, Alaska 99501, incorporated under the laws of the State of Alaska on December 3, 1969, has surrendered its license No. 12/13-0025, issued by the Small Business Administration (SBA) on February 20, 1970.

ABIC has complied with all the conditions set forth by SBA for the surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the regulations promulgated thereunder, the surrender of the license of ABIC is hereby accepted and it is no longer licensed to operate as a small business investment company.

Dated: January 6, 1978.

PETER F. McNEISH,

Deputy Associate

Administrator for Investment.

[FR Doc. 78-1841 Filed 1-20-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1418]

## ARKANSAS

## Declaration of Disaster Loan Area

Cross, Garland, Hempstead, Howard, Nevada, Pike, Saline, Sevier, Clark, Grant, Hot Spring, Miller, Polk, and Pulaski Counties and adjacent counties within the State of Arkansas constitute a disaster area as a result of damage caused by tornado, snow, and ice storms which occurred on January 7, 1978 for tornado, and snow and ice storms on January 11, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 17, 1978, and for economic injury until the close of business on October 16, 1978, at:

Small Business Administration, District Office, 611 Gaines Street, Suite 900, Little Rock, Ark. 72203.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 16, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-1842 Filed 1-20-78; 8:45 am]

## NOTICES

[8025-01]

[Declaration of Disaster Loan Area No. 1417]

## INDIANA

## Declaration of Disaster Loan Area

The listing below of the 15 counties and adjacent counties within the State of Indiana constitutes a disaster area as a result of natural disasters as indicated:

County	Natural disaster(s)	Date(s)
Fountain	Severe storms, tornadoes, rains, hail and high winds.	Sept. 30, to Oct. 1, 1977.
Montgomery	do	Do.
Parke	do	Do.
Putnam	do	Do.
Vermillion	do	Do.
Warren	do	Do.
Adams	Drought.	May 1, to Aug. 20, 1977.
Blackford	do	Do.
Cass	do	Do.
Dekalb	do	Do.
Howard	do	Do.
Jay	do	Do.
LaPorte	do	Do.
Pulaski	do	Do.
Randolph	do	Do.

Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on July 16, 1978, and for economic injury until the close of business on October 16, 1978, at:

Small Business Administration, District Office, Federal Building—5th Floor, 575 North Pennsylvania Street, Indianapolis, Ind.

or other locally announced locations:

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 13, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-1904 Filed 1-20-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1400]

## [Amtd 1]

## LOUISIANA

## Declaration of Disaster Loan Area

The above number Declaration (See 42 FR 60240) is amended by adding the following Parishes:

Parish	Natural disaster(s)	Date(s)
Calcasieu	Drought.	May 1 to July 14, 1977.
Do	Excessive rainfall.	Aug. 3 to Dec. 10, 1977.
Cameron	Drought.	May 1 to July 14, 1977.
Do	Excessive rainfall.	Aug. 3 to Dec. 10, 1977.

Parish	Natural disaster(s)	Date(s)
Ouachita	Drought.	May 1 to July 4, 1977.
Do	Do	Aug. 15 to Oct. 1, 1977.
Evangeline	Do	Apr. 30 to July 15, 1977.
Do	Excessive rainfall.	July 20 to Nov. 31, 1977.
Iberia	Drought.	Apr. 1 to June 30, 1977.
Do	Excessive rainfall.	Aug. 1 to Sept. 30, 1977.
Do	Do	In November 1977.
St. Mary	Drought.	Apr. 1 to June 30, 1977.
Do	Heavy insect infestation.	Aug. 1 to Sept. 30, 1977.
Do	Excessive rainfall.	Aug. 1 to Dec. 19, 1977.
Lafayette	Excessive rainfall and flooding.	Apr. 19 to Apr. 21, 1977.
Do	Drought.	Apr. 22 to June 11, 1977.
Do	Excessive rainfall.	July 1 to Sept. 30, 1977.
Rapides	Drought.	Apr. 15 to June 15, 1977.
Do	Excessive rainfall.	June 15 to Nov. 30, 1977.
Morehouse	Drought.	May 1 to July 4, 1977.
Do	Do	Aug. 15 to Oct. 1, 1977.
Pointe Coupee	Flood.	Apr. 17 to Apr. 22, 1977.
Do	Drought.	May 1 to June 30, 1977.
Do	Excessive rainfall.	July 1 to Sept. 30, 1977.
Do	Heavy insect infestation.	Do.
St. Landry	Drought.	May 10 to June 20, 1977.
Do	Excessive rainfall.	Aug. 8 to Sept. 20, 1977.
St. Landry	Insect infestation.	Do.
Avoyelles	Drought.	Apr. 23 to June 15, 1977.
Do	Excessive rainfall.	July 15 to Aug. 30, 1977.
Do	Heavy insect infestation.	Do.
West Carroll	Drought.	Apr. 20 to Nov. 1, 1977.
East Baton Rouge	Do	May 1 to June 30, 1977.
Do	Excessive rainfall.	June 1 to Dec. 21, 1977.
Do	Flooding.	Sept. 5, 1977, and Nov. 29-30, 1977.
Grant	Drought.	May 1 to June 16, 1977.
Do	Excessive rainfall heavy insect infestation.	June 1 to Dec. 21, 1977.
Franklin	Drought.	May 1 to July 4, 1977.
Do	Isolated drought conditions from.	May 1 to Sept. 1, 1977.
St. Martin	Excessive rainfall during the planting season of 1977, and excessive rainfall in August 1977.	Do.
Caldwell	Drought.	May 1 to June 28, 1977.
Do	Excessive rainfall heavy insect infestation.	Aug. 1 to Oct. 31, 1977.

and adjacent Parishes within the State of Louisiana as a result of natural disasters as indicated. The time for filing applications is extended to July 12, 1978, for physical damage and October 12, 1978, for economic injury.

## NOTICES

Date: January 13, 1978.

A. VERNON WEAVER,  
Administrator.

[FR Doc. 78-1905 Filed 1-20-78; 8:45 am]

[4910-13]

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## AIRPORT TRAFFIC CONTROL TOWER AT WILLIAMSPORT-LYCOMING COUNTY AIRPORT MONTGOMERYVILLE, PA.

## Cancellation of Reduced Hours of Operation

Notice is hereby given that the Airport Traffic Control Tower at Williamsport-Lycoming County Airport, Montgomeryville, Pa., will continue to operate 24 hours per day. This cancels the Notice of Reduced Hours of Operations previously published in the FEDERAL REGISTER, Monday, December 19, 1977 (42 FR 63670).

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752 (49 U.S.C. 1354).)

Issued in New York, N.Y., on January 9, 1978.

WILLIAM E. MORGAN,  
Director, Eastern Region.

[FR Doc. 78-1573 Filed 1-20-78; 8:45 am]

[4910-13]

## COMBINED STATION/TOWER AT BATTLE CREEK, MICH.

## Decombining

Notice is hereby given that on or about January 18, 1978, the Flight Service Station functions of the Battle Creek, Mich. Combined Station/Tower will be transferred to the South Bend, Ind. Flight Service Station. Flight Service Station services to the General Aviation Public of the Battle Creek area will continue to be available on a full-time basis through use of toll-free telephone service. The Battle Creek Airport Traffic Control Tower will continue to provide full-time traffic control services. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Des Plaines, Ill., on January 10, 1978.

LEON C. DAUGHERTY,  
Acting Director,  
Great Lakes Region.

[FR Doc. 78-1574 Filed 1-20-78; 8:45 am]

[4910-59]

## National Highway Traffic Safety Administration

## AUTOMOTIVE FUEL ECONOMY PROGRAM

## Report to Congress

JANUARY 10, 1978.

The attached document "Automotive Fuel Economy Program, Second Annual Report to Congress" has been prepared pursuant to Section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163), which requires in pertinent part that "not later than January 15 of each year, beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the FEDERAL REGISTER a review of average fuel economy standards under this part."

JOAN CLAYBROOK,  
Administrator.Hon. WALTER F. MONDALE,  
President of the Senate,  
Washington, D.C.

JANUARY 16, 1978.

DEAR MR. PRESIDENT: Transmitted herewith is the second annual report to the Congress reviewing the progress made in formulating average automotive fuel economy standards, as required by section 502(a)(2) of the Energy Policy and Conservation Act (Pub. L. 94-163).

Sincerely,

BROCK ADAMS,  
Secretary of Transportation.Hon. THOMAS P. O'NEILL,  
Speaker of the House of Representatives,  
Washington, D.C.

JANUARY 16, 1978.

DEAR MR. SPEAKER: Transmitted herewith is the second annual report to the Congress reviewing the progress made in formulating average automotive fuel economy standards, as required by section 502(a)(2) of the Energy Policy and Conservation Act (Pub. L. 94-163).

Sincerely,

BROCK ADAMS,  
Secretary of Transportation.



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NOTICES

# Automotive Fuel Economy Program

## Second Annual Report to the Congress

JANUARY 1978



U.S. Department of Transportation  
National Highway Traffic Safety Administration  
Office of Automotive Fuel Economy  
Washington, D.C. 20590

FEDERAL REGISTER, VOL. 43, NO. 15—MONDAY, JANUARY 23, 1978

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## PREFACE

This Second Annual Report to the Congress summarizes the progress made by the National Highway Traffic Safety Administration (NHTSA) during fiscal year 1977,<sup>1</sup> in implementation of the applicable sections of Title V: Improving Automotive Efficiency of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*) as amended. Section 502(a)2 of the act requires submission of a report and publication in the *Federal Register* (F.R.) by January 15 of each year.

By title V, the Secretary of Transportation is required to implement a program for improving the fuel economy of new automobiles in the U.S. market. On June 22, 1976, authority to administer the fuel economy program was delegated by the Secretary to the Administrator of NHTSA (41 F.R. 25015).

NHTSA's responsibilities include (1) establishing average fuel economy standards for manufacturers of passenger automobiles and nonpassenger automobiles (light-duty trucks, vans, general utility vehicles); (2) promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards; (3) enforcing automobile industry compliance with the fuel economy standards and the display of Gas Mileage Guides by new automobile dealerships; and (4) reporting to Congress annually on the progress of the fuel economy program.

<sup>1</sup>October 1, 1976, to September 30, 1977.

FEDERAL REGISTER, VOL. 43, NO. 15—MONDAY, JANUARY 23, 1978



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## 1. SUMMARY

During fiscal year (FY) 1977, the Office of Automotive Fuel Economy (OAFE), National Highway Traffic Safety Administration (NHTSA), in accordance with the provisions of the act accomplished the following:

- Established average<sup>1</sup> passenger automobile (PA) fuel economy standards for the model years (MY's) 1981 through 1984.
- Established average nonpassenger<sup>2</sup> automobile (NPA) fuel economy standards for MY 1979.
- Promulgated regulations establishing procedures, definitions, and reports to support passenger and nonpassenger automobile fuel economy standards.

## PASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS

On June 30, 1977, average passenger automobile fuel economy standards were published for MY 1981, 1982, 1983, and 1984 as 22 miles per gallon (mpg), 24 mpg, 26 mpg, and 27 mpg, respectively. The standards were set to achieve steady progress toward 27.5 mpg by 1985 in light of technological feasibility, economic practicability, the effect of other motor vehicle standards, and the need of the Nation to conserve energy.

The 1981-84 average fuel economy standards are estimated to result in savings of 590,000 barrels per day in 1985 and 1.2 million barrels per day in 1995 over what could be achieved if the standards were held at the 1980 level of 20 mpg. By 1995, this will mean a cumulative savings of 4.3 billion barrels, about half of the oil reserves in northern Alaska. When discounted to 1980, this oil is worth about \$24 billion.

<sup>1</sup>Average refers to production-weighted average. For a discussion of production-weighted or sales-weighted average, see the First Annual Report to Congress on Automotive Fuel Economy, January 15, 1977.

<sup>2</sup>Nonpassenger automobiles in this context refer to light-duty pickup trucks, vans, and general utility vehicles with and without four-wheel drive and weighing less than 6,000 pounds GVWR (gross vehicle weight rating). (GVWR is the maximum allowable weight of the loaded vehicle.)

Over the long term, consumers can expect the fuel economy standards to save them money. Retail prices are expected to increase less than \$200 (in 1977 dollars) over the 4-year period to pay for the manufacturing costs of more fuel-efficient automobiles. This is an increase of \$49 per year, or an annual increase of less than 1 percent of the current vehicle price. The potential retail price increases, however, are more than offset by decreases in the owner's lifetime fuel costs. Gasoline savings, based on a constant 65¢ per gallon, exceed \$640 per automobile (discounted) over its life. When included with increases in initial purchase price and maintenance costs, consumers will save \$490 compared with the base MY 1980. The overall economic effect to the consumer of the fuel economy standard is expected to be a net savings, due to better fuel economy and anticipated reduced maintenance over the life of the automobile.

NHTSA estimates that between 1977 and 1981 the domestic automobile industry will have to spend \$4.6 billion for machinery and special tooling in addition to the \$8.1 billion that it would ordinarily have spent. Between 1977 and 1984, this figure is expected to be \$6.7 billion over the normal \$9.5 billion.

## NONPASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS

On March 14, 1977, average fuel economy standards for nonpassenger automobiles were announced for MY 1979 as 17.2 mpg for vehicles such as light-duty pickup trucks, vans, and campers and 15.8 mpg for general utility vehicles with a gross vehicle weight rating (GVWR) of less than 6,000 pounds. These standards were set 18 months prior to the model year being regulated and also were developed in view of technological feasibility, economic practicability, the effect of other motor vehicle standards (i.e., emissions, safety, noise), and the need of the Nation to conserve energy.

Assuming that all fuel economy measures and their impacts are attributable to the standard, the annual savings of petroleum over MY 1976 levels for MY 1979 NPA's will be 6,684 barrels per day. This will mean a

the NPA fleet.<sup>3</sup>

In the final impact assessment (FIA), it was estimated that the fuel economy standard will impose an additional cost of about \$10.8 million<sup>4</sup> (about \$11 per NPA) on the domestic manufacturers of NPA's. The cost to consumers could increase to \$22 per NPA, assuming 100 percent markup. The operator of an NPA would save about 104 gallons per year over 11,000 miles. At 65¢ per gallon, this amounts to \$67.60 per year, or \$415.33 (discounted) for the lifetime of the vehicle.

## FUEL ECONOMY REGULATIONS

In order to conduct and administer the fuel economy regulatory program for passenger and nonpassenger automobiles, regulations concerning definitions, procedures, and reporting also were promulgated. Each regulation is described below.

## Vehicle Classification (Definitional Regulation)

Although the act defines "automobiles" of 6,000 pounds GVWR or less, only the guiding elements are provided for vehicles that weigh between 6,000 and 10,000 pounds GVWR. On July 28, 1977, NHTSA published a final rule that defines which vehicles are "passenger automobiles," "nonpassenger automobiles," and "automobiles capable of off-highway operation."

## Manufacturers of Multistage Automobiles (Definitional Regulation)

Some automobiles are manufactured in more than one stage (e.g., ambulances, chassis-mount campers, special-body vans, and special-purpose trucks where structures are added to the chassis-cabs). A final rule assigning manufacturer responsibility for fuel economy of these vehicles was published in the *Federal Register* on July 28, 1977.

## Exemption from Average Fuel Economy Standards (Procedural Regulation)

The act contains a provision for low-volume manufacturers (i.e., those who produce less than 10,000 passenger automobiles per year in all markets) to apply for

<sup>3</sup>The lifetime of the NPA fleet is considered to be approximately 10 years.

<sup>4</sup>All costs calculated in 1976 dollars and based on the 1976 MY.

final rule was published on July 28, 1977, describing the procedures.

## Reductions of Passenger Automobile Average Fuel Economy Standards (Procedural Regulation)

The act directs the Secretary to prescribe by rule the methodology for handling petitions from passenger automobile manufacturers who request reductions in average fuel economy standards (MY 1978-80) that would compensate for any adverse fuel economy impact of more stringent Federal motor vehicle standards in the areas of emissions, safety, damageability, or noise. The Notice of Proposed Rulemaking (NPRM) was issued in FY 1977, and the final rule was issued in early FY 1978.<sup>5</sup>

## Automotive Fuel Economy Reports (Reporting Regulation)

Section 505(c) of the act requires the Secretary to promulgate rules governing the form and content of information to be submitted semiannually by the automobile manufacturers, specifying whether and how they will comply with applicable fuel economy standards. A final rule concerning Automotive Fuel Economy Reports was issued in early FY 1978.<sup>6</sup>

## COMPLIANCE

The act also specifically delineates PA fuel economy standards as 18 mpg, 19 mpg, and 20 mpg for MY's 1978, 1979, and 1980, respectively. In view of the progress of the automotive industry and manufacturers in improving fuel economy, and based on preliminary Environmental Protection Agency (EPA) projections, NHTSA does not anticipate any problem with foreign and domestic manufacturers complying with the 1978 MY fuel economy standard of 18 mpg.

One of NHTSA's specific responsibilities is enforcement of the regulations prescribed under section 506(b) of the act regarding public availability of a Gas Mileage Guide. Fuel economy measurements for the Gas Mileage Guide are made by EPA; the guide is published and distributed to automobile dealers by the Federal Energy Administration (FEA).<sup>7</sup> NHTSA enforces regulations

<sup>5</sup>Final rule published November 14, 1977.

<sup>6</sup>Final rule published December 12, 1977.

<sup>7</sup>FEA became part of the new Department of Energy (DOE) October 1, 1977.



Table 1.—Summary of rulemaking activities for FY 1977

Rulemaking activities		Publication date	Comments closing date	Final EIS <sup>1</sup>	Published final rule
Docket No.	Description	NPRM	NPRM		
FE 76-01.....	1981-1984 Passenger Automobile Standards <sup>2</sup>	2/22/77	4/12/77	6/1/77	6/30/77
FE 76-02.....	Reduction of Passenger Automobile Fuel Economy Standards	10/26/76	12/27/76	( <sup>3</sup> )	( <sup>4</sup> )
FE 76-03.....	Nonpassenger Automobile Standards 1979	11/26/76	1/10/77	3/3/77	3/14/77
FE 76-04.....	Exemption from Average Fuel Economy Standards	12/9/76	1/24/77	( <sup>3</sup> )	7/28/77
FE 76-05.....	Vehicle Classification	12/20/76	1/19/77	( <sup>3</sup> )	7/28/77
FE 77-02.....	Manufacturers of Multistage Vehicles	2/9/77	3/9/77	( <sup>3</sup> )	7/28/77
FE 77-03.....	Automotive Fuel Economy Reports	4/11/77	5/11/77	( <sup>3</sup> )	( <sup>5</sup> )
FE 77-05.....	1980-1981 Nonpassenger Automobile Standards	( <sup>6</sup> )	NA <sup>7</sup>	NA	

<sup>1</sup>Environmental Impact Statement.

<sup>2</sup>Advance Notice of Proposed Rulemaking (ANPRM) published 9/23/76.

<sup>3</sup>Not applicable.

<sup>4</sup>Published 11/14/77.

<sup>5</sup>Published 12/12/77.

<sup>6</sup>Published NPRM 12/15/77.

<sup>7</sup>NA=not available.

regarding display of the Gas Mileage Guide by new automobile dealers.

A nationwide survey conducted by NHTSA found that approximately 60 percent of the new automobile dealerships were not in compliance with the law in that they were not prominently displaying the Gas Mileage Guide for consumers. As a result of this survey, letters were mailed to 26,000 dealerships apprising them of their responsibilities. NHTSA is developing an enforcement plan.

#### RESEARCH AND DEVELOPMENT

Research and Development (R. & D.) was instrumental in supporting development of the 1981-84 passenger automobile fuel economy standards and of the 1979 NPA fuel economy standard. R. & D. also provided essential support in the development of proposed 1980-81 NPA fuel economy standards issued in early FY 1978. In addition, R. & D. support has assembled the analytical tools, data bases, and models necessary for the development of 1984-86 PA fuel economy standards, which will be announced by January 1979. The 1984 and 1985 standards will be reevaluated, and the new

1986 standard will be set. Much of the R. & D. was accomplished through and with the Transportation Systems Center (TSC) in Cambridge, Mass.

In FY 1977, approximately \$5.1 million was spent on contracts with the private sector in direct support of rulemaking. It is projected that there will be \$7.3 million in FY-1978 R. & D. contract support in this area.

#### FUTURE RULEMAKING ACTIVITIES

Future fuel economy standards under consideration by the NHTSA Administrator at this time are:

- 1980-81 Nonpassenger Automobile Fuel Economy Standards.<sup>8</sup>
- Modified 1984 and 1985 Passenger Automobile Fuel Economy Standards.
- 1986 Passenger Automobile Fuel Economy Standards.

Table 1 summarizes OAFE rulemaking activities for FY 1977.

<sup>8</sup>NPRM issued December 15, 1977.

## 2. BACKGROUND

The fuel efficiency of automobiles warrants concern at the Federal level because of the total dependence of this transportation mode on petroleum. The Arab oil embargo of 1973-74 demonstrated to this Nation the vulnerability of automobile transportation to increased petroleum prices and unstable petroleum sources. Because the demand for imported petroleum products is projected to increase substantially over the next two decades, evolutionary automotive technological improvements in fuel economy are necessary to easing the dependence on foreign oil.

### PETROLEUM SHORTAGE PROBLEM

Virtually all fuels used in transportation are derived from petroleum. In 1976, 9.5 million barrels per day

(Mbd) (fig. 1), more than half the total U.S. petroleum consumption (fig. 2), was used in transportation. Of this amount, more than 60 percent was consumed by automobiles. The daily average amount of gasoline used in all U.S. vehicles for 1975, 1976, and 1977 is shown, by month, in figure 3. Based upon information received from 31 States, gasoline consumption during 1977 is averaging 7.3 million barrels per day.

Figure 4 shows the relationship between passenger automobile fuel consumption and total vehicle miles traveled for the years 1950 through 1975. During this period, vehicle miles traveled have increased by a factor of 2.5, while fuel consumption increased from 6.7 to 7.6 gallons for each 100 miles traveled. The average fuel economy for all U.S. passenger automobiles in the fleet (both new and used automobiles) deteriorated from

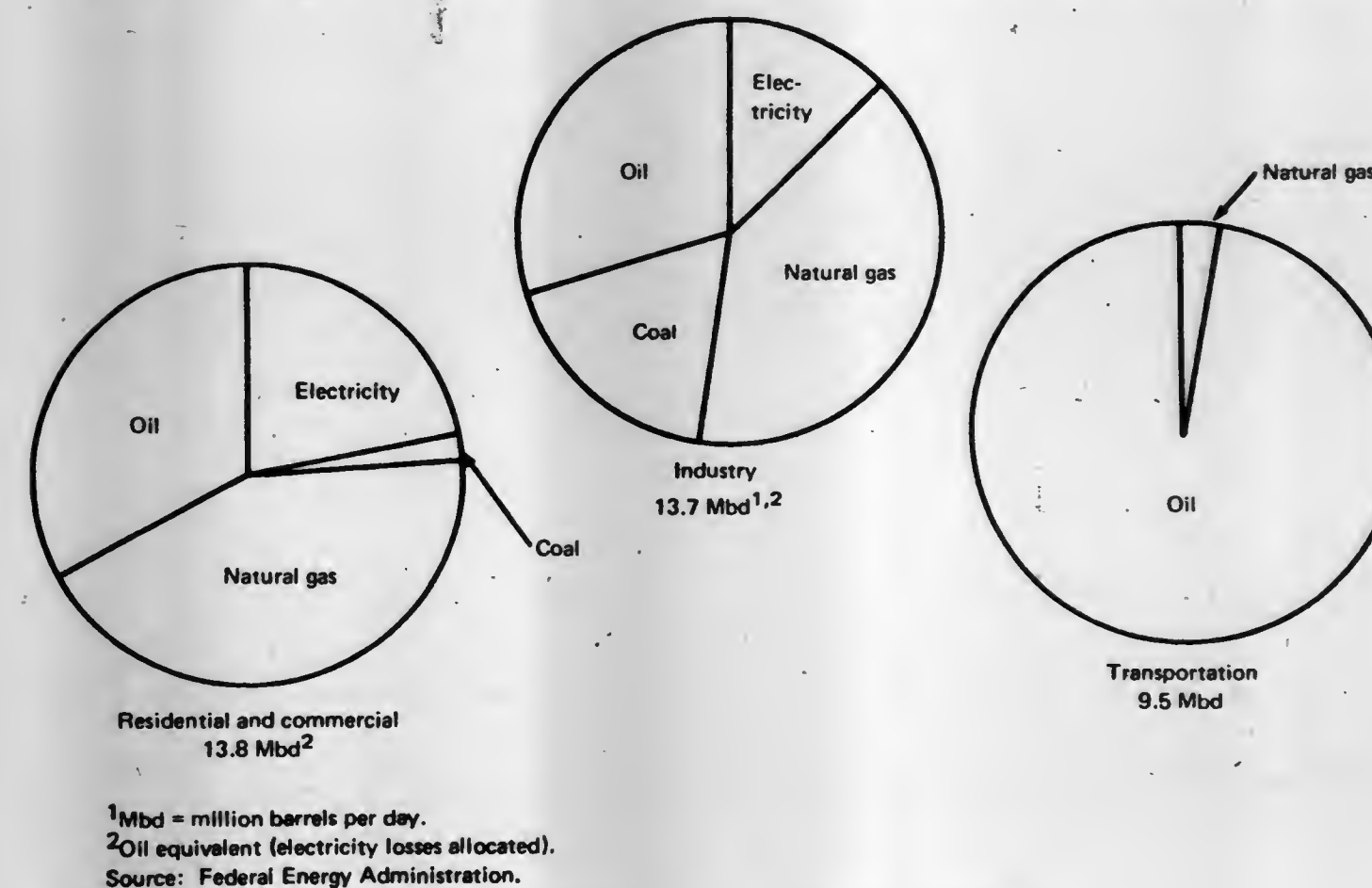
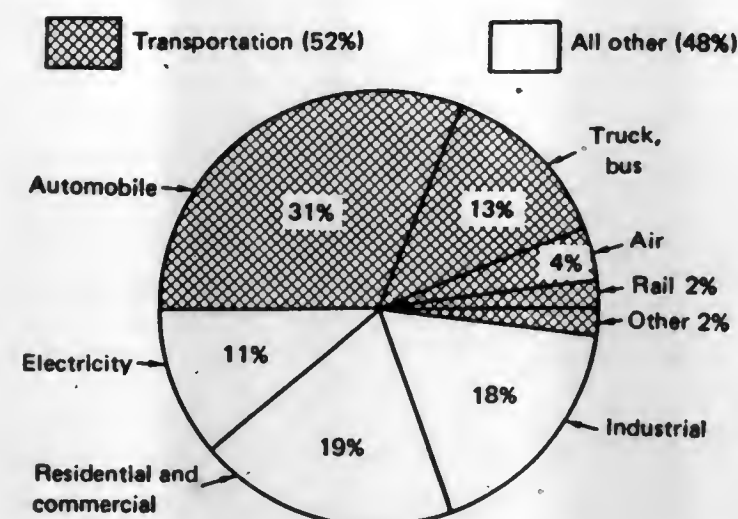


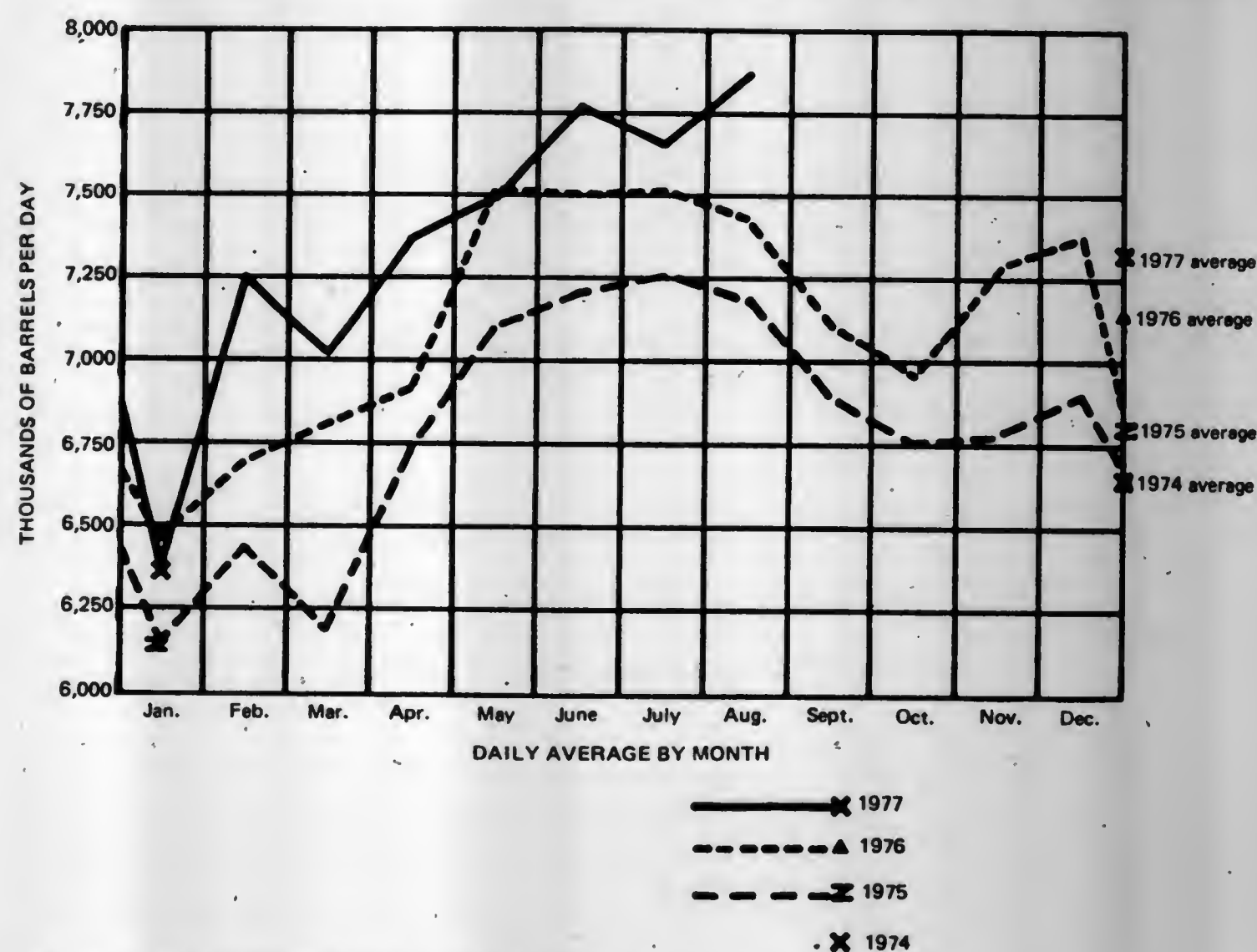
Figure 1.—U.S. energy consumption by sector, 1976.





Source: Draft report by the Federal Task Force on Motor Vehicle Goals Beyond 1980, May 1976.

Figure 2.—U.S. petroleum consumption by sector.

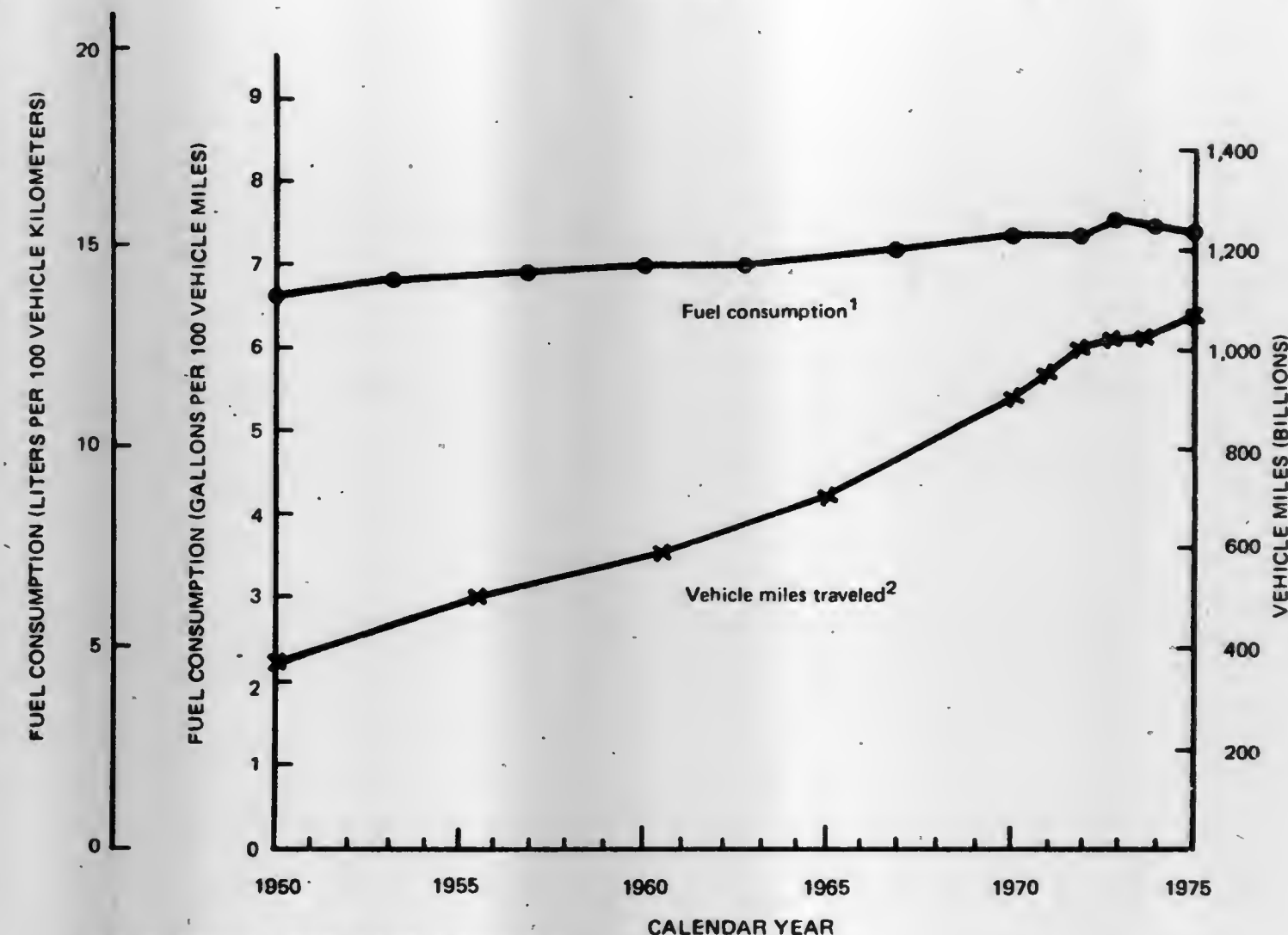


Source: U.S. Department of Transportation, Federal Highway Administration.

Figure 3.—Gasoline consumption (1975-77).

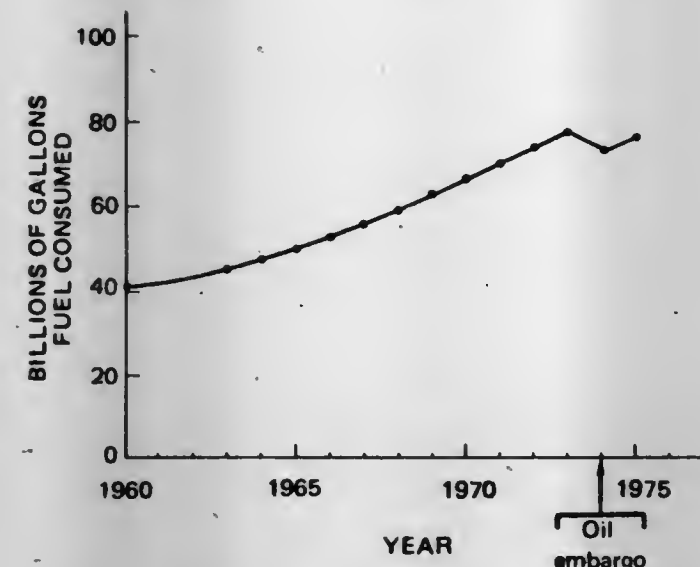
about 15 mpg in 1950 to 13.5 mpg in 1974. Consumption of PA fuel almost doubled between 1960 and 1973. After a temporary decline at the time of the Arab oil embargo, consumption rose again, and figure 5 shows that almost 75 billion gallons of fuel were used in passenger automobiles during 1975.

The Nation is increasingly dependent on uncertain foreign oil supply. Total imports of petroleum products have grown from some 20 percent of our requirements in 1970 to nearly 50 percent in 1977 (fig. 6). Petroleum imports for calendar years 1975, 1976, and through July of 1977, shown in figure 7, reached a peak of more than 10 million barrels per day in February and March 1977, at the height of that particularly severe winter. During the past 7 years, imports from the Organization of Petroleum Exporting Countries (OPEC) have increased dramatically, from 2 percent to 19 percent. Prior to the 1973-74 oil embargo, only about 8 percent of our petroleum demand was supplied by these OPEC nations.



<sup>1</sup>Highway Statistics, Federal Highway Administration.  
<sup>2</sup>Department of Transportation News.

Figure 4.—Fuel consumption and vehicle travel (1950-75).



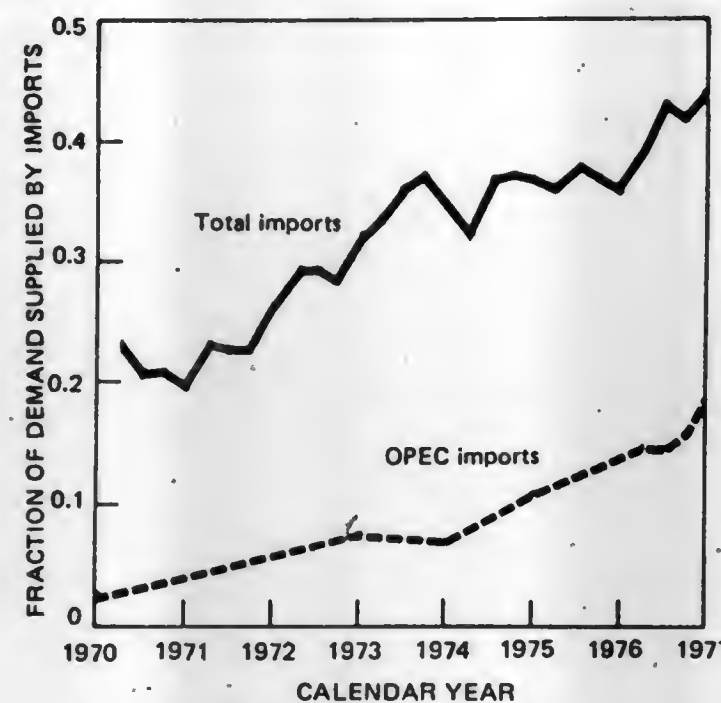
Source: Highway Statistics, Federal Highway Administration.

Figure 5.—Passenger automobile fuel consumption (1960-77).

Long-range projections show that, if present consumption trends continue, domestic and world sources combined will be unable to meet the expected U.S. demand for petroleum. Figure 8 projects oil demand and supply to 1985 and estimates OPEC production requirements. It also demonstrates that the supply/demand gap for OPEC oil should begin in the early 1980's. A more recent study sponsored by the Massachusetts Institute of Technology (MIT) estimates that the supply/demand gap will appear as early as 1981, if production capability remains the same as it is today.

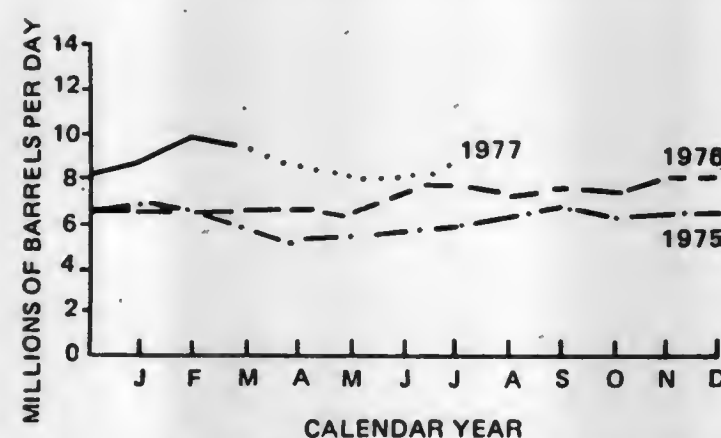
The retail price of motor gasoline (excluding taxes) has moved from about 23¢ per gallon in 1968 to about 46¢ per gallon in 1976. Prices increased at an annual rate ranging from 1 to 3 percent from 1968 through 1973 and then increased rapidly in 1974 and 1975 (50.4 percent in 1974 and 8.4 percent in 1975). These prices are in current dollars and indicate a more than doubling in the retail price. However, when these prices are adjusted using the Consumer Price Index, the increase was





Source: Federal Energy Administration.

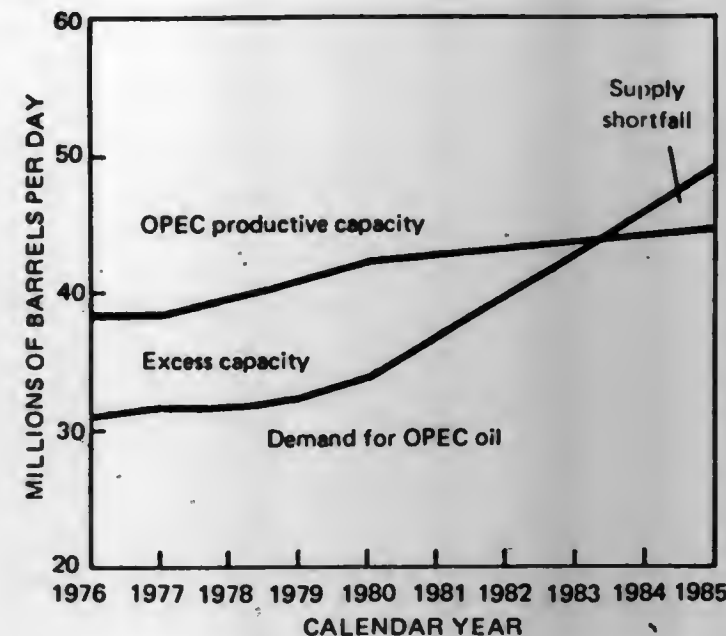
Figure 6.—U.S. dependence on petroleum imports.



Source: 1975 and 1976 data obtained from Bureau of Mines. 1977 data obtained from the American Petroleum Institute and the Federal Energy Administration (preliminary estimated data for Apr.-July 1977 shown as dotted line).

Figure 7.—Total petroleum imports.

only 27 percent in real (1967) dollars, and most of this increase actually occurred in 1974 (about 22¢ in 1968 to 29¢ in 1976). In fact, there was a gradual decrease in the real cost of gasoline between 1968 and 1973 (about 22¢ in 1968 to about 20¢ in 1973). Furthermore, it is anticipated that the price of gasoline will continue to rise, at least in current dollars, in the future for two reasons. First, the acquisition costs (drilling, pumping, refining, etc.) certainly will increase, especially with greater reliance on imported oil. Second, State taxes placed on gasoline probably will be increased due to decreased gasoline consumption. Thus, it is important to bear in mind that if prices do increase from the assumed 65¢ per gal-



Source: "The International Energy Situation: Outlook to 1985." ER77-1024OU, Central Intelligence Agency, April 1977.

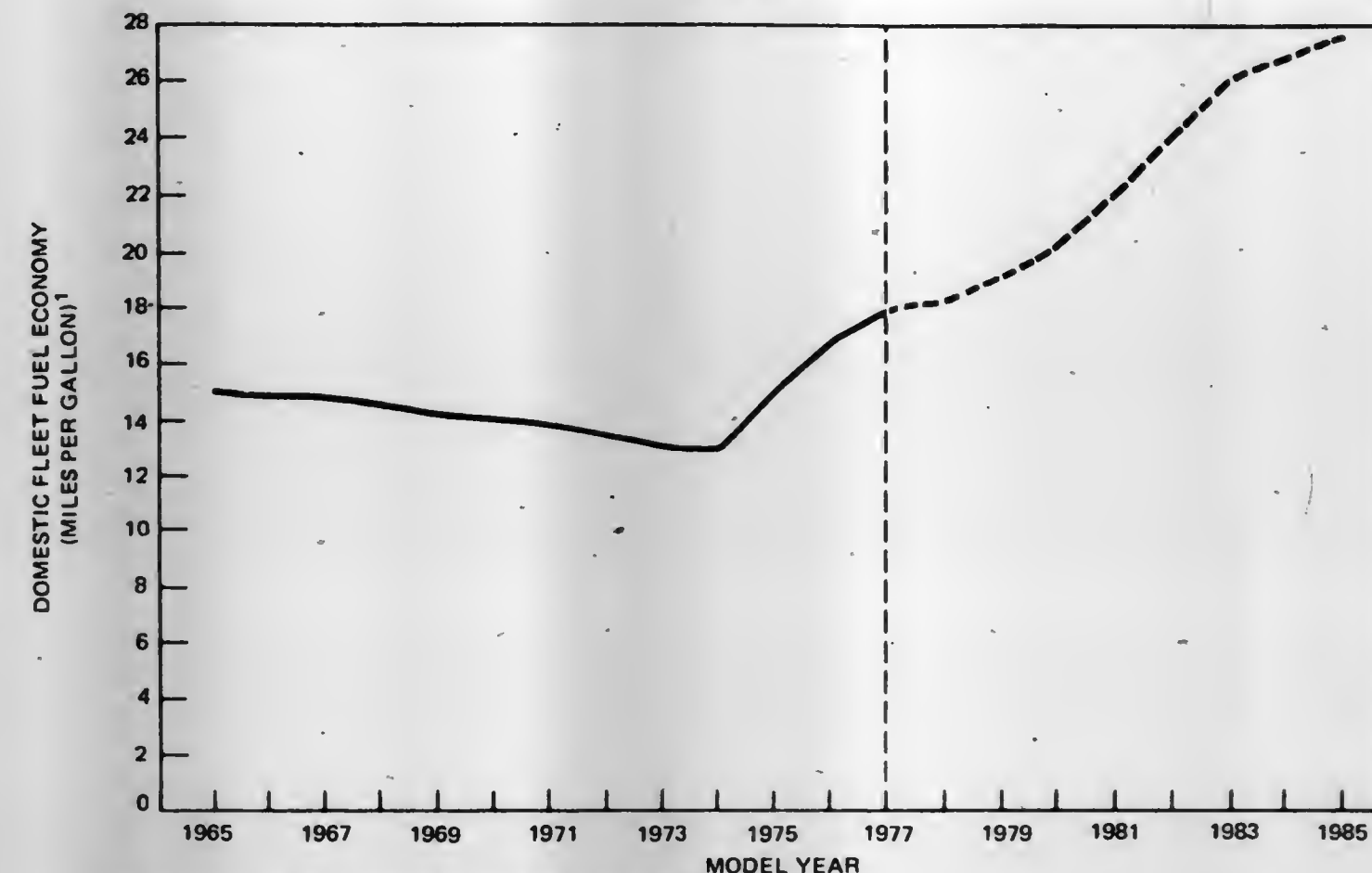
Figure 8.—OPEC oil: The supply/demand gap.

lon (including taxes), the benefits to the consumer from more fuel-efficient vehicles also will increase.

### AUTOMOBILE PETROLEUM CONSERVATION

Technological improvements to the automobile that will provide for the more efficient use of fuel have great potential for significantly reducing the projected demand for petroleum within the next 15 years. The automobile manufacturers will have the prime responsibility for producing fuel-efficient automobiles that will ease the domestic petroleum demand. The magnitude of their responsibility, as defined by the act, can be seen in the fact that, by law, each manufacturer's passenger automobile fleet must attain an average of 18, 19, and 20 mpg in the years 1978, 1979, and 1980, respectively, with steady progress toward 27.5 mpg by 1985. In addition, the industry must meet the standards set by the Secretary of Transportation for passenger automobiles for the interim years 1981, 1982, 1983, and 1984 and for nonpassenger automobiles for MY 1979.

Before the Energy Policy and Conservation Act (EPCA) amended the Motor Vehicle Information and Cost Savings Act to include Title V: Improving Automotive Efficiency, the automobile industry and manufacturers were already voluntarily working, with Federal guidance, toward the production of more fuel-efficient automobiles. The Automobile Voluntary Fuel Economy Program, announced October 8, 1974, had as its goal a 40-percent improvement in automotive fuel economy,



<sup>1</sup>1965-76—historical, 1977—estimated, 1978-85—standards.

Figure 9.—New automobile fleet average fuel economy.

to be achieved in the 1980 MY new automobile fleet. This achievement was projected to yield a production-weighted average of 19.6 mpg for the 1980 fleet, compared with 14 mpg for 1974. To achieve the 19.6 mpg goal for 1980, a specific goal of 18.7 mpg was suggested for the three largest U.S. manufacturers and a goal of 24.7 mpg for the average fuel economy for all other manufacturers.

### ACHIEVEMENTS OF THE AUTOMOBILE INDUSTRY IN IMPROVING FUEL ECONOMY

Until 1974, the fuel economy of new domestic automobiles steadily declined from an average of 14.8 in 1967 to 12.9 in 1974. Starting with MY 1975, this trend was reversed, with new automobile fleet average fuel economy values of 14.4, 16.8, and 17.5 mpg for 1975, 1976, and 1977, respectively. These trends are shown in figure 9. For 1978, EPA projections indicate that domestic manufacturers will achieve a fleet average fuel economy of 18.6. EPA also has projected the corporate average fuel economy of several foreign manufacturers for 1978 including Mazda, 35.1 mpg; Subaru, 31.6 mpg; Renault, 30.7 mpg; Peugeot (diesel), 28.8 mpg; and

Saab, 22.7 mpg. Table 2 summarizes the achievements of the automobile industry in improving the fuel economy of their products.

It can be seen that as of MY 1978, the foreign and domestic fleets have almost met or are exceeding the goals set by the Automobile Voluntary Fuel Economy Improvement Program. It is evident also that the MY 1978 fuel economy standard of 18 mpg set by the act will be exceeded by both foreign and domestic fleets.

Manufacturer improvements in fuel economy were achieved in a number of ways. In 1977, General Motors (G.M.) reduced the weight of its full-size automobiles between 650 to 950 pounds, by downsizing (i.e., making automobiles lighter in weight and smaller in outside dimensions) and material substitutions. In 1978, G.M.'s mid-size automobiles were reduced in weight by 550 to 850 pounds; diesel engines were introduced in light-duty trucks and three Oldsmobile models,<sup>1</sup> and a turbocharged six-cylinder engine was introduced in two Buick models.<sup>2</sup> Ford's major effort in weight reduction began in 1978 with the introduction of the Fairmont and

<sup>1</sup>Olds 98, 88, and Custom Cruiser.

<sup>2</sup>Regal and LeSabre sport coupes.



Table 2.—Estimates of passenger automobile fuel economy

Model year	Domestic fleet average (mpg)	Import fleet average (mpg)	Total fleet average (mpg)
1974.....	<sup>1</sup> 12.9	<sup>2</sup> 21.9	<sup>3</sup> 13.9
1975.....	<sup>1</sup> 14.4	<sup>2</sup> 24.5	<sup>3</sup> 15.6
1976.....	<sup>1</sup> 16.8	<sup>2</sup> 25.0	<sup>3</sup> 17.6
1977.....	<sup>4</sup> 17.6	<sup>4</sup> 29.2	<sup>3</sup> 18.6
1978.....	<sup>5</sup> 18.6	( <sup>6</sup> )	<sup>7</sup> 19.5

<sup>1</sup>Domestic fleet averages calculated from sources 2 and 3, below, using U.S. model year sales figures (1975, 1976, and 1977 *Wards Auto Yearbook*) for General Motors (G.M.), Ford, Chrysler, and American Motors Corp.

<sup>2</sup>Obtained from Monitoring Report, Automotive Fuel Economy Improvement Program. Report No. PM-T-50. B. Basham, S. Powel, G. Gould, and R. Mauri, Transportation Systems Center, December 20, 1975.

<sup>3</sup>Obtained from EPA Passenger Car Fuel Economy Trends through 1976 (October 1975 and 1976).

<sup>4</sup>Derived from NHTSA/OAFE Data Base (import data base incomplete).

<sup>5</sup>Letter from Mr. Douglas Costell, Administrator, EPA, to Mr. Brock Adams, Secretary of Transportation, Nov. 10, 1977. A corporate average for General Motors was missing because EPA compliance testing of G.M. products was still underway. This was also the case with Chrysler's Omni and Horizon models to be introduced mid-MY 1978. A corporate fleet average projected for MY 1978 and provided by G.M. was substituted in order to calculate the domestic fleet average for this table.

<sup>6</sup>Incomplete. See EPA projections for Mazda, Subaru, Renault, Peugeot, and Saab, previously described.

<sup>7</sup>Calculated from source 5 and from 1976 import fleet data source 2 above.

Zephyr models, which are approximately 300 pounds lighter than the models they replace. Chrysler will introduce its front-wheel drive subcompacts (Omni and Horizon) in MY 1978 and has introduced an improved automatic transmission with lockup torque converter in some models. Examples are shown in figure 10.

#### OTHER DEPARTMENT OF TRANSPORTATION ENERGY CONSERVATION PROJECTS

The NHTSA fuel economy project is one of five major Department of Transportation (DOT) energy conservation projects. The other projects are the Voluntary Truck and Bus Fuel Economy Program, 55-Miles-Per-Hour (mph) National Speed Limit, Right-Turn-On-Red

Rule, and Transportation Energy Efficiency Program (TEEP).

#### Voluntary Truck and Bus Fuel Economy Program

In 1975, DOT, FEA, and EPA initiated a joint Industry/Government Voluntary Truck and Bus Fuel Economy Improvement Program. The program is designed to encourage manufacturers and users of commercial vehicles to voluntarily improve fuel economy through such actions as (1) developing and offering more fuel-efficient products; (2) conducting and reporting on fuel economy tests; (3) providing fuel economy product information; (4) advertising and training programs; (5) purchasing fuel-efficient new vehicles and add-on or replacement components (e.g., engine modifications, radial tires, installation of retrofit devices on trucks to reduce aerodynamic drag); (6) developing, conducting, and supporting driver training and motivation programs; and (7) providing forums for the exchange of information on fuel economy. The program is concerned with trucks and buses with a GVWR of 10,000 pounds or more. An informal survey conducted by DOT indicates that fuel economy improvements can effect a savings of 155 million gallons of fuel per year in the MY 1976 heavy-duty truck fleet alone.

#### National 55-mph Speed Limit

The national 55-mph speed limit was instituted with temporary legislation during the 1973 oil embargo and enacted permanently on January 4, 1975. In the year following enactment, the Federal Highway Administration (FHWA) monitoring program estimated that average speed decreased about 5 mph. The most important impact of the reduced speed limit has been on safety. However, some significant fuel savings also have resulted. The reduction in highway vehicle fuel consumption attributable to the new speed limit in 1975 was estimated at from 0.8 percent (about 65,000 barrels per day) to 2.9 percent (about 235,000 barrels per day) below what would have been expected based on preembargo growth rates.

#### Right-Turn-On-Red Rule

The act urges all States to voluntarily adopt the right-turn-on-red rule as an energy conservation measure. Allowing drivers to make right turns after coming to a complete stop at red lights reduces excessive idling time and can result in estimated savings of 3.2-4.4 million barrels per year, or 9,000-12,000 barrels per day.



Buick Century Sport Coupe

Buick LeSabre Sport Coupe



Oldsmobile Cutless Salon Brougham Coupe

GENERAL MOTORS



Fairmont



Zephyr

FORD



Omni

CHRYSLER

Figure 10.—Examples of downsized automobiles and new product offerings to improve fuel economy for MY 1978.



**Transportation Energy Efficiency Program**

This R. & D. program, sponsored by the Office of the Secretary, has several major subprograms to assess and evaluate practical ways of conserving energy within the various modes of transportation. The Vehicles In Use Energy Conservation subprogram examines techniques that potentially can save fuel for the automobiles and light-duty trucks in the national fleet. The Truck Fuel Economy subprogram provides R. & D. support to assess the potential improvements in fuel economy of trucks and buses at and above 10,000 pounds GVWR. The Automotive Technology subprogram assesses the means available to the Federal Government to stimulate more rapid development and implementation of improved technology by the automotive industry.

**THE NATIONAL ENERGY PLAN AND THE AUTOMOTIVE FUEL ECONOMY PROGRAM**

The importance of automotive fuel economy standards becomes obvious when this activity is considered in relation to the proposed National Energy Goals an-

nounced April 20, 1977, by President Carter. Four major national goals for 1985 are:

- Reduce the annual growth of total energy demand to below 2 percent.
- Reduce gasoline consumption 10 percent below the 1977 level.
- Reduce oil imports from a potential level of 16 Mbd to 6 Mbd.
- Establish a strategic petroleum reserve of 1 billion barrels.

In the conservation section of the President's plan, four elements have a direct impact on automotive fuel economy standards:

- Automotive efficiency standards (beyond 1985).
- Efficiency standards for light-duty trucks.
- Gas-guzzler tax and rebate.
- Standby gasoline tax.

Automotive efficiency standards (beyond 1985) and efficiency standards for light-duty trucks are NHTSA responsibilities under the Automotive Fuel Economy Program. The gas-guzzler tax and rebate and the standby gasoline tax have been or are being considered by Congress.

**3. PASSENGER AUTOMOBILE STANDARDS****RULEMAKING DURING FY 1977**

During FY 1977, comments received on the Advanced Notice of Proposed Rulemaking (ANPRM) for establishing fuel economy standards for passenger automobiles of MY 1981-84 were reviewed and analyzed. Comments were received from representatives of the domestic and import automobile manufacturers, industry associations, public interest groups, individual citizens, and Government agencies. The comments were used in formulating a NPRM, which was issued on February 15, 1977. Concurrently, a notice of public hearings to be held in March 1977 was issued. The hearings represented the first application by the Secretary of Transportation of a new program in which participation of public interest groups, which otherwise might be economically unable to participate, was supported in part by DOT funding. Five such public interest groups,<sup>1</sup> along with domestic and import automobile manufacturers, participated in the hearings, which were chaired by the Secretary, and included a panel composed of the Secretary, the FEA Administrator, and the EPA Deputy Administrator.

In addition to the information gained from comments and hearings, data were obtained from foreign automobile manufacturers, domestic suppliers, and other sources by the use of "special orders" requiring response to specific questions. These special orders were issued under section 505(b) of title V of the Motor Vehicle Information and Cost Savings Act as amended.

Concurrently with the rulemaking, DOT exerted maximum effort in the area of research and analysis toward the development of a data base and analysis to support its position for formulating the MY 1981-84 PA fuel economy standards. On February 28, 1977, prior to the public hearings and before the closing date for NPRM comments, five support documents were made available for review and comment by all participants. The titles of these reports are:

<sup>1</sup>Public Interest Campaign, Environmental Defense Fund, Public Interest Economic Foundation, Center for Auto Safety, and Citizens for Clean Air, Inc.

- Summary Report—Data and Analysis for MY 1981-1984 Passenger Automobile Fuel Economy Standards.
- Automobile Demand and Marketing.
- Automotive Design Technology.
- Automobile Manufacturing Processes and Costs.
- Financial Analyses of U.S. Automotive Manufacturers.

**DETERMINING THE 1981-84 AVERAGE FUEL ECONOMY STANDARDS**

In setting standards for the 1981-84 period, it was necessary to consider the options for improving fuel economy that are available to automobile manufacturers. These options include weight reduction through downsizing and material substitution; engine and transmission improvements; reduced acceleration performance; and alternative engines such as the diesel, stratified charge, and variable displacement. Other technological advances can be made in the area of aerodynamics, lubricants, accessories, and rolling resistance.

The final selection of the 1981-84 average fuel economy standards was based on a number of considerations:

- Rapid, but not unreasonable, introduction of technology.
- A 10-percent reduction in average vehicle acceleration.
- Allowing a wide range of technical and marketing options by the industry.

Shifts in the mix of automobile sizes (changes in the proportion of car class market by a manufacturer) and extensive use of diesel engines are not required to meet the standard, although both of these options could be used by industry in improving fuel economy, if desired. The NHTSA analysis assumed that the percent of automobiles in each size class (i.e., subcompact, compact, intermediate, and standard) would remain approximately constant during the 1981-84 period at the current values. The weights of each size are expected to decrease, however.



Based upon the rationale outlined above, the standards for MY 1981, 1982, 1983, and 1984 were set at 22, 24, 26, and 27 mpg, respectively. In arriving at these values, NHTSA has suggested a number of changes that can be made relative to the 1977 fleet. These include significant weight reduction, the phasing into production of advanced transmissions, improved lubricants, reduced loads for accessories, reduced aerodynamic drag and rolling resistance, and a modest (10 percent) reduction in vehicle acceleration capability. This decrease in acceleration capability, however, should not have an adverse impact on safety.

The steps taken by NHTSA in arriving at the feasible fuel economy schedules included:

- Determining the minimum feasible fleet averaged inertia weight.
- Selecting the minimum feasible fleet averaged acceleration performance.
- Determining the maximum fuel economy at 1977 technology and emissions levels.
- Selecting a feasible schedule for the introduction of certain other technological improvements.
- Considering the effects of other Federal standards.

One effective method of improving fuel economy is by reducing the weight of the vehicle. By MY 1981, the average inertia weight of automobiles produced by U.S. manufacturers is expected to drop 750 pounds from the average 4,200 pounds of the 1977 models. The average weight could decrease another 350 pounds by MY 1985.<sup>2</sup> This predicted decrease to an average weight of 3,100 pounds assumes the completion of the programs to produce lighter automobiles and the substitution of aluminum, plastics, and high-strength steel for heavier materials.

The analysis conducted by NHTSA for each domestic manufacturer predicts weight reductions as shown in table 3. These detailed projections are based on considerations of phased introduction of weight-reduction technology.

More information relating to the detailed procedures and analysis used by NHTSA to support the fuel economy standards selected is contained in the July 1977 "Rulemaking Support Paper Concerning the 1981-1984 Passenger Automobile Average Fuel Economy Standards." This document was issued simultaneously with the final rule for the 1981-84 fuel economy standards and summarizes the NHTSA position both technologically and economically. The paper discusses the meth-

<sup>2</sup> Average weight estimates are based on today's mix of car sizes.

odology employed; the resulting fuel conservation; the technology feasible in the period being considered; and the economic results to the consumer, the automobile industry, and the Nation.

Other documents issued by NHTSA simultaneously with the publication of the final rule include the FIA that deals with economic issues of the automotive fuel economy standards and the final environmental impact statement (FEIS).

The NHTSA analysis concludes that it is feasible for the three largest domestic manufacturers to be at or above the standard between 1981 and 1984. American Motors Corp. (AMC) will have to add more of the available technology from 1982 to 1984 in order to meet the standards. The new president of AMC recently stated that his company would be able to meet the 27.5 mpg standard in the early 1980's.<sup>3</sup> All the manufacturers are expected to be able to meet the current 1985 standard of 27.5 mpg, with most predicted to attain above 28 mpg. The projected average fuel economy by model year for each of the domestic manufacturers is shown in table 4.

#### PREDICTED IMPACT OF 1981-84 PASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS

The automobile fuel economy standards will have an effect on the consumer, the industry, and the Nation. For the consumer, the result will be more fuel-efficient automobiles. The industry has started to downsize automobiles. Passenger and luggage space will remain the same. Consumers will still have a variety of models from which to choose.

Over the long term, consumers can expect the fuel economy standards to save them money. Retail prices are expected to increase less than \$200 (in 1977 dollars) over the 4-year period to pay for the manufacturing costs of more fuel-efficient automobiles. This is an increase of \$49 per year, or an annual increase of less than 1 percent of the current vehicle price. The potential retail price increases, however, are more than offset by decreases in the owner's lifetime fuel costs. Gasoline savings, based on a constant 65¢ per gallon, exceed \$640 per car (discounted) over its life. When included with increases in initial purchase price and maintenance costs, each automobile will save consumers \$490 compared with the base MY 1980. The net effect to the consumer of the fuel economy standards is expected to be a savings.

<sup>3</sup> *Wards Auto World*, June 1977, p. 30.

Table 3.—Projected fleet average inertia weight, in pounds, by model year (without mix shifts)

Manufacturer	Model year					
	1977	1981	1982	1983	1984	1985
G.M.	4,200	3,550	3,500	3,300	3,100	3,100
Ford	4,270	3,360	3,290	3,170	3,090	3,070
Chrysler	4,260	3,258	3,232	3,145	3,145	3,145
AMC	3,540	3,122	3,122	3,122	3,067	2,834

Table 4.—Projected average fuel economy of domestic manufacturers (in miles per gallon)

Manufacturer	Model year				
	1981	1982	1983	1984	1985
G.M.	23.3	24.2	26.5	28.8	28.9
Ford	23.4	24.5	26.1	27.0	27.9
Chrysler	23.8	25.1	26.3	28.1	28.7
AMC	22.2	22.6	23.1	24.7	28.7

The automobile industry and its suppliers are not projected to experience major economic changes as a result of these standards. The total sales of automobiles should rise due to natural demand factors. It is not anticipated that capital availability will be a limiting factor. Each year automobile manufacturers invest billions of dollars in model changes and general product improvement. Some additional investment can be expected due to the imposition of the average fuel economy standards. NHTSA estimates that between 1977 and 1981 the domestic automobile industry will have to spend \$4.6 billion for machinery and special tooling in addition to the \$8.1 billion that it ordinarily would have spent. Between 1977 and 1984, this figure is expected to be \$6.7 billion over the normal \$9.5 billion.

The impact of retail price increases on sales has been evaluated with the use of the Wharton Econometric Demand Model. The dotted curve in figure 11 shows the effect of a hypothetical cumulative price increase of 8 percent, or about \$400 by 1985.

The most significant national impact will be the reduction in the need to import oil. The 1981-84 average fuel economy standards are projected to result in savings of 590,000 barrels of oil per day in 1985 and 1.2 Mbd in 1995 over what could be achieved if the standards were held at the 1980 level of 20 mpg. By 1995, this will mean a cumulative savings of 4.3 billion barrels, about half of the oil reserves in northern Alaska. When dis-

counted to 1980 at a 10-percent per-annum rate, this oil is worth about \$24 billion, assuming \$13.50 per barrel.

Without the 1981-84 fuel economy standards (if the 1980 standard of 20 mpg is retained), the total annual consumption of gasoline would experience a slight dip from the current value of 74 billion gallons per year to about 71 billion gallons in 1985 (fig. 12). It would then begin to rise about 1990 and be at about 82 billion gallons in the year 2000. The fuel economy standards will cause gasoline consumption to decrease to 54 billion gallons in 1991 and remain below the current level until beyond the year 2000. The post-1985 estimate assumes that new automobile average fuel economy will remain constant at 27.5 mpg.

With respect to the environment, it should be noted that, since automobile emission standards are specified on a per-mile basis, improving fuel economy will have no effect on air pollution per se. However, there will be desirable secondary environmental effects, including reductions in the need to mine and convert coal or oil shale to liquid fuel, quantity of fuel handled, and in the amount of raw materials required in automobile production.

Fuel economy standards that would require the widespread use of diesel engines do pose environmental concerns, since the effects on health of unregulated emittants currently are unknown. Widespread use of diesel engines may increase particulates and polynuclear aro-



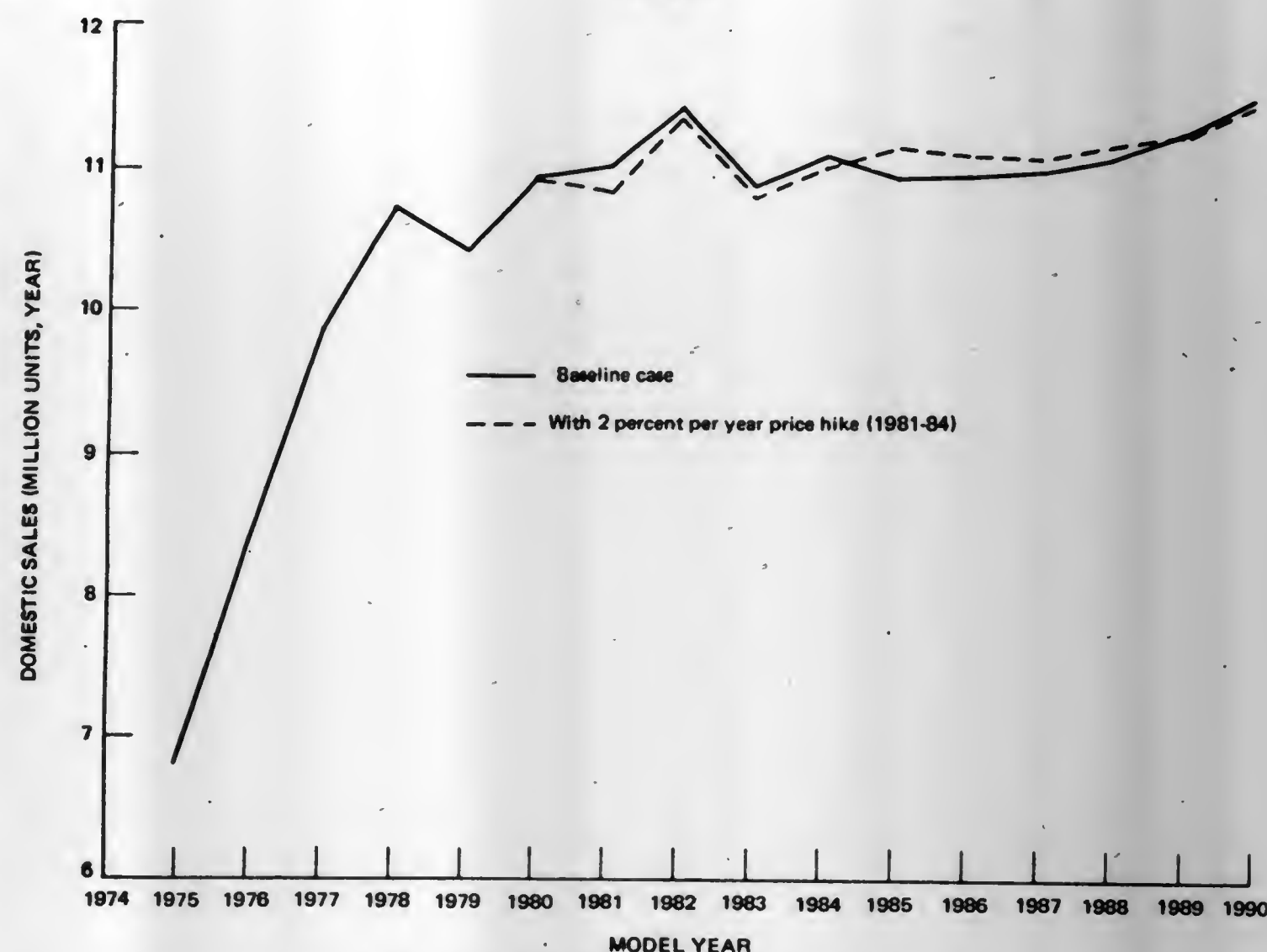


Figure 11.—Effects of price changes on projected U.S. automobile sales.

matics, which can be chemically and biologically active and may constitute a health hazard. EPA is presently studying the problem, coordinating with DOT, and may issue standards for the control of such emissions in the future.

The increased use of diesel engines and smaller and lighter vehicles with smaller spark ignition engines could present a noise problem. Corrective measures, such as increased use of sound-baffling material, are feasible, however. Such design changes could result in a fuel economy penalty because of the added weight. If noise regulations are promulgated by EPA, the trade-offs between noise and fuel economy will be evaluated. In this regard, NHTSA has initiated studies at TSC to determine these trade-offs, particularly in the areas of engine noise and vehicle noise.

The increased use of aluminum, plastics, and high-strength steel in downsized vehicles could result in an improvement in water quality and supply, since the de-

crease in the amount of cast iron and steel being processed would be significant. At the same time, using more plastics could add to the solid-waste disposal problem. As the price of oil and the amount of petroleum imports continue upward, however, it is expected that more plastics will be recycled.

#### CHANGES IN PASSENGER AUTOMOBILE DESIGN

Implementation of fuel economy standards has resulted in additional and accelerated action by vehicle manufacturers, as is evident in their 1977 and 1978 Passenger Automobile fleets. Plans that will further improve fuel economy recently have been announced. Some of these plans (e.g., weight reduction, improved transmissions, improved aerodynamics) are discussed later in this

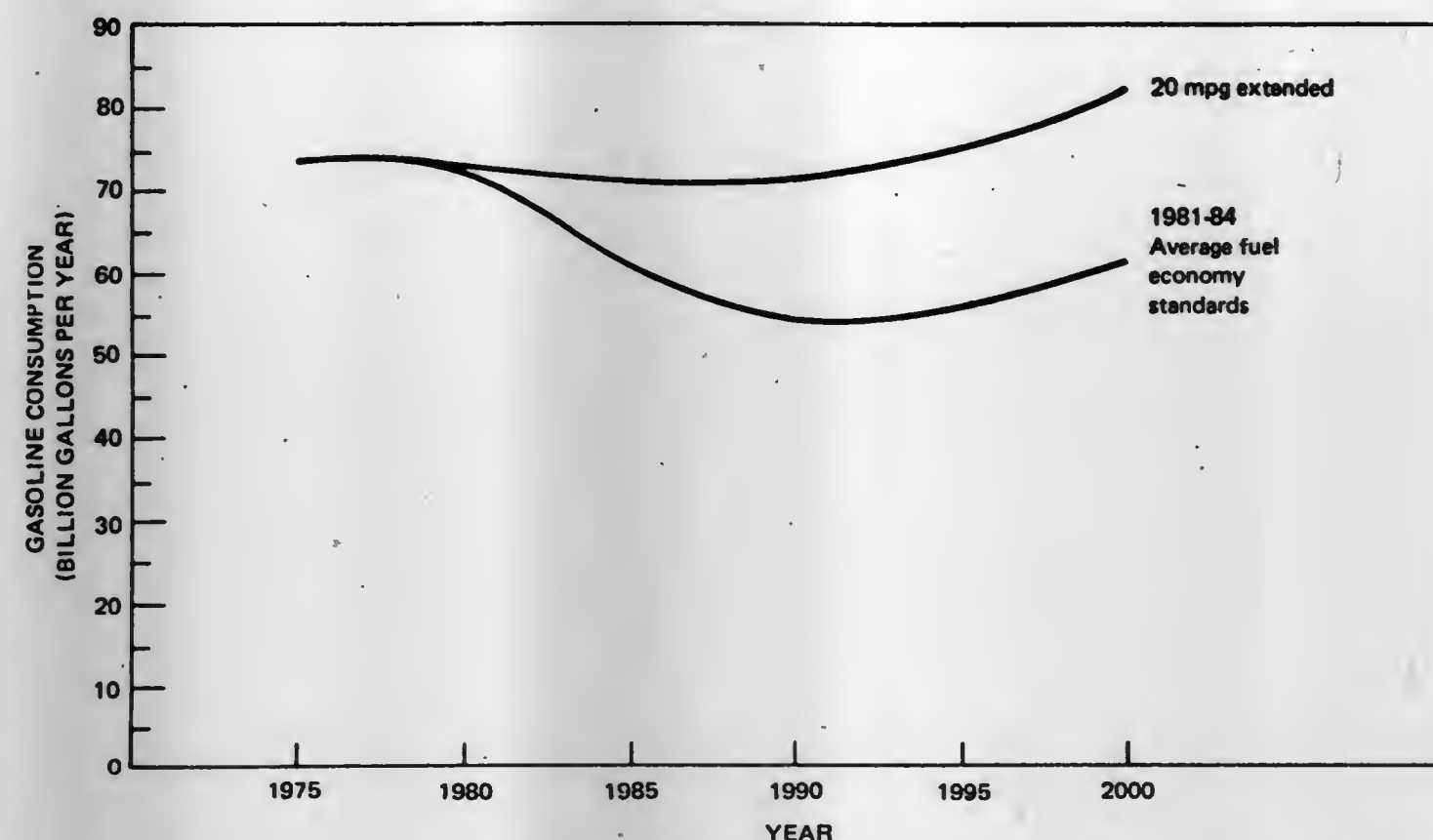


Figure 12.—Gasoline consumption by passenger automobiles for 1981-84 average fuel economy standards.

section. Highlights of specific actions already implemented or planned by the major manufacturers are discussed below.

General Motors reduced the weight of its full-size MY 1977 automobiles by 650 to 950 pounds, by downsizing and material substitutions (figs. 13 and 14). Its mid-size MY 1978 automobiles have been reduced by 550 to 850 pounds. Ford's MY 1978 Fairmont and Zephyr are approximately 300 pounds lighter than the automobiles they replace. Chrysler has introduced its front-wheel drive subcompact in MY 1978. The redesigning to reduce weight includes more extensive use of aluminum in bumper systems, intake manifolds, wheels, brake drums, hoods, trunk lids, power-steering systems, pump housings, and radiator supports. High-strength light-weight alloy steels will be used in reinforced bumper systems, door impact beams, shock absorber mountings, upper and lower suspension arms, front side rails, and door structures. More plastics will be used in soft bumper systems, front and rear fascia, headlamp moldings, instrument panels, glove box doors, battery trays, air conditioner and heater cases, window and door handles, cowl panels, window louvers, power-steering pumps, and brake-fluid reservoirs.

Other innovations implemented or planned to improve fuel economy include further material substitutions—G.M.'s introduction of the diesel engine in trucks

and some Oldsmobile passenger automobiles in MY 1978; Chrysler's use of the lockup torque converter in MY 1978 transmissions; Ford's plans for introduction of the PROCO stratified charge engine, the split-torque transmission, and the variable displacement engine. Generally, more extensive use of front-wheel drive, diesel engines, and improved aerodynamics is anticipated for all manufacturers. The turbocharged engine, introduced by G.M. in MY 1978, will undoubtedly become more widespread.

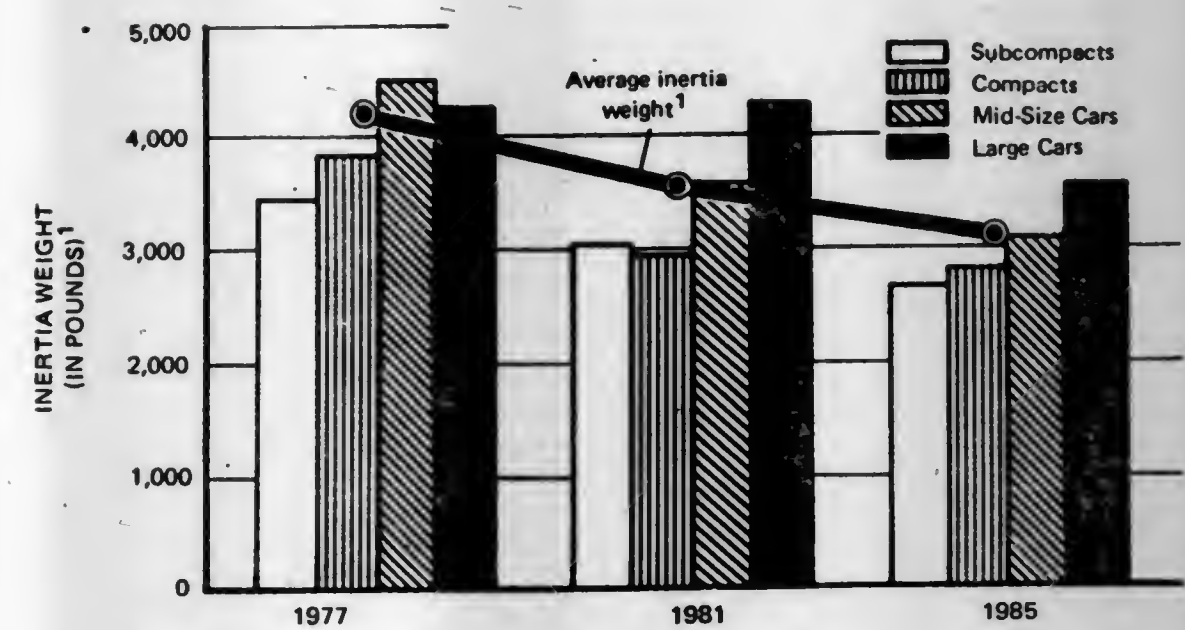
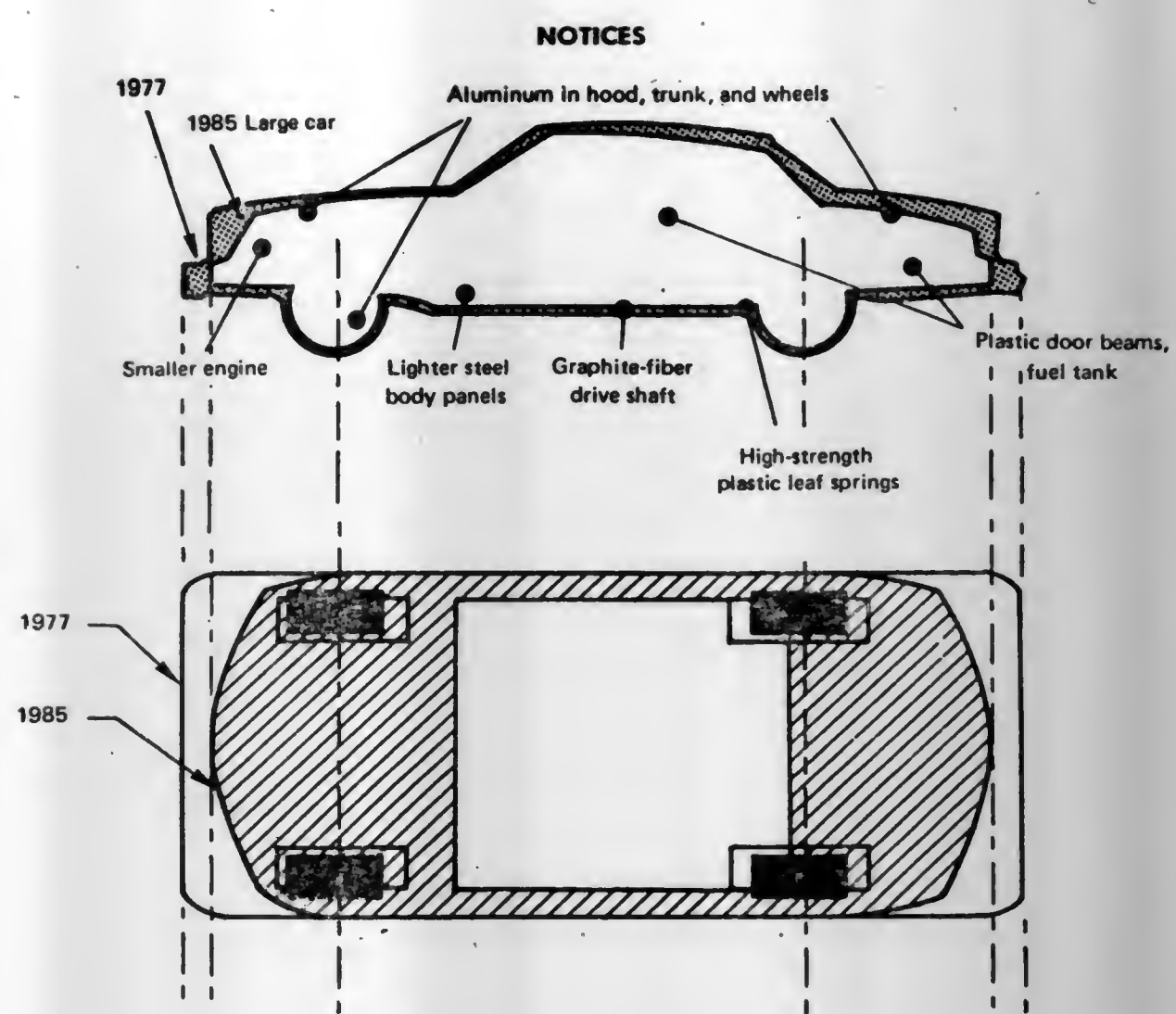
Fuel economy improvements in lubricants and tires have been announced by the supplier industry. Foreign manufacturers have fewer problems in weight reduction but are increasing efforts to expand the use of diesel and, perhaps, stratified charge rotary engines and to reduce aerodynamic drag. Volkswagen has demonstrated a prototype research vehicle that features a turbocharged diesel engine and attains 60 mpg composite average fuel economy while complying with all emission and safety standards.

#### FUTURE PASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS

To date, the major effort has been to develop the 1981-84 passenger automobile fuel economy standards.



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<sup>1</sup>Data from General Motors.  
Artist for top and bottom schematics: Robert McAuley, *Business Week*: May 23, 1977.

Figure 13.—Downsizing and material substitution.

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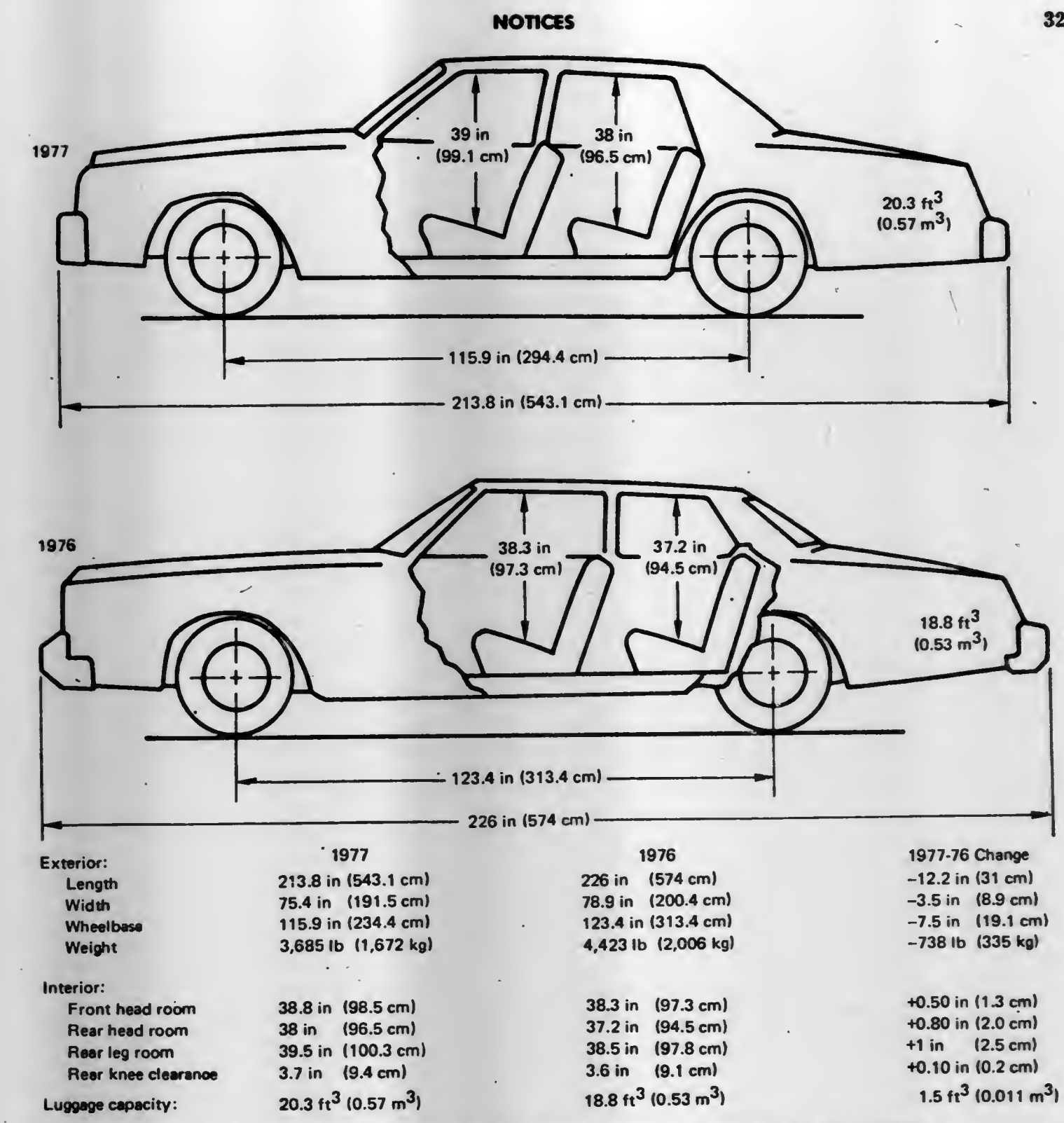


Figure 14.—Comparison of 1976 and 1977 vehicle dimensions demonstrating downsizing.

This task has been completed, and NHTSA has initiated a major research and development program to assess maximum feasible fuel economy standards for 1984-86 and beyond. The 1984 fuel economy standard set in July 1977 and the 1985 standard mandated by Congress will be reevaluated in view of changing technological and economic conditions. The act stipulates that the Secretary may, by rule, amend the standards for 1985 or any

subsequent year to a level that he determines to be the maximum feasible (subject to Congressional approval if outside the range of 26.0-27.5 mpg). The 1986 fuel economy standards for passenger automobiles will be a new standard subject to the above conditions. A likelihood exists that the maximum feasible levels for 1984, 1985, and 1986 will exceed the 27.5 mpg level set by Congress.



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#### 4. NONPASSENGER AUTOMOBILE STANDARDS

##### FUEL ECONOMY STANDARD FOR MY 1979

NHTSA published a fuel economy standard for 1979 NPA's on March 14, 1977. The standard prescribes a fuel economy of 17.2 mpg for all NPA's except four-wheel drive, general utility vehicles, which must obtain a fuel economy of 15.8 mpg. Manufacturers are allowed the option of including vehicles in this class in their total NPA fleet and meeting the 17.2 mpg standard that is applicable to the fleet. The standard covers NPA's of not more than 6,000 pounds GVWR that are manufactured in MY 1979 and includes vehicles such as vans, pickup trucks, and general utility vehicles (such as the Jeep CJ-7 and other off-road vehicles) (fig. 15).

The standard for MY 1979 is based on NHTSA's interpretation of the manufacturers' voluntary product plans and several other considerations. First, because of a lack of basic data, NHTSA could not project the fuel economy level that could be achieved by manufacturers for NPA's rated over 6,000 pounds GVWR. Further, there was the possibility that there would be no appropriate fuel economy test procedure for these NPA's because EPA's proposed changes to the MY 1979 emission standard for light-duty trucks, which would add vehicles up to 8,500 pounds GVWR, were not put into effect until December 1976. This rulemaking action by EPA extended the applicability of the test procedure for passenger automobiles and light-duty trucks rated not over 6,000 pounds GVWR to light-duty trucks rated from 6,000 pounds through 8,500 pounds GVWR. For these reasons, NHTSA could not promulgate a fuel economy standard for NPA's rated over 6,000 pounds GVWR.

Second, many of these NPA's between 6,000 and 8,500 pounds GVWR are similar in most characteristics to NPA's rated less than 6,000 pounds GVWR. Thus, they would be a satisfactory substitute for many purchasers. Also, manufacturers could reate to a higher value those NPA's that were slightly below 6,000 pounds GVWR. Both of these actions would lower the overall level of fuel economy for NPA's. It was concluded that the fuel economy standard for MY 1979 should preclude these possibilities.

Third, the automobile manufacturers' ability to improve fuel economy by MY 1979 was somewhat limited

by the available short leadtime, especially for new vehicle designs.

Although the standard applies to all manufacturers of NPA's, standard development concentrated on domestic NPA's, since their fuel economy is considerably below that of imported NPA's (15.9 mpg for all domestic NPA's compared with 22.1 mpg for all imports in MY 1976). The baseline fuel economy from which fuel savings were determined included vehicles imported by Ford and G.M. (captive imports). Chrysler and AMC do not have captive imports at present. The standard for MY 1979 also includes the effect of captive imports on average fuel economy levels.

Assuming that all fuel economy measures and their impacts are attributable to the standard and not to manufacturers' voluntary actions, the savings of petroleum over MY 1976 levels for the MY 1979 nonpassenger fleet for both classes will be 6,684 barrels of oil per day. This will mean a savings of 24.40 million barrels for the lifetime of the 1979 fleet. The annual and lifetime savings in gasoline would be 0.1 percent of total national consumption, based on total national consumption of 102 billion gallons in 1975.

Additional savings in energy are likely to accrue from reductions in NPA weight and engine size, which would result in decreased demand for steel and cast iron. Savings of steel and cast iron are estimated to be 42 million pounds in MY 1979 over current levels of consumption, or 0.108 percent of total national consumption of 236.2 billion pounds recorded in 1975. The saving in energy that would have been used to produce and transport the steel and cast iron and in the manufacturing process is estimated at the equivalent in British Thermal Units (BTU's) of 123,000 barrels of oil, or 0.003 percent of the total national consumption of 4.5 billion barrels in 1975.

The reduction in steel and cast iron production could result in a small improvement in water quality and small decreases in industrial water supply demand and in stationary source air pollution. Since the reduction would be only 0.018 percent of total steel and cast iron production, however, this effect would be minor.

It is estimated that an additional 5.26 million pounds of plastics will be used as substitute materials for vehicle

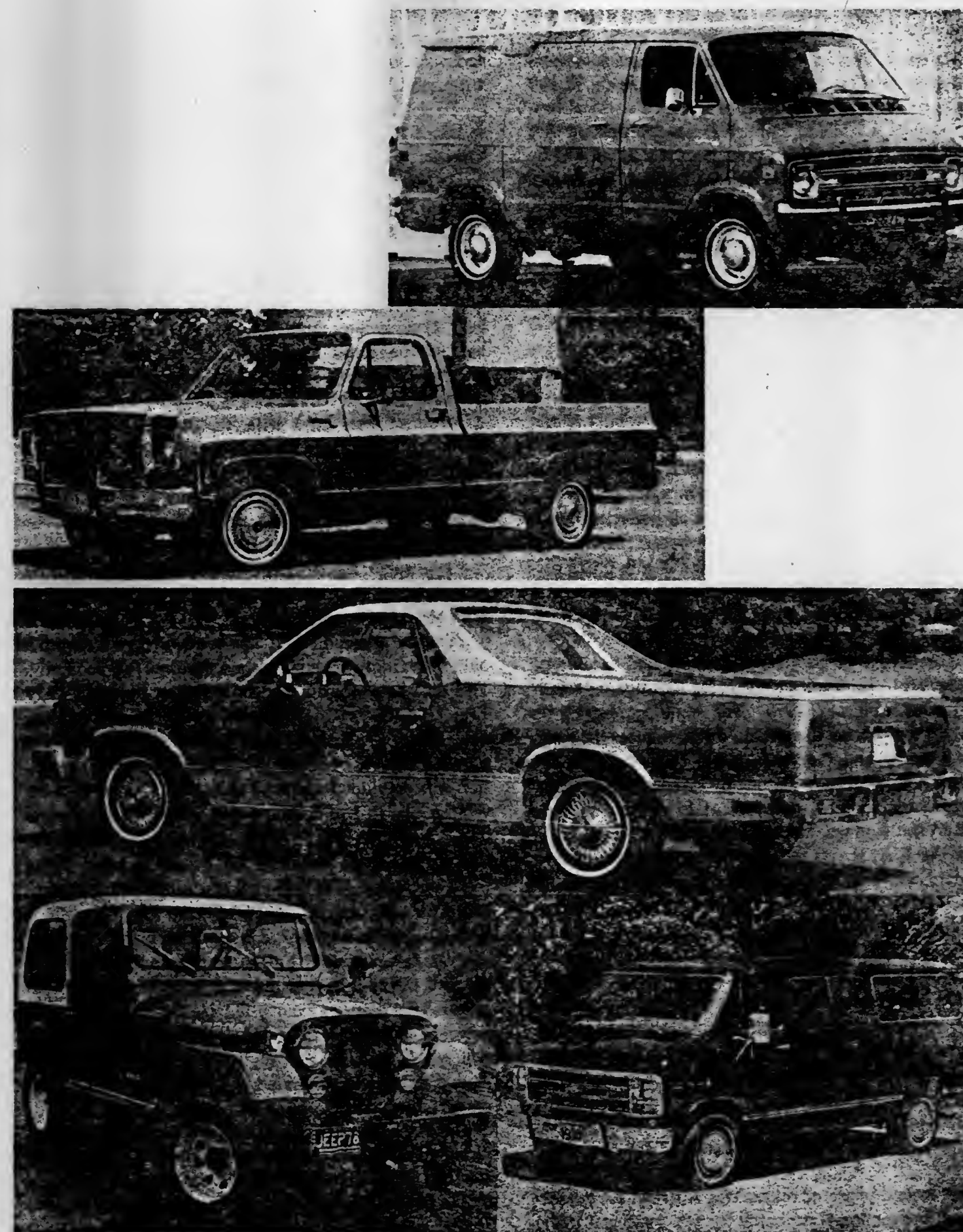


Figure 15.—Typical examples of nonpassenger automobiles.



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weight reduction. This is 0.025 percent of total national consumption of 21.2 billion pounds in 1975. The increased use of plastics will result in a one-time additional consumption of energy equivalent in BTU's to 38,100 barrels of oil, or 0.001 percent of the 1975 national consumption of 4.5 billion barrels. It also is estimated that an additional 5.26 million pounds of aluminum will be used as a substitute material for vehicle weight reduction. This is 0.055 percent of 1975 national consumption of aluminum of 9.6 billion pounds. The increased use of aluminum will result in a one-time additional consumption of energy equivalent in BTU's to 10,000 barrels of oil, or 0.002 percent of 1975 national consumption. Thus, this action is likely to result in an increase (15,000 barrels of oil equivalent) in the amount of energy required to manufacture these vehicles. This amount is insignificant, however, compared with the energy saving (18.1 to 29.7 million barrels of oil equivalent) in the operation of these vehicles due to their increased fuel economy. The increased use of plastics and aluminum could result in a small deterioration in water quality and a small increase in stationary source air pollution resulting from increased production. However, since the increase in use of plastics and aluminum is only 0.025 percent and 0.055 percent, respectively, of their total national consumption, these latter impacts should be minor.

Little change in air quality is anticipated because of the standard. EPA will be enforcing an emission standard for NPA's in MY 1979. The manufacturer will be required to optimize the vehicle design to meet the emission standard and the average fuel economy standard simultaneously. The fuel economy standard is not likely to provide additional improvement in air quality, since the EPA standard will be predominant.

In the FIA, it was estimated that the fuel economy standard will impose an additional cost of about \$10.8 million (about \$11 per NPA) on the domestic manufacturers of NPA's. This cost to consumers could increase to \$22 per NPA, assuming 100-percent markup. The operator of an NPA would save about 104 gallons per year over 11,000 miles. At 65¢ per gallon, this amounts to \$67.60 per year, or \$415.33 (discounted) for the lifetime of the vehicle. NHTSA concluded that the economic impact of this rule is minor.

#### FUEL ECONOMY STANDARDS FOR MY 1980 AND 1981

The second phase of rulemaking for NPA's is the setting of fuel economy standards for MY 1980 and 1981. These standards, like the standard for MY 1979, are constrained somewhat by the leadtime available for improve-

ments, especially on new models. Nevertheless, there has been considerable progress by the manufacturers in technology to improve the fuel economy of passenger automobiles, some of which can be applied to NPA's.

To determine industry plans, a questionnaire was sent in March 1977 to the five domestic manufacturers (AMC, Chrysler, Ford, G.M., and International Harvester) and to the importers of nonpassenger automobiles [Mercedes-Benz, Volkswagen (VW), and through the Automobile Importers of America for the other importers]. This questionnaire requested information on manufacturers' plans to improve the fuel economy of their vehicles. The questions were designed to identify specific plans that have been incorporated into production and to elicit information about research and development on such improved techniques as advanced engines and transmissions and reduced vehicle weight.

Meetings were held with the five major domestic manufacturers to discuss the questionnaire and, after receipt of their responses, to clarify details of the data provided. All NHTSA fuel economy research reports and prior fuel economy rulemaking records (such as the record on the MY 1981-84 PA standards) were reviewed for applicable information. Automotive publications were scanned for information relating to improvements not covered in the responses.

A major research effort was conducted to establish a data base from which to project the fleet fuel economy. This data base was built on information from MY 1977 EPA emission certification and fuel economy labeling data. Since the EPA data are available only for vehicles having a GVWR of 6,000 pounds or less, a linear regression was developed and used to extend the data base for vehicles of 6,001 to 8,500 pounds GVWR. This information, along with the 1976 sales information, was modified to reflect the projected 1977 trend in sales. Using this approach, a MY 1977 fuel economy fleet was established for each domestic manufacturer.

To verify information contained in publications on new models, a special order was prepared and sent to the five major domestic manufacturers of NPA's. Specific information was requested on the introduction of new models, changes in engine size, and new engine technology, as well as the application of new materials. Answers were incorporated into the analysis of each manufacturer's fleet.

Once the baseline fleet was established, it was adjusted to match the recommended classification option. Vehicles included had a GVWR in the range of 0 through 8,500 pounds, and those vehicles anticipated to have frontal areas exceeding 46 square feet (approximately 2 percent of the fleet) were eliminated. The remaining vehicles were separated into 4 X 2 (four wheels and two-

wheel drive) and 4 X 4 (four wheels and four-wheel drive) categories. Each vehicle then was analyzed for applicability of appropriate fuel economy improvements considering the following alternatives:

- Technological improvements (such as engine improvements, improved automatic transmissions, and reduced aerodynamic drag).
- The above, plus weight reduction.
- Both of the above, plus new models.
- All of the above, plus reduction in performance.

It is important to note that not all improvements apply equally to each vehicle or each manufacturer. The objective was to determine the maximum fleet average fuel economy for the two classes of vehicles, 4 X 2 and 4 X 4, and at the same time determine the maximum fleet average fuel economy levels for each manufacturer. The maximum level is not based on manufacturers' plans but on NHTSA estimates of what could be achieved in the absence of overriding contrary information.

The manufacturers have several ways by which to improve NPA fuel economy; NHTSA does not profess to know the optimum path for each manufacturer. Estimates are based on engineering analysis of data submitted by manufacturers and data gathered from research projects, trade journals, and newspapers.

To estimate the effect of technological improvements on domestic fleet average fuel economy, NHTSA projected certain improvements and a schedule of market proportion to be reached by each manufacturer. Separate estimates were used for 4 X 2 and 4 X 4 fleets and for each model year. The minimum inertia weight for each manufacturer's fleet of NPA's was established by considering the potential substitution of light-weight components developed for automobiles, substitution of lighter materials into existing components, the probable scheduling for major redesign of existing NPA's, and the introduction of smaller pickup trucks and vans.

Weight reduction potentials are based on the assumption that by MY 1980 the industry will concentrate on making weight reductions of components that will be used in subsequent model years. It is not considered practical for the industry to use resources on design improvements for only a short-term weight savings of one or two model years. In MY 1981, the designs of most pickup trucks and vans will be at least 6 years old. Judging from historical trends, lighter vehicles resulting from major design revisions and newly designed smaller pickups and vans may be introduced. A 6-percent penetration of captive imports for both 4 X 2 and 4 X 4 NPA's was assumed for Chrysler, Ford, and G.M.

The reduction of vehicle performance offers another means of increasing fuel economy. As a general rule, a reduction in performance of 10 percent produces a 4-

Table 5.—Nonpassenger automobile fleet average fuel economy levels for two vehicle classes, by model year

NPA manufacturer's fleet	Vehicle class			
	Two-wheel drive <sup>1</sup>		Four-wheel drive <sup>2</sup>	
	1980	1981	1980	1981
Without captive imports.....	19.2	20.5	16.2	17.7
With 6 percent captive imports.....	19.7	21.0	16.6	18.0

<sup>1</sup>1979 standard: 17.2 mpg (with option of including all vehicles).

<sup>2</sup>1979 standard: 15.8 mpg for four-wheel drive, general utility vehicles.

percent improvement in fuel economy. The relationship does not hold for continued reduction of performance to drastic levels, and a point is reached where fuel economy does not increase and may actually decrease. There are also practical limitations to the amount of performance reduction that can take place while still preserving the essential utility characteristics of NPA's, such as minimum acceleration rates and gradeability minima.

A detailed analysis, with background information and a complete documentation of results, is being incorporated into the rulemaking support paper (RSP) for 1980 and 1981 NPA fuel economy standards, which is available in Docket 77-05 at NHTSA.

A draft environmental impact statement (DEIS) is being prepared, in cooperation with EPA, to determine the effect on air and water quality, on water use, and on a possible increase in vehicle noise because of smaller engines and increased use of diesel engines.

The results of anticipated material substitutions presently are being evaluated and are expected to show a small reduction in the use of steel and a small increase in use of plastics and aluminum.

The total impact on the environment should not be large, since the magnitude of change in use of materials, water usage, air quality, energy consumption, and other environmental factors appears to be less than the changes brought about by cyclic economic changes in the national economy.

The NHTSA Administrator plans to issue NPA fuel economy standards for MY 1980 and 1981 in the near future.<sup>1</sup> Average fuel economy levels proposed for the two model years and the various classes of vehicles and alternatives are shown in table 5.

<sup>1</sup>NPRM issued December 15, 1977.



## 5. FUEL ECONOMY REGULATIONS

In order to conduct and administer the passenger and nonpassenger automobile fuel economy regulatory program, the act required the promulgation of certain regulations regarding procedures, definitions, and reporting. The regulations shown in table 6 have been published.

### VEHICLE CLASSIFICATION

An NPRM published in October 1976 initiated rule-making to classify vehicles for the purposes of title V of the Motor Vehicle Information and Cost Savings Act. This classification is slightly different from those made under the Clean Air Act, the National Traffic and Motor Vehicle Safety Act, or for automotive industry purposes.

Title V states the definitional elements for "automobiles" of 6,000 pounds GVWR or less, and only the guiding elements are provided for vehicles that weigh between 6,000 and 10,000 pounds GVWR. Also of concern is the definition of "nonpassenger automobiles" and "automobiles capable of off-highway operations."

The final rule, published July 28, 1977, defines all these vehicles and creates "nonpassenger automobile" as a distinct class from "passenger automobile." Briefly, a passenger automobile is a passenger vehicle (i.e., a sedan, coupe, or station wagon, such as the Mercury Zephyr, Chevrolet Camaro, or Dodge Diplomat Wagon). The definition of passenger automobiles includes all those up to 10,000 pounds GVWR. Approximately 10 million new passenger automobiles are sold in the United States each year.

The NPA class includes pickup trucks, vans (both cargo and passenger carrying), recreational vehicles, and general purpose vehicles. Examples of nonpassenger automobiles are the Tradesman Van, Ford Ranchero, Chevy LUV, and Club Wagon. Four-wheel drive vehicles like the Jeep CJ-7 are classified as automobiles capable of off-highway operation. This is a special subclass of the more general nonpassenger automobile category.

At present, the only nonpassenger automobiles included in the definition are those 6,000 pounds GVWR or less, or about a third of the 2.5 million nonpassenger vehicles produced each year. A proposal to include vehicles up to 8,500 pounds GVWR in the NPA category, beginning with MY 1980, will be published soon for public comment.<sup>1</sup>

### MANUFACTURERS OF MULTISTAGE AUTOMOBILES

Some automobiles are manufactured in more than one stage. Examples of these vehicles are ambulances, chassis-mount campers, special body vans, and special purpose trucks that have special bodies or work-performing and load-carrying structures added to chassis-cabs.

The stages of multistage manufacture vary from vehicle to vehicle. At the least, there is one automobile man-

<sup>1</sup>NPRM published December 15, 1977.

Table 6.—Published regulations

Title	Date issued	Type
Vehicle Classification.....	7/28/77	Definitional
Manufacturers of Multistage Automobiles.....	7/28/77	Definitional
Reduction of Passenger Automobile Average Fuel Economy Standards.....	( <sup>1</sup> )	Procedural
Exemption from Average Fuel Economy Standards.....	7/28/77	Procedural
Automotive Fuel Economy Reports.....	( <sup>2</sup> )	Reporting

<sup>1</sup>Published 11/14/77.

<sup>2</sup>Published 12/12/77.

ufacturer who initiates the manufacture of the vehicle and another manufacturer who completes the manufacturing process. There may or may not be one or more intermediate manufacturers.

Section 501(8) of the act requires that rules be prescribed for determining which company is to be treated as the manufacturer of a multistage automobile for the purposes of the fuel economy rules. Following an NPRM that was published by NHTSA on February 14, 1977 (42 F.R. 9040), a final rule, Part 525: Manufacturers of Multistage Automobiles, was published in the *Federal Register* (42 F.R. 38369) on July 28, 1977. In most instances, the rule makes the initial manufacturer of the incomplete vehicle responsible for meeting the fuel economy rules, including those relating to automobile fuel economy standards, fuel economy labeling, and reports.

### REDUCTION OF PASSENGER AUTOMOBILE FUEL ECONOMY STANDARDS

The act provides that PA manufacturers may petition to reduce the average fuel economy standards applicable to passenger automobiles produced in MY 1978, 1979, and 1980 to compensate for any adverse fuel economy impact of more stringent Federal motor vehicle emissions, safety, noise, or damageability standards in those years. A rule will be published early in FY 1978<sup>2</sup> establishing the procedures to be followed in petitions for a reduction.

The rule requires the petitions to describe the technology actually used by the manufacturer to comply with applicable emissions, safety, noise, or damageability standards that reduce the fuel economy of the vehicle; describe any alternative or additional technology available to the manufacturer that would have lessened the impact on fuel economy; and state the reasons for not incorporating that alternative or additional technology, including a comparison of the fuel savings, economic costs, and leadtime requirements for the alternative technology and the technology actually used. The petition then must show the fuel economy level that the manufacturer would have achieved if 1975 standards had been applicable.

A petition for reduction will only be granted if NHTSA determines that the petitioner used a reasonably selected technology to comply with the applicable Federal emissions, safety, noise, or damageability standards and that his average fuel economy has been reduced by more than 0.5 mpg from the fuel economy level he would have achieved if the 1975 Federal standards had

<sup>2</sup>Rule published November 14, 1977 (42 F.R. 58938).

been applicable. If the petition is granted, the manufacturer will be assessed a civil penalty only if his average fuel economy is lower than the adjusted fuel economy standard. However, the manufacturer will only receive credits, to be applied against any past or future penalties, if his average fuel economy exceeds the unadjusted standard.

### EXEMPTION FROM AVERAGE FUEL ECONOMY STANDARDS

A NPRM published December 9, 1976, proposed a new regulation specifying requirements for petitions from manufacturers of less than 10,000 passenger automobiles per year for exemption from the generally applicable average fuel economy standards. A final rule substantially adopting this NPRM was published on July 28, 1977.

Exemptions will be granted only if NHTSA determines that the standard otherwise applicable is more stringent than the maximum feasible average fuel economy level that the low-volume manufacturer can attain. If an exemption is granted, NHTSA must establish a maximum feasible average fuel economy standard applicable to that manufacturer. This is done in one of three ways: A standard may be established for the specific manufacturer; classes, based on such factors as design or size, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or a standard may be established for all exempted manufacturers.

During 1977, petitions for exemption were received from six manufacturers: Avanti Motor Corporation, Rolls-Royce Motors, Checker Motors Corporation, Aston Martin Lagonda, Excalibur Automobile Corporation, and Maserati. After initial review of their petitions, all six petitioners were asked to submit additional information. Complete information has been obtained from Rolls-Royce and Checker, and a 30-day public comment period on their petitions has been opened by notice in the *Federal Register*. Each petitioner has asked for a 3-year exemption, the maximum allowable under the act. A summary of the low-volume manufacturer petitions received for exemption from average fuel economy standards is shown in table 7 for the affected model years.

### AUTOMOTIVE FUEL ECONOMY REPORTS

Paragraph (1), section 505(c) of the act, requires the Secretary of Transportation to promulgate rules specifying the form and content of reports to be submitted semiannually by each automobile manufacturer, stating



Table 7.—Alternative standards values requested by low volume petitioners for model years 1978 through 1980

Manufacturer	No. of vehicles produced for the United States annually	Model year		
		1978	1979	1980
		mpg	mpg	mpg
Avanti.....	180	15.6	NA <sup>1</sup>	NA
Rolls Royce.....	1,300	10.9	10.9	11.2
Checker.....	5,000	16.8	16.7	16.5
Aston Martin.....	60	11.0	11.4	13.0
Excalibur.....	250	12.0	12.0	14.0
Maserati.....	200	4.0	11.2	11.5
Federal average fuel economy standard.....		18.0	19.0	20.0

<sup>1</sup>NA = not available.

whether and how the manufacturer will comply with applicable average fuel economy standards. In response to this requirement, NHTSA issued a NPRM April 11, 1977, entitled, Automotive Fuel Economy Reports. A final rule will be published in early FY 1978.<sup>3</sup>

The semiannual reports must contain the manufacturer's projected average fuel economy and views on the representativeness of the projection; model-type fuel economy information; certain vehicle configuration technical information; differences in the technology and sales mix of the manufacturer's automobiles for the current model year and the immediately preceding model year; and a description of the manufacturer's advertising,

pricing, and dealer-incentive programs during the current model year that will aid the manufacturer in improving his average fuel economy.

The data received in the semiannual reports will enable NHTSA to monitor what each manufacturer is doing to comply with the applicable fuel economy standards, including both technological improvements and marketing strategies, and to assess the effectiveness of those efforts. The semiannual reports also will establish a continuing dialog between the industry and NHTSA, which will broaden NHTSA's understanding of the problems and capabilities existing in the automobile manufacturing industry.

<sup>3</sup>Rule published December 12, 1977 (42 F.R. 62374).

## 6. ENFORCEMENT AND COORDINATION WITH THE ENVIRONMENTAL PROTECTION AGENCY

NHTSA has several areas of compliance and enforcement responsibility under the provisions of the act. NHTSA is responsible for enforcement of the requirement that Gas Mileage Guides be prominently displayed by automobile dealerships and for compliance determinations and enforcement of PA and NPA fuel economy standards. NHTSA also must coordinate closely with EPA on fuel economy activities.

### GAS MILEAGE GUIDES

Under section 506 of the act, EPA is responsible for providing the consumer with fuel economy information in the form of gasoline mileage estimates for new automobiles. This is accomplished by means of a label attached by the manufacturer to the rear window of new automobiles and by means of the Gas Mileage Guide, a booklet that each new automobile dealer is required to furnish free in his showroom. The program has the following objectives:

- To provide comparable mpg operating information on passenger automobiles and on light-duty trucks.
- To inform consumers about the fuel economy (combined city and highway mpg) of vehicles, as this relates to individual automobile model characteristics.
- To promote the purchase of vehicles with good fuel economy.

EPA promulgated regulations concerning display and availability of the Gas Mileage Guides (40 F.R. 600.401-77 *et seq.*). These regulations, which are applicable to 1977 and later model years, require that:

- Each dealer shall prominently display, at each location where new automobiles are offered for sale, the EPA/FEA<sup>1</sup> Gas Mileage Guide or equivalent EPA-approved booklet.

<sup>1</sup>Now EPA/DOE, as of October 1, 1977.

- Each dealer shall display the guides in the same manner and in each location used to display brochures describing the automobiles offered for sale.
- Each dealer shall provide the guides without charge and in sufficient quantity to be available for retention by prospective purchasers upon request.

An excerpt from the 1978 Gas Mileage Guide is shown in figure 16.

On May 10, 1977, the NHTSA Administrator requested that each Regional NHTSA Administrator survey new automobile dealer showrooms in the vicinity of the city where his office was located. The purpose of the survey, conducted from May 20 to June 3, 1977, was to ascertain the extent to which dealers were complying with the EPA regulations. Approximately 40 percent of the dealers were found to be in compliance with current requirements regarding Gas Mileage Guide display and availability. The survey sample consisted of 222 dealers representing 18 automobile makes, distributed relatively uniformly throughout the Nation.

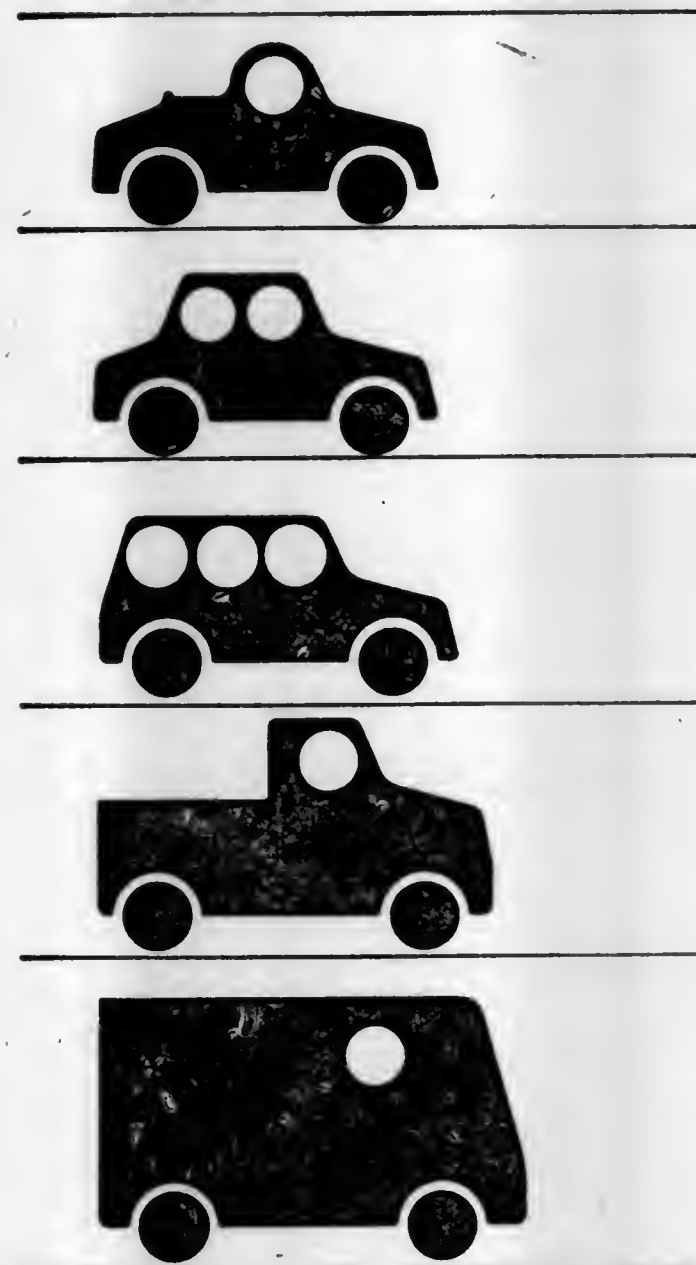
Based upon the above findings, NHTSA published a press release reflecting the results of this informal survey, with the intention of promoting voluntary dealer compliance with the requirements and encouraging publicity through industry channels (e.g., *Automotive News* and manufacturer dealer networks); and sent a letter to each of the approximately 26,000 dealers, informing and reminding them of their responsibilities pursuant to the regulations. This series of actions was intended to induce dealer compliance and thus promote public awareness and availability of fuel economy information.

Title V of the act places responsibility for enforcement of the Gas Mileage Guide regulations with NHTSA. As provided in section 508, failure to comply may result in a civil penalty of not more than \$10,000 for each violation. For purposes of assessing this penalty, each day of a continuing violation constitutes a separate violation. NHTSA currently is making plans for enforcement of the regulations.



# 1978 Gas Mileage Guide

First Edition  
September 1977



U.S. Environmental  
Protection Agency

## COMPACT CARS

Manufacturers		Fuel Economy				Vehicle Description			
Manufacturer Car Line	Combined MPG	Average Annual Fuel Costs	City MPG	Highway MPG	Engine Description CID/Cyl Type	Transmission	Fuel System	Body Type Includes: Passengers/ Truck or Cargo (C, F, L)	
CADILLAC SEVILLE	18	\$658	14	20	350/8	(GM-CAD)	A FI	4DR-95/13	
CHEVROLET NOVA	21	\$500	19	26	250/8		M 1	2DR-90/13	
	20	\$525	18	24	250/8		A 1	4DR-96/13	
	17	\$617	15	21	305/8		M 2	HTBK-90/ 16	
	19	\$552	18	22	305/8		A 2		
	17	\$617	15	21	350/8	(GM-CHEV)	A 4		
DODGE ASPEN	22	\$457	20	28	225/8		M 1	2DR-87/15	
	23	\$457	20	27	225/8		A 1	4DR-96/15	
	21	\$500	18	26	225/8		M 2		
	21	\$300	18	25	225/8		A 2		
	18	\$584	15	25	318/8		M 2		
	18	\$584	15	22	318/8		A 2		
	17	\$617	15	22	360/8		A 2		
	13	\$807	10	17	360/8		A 4		
FORD GRANADA	21	\$500	18	26	250(4.1L)/8		A 1	2DR-88/15	
	18	\$552	16	25	302(5.0L)/8		M 2	4DR-93/15	
	18	\$552	16	23	302(5.0L)/8		A 2		
LINCOLN- MERCURY MONARCH	21	\$500	18	26	250(4.1L)/8		A 1	2DR-88/16	
	18	\$552	16	25	302(5.0L)/8		M 2	4DR-93/16	
	19	\$552	16	23	302(5.0L)/8		A 2		
	18	\$584	16	23	302(5.0L)/8		A 2	4DR-92/15	
OLDSMOBILE OMEGA	19	\$552	18	26	231/8		M 2	2DR-90/14	
	21	\$500	18	26	231/8		A 2	4DR-96/14	
	17	\$617	15	21	305/8		M 2	HTBK-90/ 16	
	18	\$552	16	22	305/8		A 2		
PEUGEOT 504	30	\$300	28	34	141/4	(DIESEL)	M FI	4DR-90/10	
	28	\$321	25	31	141/4	(DIESEL)	A FI		
PLYMOUTH VOLARE	23	\$457	20	28	225/8		M 1	2DR-87/15	
	23	\$457	20	27	225/8		A 1	4DR-96/15	
	21	\$500	18	26	225/8		M 2		
	21	\$500	18	25	225/8		A 2		
	18	\$584	15	25	318/8		M 2		
	16	\$584	15	22	318/8		A 2		
	17	\$617	15	22	360/8		A 2		
	13	\$807	10	17	360/8		A 4		

Figure 16.—Excerpt from 1978 Gas Mileage Guide.

## NHTSA ENFORCEMENT OF AVERAGE FUEL ECONOMY STANDARDS

If EPA calculations of average fuel economy reported to NHTSA indicate that a manufacturer has failed to comply with average fuel economy standards, the manufacturer will be given an opportunity to present his case at a hearing and to make additional verification tests before penalties are assessed by the NHTSA Administrator. NHTSA has prepared draft regulations governing the procedures for such hearings and anticipates that the regulations will be published in early 1978.

As an additional step in preparation for enforcement of the standards through administrative hearings and possible litigation, NHTSA has initiated a review of the EPA fuel economy measurement system and equipment to identify potential errors that could distort EPA test results.

## NHTSA COORDINATION WITH EPA FUEL ECONOMY ACTIVITIES

Under section 503(d) of the act, EPA must promulgate regulations prescribing testing and calculation procedures for determining each manufacturer's average fuel economy. Close coordination between EPA and NHTSA is necessary on these procedures as well as on EPA emissions rulemaking and NHTSA fuel economy rulemaking. The act itself requires the EPA Administrator to consult and coordinate with the NHTSA Administrator in establishing EPA procedures.

NHTSA has worked with EPA in the following areas:

- EPA draft NPRM's and final rules on testing and calculation procedures were reviewed by NHTSA. NHTSA comments, corrections, and recommendations were presented to EPA for consideration in the rulemaking process. NHTSA's review included analysis of the projected effect of EPA rules on fuel economy standards issued or in preparation by NHTSA.
- NHTSA participated in bimonthly meetings set up by EPA with industry representatives for the purpose of communication on technical issues. Such topics as regulations and standards, advisory circulars, clean air, fuel economy labeling, and vehicle certification were discussed.
- NHTSA participated in a series of four public control symposiums conducted by EPA for the purpose of exchanging technical information related to calibration procedures, dynamometer characteristics, gas standards, laboratory correlation, and intralaboratory equipment quality control techniques.
- NHTSA participated in an EPA pilot program conducted during the first half of 1977 to facilitate implementation of title V of the act. The program, attended voluntarily by manufacturers, focused on computer programs, reporting formats, information required for calculating preliminary and final average fuel economy figures, and trial calculations. Information and data to be supplied by EPA to NHTSA at the end of MY 1978 were identified in this pilot program.



## 7. RESEARCH AND DEVELOPMENT

During the past 4 years, DOT has developed the capability to conduct comprehensive assessments of the impacts of proposed changes in the automobile transportation system due to fuel economy rulemaking. These impact assessments can be made in such areas as technology, engineering, manufacturing cost, cost to the consumer, corporate finance, marketing, and the economy. The capability for performing these assessments can be found in NHTSA's comprehensive R. & D. program. During FY 1977, implementation of the R. & D. program was carried out by private sector contracts, most of which were administered by TSC under the direction of the NHTSA Associate Administrator for R. & D., Office of Vehicle Systems Research, Energy Research Division. The objectives of the R. & D. program are to develop, maintain, and update the data bases and analytical tools necessary for rulemaking and policy formulation activities in the area of automotive energy conservation.

Appendix A details the major R. & D. contracts for FY 1977. In FY 1977, approximately \$5.1 million was spent on private sector contracts; \$7.3 million in contracts is planned for FY 1978. Major R. & D. reports produced to date are listed in appendix B.

### RESEARCH AND DEVELOPMENT ACCOMPLISHMENTS FOR FY 1977

- Developed the technical support for the 1979 NPA fuel economy standards rulemaking. Standards were issued by NHTSA in March 1977.
- Developed the technical support for the 1981-84 PA fuel economy standards rulemaking. Standards were issued by NHTSA in July 1977.
- Developed technical support for the proposed 1980-81 NPA fuel economy standards rulemaking. A NPRM was issued by NHTSA in early FY 1978.<sup>1</sup>
- Currently developing technical support for proposed 1984-86 PA fuel economy standards rulemaking. Standards will be proposed by NHTSA by January 1979.

<sup>1</sup>NPRM issued December 15, 1977.

### ACCOMPLISHMENTS BY RESEARCH AND DEVELOPMENT TASK AREAS

R. & D. is divided into five task areas: Assessment of Automotive Technology, Effects of Federal Standards on Fuel Economy, Industrial Analysis, Economic Analyses and Impact Evaluation, and Market Analyses and Impact Evaluation. Following is a description of each task area and a list of specific accomplishments.

#### Assessment of Automotive Technology

This task area deals with the identification and evaluation of production and projected hardware available to manufacturers for achieving fuel economy improvements. This includes both passenger and nonpassenger automobiles with less than 10,000 pounds GVWR (individually and in fleets) and encompasses weight and acceleration performance reduction, engine and drive train improvements, the use of alternative engines and transmissions, improved lubricants, reduced accessory losses, and reduced aerodynamic drag and rolling resistance. The task area has:

- Formulated a set of technological options that were analyzed and documented as reference reports in the docket for 1979 NPA average fuel economy standards.
- Applied the data base that was developed for the Automotive Energy Efficiency Program (AEEP) by TSC in support of nonpassenger and passenger automobile rulemaking activities.
- Expanded the AEEP data base to determine the impact on fuel economy for the following technologies: (1) lightweight internal combustion engines for low horsepower-to-vehicle-weight ratios for alternative emission levels, (2) advanced transmission subsystems such as additional gears and improved torque converter lockup devices, (3) improved techniques for estimating the potential of lighter weight components in automotive designs and the time to incorporate them, and (4) mass production capabilities for advanced engine designs as a func-

tion of vehicle control systems (emissions, fuel economy, and safety) complexity.

#### Effects of Federal Standards on Fuel Economy

The second task area deals primarily with possible fuel economy penalties of emission, noise, safety, and damageability standards (either in effect or under consideration). This project also deals with the effects of other Federal standards (occupational safety, health, and environmental) on manufacturing plants and production capabilities and has:

- Established a data base for analyzing the effects of other Federal automotive standards on vehicle fuel economy and manufacturing capability. Major emphasis was placed on establishing the relationships between fuel economy performance and emission levels for various control systems and alternative levels of occupant safety.
- Analyzed the impact on U.S. automobile manufacturers of present and future Federal motor vehicle emission standards as related to specific fuel economy schedules for 1979-80 nonpassenger automobiles and 1981-84 passenger automobiles.
- Evaluated the degree to which diesel engines could satisfy stringent oxides of nitrogen (NO<sub>x</sub>) standards while maintaining high fuel economy performance.
- Initiated noise control studies to determine if practical control systems could be designed for exterior and interior noise and the magnitude of the penalty to fuel economy.
- Initiated studies and evaluations on the relationship between future safety and damageability requirements and the resulting impact on fuel economy.
- Started the process of collecting information on changes in automotive industry energy needs to meet future production requirements and to estimate costs for changes in Federal standards [Occupational Safety and Health Administration (OSHA), EPA, etc.] that impact on manufacturers' facilities.

#### Industrial Analysis

This project addresses the evaluation of manufacturability and costs of technological improvements, both individually and in combinations, the assessment of manufacturers' capabilities and leadtimes in implementing fuel economy improvements, capital requirements and the feasibility of obtaining capital, and the evaluation of

each manufacturer's possible strategies in dealing with the standards. The task area has:

- Developed a data base system that provided support for analyzing manufacturing costs; capital, labor, and material requirements; consumer maintenance costs; and engineering risk estimates for alternative component designs.
- Assessed the manufacturing aspects (materials, labor, capital and costs) for future technologies and vehicles. Such items as innovative structures, engine line conversion for downsizing and gasoline-to-diesel fuel conversion were studied.
- Evaluated engineering design changes that show opportunities for major fuel economy benefits. One example is the application of materials that have improved durability along with a reduction in body metal thickness.
- Analyzed the potential for the automotive industry to raise capital and to satisfy labor and material requirements, production scheduling, and costs after consideration is given to present capacities, commitments of resources, materials, changeover intervals, and labor.
- Compared cost data obtained from manufacturers and suppliers for both vehicles and components to verify and calibrate the manufacturing cost data bases.

#### Economic Analyses and Impact Evaluation

The concerns of this task area are the identification and evaluation of impacts of fuel economy standards (and other related conservation actions) on automobile prices, automobile demand, and employment and on cost of ownership and operation of automobiles. Also, it deals with domestic competition, imports, and aggregated economic effects on the automotive sector of the economy, on the national economy, on petroleum and other national resources, on air quality, and on highway safety. An important consideration in these analyses is fuel availability and price. The project has:

- Modified and expanded on the economic data base used on the AEEP.
- Initiated the collection and analysis of recent business data for major U.S. automotive manufacturers to determine if companies could underwrite technological changes that could improve fuel economy. Additional data sources and analytical tools have been identified to determine what impact future fuel economy standards would have on



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manufacturers, consumers, suppliers, and national and international economies.

Market Analyses and Impact Evaluation

The last task area deals with the mutual interactions between automobile products offered by the manufacturers and the acceptance they receive in the marketplace in view of fuel economy standards, Government policies, and fuel prices. Both impacts of consumer behavior on manufacturers and impacts of products

offered on consumer choice and usage patterns are of interest. It has:

- Initiated studies to test consumer awareness of energy issues and their willingness to adapt to the vehicles that would be coming in the marketplace to meet the average fuel economy standards.
- Modified existing data bases and analytical techniques so that they could be applied more efficiently in the estimation of future automobile sales and mix.

APPENDIX A. RESEARCH AND DEVELOPMENT CONTRACTS FOR FY 1977

Title	Contract No.	Contractor	Start Finish	Amount (dollars)
Passenger Car Spark Ignition Engine Data Base	DOT-TSC-1269	Volkswagenwerk	9/29/76 12/29/77	486,257
Power Plant Evaluation	RA-76-23	Energy Research and Development Administration	3/31/76	75,000
Power Plant Evaluation	RA-77-7		3/14/77-3/78	250,000
Passenger Car Spark Ignition Data Base	DOT-TSC-1421	Chrysler Corp.	9/30/77 2/28/79	633,939
Passenger Car Spark Ignition Data Base	DOT-TSC-1420	Volkswagenwerk	9/30/77 2/28/79	495,072
Passenger Car Spark Ignition Data Base	DOT-TSC-1422	Fiat Centro Ricerche	9/30/77 2/28/79	468,462
Light-Weight Automotive Diesel Data Base	DOT-TSC-1423	Chrysler Corp.	9/30/77 7/30/79	1,024,842
Light-Weight Automotive Diesel Data Base	DOT-TSC-1424	Fiat Centro Ricerche	9/30/77 3/30/79	488,658
Nonpassenger Vehicle Weight Reduction Evaluation	DOT-TSC-1451	Pioneer Engineering and Manufacturing Co.	9/30/77 8/30/78	189,864
Confirmation of the Automotive Drivetrain Components to Improve Fuel Economy	DOT-TSC-1046	Arthur D. Little, Inc.	11/4/77 10/78	96,457
Review of Procedures for Determining Average Fuel Economy	DOT-NS-7-01771	Environmental Impact Center	9/30/77 3/31/79	126,344
Satisfaction of the Automotive Fleet Fuel Demand and Its Impact on the Oil Refinery Industry	DOT-TSC-1064	Stanford Research Institute	6/20/75 12/31/77	280,037
Automotive Manufacturing Assessment System	DOT-TSC-1350	Environmental Impact Center	10/21/76 9/77	74,572

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## Research and Development Contracts for FY 1977—Continued

Title	Contractor	Contract No.	Start Finish	Amount (dollars)
Automotive Manufacturing Corporate Cost Study	H.H. Aerospace Design Co., Inc.	DOT-TSC-1310	11/76 4/77	44,400
Impacts of Fuel Economy Standards for Passenger Cars and Light Trucks	Environmental Impact Center	DOT-TSC-1311	11/15/76 11/1/77	19,450
Automotive Manufacturing Cost Analysis	Jet Propulsion Laboratories	RA-77-9	1/77 10/77	30,000
Automobile Manufacturer Financial Data Development	Arthur D. Little, Inc.	DOT-TSC-1047	1/31/77 10/15/77	94,984
Manufacturing Technology Assessment	Pioneer Engineering and Manufacturing	DOT-TSC-1045	3/77 3/78	190,906
Automotive Manufacturers' Cost/Revenue, Financial and Risk Analysis	H.H. Aerospace Design Co., Inc.	DOT-TSC-1333	6/10/77 2/1/78	81,477
Operate and Expand the Automotive Manufacturing Assessment System	Corporate-Tech Planning, Inc.	DOT-TSC-1383	6/1/77 4/30/78	139,922
Corporate Strategies of Automotive Manufacturers	Harbridge House, Inc.	DOT-HS-7-01783	9/30/77 3/31/79	439,056
Corporate Strategies of Automotive Manufacturing	The Futures Group	DOT-HS-7-01784	9/30/77 3/31/79	213,240
Automobile Demand Analysis	Wharton EFA, Inc.	DOT-TSC-1072	8/20/75 9/16/77	176,423
Analysis of Automobile Related Energy Policy Proposals	Wharton EFA, Inc.	TS-13780	4/22/77 6/77	9,650
Long Run Macro-Economic Model Base and On-Line Data Base Access	Data Resources, Inc.	TS-14075	7/13/77 10/77	5,000

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Short-Term and Long-Term Forecasting Systems	Data Resources, Inc.	DOT-TSC-1129	8/11/77 3/31/78	17,300
Historical Data Covering Light Duty Trucks	Chilton Company	PR-322-0008	10/77 5/77	45,000
Historical Light-Duty Truck Data Base	Chilton Company	DOT-TSC-1338	3/8/77 10/77	25,740
Motor Vehicle Demand Analysis	Wharton EFA, Inc.	DOT-TSC-1435	10/26/77 12/78	84,137
Impacts of Automotive Fuel Economy Standards on Competition in the Automotive Industry	Charles Rivers Associates	DOT-HS-7-01786	9/30/77 3/31/79	190,025
Impacts of Automotive Fuel Economy Standards on Competition in the Automotive Industry	A.T. Kearney, Inc.	DOT-HS-7-01787	9/30/77 3/31/79	212,358
Automobile Marketing Methodology	Gilbert R. Green and Co., Inc.	DOT-TSC-1322	3/8/77 9/77	46,400
State of the Art Study in the Automotive Fuel Economy Program from the Standpoint of Manufacturers	Gilbert R. Green and Co., Inc.	DOT-TSC-1399	8/19/77 12/77	24,800
Study of Automobile Marketing Strategies, Pricing, and Product Planning	John Z. Delorean Co.	TS-13509	3/25/77 6/13/77	9,996
Study of Automobile Marketing Strategies, Pricing, and Product Planning	ASL Engineering, Inc.	TS-13632	3/25/77 9/21/77	9,975
Manufacturers' Policies Concerning Average Fuel Economy Standards	Robert Whorf & Associates	TS-13730	4/17/77 9/26/77	9,992
Stochastic Analysis of Future Vehicle Populations: An Evaluation of Marketing Effects of Alternative Federal Policies	The Regents of University of Michigan	TS-13729	4/19/77 3/15/78	10,000
Study of Consumer Automotive Preferences with Regard to Fuel Economy Measures	Rogers National Research, Inc.	DOT-TSC-1391	7/27/77 5/78	35,270

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Research and Development Contracts for FY 1977—Continued

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Title	Contractor	Contract No.	Start Finish	Amount (dollars)
Impacts of Fuel Efficient Vehicles on the Consumer	Charles Rivers Associates	DOT-HS-7-01178	9/30/77 3/31/79	183,758
Consumer Behavior Towards Fuel Efficient Vehicles	Charles Rivers Associates	DOT-HS-7-01779	9/30/77 3/31/79	158,556
Consumer Behavior Towards Fuel Efficient Vehicles	Cambridge Systematics, Inc.	DOT-HS-7-01780	9/30/77 3/31/79	210,251
Consumer Behavior Towards Fuel Efficient Vehicles	Market Facts, Inc.	DOT-HS-7-01781	9/30/77 3/31/79	93,427
Consumer Behavior Towards Fuel Efficient Vehicles	National Analysts, Inc.	DOT-HS-7-01782	9/30/77 3/31/79	141,816
Augmentation of Research and Analysis Capabilities for Timely Support of Automotive Fuel Economy Activities	Corporate-Tech Planning	DOT-HS-7-01789	9/30/77 3/31/79	297,011
Augmentation of Research and Analysis Capabilities for Timely Support of Automotive Fuel Economy Activities	South Coast Technologies, Inc.	DOT-HS-7-01790	9/30/77 3/31/79	249,033
Support for Analytical Tools for Automotive Fuel Economy Activities	H.H. Aerospace Design Co., Inc.	DOT-HS-7-01691	9/30/77 3/31/79	46,056
Support for Analytical Tools for Automotive Fuel Economy Activities	Automated Science Group, Inc.	DOT-HS-7-01708	9/30/77 3/31/79	48,907

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APPENDIX B. RESEARCH AND DEVELOPMENT REPORTS

1. "Data and Analysis for Nonpassenger Automobiles, Model Year 1979 Fuel Economy Standards," October 1976.  
Documents and addenda issued between July and September 1977 in support of a NPRM.
2. "Data and Analysis for 1981-1984 Passenger Automobile Fuel Economy Standards." Released to the public in February 1977, in order to support a NPRM. This is a Summary Report and four documents (a) Automobile Demand and Marketing, (b) Automotive Design and Technology, (c) Automobile Manufacturing Processes and Costs, and (d) Financial Analysis of the U.S. Automotive Manufacturers.
3. "Rulemaking Support Paper Concerning the 1981-1984 Passenger Automobile Average Fuel Economy Standards." Released to the public in July 1977, in support of a final rule promulgated by the Secretary of Transportation on June 26, 1977.
4. "Fuel Economy Potential for Model Year 1980 and 1981 Nonpassenger Automobile Fuel Economy."
5. "Automotive Manufacturers' Profiles Manual." Review draft issued in July 1977 for applications in analyses more general than those conducted in association with specific rulemaking actions.
6. "Analytical Tools Accounting Models and Data Bases Applicable to Automobile Fuel Economy Research." Review draft issued in July 1977 for similar applications.
7. "Disaggregated Financial Data and Analyses for the Domestic Motor Vehicle Manufacturers." July 1977. Used for the assessment of each major manufacturer's ability to underwrite technological changes for fuel economy improvements and the risks in doing so.

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## ACRONYMS AND ABBREVIATIONS

AEEP	Automotive Energy Efficiency Program	mpg	Miles Per Gallon
AMC	American Motors Corporation	mph	Miles Per Hour
ANPRM	Advance Notice of Proposed Rulemaking	MY	Model Year
BTU	British Thermal Unit	NHTSA	National Highway Traffic Safety Administration
DEIS	Draft Environmental Impact Statement		
DOE	Department of Energy	NO <sub>x</sub>	Oxides of Nitrogen
DOT	Department of Transportation	NPA	Nonpassenger Automobile
EIS	Environmental Impact Statement	NPRM	Notice of Proposed Rulemaking
EPA	Environmental Protection Agency	OAFE	Office of Automotive Fuel Economy
EPCA	Energy Policy and Conservation Act	OPEC	Organization of Petroleum Exporting Countries
FEA	Federal Energy Administration		
FEIS	Final Environmental Impact Statement	OSHA	Occupational Safety and Health Administration
FHWA	Federal Highway Administration		
FIA	Final Impact Assessment	PA	Passenger Automobile
FY	Fiscal Year	RSP	Rulemaking Support Paper
G.M.	General Motors	R. & D.	Research and Development
GVWR	Gross Vehicle Weight Rating	TEEP	Transportation Energy Efficiency Program
Mbd	Million Barrels Per Day	TSC	Transportation Systems Center
MIT	Massachusetts Institute of Technology	VW	Volkswagen

[FR Doc. 78-1605 Filed 1-20-78; 8:45 am]

[4810-22]

## DEPARTMENT OF THE TREASURY

Office of the Secretary

## CARBON STEEL BARS FROM THE UNITED KINGDOM

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of carbon steel bars from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. Because there is substantial doubt that an industry is being, or is likely to be injured as a result of these imports, this case is being referred to the United States International Trade Commission for a determination as to whether or not there is reasonable indication of injury while this investigation proceeds. If the Commission should find within 30 days that there is no reasonable indication of injury, this investigation will be terminated. Otherwise, the investigation will continue to a conclusion.

EFFECTIVE DATE: January 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

## SUPPLEMENTARY INFORMATION:

On December 5, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Armco Steel Corp. indicating a possibility that carbon steel bars from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "carbon steel bars" means bars of steel, other than alloy, provided for in item numbers 608.45 and 608.46 of the Tariff Schedules of the United States (TSUS).

Margins of dumping are alleged which, if based on a comparison with

prices in the home market, range from 2.6 percent to 12 percent. These margins have been computed from home market prices published by the Commission of the European Communities. To the extent the investigation to be undertaken reveals that actual sales prices in the home market have been at other than such published prices, the margins, if any, will be computed on the basis of such actual transactions.

There is evidence on record concerning injury or likelihood of injury to the U.S. steel industry from the alleged less than fair value imports. This evidence includes an increase in imports during the first nine months of 1977, when compared to the same period in 1976; declines in overall employment in the domestic steel industry; and, reduced profit margins for domestic firms producing carbon steel bars.

The evidence also indicates, however, that imports of carbon steel bars from the United Kingdom accounted for only 1.4 percent of domestic consumption during 1977. Furthermore, no evidence has been provided which establishes a causal link between imports from the United Kingdom and the injury alleged by the domestic industry. Therefore, on the basis of such evidence it has been concluded that there is substantial doubt of injury, or likelihood of injury to, or prevention of establishment of an industry in the United States by virtue of such importation from the United Kingdom. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 17, 1978.

[FR Doc. 78-1826 Filed 1-20-78; 8:45 am]

[4810-22]

## CARBON STEEL STRIP FROM THE UNITED KINGDOM

Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of carbon steel strip from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market. Because there is substantial doubt that an industry is being, or is likely to be injured as a result of these imports, this case is being referred to the United States International Trade Commission for a determination as to whether or not there is reasonable indication of injury while this investigation proceeds. If the Commission should find within 30 days that there is no reasonable indication of injury, this investigation will be terminated. Otherwise, the investigation will continue to a conclusion.

EFFECTIVE DATE: January 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Frank Andrysiak, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 5, 1977 information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Armco Steel Corporation indicating a possibility that carbon steel cold rolled sheets and coils are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

The class or kind of merchandise "cold rolled sheets and coils" alleged by petitioner to be sold at less than fair value included carbon steel cold rolled sheets classified under item number 608.87 of the Tariff Schedules of the United States (TSUS) and carbon steel strip provided for under item numbers 609.02, 609.03 and 609.04 of the TSUS. Since the cold rolled sheets from the United Kingdom which are the subject of this petition are currently the subject of another antidumping proceeding, notice of which was published in the FEDERAL REGISTER of December 2, 1977 (42 F.R. 61353), they are excepted from this investigation.

Therefore, this investigation is limited to carbon steel strip, which for purposes of this investigation means strip of steel, other than alloy, provided for



in item numbers 609.02, 609.03 and 609.04 of the TSUS.

The alleged margins of dumping, if based on a comparison with prices in the home market, range from 24 percent to 26 percent. These margins have been computed from home market prices established under the "Davignon Plan" of the European Community or from home market list prices. To the extent the investigation to be undertaken reveals that actual sales prices in the home market have been at other than such established or list prices, the margins, if any, will be computed on the basis of such actual transactions.

There is evidence on record concerning injury or likelihood of injury to the U.S. steel industry from the alleged less than fair value imports. This evidence includes an increase in imports in the first nine months of 1977, when compared to the same period in 1976; declines in overall employment in the domestic steel industry; and, reduced profit margins for domestic firms producing carbon steel strip.

This evidence also, indicates, however, that imports of carbon steel strip from the United Kingdom accounted for only 0.2 percent of domestic consumption during 1977. Furthermore, no evidence has been provided which establishes a causal link between imports from the United Kingdom and the injury alleged by the domestic industry. Therefore, on the basis of such evidence it has been concluded that there is substantial doubt of injury, or likelihood of injury to, or prevention of establishment of an industry in the United States by virtue of such importation from the United Kingdom. Accordingly, the United States International Trade Commission is being advised of such doubt pursuant to section 201(c) (2) of the Act (19 U.S.C. 160 (c) (2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

JANUARY 17, 1978.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

[FR Doc. 78-1823 Filed 1-20-78; 8:45 am]

[4810-22]

# CARBON STEEL PLATES FROM THE UNITED KINGDOM

## Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.  
ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of carbon steel plates from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone, 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 5, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Armco Steel Corp. indicating a possibility that carbon steel plates from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "carbon steel plates" means plates of steel, other than alloy, provided for in item numbers 608.84, 608.87, 609.12 and 609.13 of the Tariff Schedules of the United States (TSUS).

Margins of dumping are alleged which, if based on a comparison with prices in the home market, range from 38 percent to 44 percent. These margins have been computed from home market prices published by the Commission of the European Communities or from home market list prices. To the extent the investigation to be undertaken reveals that actual sales prices in the home market have been at other than such published or list prices, the margins, if any, will be computed on the basis of such actual transactions.

There is evidence on record concerning injury or likelihood of injury to the U.S. steel industry from the alleged less than fair value imports. This evidence includes an increase in im-

ports in the first nine months of 1977, when compared to the same period in 1976; declines in overall employment in the domestic steel industry; and, reduced profit margins for domestic firms producing carbon steel plates. It should also be noted that domestic shipments of these products decreased from 1974 through 1976.

Although the imports from the United Kingdom are small in relation to domestic consumption, there is currently in process an antidumping investigation of this same class or kind of merchandise from Japan. Cumulating the imports from the United Kingdom and Japan, those imports together accounted for approximately 11.6 percent of the United States market for this product during 1976. In assessing the injury caused by the alleged sales at less than fair value from the United Kingdom, it has been considered appropriate to cumulate the shares of the domestic market held by imports from each of the countries subject to investigation. The products appear to be fungible. Under such circumstances, it would be unrealistic to attempt to differentiate the alleged injury by imports from one country rather than another when it is the cumulative effect of all, occurring within a discrete time frame, that creates the problem.

Section 201(c)(2) of the Act, adopted as part of the Trade Act of 1974, requires the Secretary to refer a petition to the United States International Trade Commission for a determination of whether there is "no reasonable indication that an industry is being or is likely to be injured" if he has "substantial doubt" that imports of the subject merchandise at less than fair value are the cause of present or likely injury to an existing industry. Considering the evidence presented and available regarding imports from the United Kingdom, no "substantial doubt" has been determined to exist.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

JANUARY 17, 1978.

[FR Doc. 78-1824 Filed 1-20-78; 8:45 am]

[4810-22]

# CERTAIN STRUCTURAL CARBON STEEL SHAPES FROM THE UNITED KINGDOM

## Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.  
ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of certain structural carbon steel shapes from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Andrysiak, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 5, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from Armco Steel Corp., indicating a possibility that certain structural carbon steel shapes from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "certain structural carbon steel shapes" means angles, shapes, sections and sheet piling of steel, other than alloy, provided for in item numbers 609.80, 609.84, 609.88 and 609.96 of the Tariff Schedules of the United States (TSUS).

Margins of dumping are alleged which, if based on a comparison with prices in the home market, range from 68 percent to 76 percent. These margins have been computed from home market prices published by the Commission of the European Communities or from home market list prices. To the extent the investigation to be undertaken reveals that actual sales prices in the home market have been at other than such published or list prices, the margins, if any, will be computed on the basis of such actual transactions.

There is evidence on record concerning injury or likelihood of injury to the U.S. steel industry from the alleged less than fair value imports. This

evidence includes an increase in imports during the first 9 months of 1977, when compared to the same period in 1976; declines in overall employment in the domestic steel industry; and, reduced profit margins for domestic firms producing structural steel shapes. It should also be noted that domestic shipments of these products decreased from 1974 through 1976.

Although the imports from the United Kingdom are small in relation to domestic consumption, there is currently in process an antidumping investigation of this same class or kind of merchandise from Japan. Cumulating the imports from the United Kingdom and Japan, those imports together accounted for approximately 22.4 percent of the U.S. market for this product during 1976. In assessing the injury caused by the alleged sales at less than fair value from the United Kingdom, it has been considered appropriate to cumulate the shares of the domestic market held by imports from each of the countries subject to investigation. The products appear to be fungible. Under such circumstances, it would be unrealistic to attempt to differentiate the alleged injury by imports from one country rather than another when it is the cumulative effect of all, occurring within a discrete time frame, that creates the problem.

Section 201(c)(2) of the Act, adopted as part of the Trade Act of 1974, requires the Secretary to refer a petition to the U.S. International Trade Commission for a determination of whether there is "no reasonable indication that an industry is being or is likely to be injured" if he has "substantial doubt" that imports of the subject merchandise at less than fair value are the cause of present or likely injury to an existing industry. Considering the evidence presented and available regarding imports from the United Kingdom, no "substantial doubt" has been determined to exist.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 17, 1978.

[FR Doc. 78-1825 Filed 1-20-78; 8:45 am]

[4810-22]

# VISCOSE RAYON STAPLE FIBER FROM BELGIUM

## Antidumping; Withholding of Appraisal

AGENCY: U.S. Treasury Department.  
ACTION: Withholding of appraisal.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a tentative determination that viscose rayon staple fiber from Belgium is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. Appraisal for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested parties are invited to comment on this action not later than February 22, 1978.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

William Trujillo, Operations Officer, Office of Operations, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On June 17, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., alleging that viscose rayon staple fiber from Belgium is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER of July 22, 1977 (42 FR 37610-11). The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States.

It has been determined that a modification of the "class or kind" of merchandise used in the "Antidumping Proceeding Notice" is appropriate. The merchandise covered by this determination is "viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments)."



## TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of viscose rayon staple fiber from Belgium is less than the fair value, and thereby the foreign market value, of such or similar merchandise.

## STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

(a) *Scope of Investigation.* It appears that 100 percent of imports of the subject merchandise from Belgium were sold for export to the United States by S.A. Fabelta H.V. (Fabelta). The investigation was therefore limited to sales by Fabelta.

(b) *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162) was used since all export sales by Fabelta were made to a nonrelated importer in the United States. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period February 1 through July 31, 1977.

(c) *Purchase Price.* For the purpose of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the f.o.b. Antwerp price to the U.S. importer, adjusted for inland freight and loading costs.

(d) *Home Market Price.* For purposes of this tentative determination, the home market price has been calculated on the basis of the ex-factory price to an unrelated Belgian dealer who operates at the same level of trade as the U.S. importer. Purchases of the subject merchandise by the dealer constituted 19 percent of total home market sales by Fabelta in the investigatory period, considered an adequate basis for fair value comparisons.

Adjustments have been made for discounts granted on home market sales, differences in the merchandise sold to the United States and in the home market and differences in credit costs in the two markets. Claims for adjustments for expenditures on insurance

and technical assistance in the home market have been rejected because it does not appear that these costs were incurred on the specific sales under investigation.

(e) *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on 100 percent of the sales of the subject merchandise to the United States during the period of investigation. Those comparisons indicated that the purchase price of viscose rayon staple fiber was less than the home market price of such or similar merchandise. A margin of approximately 6.7 percent was found on all sales compared.

Accordingly, Customs officers are being directed to withhold appraisement of viscose rayon staple fiber from Belgium in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office not later than February 2, 1978. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than February 22, 1978. All persons submitting written views or arguments should avoid repetitious and merely cumulative material. Counsel for the petitioner and respondent are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in 10 copies.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective on January 23, 1978. It shall cease to be effective at the expiration of July 23, 1978 unless previously revoked.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 17, 1978.

(FR Doc. 78-1827 Filed 1-20-78; 8:45 am)

[4810-22]

## VISCOSE RAYON STAPLE FIBER FROM AUSTRIA

Discontinuance of Antidumping Investigation  
AGENCY: U.S. Treasury Department.

## NOTICES

ACTION: Discontinuance of anti-dumping investigation.

SUMMARY: This notice is to advise the public that it has been determined to discontinue the antidumping investigation of viscose rayon staple fiber from Austria. While prices to the United States during the period of investigation were below Austrian home market prices, the elimination of the price differential by the sole Austrian exporter, the provision of assurances of no future sales at less than fair value, and the presence of special circumstances, as detailed in the body of this notice, combine to warrant the discontinuance of the investigation.

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On March 4, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc., Valley Forge, Pa., alleging that viscose rayon staple fiber from Austria is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of April 12, 1977 (42 FR 19243).

A "Withholding of Appraisement" notice was published in the FEDERAL REGISTER of October 19, 1977 (42 FR 55857) with regard to viscose rayon fiber from Austria.

It has been determined that a modification of the "class or kind" of merchandise used in the "Withholding of Appraisement" notice is appropriate. The merchandise covered by this notice is "viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments)."

## FINAL DISCONTINUANCE

On the basis of the information developed in the Customs investigation, and for the reasons noted below, pursuant to §§ 153.33 (a)(3) and (e) of the Customs Regulations (19 CFR 153.33 (a)(3) and (e)), I hereby discontinue the antidumping investigation concerning viscose rayon staple fiber from Austria.

## STATEMENT OF REASONS ON WHICH THIS DISCONTINUANCE IS BASED

(a) *Scope of the investigation.* All known imports of viscose rayon staple fiber from Austria were manufactured by Chemiefaser Lenzing AG (Lenzing). Therefore the investigation was limited to this manufacturer.

(b) *Basis of comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison is between purchase price and home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since all export sales by Lenzing were made to an unrelated importer in the United States. Home market price, as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities to provide a basis for comparison.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was obtained concerning sales to the United States and in the home market during the period November 1, 1976, through April 30, 1977.

(c) *Purchase price.* For the purposes of this discontinuance, purchase price has been calculated on the basis of the ex-factory price to the U.S. importer, net of discounts.

(d) *Home market price.* For the purposes of this discontinuance, the home market price has been calculated on the basis of the delivered prices to unrelated Austrian purchasers. Adjustments have been made for cash discounts, quantity discounts, inland freight costs, advertising costs, technical assistance costs, costs of resolving complaints, warranty claims, credit costs, and for differences in packing costs. A claim for an export processing discount was not allowed since it has been determined that the conditions attached to its payment constituted a restriction on the disposition and use which affected the value of the merchandise by the amount of the discount. A claim for salaries paid to Lenzing personnel in providing technical assistance to customers and resolving complaints was disallowed as it could not be demonstrated that the expenses incurred were related to any particular sale or group of sales. Claims for additional adjustments for advertising costs and contributions to a trade institute have been disallowed as these expenses do not bear a direct relationship to the sales under consideration, and they could not be considered to have been incurred on behalf of the purchasers.

(e) *Results of fair value comparisons.* Using the above criteria, com-

parisons were made on all of the sales of the subject merchandise to the United States during the representative period. Those comparisons indicated that the purchase price of viscose rayon staple fiber was less than the home market price of such or similar merchandise.

It has been determined that all differences between home market price and purchase price would have been eliminated if an adjustment for the export processing discount had been allowed. In a prior antidumping investigation involving this product from Austria in 1961, an adjustment was granted to Lenzing's home market prices for this discount and a "Determination of No Sales at Less Than Fair Value" was issued (26 FR 6276). Lenzing has operated since that time under the assumption that an adjustment for this discount would be made in any future investigation under section 201(a) of the Act. Upon notification at the time of the tentative determination in the instant case that Treasury had changed its interpretation regarding this discount, Lenzing eliminated the export processing discount, thereby eliminating all price differentials between home market price and purchase price. Formal assurances were submitted through counsel that no future sales at less than fair value within the meaning of the Act would be made.

The order issued October 19, 1977, to withhold appraisement on the subject merchandise from Austria, the notice of which is cited above, is hereby terminated, effective on January 23, 1978.

This notice is published pursuant to § 153.33(e), Customs Regulations (19 CFR 153.33(e)).

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

JANUARY 17, 1978.

(FR Doc. 78-1822 Filed 1-20-78; 8:45 am)

[8240-01]

## UNITED STATES RAILWAY ASSOCIATION

[Docket 211-17]

## CONSOLIDATED RAIL CORP.

## Application for a Loan

Subsection (h) of section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corp. (ConRail), the National Railroad Passenger Corp., and any profitable railroad to which rail properties are transferred or conveyed pursuant to section 303(b)(1) of the Act under conditions and for pur-

## NOTICES

poses set forth in this subsection. Subsection (b) of section 211 requires that the Association publish notice of the receipt of any application thereunder in the FEDERAL REGISTER and afford interested parties an opportunity to comment thereon.

On March 1, 1976, ConRail submitted a preliminary application for a loan under the provisions of section 211(h) in the amount of \$230,000,000. Notice of this application was published in the FEDERAL REGISTER dated March 19, 1976. On March 29, 1976, ConRail supplemented its preliminary application by filing the certifications and exhibits required by "Procedures for Applications for Loans to Pay Obligations of Railroads in Reorganization," 49 CFR Part 922 (Loan Procedures), and requested an initial borrowing of \$34,024,000. On April 1, 1976, ConRail and the Association entered into a loan agreement which authorized initial borrowings by ConRail of \$34,024,000. On April 12, 1976, ConRail further supplemented its loan application with a request that the aggregate amount of the initial borrowings be increased to \$51,157,000. On April 15, 1976, the board of directors of the Association approved that request.

On July 12, 1976, ConRail filed a borrowing application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of \$35,778,533.21 and an increase of the maximum amount reserved to \$230,000,000.00. On July 29, 1976, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$8,182,352.21.

On November 18, 1976, ConRail filed a borrowing application pursuant to subsection 211(h) of the Act requesting, among other things, new borrowings of \$143,804,396.39 and a request for amendment of section 3.01 of the loan agreement to increase the maximum borrowing to \$203,143,749.60. On December 6, 1976, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$11,251,396.39.

On February 1, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting, among other things, new borrowings of \$107,761,877.76. On February 17, 1977, the executive committee of the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$107,761,877.76.

On March 16, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$25,333,400. On March 31, 1977, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$25,333,400.



On April 25, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$25,888,400. On April 29, 1977, the executive committee of the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$7,825,000, to be effective May 10, 1977.

On June 6, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$10,137,739.43. On June 30, 1977, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$10,137,739.43.

On June 22, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$15,060,000. On June 30, 1977, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$15,060,000.

On July, 20 1977, ConRail filed a new borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$18,030,000. On July 28, 1977, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$18,030,000.

On September 19, 1977 and September 22, 1977, ConRail filed a new borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$8,086,537.31 and \$18,643,403 respectively. On September 28, 1977, the board of directors of the Association approved an additional loan to ConRail in the principal amount of \$8,086,537.31, and approved, subject to the availability of section 211(h) funds, an additional loan in the principal amount of \$18,643,403.

On January 17, 1977, ConRail filed a borrowing application pursuant to section 211(h) of the Act requesting new borrowings of \$11,935,000. The applications include the certification and exhibits required by the loan procedures.

ConRail states that it will apply the \$11,935,000 as follows:

1. \$9,200,000 to the payment of certain nonemployee related obligations of the Erie-Lackawanna of which \$4,200,000 will be applied to suppliers, \$3,300,000 will be applied to railroads, and \$1,700,000 will be applied to non-employee personal injuries.
2. \$42,000 to the payment of pre-conveyance wage claims of the Erie Lackawanna.
3. \$2,500,000 to the payment of Federal Employer's Liability Act Claims of the Erie Lackawanna.
4. \$193,000 to the payment of pre-conveyance wage claims of the Penn Central Transportation Co.

Interested parties are invited to submit written comments relevant to

this application. Any such submissions must identify, by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, Room 2222, Transpoint Building, 2100 Second Street SW., Washington, D.C. 20595, on or before February 1, 1978, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5 p.m.

Dated at Washington, D.C., this 18th day of January, 1978.

EDWIN RECTOR,  
Assistant Secretary,  
United States Railway Association.  
[FR Doc 78-1806 Filed 1-20-78; 8:45 am]

## [7035-01]

INTERSTATE COMMERCE  
COMMISSION

[Notice No. 571]

## ASSIGNMENT OF HEARINGS

JANUARY 18, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 36667, *Chicago & North Western Transportation Co. v. The Bell Railway Co. of Chicago*, now assigned January 23, 1978, at Chicago, Ill., in Room 834 of the Everett McKinley Dirksen Building on January 23, 24, and 27, and Room 1614, on January 25 and 28, of the Everett McKinley Dirksen Building is being transferred to Room 1614 for hearing on January 23 through January 27, 1978, at Chicago, Ill.

AB 18 (Sub-No. 5), *Chesapeake & Ohio Railway Co., abandonment between Williamsburg and Elk Rapids, in Grand Traverse and Antrim Counties, Mich.*; AB 18 (Sub-No. 19), *Chesapeake & Ohio Railway Co., abandonment portion, Petoskey Subdivision between a point near Traverse City and Bay View, in Grand Traverse, Kalkaska, Antrim, Charlevoix, and Emmet Counties, Mich.*, and AB 18 (Sub-No. 20), *Chesapeake & Ohio Railway Co., abandonment portion, Traverse City and Petoskey Subdivisions between Manistee and Traverse City and the Northport Subdivision between Traverse City and Rennie, in Manistee, Benzie, Grand Traverse, and Leelanau Counties, Mich.*, now assigned March 7, 1978, at Traverse City, Mich.,

will be held at the V.F.W. Hall, 440 West Front Street.

MC 135684 (Sub-No. 45), *Bass Transportation, Inc.*, now assigned March 1, 1978, at St. Louis, Mo., will be held in Courtroom 3, 5th Floor, U.S. Courthouse and Customs, 1114 Market Street.

MC-F-13262, *Beaufort Transfer-Purchase-John Kleffner, d.b.a. Iberia Transfer, and MC-F-13263, Beaufort Transfer Co.-Purchase-Steve E. Bure, d.b.a. Iberia Express*, now assigned March 6, 1978, at St. Louis, Mo., will be held in Courtroom 3, 5th Floor, U.S. Courthouse and Customs, 1114 Market Street.

MC 75281 (Sub-No. 10), *Righter Trucking Co., Inc.*, now assigned March 2, 1978, at St. Louis, Mo., will be held in Courtroom 3, 5th Floor, U.S. Courthouse and Customs, 1114 Market Street.

MC 115162 (Sub-No. 376), *Poole Truck Line, Inc.*, now assigned February 28, 1978, at St. Louis, Mo., will be held at Courtroom 3, 5th Floor, U.S. Courthouse and Customs, 1114 Market Street.

MC-F-13210, *System 99-Purchase (portion)-O.N.C. Freight Systems*, now assigned February 28, 1978, at San Francisco, Calif., will be held in Room 510, 211 Main Street.

MC 113325 (Sub-No. 149), *Slay Transportation Co., Inc.*, now assigned March 3, 1978, at St. Louis, Mo., will be held in Courtroom 3, 5th Floor, U.S. Courthouse and Customs, 1114 Market Street.

MC 115311 (Sub-No. 224), *J&M Transportation Co., Inc.*, now assigned March 6, 1978, at Birmingham, Ala., will be held in GSA Conference Room 430, Federal Building, corner of 19th Street and Fifth Avenue.

MC 121664 (Sub-No. 23), *G. A. Hornady, Cecil M. Hornady, and B. C. Hornady, d.b.a. Hornady Brothers Truck Line*, now assigned March 1, 1978, at Birmingham, Ala., will be held in GSA Conference Room 430, Federal Building, corner of 19th Street and Fifth Avenue.

MC 141410 (Sub-No. 4), *Black Angus, Inc.*, now assigned February 28, 1978, at Birmingham, Ala., will be held in GSA Conference Room 430, Federal Building, corner of 19th Street and Fifth Avenue.

I&SM 29681, *Restructured LIL & A Class Rates, December 1977, S.M.C.R.C.*, now assigned January 25, 1978, at Washington, D.C., is canceled. The schedules have been canceled.

MC 105045 (Sub-No. 69), *R. L. Jeffries Trucking Co., Inc.*, now assigned January 31, 1978, in Houston, Tex., is canceled and application dismissed.

MC 135236 (Sub-No. 17), *Logan Trucking, Inc.*, now assigned January 30, 1978, at Chicago, Ill., is postponed indefinitely.

MC 142466 (Sub-No. 1), *Timber Products Transport, Inc.*, now assigned January 23, 1978, at Los Angeles, Calif., is canceled.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1896 Filed 1-20-78; 8:45 am]

## [7035-01]

[No. 572]

## ASSIGNMENT OF HEARINGS

JANUARY 18, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be pub-

lished only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION<sup>1</sup>

MC 113678 (Sub-No. 692), *Curtis, Inc.*, now assigned March 7, 1978, for hearing, in a hearing room to be later designated.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1897, Filed 1-20-78; 8:45 a.m.]

## [7035-01]

## OPERATING AUTHORITY APPLICATIONS

## Special Notice

JANUARY 18, 1978.

All interested persons are advised that commencing February 1, 1978, special orders will be promptly issued in all operating authority applications referred to the Office of Hearings for oral hearing. These orders will call upon all parties to confer promptly to determine whether any issues can be reduced or eliminated by amendment or otherwise. Applicants will have 30 days from the service date of the order to request approval of any proposed amendments. Protestants will have 45 days from the service date of the order to notify the Commission of their intent to participate in the hearing or to withdraw. Failure of a protestant to notify the Commission will be construed as a waiver of its right to further participation.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1936 Filed 1-20-78; 8:45 am]

## [7035-01]

[Notice No. 284]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 23, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

<sup>1</sup>This corrects the sub number 692 instead of 492.

No. MC-FC-77493. By application filed January 6, 1978, *GOLLOTT & SONS TRANSFER & STORAGE, INC.*, P.O. Box 468, Biloxi, Miss. 39533, seeks temporary authority to lease the operating rights of *GRAY VAN LINES, INC.*, 615 SW. 9th Street, Oklahoma City, Okla., under section 210a(b). The transfer to *GOLLOTT & SONS TRANSFER & STORAGE, INC.*, of the operating rights of *GRAY VAN LINES, INC.*, is presently pending.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1898 Filed 1-20-78; 8:45 am]

## [7035-01]

[Notice No. 285]

MOTOR CARRIER BOARD TRANSFER  
PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30 days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed

sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77307, filed January 13, 1978. Transferee: *PRECISION RIGGING & CONTRACTING CO.*, 4915 West Knox Street, Tampa, Fla. 33614. Transferor: *FLORIDA TERMINALS & TRUCKING CO.*, 1014 East Lanstreet Road, Orlando, Fla. 32809. Applicant's representative: *Felix A. Johnston, Jr.*, 1030 East LaFayette Street, Tallahassee, Fla. 32301. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 96770 (Sub-No. 8), issued September 13, 1972, as follows: Modular and prefabricated homes and buildings designed to be assembled and erected at a permanent site complete or knocked down, or in sections including all component parts, fixtures, appliances, equipment, supplies, and materials incidental to the erection and completion of such homes or buildings and when shipped in connection therewith, restricted against hitchball and tow-away operations and transportation of mobile homes as defined by the Florida Public Service Commission, over irregular routes and irregular schedules between all points in the State of Florida. Transferee presently holds no authority from this Commission but is affiliated with *Flamingo Heavy Hauling Co.*, a motor carrier holding interstate authority under MC 96921. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77409, filed January 12, 1978. Transferee: *FAST FREIGHT TRANSFER, INC.*, 1075 East 21st Street, Hialeah, Fla. 33013. Transferor: *ABC BAG & CRATE CO., OF BELLE GLADE, INC.*, d.b.a. *ABC TRANSFER*, 1040 Northwest 12th Street, Belle Glade, Fla. 33430. Transferor's representative: *John P. Bond, Esq.*, 2766 Douglas Road, Miami, Fla. 33133. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate of Registration, No. MC 121716, issued February 19, 1974, as follows: General commodities, with certain exceptions, between specified points in Florida over specified regular routes. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-1899 Filed 1-20-78; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6714-01]

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## FEDERAL DEPOSIT INSURANCE CORPORATION.

### NOTICE OF AGENCY MEETING

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:50 p.m. on January 18, 1978, the Federal Deposit Insurance Corporation's Board of Directors met by telephone conference call to consider certain matters which it determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), required its consideration on less than seven days' notice to the public.

The following matter was considered in open session:

*Development of plans, in coordination with the other Federal bank and thrift institution regulators, for promulgating regulations to carry out the new Community Reinvestment Act.*

The following matter was considered in closed session, pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)), on the basis of the Board's determination, on motion of Chairman LeMaistre, with Director Heimann seconding the motion, that the public interest did not require consideration of the matter in a meeting open to public observation:

*Request from an insured bank, pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)), for financial assistance from the Corporation in the form of the Cor-*

*poration's purchasing specified assets of the bank.*

In scheduling the meeting, the Board determined that no earlier notice of the meeting was practicable. Requests for information concerning the meeting may be directed to Mr. Alan R. Miller, Executive Secretary of the Corporation, at 202-389-4446.

Dated: January 18, 1978.  
For the Federal Deposit Insurance Corporation.

ALAN R. MILLER,  
Executive Secretary.

[S-144-78 Filed 1-19-78; 2:06 pm]

[6740-02]

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## FEDERAL ENERGY REGULATORY COMMISSION.

JANUARY 19, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 19, 1978, 10 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. RM74-16, Natural Gas Companies' Annual Report of Proved Domestic Gas Reserves; FPC Form No. 40.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

[S-141-78 Filed 1-19-78; 10:48 am]

[6210-01]

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## FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, January 25, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

### SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following

items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Possible amendments to the Board's Rules Regarding Delegation of Authority authorizing the Reserve Banks to grant extensions of the time within which a bank or company must dispose of bank shares acquired in the course of securing or collecting a debt previously contracted.

2. Possible amendment or interpretation of Regulation Y (Bank Holding Companies) relating to presumption of continued control of transferred assets and activities. (Proposed earlier for public comment: docket No. R-0083.)

3. The Board's 1977 Annual Report to Congress on Equal Credit Opportunity.

### DISCUSSION AGENDA

1. Proposed publication for comment of a revised trade regulation rule under the Federal Trade Commission Improvement Act concerning "Preservation of Consumers' Claims and Defenses." (Proposed earlier for public comment: docket No. R-0019.)

2. Proposal to amend the descriptive billing provisions of Regulation Z (Truth in Lending) as they relate to cash advance checks. (Proposed earlier for public comment: docket Nos. R-0087 and R-0093.)

3. Proposed revisions to the Federal Reserve form: "Monthly Survey of Loan Commitments" (FR 18a).

4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 17, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[S-139-78 Filed 1-19-78; 9:33 am]

[6750-01]

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## FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, January 23, 1978.

PLACE: Room 532 (open); Room 540 (closed), Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to public.

### MATTERS TO BE CONSIDERED:

Portions open to public: (1) Oral argument in Jay Norris Corp., et al., Docket 9054.

Portions closed to the public: (2) Executive Session for consideration of disposition in Jay Norris Corp., et al., Docket 9054, immediately following oral argument.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-146-78 Filed 1-19-78; 3:54 pm]

[7035-01]

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JANUARY 19, 1978.

## INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9 a.m., Thursday, January 26, 1978.

PLACE: Office of Chairman O'Neal, Room 3130, Interstate Commerce Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open Informal Conference.

### MATTERS TO BE CONSIDERED:

To facilitate general communication of information and ideas among members of the Commission as to general matters of common concern with respect to the Commission and its work. There will be no discussion or determination of any specific pending proceeding or agency action and there will be no formal agenda.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, Telephone, 202-275-7252.

[S-150-78 Filed 1-19-78; 3:54 pm]

[7555-01]

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## NATIONAL SCIENCE BOARD.

TIME AND DATE: January 19, 1978—Open Session: 1 p.m. to 5 p.m.; January 20, 1978—Closed Session: 8:30 a.m. to 4 p.m.

PLACE: Room 540, 1800 G Street NW., Washington, D.C. 20550.

STATUS: Change in Agenda.

### MATTERS TO BE CONSIDERED:

Addition to portions closed to public: Added item, Consideration of Proposed Legislation.

## SUNSHINE ACT MEETINGS

3239

### CONTACT PERSON FOR MORE INFORMATION:

Miss Vernice Anderson, Executive Secretary, 202-632-5840.

[S-140-78 Filed 1-19-78; 9:33 am]

[4910-58]

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## NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 1883, January 12, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, January 19, 1978, 9:30 a.m. (NM-78-31).

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below; the first three items will be open to the public, the fourth item will be closed (Exemption 9B of the Government in the Sunshine Act):

1. *Aircraft Accident Report*—Allegheny Airlines, Inc., Douglas DC-9, N99VJ, Philadelphia, Pa., June 23, 1976.

2. *Discussion*—NTSB public hearings and how rotation among the members will be established.

3. *Discussion*—Selection of railroad accidents to investigate.

4. *Discussion*—Report by the Bureau of Technology on Boeing 747 aircraft, as requested by the Imperial Iranian Air Force.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-426-8860.

[S-148-78 Filed 1-19-78; 3:54 pm]

[4910-58]

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## NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 2813, January 19, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, January 26, 1978, 9:30 a.m. (NM-78-51).

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below:

1. *Aircraft accident report*—Southern Airways, Inc., DC-9-31, N1335U, New Hope, Ga., April 4, 1977.

2. *Marine accident report*—Collision of SS *Marine Floridian* with the Ben-

jamin Harrison Bridge, near Hopewell, Va., February 4, 1977.

3. *Railroad accident report*—Rear end collision of two ConRail freight trains, Stemmers Run, Baltimore, Md., June 12, 1977.

4. *Aviation special study*—Emergency Locator Transmitters: An Overview.

5. *Discussion*—Letter to the Secretary of State concerning international aviation investigations and NTSB Order 6220.1, Board policy regarding participation in international aircraft accident investigations.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-426-8860.

[S-149-78 Filed 1-19-78; 3:54 pm]

[7910-01]

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## RENEGOTIATION BOARD.

DATE AND TIME: Wednesday, January 25, 1978; 10 a.m.

PLACE: Conference, Room 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED: Special Board meeting concerning contracting officer's authority.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 18, 1978.

GOODWIN CHASE,  
Chairman.

[S-142-78 Filed 1-19-78; 10:48 am]

[7910-01]

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## RENEGOTIATION BOARD.

DATE AND TIME: Thursday, January 19, 1978; 2 p.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTER TO BE CONSIDERED: Division meeting concerning MBAssociates, fiscal year ended April 1, 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.



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Dated: January 18, 1978.

GOODWIN CHASE,  
Chairman.

[S-143-78 Filed 1-19-78; 10:48 am]

[8120-01]

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TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, January 26, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—Personnel actions—None.

B—Consulting and personal service contracts:

1. Renewal of consulting contract with Dr. Frank E. Perkins, Cambridge, Mass.—Division of Water Management.

C—Purchase awards:

1. Req. No. 822183—High density spent fuel storage racks for Watts Bar nuclear plant.

2. Req. No. 823463—Miscellaneous steel turbine foundation added parts for Hartsville and Phipps Bend nuclear plants.

3. Req. No. 554786—Truck-mounted cranes for construction pool equipment.

4. Req. No. 822606—Mechanical water strainers for Hartsville and Phipps Bend nuclear plants.

5. Req. No. 823255—Requirement contract for type II portland cement for proposed Yellow Creek nuclear plant.

6. Req. No. 557519—75,000-pound GCWR 6x4 diesel truck tractors, including additional equipment, for TVA garage, Muscle Shoals, Ala.

7. Req. No. 553591—Indefinite quantity term contract for galvanized structural steel for transmission line towers and laced and low profile substation steel for any TVA project or warehouse.

D—Project authorizations.

1. No. 3309—Convert the Carthage, Tenn., 161-13-kV substation to 161-46-13-kV.

#### SUNSHINE ACT MEETINGS

2. No. 3311—Wood pyrolysis demonstration (in collaboration with Maryville College).

E—Fertilizer items—None.

F—Power items:

1. Lease agreement with city of Murray, Ky.—Section of TVA's Kentucky Dam-Murray District 69-kV transmission line in Calloway County, Ky.

2. Lease and amendatory agreement with Volunteer Electric Cooperative (Decatur, Tenn.) covering lease of Mayland substation and Mayland-Ravenscroft 69-kV line under revised guidelines for facilities ownership.

3. Lease and amendatory agreement with city of Chattanooga, Tenn., and North Georgia Electric Membership Corporation—Oglethorpe 161-kV substation.

G—Real property transactions:

1. Sale of permanent recreation easement to Moor's Resort, Inc., affecting 29.5 acres of Kentucky reservoir land, Marshall County, Ky.—Tract XGIR-879RE.

2. Sale of permanent highway easement affecting a portion of the Nashville Power Service Center property, Davidson County, Tenn.—Tract XNVSC-7H.

3. Abandonment of certain existing road rights-of-way and acceptance of new road rights-of-way affecting a portion of Chickamauga Reservoir land—Tract XCR-51.

4. Filing of condemnation suits.

H—Unclassified:

1. Policy statement relating to TVA implementation of title VI of the Civil Rights Act of 1964.

2. Revised policy statement relating to equal employment opportunity.

3. Settlement agreement with Fulton Shipyard—Contract dispute proceeding.

4. Settlement agreement with Ecdyne Corp. concerning repair and modification of Browns Ferry nuclear plant cooling towers.

5. Adoption of supplemental resolution authorizing 1978 series A bonds.

6. Resolution authorizing the Chairman and certain executive officers to take further action relating to issuance of sale of 1978 series A bonds.

Date: January 19, 1978.

#### CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information also is available at TVA's Washington Office, 202-566-1401.

[S-145-78 Filed 1-19-78; 3:54 pm]

[6335-01]

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U.S. COMMISSION ON CIVIL RIGHTS.

JANUARY 19, 1978.

DATE AND TIME: Monday, January 30, 1978, 9 a.m.-4:30 p.m.; 7 p.m.-8 p.m. Tuesday, January 31, 1978, 9 a.m.-5:30 p.m.

PLACE: Departmental auditorium, Department of Commerce, Constitution Avenue between 12th and 14th Streets NW. (open to public). U.S. Commission on Civil Rights, 1121 Vermont Avenue NW., Room 512, Monday, January 30, 1978, 7 p.m.-8 p.m. (closed to public).

STATUS: Part of the meeting will be open to the public and part of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public, Monday, January 30, 9 a.m.-4:30 p.m., consultation on "Battered Women: Issues of Public Policy."

MATTERS TO BE CONSIDERED: Portion closed to the public, Monday, January 30, 7-8 p.m., 1121 Vermont Avenue NW., Room 512.

I. Review and approve regional advisory committee membership.

II. Review draft report on "State of Civil Rights."

MATTERS TO BE CONSIDERED: Portion open to the public, Tuesday, January 31, 9 a.m.-5:30 p.m., consultation on "Battered Women: Issues of Public Policy."

FOR FURTHER INFORMATION CONTACT:

Loretta Ward, Public Affairs Unit, 202-254-6697.

[S-147-78 Filed 1-19-78; 3:54 pm]

MONDAY, JANUARY 23, 1978  
PART II



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human  
Development Services—  
Administration For  
Children, Youth, and  
Families—Children's  
Bureau

PROPOSED FISCAL YEAR  
1978 CHILD ABUSE  
AND NEGLECT RESEARCH  
AND DEMONSTRATION  
PRIORITIES



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[4110-12]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Office of Human Development Services, Ad-  
ministration for Children, Youth and Fam-  
ilies, Children's Bureau

NATIONAL CENTER ON CHILD ABUSE AND  
NEGLECT

Proposed Fiscal Year 1978 Child Abuse and  
Neglect Research and Demonstration Prior-  
ities

ACTION: Notice of proposed research  
and demonstration priorities.

SUMMARY: This notice states the re-  
search and demonstration (R&D) pri-  
orities that the Children's Bureau's  
National Center on Child Abuse and  
Neglect proposes to initiate in Fiscal  
Year 1978 under the Child Abuse Pre-  
vention and Treatment Act (Pub. L.  
93-247). This notice is being published  
in order that the final R&D priorities  
for this fiscal year may incorporate  
appropriately the expertise and best  
thinking in the field.

Comments on these proposed pri-  
orities or suggestions on other priorities  
are invited. No proposals, concept  
papers, or other forms of application  
should be submitted at this time.

DATE: In order to be considered, com-  
ments must be received no later than  
March 24, 1978.

ADDRESS: Comments should be sent to:  
Director, National Center on Child  
Abuse and Neglect (NCCAN), Chil-  
dren's Bureau, P.O. Box 1182, Wash-  
ington, D.C. 20013.

FOR FURTHER INFORMATION  
CONTACT:

Director, NCCAN/CB, at the above  
address.

SUPPLEMENTARY INFORMATION: This  
statement announces the pro-  
posed research and demonstration pri-  
orities to be funded in fiscal 1978  
under the Federal Child Abuse Pre-  
vention and Treatment Act, Pub. L.  
93-247. Public review of these pro-  
posed priorities is being sought in  
order to draw upon the experience, ex-  
pertise, and most advanced thinking of  
persons in the field and to maximize  
the potential benefits of the child  
abuse and neglect research and dem-  
onstration program.

Pursuant to Pub. L. 93-247, the Chil-  
dren's Bureau's National Center on  
Child Abuse and Neglect (NCCAN)  
conducts activities designed to assist  
and enhance national, state, commu-  
nity, and citizen efforts to prevent, iden-  
tify, and treat child abuse and neglect.  
The activities include: Conducting re-  
search and demonstrations; providing  
technical assistance; gathering, analyz-  
ing, and disseminating information

and data on research and programs,  
through a clearinghouse; providing  
grants to eligible States for strength-  
ening and improving their child abuse  
and neglect programs; and coordinat-  
ing Federal activities in child abuse  
and neglect with those of other Feder-  
al agencies, through the Federal Advi-  
sory Board on Child Abuse and Ne-  
glect. Thus, there are many activities  
other than research and demon-  
stration which require staff and financial  
support by CB/NCCAN.

Previous CB/NCCAN research and  
demonstration activities have tended  
to approach issues of child abuse and  
neglect prevention and treatment  
broadly, in order to develop a basic  
knowledge base, e.g., multidisciplinary  
treatment services to parents for var-  
ious types of child abuse and neglect  
in enriched project settings and the  
use of 24-hour hotlines and central  
registers. The proposed research and  
demonstration priorities for fiscal year  
1978 begin to refine definitional, diag-  
nostic, and service approaches to  
target attention to specific forms of  
child maltreatment. The proposed pri-  
orities also emphasize that demon-  
stration projects with modest budgets  
can be institutionalized into on-going  
service programs more readily than pro-  
jects with large budgets. The priorities  
are based also on major shifts in em-  
phasis from increasing public aware-  
ness to improving prevention and  
treatment services, and to a focus on  
treatment for the child, as well as par-  
ents. Additionally, emphasis is placed  
on improving the functioning of public  
child protective agencies.

Another underlying theme, building  
on the past generalized treatment  
center demonstrations, is an emphasis  
on the crosscutting, multi-agency ap-  
proach to the delivery of treatment  
services. Many agencies other than the  
child protection agency deliver vital  
treatment services. This theme in-  
cludes testing hypotheses that are in-  
tended to provide information on  
methods of maximizing the quality, ef-  
ficiency, and effectiveness of human  
service programs related to child abuse  
and neglect.

A final, underlying theme is that all  
proposed priorities include a particu-  
lar sensitivity to the special cultural  
and linguistic needs of minority chil-  
dren (Blacks, Hispanics, Asian Ameri-  
cans and Native Americans) and their  
families.

The experience of the first genera-  
tion of CB/NCCAN research and dem-  
onstration projects has also resulted in  
the identification of gaps in informa-  
tion, knowledge, and the testing of de-  
signs. The following areas of concern  
are addressed through the proposed  
projects:

**Epidemiological knowledge.** To learn  
about the characteristics, extent,  
causes, and effects of child abuse and

neglect in order to determine the  
unmet needs of children and families.

**Treatment.** To increase the quality  
and quantity of treatment services  
provided by community-based human  
service agencies and to determine  
what forms of child maltreatment re-  
quire more intense supervision  
through child protective agency moni-  
toring.

**Child Protective Services.** To im-  
prove the ability of child protective  
agencies to receive and investigate re-  
ports, provide 24-hour emergency ser-  
vices, develop and implement service  
plans and, when necessary, initiate  
court action.

**Prevention and Self-help.** To in-  
crease the quality and quantity of ser-  
vices provided by community-based  
human service agencies to encourage  
self-referrals and to prevent "high-  
risk" situations from becoming overt  
child maltreatment.

**Juvenile Courts.** To increase the  
ability of juvenile and family courts  
(a) to adjudicate child protective cases  
promptly, accurately, and fairly, and  
(b) to determine, implement, and moni-  
tor appropriate orders of disposition.

**Institutional Child Abuse and Ne-  
glect.** To further the development of  
independent investigations, in order to  
prevent and to take corrective action  
in cases of institutional child maltreat-  
ment.

**Resource Enhancement.** To encour-  
age advocacy by non-service as well as  
service providers at national, state and  
community levels in order to improve  
the quality and quantity of preventive,  
protective, and treatment services  
available.

All of the proposed priorities in this  
notice, except the evaluations (No. 5,  
8, and 10), would be conducted by  
grant. For each priority, a project  
title, the number of projects, the ap-  
proximate funding level, the duration  
of the projects, statements on the im-  
portance and purpose of the project,  
the background of the project, the  
proposed methodology, and the future  
utilization of project findings are  
given.

Competitive extension of regional re-  
source projects is also proposed, based  
on the Senate bill extending the Act,  
which authorizes "... giving special  
consideration to continued Federal  
funding of child abuse and neglect  
programs or projects (previously  
funded by the Department of Health,  
Education, and Welfare) of national or  
regional scope and demonstrated ef-  
fectiveness." All proposed priorities  
are subject to the limits and require-  
ments of program authority under the  
extension of the Act, as finally en-  
acted.

Specific comments and suggestions  
are solicited concerning each of the  
priorities described below. In addition,  
reviewers are invited to suggest any

additional research or demonstration  
priorities. Suggested additional pri-  
orities would be most helpful if they  
were presented in the same format  
and with the same topical areas as the  
priorities described in this announce-  
ment. "No proposals, concept papers,  
or other forms of application should  
be submitted at this time." Any such  
submissions will be discarded. In order  
to maintain a procedure fair to every-  
one, applications will be accepted only  
in response to the final Priority State-  
ments. A summary of them will be  
published in the FEDERAL REGISTER.

All grant applications received in re-  
sponse to the final Priority State-  
ments will be reviewed by the Admin-  
istration for Children, Youth and  
Families' Child and Family Research  
Review Committee. Requests for con-  
tract proposals, i.e., the evaluations of  
demonstration projects (No. 5, 8, and  
10), will be published and will be an-  
nounced in the Commerce Business  
Daily of the Department of Com-  
merce. All proposals for contracts are  
reviewed by Federal panels according  
to the regulations of the Department  
of Health, Education, and Welfare.

No acknowledgement will be made of  
the comments received, but all of  
them will be considered in finalizing  
the child abuse and neglect research  
priorities. In addition, all persons com-  
menting on the proposed priorities will  
be placed on the child abuse and ne-  
glect mailing list and will be sent the  
final research and demonstration pri-  
ority statement, which will serve as  
the invitation for research and demon-  
stration grant applications. It is anti-  
cipated that the priority statements will  
be announced and sent out in the  
Spring of 1978 and grants awarded in  
September, 1978, subject to Depart-  
mental approvals and the availability  
of funds.

PROPOSED PROJECT DESCRIPTIONS

(a) EPIDEMIOLOGICAL KNOWLEDGE

PROJECT TITLE: LONGITUDINAL RESEARCH  
ON CHILD MALTREATMENT: EXPLANA-  
TORY CONCEPTS AND DEVELOPMENTAL  
CONSEQUENCES FOR THE CHILD AND  
FAMILY

NUMBER, COST, AND DURATION OF  
PROJECTS

Four grants at \$150,000 each for  
fiscal year 1978, 1979, and 1980; 4th  
year at \$40,000.

IMPORTANCE OF THE PROJECT

Research on the dynamics of fam-  
ilies involved in child maltreatment  
over time is scarce. Most research in-  
gores the historical events and the  
social contexts in which families are  
embedded. Ecologically valid studies  
over time would permit the develop-

ment of explanatory hypotheses lead-  
ing to sounder theories concerning  
maltreatment of children.

PURPOSE OF THE PROJECT

The specific intent is to develop the-  
ories based upon a holistic examina-  
tion of abuse and neglect that takes  
into consideration historical and eco-  
logical factors, the family, and the  
transition of time. These theories are  
necessary to guide policy and program  
development relating to services, tech-  
nical assistance and research.

BACKGROUND

There are now over a hundred re-  
search projects that have attempted to  
identify the significant "causes" of  
abuse and neglect through the study  
of demographic, social, and psycho-  
logical attributes of the parents and  
child. In the aggregate the results are  
not consistent though certain charac-  
teristics of the mother and child  
appear more frequently than others:  
age of mother, social isolation, knowl-  
edge and competence in child rearing,  
family stress, vulnerable child de-  
manding more attention, poverty, and  
poor housing.

Despite definitional, sampling and  
methodological problems, various the-  
ories have emerged: (1) The economic,  
political, and social factors and the as-  
sociated value premises impact upon  
the family with resultant conse-  
quences for the parents and child; (2)  
most families living in adverse circum-  
stances do not maltreat their children  
and only those guardians with psycho-  
logical problems, low intelligence, or  
lack of child rearing skills are prone to  
maltreatment; (3) the child is unwan-  
ted and this is manifested by poor ma-  
ternity care leading to prematurity or  
congenital handicapping conditions of  
the infant; (4) the mother has devel-  
oped a pathological attachment to the  
child or is an infantile mother charac-  
terized by the apathy-futility syn-  
drome.

These and other theories can only  
be tested through longitudinal re-  
search which looks at the settings,  
events, and circumstances affecting  
the family overtime.

METHODOLOGY

There are two approaches to longi-  
tudinal research: (1) Study new cohorts  
samples specifically for studying child  
maltreatment; (2) "piggy-back" on ex-  
isting longitudinal research in which a  
sub-sample of the cohorts are iden-  
tified with maltreatment. The former  
approach is economically feasible  
through methodological developments  
since the early 1960's in life span and  
life course research. By combining

prospective and retrospective methods,  
data can be collected on two genera-  
tions. The "piggy-back" approach is  
far less costly but depends upon iden-  
tifying appropriate cohorts that will  
have a sufficient number of maltreat-  
ment cases. Several such research pro-  
jects use a high-risk cohort which  
would have the highest probability of  
containing maltreatment cases.

UTILIZATION

The results from this research would  
provide essential guidance for policy  
and planning at the Federal level. It  
would have immediate impact upon  
future research direction and method-  
ology and direct the use of scarce re-  
sources on the most promising leads.

(b) TREATMENT

(2) PROJECT TITLE: CLINICAL DEMONSTRATIONS  
OF SPECIALIZED TREATMENT: ADO-  
LESCENT MALTREATMENT, SUBSTANCE  
ABUSE RELATED MALTREATMENT, AND  
NEGLECT

NUMBER OF PROJECTS

	Projects
Adolescent abuse and neglect .....	3
Substance abuse related child mal- treatment .....	3
Neglect .....	3
Collaborative .....	1
Total .....	10

COST AND DURATION

3 years at \$120,000 per project annu-  
ally.

IMPORTANCE

The present generation of treatment  
demonstration projects has identified  
gaps in treatment knowledge concern-  
ing the following situations: (1) ADO-  
lescent abuse and neglect; (2) drug or  
alcohol related abuse; and (3) all forms  
of neglect. Adolescent abuse entails  
the direct participation of the parents  
and the adolescent in the diagnostic  
assessment, treatment plan, and ser-  
vices. Alcohol or drug related abuse or  
neglect involves multi-problem fam-  
ilies in which both parents and chil-  
dren are in jeopardy. There are about  
three times as many cases of neglect  
as abuse. These are invariably long-  
term and chronic situations of family  
dysfunction.

PURPOSE

To validate through clinical field re-  
search various treatment approaches  
to these difficult problems.

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## BACKGROUND

Between fiscal year 1974 and fiscal year 1977, a total of 32 child abuse and neglect demonstration treatment projects provided undifferentiated services for all cases of high risk and confirmed maltreatment. Much useful information was contributed by this effort relating to costs, organizational sponsorship, administrative structure, case management and treatment techniques, and community impact. Those treatment demonstrations have used a generalist orientation. Demonstrations of the provision of more specialized treatment services are needed.

## EXPECTED FINDINGS

These projects are designed to generate information concerning the intake procedures (coordination with police in adolescent and substance abuse cases, especially), methods to increase motivation and improve capacity to utilize services by the involved families, and the viable differential approaches which appear to create positive movement by the clients. They will also indicate the training needs, levels of skill and the diversity of services that are necessary to work with these problems. Particularly important will be an understanding of the length of time necessary to work with these families and the ability of the agency and the client to sustain that relationship. Important information will also be generated concerning decisions related to removing the child for either a temporary or permanent placement (in foster care).

## METHODOLOGY

This entire effort is envisaged as a collaborative clinical field study with independent, but cooperative investigators. The overall design includes the funding of the nine clinical demonstration projects and one collaborative research project, as described above.

Proposals will be invited from interested investigators and clinical facilities to examine in depth the treatment of a cohort in one of the three problem areas, using a formal rather than a naturalistic research design. Projects will be required to work cooperatively with the one collaborative Research project and the outside evaluation (No. 5). These projects will focus on the generic elements common to all projects and provide a forum for the development of common definitions, protocols, and where applicable, procedures useful in the conduct of complex clinical demonstrations. This strategy is based upon the initiation of a critical mass of studies that are independently designed and conducted while the common elements are investigated independently.

## UTILIZATION

The knowledge gained from this field research will be of immediate

## NOTICES

value to agencies involved with these types of cases. It will also lay the foundation for possible future demonstration projects which might examine systems and cost issues necessary for the administration of programs.

## (3) PROJECT TITLE: CLINICAL DEMONSTRATIONS OF THE TREATMENT OF SEXUAL ABUSE

## NUMBER, COST, AND DURATION OF PROJECTS

Four grants at \$120,000 per project annually for 3 years.

## IMPORTANCE

The present generation of treatment demonstration projects has identified a significant gap in treatment knowledge concerning those involved in sexual abuse. Sexual abuse of children, especially in cases of incest, is perhaps one of the least understood and, consequently most mishandled forms of child maltreatment. Estimates of the number of cases of sexual abuse per year nationwide range upward from 50,000.

## PURPOSE

To validate through clinical field studies various approaches to treating families, including the children, involved in sexual abuse.

## BACKGROUND

Sexual abuse involves the criminal justice system and the child protective system. It is considered a gross violation of community standards and moral beliefs. It is particularly distressing to professionals who are called upon to deal with it. An earlier study indicated that there often is as much harm done to the child by the system's handling of the case as the trauma associated with the abuse.

## EXPECTED FINDINGS

Techniques for the investigation, intake and diagnosis, treatment of the parents and child, and the utilization of community resources for such cases. The projects will also generate knowledge relating to whether the child should be placed in temporary or long-term permanent placement. Equally important will be the knowledge generated about staff skills, training needs, support systems, and caseload composition, e.g., should workers be assigned caseloads consisting solely of sexual abuse cases. Upon closer examination we expect to learn more about the varied structure, functions and dynamics of the families involved in sexual abuse.

## METHODOLOGY

Proposals will be invited from interested clinical facilities and investigators except those associated with hos-

pitals. NIMH and LEAA have funded several demonstrations in hospital settings relating to sexual abuse. These proposed projects will complement the demonstrations based in hospitals with demonstrations based in social service agencies, mental health centers, and the courts which are actively involved with sexual abuse.

These projects will be required to cooperate with the Collaborative Research Project (No. 2), and the outside evaluation (No. 5), along with the other clinical projects proposed under No. 2, for the same reasons.

## UTILIZATION

The information generated by these projects will be of immediate value to a variety of agencies involved with sexual abuse. This information will also provide the basis for curriculum development at the pre-service and in-service settings involved in training staff.

## (4) PROJECT TITLE: CLINICAL DEMONSTRATIONS OF TREATMENT FOR ABUSED AND NEGLECTED CHILDREN

## NUMBER, COST, AND DURATION OF PROJECTS

Five grants at \$80,000-\$150,000 per grant for each of 3 years.

## IMPORTANCE OF PROJECT

An estimated million children are abused/neglected every year. The protective services system seeks to assure the physical safety of the case reported to them and may direct a variety of services to the involved parents. However, there are very few treatment, rehabilitative, or developmental services for the children, apart from medical care.

## PURPOSE OF PROJECT

To develop and evaluate a variety of treatment services for abused/neglected children with special attention to the differing age ranges, particularly 0-5 and 6-12, to facilitate the child's social, emotional and educational development and adjustment.

## BACKGROUND

Research indicates that abused and neglected children show a high incidence of developmental disabilities. These physical and medical difficulties are accompanied by a range of social, emotional and educational disturbances. However, while there is no specific, detailed pattern which could be described as the profile of abused children, many can be described as having a very low or inadequate self-concept, and as being unable to relate to other people, particularly adults, in any trust relationship. Even when treatment services directed to parents are successful in stopping the maltreat-

ment, they do not address improving the child's adjustment.

One project which regularly assessed child development and competence while the parents were under treatment documented a continuing deterioration in the children's development, even though the parental treatment was progressing satisfactorily. In addition, children are frequently held to be responsible for instigating abuse through provocative behaviors.

Other findings indicate a very high correlation between abuse/neglect and the onset of status offenses and juvenile delinquency involvement at a later date.

On the behavioral level, these children are not usually distinguished from other emotionally disturbed or developmentally disabled children. As such, they receive treatment, but such treatment is not provided jointly to the parents, nor is it related to treatment being provided to the parents by another agency. Further, the critical act of putting the child and the parents back together again at a new level of functioning is usually not attempted.

## EXPECTED FINDINGS

That treatment models can be developed and demonstrated which: (1) Teach parents new and more appropriate interactional patterns, preferably in group settings; (2) diagnose children and develop specific and individualized treatments centering on coping skills, interactional modes with adults and other children; and (3) develop and describe a process for child-family interaction which begins under carefully controlled settings and proceeds into the home and independent control by the parents.

## METHODOLOGY

A CPS public agency must apply jointly with a day care/Head Start facility or an elementary public school system. Many elements of the child treatment mode, e.g., community health resources, community mental health services, the wide range of school services available for disabled or handicapped children are available and must be utilized. A project should include a Children's Treatment Coordinator who is a part of the CPS agency. Diagnosis, treatment plans and training of day care, Head Start and school personnel should be provided by the Child Protective Agency.

Treatment services should not be purchased by the special project. Grant money may be used to develop community resources which are funded under health, educational, mental health or social services at the State, county or Federal level. Teachers and guidance personnel should be included in multidisciplinary team reviews.

## NOTICES

Each project must have a clinical research specialist who is responsible for the overall research input. Such an individual shall also be responsible for additional clinical studies as needed, and shall provide the government with a description of the methods of diagnosis, development of treatment plans, and outcomes for children and families. It is strongly advised that such a researcher be involved in the original development of the project proposal.

## UTILIZATION

Too frequently, local day care and school system staff have no established design to follow in treating problems of learning disabilities on a family basis. If effective designs can be developed for the use of school and community resources within the school context, they might be disseminated to the entire elementary school system.

## PROJECT TITLE: EVALUATION OF CLINICAL DEMONSTRATIONS OF THE TREATMENT OF CHILD ABUSE AND NEGLECT

## NUMBER, COST AND DURATION OF PROJECT

1 contract at \$200,000 for 3 years and \$100,000 for 4th year.

## IMPORTANCE OF PROJECT

An outside evaluation of the projects under Nos. 2, 3, and 4 must be carried out in order to assess the implementation and related cost, child protection system impact, and community impact issues across projects; to glean and record important program findings; and to maximize dissemination of these findings in a manner which engenders supports, and facilitates replication efforts in other settings.

## PURPOSE

This evaluation will assess the processes utilized and outcomes of demonstration efforts by the project to (1) identify the degree to which distinct child abuse and neglect problems require unique investigative and treatment approaches and (2) develop and test replicable total case management strategies.

## BACKGROUND

There will be a total of 18 three-year projects demonstrating the clinical handling of sexual abuse, children's treatment, adolescent abuse, drug and/or alcohol related abuse or neglect, and child neglect (Nos. 2, 3, and 4, above) (and one collaborative research project).

## EXPECTED FINDINGS

The projects under numbers 2, 3, and 4 are grouped together and will be evaluated as a group because the hypothesis underlying them is that the prognosis for families (and children)

with the presenting problems discussed above can be significantly improved through the application of investigative and treatment approaches that have been modified and/or designed to meet their particular needs.

For each of the particular presenting problems described above:

(1) These projects are expected to identify specialized: (a) Intake procedures, (b) investigative procedures, especially for adolescent abuse cases, (c) emergency services, (d) case planning and management, (e) use of multidisciplinary teams, (f) referrals to community agencies, (g) resort to civil and criminal court action, and (h) termination and follow up. (2) The Children's treatment projects, especially, are expected to identify easily replicable physical, emotional, and cognitive treatment techniques, such as special education, individual and group counseling, and play, art, and dramatic therapy for children, involving parents as appropriate. (3) All of the projects are expected to: (a) Identify the types of families needing such care, (b) determine the most cost effective development and techniques of providing such services as: lay therapists, parent surrogates, home management, intensive parent/child clinics (in both residential and day settings), as well as more traditional parent education, individual and group counseling and psychiatric services, and concrete services, and (c) define case termination and/or permanent planning considerations.

## METHODOLOGY

Routine evaluation processes will be required, including the planning and use of information gathering aids, site visits, and analyses.

## UTILIZATION

The evaluation is expected to provide impact and efficiency data that will be widely disseminated to (1) child protective agencies, (2) State policymakers and legislators, (3) professional and community-based human service agencies that might be capable of providing similar services, (4) child advocacy organizations, and (5) schools of social work.

## (6) PROJECT TITLE: CHILD PROTECTIVE SERVICES DEMONSTRATIONS OF CHILD PROTECTIVE AGENCY PROGRAM IMPROVEMENTS

## NUMBER, COST AND DURATION OF PROJECTS

10 grants at \$80,000-\$120,000 each annually for 2 years.

## BACKGROUND

Most child protective agencies report problems of large caseloads, too few resources for diagnosis and treatment, weak administration and supervisory practices, and consequently high staff



"burn out" rates. Child abuse projects funded as demonstrations have shown the economic feasibility of a number of successful interventive techniques. However, in general, few designs have been incorporated into ongoing agency activities.

#### IMPORTANCE OF PROJECT

There are over 3,000 local child protective agencies in this country serving over 500,000 children each year. Child protective agencies are increasingly aware of a variety of improved methods to deliver and manage services but most of them have not installed such program improvements and integrated them into on-going programs. The facility with which such improved components can be added to on-going programs must be demonstrated so that they will be widely implemented.

#### PURPOSE OF THE PROJECTS

These projects will demonstrate ways in which small amounts of funds can be used to substantially improve the delivery of child protective services through the installation of additional and/or modified program components.

#### EXPECTED FINDINGS

It is expected that the functioning of child protective agencies can be substantially improved by the addition and/or modification of specific program components, not requiring substantial additional funding. The projects will identify cost effective program components and the best means of their installation and institutionalization.

#### METHODOLOGY

Grants will be awarded to 10 child protective agencies at the State, sub-State regional, or Standard Metropolitan Statistical Area (SMSA) level. Each project will install one or more new or modified program components in three geographically separate sites at which it presently provides services. An effort will be made to fund projects in demographically diverse settings. Each project will be required to specify the particular program components to be installed at each site. Such program components may include: 24-hour intake services, hotlines, multidisciplinary teams, group work and other therapeutic approaches beyond one-to-one therapy, parent aides, paraprofessionals, and volunteers, cultural and linguistic responsiveness, and internal management, supervision, and accountability procedures. Each project will also identify three additional sites which are demographically and programmatically comparable, but at which no additional or modified program components are installed. Through an outside evaluation involv-

ing all sites (see project No. 8) the impact of the various program components will be measured with regard to: (1) Cost, (2) child protective system impact, and (3) community impact.

#### UTILIZATION

The information gained and examples set by these projects will be communicated to (1) the Nation's over 3,000 public child protective agencies, (2) State social administrators, legislators, and other policymakers, (3) child advocacy organizations, and (4) schools of social work, for their possible use.

#### (d) PREVENTION AND SELF-HELP

#### (7) PROJECT TITLE: DEMONSTRATION OF CHILD PROTECTION AGENCY MANAGEMENT OF SELF-REFERRALS

#### NUMBER, COST AND DURATION OF PROJECTS

Four grants at \$150,000 for each annually for 2 years.

#### IMPORTANCE

Since motivation and self-awareness are important elements in any effort to change behavior, both public and private agencies seek ways in which to build upon the motivation of families who seek their help voluntarily. Many public child protection agencies, which are accustomed to assuming a high degree of involuntary intervention, are uncertain as to how to sensitively handle self-referrals, while private agencies are equally concerned about referring their voluntary clients to a mandated and sometimes impersonal system of reporting, investigation and protection. Thus, a demonstration effort which attempts to maximize the willingness of families to request assistance through the careful management of services which are both appropriate and acceptable, would be a key part of a coordinated public/private strategy aimed at avoiding duplication of services, enhancing early prevention efforts, increasing agency accountability and cooperation, and insuring that cases are not permitted to fall between the public and private sectors.

#### PURPOSE

These projects will demonstrate ways in which child protective agencies can work cooperatively with private agencies to develop systems for the case management and treatment of self-referrals which are responsive to the needs and special concerns of voluntary clients. In addition, procedures for establishing accountability for voluntary, private treatment of identified abuse and neglect cases and referral of high risk cases to sources outside the formal child protection system will be developed. Efforts will be aimed at the development of a com-

prehensive service network from intake to followup which will provide compassionate, fair, and voluntary services to self-referred families.

#### BACKGROUND

Increased public awareness concerning the availability of treatment for child abusing and neglect families has increased the rate of self-referrals in recent years. According to statistics of reported CA/N cases from 31 States, approximately 7 percent (or 6,700) of the cases reported to public child protection agencies fall into the category of self-referral. An even greater number of self-referrals from families whose problems include or potentially include child maltreatment are believed to be received by private family service agencies each year.

A key issue for both public and private service agencies involves ways in which they can be responsive to the needs and fears of self-referred families by providing supportive services in a nonthreatening environment, while maintaining accountability to the formal child protection system. Although some individual CPS agencies have modified their procedures in an effort to improve the handling of self-referrals, for most public agencies, caseloads are too large, available resources are too few, and too little is known about the needs of voluntary clients to establish a management system for the sensitive and appropriate handling of self-referrals. Private agencies, hospitals, and mental health professionals, on the other hand, which often see themselves as the most appropriate long-term resources for their own self-referred caseload, need a system of accountability to the mandated CPS agency which does not jeopardize the therapeutic relationship established with abusive and neglectful families under their care.

#### METHODOLOGY

Four grants will be awarded to State, regional or SMSA public child protection agencies. Each project will be responsible for coordinated self-referral program components in three geographically separate sites at which it presently provides services. An effort will be made to fund projects in demographically and culturally diverse settings. Each project will be required to document the cooperation of the appropriate community prevention and treatment referral resources.

Each project will also identify one additional site which is demographically and programmatically comparable, but at which no additional self-referral programs are installed. Through an outside evaluation (No. 8) involving the sites in this project and in No. 6, the impacts of the presence of the various specific self-referral components will be measured with regard to: (1)

Cost, (2) client impact, (3) child protective system impact, and (4) community impact.

#### UTILIZATION

The information gained and the program components developed will be communicated to the more than 3,000 public child protective agencies across the country. It is expected that reporting and referral guidelines, model contracts of inter-agency cooperation, and specialized procedures for the management and treatment of voluntary clients will be utilized by CPS agencies both to restructure their own systemic management of self-referred cases, and to improve community coordination and handling of self referrals.

#### (8) PROJECT TITLE: EVALUATION OF PUBLIC CHILD PROTECTIVE AGENCY PROGRAM IMPROVEMENT AND MANAGEMENT OF SELF-REFERRAL PROJECTS

#### NUMBER, COST, AND DURATION OF PROJECTS

One contract at \$225,000 (FY 78), \$275,000 (FY 79) and \$75,000 (FY 80).

#### IMPORTANCE

An evaluation of the demonstrations in numbers 6 and 7 (Agency Program Improvement and Management of Self-Referrals) will be conducted in order to provide information about the effectiveness of these methods of technology transfer.

#### PURPOSE

This evaluation will assess the process utilized and outcomes of various approaches to using small amounts of funds to substantially improve the delivery of child protective services.

#### BACKGROUND

The projects under No. 6 and No. 7 are grouped together for evaluation purposes because the generic hypothesis is that the service delivery systems can be significantly improved through a small investment in technology transfer.

#### METHODOLOGY

Routine evaluation processes will be required, including the planning and use of information gathering aids, site visits, and analyses.

#### UTILIZATION

Should the projects prove cost-effective, the evaluation may have a significant impact on planning and operations, especially at the local and State levels. Agencies may institutionalize tested and proven designs.

#### (9) PROJECT TITLE: DEMONSTRATIONS OF COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROJECTS

#### NUMBER, COST, AND DURATION OF PROJECT

10 grants at \$120,000 (1st year), \$100,000 (2nd year), and \$70,000 (3rd year) per grant.

#### IMPORTANCE OF PROJECT

Almost all communities have human service resources that are not fully brought to bear to help prevent and treat CA/N. These projects are meant to show how such services can be made part of community-wide strategies and how this can be done with limited funds. Greater use and coordination of existing community agencies for prevention and treatment of actual and high risk situations should result. In addition, the preventive impact of highly targeted supportive services (such as services in hospital delivery and new born facilities) will also be assessed. This experience will be translated into models of effective coordination for replication in all States.

#### PURPOSE

These projects seek to demonstrate how already existing human services in such settings as schools, mental health centers, family service centers, day care programs and medical facilities (1) can prevent child abuse and neglect by encouraging self-referrals providing early services to vulnerable (high-risk) families, (2) can assist child protective efforts through prompt identification and reporting of known and suspected cases, and (3) can assist diagnostic and treatment efforts by accepting referrals from child protective agencies.

#### BACKGROUND

Based on current research findings and the experience of the first group of child abuse demonstration treatment projects, we know that many of the families reported to child protective agencies have a history of previous personal and family problems and have been subjects of concern to schools and other community agencies. At best, these families may have received segmented and sporadic assistance insufficient to stop the process of family deterioration before it reached actual abuse or neglect. If agencies are alert to these "early warning signals" and if early services are made available to these families in a non-threatening atmosphere, then real progress in preventing child maltreatment will be possible.

Even after the child protective services unit becomes involved effective treatment may often be provided by other agencies. Furthermore, any attempt to create the broad range of

treatment services necessary to deal with complex child abuse and neglect situations within child protective agencies would be a costly duplication of existing resources not likely to receive the support of budgeting authorities.

#### EXPECTED FINDINGS

The hypothesis underlying these projects is that, even without infusions of large amounts of additional funds, community human service agencies can help reduce the level of child abuse and neglect in a community by providing preventive services to vulnerable families and by accepting referrals for treatment from child protective agencies. These projects are expected to (1) develop means of identifying vulnerable (high-risk) families, (2) identify those early services most effective in preventing child abuse and neglect, (3) identify those service elements of their present programs of most value in the treatment of cases referred by child protective agencies, and (4) demonstrate that these services are accessible at a feasible cost.

#### METHODOLOGY

Ten grants will be awarded to direct service agencies, able to install program components in three geographically separate sites each at which they presently provide services related to child abuse and neglect. This includes health, mental health, school, law enforcement, and private social service agencies. Public social service agencies providing protective care are excluded.

Each project will be required to specify the particular early services or referral services they will provide at each site and will also be required to document the agreement of the appropriate child protective agency to make referrals for treatment. Such services may include: for medical centers—pre and peri-natal counseling, post-natal follow-up (including home visitors), and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) and well-baby clinic family counseling; for schools—parent education programs for parents and/or teenagers, and school guidance and family counseling services; for family service centers—parent counseling and training services (including infant stimulation and nutrition programs), marital and family stress counseling, respite child care, and emergency family shelters; for mental health centers—individual and group therapy and community education; for day care and other preschool programs—parent education, crisis nursery, parent involvement and mutual support programs and therapeutic services for children.

Each project will also identify three additional sites which are demographically and programmatically comparable, but at which no additional prevention



## NOTICES

and/or treatment components will be installed. Through an outside evaluation involving all sites, No. 10, the impacts of the presence of the various specific prevention and treatment components will be measured with regard to: (1) Cost, (2) client impact, (3) child protective system impact, and (4) community impact.

Because these projects are also designed to demonstrate the degree to which prevention and treatment services can be integrated into existing programs without large amounts of additional funding, there will be a planned 20 percent reduction in Federal assistance in the second program year and another 30 percent reduction in the third and final year of support. Each applicant will be required to describe how this increased local share will be met.

## UTILIZATION

Useful designs will improve and expand nationwide attempts to develop multiagency approaches to family support and child protection. Funding sources are available to institutionalize such services; for example the Community Mental Health Act now specifically requires mental health centers to have program components relating to children.

(10) PROJECT TITLE: EVALUATION OF DEMONSTRATION OF COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROJECTS

## NUMBER, COST AND DURATION

One contract at \$150,000 for 2 years and \$100,000 for the third year.

## PURPOSE

This evaluation is necessary in order to determine and analyze the results of the demonstration to be conducted under No. 9.

## METHODOLOGY

Routine evaluation processes will be required, including the planning and use of information gathering aids, site visits, and analyses.

## UTILIZATION

The results will be broadly disseminated to aid Federal, State and local policy, planning, and operations staff.

## (e) JUVENILE COURTS

(11) PROJECT TITLE: DEMONSTRATION OF PROVISION OF COUNSEL IN CHILD PROTECTIVE PROCEEDINGS AND IMPROVED JUVENILE COURT HANDLING OF SUCH CASES

## NUMBER, COST AND DURATION

5 at \$100,000-\$200,000 for 2 years, \$80,000-\$160,000 for the 3rd year, and \$65,000-\$130,000 for the 4th year.

## IMPORTANCE OF PROJECT

Juvenile Courts annually handle over 150,000 cases of alleged child abuse and neglect. The actions of the court can have profoundly important consequences for the children and parents involved. The process itself can be a confusing experience and may ultimately result in the children being removed from their parents and placed in foster care for months or years. In a few cases, termination of the parent-child relationship results. Furthermore, juvenile court action is usually only commenced in cases of severe problems, where the injuries have been unusually serious or the family refuses to cooperate with treatment efforts. For those cases, judicial child protective proceedings may become the catalyst to an effective child protective system in a community.

## PURPOSE OF PROJECT

These projects will develop and demonstrate modes (1) of the provision of counsel to indigent parents, endangered children, and child protective agencies, (2) the improved procedural handling of child protective cases, and (3) the use of modern technology to manage court related word processing and statistical systems.

## BACKGROUND

Juvenile or family court child protective actions are necessary and crucial elements of community-wide responses to the need to treat child abuse and neglect. Essential to any properly functioning court system is the provision of counsel for all necessary parties. In child protective proceedings, this includes at a minimum the accused parents, the endangered children, as well as the agency representatives seeking to take protective action. However, in too many communities, representation is haphazard. In some cases, the parents are represented; in others the agency; and in a few, the child. Partly in response to a requirement for State grant eligibility under Pub. L. 93-247, 42 States guarantee the appointment of a guardian ad litem to represent the child in juvenile court proceedings. However, only 25 States provide an attorney as the guardian ad litem. The increasing attention accorded to the needs of the abused child has made more agencies and courts anxious to take effective action to protect endangered children. However, in their good faith efforts, their action may impact differently on the rights of parents. Counsel for parents should therefore be provided. However, the right to counsel in civil child protective proceedings has not been held by the courts to be required by the Constitution and is provided in few States. These projects are designed to explore and document the

needs and modes of providing counsel for all necessary parties in the proceedings. Only in that way can the fairness and effectiveness of juvenile court child protective proceedings be best insured.

Present court procedures are not designed for sensitive child protective matters. Generally patterned after their juvenile delinquency analogs, many have never developed specialized case handling and evidentiary rules necessary to protect children in emergency situations, determine short and long term custody, and select the most appropriate treatment alternatives. There is a need to clarify roles, procedures and personal skills in judicial child protective decision-making, as well as to apply modern management techniques, such as automated word processing, to improve the efficiency of the courts.

## EXPECTED FINDINGS

The hypothesis underlying these projects is that the provision of counsel to parents, children and agencies and the modernization of case handling will result in fairer, prompter, and more appropriate court action. These projects are expected to (1) develop procedures for appointing counsel and delineating their roles, (2) develop specialized case handling procedures, and (3) demonstrate the effective use of automated data processing technology.

## METHODOLOGY

Five grants will be awarded to rural, suburban and urban juvenile or family courts. Each project will develop and then install the procedures described above. Each applicant will be required to describe how it would evaluate the project from two points of view: (1) The increased efficiency of the courts, compared to base line data collected before the installation of the project activities; and (2) the impact of the grant activities on those represented, i.e., the parents, the children, and the agency. Among the issues to be explored in the second category will be the parents' perception of the fairness of the system, the agency's understanding of the use of court action and its acceptance of the needs of the litigation process, and the degrees to which the needs and wishes of the child are taken into account. Evaluation of funded projects will be performed by program office staff using the evaluation data provided by the projects.

## UTILIZATION

There are approximately 3,000 juvenile courts in this country, with 3,500 juvenile court judges hearing and determining cases each year. Through the information gained from these

projects, model procedures, guidelines, and protocols will be developed that can be integrated into in-service training and technical assistance activities related to these court systems.

## (f) INSTITUTIONAL CHILD ABUSE AND NEGLECT

(12) PROJECT TITLE: DEMONSTRATIONS OF INVESTIGATIONS AND CORRECTION OF INSTITUTIONAL CHILD ABUSE AND NEGLECT

## NUMBER, COST, AND DURATION

4 grants at \$75,000 for 3 years each.

## IMPORTANCE OF PROJECT

As a result of the Pub. L. 93-247 eligibility requirements, 42 states now make provision for the independent investigation and correction of institutional child abuse and neglect.

However, since such efforts are of such recent origin, there is no body of practical experience that states and child advocacy groups can look to in fashioning their own programs.

## PURPOSE OF THE PROJECT

These projects will develop and test methods of operating on-going programs to receive, investigate, and where appropriate, take corrective action concerning reports of known and suspected child abuse and neglect in institutional and other out-of-home placement.

## BACKGROUND

Over 100,000 children live in residential institutions such as treatment centers, temporary and long term shelters, detention homes, centers for the mentally retarded and developmentally disabled and group homes. In the past, allegations of institutional child maltreatment—if acted on at all—have been handled on an ad hoc basis, often through grand jury investigations or the creation of "blue ribbon" panels. The 42 Pub. L. 93-247 eligible states, as well as some others, are now seeking to develop operating procedures to implement the legally binding investigating policies that have recently been enacted. However, because so little has been done in the past toward installing on-going programs to protect endangered children living in residential facilities, the states are implementing their program with no guidance from previously demonstrated approaches.

## EXPECTED FINDINGS

The hypothesis underlying these projects is that there are certain fundamental approaches to handling reports of known and suspected institutional child maltreatment which can be effectively demonstrated for later widespread replication. The results of these projects will be protocols, procedures and case materials that can be

## NOTICES

used as blueprints by other States in implementing on-going systems to handle institutional child abuse and neglect.

## METHODOLOGY

Four grants will be awarded to State agencies independent of service delivery agencies but with authority for the investigation and correction of institutional child abuse and neglect. These projects will: (1) Prepare a state-of-the-art paper on the nature, extent, explanatory reasons, and guidelines for preventing and correcting this form of child maltreatment; (2) develop multi-agency protocols; (3) develop procedures for receiving reports; (4) develop fact finding procedures including investigations, surveys, and consultations; (5) develop corrective actions including personnel actions, policy and program changes, and legislative and budgetary recommendations; and (6) develop procedures for the monitoring of agency effectiveness.

## UTILIZATION

The materials developed by these projects will be directly disseminated to State Child Protective agencies, other relevant State agencies, and decision-makers, private and quasi-public advocacy organizations (such as Committees for Children and Youth) for their consideration and possible use.

## (g) RESOURCE ENHANCEMENT

(13) PROJECT TITLE: NATIONAL RESOURCE CENTERS FOR PROFESSIONALS AND MINORITY POPULATIONS

## NUMBER, COST AND DURATION

5 grants for \$200,000 each for 3 years.

## IMPORTANCE OF PROJECT

National professional organizations are prime shapers of the professional behaviors within service delivery and administrative settings. These projects will demonstrate how the energies of national professional organizations can be directed toward enhancing state and local child abuse and neglect treatment efforts. Minority group organizations serve their constituencies as major sources of information on human service issues and as advocates before public and private service delivery agencies to insure the adequacy and sensitivity of service to those constituencies. These projects will specifically focus attention on minority, cultural sensitivity in the development, staffing and delivery of child protective services by all the relevant disciplines and service systems.

## PURPOSE OF THE PROJECT

These projects will identify the ways in which national organizations can:

(1) Raise professional awareness, (2) improve professional skills, (3) foster interdisciplinary cooperation, and (4) improve and expand minority participation in relation to the prevention and treatment of child abuse and neglect.

## BACKGROUND

With the burgeoning of information and technical resources available for the upgrading of activities to prevent and treat child abuse and neglect, there is a need to develop and test approaches for disseminating that information and applying those resources in a highly targeted and efficient manner. Without effective dissemination channels, such as the ones which already exist in nascent forms in the professional and minority organizations to which the relevant individual human service providers and law enforcement personnel belong, the information and technical resources being generated both by federally supported research and demonstration and by the state and private sectors will have no ameliorative effects.

A specific concern is that the field of service delivery to abused and neglected children and their families is still under-represented in terms of professionals capable of responding to the cultural and linguistic diversity of their client populations.

NCCAN's experience in supporting 16 Regional State and Special Population demonstration resource projects since FY 1974 has proved the efficiency and effectiveness of forming partnerships with academic and private nonprofit agencies in the dissemination of information and provision of basic education on the identification and reporting of child abuse and neglect for the public in general. In addition, NCCAN's experience in demonstrating the use of a multidisciplinary curriculum on the identification, referral and case management of child abuse and neglect in FY 1977 through the auspice of national professional associations has provided convincing evidence of their efficient and credible access to their constituents. The convergence of these two sets of demonstrations suggests the usefulness of a program to test the utility of a federal-private association partnership to disseminate information and technical resources to specific audiences in the field.

## EXPECTED FINDINGS

The hypothesis underlying these projects is that national organizations are a largely untapped resource which can leverage significant service delivery improvements at the state and local level and within specific minority populations. The projects are expected to identify cost-efficient strategies for the development and dissemination of



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## NOTICES

information on services and professional and lay practice in the field of child abuse and neglect prevention and treatment.

## METHODOLOGY

Three grants will be awarded to national professional organizations in the fields serving children and families, such as social work-social services, medicine and health, mental health, law and law enforcement, and education. Two grants will be awarded to minority group organizations with capability for national program implementation and specific concerns for human service delivery to the minority populations which they represent. Each applicant will be required to describe how it will implement the following program components: (1) The development of profession specific or

minority group-related written materials, including policy guides, curricula, and investigative, diagnostic and treatment aides and manuals; (2) the dissemination of relevant materials and other information; (3) the provision of technical assistance to programs and advocacy groups; (4) the training of service providers; (5) the development and acceptance of accreditation and/or specialization standards; (6) the advocacy for implementation of program improvements; and (7) interdisciplinary and intercultural exchanges. Each applicant will be required to describe the procedures it will use to evaluate the cost and impact of project activities.

## UTILIZATION

These projects are expected to be highly visible and to themselves insure

utilization of the benefits to their respective constituencies during the demonstration period. Following the demonstration period, and based on NCCAN staff evaluation, the experience of the projects will be analyzed and used to develop recommended organization roles in the improvement of state and local child abuse and neglect prevention and treatment services.

Dated: January 11, 1978.

BLANDINA CARDINAS  
*Commissioner, Administration  
for Children, Youth and Families.*

Approved: January 12, 1978.

ARABELLA MARTINEZ,  
*Assistant Secretary for  
Human Development Services.*

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
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	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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[3195-01]

Title 3—The President

Proclamation 4547 • January 20, 1978  
Import Fees on Sugar, Sirups, and Molasses

By the President of the United States of America

A Proclamation

By Proclamation No. 4538 of November 11, 1977, I imposed import fees on certain sugars, sirups, and molasses. I also requested the United States International Trade Commission to make an immediate investigation with respect to this matter pursuant to section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), and to report its findings and recommendations to me as soon as possible.

The Secretary of Agriculture has since informed me that the fees established by Proclamation No. 4538 are insufficient. He has again advised me that he has reason to believe that sugars, sirups, and molasses, derived from sugar cane or sugar beets, classified under items 155.20 and 155.30, of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202), hereinafter referred to as "sugars", are being, or are practically certain to be, imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or to materially interfere with the price support operations now being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar beets and sugar cane. The Secretary of Agriculture has reaffirmed his determination that the condition requires emergency treatment.

I agree there is reason for these beliefs and I find and declare that:

(a) Sugars, described below by use and physical description, are being imported, or are practically certain to be imported, into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or reduce substantially the amount of any product processed in the United States from domestic sugar beets or sugar cane;

(b) A condition exists which requires the immediate imposition of the import fees hereinafter set forth, without awaiting the report and recommendations of the United States International Trade Commission.

(c) The imposition of the import fees hereinafter proclaimed is necessary in order that the entry, or withdrawal from warehouse, for consumption of such sugars will not render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar beets and sugar cane, or reduce substantially the amount of products processed in the United States from such domestic sugar beets or sugar cane.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, acting under the authority vested in me by the Constitution and Statutes of the United States of America, including section 22 of the Agricul-



tural Adjustment Act, as amended, do hereby proclaim that Part 3 of the Appendix to the TSUS is amended as follows:

1. Headnote 4 is amended to read as follows:

4. Sugar, sirups, and molasses  
(a) Licenses may be issued by the Secretary of Agriculture or his designee authorizing the entry of articles exempt from the fees provided for in items 956.05, 956.15, and 957.15 of this part on the condition that such articles will be used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. Such licenses shall be issued under regulations of the Secretary of Agriculture which he determines are necessary to insure the use of such articles only for such purposes.

(b) "Not to be further refined or improved in quality" as used in item 956.05 means not to be further refined or improved in quality by being subjected substantially to the processes of (1) affination or defecation, (2) clarification, or (3) further purification by absorption or crystallization.

2. Items 956.10, 956.20, 957.10, and 957.20 are deleted.

3. The following new items, in numerical sequence, are added following item 955.06:

Item	Articles	Rates of Duty (Section 22 Fees)
	Sugars, sirups, and molasses, derived from sugar cane or sugar beets, except those entered pursuant to a license issued by the Secretary of Agriculture in accordance with headnote 4(a): Principally of crystalline structure or in dry amorphous form, provided for in item 155.20, part 10A, schedule I:	
956.05	Not to be further refined or improved in quality .....	3.22¢ per lb., but not in excess of 50% ad val.
956.15	To be further refined or improved in quality .....	2.70¢ per lb., but not in excess of 50% ad val.
957.15	Not principally of crystalline structure and not in dry amorphous form, containing soluble non-sugar solids (excluding any foreign substance that may have been added or developed in the product) equal to 6% or less by weight of the total soluble solids, provided for in item 155.30, part 10A, schedule I .....	3.22¢ per lb. of total sugars, but not in excess of 50% ad val.

With the following exceptions, this proclamation applies to articles entered, or withdrawn from warehouse, for consumption after 12:01 a.m. (Eastern Standard Time) on the day following its issuance. One exception shall be for the sugars of Malawian origin which entered the United States before February 15, 1978, pursuant to contracts for delivery to the United States entered into before November 11, 1977. Further, if it is established to the satisfaction of the Commissioner of Customs that articles subject to proclamations 4538 and 4539 exported to the United States before November 11, 1977, or imported to fulfill forward contracts for delivery to the United States entered into before November 11, 1977, could have been, but were not, entered for consumption on or before January 1, 1978, as a result of the delay in transportation to a point within the limits of a Customs port of entry of the United States because of windstorm, fog, or similar stress of weather, the provisions of proclamations 4538 and 4539 shall not apply to the articles even though they are entered for consumption after January 1, 1978 nor shall the provisions of this proclamation be applicable to them. The proclamation shall continue to apply until I have acted on the Report of the United States International Trade Commission.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of January, in the year of our Lord nineteen hundred and seventy-eight, and of the Independence of the United States of America the two hundred and second.

[FR Doc. 78-2170 Filed 1-20-78; 5:11 pm]

EDITORIAL NOTE: The President's statement of January 20, 1978, on signing Proclamation 4547, is printed in the Weekly Compilation of Presidential Documents (vol. 14, no. 3).

## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President; Correction

AGENCY: Civil Service Commission.

ACTION: Correction to compilation of regulations.

SUMMARY: This document adds to the revised Part 213 published in the FEDERAL REGISTER of December 30, 1977, on page 65508, a section which was inadvertently omitted.

EFFECTIVE DATE: December 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Grace D. Carpenter, 202-632-5555.

Accordingly, 5 CFR 213.3303(d)(6) should have been added as follows:

§ 213.3303 Executive Office of the President.

(d) Office of the Special Representative for Trade Negotiations.

(8) One Confidential Assistant to the Deputy Special Representative for Trade Negotiations.

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1886 Filed 1-23-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant Sales Manager is excepted under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313(a)(42) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) Office of the Secretary. . . .

(42) One Assistant Sales Manager.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1966 Filed 1-23-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Private Secretary to the Deputy Director of Defense Research and Engineering (Strategic and Space Systems) is reestablished under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(2) is amended as set out below:

§ 213.3306 Department of Defense.

(a) Office of the Secretary. . . .

(2) One Private Secretary to the Deputy Secretary of Defense and one Private Secretary to each of the following: Director of Defense Research and Engineering; the Principal Deputy Director of Defense Research and Engineering; the Deputy Directors of Defense Research and Engineering (Tactical Warfare Programs), (Strategic and Space Systems), (Research and Technology); the Director, Advanced Research Project Agency; the Assistant Secretaries of Defense (Manpower and Reserve Affairs), (International Security Affairs), (Public Affairs), (Installations and Logistics), (Comptroller), (Program Analysis and Evaluation), and the Assistant to the Secre-

tary of Defense (Legislative Affairs); the General Counsel, the Assistant to the Secretary of Defense (Atomic Energy); and the Military Assistants to the Secretary of Defense.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1964 Filed 1-23-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Assistant to the Secretary for Labor Relations is excepted from the competitive service under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3384(a)(13) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

(a) Office of the Secretary. . . .

(13) One Assistant to the Secretary for Labor Relations.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-1965 Filed 1-23-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Transportation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Secretary is reestab-



lished under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 24, 1978.  
FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 3394(a)(2) is amended as set out below:

§ 213.3394 Department of Transportation.

(a) Office of the Secretary. . . .

(2) One Special Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

(FR Doc. 78-1963 Filed 1-23-78; 8:45 am)

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Revision of Delegations of Authority

AGENCY: Department of Agriculture.  
ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and General Officers to reflect the establishment of a new agency, the Science and Education Administration, headed by the Director of Science and Education. It has been determined that this action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: January 24, 1978.  
FOR FURTHER INFORMATION CONTACT:

Joseph F. Delaney, Management Improvement Staff, Science and Education Administration, U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301-436-8650).

SUPPLEMENTARY INFORMATION: The delegations of authority of the Department of Agriculture are amended to reflect the consolidation of the Agricultural Research Service, the Cooperative State Research Service, the Extension Service, and the National Agricultural Library into a new Agency, the Science and Education Administration headed by the Director of Science and Education who will

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report to the Assistant Secretary for Conservation, Research, and Education. In addition, the new agency is delegated authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977. Nothing in these delegations is intended to diminish the authorities, delegated elsewhere in this Part, of the Assistant Secretary for Food and Consumer Services for nutrition research, nor those of the Assistant Secretary for Rural Development for rural community development research, nor those of the Director, Economics, Policy Analysis and Budget for national leadership and departmental coordination of agriculture economics and economic analysis.

Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

1. Section 2.19 is amended by revoking and reserving paragraphs (b), (c), and (e), and by revising paragraph (a) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

(a) Related to science and education.  
(1) Provide national leadership and coordination for agricultural research, extension, and teaching programs in the food and agricultural sciences (includes human nutrition, home economics, consumer services, family life, rural and community development, agricultural energy, agricultural economics, environmental quality, natural and renewable resources, forestry, range management, animal and plant production and protection, aquaculture, and the processing, distribution, marketing, and utilization of food and agricultural products) conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other Federal departments and agencies pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121).

(2) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics under the Smith-Lever Act as amended (7 U.S.C. 341-349).

(3) Cooperate with the States for the purpose of encouraging and assisting them in carrying out research related to the problems of agriculture in its broadest aspects under the Hatch Act as amended (7 U.S.C. 361a-361i).

(4) Support agricultural research at eligible institutions in any State

through Federal-grant funds to help finance physical facilities (7 U.S.C. 390-390k).

(5) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(6) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(7) Conduct research and demonstrations at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421-422).

(8) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423-424).

(9) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power and research and development related to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (7 U.S.C. 427, 2201, 2204).

(10) Conduct research on varietal improvement of wheat and feed grain to enhance their conservation and environmental qualities (7 U.S.C. 428b).

(11) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(12) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(13) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(14) Administer a program of competitive, special, and facilities grants to State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations and individuals to promote research in food, agricultural and related areas (7 U.S.C. 450i).

(15) Conduct research related to soil and water conservation, engineering operations and methods of cultivation

to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(17) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441-note).

(18) Conduct research, educational, and demonstration work related to the distribution and marketing of agricultural products under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627).

(19) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such act (7 U.S.C. 1704(b), (1), (3)).

(20) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(21) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(22) Accept gifts and order disbursements from the Treasury for the benefit of the National Agricultural Library or for carrying out any of its functions (7 U.S.C. 2284-2285).

(23) Administer in cooperation with the States a cooperative rural development and small farm research and extension program under the Rural Development Act of 1972 as amended (7 U.S.C. 2661-2670).

(24) Administer a cooperative extension program under the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004).

(25) Conduct a program of grants to States to establish or expand schools of veterinary medicine (7 U.S.C. 3151).

(26) Conduct a program of (i) competitive grants to colleges and universities and (ii) predoctoral and postdoctoral fellowships, to further education in the food and agricultural sciences (7 U.S.C. 3152).

(27) Administer the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences (7 U.S.C. 3153).

(28) Make grants to colleges and universities for research on the produc-

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tion and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives (7 U.S.C. 3154).

(29) Administer a national food and human nutrition research and extension program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171-3177).

(30) Administer an animal health and disease research program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191-3193, 3195-3201).

(31) Support continuing agricultural and forestry extension and research at 1890 land-grant colleges including Tuskegee Institute (7 U.S.C. 3221, 3222).

(32) Administer in relation to uses of solar energy (i) a competitive research grants program, (ii) a solar energy research information system, (iii) a cooperative program with the States on model farms and demonstration projects, and (iv) a program of research, extension, and demonstration at regional solar energy research and development centers (7 U.S.C. 3241, 3251, 3261-3263, 3271, 3281-3282).

(33) Cooperate and work with national and international institutions and other persons throughout the world in the performance of agricultural research and extension activities (7 U.S.C. 3291).

(34) Conduct educational and demonstration work in cooperative farm forestry program (16 U.S.C. 568).

(35) Cooperate with the States for the purpose of encouraging and assisting them in carrying out programs of forestry research (16 U.S.C. 582a-582a-7).

(36) Authorize the use of the 4-H Club name and emblem (18 U.S.C. 707).

(37) Maintain a National Arboretum for purpose of research and education concerning tree and plant life; accept and administer gifts or devises of real and personal property for the benefit of the National Arboretum; and order disbursements from the Treasury (20 U.S.C. 191-195).

(38) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(39) Conduct research on control and eradication of cattle grubs (screw-worms) (21 U.S.C. 144e).

(40) Conduct research, demonstration, and promotion activities related to farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(41) Make grants for the support of basic scientific research at nonprofit organizations whose primary purpose

is the conduct of scientific research (42 U.S.C. 1891).

(42) Conduct research on losses of livestock in interstate commerce due to injury or disease (45 U.S.C. 71 note).

(43) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m-0).

(44) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefor, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(45) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics in the District of Columbia (D.C. Code Section 31-1719).

(46) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(47) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (pt. 18 of this subtitle).

(48) Represent the Department on the Federal Interagency Council on Education.

(49) Develop and maintain library and information systems and networks and facilitate cooperation and coordination for the agricultural libraries of colleges, universities, Department of Agriculture, and their closely allied information gathering and dissemination units in close conjunction with private industry and other research libraries (7 U.S.C. 2201, 2203, 3126).

(50) Assure the acquisition, preservation and accessibility of all information concerning food and agriculture by providing leadership to and coordination of the acquisition programs and related activities of the library and information system, and the agencies of USDA, other Federal departments and agencies, State agricultural experiment stations, colleges and universities, and other research institutions and organizations.

(51) Formulate, write and/or prescribe bibliographic and technically related standards for the library and information services of USDA.

(52) Determine by survey and other appropriate means the information needs of the Department's scientific, professional, technical and administrative staffs, its constituencies and the general public in the areas of food, agriculture, the environment, and solar energy.

(53) Represent the Department on all library and information science matters before Congressional Commit-



tees and appropriate commissions, and provide representation to the coordinating committees of the Federal and State governments concerned with library and information science activities.

(54) Represent the Department in international organizational activities and on international technical committees concerned with library and information science activities.

(55) Prepare and disseminate computer bibliographic files, indexes and abstracts, bibliographies, reviews, and other analytical information tools.

(56) Copy and deliver on demand selected articles and other materials from its collections by photographic reproduction or other means within the permissions, constraints and limitations of Sections 106, 107, and 108 of the Copyright Act of October 19, 1976 (Title 17, U.S. Code).

(57) Arrange for the consolidated purchasing and dissemination of indexes, abstracts, journals and other widely used information publications and services.

(58) Provide assistance and support to professional organizations concerned with library and information science matters and issues.

(59) Pursuant to authority delegated by the Administrator of the General Services Administration to the Secretary of Agriculture in 34 FR 6406, 36 FR 1293, 36 FR 18440, and 38 FR 23838, appoint uniformed armed guards as special policemen, make all needful rules and regulations, and annex to such rules and regulations such reasonable penalties, (not to exceed those prescribed in 40 (U.S.C. 318c), as will ensure their enforcement, for the protection of persons, property, buildings, and grounds of the Arboretum, Washington, D.C.; the U.S. Meat Animal Research Center, Clay Center, Nebr.; the Agricultural Research Center, Beltsville, Md., and the Animal Disease Center, Plum Island, N.Y., over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, the Act of June 1, 1948 (62 Stat. 181) as amended, and policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Operations and Finance and the General Counsel prior to issuance.

(60) Control within the Department of Agriculture of the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

(61) Administer teaching funds authorized under section 22 of the Bank-

head Jones Act, as amended (7 U.S.C. 329).

(b)-(c) (Revoked and reserved)

(d) *Related to forest service*

(e) (Revoked and reserved)

2. Section 2.20 is amended by revoking and reserving paragraphs (b) and (c) and by adding a new paragraph (a) to read as follows:

#### § 2.20 Reservations of authority.

(a) *Related to science and education.*

(1) Withholding funds from States and sending notification thereof to the President in accordance with sections 5 and 6 of the Smith-Lever Act, as amended (7 U.S.C. 345-346), sections 5 and 7 of the Hatch Act as amended (7 U.S.C. 361 e.g.), section 506 of the Rural Development Act as amended (7 U.S.C. 2666), and sections 1436, 1444, 1445, and 1468 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3198, 3221, 3222, and 3314).

(2) Reapportioning funds under section 4 and apportioning funds under section 5 of the act of October 10, 1962 (16 U.S.C. 582a-3, a-4).

(3) Appointing an advisory committee under section 6 of the act of October 10, 1962 (16 U.S.C. 582a-5).

(4) Final concurrence of Equal Employment Opportunity programs within the cooperative extension programs submitted under part 18 of this subtitle.

(5) Approving selection of State directors of extension.

(6) Approving the memoranda of understanding between the land-grant universities and the Department of Agriculture related to cooperative extension programs.

(b)-(c) (Revoked and reserved)

#### Support G—Delegations of Authority by the Assistant Secretary for Conservation, Research, and Education

3. Sections 2.58, 2.59, and 2.61 are revoked and reserved and § 2.57 is revoked and the following substituted in lieu thereof:

#### § 2.57 Director of Science and Education.

(a) *Delegations.* Pursuant to § 2.19(a), subject to reservations in § 2.20(a), the following delegations of authority are made by the Assistant Secretary for Conservation, Research, and Education to the Director of Science and Education:

(1) Provide national leadership and coordination for agricultural research, extension, and teaching programs in the food and agricultural sciences (in-

cludes human nutrition, home economics, consumer services, family life, rural and community development, agricultural energy, agricultural economics, environmental quality, natural and renewable resources, forestry, range management, animal and plant production and protection, aquaculture, and the processing, distribution, marketing, and utilization of food and agricultural products) conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other Federal departments and agencies pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121).

(2) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics under the Smith-Lever Act as amended (7 U.S.C. 341-349).

(3) Cooperate with the States for the purpose of encouraging and assisting them in carrying out research related to the problems of agriculture in its broadest aspects under the Hatch Act as amended (7 U.S.C. 361a-361i).

(4) Support agricultural research at eligible institutions in any State through Federal-grant funds to help finance physical facilities (7 U.S.C. 390-390k).

(5) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(6) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(7) Conduct research and demonstrations at Mandan, N. Dak., and Lewisburg, Tenn., concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421-422).

(8) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423-424).

(9) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native; conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power and research and development related to uses of

solar energy with respect to farm buildings, farm homes, and farm machinery (7 U.S.C. 427, 2201, 2204).

(10) Conduct research on varietal improvement of wheat and feed grain to enhance their conservation and environmental qualities (7 U.S.C. 428b).

(11) Administer a program for the improvement of poultry, poultry products, and hatcheries (7 U.S.C. 429).

(12) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(13) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(14) Administer a program of competitive, special, and facilities grants to State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations and individuals to promote research in food, agricultural and related areas (7 U.S.C. 450i).

(15) Conduct research related to soil and water conservation, engineering operations and methods of cultivation to provide for the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(16) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(17) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441-note).

(18) Conduct research, educational, and demonstration work related to the distribution and marketing of agricultural products under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627).

(19) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such act (7 U.S.C. 1704(b), (1), (3)).

(20) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(21) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(22) Accept gifts and order disbursements from the Treasury for the benefit of the National Agricultural Library or for carrying out any of its functions (7 U.S.C. 2264-2265).

(23) Administer in cooperation with the States a cooperative rural development and small farm research and extension program under the Rural Development Act of 1972 as amended (7 U.S.C. 2661-2670).

(24) Administer a cooperative extension program under the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004).

(25) Conduct a program of grants to States to establish or expand schools of veterinary medicine (7 U.S.C. 3151).

(26) Conduct a program of (i) competitive grants to colleges and universities and (ii) predoctoral and postdoctoral fellowships, to further education in the food and agricultural sciences (7 U.S.C. 3152).

(27) Administer the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences (7 U.S.C. 3153).

(28) Make grants to colleges and universities for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives (7 U.S.C. 3154).

(29) Administer a national food and human nutrition research and extension program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171-3177).

(30) Administer an animal health and disease research program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191-3193, 3195-3201).

(31) Support continuing agricultural and forestry extension and research at 1890 land-grant colleges including Tuskegee Institute (7 U.S.C. 3221, 3222).

(32) Administer in relation to uses of solar energy (i) a competitive research grants program, (ii) a solar energy research information system, (iii) a cooperative program with the States on model farms and demonstration projects, and (iv) a program of research, extension, and demonstration at regional solar energy research and development centers (7 U.S.C. 3241, 3251, 3261-3263, 3271, 3281-3282).

(33) Cooperate and work with national and international institutions and other persons throughout the world in the performance of agricultural research and extension activities (7 U.S.C. 3291).

(34) Conduct educational and demonstration work in cooperative farm forestry program (16 U.S.C. 568).

(35) Cooperate with the States for the purpose of encouraging and assisting them in carrying out programs of

forestry research (16 U.S.C. 582a-582a-7).

(36) Authorize the use of the 4-H Club name and emblem (18 U.S.C. 707).

(37) Maintain a National Arboretum for purpose of research and education concerning tree and plant life; accept and administer gifts or devises of real and personal property for the benefit of the National Arboretum; and order disbursements from the Treasury (20 U.S.C. 191-195).

(38) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(39) Conduct research on control and eradication of cattle grubs (screw-worms) (21 U.S.C. 144e).

(40) Conduct research, demonstration, and promotion activities related to farm dwellings and other buildings for the purpose of reducing costs and adapting and developing fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(41) Make grants for the support of basic scientific research at nonprofit organizations whose primary purpose is the conduct of scientific research (42 U.S.C. 1891).

(42) Conduct research on losses of livestock in interstate commerce due to injury or disease (45 U.S.C. 71 note).

(43) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m-0).

(44) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefor, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(45) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics in the District of Columbia (D.C. Code Section 31-1719).

(46) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(47) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (pt. 18 of this subtitle).

(48) Represent the Department on the Federal Interagency Council on Education.

(49) Develop and maintain library and information systems and networks and facilitate cooperation and coordination for the agricultural libraries of colleges, universities, Department of Agriculture, and their closely allied information gathering and dissemina-



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tion units in close conjunction with private industry and other research libraries (7 U.S.C. 2201, 2203, 3126).

(50) Assure the acquisition, preservation and accessibility of all information concerning food and agriculture by providing leadership to and coordination of the acquisition programs and related activities of the library and information system, and the agencies of USDA, other Federal departments and agencies, State agricultural experiment stations, colleges and universities, and other research institutions and organizations.

(51) Formulate, write and/or prescribe bibliographic and technically related standards for the library and information services of USDA.

(52) Determine by survey and other appropriate means the information needs of the Department's scientific, professional, technical and administrative staffs, its constituencies and the general public in the areas of food, agriculture, the environment, and solar energy.

(53) Represent the Department on all library and information science matters before Congressional Committees and appropriate commissions, and provide representation to the coordinating committees of the Federal and State governments concerned with library and information science activities.

(54) Represent the Department in international organizational activities and on international technical committees concerned with library and information science activities.

(55) Prepare and disseminate computer bibliographic files, indexes and abstracts, bibliographies, reviews, and other analytical information tools.

(56) Copy and deliver on demand selected articles and other materials from its collections by photographic reproduction or other means within the permissions, constraints and limitations of Sections 106, 107, and 108 of the Copyright Act of October 19, 1976 (Title 17, U.S. Code).

(57) Arrange for the consolidated purchasing and dissemination of indexes, abstracts, journals and other widely used information publications and services.

(58) Provide assistance and support to professional organizations concerned with library and information science matters and issues.

(59) Pursuant to authority delegated by the Administrator of the General Services Administration to the Secretary of Agriculture in 34 FR 6406, 36 FR 1293, 36 FR 18440, and 38 FR 23838, appoint uniformed armed guards as special policemen, make all needful rules and regulations, and

annex to such rules and regulations such reasonable penalties, (not to exceed those prescribed in 40 (U.S.C. 318c)), as will ensure their enforcement, for the protection of persons, property, buildings, and grounds of the Arboretum, Washington, D.C.; the U.S. Meat Animal Research Center, Clay Center, Nebr.; the Agricultural Research Center, Beltsville, Md.; and the Animal Disease Center, Plum Island, N.Y., over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, the Act of June 1, 1948 (62 Stat. 181), as amended, and policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Operations and Finance and the General Counsel prior to issuance.

(60) Control within the Department of Agriculture of the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

(61) Administer teaching funds authorized under section 22 of the Bankhead Jones Act, as amended (7 U.S.C. 329).

(62) Administer science and education programs assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.).

§ 2.58-2.59 (Revoked and reserved).

§ 2.61 (Revoked and reserved).

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953).

For Subpart C:

Dated: January 19, 1978.

BOB BERGLAND,  
Secretary of Agriculture.

For Subpart G:

Dated: January 13, 1978.

M. RUPERT CUTLER,  
Assistant Secretary for Conservation, Research & Education.

[FR Doc. 78-1982 Filed 1-23-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5894 and IC-10071]

PART 200—ORGANIZATION, CONDUCT AND ETHICS: AND INFORMATION AND REQUESTS

Delegation of Authority to Director of Division of Investment Management; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule on delegation of authority to the Director of the Division of Investment Management which appears at page 755 of the FEDERAL REGISTER of January 4, 1978.

DATES: Final rule, effective date, August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence R. Bardfeld, Office of Chief Counsel, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, 202-376-8056.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-4 on page 755, column two, fourth full paragraph designated (b-1), tenth line should read "401(c)(1) of the Internal Revenue Code."

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 16, 1978.

[FR Doc. 78-1939 Filed 1-23-78; 8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 78-20]

PART 159—LIQUIDATION OF DUTIES

Chains and Parts Thereof, of Iron or Steel, From Spain

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final countervailing duty determination and suspension of liquidation.

SUMMARY: This notice is to inform the public that it has been determined that the Government of Spain has given benefits which constitute bounties or grants within the meaning of the countervailing duty law upon the manufacture, production or exportation of chains and parts thereof, of iron or steel. Consequently, countervailing duties in the amount of these benefits will be collected in addition to

duties normally due on shipments of this merchandise. Section 159.47(f) of the Customs Regulations is amended to include this determination.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, Operations Officer, Technical Branch, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION:

On July 14, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 36339). This notice stated that it had been determined preliminarily that bounties or grants had been paid or bestowed, directly or indirectly, within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to herein as "the Act"), under the Spanish Government tax remission system known as the Desgravacion Fiscal, upon the manufacture, production or exportation of chains and parts thereof, of iron or steel, from Spain. Chains and parts thereof, of iron or steel, are provided for in the Tariff Schedules of the United States under item numbers 652.24, 652.27, 652.30, 652.33, and 652.35.

The notice further stated that in some instances benefits derived from the Desgravacion Fiscal constitute bounties or grants within the meaning of section 303 of the Act. Interested parties were provided 30 days from the date of publication of the notice to submit in writing relevant data, views or arguments with respect to the preliminary determination. No information was received during the comment period.

Based on the information available and the determinations in previous cases concerning the Spanish Desgravacion Fiscal tax remission system, it is determined that bounties or grants are paid or bestowed, directly or indirectly, within the meaning of section 303 of the Act, on exports of chains and parts thereof, of iron or steel, from Spain.

Chains and parts thereof, of iron or steel, receive a Desgravacion Fiscal rebate of 14 percent. However, as determined in previous cases involving this tax remission system, a final stage tax of 1.5 percent on the completed product is included in the 14 percent rebate. The Treasury Department does not consider the rebate of indirect taxes which are directly related to the final product or its components to be bounties or grants within the meaning of section 303 of the Act. In keeping with this principle and in the absence of any additional information regarding the Desgravacion Fiscal

rebate, the bounty, or grant is determined to be 12.5 percent.

Accordingly, notice is hereby given that chains and parts thereof, of iron or steel, imported directly or indirectly from Spain, if entered, or withdrawn from warehouse, for consumption on or after January 24, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been estimated and declared to be 12.5 percent of the f.o.b. value.

The liquidation of all entries for consumption or withdrawals from warehouse for consumption of such dutiable chains and parts thereof, of iron or steel, imported directly or indirectly from Spain which benefit from such bounties or grants and which are subject to this order shall be suspended for 30 days following publication of this notice in the FEDERAL REGISTER. A deposit of the estimated countervailing duty, in the amount of 12.5 percent of the f.o.b. value, shall be required at the time of entry for consumption or withdrawal from warehouse for consumption.

Effective January 24, 1978, and until further notice, upon the entry for consumption of such chains and parts thereof, of iron or steel, imported directly or indirectly from Spain, which benefit from bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount of 12.5 percent of the f.o.b. value.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation of such chains and parts thereof from Spain.

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting, after the last entry for Spain, in the column headed "Commodity" the words "Chains and Parts Thereof, of Iron or Steel," in the column headed "Treasury Decision" the number of this Treasury Decision, and in the column headed "Action" the words "Bounty Declared-Rate."

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 190 (Revision 14), July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a final countervailing duty determination by the Commissioner of Customs, are hereby waived.

(R.S. 251, as amended, secs. 303, 824, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624).)

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 10, 1978.

[FR Doc. 78-1108 Filed 1-23-78; 8:45 am]

[4210-01]

Title 24 Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FT 3873]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The date listed in the fourth column of the table.

ADDRESSES: The addresses where flood insurance policies can be obtained are published at 24 CFR 1912.7.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) For acquisition and construction purposes as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) For property located in a special flood hazard area identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction except



RULES AND REGULATIONS

as authorized by section 202(a) of the Act unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

Flood insurance policies for property located in the communities listed can be obtained from any licensed proper-

ty insurance agent or broker serving the eligible community, or from the National Flood Insurers Association (NFIA) servicing company for the State.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5

U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of Eligible Communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Michigan	Cass	LaGrange, township of	Nov. 15, 1977, emergency	Oct. 17, 1975	260366
New York	Fulton	Mayfield, town of	do	Jan. 17, 1975 and Jan. 14, 1977	361132-A
Ohio	Mercer	Unincorporated areas	do	Feb. 14, 1975 and July 8, 1977	390392
New Hampshire	Hillsboro	Greenfield, town of	Nov. 17, 1977, emergency	Apr. 4, 1975	330209
Do	do	Hudson, town of	do	Mar. 8, 1974 and Oct. 1, 1976	330092-A
Oklahoma	Hughes	Stuart, town of	do	Nov. 12, 1976	400330
Michigan	Muskegon	Norton Shores, city of	Nov. 8, 1977, suspension withdrawn	Sept. 15, 1977	260165-A
Missouri	St. Francois	Leadwood, city of	Nov. 18, 1977, emergency	Nov. 5, 1976	280706
Indiana	Jefferson	Madison, city of	Nov. 12, 1971, emergency; Sept. 30, 1977, regular; Oct. 1, 1977, suspended; Nov. 14, 1977, reinstated	Feb. 1, 1974 and Sept. 19, 1975	180107-B
Alabama	Jefferson	Fairfield, city of	Nov. 29, 1977, emergency	Dec. 17, 1976	010120-A
Michigan	Cass	Silver Creek, township of	Nov. 18, 1977, emergency	Nov. 26, 1976 and May 13, 1977	260369-A
Iowa	Delaware	Dundee, city of	Nov. 30, 1977, emergency	July 30, 1976	190363
Kansas	Sedgwick	Goddard, city of	do	July 16, 1976	200500
Pennsylvania	Warren	Deerfield, township of	do	Nov. 15, 1974	422116
Utah	Uintah	Unincorporated areas	do	Feb. 14, 1975 and Oct. 18, 1977	490147-A
Iowa	Marshall	LeGrand, city of	Dec. 5, 1977, emergency	Nov. 12, 1976	190606
Nebraska	Colfax	Clarkson, city of	do	Jan. 17, 1975	310359
Oklahoma	Hughes	Wetumka, city of	do	Oct. 22, 1976	400453
Texas	Culberson	Unincorporated areas	do	do	480162
Do	Presidio	Marfa, city of	do	do	481493-New
Do	Jeff Davis	Valentine, town of	do	Dec. 24, 1976	481131
Colorado	Garfield	Rifle, city of	July 23, 1971, emergency; June 15, 1973, regular; Jan. 15, 1975, suspended; Nov. 24, 1977, reinstated	June 16, 1973	085078-A
Washington	King	Duvall, town of	Dec. 6, 1977, emergency	Aug. 20, 1976	530282
Colorado	Alamosa	Alamosa, city of	June 6, 1973, emergency; Sept. 15, 1977, regular; Nov. 2, 1977, suspended; Nov. 29, 1977, reinstated	May 24, 1974	080010-A
North Dakota	Hettinger	Mott, city of	Oct. 20, 1972, emergency; Dec. 15, 1976, regular; Nov. 16, 1977, suspended; Nov. 29, 1977, reinstated	Jan. 9, 1974 and Dec. 26, 1975	380038-B
Nebraska	Box Butte	Alliance, city of	Dec. 8, 1977, emergency	Mar. 12, 1976	310011
Oklahoma	Pontotoc	Roff, town of	do	Mar. 22, 1974	400176
Kentucky	Jefferson	St. Matthews, city of	Dec. 3, 1971, emergency; Jan. 19, 1972, suspended; Mar. 17, 1972, reinstated; Mar. 5, 1972, regular; July 26, 1976, suspended; Nov. 30, 1977, reinstated	Dec. 6, 1974	210123-A
Alabama	Houston	Columbia, town of	Dec. 9, 1977, emergency	Feb. 20, 1976	010101
Pennsylvania	Huntingdon	Carbon, township of	Dec. 12, 1977, emergency	Jan. 10, 1975	421685
Oregon	Baker	Sumpter, city of	Dec. 13, 1977, emergency	Dec. 24, 1976 and Aug. 2, 1977	410007-A
Michigan	Macomb	Macomb, township of	Dec. 16, 1977, emergency	Mar. 18, 1977	260445-A
Colorado	Arapahoe	Unincorporated areas	June 6, 1973, emergency; Sept. 15, 1977, regular; Nov. 2, 1977, suspended; Dec. 8, 1977, reinstated	May 24, 1974	080011-A
Missouri	St. Francois	Desloge, city of	Dec. 19, 1977, emergency	Dec. 17, 1976	290746
Oklahoma	Garvin	Elmore City, city of	do	Nov. 5, 1976	400374
Pennsylvania	Fulton	Union, township of	do	Dec. 27, 1974	422430
Texas	Hudspeth	Unincorporated areas	do	do	480361
Do	Denton	Sanger, town of	do	Oct. 8, 1976	480786

RULES AND REGULATIONS

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	Community No.
Pennsylvania	McKean	Liberty, township of	Aug. 24, 1973, emergency; Sept. 1, 1977, regular; Sept. 15, 1977, suspended; Dec. 12, 1977, reinstated	July 26, 1974 and June 4, 1976	420688-A
Michigan	Wayne	Northville, township of	Dec. 23, 1977, emergency	Sept. 24, 1976	421664
Pennsylvania	Monroe	Chestnut Hill, township of	do	Nov. 15, 1974	421885
Do	Mercer	Fairview, township of	do	Nov. 29, 1974	421865
Do	Fulton	Thompson, township of	do	Dec. 13, 1974	421664
Michigan	Muskegon	Muskegon, city of	May 25, 1973, emergency; June 1, 1977, regular; June 1, 1977, suspended; Dec. 13, 1977, reinstated	June 7, 1974	260161-B
New York	Chautauqua	Bemus Posing, village of	July 16, 1975, emergency; Nov. 2, 1977, regular; Nov. 2, 1977, suspended; Dec. 14, 1977, reinstated	Aug. 9, 1974	360133-B
Colorado	Morgan	Brush, city of	Dec. 12, 1977, suspension withdrawn	Nov. 23, 1973	080130-A
Do	Rio Blanco	Rangley, town of	do	Apr. 12, 1974 and Dec. 26, 1975	080152-A
Florida	Duval	Jacksonville, city of	do	Jan. 31, 1975 and Aug. 20, 1976	120077-A
Do	Broward	Oakland Park, city of	do	June 28, 1974 and Apr. 9, 1976	120050-A
Iowa	Dubuque	Dyersville, city of	do	June 28, 1974 and May 14, 1976	190120-A
Maryland	Carroll	Westminister, city of	do	June 26, 1974	240018-A
Massachusetts	Berkshire	Alford, town of	do	June 7, 1974 and June 11, 1976	250017-A
Nebraska	Saunders	Wahoo, city of	do	Oct. 12, 1973 and June 16, 1976	310204-A
New Jersey	Mercer	Lawrence, township of	do	June 1, 1973	340250
New York	Chautauqua	Cassadaga, village of	do	May 31, 1974 and Sept. 24, 1976	361053-A
Do	Do	Sinclairville, village of	do	May 10, 1974 and June 4, 1976	360145-A
Do	Do	Lakewood, village of	do	Oct. 29, 1976	360142-A
Oregon	Tillamook	Wheeler, city of	do	Sept. 13, 1974 and Nov. 26, 1975	410203
Ohio	Trumbull	Warren, city of	do	Oct. 26, 1973	390541-A
Pennsylvania	Chester	East Vincent, township of	do	Dec. 26, 1973	420276
Do	Montgomery	Whitemarsh, township of	do	Oct. 22, 1976	420712
Do	Lycoming	Williamsport, city of	do	June 29, 1973 and Aug. 27, 1976	420662-A
Tennessee	Warren	McMinnville, city of	do	Mar. 29, 1974	470195
Texas	Bandera	Bandera, city of	do	Apr. 12, 1974 and Dec. 19, 1975	480021-A
Do	Wilson	Poth, city of	do	May 24, 1974 and Jan. 16, 1976	480672-A
Washington	Chelan	Cashmere, city of	do	Apr. 5, 1974 and May 21, 1976	390541-A
South Dakota	Union	North Sioux City, city of	do	Nov. 16, 1973 and July 16, 1977	460087-A

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator (34 FR 2680, Feb. 27, 1969), as amended (39 FR 2787, Jan. 24, 1974).)

Issued: December 28, 1977.

[FR Doc. 78-1629 Filed 1-23-78; 8:45 am]

PATRICIA ROBERTS HARRIS, Secretary.

[4210-01]

[Docket No. FI-3872]

PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Changes in Base Flood Elevations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator, after consultation with the Chief Executive Officer of each community listed, finds that modification of the proposed flood elevations

for those communities is appropriate as a result of requests for changes in the interim rule.

DATES: These modified flood elevations are in effect as of the dates listed in the sixth column of the attached



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list and amend the Federal Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base (100-year) flood elevation determinations for each community are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator has published a notification of modification of the base (100-year) flood elevations in prominent local newspapers for the communities listed below. Ninety (90) days have elapsed since that publication, and the Administrator has received appeals from the communities requesting changes in the

proposed flood elevation determinations.

The numerous changes made in the base (100-year) flood elevations on the Flood Insurance Rate Map for each community make it administratively infeasible to publish in this notice all of the base (100-year) flood elevation changes contained on the maps. However, this notice includes the address of the Chief Executive Officer where the modified base (100-year) flood elevation determinations are available for inspection.

The modifications are pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood eleva-

tions are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations together with the flood plain management measures required by 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The changes in the base (100-year) flood elevations listed below are in accordance with 24 CFR 1916.8:

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
California	San Bernardino	Victorville, city of.	The Daily Press, Aug. 4 and 5, 1977.	Hon. Humberto Lugo, mayor, city of Victorville, City Hall, 14343 Civic Dr., Victorville, Calif. 92392.	Aug. 5, 1977...	065068A
Colorado	Jefferson	Wheat Ridge, city of.	The Wheat Ridge Sentinel, July 14 and 21, 1977.	Hon. Hank Stites, mayor, city of Wheat Ridge, P.O. Box 610, Wheat Ridge, Colo. 80033.	July 22, 1977.	085079A
Connecticut	Hartford	Farmington, town of.	Farmington Valley Herald, Aug. 18 and 25, 1977.	Mr. Stephen A. Flis, town manager, town of Farmington, Town Hall, 1 Montlieth Dr., Farmington, Conn. 06032.	Aug. 15, 1977.	090029A
Florida	Charlotte		The Daily Herald News, Aug. 4 and 5, 1977.	Mr. John R. Printon, Charlotte County administrator, courthouse annex, 2d floor, 116 West Olympia, Punta Gorda, Fla. 33950.	Aug. 5, 1977...	120061B
Do	Pinellas	Clearwater	The Clearwater Sun, July 7 and 8, 1977.	Hon. Gabriel Cazares, mayor, city of Clearwater, P.O. Box 2078, Clearwater, Fla. 33518.	July 8, 1977...	125096A
Do	do	do	do	Ms. Jeanne Malchon, chairman, Pinellas County Commissioners, 315 Haven St., Clearwater, Fla. 33516.	do	125139B
Do	Hillsborough	Temple Terrace, city of.	The Beacon, June 29 and July 6, 1977.	Hon. Joseph C. Bonbl, Jr., mayor, city of Temple Terrace, P.O. Box 16930, Temple Terrace, Fla. 33687.	do	120115C
Missouri	Clay	Smithville, city of.	The Democrat Herald, Aug. 4 and 11, 1977.	Hon. L. R. Lukon, mayor, city of Smithville, 108 North Bridge St., Smithville, Mo. 64089.	Aug. 12, 1977.	2952271B
New Jersey	Monmouth	Deal, borough of.	The Asbury Park Press, June 23 and 24, 1977.	Hon. Daniel Kruman, mayor, borough of Deal, the Borough Hall, Durant Square, Deal, N.J. 07723.	June 24, 1977	340292A
Pennsylvania	Luzerne	West Wyoming, borough of.	The Wilkes-Barre Time Leader Record, July 29 and Aug. 5, 1977.	Hon. John Mizin, mayor, borough of West Wyoming, West Wyoming Town Hall, West Wyoming, Pa. 18644.	July 22, 1977.	420629-0001B

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Tennessee	Sevier	Gatlinburg, city of.	The Gatlinburg Press, July 5 and 7, 1977.	Hon. Charles Ogle, mayor, city of Gatlinburg, City Hall, P.O. Box 388, Gatlinburg, Tenn. 37738.	July 8, 1977...	475426B
Texas	Brazoria	Angleton, city of.	The Angleton Times, June 23 and 30, 1977.	Hon. Charles Cole, mayor, city of Angleton, P.O. Box 126, Angleton, Tex. 77515.	June 10, 1977	480064 0001-0004B
Do	Galveston	Galveston, city of.	Galveston Daily News, July 1 and 8, 1977.	Mr. Stephen N. Huffman, acting city manager, city of Galveston, P.O. Box 779, Galveston, Tex. 77553.	June 24, 1977	485409B
Do	Harris		Daily Court Review, June 24 and July 1, 1977.	Mr. Richard P. Doss, county engineer, 1004 Congress St., Houston, Tex. 77002.	do	480287B
Do	Galveston	Jamaica Beach, village of.	Galveston Daily News, July 6 and 9, 1977.	Hon. Jack Jordan, mayor of Jamaica Beach, P.O. Box 5264, Galveston, Tex. 77551.	do	481271B
Do	Brazoria	Lake Jackson	The Brazoria News, Mar. 24 and 31, 1977.	Hon. Vick Vickers, mayor, city of Lake Jackson, 103 Parking Way, Lake Jackson, Tex. 77566.	Mar. 18, 1977	485484C
Do	Galveston	LaMarque, city of.	The LaMarque Times, Aug. 31 and Sept. 7, 1977.	Mr. Jack Treaster, city manager, city of LaMarque, 322 Laurel, LaMarque, Tex. 77568.	Aug. 26, 1977.	485486 0001-0002B
Do	do	League City, city of.	The Daily Citizen, June 24 and July 1, 1977.	Hon. Johnnie Arolfo, mayor, city of League City, 300 West Walker, League City, Tex. 77523.	June 7, 1977...	485488 0001-0003B
Do	Brazoria	Quintana, village of.	Brazosport Facts, June 17 and 24, 1977.	Quintana Building Committee, Quintana Village Hall, Lamar St., Quintana, Tex. 77541.	June 10, 1977	481301-0001B
Virginia	Fairfax		The Fairfax Journal, July 7 and 14, 1977.	Mr. Leonard Whorton, county executive, 4100 Chain Bridge Rd., Fairfax, Va. 22030.	June 24, 1977	515525C
Wisconsin	Wood	Wisconsin Rapids, city of.	The Wisconsin Rapids Daily Tribune, July 21 and 22, 1977.	Hon. Donald F. Penza, mayor, city of Wisconsin Rapids, 61 4th Ave., North Wisconsin Rapids, Wis. 54494.	July 22, 1977.	555587B

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS, Secretary.

(FR Doc. 78-1628 Filed 1-23-78; 8:45 am)

[4210-01]

[Docket No. FI-3255]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Buffalo, Johnson County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Buffalo, Johnson County, Wyo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in



effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Buffalo, Wyo.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Buffalo, are available for review at City Hall, 46 North Main Street, Buffalo, Wyo.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Buffalo, Wyoming.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Clear Creek .....	Burritt Ave. Bridge	4636
	Main St. Bridge....	4629
	Footbridge.....	4627
	Lobran Ave. Bridge	4623
	County Rd. No. 252 Bridge.	4581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

## RULES AND REGULATIONS

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1638 Filed 1-23-78; 8:45 am)

### [4210-01]

(Docket No. FI-3314)

#### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Burlington, Racine County, Wis.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Burlington, Racine County, Wis.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Burlington, Wis.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Burlington, are available for review at City Hall, 300 North Pine Street, Burlington, Wis.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Burlington, Wis.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed

base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Fox River .....	Chicago, Milwaukee, and St. Paul Railroad.	757
	Jefferson Street ...	758
	Bridge Street (downstream side).	759
	Bridge Street (upstream side).	761
	Milwaukee Avenue.	763
	Milwaukee Avenue above Echo Lake Dam.	766

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1637 Filed 1-23-78; 8:45 am)

### [4210-01]

(Docket No. FI-3349)

#### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determination for Town of South Hero, Grand Isle County, Vt.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of South Hero, Grand Isle County, Vt.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of South Hero, Grand Isle County, Vt.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of South Hero, are available for review at the Town Clerk's Office, South Hero, Vt. 05486.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of South Hero, Grand Isle County, Vt.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Lake Champlain....	Shoreline.....	102

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1638 filed 1-23-78; 8:45 am)

## RULES AND REGULATIONS

### [4210-01]

(Docket No. FI-3259)

#### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determination for Town of Barre, Washington County, Vt.

**ACTION:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Barre, Washington County, Vt.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Barre, Washington County, Vt.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Barre, Washington County, Vermont, are available for review at Town Hall, Barre, Vt.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Barre, Washington County, Vt.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, National Geodetic Vertical Datum
Stevens Branch .....	South of City of Barre.	665
	Upstream of Snowbridge Rd.	728
	Southern Corporate Limits.	741
Jail Branch .....	East of City of Barre.	717
	Upstream of Waterman St. (Vermont Route 110).	1077

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1635 Filed 1-23-78; 8:45 am)

### [4210-01]

(Docket No. FI-3584)

#### PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Bangor, Penobscot County, Maine

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Bangor, Penobscot County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Bangor, Penobscot County, Maine.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for City of Bangor are available for review at Planning Office, City Hall, 73 Harlow Street, Bangor, Maine 04401.

**FOR FURTHER INFORMATION CONTACT:**



## RULES AND REGULATIONS

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Bangor, Penobscot County, Maine.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Penobscot River	At the downstream face of State Route 1A.	17
	At the downstream face of Main Central Rd.	18
	120 ft downstream of Bangor water works dam.	20
	At the upstream face of Bangor water works dam.	30
Kenduskeag Stream.	At the downstream face of Central St.	17
	At the downstream face of Harlow St.	18
	0.4 mi upstream from Harlow St.	21
	At the downstream face of Valley Ave.	32
	At the downstream face of Interstate 95.	39
	At the downstream face of Griffin Rd.	60
	At the downstream face of State Route 15.	83

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Brook	890 ft upstream from State Route 15.	87
Osgood Brook	At the upstream face of Finson Rd.	84
	210 ft upstream from Finson Rd.	88
	At the upstream face of Ohio St.	120
Tributary No. 2, approximately 4,100 ft upstream from Bangor water works dam on Penobscot River.	1,055 ft upstream from U.S. Route 2.	30
	At the downstream face of Mount Hope Ave.	43
	At the downstream face of Hogan Rd.	60
	At the downstream face of Sylvan Rd.	76
	At the downstream face of Stillwater Ave.	97
	At the downstream face of bicycle path.	109
Tributary No. 3, approximately 370 ft upstream from the confluence of tributary No. 2 with Penobscot River.	530 ft upstream from the confluence with tributary No. 2.	34
	At the downstream face of Cemetery Rd.	48
	At the downstream face of twin 48 inch culvert.	52
	At the downstream face of Mount Hope Ave.	54
	At the downstream face of 48 inch culvert.	57
	At the downstream face of earthen dam.	83

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1634 Filed 1-23-78; 8:45 am]

[4210-01]

[Docket No. FI-2839]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

**Final Flood Elevation Determinations for Town of Columbine Valley, Arapahoe County, Colo.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Columbine Valley, Arapahoe County, Colo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Columbine Valley, Colo.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the Town of Columbine Valley, are available for review at Columbine Country Club, 17 Fairway Lane, Littleton, Colo.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Columbine Valley, Colo.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Platte River.	West Bowles Ave.	5,322
	Dutch Creek	5,330
	South Jefferson County drainage (north).	5,342
Dutch Creek	Cart Bridge (by corporate limits).	5,334
Cart Bridge	Cart Bridge (2,000 ft above South Platte).	5,346
	Fairway Lane.	5,360
	Platte Canyon Rd	5,373

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 7, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1630 Filed 1-23-78; 8:45 am]

[4210-01]

[Docket No. FI-3535]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

**Final Flood Elevation Determination for Town of Cromwell, Middlesex County, Conn.**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the Town of Cromwell, Middlesex, Conn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the Town of Cromwell, Middlesex, Conn.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the Town of Cromwell are available for review at Town Clerk's Office, Town Hall, 5 West Street, Cromwell, Conn. 06416.

## RULES AND REGULATIONS

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the Town of Cromwell, Middlesex, Conn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	At confluence with Mattabassett River.	23
	2 mi upstream from confluence with Mattabassett River.	24
	3.5 mi upstream from confluence with Mattabassett River.	25
	At the Portland-Glastonbury boundary on east bank.	26
Mattabassett River.	1.4 mi upstream from confluence with Connecticut River.	23
	Upstream of State Route 72 (1st crossing).	24
	At State Route 72 (2d crossing).	25
	Upstream of abandoned bridge 0.25 mi downstream of Pasco Hill Rd.	31
	Downstream of Pasco Hill Rd.	32
Cromwell Creek	Culvert at swamp, 1,000 ft upstream of Route 9.	25

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	South St. culvert.	26
	Downstream from West St. culvert.	28
	West St. culvert.	40
	950 ft downstream from New Lane Bridge.	54
	Downstream from New Lane Bridge.	67
Chestnut Brook	Downstream of State Route 9 culvert.	23
	800 ft upstream from State Route 9 culvert.	42
	1,105 ft upstream from State Route 9 culvert.	50
	Hicksville Rd.	71
	Downstream from pond, 900 ft above Hicksville Rd.	76
	Upstream of pond, 900 ft above Hicksville Rd.	93
	50 ft downstream from West St. culvert.	98
	Upstream of West St. culvert.	107
Shunpike Creek	Downstream of Shunpike Rd. culvert.	23
	Downstream of State Route 9 ramp D culvert.	26
	Upstream of State Route 9 ramp D culvert.	30
	370 ft upstream from State Route 9 ramp D culvert.	31
	Upstream of State Route 9 west bound culvert.	43
	Downstream of Evergreen Rd.	71
Willow Brook	Upstream of East View Dr.	26
	790 ft upstream from East View Dr. culvert.	31
Coles Rd. Brook	Downstream of State Route 72 bridge.	24
	Upstream of State Route 72 bridge.	26
	Downstream of Christian Hill Road Bridge.	27
	Downstream of North Rd.	59

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1631 Filed 1-23-78; 8:45 am]



## RULES AND REGULATIONS

[4210-01]

[Docket No. FI-3534]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation Determination for City of Norwich, New London County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the city of Norwich, New London County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the city of Norwich, New London County, Conn.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the city of Norwich, are available for review at the Planning Office, City Hall, Room 304, 96 Broadway, Norwich, Conn.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the city of Norwich, New London County, Conn.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Thames River .....	800 ft downstream of confluence of Trading Cove Brook.	11
	At confluence of Yantic and Shetucket River.	11
Trading Cove Brook.	160 ft downstream of West Thames St. (State Highway 32 Bridge).	11
	105 ft upstream of West Thames St.	26
	370 ft downstream of Connecticut Turnpike.	33
	210 ft upstream of the confluence of Goldmine Brook.	71
Great Plain Brook	At confluence with Trading Cove Brook.	29
	420 ft upstream of the confluence with Trading Cove Brook.	38
	105 ft upstream of dam located 750 ft downstream of Village Court.	73
	At downstream end of culvert at Melrose Park Rd.	85
	1,050 ft upstream of Melrose Park Rd. (westbound lane).	86
	3,030 ft upstream of Melrose Park Rd. (westbound lane).	90
Ford Brook .....	At confluence with Trading Cove Brook.	29
	1,800 ft upstream of confluence with Trading Cove Brook.	45
	850 ft downstream of Salem Turnpike Rd.	58
	1,100 ft upstream of Salem Turnpike Rd.	60
	900 ft upstream of Old Salem Rd.	65
	265 ft downstream of New London Turnpike Rd.	68
	At New London Turnpike Rd.	82
	At Newton St .....	100
Goldmine Brook .....	At confluence with Trading Cove Brook.	69
	155 feet upstream of Salem Turnpike Road.	78

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Tributary F (1,100 ft north of the confluence of the Thames River and Trading Cove Brook).	750 ft upstream of confluence with Thames River.	12
	At West Thames St. (State Highway 32.	24
Shetucket River .....	At Albert St .....	46
	At Water St .....	11
	At Main St. (State Highway 2).	18
	At 8th St .....	30
	105 ft upstream of Greenville Dam.	37
	100 ft downstream of Taftville Dam.	46
	265 ft upstream of Taftville Dam.	61
	265 ft upstream of Occum Dam.	76
	2,110 ft upstream of confluence with Byron Brook.	83
Spaulding Pond Brook.	100 ft upstream of Main St.	20
	160 ft upstream of Willow St.	31
	55 ft upstream of Chestnut Ave.	41
	290 ft upstream of Chestnut Ave.	52
	At Lake St .....	76
	240 ft downstream of Broad St.	82
	At Broad St .....	102
	590 ft upstream of Broad St.	126
	635 ft upstream of East Baltic Ave.	133
	135 ft upstream of Mohegan Rd. No. 2.	157
	At dam upstream of Mohegan Rd. No. 2.	168
Tributary D (3,700 ft south of the confluence of Shetucket River and Hunter Brook).	At confluence with Shetucket River.	38
	265 ft upstream of confluence with Shetucket River.	45
	At State Highway No. 12.	84
	525 ft upstream of State Highway No. 12.	92
	At Saint Regis Ave.	94
Hunter Brook .....	At confluence with Shetucket River.	41
	At dam 850 ft upstream of Boswell Ave.	45
	1,900 ft upstream of Boswell Ave.	66
	2,300 ft upstream of Boswell Ave.	71
Tributary C (580 ft downstream of confluence of Shetucket River and Little River).	State Highway No. 97.	66

## RULES AND REGULATIONS

Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Tributary B (confluent to Bobbin Mill Brook at Town St.).	At confluence with Yantic River.	88
	At East Town St... 1,135 ft upstream of East Town St. At Mediterranean Lane.	105 143 156
	80 ft above Mediterranean Lane.	160
Norwichtown Brook.	At confluence with Yantic River.	90
	600 ft above Case St.	96
Yantic River .....	600 ft downstream of Norwich Falls Dam.	15
	210 ft upstream of Mill Dam No. 2.	79
	New London Turnpike.	89
	530 ft upstream of Yantic Mill Dam.	103
	1,690 ft upstream of Willimatic Road Bridge.	120
Bobbin Mill Brook	At confluence with Yantic River.	88
	1,270 ft upstream of confluence with Yantic River.	89
	120 ft downstream of Scotland Rd. Culvert.	118 127

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1632 Filed 1-23-78; 8:45 am]

[4210-01]

[Docket No. FI-3182]

## PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATIONS AND JUDICIAL REVIEW

Final Flood Elevation Determinations for City of Ketchum, Blaine County, Idaho

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** Final base (100-year) flood elevations are listed below for selected locations in the City of Ketchum, Blaine County, Idaho. These

base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the flood insurance rate map (FIRM), showing base (100-year) flood elevations, for the City of Ketchum, Idaho.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations for the City of Ketchum, are available for review at City Hall, 407 North Main Street, Ketchum, Idaho.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of his final determinations of flood elevations for the City of Ketchum, Idaho.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat., 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Warm Springs Creek.	Ski Lift Bridge .....	5884
	Lewis Drive Bridge.	5887
Big Wood River .....	Road Bridge to Warm Springs.	5812
Trail Creek .....	Route 93 (Main Avenue).	5799

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: October 13, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1633 Filed 1-23-78; 8:45 am]

[4210-01]

[Docket No. FI-30121]

## PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Town of Federalsburg, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying special flood hazard areas. This list included the Town of Federalsburg, Md. It has been determined by FIA, after acquiring additional flood information and after further technical review of the flood insurance rate map for the Town of Federalsburg, Md., that certain property is not within the special flood hazard area. This map amendment, by establishing that the subject property is not within the special flood hazard area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** January 24, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker



who sold the policy, or from the national flood insurance program (NFIP) at P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620. The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 240013A Panel 01, published on June 29, 1977, in 42 FR 33215, indicates that a 14.117 acre tract of land in Federalsburg, Md., along East Central Avenue, being parcels A, B, and C in the William S. Routzahn Tract as shown on the Topo Survey by Frank J. Colt and Associates, revised October 10, 1976, as recorded in Liber 174, Folio 556 of Deeds, in the Office of Land Records of Caroline County, Md., is within the special flood hazard area.

Map No. H & I 240013A Panel 01 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Commencing at a point located on East Central Avenue being the southeast corner of the property and the point of beginning as identified on the Topo Survey, Parcels A, B, and C, William S. Routzahn Tract by Frank J. Colt and Associates, revised October 10, 1976; thence S. 80°53'00" W., approximately 210 feet to a point; thence N. 08°30'00" W., approximately 147.67 feet to a point; thence S. 80°24'00" W., approximately 105 feet to a point; thence N. 11°12'00" W., approximately 279.76 feet to a point; thence N. 05°20'30" W., approximately 708 feet to a point; thence N. 44°09'30" E., approximately 80 feet to a point; thence N. 31°39'30" E., approximately 105 feet to a point; thence N. 56°39'30" E., approximately 30 feet to a point; thence S. 70°50'30" E., approximately 25 feet to a point; thence S. 21°20'30" E., approximately 70 feet to a point; thence S. 32°29'30" W., approximately 132 feet to a point; thence S. 16°30'30" E., approximately 25 feet to a point; thence S. 48°30'30" E., approximately 85 feet to a point; thence S. 56°30'30" E., approximately 48 feet to a point; thence S. 68°00'30" E., approximately 43 feet to a point; thence S. 83°00'30" E., approximately 174 feet to a point; thence S. 62°30'30" E., approximately 63 feet to a point; thence S. 30°30'30" E., approximately 58 feet to a point; thence S. 68°30'30" E., approximately 63 feet to a point; thence S. 48°00'30" E., approximately 87 feet to a point; thence S. 82°27'00" W., approximately 55 feet to a point; thence S. 09°51'30" E., approximately 490.99 feet to a point; thence S. 78°17'00" W., approximately 196.26 feet to a point; thence S. 80°36'30" W., approximately 66.43 feet to a point; thence S. 09°35'00" E., approximately 209.82 feet to a point of beginning,

is not within the special flood hazard area identified on March 15, 1977. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
[FR Doc. 78-1642 Filed 1-23-78; 8:45 am]

## [4210-01]

[Docket No. FI-71-6361]

## PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Elizabeth, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying special flood hazard areas. This list included the City of Elizabeth, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the flood insurance rate map for the city of Elizabeth, N.J., that certain property is not within the special flood hazard area. This map amendment, by establishing that the subject property is not within the special flood hazard area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the national flood insurance program (NFIP) at P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 345523C Panel 01, published on June 29, 1977, in 42 FR 33222, indicates that Lots No. 13-1338 and No. 13-1339, located at 145 and 153 Stiles Street, respectively, Elizabeth, N.J., as shown on the Elizabeth tax map, are within the special flood hazard area. This property is recorded as

147 Stiles Street and 151-157 Stiles Street in Book 2554, Page 254, and Book 2789, Page 881, respectively, in the office of the Clerk of Union County, N.J.

Map No. H&I 345523C Panel 01 is hereby corrected to reflect that the existing structures on the above property are in Zone C and are not within the special Flood Hazard Area identified on May 8, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1643 Filed 1-23-78; 8:45 am]

## [4210-01]

[Docket No. FI-2134]

## PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Township of Wayne, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Township of Wayne, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Wayne, N.J., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender

now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 345327A Panel 13, published on June 29, 1977, in 42 FR 33224, indicates that Lot 15, Block 153-A, at 33 Newton Road, Wayne, N.J., as shown on the Township Tax Assessor's Map, is within the Special Flood Hazard Area. This property is recorded in Book C93, Pages 112 and 113, in the office of the Clerk of Bergen County, N.J.

Map No. H&I 345327A Panel 13 is hereby corrected to reflect the existing structure on the above property is in Zone B and is not within the Special Flood Hazard Area identified on November 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1644 Filed 1-23-78; 8:45 am]

## [4210-01]

[Docket No. FI-3012]

## PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment for Town of Barrington, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Town of Barrington, R.I. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Barrington, R.I., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area,

removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 445392B Panel 02, published on June 29, 1977, in 42 FR 33231, indicates that Lot 3, Section A, Dessel Plat, also known as 5 Tall Pines Drive, Barrington, R.I., as recorded in Deed Book 122, Page 457, in the Town Clerk's Office, Barrington, R.I., is within the Special Flood Hazard Area.

Map No. H & I 445392B Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 15, 1970. The property is in Zone B.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1645 Filed 1-23-78; 8:45 am]

## [4210-01]

[Docket No. FI-3012]

## PART 1920—PROCEDURE OF MAP AMENDMENT CORRECTION

Letter of Map Amendment for City of Providence, R.I.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Providence, Rhode Island. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Providence, R.I. that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP), at P.O. Box 34294, Bethesda, Md. 20034, Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 445406D Panel 04, published on June 29, 1977, in 42 FR 33231, indicates that Parcel 1-A Mohassuck Square Arcade Garage, being 530 North Main Street, Providence, R.I., as recorded in Plat Book 42, Page 35, in the Office of the Re-



corder of Deeds, Providence County, R.I., is located within the Special Flood Hazard Area.

Map No. H & I 445406D Panel 04 is hereby corrected to reflect that the above property, with the exception of a portion which can be described as follows:

Beginning at the intersection of the northeast right-of-way line of Charles Street and the southwest right-of-way line of Stevens Street; thence S 78°15' E, approximately 51.5 feet to a point; thence S 19°15' E, approximately 109 feet to a point; thence N 88°15' W, approximately 60 feet to a point; thence N 36°45' W, approximately 19 feet to a point; thence N 17°00' W, approximately 22.5 feet to a point; thence N 7°45' W, approximately 75.5 feet to a point, being the point of beginning.

is not within the Special Flood Hazard Area identified on April 16, 1976. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1646 Filed 1-23-78; 8:45 am)

[4210-01]

(Docket No. FI-3012)

PART 1920—PROCEDURE FOR MAP  
CORRECTION

Letter of Map Amendment for the County of  
Harris, Tex.

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the county of Harris, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Harris, Tex., that certain property is not within the special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard W. Krimm, Assistant  
Administrator, Office of Flood In-

surance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 480287B Panel 40, published on June 29, 1977 in 42 FR 33233, indicates that Tracts 1 and 2, being a portion of the William Jones Survey, Abstract Number 489, Harris County, Tex., recorded as Document Number D 796305 in the office of the Recorder of Harris County, Texas, are within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 40 is hereby corrected to reflect that a portion of Tract 1, which can be described as follows:

Beginning at a point on the south line of Tract 1, which is marked by a fence line, said point being S 88°15'11" W, approximately 800 feet from a fence corner post that marks the southeast corner of Tract 1; thence continuing S 88°15'11" W along the south line of this tract, approximately 110.61 feet to a half-inch iron rod set for the corner in the north line of a called 11.949 acre tract of land as acquired for right-of-way purposes for U.S. Highway 290 by the State of Texas according to Decree of Condemnation in Cause No. 128,651 (No. 587) styled the *State of Texas, et al., v. Wendell E. Phillips, et al.*, dated July 10, 1964, as recorded for record in Volume 5654, Page 459 of the Harris County Deed Records;

Thence northwesterly around the arc of a 3014.79 foot radius curve to the left, which is marked by a fence line, that represents this herein described 60.33649 acre tract's south line and also the north line of the aforesaid State of Texas called 11.949 acre tract, said curve having a central angle of 19°40'04" and a chord that bears N 77°39'14" W for 1029.80 feet or around the said curve for an arc length of 1034.88 feet to a 1/4-inch iron rod set for the end of this curve in the fence line;

Thence N 87°39'06" W continuing along this tract's south line, which is marked by a fence line, and the north line of the aforesaid U.S. Highway 290 right-of-way for 4.02 feet to another 1/4-inch iron rod found in the said fence line;

Thence northwesterly around the arc of a 520.87 foot radius curve to the right, which is marked by the same fence line and still representing this herein described tract's southerly line and the northerly line of the State of Texas called 11.949 acre tract, said

curve having a central angle of 73°45'50" and a chord that bears N 50°45'45" W for 625.22 feet or along the said curve arc for a distance of 670.58 feet to a 1/4-inch iron rod found located in the said fence line for end of this said curve;

Thence N 13°55'47" W along a westerly line of this tract and an easterly line of the U.S. Highway 290 right-of-way tract which is marked by the same fence line for 122.54 feet to a 1/4-inch iron rod found in the fence line;

Thence northwesterly around the arc of a 100.00 foot radius curve to the left and still continuing with the fence line that represents a southwesterly line of this 60.33649 acre tract, said curve having a central angle of 56°24'23" and a chord that bears N 41°54'43" W for 94.52 feet or along the said curve arc for a total length of 98.45 feet to another 1/4-inch iron rod found in the said fence line for end of this curve;

Thence N 69°53'58" W continuing with the said fence line that still represents a south line of this herein described tract and is also a northerly line of the State of Texas' U.S. Highway 290 right-of-way according to Volume 5654, Page 459 of the Harris County Deed Records for 83.15 feet to a 1/4-inch rod found for beginning of a curve;

Thence northwesterly around a 110.0 foot radius curve to the right that has a central angle of 87°01'39" and a chord that bears N 36°01'47" W for 121.47 feet or along the said curve arc for 128.68 feet to a 1/4-inch iron rod found for the most northerly southwest corner of this tract and is also the most northerly corner of the said State of Texas' called 11.949 acre right-of-way tract and same rod is located in the east right-of-way line of Huffmeister Road according to a 20.00 foot wide strip of land conveyed to Harris County, Tex., from H. L. Phillips on January 13, 1955, as recorded in Volume 2902, Page 701 of the Harris County Deed Records;

Thence N 02°39'06" W along the west line of this herein described 60.33649 acre tract, which is marked by a fence line, and same being the east line of Huffmeister Road, 80.00 feet wide for 225.40 feet to this tract's northwest corner;

Thence N 88°29'09" E along this tract's north line for 2623.05 feet to a point for northeast corner that is located in the east line of the called 142.69 acre tract, same being the east line of the said William Jones Survey and the west line of the said M. Wood Survey;

Thence S 01°40'06" E along this tract's east line which marked by a fence line and is also the common aforesaid survey line for 349.14 feet, thence S 42°30' W, approximately 1,145 feet to the place of beginning.

and Tract 2 of the above-mentioned property, are not within the Special Flood Hazard Area identified on July 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1647 Filed 1-23-78; 8:45 am)

[4210-01]

(Docket No. FI-3012)

PART 1920—PROCEDURE FOR MAP  
CORRECTION

Letter of Map Amendment for County of  
Harris, Tex.

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the County of Harris, Tex. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the County of Harris, Tex., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard W. Krimm, Assistant  
Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H & I 480287B Panels 78 and 84, published on June 29, 1977 in 42 FR 33233, indicate that Sections One, Two, Three, and Four, Westwood Center, Harris County, Tex., as recorded in Volume 221, Page 19; Volume 221, Page 26; Volume 243, Page 89; and Volume 226, Page 77, respectively, and Sundance, Harris County, as recorded in Volume 234, Page 108; in the Office of Map Records for Harris County, Tex., are within the Special Flood Hazard Area.

Map No. H & I 480287B Panels 78 and 84 are hereby corrected to reflect that the above properties, with the exception of a portion in Sections Three and Four Westwood Center and Sundance, as measured approximately 100 feet from the centerline of Brays Bayou, are not within the Special Flood Hazard Area identified on July 30, 1976. The properties are in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1648 Filed 1-23-78; 8:45 am)

[4210-01]

(Docket No. FI-71-17788)

PART 1920—PROCEDURE FOR MAP  
CORRECTION

Letter of Map Amendment for New Castle  
County, Del.

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included New Castle County, Del. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for New Castle County, Del., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: January 24, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property

owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, Phone: 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 105085A Panel 39, published on June 29, 1977, in 42 FR 33207, indicates that the Delaware Reclamation Project, New Castle County, Del., as recorded in Record Book K-84, Pages 711 through 718, in the office of the Recorder of New Castle County, Del., is within the Special Flood Hazard Area.

Map No. H&I 105085A Panel 39 is hereby corrected to reflect that all of the land of the Delaware Reclamation Project at an elevation higher than 9 feet mean sea level (msl) is within Zone B and Zone C, and is not within the Special Flood Hazard Area identified on December 7, 1971 and December 26, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1639 Filed 1-23-78; 8:45 am)

[4210-01]

(Docket No. FI-3012)

PART 1920—PROCEDURE FOR MAP  
CORRECTION

Letter of Map Amendment for City of  
Savannah, Ga.

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Savannah, Ga. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Savannah, Ga., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase



flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** January 24, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 135163 Panel 03, published on June 29, 1977, in 42 FR 33211, indicates that Lot 2, John G. Butler Co. Tract, DeWitt Ward, Savannah, Chatham County, Ga., as recorded in Record Book 105-C, Folio 233, in the office of the Clerk of Chatham County, Ga., is within the Special Flood Hazard Area.

Map No. H&I 135163 Panel 03 is hereby corrected to reflect the above property is in Zone C and is not within the Special Flood Hazard Area identified on May 21, 1978.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968, as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1641 Filed 1-23-78; 8:45 am)

[4210-01]

(Docket No. FI-71-15866)

**PART 1920—PROCEDURE FOR MAP CORRECTION**

Letter of Map Amendment for Fulton County, Ga.

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Final rule.

**SUMMARY:** The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Fulton County, Ga. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Fulton County, Ga., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

**EFFECTIVE DATE:** January 24, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Md. 20034, phone 800-638-6620.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H&I 135160A Panel 10, published on June 29, 1977, in 42 FR 33211, indicates that part of Lot 94, Block C, Unit 4, Huntcliff, located at 120 River Landing, 17th District, Fulton County, Ga., as shown on a survey by A. W. Browning dated October 2, 1974, is within the Special Flood Hazard Area. This property is recorded in Deed Book 5148, Page 170, in the office of the Clerk of the Superior Court of Fulton County, Ga.

Map No. H&I 135160A Panel 10 is hereby corrected to reflect the existing structure on the above property is in Zone C and is not within the Special Flood Hazard Area identified on November 2, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1640 Filed 1-23-78; 8:45 am)

[3810-70]

**Title 32—National Defense**

**CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE**

(DIA Reg. No. 12-12)

**PART 292a—PRIVACY ACT OF 1974**

**Final Rule Amendment**

**AGENCY:** Defense Intelligence Agency (DIA).

**ACTION:** Amended final rule.

**SUMMARY:** This rule amendment is intended to improve the clarity of existing exemption rules under the Privacy Act of 1974. The present rules are duplicative as to the specific exemption authority. The present general exemption rule, as written, is not applicable to any particular identifiable system of records. Certain deletions and changes will eliminate the obscurity.

**EFFECTIVE DATE:** This final rule was effective as of August 30, 1977. See supplementary information for more details.

**FOR FURTHER INFORMATION CONTACT:**

Mr. John B. Brock, Office of the General Counsel, Defense Intelligence Agency, Room 5C-323, The Pentagon, Washington, D.C. 20301.

**SUPPLEMENTARY INFORMATION:** In 42 FR 38604 of the FEDERAL REGISTER of July 29, 1977 (FR Doc. 77-21940), a proposed rule amendment to the Defense Intelligence Agency (DIA) Privacy Act rules was published to clarify the exemption rules. No comments were received. Through administrative oversight, the final rule was inadvertently not published and adopted by DIA. This action rectifies the situation by republishing again the proposed rule amendment as a final rule amendment. Therefore the amendment is effective as of August 30, 1977.

MAURICE W. ROCHE,  
Correspondence and Directives,  
Washington Headquarters Services,  
Department of Defense.

JANUARY 17, 1978.

Section 292a.22 and § 292a.23 is revised to read as follows:

§ 292a.22 General information.

(a) The Director, Defense Intelligence Agency designates the following systems of records listed in § 292a.23 which are maintained by the DIA for exemptions under the specified provisions of the Privacy Act of 1974 (Pub. L. 93-579).

(b) All systems of records maintained by the DIA will be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive Order 11652. "Classification and Declassification of National Security Information and Material," 8 March 1972 (37 FR 10053, 19 May 1972), and which is required by the Executive Order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not otherwise specifically designated for exemptions herein may contain isolated items of information which have been properly classified.

§ 292a.23 Specific exemptions.

(a) ID: L DIA 0271.

(1) *System name:* Investigations.

(2) *Exemption:* This system of records is exempt from the following provisions of Title 5, U.S.C., Section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(2).

(4) *Reasons:* Granting individuals access to information collected and maintained by this Component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to the complete record and the reasons therefore necessitate the exemption of this system of records from the requirements of the other cited provisions. However, the individual may have access only to that information provided by himself. The files contain properly classified information under Executive Order 11652 and are required by the Executive Order to be kept secret in the interest of national defense.

(b) ID: L DIA 0272.

(1) *System name:* Complaints.

(2) *Exemption:* This system of records is exempt from the following provisions of Title 5, U.S.C., Section 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and (f).

(3) *Authority:* 5 U.S.C. 552a(k)(2).

(4) *Reasons:* Granting individuals access to information collected and maintained by this Component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffective investigative techniques, sources and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to the complete record and the reasons therefore necessitate the exemption of this system of records from the requirements of the other cited provisions. However, the individual may have access only to that information provided by himself. The files contain properly classified information under Executive Order 11652 and are required by the Executive Order to be kept secret in the interest of national defense.

(FR Doc. 78-1957 Filed 1-23-78; 8:45 am)

[3710-92]

**Title 33—Navigation and Navigable Waters**

**CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY**

**PART 207—NAVIGATION REGULATIONS**

Los Angeles and Long Beach Harbors, Calif.

**AGENCY:** U.S. Army Corps of Engineers, DOD.

**ACTION:** Final rule.

**SUMMARY:** This rule revokes regulations which establish naval restricted areas in Los Angeles and Long Beach Harbors, Calif. The Commanding Officer, Naval Support Activity, Long Beach, Calif., has advised that the restricted areas are no longer needed.

**EFFECTIVE DATE:** January 24, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Ralph T. Eppard, 202-693-5070, or write Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attn.: DAEN-CWO-N.

**SUPPLEMENTARY INFORMATION:** Regulations were established by the Secretary of the Army under 33 CFR Part 207.616 governing the use, administration, and navigation of two areas designated as naval restricted areas in Los Angeles and Long Beach Harbors, Calif. The restricted areas are no longer needed by the Naval Support Activity, Long Beach, Calif., and accordingly, are hereby revoked as set forth below:

The Department of the Army has determined that publication of this revocation in the proposed rulemaking section of the FEDERAL REGISTER is unnecessary since this will result in the removal of a restriction on a waterway.

§ 207.616 [Revoked],  
(40 Stat. 266; 33 U.S.C. 1.)

**NOTE:**—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 6, 1978.

CHARLES R. FORD,  
Acting Assistant Secretary  
of the Army (Civil Works).

(FR Doc. 78-1986 Filed 1-23-78; 8:45 am)

[6560-01]

**Title 40—Protection of Environment**

**CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY**

**SUBCHAPTER C—AIR PROGRAMS (FRL 846-41)**

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

California Plan Revision: Malfunction Regulations

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rulemaking.

**SUMMARY:** The Environmental Protection Agency (EPA) takes final action to disapprove the malfunction rules and regulations of twenty-seven Air Pollution Control Districts (APCDs) in California. These regulations were submitted by the Governor's designee for inclusion in the California State Implementation Plan (SIP). The intended effect of this action is to correct deficiencies in the SIP.

**EFFECTIVE DATE:** February 22, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Allyn Davis, Acting Director, Air and Hazardous Materials Division, Envi-



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ronmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105, Attn: David R. Souten, 415-556-7288.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove regulations submitted as SIP revisions. It is the purpose of this notice to take final disapproval action on the following APCD rules and regulations concerning malfunction:

1. Amador County APCD Rule 404, Upset Conditions and Breakdown submitted on April 21, 1976. EPA proposed to take action on this rule on May 31, 1977 (42 FR 27616);  
2. Bay Area APCD Regulation 2, Section 3212, Upset Conditions, Breakdown or Scheduled Maintenance and Regulation 3, Section 3203, Upset Conditions, Breakdown or Scheduled Maintenance submitted on April 21, 1976. EPA proposed to take action on these rules on September 7, 1977 (42 FR 44822);

3. Del Norte County APCD Rule 540, Equipment Breakdown submitted on November 10, 1976. EPA proposed to take action on this rule on June 14, 1977 (42 FR 30394);

4. Fresno County APCD Rule 110, Equipment Shutdown, Startup and Breakdown submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812). EPA proposed to disapprove this rule on November 1, 1976 (41 FR 47950);

5. Glenn County APCD Rules 95.2, Maintenance of Equipment and 95.3, Malfunction of Equipment submitted on January 10, 1975. EPA proposed to take action on these rules on September 16, 1977 (42 FR 46557);

6. Great Basin Unified APCD Rule 403, Upset/Breakdown submitted on June 6, 1977. EPA proposed to take action on this rule on September 7, 1977 (42 FR 44821);

7. Humboldt County APCD Rule 540, Equipment Breakdown submitted on November 10, 1976. EPA proposed to take action on this rule on June 14, 1977 (42 FR 30395);

8. Kern County APCD Rule 111, Equipment Shutdown, Startup and Breakdown submitted on July 19, 1974. EPA proposed to disapprove this rule on November 1, 1976 (41 FR 47950);

9. Kings County APCD Rule 111, Shutdown, Startup and Breakdown submitted on July 25, 1973 and Rule 111, Shutdown, Startup and Breakdown submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812). EPA proposed to disapprove these rules on November 23, 1976 (41 FR 51619);

10. Lake County APCD Section 1, Maintenance and Section 2, Malfunction of Equipment of Part VI, Maintenance, Malfunction, Evasion and Inspection submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812). EPA proposed to disapprove these rules on November 1, 1976 (41 FR 47951);

11. Lake County APCD Rules 500 (Not Titled), 510 (Not Titled) and 511 (Not Titled) submitted on February 10, 1977. EPA proposed to take action on these rules on May 31, 1977 (42 FR 27616);

12. Madera County APCD Rule 402(f), Exceptions submitted on January 10, 1975, and Rule 110, Equipment Shutdown, Startup and Breakdown submitted on June 30, 1972

and previously approved under 40 CFR 52.223 (37 FR 19812). EPA proposed to disapprove these rules on November 23, 1976 (41 FR 51620);

13. Mariposa County APCD Rule 203(j), Exceptions submitted on January 10, 1975 and Rule 4.3(g), Exceptions submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842). EPA proposed to disapprove these rules on November 1, 1976 (41 FR 17952);

14. Mendocino County APCD Rule 540, Equipment Breakdown submitted on November 10, 1976. EPA proposed to take action on this Rule on June 14, 1977 (42 FR 30396);

15. Merced County APCD Rule 109, Equipment Shutdown, Startup and Breakdown submitted on August 2, 1976. EPA proposed to take action on this rule on June 14, 1977 (42 FR 30396);

16. Northern Sonoma County APCD Rule 540, Equipment Breakdown submitted on November 10, 1976. EPA proposed to take action on this rule on June 14, 1977 (42 FR 30397);

17. Plumas County APCD Rule 203(j), Exceptions submitted on January 10, 1975. EPA proposed to take action on this rule on May 26, 1977 (42 FR 27000);

18. San Luis Obispo County APCD Rule 107, Breakdown or Upset Conditions and Emergency Variances submitted on November 10, 1976. EPA proposed to take action on this rule on June 22, 1977 (42 FR 31609);

19. Shasta County APCD Rule 3:10, Breakdown or Malfunction submitted on July 19, 1974. EPA proposed to disapprove this rule on November 1, 1976 (41 FR 47954);

20. San Bernardino County APCD Rule 430, Breakdown Provisions submitted on June 6, 1977. EPA proposed to take action on this rule on September 16, 1977 (42 FR 46554);

21. Los Angeles County APCD Rule 430, Breakdown Provisions submitted on June 6, 1977. EPA proposed to take action on this rule on September 16, 1977 (42 FR 46554);

22. Riverside County APCD Rule 430, Breakdown Provisions submitted on June 6, 1977. EPA proposed to take action on this rule on September 16, 1977 (42 FR 46554);

23. Southern California APCD Rule 430, Breakdown Provisions submitted on February 10, 1977. EPA proposed to take action on this rule on May 26, 1977 (42 FR 27000);

24. Tehama County APCD Rule 4:17, Upset or Breakdown Conditions submitted on July 19, 1974. EPA proposed to take action on this rule on September 16, 1977 (42 FR 46557);

25. Tulare County APCD Rules 111, Equipment Shutdown, Startup and Breakdown and 402(f), Exceptions submitted on November 10, 1976. EPA proposed to take action on these rules on June 14, 1977 (42 FR 30399);

26. Tuolumne County APCD Rule 404, Upset Conditions, Breakdown or Scheduled Maintenance submitted on February 10, 1977. EPA proposed to take action on this rule on May 31, 1977 (42 FR 27618);

27. Tuolumne County APCD Rule 402(f), Exceptions submitted on June 30, 1972 and previously approved under 40 CFR 52.223 (37 FR 19812). EPA proposed to disapprove this rule on November 1, 1976 (41 FR 47956);

28. Trinity County APCD Rule 540, Equipment Breakdown submitted on November 10, 1976. EPA proposed to take action on this rule on June 14, 1977 (42 FR 30398);

29. Ventura County APCD Rule 32, Upset Conditions, Breakdown or Scheduled Maintenance submitted on July 19, 1974. EPA proposed to take action on this rule on April 29, 1977 (42 FR 21819).

The proposed rulemaking notices provided for a 30 day comment period. Comments were received from the following APCDs: Bay Area; Kern County; Kings County; Stanislaus County; Tulare County and from the South Coast Air Quality Management District (formerly the Southern California APCD). No other comments were received.

Four of the APCDs stated that they were working to revise their malfunction rules to correct deficiencies. EPA has not received any such modifications.

One APCD disagreed that the proposed rule is deficient, stating their rule revision provided adequate measures to prevent abuse of exemption provisions. Another APCD expressed confusion as to EPA's policy regarding Malfunction. EPA's policy as stated in the April 27, 1977 **FEDERAL REGISTER** (42 FR 21472) is that while it might be appropriate to refrain from enforcing where a malfunction is truly beyond the control of a source, any malfunction provision which allows a regulatory exemption is unacceptable.

EPA is disapproving the APCD malfunction rules previously identified because these rules would permit sources to be exempted from applicable emission limitations. These rules do not satisfy the enforcement imperatives of Section 110 of the Clean Air Act because they render emission limitations potentially unenforceable.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

(Secs. 110 and 301(a), Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).)

Dated: January 17, 1978.

DOUGLAS M. COSTLE,  
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart F—California**

1. Section 52.220, is amended by adding paragraphs (c)(21)(ix)(B), (c)(24) (v)(B), (c)(24)(vi)(B), (c)(24)(vii)(B), (c)(24)(x)(B), (c)(26)(iv)(B), (c)(26) (viii)(B), (c)(26)(xiii)(B), (c)(26)(xvi)(A), (c)(31)(xvi)(A), (c)(31)(xvi)(B), (c)(31)(xviii)(A), (c)(32)(iii)(B), (c)(35)(vi)(B), (c)(35)(ix)(A), (c)(35)(xii)(B), (c)(35)(xiv)(A), (c)(35)(xv)(A), (c)(35)(xvi)(A), (c)(35)(xvii)(A), (c)(37)(i)(B), (c)(37)(iv)(A), (c)(37)(v)(A), (c)(39)(i)(A), (c)(39)(ii)(A), (c)(39)(iii)(A), and (c)(39)(iv)(A) as follows:

**52.220 Identification of plan.**

(c) \* \* \*  
(21) \* \* \*  
(ix) \* \* \*  
(B) Rule 111.

(24) \* \* \*  
(v) \* \* \*  
(B) Rule 4:17.  
(vi) \* \* \*  
(B) Rule 3:10.  
(vii) \* \* \*  
(B) Rule 111.

(x) \* \* \*  
(B) Rule 32.

(26) \* \* \*  
(iv) \* \* \*  
(B) Rules 95.2 and 95.3.

(viii) \* \* \*  
(B) Rule 203(j).

(xiii) \* \* \*  
(B) Rule 402(f).

(xvi) Plumas County APCD.  
(A) Rule 203(j).

(31) \* \* \*  
(xvi) Bay Area APCD.  
(A) Regulation 2, section 3212.  
(B) Regulation 3, section 3203.

(xviii) Amador County APCD.  
(A) Rule 404.

(32) \* \* \*  
(iii) \* \* \*  
(B) Rule 109.

(35) \* \* \*  
(vi) \* \* \*  
(B) Rules 111 and 402(f).

(ix) Del Norte County APCD.  
(A) Rule 540.

(xii) San Luis Obispo County APCD.  
(B) Rule 107.

(xiv) Humboldt County APCD.  
(A) Rule 540.  
(xv) Mendocino County APCD.  
(A) Rule 540.  
(xvi) Northern Sonoma County APCD.  
(A) Rule 540.  
(xvii) Trinity County APCD.  
(A) Rule 540.

(37) Revised regulations for the following APCDs submitted on February 10, 1977, by the Governor's designee.  
(i) Southern California APCD.  
(B) Rule 430.

(iv) Lake County APCD.  
(A) Rules 500, 510, and 511.  
(v) Tuolumne County APCD.  
(A) Rule 404.

(39) Revised regulations for the following APCDs submitted on June 6, 1977, by the Governor's designee.  
(i) Great Basin Unified APCD.  
(A) Rule 403.  
(ii) San Bernardino County APCD.  
(A) Rule 430.  
(iii) Los Angeles County APCD.  
(A) Rule 430.

2. Section 52.271 is added to read as follows:

**§ 52.271 Malfunction regulations.**

(a) The following regulations are disapproved because they would permit the exemption of sources from the applicable emission limitations and therefore do not satisfy the enforcement imperatives of section 110 of the Clean Air Act.

(1) North Coast Intrastate AQCR:  
(A) Rule 540, submitted on November 10, 1976, is disapproved.

(ii) Humboldt County APCD.  
(A) Rule 540, submitted on November 10, 1976, is disapproved.

(iii) Lake County APCD.  
(A) Chapter III, article I, section 500, and article II, sections 510 and 511, submitted on February 10, 1977, are disapproved; and part VI, sections 1 and 2, submitted on June 30, 1972, and previously approved under 40 CFR 52.223, are disapproved.

(iv) Mendocino County APCD.  
(A) Rule 540, submitted on November 10, 1976, is disapproved.

(v) Trinity County APCD.  
(A) Rule 540, submitted on November 10, 1976, is disapproved.

(2) Sacramento Valley Intrastate AQCR:

(i) Glenn County APCD.  
(A) Rules 95.2 and 95.3, submitted on January 10, 1975, are disapproved.

(ii) Plumas County APCD.  
(A) Rule 203(j), submitted on January 10, 1975, is disapproved.

(iii) Shasta County APCD.  
(A) Rule 3:10, submitted on July 19, 1974, is disapproved.  
(iv) Tehama County APCD.  
(A) Rule 4:17, submitted on July 19, 1974, is disapproved.  
(3) San Francisco Bay Area Intrastate AQCR:  
(i) Bay Area APCD.  
(A) Regulation 2, section 3212, and regulation 3, section 3203, submitted on April 21, 1976, are disapproved.

(ii) Northern Sonoma County APCD.  
(A) Rule 540, submitted on November 10, 1976, is disapproved.

(4) San Joaquin Valley Intrastate AQCR:

(i) Amador County APCD.  
(A) Rule 404, submitted on April 21, 1976, is disapproved.

(ii) Fresno County APCD.  
(A) Rule 110, submitted on June 30, 1972 and previously approved under 40 CFR 52.223, is disapproved.

(iii) Kern County APCD.  
(A) Rule 111, submitted on July 19, 1974, is disapproved.

(iv) Kings County APCD.  
(A) Rule 111, submitted on July 25, 1973, and rule 111, submitted on July 30, 1972, and previously approved under 40 CFR 52.223, are disapproved.

(v) Madera County APCD.  
(A) Rule 402(f), submitted on January 10, 1975, and rule 110, submitted on June 30, 1972, and previously approved under 40 CFR 52.223, are disapproved.

(vi) Mariposa County APCD.  
(A) Rule 203(j), submitted on January 10, 1975, and rule 4.3(g), submitted on February 21, 1972, and previously approved under 40 CFR 52.223, are disapproved.

(vii) Merced County APCD.  
(A) Rule 109, submitted on August 2, 1976, is disapproved.

(viii) Tulare County APCD.  
(A) Rules 111 and 402(f), submitted on November 10, 1976, are disapproved.

(ix) Tuolumne County APCD.  
(A) Rule 404, submitted on February 10, 1977, and rule 402(f), submitted on June 30, 1972, and previously approved under 40 CFR 52.223, are disapproved.

(5) Great Basin Valleys Intrastate AQCR:

(i) Great Basin Unified APCD.  
(A) Rule 403, submitted on June 6, 1977, is disapproved.

(6) South Central Coast Intrastate AQCR:

(i) San Luis Obispo County APCD.  
(A) Rule 107, submitted on November 10, 1976, is disapproved.

(7) Metropolitan Los Angeles Intrastate AQCR:

(i) Southern California APCD.  
(A) Rule 430, submitted on February 10, 1977, is disapproved.

(ii) Ventura County APCD.  
(A) Rule 32, submitted on July 19, 1974, is disapproved.



(8) Southeast Desert Intrastate AQCR:  
(i) San Bernardino County APCD.  
(A) Rule 430, submitted on June 6, 1977, is disapproved.  
(ii) Los Angeles County APCD.  
(A) Rule 430, submitted on June 6, 1977, is disapproved.  
(iii) Riverside County APCD.  
(A) Rule 430, submitted on June 6, 1977, is disapproved.

[FRL Doc. 78-1927 Filed 1-23-78; 8:45 am]

[6560-01]

[FRL 6560-01]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**Air Pollution Control State Statutes, State of Nevada**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rulemaking.

SUMMARY: It is the purpose of this action to approve amendments to the Nevada Revised Statutes (NRS) submitted to EPA by the governor on September 10, 1975 as revisions to the Air Quality Implementation Plan for the State of Nevada. The amendments pertain to motor vehicle inspection and testing, public availability of emission data, stack testing and other miscellaneous items. Action was proposed in the FEDERAL REGISTER on May 20, 1977.

EFFECTIVE DATE: February 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Allyn M. Davis, Acting Director, Air and Hazardous Materials Division; Attention Morris I. Goldberg, Air Programs Branch, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, telephone 415-556-7473.

SUPPLEMENTARY INFORMATION:

**BACKGROUND**

On September 10, 1975 the governor of Nevada submitted legislative amendments to EPA as revisions to the State Implementation plan (SIP). On May 20, 1977 (42 FR 25878) EPA proposed approval, with exceptions, of the items submitted in five plan revisions including the September 10, 1975 revision. At this time final action is being taken on only the legislative revisions submitted on September 10, 1975 which were proposed for approval on May 20, 1977. The other revisions proposed for approval/disapproval on May 20, 1977 will be the subject of a separate FEDERAL REGISTER document.

The proposed rulemaking notice provided for a 30-day public comment

period. Copies of the statutes proposed for approval and disapproval, the EPA evaluation report, and the proposed rulemaking notice were made available during the public comment period at Carson City, Reno, and Las Vegas, Nevada and at the EPA offices in San Francisco, California and Washington, D.C.

**DISCUSSION OF ACTION**

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP.

**DIFFERENCES FROM THE PROPOSED ACTIONS**

Final rulemaking on legislative revisions differs from that proposed on May 20, 1977 because of public comment and statutory revisions enacted by the 1977 State legislature.

One comment with respect to the statutory revisions of the "Power Plant Enforcement Moratorium" was received from the Southern California Edison Co. In response to the proposed disapproval of NRS 445.546(7), the company recommended that no action be taken since the moratorium expired on July 1, 1977. EPA concurs with the comment and is taking no action on the statute.

The other difference from the action proposed by EPA relates to the "Motor Vehicle Inspection and Testing Program Limitation." The Nevada legislature, in its 1975 session, adopted NRS 445.635 which limited the State authority on the inspection and testing of motor vehicle emissions to used vehicles upon their sale or transfer. This limitation of authority was not consistent with the approved control strategy portion of the SIP. The Nevada legislature, in its 1977 session, revised NRS 445.635 to provide the State with authority to inspect, test, and require emission control compliance of all used motor vehicles prior to their registration. The authority is being phased-in under the statute, with full authority in all applicable areas of the State, effective on July 1, 1979. EPA has been informed that the Governor will be submitting the revised statute as an SIP revision in the near future. Accordingly, no action is now being taken on the proposed disapproval of the 1975 version of NRS 445.635, pending receipt of the revised statute.

**APPROVALS, AND RESCISSIONS, AS PROPOSED.**

Final rulemaking on the September 10, 1975 plan revision is identical to that proposed on May 20, 1977 with the exception of those items discussed above. Approval is being promulgated for the following:

- NRS 169.125—Peace officer powers authorized.
- NRS 445.477—Source stack emission testing.
- NRS 445.481—Hearing board make-up.
- NRS 445.526—Actions on alleged violations.
- NRS 445.576—Confidential information.
- NRS 445.640—Prerequisite to motor vehicle registration.
- NRS 445.700—Motor vehicle emission control program fees.
- NRS 481.—(new statute)—Creation of motor vehicle emission control section, (Section 1 of 1975 Assembly Bill 326) and.
- NRS 482.640—Motor vehicle seller's requirements.

EPA is rescinding its disapproval of NRS 445.576, on confidential information (public availability of emission data), as proposed on May 20, 1977. The disapproval is at 40 CFR 52.1474(a).

(Secs. 110, 301(a), Clean Air Act, as amended (42 U.S.C. 1857c-5, 1857g(a), respectively).)

Dated: January 18, 1978.

DOUGLAS M. COSTLE,  
Administrator.

Subpart DD of Part 52 of Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

**Subpart DD—Nevada**

1. In § 52.1470, paragraph (c) is amended by the addition of subparagraph (10) as follows:

§ 52.1470 Identification of plan.

• • • • •

(c) • • •

(10) Amendments to the Nevada Revised Statutes (NRS) (1975 Legislative Session) on motor vehicle inspection and testing (NRS 445.640, 445.700, 482.640 and 169.125), public availability of emission data (NRS 445.576), organization (NRS 445.481 and 481.—). (Section 1 of 1975 Assembly Bill 326), stack testing (NRS 445.477), and alleged violations (NRS 445.526) submitted on September 10, 1975 by the Governor.

2. In § 52.1474, paragraph (a) is revoked as follows:

§ 52.1474 Legal authority.

(a) [Revoked]

[FRL Doc. 78-2028 Filed 1-23-78; 8:45 am]

[6560-01]

[FRL 844-6]

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

**California Plan Revision: Fresno County APCD**

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and disapprove changes to the Fresno County APCD portion of the California State Implementation Plan (SIP). The changes were submitted by the Governor's designee to update rules and regulations and to correct certain deficiencies in the SIP. The intended effect of this action is to ensure the attainment and maintenance of the National Ambient Air Quality Standards.

EFFECTIVE DATE: February 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 215 Fremont Street, San Francisco Calif. 94105; Attention David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 26997, EPA published a notice of proposed rulemaking for revisions to the Fresno County Air Pollution Control District Rules and Regulations submitted on November 10, 1976, by the California Air Resources Board for inclusion in the California SIP.

The changes contained in the above mentioned submittal and being acted upon by this notice include the following: addition of metric limits to the emission limitation for disposal of solid and liquid wastes in incinerators and relaxation of the emission limitation for disposal of solid and liquid wastes for incinerators burning less than 100 pounds per hour; and combination of two existing limitations for fuel burning equipment into one regulation to which metric units have been added. A list of Rules considered by this action was published as part of the notice of proposed rulemaking and can be found in 42 FR 26997 (May 26, 1977).

Public comments on this proposed rulemaking have been received from the Fresno County APCD which stated that the emissions from small incinerators are insignificant and that the relaxed Rule 407 requires Reasonably Available Control Technology (RACT). However, insufficient data

have been supplied to demonstrate that the less stringent emission standard will not interfere with the attainment and maintenance of NAAQS.

It is the purpose of this notice to approve all changes contained in the November 10, 1976 submittal and incorporate them into the California SIP with the exception of the rule discussed below.

EPA is disapproving Rule 407, Disposal of Solid and Liquid Wastes. This rule provides less stringent controls for incinerators burning less than 100 pounds per hour. No data was submitted which adequately demonstrate that the new standard will not interfere with attainment/maintenance of NAAQS. Without a control strategy demonstration, EPA cannot approve this SIP revision (40 CFR 51.8, 51.13(e), and 51.14(c)).

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a).))

Dated: January 18, 1978.

DOUGLAS M. COSTLE,  
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

1. Section 52.220, paragraph (c)(35)(vii) is added as follows:

§ 52.220 Identification of plan.

• • • • •  
(c) • • •  
(35) • • •  
(vii) Fresno County APCD.  
(A) Rules 407 and 408.

2. Section 52.226, paragraph (b)(4)(ii) is added as follows:

§ 52.226 Control strategy and regulations: Particulate matter, San Joaquin Valley Intrastate Region.

• • • • •  
(b) • • •  
(4) • • •  
(ii) Rule 407, Disposal of Solid or Liquid Wastes, submitted on November 10, 1976, is disapproved; and Rule 407.1, submitted on June 30, 1972 and

previously approved in 40 CFR 52.223 is retained.

[FRL Doc. 78-2027 Filed 1-23-78; 8:45 am]

[4410-01]

**Title 41—Public Contracts and Property Management**

**CHAPTER 128—JUSTICE PROPERTY MANAGEMENT REGULATIONS**

**PART 128-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY**

**PART 128-50—SEIZED PERSONAL PROPERTY**

AGENCY: U.S. Department of Justice, Office of Management and Finance.

ACTION: Final rule.

SUMMARY: This rule supplements and implements the policies contained in Part 101-48 of the Federal Property Management Regulations. It establishes the policies concerning the storage and care of seized personal property in the Department. The following regulations are being published to eliminate possible ambiguities resulting from the lack of clearly defined procedures.

EFFECTIVE DATE: January 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert L. Dennis, Director, Administrative Programs Management Staff, Office of Management and Finance, U.S. Department of Justice, Washington, D.C. 20530, 202-739-3217.

Part 128-48 is added to read as follows:

Sec.  
128-48.001 Definitions.  
128-48.001-5 Forfeited property.  
128-48.001-50 Administrative or summary process.

**Subpart 128-48.1—Utilization of Abandoned and Forfeited Personal Property**

128-48.102-1 Vesting of title in the United States.  
128-48.102-4 Proceeds.  
128-48.150 Determination of type of property.

**Subpart 128-48.3—Disposal of Abandoned and Forfeited Personal Property**

128-48.305-1 Abandoned or other unclaimed property.

**Subpart 128-48.50—Proper Claims for Abandoned or Other Unclaimed Personal Property**

128-48.500 Scope of subpart.  
128-48.501 Definitions.  
128-48.501-1 Determining Official.  
128-48.501-2 Claimant.  
128-48.501-3 Owner.  
128-48.501-4 Person.  
128-48.502 Procedures relating to claims.  
128-48.503 General procedures.

AUTHORITY: 41 CFR 128-1.105.



## § 128-48.001 Definitions.

## § 128-48.001-5 Forfeited property.

Personal property acquired by a bureau, either by administrative process or by order of a court of competent jurisdiction pursuant to any law of the United States.

## § 128-48.001-50 Administrative or summary process.

Forfeiture is achieved by direction of the seizing bureau in lieu of the courts.

The phrase shall be interpreted to mean by administrative process.

## Subpart 128-48.1—Utilization of Abandoned and Forfeited Personal Property

## § 128-48.102-1 Vesting of title in the United States.

(a) Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the bureau finding such property.

(b) If the owner of such property is known, the owner shall be notified within 20 days of finding such property by certified mail at the owner's address of record that the property may be claimed by the owner or his designee and that if the property is not claimed within 30 days from the date the letter of notification is postmarked, the title of the property will vest in the United States.

(c) If the owner of such property is not known and the estimated value of the property exceeds \$100, the bureau shall post notice within 20 days of finding such property, which contains the following information:

(1) A description of the property including model or serial numbers, if known.

(2) A statement of the location where the property was found and the office that has custody of it.

(3) A statement that any person desiring to claim the property must file with the bureau within 30 days from the date of first publication a claim for said property.

(4) A complete mailing address is to be provided as a point of contact within the bureau for any person to obtain additional information concerning the property or the procedures involved in filing a claim.

Notice must be published once a week for at least three successive weeks. Sound judgment and discretion must be used in selecting the publication medium. Advertisements should be placed in a publication of general circulation within the judicial district where the property was found.

(d) Property, as described in (b) and (c) above, shall be held for a period of

30 days from the date of the first publication of notice. Upon the expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed within three years from the date of vesting of title in the United States, but if the property has been in official use, transferred for official use, or sold at the time the proper claim is approved, title shall not revert back to the former owner. The former owner shall instead obtain reimbursement in accordance with 41 CFR 101-48.102-4 or 101-48.305-1.

(e) If the owner of such property is unknown and the estimated value of the property is \$100 or less, no notice is required, and the property shall be held for a period of 30 days from the date of finding the property. Upon expiration of this 30-day period, title to such property vests in the United States.

## § 128-48.102-4 Proceeds.

(a) Records of abandoned or other unclaimed property will be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is put into official use or transferred for official use by the finding bureau. Records will be maintained until the three-year period for filing claims has elapsed to enable the bureau to determine the amount of reimbursement due to a former owner who has filed a proper claim for abandoned or other unclaimed property.

(b) Reimbursement for official use by the finding bureau or transfer for official use of abandoned or other unclaimed property that has been placed in a special fund by the bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous receipts, or in such other bureau accounts as provided by law.

## § 128-48.150 Determination of type of property.

If a bureau is unable to determine whether the personal property in its custody is abandoned or voluntarily abandoned, the bureau shall contact the regional office of the General Services Administration for the region in which the property is located for such a determination.

## Subpart 128-48.3—Disposal of Abandoned and Forfeited Personal Property

## § 128-48.305-1 Abandoned or other unclaimed property

Proceeds from the sale of abandoned or other unclaimed property that have been placed in a special fund by a bureau for more than three years shall be deposited in the Treasury of the United States as miscellaneous re-

ceipts, or in such other bureau accounts as provided by law.

## Subpart 128-48.50—Proper Claims for Abandoned or Other Unclaimed Personal Property

## § 128-48.500 Scope of subpart.

This subpart sets forth the policies in regard to proper claims for abandoned or other unclaimed property.

## § 128-48.501 Definitions.

## § 128-48.501-1 Determining official.

The official who has the authority to grant or deny the claim for the abandoned or other unclaimed property.

## § 128-48.501-2 Claimant.

The person who submitted the claim for the abandoned or other unclaimed property.

## § 128-48.501-3 Owner.

The person who has primary and direct title to property (see 28 CFR 9.2(e)).

## § 128-48.501-4 Person.

An individual, partnership, corporation, joint venture, or other entity capable of owning property (see 28 CFR 9.2(f)).

## § 128-48.502 Procedures relating to claims.

(a) Upon receipt of a claim, an investigation shall be conducted to determine the merits of the claim, and the investigation's report shall be submitted to the determining official.

(b) The determining official shall be designated by the head of a bureau.

(c) Upon receipt of a claim and the report thereon by the determining official, he shall make a ruling based upon the claim and the investigation's report.

(d) Notice of the granting or denial of a claim for abandoned or other unclaimed property shall be mailed to the claimant or his attorney. If the claim is granted, the conditions of relief and the procedures to be followed to obtain the relief shall be set forth. If the claim is denied, the claimant shall be advised of the reason for such denial.

(e) A request for reconsideration of the claim may be submitted within 10 days from the date of the letter denying the claim. Such request shall be addressed to the head of the bureau and shall be based on evidence recently developed or not previously considered.

## § 128-48.503 General procedures.

(a) Claims shall be sworn and shall include the following information in clear and concise terms:

(1) A complete description of the property including serial numbers, if any.

(2) The interest of the claimant in the property, as owner, mortgagee, or otherwise, to be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence.

(3) The facts and circumstances, to be established by satisfactory proof, relied upon by the claimant to justify the granting of the claim.

(b) If the claim is filed before title has vested in the United States, the determining official shall not grant the claim for the abandoned or other unclaimed property unless the claimant establishes a valid, good faith interest in the property.

(c) If the claim is filed after title has vested in the United States, the determining official shall not grant the claim for abandoned or other unclaimed property unless the claimant:

(1) Establishes that he would have a valid, good faith interest in the property had not title vested in the United States; and

(2) Establishes that he had no actual or constructive notice, prior to the vesting of title in the United States, that the property was in the custody of a bureau and that title, after the appropriate time period, would vest in the United States. A claimant shall be presumed to have constructive notice upon publication in a suitable medium concerning the property unless he was in such circumstances as to prevent him from knowing of the status of the property or having the opportunity to see the notice.

Part 128-50 is added to read as follows:

## Sec. 128-50.000 Scope of part.

## 128-50.001 Definitions.

## 128-50.001-1 Seized personal property.

## Subpart 128-50.1—Storage and Care of Seized Personal Property

## 128-50.100 Storage and care.

## 128-50.101 Inventory records.

## 128-50.102 Periodic reviews.

## 128-50.103 Investigation of any discrepancy.

AUTHORITY: 41 CFR 128-1.105.

## § 128-50.000 Scope of part.

This part prescribes the policies for the storage and care of seized personal property; the preparation and maintenance of inventory records of its seized personal property; the conducting of periodic internal reviews; and the investigation of any discrepancy between the inventory records and the actual amount of its seized personal property.

## § 128-50.001 Definitions.

## § 128-50.001-1 Seized personal property.

Personal property for which the Government does not have title but which the Government has obtained

custody or control of in accordance with 15 U.S.C. 1177; 18 U.S.C. 924(d), 1955(d), 2513, 3611, 3612, 3615; 19 U.S.C. 1595a; 21 U.S.C. 881; 22 U.S.C. 401; Fed. R. Crim. P. 41(b); 28 CFR 0.86, 0.89, 0.111(j), 3.5, 3.6, 8.1, 8.2, 9a.1, 9a.2; or other statutory authority.

## Subpart 128-50.1—Storage and Care of Seized Personal Property

## § 128-50.100 Storage and care.

(a) Each bureau shall be responsible for providing that its seized personal property storage facilities meet the safeguarding standards applicable to the type of property being stored.

(b) Each bureau shall be responsible for performing care on its seized personal property to prevent the unnecessary deterioration of such property. In particular, a bureau preparing a seized vehicle for storage should be at a minimum:

(1) Protect the cooling system from freezing;

(2) Protect the battery by assuring it is properly watered;

(3) Protect the tires by inflating to correct pressure;

(4) Remove all articles found in the vehicle's interior (for example, easily removable radios, tape players, and speakers) and all exterior accessories (for example, wheel covers) that are subject to pilferage and properly store them; and

(5) Shut all windows and lock all doors and compartments that have locks.

## § 128-50.101 Inventory records.

Each bureau shall be responsible for establishing and maintaining inventory records of its seized personal property to ensure that:

(a) The date the property was seized is recorded;

(b) All of the property associated with a case is recorded together under the case name and number;

(c) The location of storage of the property is recorded;

(d) A well documented chain of custody is kept; and

(e) All information in the inventory records is accurate and current.

## § 128-50.102 Periodic reviews.

Each bureau shall be responsible for performing an independent accountability review at least once a year to ensure compliance with this subpart and with the bureau's procedures for the handling, storage, and disposal of its seized personal property. In particular, a bureau conducting a review shall verify that the inventory records are accurate, current, and are being kept in accordance with established inventory procedures.

## § 128-50.103 Investigation of any discrepancy.

(a) Upon discovery of any discrepancy between the inventory records and the bureau's actual amount of seized personal property, a board of survey shall conduct an investigation in accordance with 41 CFR 128-51.1.

(b) If the discrepancy cannot be eliminated and involves a shortage, the bureau shall notify the U.S. attorney in charge of the litigation involving the missing property of the shortage as soon as possible.

(c) If the discrepancy cannot be eliminated and involves an overage, the bureau shall determine if the property has any evidentiary value. If the property does have evidentiary value, the property shall be properly stored and inventoried. If the property does not have any evidentiary value, the bureau shall determine whether the property is forfeitable to the United States, voluntarily abandoned, or abandoned. Proper proceedings shall be commenced as soon as possible to vest title of the forfeitable property in the United States. The voluntarily abandoned and abandoned property shall be kept in custody in accordance with 41 CFR 101-48 and any applicable Justice property management regulations.

Effective date: This regulation is effective January 6, 1978.

KEVIN D. ROONEY,  
Assistant Attorney General  
for Administration.

[FR Doc. 78-2030 Filed 1-23-78; 8:45 am]

## [7035-01]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

## SUBCHAPTER A—GENERAL RULES AND REGULATIONS

## PART 1033—CAR SERVICE

[Service Order No. 1295]

Erie Western Railway Co. Authorized To Operate Over Tracks of Chicago & Western Indiana Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1295).

SUMMARY: Operations of the Erie Western (EW) line between Hammond, Ind., and North Judson, Ind., commenced October 15, 1977. To affect interchange of cars between the EW and the Belt Railway of Chicago and its connections, it is necessary for the EW to operate over tracks of the Chicago & Western Indiana between State Line Tower at Hammond and Pullman Junction, Ill., where connec-



tions are made with the Belt Railway of Chicago. Service Order No. 1295 authorizes the EW to operate over the Chicago & Western Indiana between these points.

DATES: Effective 11:59 p.m., January 12, 1978. Expires 11:59 p.m., July 15, 1978.

#### FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telex 89-2742, telephone 202-275-7840.

#### SUPPLEMENTARY INFORMATION:

The order is printed in full below.

At a session of the Interstate Commerce Commission, in Washington, D.C., on January 11, 1978.

By Service Order No. 1275 the Erie Western Railway Co. (EW) was authorized to operate over the lines of the former Erie Lackawanna Railroad Co. (EL) between North Judson, Ind., and EL milepost 249.6 at State Line Tower (Hammond), Ind. From State Line Tower the EL operated into its terminal in Chicago, Ill., over tracks of the Chicago & Western Indiana Railroad Co. (CWI), and affiliated terminal company. At Hammond, Ind., the EL had a track connection with the Louisville & Nashville Railroad Co. (LN) thence via a connection with that line with the Indiana Harbor Belt Railway (IHB), a switching carrier operating in the Chicago switching district. After the EL ceased operation on March 31, 1976, the track connection and remote controlled switches connecting the EL and the LN were removed as excess facilities, thus severing the connection with the IHB. These switches have not been restored. At State Line Tower, the EL used a portion of the CWI tracks for access to the Baltimore & Ohio Chicago Terminal Railroad Co. (BOCT), another Chicago district switching carrier. The EL operated over tracks of the CWI between State Line Tower and Pullman Junction at which point certain of the EL's trains entered the tracks of the Belt Railway of Chicago (BRC), also a major Chicago district switching carrier. Other EL trains operated over CWI tracks beyond Pullman Junction en route to their terminals. The trustees of the EL have leased to the EW their line between North Judson, Ind., and State Line Tower. The EL's stock ownership in the CWI was transferred to the Consolidated Rail Corporation. Consequently, no arrangements could be made with the trustees of the EL to transfer to the EW the EL's right to use the tracks of the CWI.

The only direct physical access to the Chicago district switching carriers available to the EW is by partial restoration of the operations of its predecessor, the EL, over tracks of the CWI,

but limited to movements between State Line Tower and a connection with the BRC at Pullman Junction and to necessary use of CWI tracks at State Line Tower for entry to the BOCT and entry into the former Burnham Yard of the Chesapeake & Ohio Railway Co. All of the operations described above are within the Chicago switching district.

The EW operates additional trackage as designated operator for the State of Indiana extending its line eastward from North Judson to Decatur, Ind. Its combined line segments extend 153 miles eastward from State Line Tower. There are numerous shippers served by the EW who require direct single-line service to Chicago. In excess of one million bushels of grain are held at various elevators along the lines of the EW. This grain is intended for marketing in Chicago provided the single-line rates formerly in effect via the EL can be reestablished via the EW. The two-line rates required to be used if the EW does not have direct access to the Chicago switching carriers effectively close the Chicago grain markets to these shippers resulting in substantial economic loss to these shippers and to the producers. Substantial carload movements to western carriers are available which require direct movement to the western carriers in lieu of the circuitous movements now required which add from two to five days to transit times and contribute to loss of utilization of freight cars and to existing shortages of boxcars now prevalent throughout the country. TOFC service is not presently available at any point served by the EW, although certain shippers located on its lines are in need of such services on traffic routed via the western lines at Chicago. The necessary TOFC facilities are available on the EW at Huntington, Ind., and will be used by the EW to provide such service as quickly as direct rail deliveries to connections at Chicago can be made. Tariff restrictions limit such intermediate handling of TOFC traffic to movements via the BRC. Although the EW intersects numerous other railroads between Decatur and Hammond, use of these lines for movement of traffic destined to or routed via Chicago is impracticable because of circuitry, excessive car delay, nonapplication of single-line rates, and nonapplication of through routes.

The United Transportation Union oppose operation by the EW over the CWI on the grounds that the EW will take traffic away from railroads employing full crews under contracts with the Union. It also questions the qualifications of the EW's employees and the safety of operations under the EW's reduced crew consists.

With respect to the issues raised by the United Transportation Union, the

EW states that its operations in Indiana were approved as being safe by the Indiana Public Service Commission in Docket No. 35098. It states that it will at all times comply with Illinois and Federal Railroad Administration safety regulations and will use cabooses while operating over CWI tracks.

Section 1(15)(c) of the Interstate Commerce Act clearly authorizes the Commission to require the joint use of terminals, including main tracks for a reasonable distance outside of such terminals. This provision of the Act is subject to the Commission's emergency powers and can be invoked upon a showing of an emergency condition justifying such action. The entire line of the CWI lies within the Chicago switching district and constitutes a portion of the Chicago terminal. Hence its use by the EW may be required by the Commission upon a finding that such operation is necessary in the interest of the public.

Accordingly, the Commission finds that the lines of the CWI between State Line Tower, Hammond, Ind., and Pullman Junction, Ill., are mainline tracks within the Chicago terminal; that an emergency exists requiring the immediate use of these tracks by the EW in order to prevent irreparable harm and great economic loss to shippers served by the EW; that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1295 Car Service Order 1295.

(a) The Erie Western Railway Co. authorized to operate over tracks of Chicago & Western Indiana Railroad Co. The Erie Western Railway Co. (EW) is hereby authorized to operate over tracks of the Chicago & Western Indiana Railroad Co. (CWI) between its connection with that line at State Line Tower, Hammond, Ind., and a connection between the CWI and the Belt Railway Co. of Chicago at Pullman Junction, Ill., including the use of track connections with the Baltimore & Ohio Chicago Terminal Railroad Co. and with the Burnham Yard of the Chesapeake & Ohio Railway Co., both located in the vicinity of State Line Tower.

(b) The CWI is hereby ordered to permit use by the EW of the tracks described in section (a) of this order.

(c) Compensation to be paid to the CWI by the EW for the use of its tracks shall be that mutually agreed upon by negotiations between the carriers, or if unable to agree, that determined by the Commission upon request of either carrier.

(d) Application. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) *Effective date.* This order shall become effective at 11:59 p.m., January 12, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., July 15, 1978, unless otherwise modified, changed or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a summary with the Director, Office of the Federal Register.

By the Commission, Commissioners Brown and Christian dissenting:

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2021 Filed 1-23-78; 8:45 am]

#### [4310-55]

##### Title 50—Wildlife and Fisheries

#### CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

##### PART 33—SPORT FISHING

#### Opening of Arapaho National Wildlife Refuge, Colorado, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Arapaho National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural

resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through May 31 and August 1 through December 31, 1978.

#### FOR FURTHER INFORMATION CONTACT:

William J. Wilson, Acting Refuge Manager, Arapaho National Wildlife Refuge, Box 457, Walden, Colo. 80480, telephone 303-723-4717.

#### SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Arapaho National Wildlife Refuge, Colorado, only on the areas designated by signs as being open to fishing. These areas are delineated on maps available at the refuge headquarters and from the office of Area Manager, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM J. WILSON,  
Acting Refuge Manager.

JANUARY 13, 1978.

[FR Doc. 78-1985 Filed 1-23-78; 8:45 am]

#### [4310-55]

##### PART 33—SPORT FISHING

#### Opening of Pathfinder National Wildlife Refuge, Wyoming, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Pathfinder National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1978.

#### FOR FURTHER INFORMATION CONTACT:

William J. Wilson, Acting Refuge Manager, Arapaho National Wildlife Refuge, Box 457, Walden, Colo. 80480, telephone 303-723-4717.

#### SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on all areas of the Pathfinder National Wildlife Refuge, Wyoming. These areas comprising 16,807 acres are delineated on maps available at the refuge headquarters and from the office of Area Manager, 1426 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

WILLIAM J. WILSON,  
Acting Refuge Manager.

JANUARY 13, 1978.

[FR Doc. 78-1984 Filed 1-23-78; 8:45 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-15]

### DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

#### RURAL TELEPHONE PROGRAM

Proposed Revisions of REA Specification PE-71 for Inside Wiring Cable and REA Specification PE-72 for Switchboard Cable

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to issue a File With for REA Bulletin 345-59 to announce a revision of REA Specification PE-71 for Inside Wiring Cable and a File With for REA Bulletin 345-61 to announce a revision of REA Specification PE-72 for Switchboard Cable. These revisions are needed to require the use of materials which will not adversely affect the long-term electrical stability of cables manufactured to these specifications. The effect of this action will be to provide for improved long-term electrical performance under adverse temperature and humidity conditions. On issuance of these File Withs, Appendix A to Part 1701 will be modified accordingly. DATE: Public comments must be received by REA no later than: February 23, 1978.

ADDRESS: Persons interested in the revisions of REA Specifications PE-71 and PE-72 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Warner T. Smith, Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1340, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as

amended (7 U.S.C. 901 et seq.), REA proposes to issue a File With for REA Bulletins 345-59 and 345-61. Copies of the proposed revisions to REA Specifications PE-71 and PE-72 may be secured in person or by written request from the Director, Telephone Operations and Standards Division. The texts of the File Withs are as follows:

#### FILE WITH REA BULLETIN 345-59

REA Specification PE-71 for Inside Wiring Cable is being revised to include requirements which will provide for improved long-term electrical stability for cables subjected to adverse temperature and humidity conditions. The revisions are contained on revised pages 6, 10a, and 10b bearing a revision date of February 1978. The attached sheet containing pages 5 and 6 should be used to replace the present specification sheet containing these page numbers. The attached sheet containing pages 10a and 10b should be inserted after page 10 in the present specification.

These requirements become effective on July 1, 1978. All Inside Wiring Cables manufactured after July 1, 1978, must comply with REA Specification PE-71 as revised February 1978. This does not preclude adoption of the revised requirements prior to the effective date.

Copies of the revised sheets will be furnished by REA upon request. Questions concerning the revisions may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

#### FILE WITH REA BULLETIN 345-61

REA Specification PE-72 for Switchboard Cable is being revised to include requirements which will provide for improved long-term electrical stability for cables subjected to adverse temperature and humidity conditions.

The revisions are contained on revised pages 5, 6, 10a and 10b bearing a revision date of February 1978. The attached sheet containing pages 5 and 8 should be used to replace the present specification sheet containing these page numbers. The attached sheet containing pages 10a and 10b should be inserted after page 10 in the present specification.

These requirements become effective on July 1, 1978. All Switchboard Cables manufactured after July 1, 1978, must comply with REA Specification PE-72 as revised February 1978. This does not preclude adoption of the revised requirements prior to the effective date.

Copies of the revised sheets will be furnished by REA upon request. Questions concerning the revisions may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3827.

Dated: January 18, 1978.

C. R. BALLARD,  
Assistant Administrator—  
Telephone.

[FR Doc. 78-1997 Filed 1-23-78; 8:45 am]

[3410-37]

Food Safety and Quality Service

[9 CFR Parts 317, 319]

#### TISSUE FROM GROUND BONE

Extension of Time for Comment; Public Hearing

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of reopening and extension of comment period and of public hearing.

SUMMARY: This document announces a reopening and extension of time for comment and a public hearing to be held concerning proposed standards and labeling requirements for tissue from ground bone.

DATE: Comments must be received on or before March 20, 1978. Public hearing to be held on February 14, 1978, beginning at 10 a.m.

ADDRESSES: Written comments to Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250. Public hearing: Conference Room B, Interdepartmental Auditorium, 1301 Constitution Avenue NW., Washington, D.C.

#### FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189.

SUPPLEMENTARY INFORMATION: On October 6, 1977, there appeared in the FEDERAL REGISTER (42 FR 54437-54442) a notice that the Food Safety and Quality Service is considering amending Parts 317 and 319 of the Federal meat inspection regulations (9 CFR Parts 317 and 319) by setting forth a standard, permitted uses, and labeling requirements for a meat food product prepared by the mechanical processing of tissue from ground bone (TFGB). Interested persons were given until December 5, 1977, to comment.

## PROPOSED RULES

Comments and views expressed on the proposed amendments to the regulations indicate wide public interest with opinions differing on the desirability of the proposal's provisions and their effects on products and consumers if implemented.

Therefore, the Administrator has concluded that these circumstances require that further information and data be available to the fullest extent possible on the subject matter for consideration prior to decisions with respect to these proposed regulations.

Accordingly, the Administrator has determined to reopen and extend the period of time within which written data, views, or arguments may be submitted.

Those interested in preparing such comments may wish to obtain a copy of Volume II, "Background Materials and Details of Data, Health, and Safety Aspects of the Use of Mechanically Deboned Meat," the availability of which was announced in the December 30, 1977, FEDERAL REGISTER (42 FR 65224). Any person who wishes to submit data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Agriculture Building, Washington, D.C. 20250, by March 20, 1978. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business. Comments on this notice should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

The Administrator has further determined that it is in the public interest to hold a public hearing at which nongovernmental scientists will have the opportunity to comment on the analytical findings and methods of the panel of Government scientists concerning health and safety aspects of "mechanically deboned meat" and related products. These issues are directly related to the proposal concerning tissue from ground bone. Therefore, the Administrator has scheduled a public hearing to be held on February 14, 1978, beginning at 10 a.m., in Conference Room B, Interdepartmental Auditorium, 1301 Constitution Avenue NW., Washington, D.C. At the hearing, the Administrator of the Food Safety and Quality Service will preside. Any interested person who wishes to comment on the panel's analytic results or methods may appear and be heard either in person or by a representative. Individual presentations should be scheduled in advance. To make a reservation to speak at the hearing or to receive, without charge, a copy of the TFGB proposal or Volume II, "Background Materials and Details of Data, Health, and Safety

Aspects of the Use of Mechanically Deboned Meat," contact Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189. A written copy of a speaker's comments should be given to the chairman prior to the speaker's oral presentation but is not required to be read into the record. Individuals making presentations may verbally summarize or emphasize certain points of their written comments. Opportunity will be provided for the chairman or other Government officials at the hearing to comment upon or ask questions about each presentation made. The time for oral presentations and questions may be limited at the discretion of the chairman in order to give all persons at the hearing an opportunity to be heard. Transcripts of the oral hearing will be made, and copies of the transcripts and any written comments submitted at the hearing will be made part of the record in this rulemaking proceeding and will be available for public inspection together with all other comments received in this proceeding.

After consideration of all information presented at the hearing and submitted pursuant to this notice and the notice of October 6, 1977, and any other information available to the Department, a determination will be made as to whether the regulations will be amended as proposed.

Done at Washington, D.C., on January 20, 1978.

ROBERT ANGELOTTI,  
Administrator,  
Food Safety and Quality Service.  
[FR Doc. 78-2087 Filed 1-23-78; 8:45 am]

[6320-01]

### CIVIL AERONAUTICS BOARD

[14 CFR Part 369]

[SPDR-62A, SPDR-63A; Docket No. 31735;  
Dated: January 19, 1978]

#### PROTECTION OF CHARTER PARTICIPANTS' FUNDS

Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice extends for 90 days the filing date for comments in a rulemaking proceeding that proposes a new part to the Board's Special Regulations establishing uniform procedures for the protection of charter participants' funds. The extension was requested by attorneys for

several charter tour operators and carriers.<sup>1</sup>

DATES: Comments by: May 1, 1978. Reply Comments by: May 29, 1978.

ADDRESSES: Comments should be sent to: Docket 31735, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

#### FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of proposed Rulemaking SPDR-63 and SPDR-62, dated November 22, 1977 (42 FR 61408 and 42 FR 61420, December 2, 1977), the Board stated that it might be changing its Special Regulations to establish a new scheme for the protection of charter participants' funds. The new Part 369 would require a depository escrow account and one of three forms of additional security agreements. Comments in response to the notice are due January 31, 1978.

The Board received letters from the attorneys for several charter operators and carriers requesting an extension of 90 days for the filing of comments in response to SPDR-63 and SPDR-62. In support of the requests they stated that additional time is required to collect data and to study the impact of the proposed rule on the charter industry, and particularly those operators who are small businesses.

Upon consideration of the above, the undersigned finds good cause to grant these requests for a reasonable extension of time for the preparation of views on the proposed rule.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing of comments is extended to May 1, 1978, and the time for filing reply comments is concomitantly extended to May 29, 1978.

<sup>1</sup>Letters were received from attorneys representing Unitours and Pleasant Hawaiian Holidays Inc. (letter dated January 12, 1978); Evergreen International Airlines, Inc.; Trans International Airlines, Inc. and World Airways, Inc. (January 12, 1978); American Institute for Foreign Study, Inc. (January 13, 1978); Air Charter Tour Operators of America (January 13, 1978); ASTI Tours, Inc.; The American Leadership Study Groups and Charter Travel Corp. (January 13, 1978); Davis Agency, Inc. and Shoftours, Inc. (January 13, 1978); and Southern Airways, Inc. (January 16, 1978).



(Sec. 204(a), Federal Aviation Act of 1958, as amended 72 Stat. 743 (49 U.S.C. 1324).)

SIMON J. EILENBERG,  
Associate General Counsel,  
Rules Division.

[FR Doc. 78-2024 Filed 1-23-78; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

U.S. Customs Service

[19 CFR Part 22]

DRAWBACK RATES

Proposed Amendments to the Customs  
Regulations

AGENCY: U.S. Customs Service, De-  
partment of the Treasury.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes that the Customs Regulations be amended to provide that drawback rates shall expire 15 years after issuance or approval unless renewed by the rate holder. Also proposed is that applications for drawback rates will be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application. Customs is currently required to maintain files consisting of obsolete rates and/or applications. The changes are proposed so that Customs may dispose of these obsolete files.

DATES: Comments must be received on or before February 23, 1978.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald Beach, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5856.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The term "drawback" refers to a situation in which a duty or tax, lawfully collected, is refunded because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of claims for drawback is when articles manufactured or produced in the United States with the use of imported merchandise are exported (section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a))). Part 22 of the Customs Regulations (19 CFR Part 22) contains the provisions regarding drawback claims.

Section 22.3 of the Customs Regulations provides that each manufacturer

or producer of articles intended for exportation with benefit of drawback shall make application for the establishment of a rate of drawback prior to the exportation of these articles. Section 22.3(c) provides that the manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect addressed to the district director with whom the application was filed or to the Customs investigating officer. In practice, however, applicants who have abandoned applications for drawback rates rarely file such a statement. As a result, many abandoned applications are still on file with Customs. Therefore, for Customs to remove obsolete applications from its files, it is proposed to amend § 22.3(c) to provide that applications shall be considered abandoned if supporting drawback statements, required by § 22.4(h) of the Customs Regulations, are not filed within one year of receipt of the application.

Section 22.4 of the Customs Regulations also provides for the establishment of drawback rates. Currently, established drawback rates remain in effect indefinitely. As a result, Customs maintains files of established drawback rates which frequently have become obsolete. It is proposed to amend section 22.4 to provide that drawback rates will expire after a period of 15 years, unless they are renewed by the rate holder.

If the proposed amendments are adopted, Customs will notify holders of drawback rates of this new procedure. Holders of rates less than 15 years old will be advised that they may renew the rates merely by submitting a request to do so, prior to the expiration of the 15-year period, to the regional commissioner where their drawback entries have been liquidated. Holders of drawback rates now more than 15 years old will be given 30 days from the date of the notice to renew their rates.

This document also proposes to amend §§ 22.4(o) and 22.6 (a) and (c) to conform the language in those sections to the other amended sections, and to simplify the language. No substantive changes to §§ 22.4(o) and 22.6 (a) and (c) are intended.

COMMENTS

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in developing this document, both on matters of substance and style.

PROPOSED AMENDMENTS

It is proposed to amend Part 22 of the Customs Regulations (19 CFR Part 22) in the following manner:

PART 22—DRAWBACK

It is proposed to revise § 22.3(c) to read as follows:

§ 22.3 Application for establishment of drawback rate.

(c) *Abandonment of rates.* The manufacturer or producer may abandon his application for the establishment of a rate of drawback by filing a written statement to that effect with the Customs officer with whom the application was filed. An application shall be considered abandoned if supporting drawback statements are not filed within one year of receipt of the application. An abandoned application may not be revived to give an earlier effective date to a rate of drawback established as the result of a subsequent application.

It is proposed to revise paragraph (o) of § 22.4 and add a new paragraph (r) as set forth below:

§ 22.4 Identification of imported merchandise and ascertainment of quantities for allowance of drawback; establishment of drawback rates; expiration of drawback rates.

(o)(1) *Amendment of rates.* When a manufacturer or producer having a drawback rate desires to have the rate amended under section 313(a), Tariff Act of 1930, or to change a drawback statement filed under § 22.6, he shall submit a revised drawback statement to the regional commissioner who issued the rate. If warranted, the regional commissioner shall issue an amended rate and revoke the superseded rate in the same action. This procedure also shall apply to amendments of the other rates set forth in paragraph (h) of this section. The revised drawback statement shall be submitted to Headquarters, U.S. Customs Service, except as provided in paragraph (o)(2). No drawback shall be allowed on articles exported before the date on which the applicant's first application still in effect was received by the appropriate Customs officer.

(2) A revised drawback statement requesting an amendment under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, shall be submitted to the regional commissioner for action in accordance with paragraph (o)(1), provided the changes covered by the amendment are limited to—

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback rate of the manufacturer or producer;

(iii) A change in name of the manufacturer or producer;

(iv) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(v) Any combination of the foregoing changes.

(r) *Expiration, revocation, or renewal of rates.* (1) Unless renewed by the rate holder in accordance with paragraph (r)(3), drawback rates issued under this section, or contained in statements approved under section 22.6, shall expire 15 years from the date of issuance or approval, as applicable, provided such date is on or after the effective date of this rule.

(2) If the dates of issuance or approval are before the effective date of this rule, an appropriate Customs officer shall notify the rate holder in writing of the provisions of this paragraph. Unless renewed by the rate holder in accordance with paragraph (r)(3), such rate shall expire the later of:

(i) 15 years from the date of issuance or approval, as applicable, or

(ii) 30 days from the date of the notice to the rate holder.

(3) A rate holder may renew its rate by submitting a request in writing, prior to the expiration of the rate, to each regional commissioner where drawback entries filed under the rate have been liquidated. The rate shall be renewed for a succeeding 15-year period upon receipt of the request.

(4) A rate will be revoked if the rate holder specifically requests revocation in writing to the appropriate Customs officer.

It is proposed to revise paragraphs (a) and (c) of § 22.6 to read as follows:

§ 22.6 General drawback rates in effect; approval of drawback statements by Headquarters, U.S. Customs Service, and by regional commissioners.

(a) *Drawback statements; filing and approval by one regional commissioner.* Each manufacturer or producer of articles covered by a drawback rate in this section, except under paragraph (g-1), shall submit to the regional

commissioner where drawback entries will be filed a drawback statement, in duplicate, describing the methods used in the manufacture or production of the products involved. The statement also shall set forth the records it agrees to keep for the purpose of complying with the drawback law and regulations and for providing all the data required for the proper liquidation of entries. If the statement provides for compliance with the rate, the regional commissioner shall approve the drawback statement and promptly notify the applicant in writing of the action. Drawback statements, in triplicate, relating to products covered by paragraph (g)(1) shall be forwarded to Headquarters, U.S. Customs Service for approval.

(c) *Drawback statements; revised.* Revised drawback statements covering changes in drawback statements filed under this section shall be handled in accordance with the provisions of paragraphs (a) and (b) of this section.

LEONARD LEHMAN,  
Acting Commissioner of  
Customs.

Approved: January 3, 1978.

BETTE B. ANDERSON,  
Under Secretary of the Treasury.  
[FR Doc. 78-1959 Filed 1-23-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 81]

[Docket No. 76N-0366]

PROVISIONALLY LISTED COLOR ADDITIVES

Postponement of Closing Dates; Restatement of Conditions for Continued Provisional Listing

Correction

In FR Doc. 77-35322 appearing at page 62497 in the issue for Tuesday, December 13, 1977, in the last paragraph in the second column of page 62499, 18th and 19th lines, the words " \* \* \* on or before publication of a final order in the FEDERAL REGISTER \* \* \* " should have read "on or before (insert date 72 days after date of publication of a final order in the FEDERAL REGISTER)."

[1505-01]

[21 CFR Part 101]

[Docket No. 77N-0404]

PROTEIN SUPPLEMENTS

Warning Labeling

Correction

In FR Doc. 77-34694 appearing at page 61285 in the issue for Friday, December 2, 1977, in the first column of page 61286, seven lines from the bottom of the first full paragraph, " \* \* \* be used \* \* \* " should have read " \* \* \* be used by patients \* \* \* ".

[3710-92]

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 206]

FISHING AND HUNTING REGULATIONS

Revocation

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to revoke 33 CFR Part 206—Fishing and Hunting Regulations in its entirety. The regulations are obsolete and activities governed therein are subject to the requirements of recently published Corps permit regulations and adequate state and local controls.

DATE: Written comments will be received until 1 March 1978.

ADDRESS: Office of the Chief of Engineers, ATTN: DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, 202-693-5070.

SUPPLEMENTARY INFORMATION: In accordance with the President's Reorganization Project (Sunset Actions), the Corps has established a continuing program to review all regulations published under Chapter II, Title 33 of the Code of Federal Regulations, for possible elimination or consolidation. Fishing and hunting regulations were promulgated by the Department of the Army in 33 CFR Part 206 to control the erection and maintenance of fishing and hunting structures in the navigable waters of the United States. The primary purpose of the regulations was to prevent the obstruction or interference with navigation.

On 19 July 1977 the Corps promulgated regulations in 33 CFR Parts 320-329 revising and reorganizing regulations governing the regulatory program of the Corps of Engineers. Sec-



tion 322.4 concerns the issuance of a nationwide permit for marine life harvesting devices such as pound nets, crab traps, eel pots, and lobster traps, provided there is no interference with navigation. Though hunting structures have been omitted from the nationwide permit, the District Engineers may where necessary issue general permits or determine permit requirements on a case-by-case basis.

Lighting and marking requirements for the fishing and hunting structures are under the purview of the Coast Guard and, accordingly, would not normally be a part of a Department of the Army permit. We propose to amend 33 CFR by revoking and reserving Part 206—Fishing and Hunting Regulations as set forth below:

**PART 206—FISHING AND HUNTING  
REGULATIONS [REVOKED AND RESERVED]**

NOTE.—The Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107. (33 U.S.C. 403)

Dated: 10 January 1978.

Approved:

C. A. SELLECK, JR.,  
Colonel, Corps of Engineers,  
Executive Director of Civil Works.  
[FR Doc. 78-1987 Filed 1-23-78; 8:45 am]

[7590-01]

**NUCLEAR REGULATORY  
COMMISSION**

[41 CFR Chapter 20]

**CONTRACTOR ORGANIZATIONAL CONFLICTS  
OF INTEREST**

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation would establish policies and procedures for the Nuclear Regulatory Commission (NRC) with respect to the avoidance of contractor organizational conflicts of interest. The regulation is intended to avoid, eliminate, or neutralize contractual relationships which might lead NRC contractors to give advice and assistance that is not unbiased, impartial, objective, and technically sound. Additionally, it seeks to reduce the opportunities for an unfair competitive advantage that might accrue to an NRC contractor.

These objectives are sought to be attained by requiring prospective NRC contractors to disclose pertinent information bearing upon potential organizational conflicts of interest and by requiring the inclusion of specified contract clauses designed to prevent such conflicts during performance.

DATES: Comments must be received by February 23, 1978.

ADDRESS: Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

**FOR FURTHER INFORMATION  
CONTACT:**

Edward L. Halman, Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-427-4460.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

On April 28, 1977, the U.S. Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (42 FR 21673) a general statement of policy on the avoidance of contractor organizational conflicts of interest.

The proposed regulation supersedes the Commission policy statement and reflects the Commission's compliance with Pub. L. 95-209, December 13, 1977, which requires the NRC to promulgate guidelines by December 31, 1977, governing the avoidance of organizational conflicts of interest.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, notice is hereby given that the Commission proposes to adopt the following new Subpart 20-1.54 entitled "Contractor Organizational Conflicts of Interest," to Title 41, Code of Federal Regulations. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed regulations should send them by February 23, 1978, to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments on the proposed new Subpart 20-1.54 may be examined and copied at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

Title 41, Code of Federal Regulations is amended by adding a new "Chapter 20—Nuclear Regulatory Commission" and a new "Part 20-1—General" to read as follows:

**PART 20-1—GENERAL**

**Subpart 20-1.54—Contractor Organizational Conflicts of Interest**

Sec.  
20-1.5401 Scope and policy.  
20-1.5402 Definitions.  
20-1.5403 Criteria for recognizing contractor organizational conflicts of interest.  
20-1.5404 Representation.  
20-1.5405 Contract clauses.  
20-1.5405-1 General contract clause.  
20-1.5405-2 Special contract provisions.  
20-1.5406 Evaluation, findings, and contract award.

Sec.  
20-1.5407 Conflicts identified after award.  
20-1.5408 [Reserved].  
20-1.5409 [Reserved].  
20-1.5410 Subcontracts.  
20-1.5411 Waiver.  
20-1.5412 Remedies.

AUTHORITY: Pub. L. 95-209, December 13, 1977, 91 Stat. 1481.

**§ 20-1.5401 Scope and Policy**

(a) It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to avoid, eliminate or neutralize potential contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons regulated by NRC which might give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely; the application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied so as to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations which might arise; however, examples are provided in these regulations to guide application of the policy. NRC contracting and program officials must be alert to other situations which may warrant application of this policy guidance. The ultimate test is: Might the contractor, if awarded the contract, be placed in a position where its judgment would be biased, or where it would have an unfair competitive advantage?

**§ 20-1.5402 Definitions**

(a) "Organizational conflicts of interest" means that a relationship exists whereby a prospective contractor has present or planned interests related to the work to be performed under a NRC contract which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair competitive advantage.

(b) "Research" means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

(c) "Evaluation activities" means any effort involving the appraisal of a technology, process, product, or policy.

(d) "Technical consulting and management support services" means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally requires the contractor to be given access to information which has not been made

available to the public or proprietary information. Such services typically include assistance in the preparation of program plans; and preparation of preliminary designs, specifications, or statements of work.

(e) For the purpose of this policy "contract" means any contract, agreement, or other arrangement with the NRC, including NRC agreements with other Governmental agencies.

(f) "Contractor" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the United States of America.

(g) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both (41 CFR § 1-1.601-1(e)).

(h) "Subcontractor" means any subcontractor of any tier which performs work under a contract with the NRC except subcontracts for supplies.

(i) "Prospective contractor" or "Offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the proposal), proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

**§ 20-1.5403 Criteria for recognizing contractor organizational conflicts of interest.**

(a) General. Two questions will be asked in determining whether organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the NRC? (2) Is the contractor being given an unfair competitive advantage based on the performance of the contract? The ultimate determination by NRC as to whether organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts disclosed and the work to be performed. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships which might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation services, or similar activities that lay direct groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs.

(b) *Situation or relationships which might give rise to organizational conflicts of interest.* The offeror or contractor shall disclose information concerning relationships under the following circumstances:

(1) Where the offeror or contractor provides advice and recommendations to the NRC in a technical area in which it is also providing consulting assistance in the same area to any organization regulated by the NRC.

(2) Where the offeror or contractor provides advice to the NRC on the same or similar matter in which it is also providing assistance to any organization regulated by the NRC.

(3) Where the offeror or contractor evaluates its own products or services, or the products or services of another entity where the offeror or contractor has been substantially involved in their development or marketing.

(4) Where the offeror or contractor prepares specifications which are to be used in future competitive procurements of products or services covered by such specifications.

(5) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into future competitive procurements using such approaches or methodologies.

(6) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs which are integral to a future competitive procurement with NRC.

(7) Where the offeror or contractor is granted access to proprietary information of its competitors.

(8) Where the contract would result in benefits to a particular industry even though the offeror or contractor, as a part of the industry, would receive no more benefits than any other member of the industry.

(9) Where the award of a contract would otherwise result in placing the offeror or contractor in a conflicting role in which its judgment might be biased in relation to its work for the NRC or would otherwise result in an unfair competitive advantage for the offeror or contractor.

(c) *Policy application guidance.*—(1) Example. The XYZ Corp., in response to a request for proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp. advises that it is currently performing similar analyses for the reactor manufacturer.

Guidance. An NRC contract for that particular work normally would not be awarded to the XYZ Corp. because it would be placed in a position in which its judgment could be biased in rela-

tionship to its work for NRC. Since there are other well-qualified companies available, there would be no reason for considering a waiver of the policy.

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.

Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which would motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work during the performance of the NRC contract with the private sector which could create a conflict. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3) Example. As a result of operating problems in a certain type of commercial nuclear facility, it is imperative that NRC secure specific data on various operational aspects of that type of plant so as to assure adequate safety protection of the public. Only one manufacturer has extensive experience with that type of plant. Consequently, that company is the only one with whom NRC can contract which can develop and conduct the testing programs required to obtain the data in reasonable time. That company has a definite interest in any NRC decisions that might result from the data produced because those decisions affect the reactor's design and thus the company's costs.

Guidance. This situation would place the manufacturer in a role in which its judgment could be biased in relationship to its work for NRC. Since the nature of the work required is vitally important in terms of NRC's responsibilities and no reasonable alternative exists, a waiver of the policy may be warranted. Any such waiver shall be fully documented and coordinated in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4) Example. The ABC Co. submits a proposal for a new system for evaluating a specific reactor component's performance for the purpose of developing standards that are important to



the NRC program. The ABC Co. has advised NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

**Guidance.** A contract could be awarded to the ABC Co. provided that the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless such information has been reported to NRC. Information which is reported to NRC by contractors will normally be disseminated by NRC to others so as to preclude an unfair competitive advantage that might otherwise accrue. When NRC furnishes information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities unless such information is generally available to others. Further, the contract will stipulate that the contractor will inform the NRC contracting officer of all situations in which the information developed under the contract is proposed to be used.

(d) **Other considerations.** (1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising from the performance of a contract is not relevant to a determination of the existence of such conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

#### § 20-1.5404 Representation.

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor.

(b) **Representation procedure.** The following organizational conflicts of interest representation provision shall be included in all solicitations and unsolicited proposals for: (1) Evaluation services or activities; (2) technical consulting and management support services; (3) research; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement shall also apply to all modifications for additional effort under the contract except those issued under the "changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest rep-

resentation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

#### ORGANIZATIONAL CONFLICTS OF INTEREST REPRESENTATION

I represent to the best of my knowledge and belief that:

The award to \_\_\_\_\_ of a contract or the modification of an existing contract does ( ) or does not ( ) involve situations or relationships of the type set forth in 41 CFR § 20-1.5403(b).

(c) **Instructions to offerors.** The following shall be included in all NRC solicitations: (1) If the representation as completed indicates that potential organizational conflicts of interest exist, or the contracting officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the contracting officer. If the contracting officer determines that organizational conflicts exist, the following actions may be taken: (i) Impose appropriate conditions which avoid such conflicts, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interests of the United States to seek award of the contract under the waiver provisions of section 20-1.5411.

(2) The refusal to provide the representation provided in subsection 20-1.5404(b) or upon request of the contracting officer the facts required by subsection 20-1.5404(c), shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for award; or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. The offeror may also be disqualified from subsequent related NRC contracts and be subject to such other remedial actions provided by law or the resulting contract.

(d) The offeror may, because of potential organizational conflicts of interest, propose to exclude specific kinds of work from the statements of work contained in a RFP unless the RFP specifically prohibits such exclusion. Any such proposed exclusion by an offeror will be considered by the NRC in the evaluation of proposals. If the NRC considers the proposed excluded work to be an essential or integral part of the required work and its exclusion would work to the detriment of the competitive posture of the other offerors, the proposal must be rejected as unacceptable.

(e) The offeror's failure to execute the representation required by subsection (b) above with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct omission.

#### § 20-1.5405 Contract clauses.

##### § 20-1.5405-1 General contract clause.

All contracts shall include the following clause:

#### ORGANIZATIONAL CONFLICTS OF INTEREST

(a) **Purpose.** The primary purpose of this clause is to aid in ensuring that the contractor: (1) Is not biased because of its current or planned interest (financial, contractual, organizational, or otherwise) which relates to the work under this contract, and (2) does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) **Scope.** The restrictions described herein shall apply to performance or participation by the contractor and its affiliates or their successors in interest (hereinafter collectively referred to as the "contractor") in the activities covered by this clause as a prime contractor, subcontractor, cosponsor, joint venture, consultant, or in any similar capacity.

(c) **Work for others.** Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forego entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to an actual or potential conflict of interest with respect to the work being performed under this contract. The contractor shall insure that all employees who are employed full time under this contract and employees designated as key personnel, if any, under this contract abide by the provision of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a possible conflict of interest, the contractor shall obtain the written approval of the contracting officer prior to execution of such contractual arrangement.

(d) **Disclosure after award.** (i) The contractor warrants that to the best of its knowledge and belief and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest, as defined in 41 CFR § 20-1.5402(a).

(ii) The contractor agrees that if after award it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the Government.

(iii) In the event that the contractor was aware or should have been aware of organizational conflicts of interest prior to the award of this contract and did not disclose the conflicts to the contracting officer, the NRC may terminate the contract.

(iv) The provisions of this clause shall be included in all subcontracts and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve the Government's rights.

(e) **Access to and use of information.** (i) If the contractor in the performance of this contract obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the

public, the contractor agrees not to: (a) Use such information for any private purpose unless the information has been released to the public, (b) compete for work for the Commission based on such information for a period of six (6) months after either the completion of this contract or the release of such information to the public, whichever is first, (c) submit an unsolicited proposal to the Government based on such information until one year after the release of such information to the public, or (d) release the information without prior written approval by the contracting officer unless such information has previously been released to the public by the NRC.

(ii) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat such information in accordance with restrictions placed on use of the information.

(iii) The contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) **Subcontracts.** Except as provided in § 20-1.5410, the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "contractor," and "contracting officer," shall be appropriately modified to preserve the Government's rights.

(g) **Remedies.** For breach of any of the above proscriptions against nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract, the Government may terminate the contract for default, disqualify the contractor for subsequent related contractual efforts, and pursue other remedies as may be permitted by law or this contract.

(h) **Waiver.** A request for waiver under this clause shall be directed in writing through the contracting officer to the Executive Director for Operations (EDO) in accordance with the procedures outlined in section 20-1.5411. If it is determined to be in the best interest of the Government, the EDO shall grant such waiver.

#### § 20-1.5405-2 Special contract provisions.

(a) If it is determined from the nature of the proposed contract that potential organizational conflicts of interest may exist, the Contracting Officer may determine that such conflict can be avoided through the use of an appropriate special contract provision. These provisions include but are not limited to:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related nonproduction contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of his key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for protection of confidential data and guard against its unauthorized use. If appropriate, the prospective contractor may

negotiate the terms and conditions of these clauses, including the extent and time period of any such restriction.

(b) The following additional contract clause may be included as section (i) in the clause set forth in section 20-1.5404-1 when it is determined that award of a follow on contract would constitute an organizational conflict of interest.

(i) **Follow on effort.** (i) The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor shall not perform any technical consulting or management support services work under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of such products or services.

(ii) If the contractor under this contract prepares a complete or essentially complete statement of work or specifications, the contractor shall be ineligible to perform or participate in any contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the contractor from offering or selling its standard commercial items to the Government.

#### § 20-1.5406 Evaluation, findings, and contract award.

(a) The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the representation requirements of § 20-1.5404(b) and other relevant information. After evaluating this information against the criteria of 20-1.5403, a finding will be made by the contracting officer whether possible organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that conflicts of interest exist, then the contracting officer shall either:

(1) Disqualify the offeror from award;

(2) Avoid or eliminate such conflicts by appropriate measures;

(3) Award the contract under the waiver provisions of § 20-1.5411.

#### § 20-1.5407 Conflicts identified after award.

If potential organizational conflicts of interest are identified after award with respect to a particular contractor,

the contracting officer determines that such conflicts do, in fact, exist and that it would not be in the best interests of the Government to terminate the contract as provided in the clauses required by § 20-1.5405, the contracting officer will take every reasonable action to avoid, eliminate, or neutralize the effects of the identified conflict.

#### § 20-1.5408 [Reserved]

#### § 20-1.5409 [Reserved]

#### § 20-1.5410 Subcontracts.

The contracting officer shall require offerors and contractors to submit a representation statement in accordance with § 20-1.5404(b) from subcontractors and consultants; except that subcontractors requiring the representation of § 20-1.5404(b) shall not be required to submit a representation statement where the subcontract is for supplies or otherwise exempted by NRC general contract provisions. The contracting officer shall include contract clauses in accordance with § 20-1.5405 in consultant agreements or subcontracts involving performance of work under a prime contract covered by this subsection.

#### § 20-1.5411 Waiver.

In the first instance, determination with respect to the need to seek a waiver for specific contract awards shall be made by the contracting officer with the advice and concurrence of the program office director and the Office of Executive Legal Director. Upon the recommendation of the contracting officer, and after consultation with the Office of the General Counsel, the Executive Director for Operations may waive the policy in specific cases if he determines that the public interest makes a waiver imperative. Such action shall be strictly limited to those situations in which: (1) The work to be performed under contract is vital to the NRC program; (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3) contractual and/or technical review and supervision methods can be employed by NRC to neutralize or prevent the conflict from resulting in biased performance of the work. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

#### § 20-1.5412 Remedies.

In addition to such other remedies as may be permitted by law or contract for a breach of the restrictions in this subpart or for a failure to properly represent a relevant interest or for any intentional misrepresentation of any relevant interest required to be



provided by this section, the NRC may disqualify the contractor from subsequent NRC contracts.

Dated at Washington, D.C., this 18th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.

[FR Doc. 78-2062 Filed 1-23-78; 8:45 am]

# [3510-22]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[50 CFR Part 611]

### FOREIGN FISHING

Incidental Taking of Billfishes and Sharks in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendments to regulations.

SUMMARY: Foreign fishing regulations are being proposed for the conservation and management of billfishes and sharks in the Fishery Conservation Zone of the United States (FCZ). The intended effect is to improve the administration of fisheries over which the United States exercises exclusive fishery management authority.

DATE: Comments must be received by February 20, 1978.

ADDRESS: Comments may be submitted in writing to the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone number 202-634-7454.

SUPPLEMENTARY INFORMATION: The proposed regulations would implement the provisions of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as amended (Act) with respect to foreign fishing which results in the incidental catching of billfishes and sharks in the FCZ of the Atlantic Ocean, Gulf of Mexico, and the Caribbean Sea. The act provides for the management of all "fish" except "highly migratory species" which are specifically excluded from the definition of "fish." Several species of tuna are considered to be "highly migratory;" other pelagic species such as billfish and sharks are not

## PROPOSED RULES

considered to be "highly migratory" under the act. "Highly migratory species" and billfish and sharks intermingle to some extent in the FCZ and often are caught by the same gear.

A directed foreign longline fishery for tuna has been conducted in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea for many years. This fishery has included billfishes and sharks as well as "highly migratory" tunas, although the tunas were the major species being sought.

Regulation of billfish and sharks is complicated by the fact that the longline fishery is usually directed for tuna, and the taking of other species is essentially unavoidable because the gear is not selective. Consequently, the foreign longline fishery has been allowed to continue during the past nine months, while full consideration was given to all relevant issues and a determination was made concerning the best form of management which would be responsive to the interests of both foreign and domestic fishermen, within the framework of the FCMA.

After the effective date of these regulations, any foreign fishing vessels (as defined in 50 CFR 611.2 (q), (r), and (s)) desiring to engage in activities in the FCZ of the Atlantic Ocean and adjacent seas which result in the catching of fish (such as sharks and billfish) must first obtain a permit for that purpose. Such permits are required under § 611.3, even though such fishing vessel is rigged and fishes primarily for the purpose of taking "highly migratory" species over which the United States does not exercise exclusive fishery management authority.

The optimum yield for sharks within the FCZ has been set at 6,150 metric tons. The Preliminary Fishery Management Plan (PMP) estimates that U.S. fishermen will harvest 5,000 metric tons, leaving a surplus of 1,150 metric tons for foreign fishing of all species of sharks in the aggregate within the FCZ.

The PMP has set the optimum yield for billfishes within the FCZ at 5,153 mt. The PMP estimates that U.S. fishermen will harvest 7,636 mt. Therefore, the total allowable level of foreign fishing for these species is zero.

General requirements (specified in Subpart A of 50 CFR Part 611) would be applicable to foreign vessels in this fishery, as they are to other foreign vessels fishing within the FCZ.

An environmental impact statement concerning a PMP for Atlantic billfishes and sharks was filed with the President's Council on Environmental Quality on November 4, 1977.

NOTE.—The National Marine Fisheries Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821, and 11949, and OMB Circular A-107.

Signed at Washington, D.C., this 19th day of January 1978.

WINFRED H. MEIBOHM,  
Associate Director.

It is proposed to add the following § 611.60 to 50 CFR Part 611:

### § 611.60 Atlantic billfishes and sharks

(a) *Purpose.* The Subpart regulates all foreign fishing conducted under a Governing International Fishery Agreement for all species of billfishes and sharks in the Fishery Conservation Zone of the U.S. in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

(b) *Definitions.* (1) Unless otherwise defined herein, all terms used in this Subpart will have the meanings ascribed to them in Subpart A of these regulations.

(2) The term "billfish" as used in these regulations means the following species:

Blue marlin—*Makaira nigricans*  
Longbill spearfish—*Tetrapturus pfluegeri*  
Sailfish—*Istiophorus platypterus*  
Swordfish—*Xiphias gladius*  
White marlin—*Tetrapturus albidus*

(3) The term "sharks" does not include dogfish sharks.

(4) The term "highly migratory species" means those species listed in § 611.2(v).

(c) *Authorized fishery.*—(1) *Total Allowable Level of Foreign Fishing and National Allocations.* Foreign vessels may engage in fishing only in accordance with the TALFF and national allocations for sharks specified in paragraph (2) below. The TALFF for all species of shark in the aggregate, is 1,150 metric tons.

(2) *National allocations.* Foreign vessels may engage in a directed fishery for sharks in the Atlantic Ocean and associated waters in accordance with the TALFF in paragraph (1) above and the following national allocations:

(i) Cuba: (Reserved).

(ii) Japan: (Reserved).

(d) *Prohibited species.* All species other than "highly migratory" species and sharks are prohibited species. In addition to the requirements of § 611.13, where appropriate for species other than billfish and sharks, any billfish caught on longline gear must be released with a minimum of injury by cutting the leader, or other appropriate means, without removal from the water, regardless of condition. These billfish may not be taken on board a foreign fishing vessel (unless specifically requested by a U.S. observer).

(e) *Open area.* The open area for permitted foreign fishing is that portion of the FCZ situated in the Atlantic Ocean, the Caribbean Sea, and the Gulf of Mexico. Since the FCZ does not include the territorial seas of the

U.S., no foreign fishing is permitted in the territorial sea even if for highly migratory species.

(f) *Open season.* Foreign fishing vessels may begin fishing for their national allocations of the TALFF on the effective date of these regulations. The season for sharks will remain open until a foreign nation reaches its allocation; thereafter, the same restrictions that apply to billfish will apply to sharks. It should be noted that the closure provisions in Subpart A of these regulations do not apply to this Subpart.

(g) *Additional restrictions and prohibitions.* (1) After the applicable national allocation for sharks has been reached, no specimen of shark or part thereof may be taken on board a foreign fishing vessel (unless specifically requested by a U.S. observer), and all sharks caught must be released in accordance with the requirement in paragraph (d) above.

(2) The owner or operator of a foreign fishing vessel, in order to establish that prohibited species on board were not taken in violation of U.S. law, may obtain a hold inspection from the N.F.M.S. at Venice or New Orleans, Louisiana; Key West, Florida; Mayaguez, Puerto Rico; or Norfolk, Virginia before beginning fishing operations in the FCZ, and maintain any seals so af-

## PROPOSED RULES

fixed in an unbroken condition during the time the fishing vessel is in the FCZ. The purpose of such inspection is to segregate specimens which would be prohibited if taken within the FCZ.

(3) For each shark specimen retained, or part thereof, the catch and effort fishing log (described in § 611.9(a)) must contain:

(i) Date and location (within 0.5 degree latitude and longitude);

(ii) Species and sex;

(iii) Length and girth; and

(iv) Approximate weight.

(h) *Statistical requirements.* (1) In addition to the general requirements found in § 611.9, the daily cumulative catch and effort log (described in § 611.9(a)), must contain the following information:

(i) Name of captain;

(ii) Vessel location at midday (within 0.1 degree latitude and longitude);

(iii) Number of hooks set;

(iv) Number of each species of billfish (must separate sailfish and spearfish) caught and released by date showing whether individual specimens were dead or alive;

(v) Number of sharks released, after the TALFF has been caught, showing whether individual specimens were dead or alive;

(vi) Total number and estimated ag-

gregate weight of sharks caught and retained; and

(vii) With respect to shark specimens, or parts thereof, which are retained, the information specified under paragraph (g)(3) of this section.

(2) The weekly report required by § 611.9(e) shall be supplemented by an annual report described as follows:

(i) Each nation whose fishing vessels operate in the regulatory area shall, by April 30 of the following year, report annual catch and effort statistics as follows: (A) Effort in average number of hooks fished per 24-hour period by month by area to the nearest 0.5 degree latitude by 0.5 degree longitude. (b) Catch in metric tons by month and area to the nearest 0.5 degree latitude and longitude, of sharks, and the number of billfishes captured and released by month and area to the nearest 0.5 degree latitude and longitude. Billfish must be separated by species. An additional entry must be made showing the numbers of fish which were alive at release, and the number which were dead at release. All data required under paragraph (g)(3). This report shall be submitted to:

Regional Director, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

[FR Doc. 78-1992 Filed 1-23-78; 8:45 am]



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

### DEPARTMENT OF AGRICULTURE

#### Forest Service

#### UNION PASS PLANNING UNIT

#### Availability of Final, Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a final environmental statement for the Union Pass Planning Unit, Bridger-Teton National Forest, Wyo., USDA-FS-FES (Adm) R4-77-03.

The proposed action is a comprehensive land management plan for the Union Pass Planning Unit, Bridger-Teton National Forest. The unit contains approximately 180,000 acres of National Forest land. Significant activities provided for in the plan are an annual timber harvest averaging about 1.5 to 2.2 million board feet and summer livestock grazing of about 30,000 cow months and 10,000 sheep months. Exploration of subsurface resources including minerals, gas, and oil is provided for. Eight inventoried roadless areas were considered for potential wilderness. Roadless areas No. 58 (Tosi-Rock Creek) and No. 59 (Twin Creek-Loomis Park) and the unroaded portion between them (Rare II No. 102-Gros Ventre) will remain in inventoried roadless area status, pending final evaluation of the entire Rare II area No. 102.

This final environmental statement was transmitted to EPA on January 16, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

Regional Planning and Budget Office, USDA, Forest Service, Federal Building, Room 4120, 324 25th Street, Ogden, Utah 84401.

Forest Supervisor, Bridger-Teton National Forest, Forest Service Building, P.O.B. 1888, Jackson, Wyo. 83001.

District Ranger, Pinedale Ranger District, P.O.B. 220, Pinedale, Wyo. 82941.

District Ranger, Gros Ventre Ranger District, P.O.B. 1888, Jackson, Wyo. 83001.

A limited number of single copies are available upon request to Forest Supervisor Reid Jackson, Bridger-

Teton National Forest, Forest Service Building, P.O.B. 1888, Jackson, Wyo. 83001.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

ENAR L. ROGET,  
Acting Associate Deputy Chief.

JANUARY 16, 1978.

[FR Doc. 78-1983 Filed 1-23-78; 8:45 am]

[3410-16]

#### Soil Conservation Service

#### ATWATER LAKES AND PARKS PUBLIC WATER-BASED RECREATION DEVELOPMENT RC&D MEASURE, MINNESOTA

#### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Atwater Lakes and Parks Public Water-Based Recreation Development RC&D Measure, Kandiyohi County, Minn.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the enhancement of public water-based recreation. The planned works of improvement will include a level channel between two lakes and the following types of basic facilities: picnic tables and grills, drinking fountains, sanitary facilities, playground equipment, and parking facilities.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 409

Highway 23 SW., Willmar, Minn. 56201. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1973 Filed 1-23-78; 8:45 am]

[3410-16]

#### COUNTY ROAD 1000 SOUTH CRITICAL AREA TREATMENT MEASURE, INDIANA

#### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the County Road 1000 South Critical Area Treatment Measure, Vermillion County, Ind.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include construction of approximately 500 linear feet of waterway, riprap chutes, earth fill, clearing equivalent to one acre, and seeding and fertilizing disturbed areas.

The notice of intent not to prepare an environmental impact statement

has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 185 North Vermillion Street, Newport, Ind. 47966. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1976 Filed 1-23-78; 8:45 am]

[3410-16]

#### DUBOIS COUNTY CRITICAL AREA TREATMENT (TREE PLANTING) RC&D MEASURE, INDIANA

#### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dubois County Critical Area Treatment (Tree Planting) Measure, Dubois County, Ind.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include planting trees and shrubs for erosion control on an estimated 100 acres of critically eroding land throughout Dubois County, Ind.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at

the Soil Conservation Service, P.O. Box 547, Jasper, Ind. 47546. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1971 Filed 1-23-78; 8:45 am]

[3410-16]

#### ELBERT SCHOOL DISTRICT CRITICAL AREA TREATMENT MEASURE, COLORADO

#### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Elbert School District critical area treatment measure, Elbert County, Colo.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert G. Halstead, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for control of critically eroding areas around Elbert County schools. The planned works of improvement include shaping, grading, topsoiling, and seeding approximately 3.1 acres of eroding areas. In addition, the recreation areas north of the school will be graded and seeded to provide proper drainage away from school grounds. Structural measures include a diversion and pipe-drop to safely dispose of excess water.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 2490

West 26th Avenue, Denver, Colo. 80217. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conservation Service.

[FR Doc. 78-1970 Filed 1-23-78; 8:45 am]

[3410-16]

#### HEART MOUNTAIN ESTATES RC&D MEASURE, WYOMING

#### Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Heart Mountain Estates RC&D measure, Park County, Wyo.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for farm irrigation. The planned works of improvement include installation of about 3,500 feet of underground pipeline to deliver irrigation water to about 100 acres of irrigated land. Land treatment practices of pasture and hayland planting and management, fencing, irrigation water management, and tree planting will also be implemented.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 100 East B Street, Room 3213, Casper, Wyo. 82602. An environmental impact



appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conser-  
vation Service.

(FR Doc. 78-1972 Filed 1-23-78; 8:45 am)

#### [3410-16]

HULL BAY WATER-BASED RECREATION RC&D MEASURE, ESTATE HULL BAY, ST. THOMAS, U.S. VIRGIN ISLANDS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hull Bay water-based recreation RC&D measure, Estate Hull Bay, St. Thomas, U.S. Virgin Islands.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. A. H. Quintero, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the construction of a boat ramp and associated parking at Estate Hull Bay Beach, St. Thomas, U.S. Virgin Islands. The planned works of improvement include the construction of a well-designed boat launching ramp and associated parking area.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Room 633, U.S. Courthouse and Federal Building, Carlos E. Chardon Street, Hato Rey, P.R. 00918, and Soil Conservation Service, Federal Experiment Station, Kingshill, St. Croix, U.S.

Virgin Islands 00850. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conser-  
vation Service.

(FR Doc. 78-1975 Filed 1-23-78; 8:45 am)

#### [3410-16]

MADILL SCHOOL CRITICAL AREA TREATMENT MEASURE, OKLAHOMA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Madill School critical area treatment measure, Marshall County, Okla.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include shaping and vegetation of waterways and other disturbed areas and installation of concrete channel liners in selected locations in the waterways.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Okla. 74074. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the envi-

ronmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conser-  
vation Service.

(FR Doc. 78-1968 Filed 1-23-78; 8:45 am)

#### [3410-16]

OAKS PARK CANAL FARM IRRIGATION MEASURE, UTAH

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oaks Park Farm irrigation canal RC&D measure, Uintah County, Utah.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George D. McMillan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for structural measures to improve the existing Oaks Park Canal. The planned works of improvement include 6,000 feet of irrigation pipeline; 1,360 feet of rock riprap; 3 water control structures; 5,700 feet of concrete, earth, and plastic canal lining; and 200 feet of rock excavation.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Room 4012, Federal Building, 125 South State Street, Salt Lake City, Utah 84138. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conser-  
vation Service.

(FR Doc. 78-1969 Filed 1-23-78; 8:45 am)

#### [3410-16]

PINE LAWN PARK PUBLIC WATER-BASED RECREATION RC&D MEASURE, MINNESOTA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Pine Lawn Park public water-based recreation development RC&D measure, Mower County, Minn.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the enlargement of public water-based recreation development in Pine Lawn Park. The planned works of improvement include picnic table and grills, picnic shelter, canoe launch area, water supply, sanitary facilities, roads, and landscaping.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, Mower County Courthouse, Austin, Minn. 55912. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until February 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation

and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q.)

Dated: January 12, 1978.

EDWARD E. THOMAS,  
Assistant Administrator for  
Land Resources, Soil Conser-  
vation Service.

(FR Doc. 78-1974 Filed 1-23-78; 8:45 am)

#### [6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 31682, 31685; Order 78-1-62]

AMERICAN AIRLINES, INC.

Order Dismissing Complaints Regarding Advance-Purchase Excursion and Individual Inclusive—Tour Fares Between U.S. Points and Mexico

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of January 1978.

By tariff revisions<sup>1</sup> filed to become effective December 8, 1977, American Airlines, Inc. (American), proposes reductions in the levels of its individual inclusive-tour (ITX) fares between various United States points and Acapulco/Mexico City, and introduction of new advance-purchase excursion (APEX) fares between Chicago, Detroit, Dallas-Fort Worth, and Acapulco/Mexico City. The proposed ITX fares are 0.9 to 31.2 percent below present levels and are intended—consistently with American's other U.S.-Mexico ITX fares—either to apply discounts from normal economy fares of 20 percent during weekends, and 30 percent on midweek days, or to implement levels competitive with fares which can be constructed via a point where a lower ITX fare is available. The APEX fares represent discounts from normal economy fares of 28.6 to 40.2 percent during weekends and 40.3 to 50 percent on weekdays. Salient features of the APEX fares include ticket purchase at least seven days before departure; 7/30-day minimum/maximum length of stay; and a seating capacity limitation of 20 percent each weekend and 50 percent for each midweek period.

American claims that it is proposing the APEX fares "to stimulate lagging traffic in the U.S.-Mexico market";<sup>2</sup> its experience with similar fares, notably the transcontinental "Super Saver,"

<sup>1</sup>Revisions to Tariff CAB No. 74 issued by Air Tariffs Corp., Agent. The APEX fares are to apply for travel commencing January 7, 1978.

<sup>2</sup>According to American, traffic declined by 3.4 and 7.7 percent on its own and on total U.S. scheduled service, respectively, for the first seven months of 1977 compared to the corresponding period in 1976.

has been successful; the APEX fares will alleviate weekend traffic peaking problems; the discounts proposed are similar to those in other international markets;<sup>3</sup> and both the APEX fares and ITX fare reductions can be expected to make a contribution to profits.<sup>4</sup>

Complaints requesting suspension and investigation of American's filing have been received from the National Air Carrier Association (NACA) and Air Charter Tour Operators of America (ACTOA). An answer in support of the complaints has been received from Compania Mexicana de Aviacion, S.A. (Mexicana). American has answered opposing the complaints.

NACA contends that the fares would be well below American's fully allocated costs; the Board has found, at a composite industry average load factor of 55.5 percent, such United States-Mexico costs to be roughly equal to the normal economy fare levels;<sup>5</sup> the present normal economy fare level is 9 to 10.5 cents per mile while the proposed fares are as low as 4.5 cents per mile; the proposed fares, particularly with respect to their level, are predatory and targeted against charter services. For example, the Philadelphia-Mexico ITX fares are below the corresponding advance-booking charter (ABC) prices currently being offered; the fares offer greater flexibility to the public than do charters. For instance, the APEX fares have only a seven-day advance-purchase requirement compared to 30 days under existing rules and 15 days under the "interim" rules<sup>6</sup> for ABC's; this advantage is in addition to the inherently greater flexibility in choosing departure and return dates which scheduled services offer; many U.S.-Mexico normal economy fare passengers are not now receiving the service quality implicit in a 55.5 percent load factor because of higher load factors and sold-out flights during weekends and peak travel months; and, insofar as the proposed fares would generate new traffic, normal economy passengers would be further inconvenienced and face an even greater possibility of sold-out flights, particularly since discount fare passengers tend to purchase seats further in advance than do normal fare passengers.

<sup>3</sup>American cites the New York-Mexico ITX and New York-London APEX fares at discounts of 50-59 percent.

<sup>4</sup>The carrier projects a total annual profit improvement from the proposals of about \$870,000, using the profit-impact test (i.e., incremental costing) and assuming generation/diversion ratios of 41/59 and 28/72 for the APEX and ITX fares, respectively.

<sup>5</sup>Order 77-4-132, April 26, 1977.

<sup>6</sup>SPDR-61 (Interim Liberalization of Charter Rules, Docket 3150), October 14, 1977.



ACTOA addresses only the APEX fare proposal. ACTOA states that the APEX fares, as part of an American campaign to eliminate charter tour operators, are specifically aimed at Elkin Tours, Inc. (Elkin), a principal operator in the Midwest; American has quoted Detroit-Acapulco/Mexico City per-seat charter prices to Elkin higher than the proposed APEX fare's yield; should American's generation estimates be realized, flights would be full every Saturday and Sunday during eight months of the year and preemption of higher-fared passengers would be inevitable; the value of service proposed is not significantly less than that of higher-level fares; the advance-purchase and length-of-stay requirements are distinctions without a difference since the traffic in question is primarily composed of vacationers and there are no cancellation penalties; and American is willing, in the short run, to experience substantial diversion from higher-level fares and revenue dilution "in the interest of destroying charter competition."

Mexicana, answering in support of both complaints, contends that American is now carrying "an ample volume of passengers in relation to its capacity"; introduction of new and deeper discounts is not a proper solution, even if American cannot achieve a satisfactory rate of return with such traffic; American, however, has not suggested that its present earnings are insufficient; American's use of its May-July 1977 domestic transcontinental "Super Saver" fare experience for generation/diversion estimates of its United States-Mexico fare proposals is inappropriate and insufficient; the proposed levels are similar to those of American's "assembly" group inclusive-tour (GIT) fare proposal, which the Board suspended pending investigation, noting that American had not shown the inadequacy of the existing individual inclusive-tour fares (Order 76-12-102); American has made no such showing in the instant case; should the proposed fares be permitted to become effective, competing carriers would have no alternative but to propose further discounts; and a proliferation of such fares is ultimately "contrary to the public interest since it can only be expected to lead to the deterioration of service and safety."

In answer, American alleges that scheduled-service carriers have a right to compete with supplemental carriers; supplementals do not have a substantial stake in U.S.-Mexico charters; the APEX fares cannot damage tour operators since they have as much opportunity to profit from scheduled as from charter services, and with no risk; supplementals' charter rates are much lower than either American's charter rates or the APEX fares; the

APEX fares' per-mile yields are comparable to those of the "Super Saver" and transatlantic Budget and APEX fares; American does not plan to add capacity to accommodate traffic generated by the APEX fares, which thus meet long- as well as short-run marginal costs while contributing to capacity costs; Order 77-4-132 shows American's average U.S.-Mexico operating costs (including first-class service) at only 6.8 cents per revenue passenger-mile, and the average per-mile yields of the APEX and ITX fares are, respectively, 71 and 94 percent of that figure; and the greater discounts on weekdays will reduce weekend load factors and hence improve the quality of service for normal fare passengers.

The Board has decided to dismiss the complaints.

We have frequently stated our determination to allow the maximum fare competition economically feasible and our reluctance to interfere with competitive actions where the proposed fares may improve the economics of scheduled service. At present, we believe that tour operators and charter carriers can adjust to new circumstances by making suitable competitive responses in turn, especially in view of our recent liberalization of charter rules. For this reason, we will continue to follow a policy of permitting scheduled-service carriers wide latitude in competing with charter services. Should subsequent developments indicate that this policy is producing undesirable results for the industry as a whole, we will of course take remedial measures.

American does not refute the charge that it has quoted per-seat charter prices to Elkin which are virtually the same as the proposed APEX fare level. However, American states that it did not get Elkin's business. Our investigation indicates that, rather, Elkin is contracting Chicago-Acapulco one-stop inclusive-tour charters (OTC's) with World Airways, Inc., whose per-seat prices are \$40 to \$70 below the Chicago-Acapulco APEX midweek level. In addition to the differential in the cost of the air transportation, the OTC's, because of their required ground accommodations, provide another element for profit to the tour organizer.

The APEX and ITX fares at issue do show a potential for improving the economics of scheduled service, from the standpoint of both the traveler and the carrier. We are not convinced that these fares would significantly inconvenience normal fare or higher-

\*Appendix C, American's forecast under the then-proposed fares (as adjusted by the Board) for the year ending April 1978 indicates \$38,250,000 total operating expenses and \$62,542,000 revenue passenger-miles.

rated fare passengers.\* Moreover, the lower levels and greater availability of the APEX fares during midweek periods may well promote a more even distribution of traffic between weekends and weekdays and so contribute to the efficiency of the carrier's operations. Such a traffic shift can reduce weekend load factors and the possibility of higher-fared passengers being denied reservations thus upgrading the quality of service for those passengers who continue to opt for weekend travel. In this connection, American's data indicate that, for the year ended July 1977, the carrier experienced average midweek and weekend load factors of about 56 and 70 percent, respectively, in its Chicago-Acapulco/Mexico City nonstop service—the most dense service in question. Based on the carrier's 41 percent generation estimate for the APEX fares, and even assuming that all seats available for APEX travel on all flights are occupied by passengers using that fare, an average of 24 percent (midweek) and 22 percent (week-end) of available seats would remain unoccupied. Of course, this does not consider traffic peaking, but neither does it consider the possible traffic shifts caused by the peak-off peak character of the fares.

Finally, the fares cover noncapacity costs and make a contribution to capacity costs. To the extent that these fares generate new traffic and fill otherwise empty seats, therefore, they will improve the carrier's financial position.

Accordingly, it is ordered, that the complaints of the National Air Carrier Association, in Docket 31682, and Air Charter Tour Operators of America, in Docket 31685, be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.\*

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-2022 Filed 1-23-78; 8:45 am)

#### [6320-01]

(Docket Nos. 31564, 31572; Order 78-1-78)

#### POLSKIE LINIE LOTNICZE

Order Vacating Suspension Regarding Transatlantic Super-APEX, GIT and Special-APEX Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of January 1978.

\*Unlike the suspended Hawaii GIT fares (Order 77-9-23, September 8, 1977) which involved groups of 50, the APEX fares are individual and subject to a maximum seat allocation of 20 percent on the weekend. The threat of significant numbers of ticketed passengers being denied reservations is therefore much less.

\*All Members concurred.

By Order 77-10-139, October 25, 1977, and Order 77-11-58, November 4, 1977, the Board suspended, pending investigation, super-APEX, group inclusive tour fares and "Special" advance purchase excursion fares proposed by Polskie Linie Lotnicze (LOT) for use between the United States, on the one hand, and Poland, on the other. The Board stated that it was suspending the fares because the United States had been unable to secure an ad hoc agreement with Poland which would permit us to suspend the fares after they became effective, and in those circumstances, failure to suspend the fares before they became effective, might foreclose any future action by this Government with regard to such fares between the United States and Poland.

On December 29, 1977, the Government of Poland signed an ad hoc agreement confirming the right of the United States to take action against the super-APEX, group inclusive tour fares and "Special" advance purchase excursion fares after they became effective. Thus there is no reason for LOT's fares to Poland and other countries whose Governments have signed appropriate ad hoc agreements to remain under suspension, and this order will vacate our previous action in that respect.

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958, it is ordered, That:

1. Order 77-10-139 is vacated insofar as it suspends and investigates Advance Purchase Excursion Fares as follows:

A. PASSENGER FARES TARIFF NO. PF-4, CAB No. 44, ISSUED BY AIR TARIFFS CORP., AGENT

Fares and provisions in tables 23, 104, 143 to/from Poland applicable to Pan American, K.L.M., Lufthansa, Polskie Linie Lotnicze, and Swissair.

B. INTERNATIONAL PASSENGER FARES TARIFF No. 4, CAB No. 22, ISSUED BY JOHN M. SAMPSON, AGENT

The fares and provisions in section 40 to/from Warsaw, Poland, applicable to British Airways.

\*We will also vacate the suspension of matching tariffs to Poland filed by British Airways, Pan American World Airways, Inc., Trans World Airlines, Inc., K.L.M. Royal Dutch Airlines, Deutsche Lufthansa Aktiengesellschaft, and Swissair, Swiss Air Transport Co., Ltd.

C. INTERNATIONAL LOCAL AND JOINT PASSENGER FARES TARIFF NO. F-9, CAB No. 37, ISSUED BY TRANS WORLD AIRLINES, INC.

On 21st Revised Page 170 and 25th and 26th Revised Pages 172 the fares and provisions to/from Warsaw, Poland.

2. Order 77-11-58 is vacated insofar as it suspends and investigates advance purchase excursion fares and provisions in rule 171 and table 385 and group inclusive tour fares and provisions published in rule 167 and table 386 of Passenger Fares Tariff No. PF-4, CAB No. 44, issued by Air Tariffs Corp., agent;

3. This order shall be submitted to the President\* and shall be effective on January 19, 1978; and

4. Copies of this order shall be filed in the above tariffs and served upon Pan American World Airways, Inc., Trans World Airlines, Inc., Polskie Linie Lotnicze, Deutsche Lufthansa Aktiengesellschaft, K.L.M. Royal Dutch Airlines, SWISSAIR, Swiss Air Transport Co., Ltd., British Airways Board carrying on business under the firm name and style of British Airways, and the National Air Carrier Association.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,\*  
Secretary.

(FR Doc. 78-2023 Filed 1-23-78; 8:45 am)

#### [6320-01]

(Order 78-1-68; Docket 30777; Agreement C.A.B. 27084 R-1 through R-12)

#### IATA

Agreement Relating To Free Baggage Allowances and Excess-Baggage Charges

Issued under delegated authority January 17, 1978.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, limited in nature, was adopted at the Special Resolution 001p Baggage Meeting held in Hollywood, Fla. on December 2,

\*This order was submitted to the President on January 11, 1978. All Members concurred.

1977, and was filed with the Board on January 3, 1978.

The agreement, proposed for effect February 1, 1978, through March 31, 1979, would establish new free-baggage allowances and excess-baggage charges for passenger air transportation between Canada, on the one hand, and Europe (excluding Czechoslovakia, Spain and Yugoslavia), Israel, South Africa, South West Africa, Lesotho, Botswana, Swaziland, Umtata and Rhodesia, on the other.

The proposed allowances and charges are based on a piece system (rather than a weight system) like that established for transportation between the United States and various world points as conditioned and approved by the Board by Order 77-4-97, April 20, 1977. Under the proposed free allowances, first-class passengers would be permitted two checked pieces of 62 inches (length plus width plus depth) each; economy-class passengers could check two pieces, either of which could be as large as 62 inches provided that their total does not exceed 107 inches; passengers of either class would be permitted a carry-on piece of no more than 45 inches provided that it could be stowed in the underseat space.

Excess-baggage charges, for oversized and/or additional pieces, would be levied on a per-piece basis at amounts varying with origin and destination. From Montreal, for example, the charges for an excess piece would be \$30 to Ireland, \$40 to France, \$68 to Israel, and \$75 to the southern Africa countries. The agreement also provides for special treatment of such items as bicycles and golf, ski, and camping equipment.

We will approve the agreement, which governs conditions and charges which are combinable with conditions and charges to/from United States points and thus has indirect application in air transportation as defined by the Act, since the provisions and charges embodied in the agreement are virtually identical to those which the Board found acceptable in Order 77-4-97.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14, it is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

\*These amounts are expressed in U.S. dollars. The Canadian dollar amounts are slightly higher.

Agreement C.A.B.	IATA No.	Title	Application
27084:			
R-1.....	LA17.....	JT12 Limited Agreement—to/from Canada ½ (North Atlantic). (New) (Expedited).	
R-2.....	001v.....	Special Baggage Escape-Canada (New) (Expedited).	Do.
R-3.....	001y.....	Special Baggage Escape-Limited Agreement to/from Canada (New) (Expedited).	Do.



Agreement C.A.B.	IATA No.	Title	Application
27084:			
R-4.....	003.....	Special Rescission Resolution (31 January 1978) (Expedited).	Do.
R-5.....	304.....	Carriage of Baggage at Cargo Rates to/from Canada (New) (Expedited).	Do.
R-6.....	306.....	Application of Baggage Rules to/from Canada (New) (Expedited).	Do.
R-7.....	310.....	Free Baggage Allowance to/from Canada (New) (Expedited).	Do.
R-8.....	310c.....	Pets to/from Canada (New) (Expedited).	Do.
R-9.....	311.....	Excess Baggage Charges to/from Canada (New) (Expedited).	Do.
R-10.....	311b.....	Charges for Snow Skiing Equipment to/from Canada (New) (Expedited).	Do.
R-11.....	311d.....	Charges for Golfing Equipment to/from Canada (New) (Expedited).	Do.
R-12.....	311e.....	Charges for Bulky Baggage to/from Canada (New) (Expedited).	Do.

Accordingly, it is ordered, That: Agreement C.A.B. 27084, R-1 through R-12, be approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-1890 Filed 1-23-78 8:45 am]

#### [3510-25]

##### DEPARTMENT OF COMMERCE

###### Industry and Trade Administration

###### ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

###### Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Wednesday, February 8, 1978, at 9:30 a.m. in Room B841, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, and October 21, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. section 2404(c)(1), and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the United States and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on October 21, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Oper-

ations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on October 28, 1977 (42 FR 56767).

Dated: January 20, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-2007 Filed 1-23-78; 8:45 am]

#### [3510-13]

##### National Bureau of Standards

###### COBOL COMPILER VALIDATION IN SUPPORT OF FEDERAL INFORMATION PROCESSING STANDARD 21-1

Under the provisions of Pub. L. 89-306 and Executive Order 11717, the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. Federal Information Processing Standards Publication (FIPS Pub) 21-1 specifies Federal standard COBOL. The standard defines the elements of the COBOL programming language and the rules for their use.

In the November 14, 1975, issue of the FEDERAL REGISTER (40 FR 53013), the General Services Administration (GSA) published a new regulation which added to 41 CFR Subpart 101-32.15 a new subsection 101-32.1305-1a, Validation of COBOL Compilers. GSA established the policy for testing COBOL compilers to support the requirement in FIPS Pub 21-1 regarding the implementation of Federal stan-

dard COBOL. This, in effect, requires Federal agencies to ensure that all COBOL compilers that are brought into the Federal inventory are tested to confirm that they meet a designated level of the Federal standard COBOL.

The term validation is used in this context as the process of testing a given COBOL compiler against predetermined conditions and specifying which, if any, conditions are not met. To confirm that an implementation meets the specification of a designated level of Federal standard COBOL, test routines have been developed and approved for use in testing COBOL compilers. These routines make up the COBOL compiler validation system (CCVS). A Federal COBOL Compiler Testing Service (FCCTS) also has been established to provide a validating service for the Federal agencies. The FCCTS is sponsored by the Department of Defense (DOD) under delegation of authority from the National Bureau of Standards (NBS). The FCCTS is responsible for the development and maintenance of the CCVS necessary to support the validation of the various versions of Federal standard COBOL. They are also responsible for conducting the validation of all COBOL compilers brought into the Federal inventory.

The purpose of this announcement is to identify a new official version of the 1974 CCVS (version 3.0) currently being used by FCCTS in discharging its responsibilities under the above-mentioned delegation of authority from NBS.

##### COBOL COMPILER VALIDATION SYSTEM

The 1974 COBOL compiler validation system is being released in increments. Version 1.0 of the 1974 CCVS which was released in November 1975 contained all the language elements included in the low-intermediate level of FIPS Pub 21-1 COBOL (see FIPS Pub 21-1 for information regarding the contents of the various levels of Federal standard COBOL). Version 2.0 of the 1974 CCVS was released in February 1977 and announced in the April 13, 1977, issue of the FEDERAL REGISTER (42 FR 19364) as the official CCVS to be used in validation of all COBOL compilers brought into the Federal inventory. It contained all elements of FIPS Pub 21-1 except for the arithmetic expressions of the nucleus module, the ENTER statement of the nucleus module, and the entire communication module.

Version 3.0 of the 1974 CCVS was released in October of 1977. Included in version 3.0 are all of the corrections identified through temporary program fixes issued for version 2.0. Also included in version 3.0 are the audit routines necessary to determine the degree to which a COBOL compiler

flags the language elements contained in the various levels of Federal standard COBOL as defined in FIPS Pub 21-1. Excluded from version 3.0 are arithmetic expressions of the nucleus module, the ENTER statement of the nucleus module and the entire communication module. This version is now the officially recognized version of the 1974 CCVS and will be used in future validations of COBOL compilers.

The COBOL compiler validation systems are available from the National Technical Information Service. Address: National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Va. 22161, telephone 703-557-4650.

FIPS PUB 21-1 COBOL COMPILER VALIDATION SYSTEM VERSION 3, RELEASED 0 (CCVS74 3.0)

##### Title, Ordering No. and Price

1974 COBOL Compiler Validation System Version 3.0 Implementation Documentation (Users Guide), ADA046601, \$15.  
1974 COBOL Compiler Validation System Version 3.0 (tape), ADA046600, \$550.

The COBOL compiler validation systems will be updated biannually. These updates will be announced in a FEDERAL REGISTER notice as the current version of the CCVS used as the basis for validating COBOL compilers. The update process will be used to correct errors identified in the systems and to introduce new or modified programs as appropriate. The Federal standards do not change per se but a validation system should be periodically modified to ensure that compilers are being built according to the technical specifications in the standard, not the validation systems. Should an interpretation be made that would affect the validation systems, these changes would be reflected also during the update process.

##### OBTAINING VALIDATION SERVICES

The NBS-DOD agreement covers cost-reimbursable tests requested by vendors wishing to have a compiler validated for their own purposes; vendors wishing to have a compiler validated in response to a Government request for proposals; Government agencies involved in a procurement; or Government agencies wishing to validate a compiler already in use.

The raw data produced during the validation process will be reviewed by the FCCTS, which will prepare a validation summary report (VSR) for initial dissemination to the requester. If the requested validation has previously been performed on a similar computer configuration, the validation run need not be repeated, and the earlier VSR will be provided to a requester. The VSR will classify a compiler according to each level of the Federal COBOL standard which it has met. A

request for validation services form may be obtained by writing to or calling: Director, Federal COBOL Compiler Testing Service, Department of the Navy, Washington, D.C. 20376, telephone 202-697-1247.

The request form identifies the service required (validation summary report, validation for a compiler not yet tested, FIPS Pub 21 or FIPS Pub 21-1, etc.), and appropriate supporting information, including a point of contact in the requesting agency, compiler and related operating system identification, machine make and model number, and special requirements, if any. If the request is for a validation, a compiler validation manager will be assigned by the FCCTS to process the request. The assigned individual will contact the requesting agency to make the appropriate arrangements, and, if necessary, obtain appropriate documentation. (The requester must provide the facilities for performing the validation.)

An estimate of expenses will be provided to the requester for approval prior to a validation. The approval and, if applicable, an appropriation accounting number should be given as promptly as possible to the FCCTS.

Upon completion of the validation, a VSR will be compiled from the raw data and forwarded to the requester.

Dated: January 19, 1978.

ERNEST AMBLER,  
Acting Director.

[FR Doc. 78-1990 Filed 1-23-78; 8:45 am]

#### [3510-22]

##### National Oceanic and Atmospheric Administration

###### MARINE MAMMALS

###### Receipt of Application for a General Permit

Notice is hereby given that the following applications have been received to take marine mammals incidental to the course of commercial fishing operations as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the regulations thereunder.

United Fishermen of Alaska, Box 1352, Juneau, Alaska 99802, has applied for general permits under Categories 3: "Encircling Gear, Purse Seining not Involving the Intentional Taking of Marine Mammals;" 4: "Stationary Gear;" 5: "Other Gear;"

The National Federation of Medium Trawlers, Showa Kaikan, 3-2, Kasumigaseki 3, Chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed Or Draggd Gear" general permit;

Japan Deep Sea Trawlers Association, Daito Bldg., 6/F, Ogawa-cho, 3-6 Kanda, Chiyoda-ku, Tokyo, Japan, has applied for a Category 1: "Towed Or Draggd Gear" general permit; and



The North Pacific Longline—Gillnet Association, Zenkeiren Bldg., 7 Hirakawa-cho 2, Chiyoda-ku, Tokyo, Japan, has applied for a Category 5: "Other Gear" general permit.

The applications are available for review in the office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

The application received from the United Fishermen of Alaska is available for review in the Office of the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Interested parties may submit written views on this application on or before February 13, 1978 to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

Dated: January 18, 1978.

ROLAND FINCH,  
Acting Deputy Assistant Director  
for Fisheries Management.  
(FR Doc. 78-1989 Filed 1-23-78; 8:45 am)

[3128-01]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

### OIL AND GAS PRODUCERS

Inquiry on Financial Accounting Standards

AGENCY: Department of Energy.

ACTION: Notice of inquiry.

**SUMMARY:** The Department of Energy (DOE) intends to submit comments to the Securities and Exchange Commission (SEC) on whether the SEC should adopt Statement of Financial Accounting Standards No. 19, Financial Accounting and Reporting by Oil and Gas Producing Companies (Statement No. 19), developed by the Financial Accounting Standards Board (FASB) or some alternative accounting standards as the uniform accounting practices which the Energy Policy and Conservation Act required the SEC to develop. The DOE's comments will be directed at the impact of adoption of FASB Statement No. 19 on competition in the oil and gas production sector of the petroleum industry, the impact on oil and gas exploration, development, and production, and the impact on the Financial Reporting System being developed by the Energy Information Administration of the DOE. The purpose of this notice is to request comments on these issues from interested persons to assist the DOE in formulating its position on FASB Statement No. 19.

**DATES:** Comments by February 23, 1978, 4:30 p.m. Hearing date: February 21, 1978, 9:30 a.m.; requests to speak by February 9, 1978; 4:30 p.m.

**ADDRESSES:** All comments to and requests to speak to: Office of Regulations Management, Box RF, Room 2214, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

Hearing location: Room 3000A, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

### FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Room 2222A, 2000 M Street NW., Washington, D.C. 20461, 202-254-5201.

Ed Vilade (Media Relations), Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

Michael Paige (Office of General Counsel), Room 5134, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

Gregory Crowell (Economic Regulatory Administration), Room 8125A, 2000 M Street NW., Washington, D.C. 20461, 202-254-8641.

Stuart W. Ray (Office of Policy and Evaluation), Room 3530, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-7425.

### SUPPLEMENTARY INFORMATION:

#### I. BACKGROUND

- A. FASB statement No. 19.
- B. Basis for DOE comments.

#### II. GENERAL INFORMATION SOUGHT

- A. Competition issue.
- B. Energy supply issues.
- C. Supplemental information requested in appendix.
- D. Financial reporting system issues.
- E. DOE comments to the SEC.

#### III. COMMENT PROCEDURES

- A. Written comments.
- B. Public hearing.

#### I. BACKGROUND

Section 503 of the Energy Policy and Conservation Act, Pub. L. 94-163 (EPCA), requires the SEC to assure the development and observance of accounting practices to be followed in the preparation of accounts by persons engaged in the production of crude oil or natural gas in the United States. A deadline of December 22, 1977, was established for the development of these accounting practices. However, the EPCA permits the SEC to rely on accounting practices developed by the FASB, after consideration of comments from interested persons on whether it ought to adopt the FASB-recommended accounting practices, if the SEC is assured that such practices will be observed by affected parties to the same extent as if the SEC had prescribed such practices by rule. If FASB-developed standards are relied on, the EPCA permits the SEC additional time beyond December 22,

1977 for development of the required accounting practices.

#### A FASB STATEMENT NO. 19

The two most widely followed accounting practices for oil and gas producers are the so-called "successful efforts" and "full cost" methods. Their principal difference lies in the prescribed methods of determining which exploration expenditures are capitalized. On December 5, 1977, the FASB, in Statement No. 19, adopted the successful efforts, and rejected the full cost, method of accounting for oil and gas producers. As described by the FASB, successful efforts accounting was adopted because it was consistent with the "present accounting framework" and would enable financial statements to reflect risk and unsuccessful results more accurately. Sections 146 and 147 of Statement No. 19 discuss the two methods of accounting:

146. Present accounting concepts place boundaries on the assets to be accounted for—boundaries determined by the transaction in which the asset was acquired, by physical attributes of the asset, by legal attributes of the asset, or by the way in which the asset is used. Full costing aggregates all oil and gas reserves within very broad cost centers (countries or continents), wherever those reserves may be located on the cost center and whenever discovered, and accounts for that aggregation as a single asset. All acquisition, exploration and development costs incurred in that cost center are deemed to be the cost of the aggregate asset, even if those costs relate to activities that are known not to have been successful in acquiring, discovering, or developing reserves.

147. The successful efforts method, on the other hand, circumscribes the boundaries of, and accounts separately for, individual assets. . . . Only those exploration and development costs that relate directly to specific oil and gas reserves are capitalized; costs that do not relate to specific reserves are charged to expense. The successful efforts method of accounting conforms to the traditional concept of the historical cost of an asset.

The FASB identified 214 companies in the "petroleum and natural gas extraction" Standard Industrial Classification the securities of which were registered with the SEC. Of these, the FASB identified 79 companies which derived more than 50 percent of their revenues from exploration and production, thereby excluding virtually all the major integrated companies from the group. Of the 79 companies, the FASB identified 32 companies which used the successful efforts method of accounting and 47 which used the full cost method.

On December 22, 1977, the SEC announced that it would solicit comments and hold public hearings on whether the Commission should exercise its discretion to recognize or otherwise rely on the accounting practices

developed by the FASB in order to meet the requirements of the EPCA.

#### B. BASIS FOR DOE COMMENTS

The DOE intends to comment to the SEC on whether that agency ought to adopt the accounting practices developed by the FASB. The basis for the DOE's determination in this regard is as follows. First, section 503(a) of the EPCA requires the SEC to consult with the Federal Energy Administration, the functions of which have been assumed by the DOE, in the development of the accounting practices for producers required pursuant to the EPCA. In addition, section 205(h)(1)(B)(3) of the Department of Energy Organization Act, Pub. L. 95-91 (DOE Act), requires consultation between the DOE and the SEC for accounting standards to be used in the preparation of the Financial Reporting System under development by the Energy Information Administration. Further, the DOE has a mandate under section 102(12) of the DOE Act to "foster and assure competition among parties engaged in the supply of energy and fuels." In this regard, section 4(b)(1)(D) of the Emergency Petroleum Allocation Act of 1973 requires the DOE, to the maximum extent practicable, to provide for the "preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing . . . [sector] of such industry . . ."

Finally, among the objectives of the DOE Act are "to promote the interests of consumers through the provision of an adequate and reliable supply of energy at the lowest reasonable cost" (§ 102(8)); "to assure to the maximum extent practicable, that the productive capacity of private enterprise shall be utilized in the development and achievement of the policies and purposes of [the] Act" (§ 102(14)); and "to foster insofar as possible the continued good health of the Nation's small business firms . . . involved in energy production . . ." (§ 102(17)). Consequently, the DOE is particularly concerned that any required accounting practices for producers not have the effect of inhibiting access into the capital markets for exploration funds, and thereby possibly tending to lessen overall domestic energy supplies.

The SEC is required to consider how the adoption of any rules or regulations would impact competition. Section 23(a)(2) of the Securities Exchange Act of 1934, as amended, requires that:

The Commission, in making rules and regulations pursuant to any provisions of this title, shall consider among other matters the impact any such rule or regulation would have on competition. The Commission shall not adopt any such rule or regula-

tion which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of this title.

With regard specifically to competition, the FASB stated its view that:

. . . far from inhibiting competition, the removal of one of two significantly different optional alternative methods of accounting in similar situations will facilitate competition. The weight of the evidence before the Board is that independent oil and gas production companies using successful efforts accounting do compete successfully and conduct effective exploration production programs that they are able to finance through a variety of capital sources." (Statement No. 19, para. 174, p. 85.)

The SEC does not have a specific statutory mandate to consider the impact of its determination in this matter on energy supplies. However, the FASB did consider economic issues during the development of Statement No. 19 and concluded that an accounting method should not be mandated with the intention of influencing investors' decisions, regardless of how economically desirable the expected results might be. The FASB stated that:

To the extent that furtherance of competition in oil and gas exploration and production and the availability of increased capital resources to finance those efforts are perceived as national economic or policy goals and in the interest of the general public, those goals can best be fostered—and the likelihood of their attainment substantially increased—if all competitors disclose financial data in a marketplace free from the burdens of inconsistency, non-comparability, and misunderstanding, a marketplace in which risks and rewards are reported as objectively and as evenhandedly as possible. (Statement No. 19, para. 172, p. 84.)

Additional information concerning the development of Statement No. 19 can be found in the Statement of Financial Accounting Standards No. 19 published by the FASB in December 1977, the Discussion Memorandum and Exposure Draft which led to the development of Statement No. 19, and the related SEC releases.

#### II. GENERAL INFORMATION SOUGHT

The DOE intends to assess the effect of the adoption of FASB Statement No. 19 on competition between parties engaged in the production of oil and natural gas, on the ability of those parties to explore for and produce oil, natural gas and other energy supplies, and on the Financial Reporting System (FRS) under development by the Energy Information Administration. In addition, the DOE intends to assess whether or not adoption of any other alternative accounting practices would serve better to promote competition and enhance energy supplies or would be more compatible with the objectives of the FRS.

Information which would be of assistance to DOE in making its assessment

would include: (1) estimates of the effect, if any, of the adoption of FASB Statement No. 19 on the consolidated and unconsolidated financial statements of the respondents of how the adoption of Statement No. 19 might affect the ability of the respondents to raise or gain access to sources of capital; (2) estimates of the likely future impact of the adoption of FASB Statement No. 19 on oil and gas exploration and development activity and the basis for any such estimates; and (3) the utility of the accounting methods set forth in FASB Statement No. 19 as they relate to the collection and use of data by the FRS. Comments on these general issues are requested both from companies engaged actively in oil and gas exploration and production and from lenders and investment banking firms that are involved in financing such activities.

#### A. COMPETITION ISSUE

Many of those who provided written submissions to the FASB during the development of Statement No. 19 and to the SEC in response to its proposed rulemaking of August 31, 1977, stated that adoption of the successful efforts method of accounting as the only method of financial reporting would limit competition in the oil and gas producing industry. Some of the respondents stated that companies now using the full cost method of accounting for financial reporting, but required to adopt the successful efforts method proposed in FASB Statement No. 19, would report lower net income, reduced net worth and, as a result, would have a more limited ability to raise capital. Some of these respondents felt that a more limited access to the capital markets would result in lower levels of exploration activity by companies now using the full cost method of accounting and would hinder entry into the market.

To assess properly the probable impact of adoption of Statement No. 19 on certain firms' access to the capital markets, and the resulting potential effects on competition, the DOE will need to be advised for these firms as to the magnitude of the changes in reported net income, value of oil and natural gas assets, net worth and rate of return on total capitalization which would be caused by the adoption of the successful efforts accounting method. In addition the DOE invites comments as to whether alternative accounting procedures would prove more beneficial to competition in the exploration and development sector of the petroleum industry. The DOE will also need information as to the sources and amounts of capital obtained in the past and projected to be needed for exploration and development activities.

All respondents are invited to comment on these issues with respect to



their individual companies or the industry as a whole. The DOE also requests the submission of any analyses or studies, particularly those which provide information as to oil and gas producer financing patterns by method-of-accounting category of company, size of company, functional activity, and geographical area of operations. The DOE solicits comments estimating the effects of adoption of FASB Statement No. 19 on the market prices for the respondent's equity and debt securities. Analyses that address the effects on stock prices of changes in accounting methods, reported earnings and balance sheet values on a statistical basis would also be of assistance. Comments are requested on this last point in particular from lenders and investment banking firms.

#### B. ENERGY SUPPLY ISSUES

The manner in which the adoption of FASB Statement No. 19 would affect energy supplies is closely related to the question of access of affected firms to the capital markets.

Many of the proponents of full cost accounting state that adoption of FASB Statement No. 19 would make it difficult for them to raise capital because their reported earnings and net worth would be reduced under that accounting method. Some of these proponents have stated that they would reduce exploration expenditures and change their exploration strategy to emphasize less risky projects. Other companies using the full cost method of accounting have stated publicly that adoption of FASB Statement No. 19 would not cause a change in exploration expenditures or strategy.

In order to assess these statements, the DOE will attempt to evaluate the relationship between oil and gas exploration and production activities, methods of accounting, type and size of company, and geographical area of operation. Each respondent is invited to submit any information or studies which will assist the DOE in making its assessment on the energy supply issues.

#### C. SUPPLEMENTAL INFORMATION REQUESTED IN APPENDIX

Specific types of financial and other data which would be of assistance to DOE with respect to the potential impact of the adoption of FASB Statement No. 19 on competition among oil and gas producers and on energy supplies are set forth in the Appendix to this notice.

The specific information detailed in the Appendix concerning these issues will assist the DOE in formulating its position on Statement No. 19, but DOE's request therefor should not preclude any respondent from presenting such information in greater or lesser detail, or in summary form, or

## NOTICES

from presenting other information which might be helpful to DOE in its deliberations on this issue. To the extent that any financial statements submitted also contain other specific information requested by the DOE, the respondent should so indicate in its submission.

#### D. FINANCIAL REPORTING SYSTEM ISSUES

The DOE Act requires that, to the extent practicable and consistent with the purposes and provisions of that Act, accounting practices used in the Financial Reporting System be consistent with accounting practices developed by the SEC pursuant to the requirements of the EPCA.

Respondents should address comments to the need for uniform accounting practices for the FRS in order for that system to present a "statistically accurate profile of each line of commerce in the energy industry in the United States." (DOE Act, Section 205(h)(1)(A)). Such analyses should consider whether, if adopted, the accounting methods required by FASB Statement No. 19 would enable the FRS to present a more accurate financial profile of the oil and gas producing sector of the energy industry than would be possible were that accounting method not required for all reporting firms.

The FRS will provide the DOE with data and reports which will allow comparisons on a uniform and standardized basis among energy producing companies. These data and reports may be used in the development of DOE policy with regard to competition in the petroleum industry and in the evaluation of the adequacy of incentives for investments in domestic exploration and development activities. Respondents are invited to comment on the usefulness of the accounting practices set forth in FASB Statement No. 19 for development of energy policy in these and other areas.

#### E. DOE COMMENTS TO THE SEC

The Department of Energy plans to complete its review of these issues in time to submit comments to the SEC prior to that agency's hearings, which are expected to be held in late March or early April 1978. The DOE's comments to be submitted to the SEC will be based to a significant degree on the information obtained in response to this notice.

#### III. COMMENT PROCEDURES

##### A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposals set forth in this notice. Comments should be identified on the outside envelope and on the document with the designation, "Fi-

nanacial Accounting Standards for Oil and Gas Producers." Fifteen copies should be submitted.

##### Confidential Submissions

The DOE requests that, to the extent possible, comments containing financial information and analyses not be the subject of a request for confidential treatment; in order that the material submitted may be made available for public inspection. However, to the extent any information or data furnished is considered by the person furnishing it to be confidential, the information or data must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

##### B. PUBLIC HEARING

1. *Request Procedure.* The time and place for the hearing is indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in the matters set forth in this notice, or who is a representative of a group or class of persons that has such an interest, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the DOE before 4:30 p.m., e.s.t., February 13, 1978 and must submit 100 copies of his or her statement to Linda Hagge, Room 3530, 12th and Pennsylvania Avenue, N.W., Washington, D.C., before 4:30 p.m., e.s.t., on February 17, 1978.

2. *Conduct of the Hearing.* The DOE reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebut-

tal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to the Office of Regulations Management, before 4:30 p.m., e.s.t., February 13, 1978. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The DOE or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for response.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the DOE and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., January 19, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

##### APPENDIX

The kinds of financial and other data which would assist in the evaluation of the impact of adoption of FASB Standard No. 19 on competition among oil and gas producers and upon energy supplies are as follows (where possible, such information should be provided for the years 1972-1976 and for the most recent four quarters of operation).

##### FINANCIAL STATEMENTS

1. Consolidated balance sheet, and the related consolidated statements of income, stockholders' or owners' equity, and changes in financial position. If any of these financial statements have been restated, the financial statements as originally reported are also requested. Pro-forma financial statements based on the principles embodied in FASB Statement No. 19 would also be helpful. Respondents that file financial statements with the SEC may supply the financial statements included in the SEC Forms 10K, and 10Q for the appropriate periods.

2. Revenues, net income and invested capital by major functional activity including: (a) crude oil or natural gas exploration and production; (b) refining and marketing; (c) transportation; (d) other petroleum related operations; and (e) non-petroleum operations.

3. Revenues, net income and invested capital by geographic area of operation, including domestic (both onshore and offshore) and international operations.

## NOTICES

#### OUTSTANDING DEBT AND STOCK

1. For each class of long-term and short-term debt security issued, or other evidence of indebtedness, the following information: (a) The amount of the debt issued; (b) any preference upon liquidation; (c) collateral; (c) any specific source of funds for retirement or for refunding such indebtedness, such as segregated revenues, sinking funds, etc.; (e) conversion features; (f) name of any guarantor or surety of the debt and relationship to respondent; (g) coupon or interest rate; (h) price at which sold by company; (i) date issued; (j) date of maturity; (k) date of retirement; (l) any call date or premium; (m) rating by a recognized evaluator, if any; and (n) any other special terms or features.

2. The DOE also requests information as to the amount and terms of production payment financing, lease financing, and other forms of on and off balance sheet debt financing and the amounts and types of funds provided by the following kinds of creditors: individuals, partnerships, corporations and trusts not registered with the SEC, banks, insurance companies, mutual funds, or any other (please specify). Respondents are further requested to supply information as to any lines of credit obtained, including the maximum amount borrowed under each line, compensating balances, fees, and interest rates, and any other funds not previously described to which the company had access, even if not used.

3. For each class of equity security issued, or other type of equity investment in the respondent, the following information for each year: (a) number of shares issued; (b) price per share received from underwriters; (c) price per share at which offered to the public; (d) proceeds to the company; (e) par or stated value per share; (f) preference upon liquidation; (g) if preferred or preference stock, stated dividend rate, whether cumulative or non-cumulative, conversion features, rating, if any by a recognized evaluation service, and call price and premium; (h) any other features (please specify); (i) amount and terms of other equity investments or participations in the company overall or in specific projects; (j) value, terms, and shares issued in mergers and acquisitions; (k) value, terms and shares issued in connection with stock option plans, property acquisitions, or other use of equity financing (please specify); (l) the amounts and types of equity raised from the following sources: individuals, partnerships, corporations and trusts registered with the SEC, banks, insurance companies, mutual funds, other (please specify).

#### OTHER FINANCIAL INFORMATION

1. A discussion of the nature and terms of other significant sources of funds raised, including property sales.

2. Uses of funds provided by internal and external sources including additions to property, plant, and equipment in the following functional areas: (a) exploration and production; (b) refining and marketing; (c) other petroleum and petroleum related activities; (d) non-petroleum activities (please specify other non-petroleum, but energy related, investments).

3. Increases (decreases) in current assets: (a) receivables; (b) inventories; (c) other, please specify.

4. Decreases (increases) in current liabilities: (a) accounts payable; (b) notes payable (please specify terms); (c) current portion of long-term debt; (d) accrued income taxes; (e) other—specify.

5. Respondents that are oil and natural gas producers, but for which oil and natural gas production is not the major functional activity, are requested to provide the information requested above as to their oil and natural gas production subsidiaries on an unconsolidated basis.

#### EXPLORATION AND DEVELOPMENT ACTIVITIES

As to exploration and development expenditures, the following information is requested for the period 1972-1976 and the most recent four quarters: (1) the amount of exploration and development expenditures; (2) exploratory wells drilled; (3) development wells drilled; (4) other wells drilled; (5) success ratios—exploration; (6) success ratios—development; (7) total exploratory footage drilled; (8) total development footage drilled; (9) domestic oil production in barrels; (10) domestic gas production in thousands of cubic feet and barrels of oil equivalent; (11) estimated proven reserve additions—oil; (12) estimated proven reserve additions—gas; (13) estimated cost of proven reserve additions under current accounting method and under method prescribed by Statement No. 19; (14) sources of prospects drilled (e.g., farm-outs from others, own initiative, etc.); and (15) geological and geophysical expenditures as a percentage of exploration budget.

[FR Doc. 78-1999 Filed 1-23-78; 8:45 am]

[6740-02]

#### DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

(Docket No. ER78-182)

ALABAMA POWER CO.

Notice of Proposed Initial Rate Schedule

JANUARY 17, 1978.

Take notice that Alabama Power Co. (Alabama) on January 9, 1978, tendered for filing an agreement with Central Alabama Electric Cooperative, Inc., intended as an initial rate schedule. Alabama states that the filing is for the proposed Kingston delivery point of Central Alabama Electric Cooperative, Inc. Alabama further states that the delivery point will be served at the company's applicable revision to rate schedule REA-1 incorporated in FERC electric tariff, original volume No. 1 of Alabama as allowed to become effective, subject to refund, by Commission order in FERC Docket ER78-77. Alabama indicates that this agreement also contains an increase in the capacity required to be maintained at the Enterprise Community and Wetumpka delivery points. Alabama further indicates that the Enterprise delivery point's capacity is increased from 5,000 to 10,000 kVA and the Wetumpka delivery point is increased from 3,750 kVA to 10,000 kVA.

According to Alabama copies of this filing were served upon Central Alabama Electric Cooperative, Inc., and Alabama Electric Cooperative.

Any person desiring to be heard or to protest said application should file



a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1948 Filed 1-24-78; 8:45 am)

**[6740-02]**

[Docket No. CI77-657]

**AMERICAN NATURAL GAS PRODUCTION CO.,  
ET AL**

**Notice of Amendment to Application**

JANUARY 17, 1978.

Take notice that on January 13, 1978, American Natural Gas Production Co. (Production Co.); Oil and Gas Futures, Inc., of Texas; H. W. Bass & Sons; SAG Ventures, Penna. Co.; and the Norwegian Oil Co. (DNO-U.S.), Inc., (the "applicants"), filed an amended application for a certificate of public convenience and necessity under the provisions of section 7(c) of the Natural Gas Act, as amended, and § 2.75 of the Commission's general policy and interpretations, optional procedure for certificating new producer sales of natural gas, in the above-captioned docket. An original application was filed by Production Co. on July 20, 1977 (noticed on August 15, 1977), seeking authorization to sell its interest in natural gas production from West Cameron block 504, offshore Louisiana, to Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin). Production Co. is a wholly owned subsidiary of Michigan Wisconsin. Thereafter, on November 3, 1977, an amended application was filed on behalf of all of the working interest owners of block 504, requesting certificates of public convenience and necessity under the Commission's optional pricing provisions to sell 100 percent of the gas therefrom to Michigan Wisconsin.

In the amended application filed November 3, 1977, the applicants sought an initial rate of \$2.709 per Mcf, at 15.025 psia. The rate was to escalate one cent per quarter. In their January 13, 1978, amended application, the applicants have stated that they are willing to accept a fixed rate of \$2.215 per Mcf, at 15.025 psia.

Any person desiring to be heard or to make any protest with reference to said application, on or before January 31, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed protesting the collection of said rate, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1949 Filed 1-23-78; 8:45 am)

**[6740-02]**

[Docket No. RI77-120]

**AMERICAN PETROFINA CO. OF TEXAS**

**Notice of Amended Petition for Special Relief**

JANUARY 18, 1978.

Take notice that on January 6, 1978, American Petrofina Co. of Texas (petitioner), P.O. Box 2159, Dallas, Tex. 75221, filed an amended petition for special relief in the above-captioned docket which amends its previous petition filed August 29, 1977.<sup>1</sup> Petitioner now requests a price of 85.89 cents per Mcf<sup>2</sup> for gas sold to Texas Gas Transmission Corp. from the Lake Palourde field, St. Martin Parish, La.

Any person desiring to be heard or to make any protest with reference to

<sup>1</sup> Notice issued September 8, 1977, published in the FEDERAL REGISTER.

<sup>2</sup> The previous petition was for \$1.61981.

said petition should on or before February 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-1954 Filed 1-23-78; 8:45 am)

**[6740-02]**

[Docket No. RM75-14]

**ASHLAND OIL, INC.**

**Notice of Petition for Declaratory Order**

JANUARY 12, 1978.

Take notice that on January 13, 1977, Ashland Oil, Inc. (petitioner), P.O. Box 1503, Houston, Tex. 77001, filed in Docket No. RM75-14 a petition for declaratory order pursuant to section 1.7(c) of the Commission's rules of practice and procedure.

Petitioner requests that the Commission issue a declaratory order confirming petitioner's right to receive without carrying charge credit the rates prescribed by opinion No. 770 and 770-A for volumes of gas committed to Trunkline Gas Co., (Trunkline) in South Marsh Island blocks 268, and 269, and 281, offshore Louisiana, as a result of a supplemental advance payment earned by petitioner prior to the issuance of opinion No. 770-A. Petitioner states that it entered into an advance payment agreement with Trunkline in May 1974. The amount to be advanced was fixed at \$20,390,000, based on petitioner's working interest. According to petitioner this represented its best estimate of its gas exploration and development expenses to be incurred on or before November 1, 1976. Pursuant to a supplemental agreement with Trunkline, Petitioner's share of the advance payment was subsequently reduced to \$13,886,344.

Petitioner states that pursuant to its advance payment agreement with Trunkline it had a right to call upon Trunkline for further supplemental advance payments. On November 2, 1976, petitioner invoiced Trunkline for a supplemental advance of \$4,870,433. Under the terms of their agreement, Trunkline was required to pay within 30 days any invoice submitted by petitioner. In opinion No. 770-A the Com-

mission provided that producers accepting advance payments made on or after 1 p.m., e.s.t., November 5, 1976, under an existing advance payments contract would only be entitled to the opinion No. 770 national rate less a carrying charge credit.

Petitioner's position is that it was lawfully and contractually entitled to an advance payment from Trunkline in the amount of \$4,870,433 on November 1, 1976, notwithstanding that physical payment of the money was not contractually due for a period of 30 days following petitioner's November 2, 1976, invoice. As a ground for this assertion petitioner claims that it would have qualified under the advance payment agreement with Trunkline for and advance during the three months preceding November 1, 1976, based upon ascertainable development costs. Petitioner argues that since the supplemental advance payment was earned and due to the petitioner prior to November 5, 1976, it should be permitted to receive without carrying charge credit the rates prescribed by opinion No. 770 and 770-A for the subject gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 3, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-1946 Filed 1-23-78; 8:45 am)

**[6740-02]**

[Docket No. ER77-546]

**DAYTON POWER & LIGHT CO.**

**Order Granting Rehearing and Correcting Prior Order**

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the

Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By order issued on November 11, 1977, in this proceeding the Federal Energy Regulatory Commission (Commission) accepted for filing proposed rates for short term, economy and emergency power electric service between Dayton Power & Light Co. (Dayton) and the City of Piqua, Ohio; suspended the use of these rates for one day to be collected thereafter subject to refund pending the outcome of a hearing thereon; and provided that said refund obligation should have no force and effect and the instant proceeding terminated, should no intervention or protest pursuant to 18 CFR § 1.7 be filed on or before November 21, 1977. In that order the Commission further rejected proposed rates for partial requirements firm power to be sold to Piqua by Dayton and denied Dayton's requests for waiver of 18 CFR § 35.13 filing requirements and 18 CFR § 35.11 notice requirements.

On December 7, 1977, Dayton filed an application for rehearing of the Commission's November 11 order requesting that "reconsideration and approval be given to: (i) The proposed rates for firm power on first revised schedule A; (ii) the request for waiver of notice and waiver of filing requirements; and (iii) the suspension period allowed." In support of its requests, Dayton argues that the Commission's November 11 order was based on the erroneous assumption that customers

<sup>1</sup> Dayton rate schedule FPC No. 34. See attachment A of the Commission's November 11, 1977, order in this docket for designations and effective dates.

affected by Docket No. ER76-887 are all full requirements customers; that since Piqua and Dayton had agreed to modify the proposed rates in this docket in accordance with a final Commission ruling in Docket No. ER76-887 and since calculations contained in Dayton's August 5 filing which were based on data submitted in Docket No. ER76-887, supported the rates filed in this docket, the Commission erroneously failed to grant waiver of 18 CFR § 35.13 filing requirements; and that because of a statutory procedure in Ohio which municipalities must follow in executing electric service agreements, which procedure caused Dayton's delay in filing until August 5, 1977, the Commission should reverse its prior denial of Dayton's request for waiver of 18 CFR § 35.11 notice requirements.

Commission review of Dayton's application for rehearing indicates that it has merit.

Dayton is correct to point out that Docket No. ER76-887 involves both full and partial requirements wholesale customers, and we shall revise the November 11 order to reflect such fact. The Commission's prior rejection of Dayton's proposed rates for firm power service to Piqua, although not based on a full requirements—partial requirements distinction, was based on the conclusion that insufficient data and information was submitted to support the proposed firm power rate to Piqua, which insufficiency was not cured by reference to data submitted to Docket No. ER76-887. However, further Commission review of Dayton's August 5, 1977, submittal, as completed on October 14, 1977, indicates that the demand and energy data submitted by Dayton to support the rates filed in Docket No. ER76-887 and adjusted and submitted to apply to Piqua in this docket, are sufficient to justify accepting for filing Dayton's proposed rates for firm power service to Piqua and to justify granting waiver of 18 CFR § 35.13 filing requirements. The Commission notes that the foregoing finding comports with the agreement between Piqua and Dayton, set forth in the August 5 submittal, where under Piqua and Dayton agreed to modify the proposed firm power rates in this docket in accordance with a final Commission ruling in Docket No. ER76-887.

We shall reverse our prior decision regarding firm power service to Piqua by accepting for filing firm power first revised schedule A, suspending its use for one day, to become effective subject to refund and subject to a final Commission order in Docket No. ER76-887, and granting waiver of 18 CFR § 35.13 filing requirements.

Dayton admits that in its August 5 submittal it did not explain the delay in filing the revised rates contained in the modified interconnection agree-



## NOTICES

ment between itself and Piqua.\* However, Dayton explains that it was precluded from submitting the agreement containing the proposed revised rates earlier than August 5, 1977, because of a statutory procedure in Ohio that Piqua was bound to follow. In support of its renewed request that 18 CFR § 35.11 notice requirements be waived, Dayton tendered copies of two resolutions by the City Commission of Piqua, the first dated June 6, 1977, and the second dated July 18, 1977, ratifying the modified interconnection agreement including the proposed effective date of May 10, 1977. Although Dayton could have explained the delay in its original filing, the Commission notes that neither Piqua nor any other person have objected to the proposed effective date. In light of the new evidence tendered by Dayton in its application for rehearing, we shall grant waiver of 18 CFR § 25.11 notice requirements for the rate schedules contained in Dayton's August 5 submittal, assigning a retroactive effective date of May 10, 1977, to first revised schedules B, C, and D and a retroactive effective date of May 11, 1977 to first revised schedule A.

The Commission notes that no protest or petition to intervene has been filed by any person in this docket pursuant to ordering paragraph (E) of the November 11 order. Accordingly, this proceeding shall be deemed terminated and the procedural dates for hearing set forth in the November 11 order shall be of no force and effect. First revised schedules B, C, and D will be effective without refund obligation, as of May 10, 1977, and first revised schedule A will be effective with refund obligation as of May 11, 1977, subject to a final Commission order in Docket No. ER76-887.

The Commission finds: (1) Good cause exists to grant Dayton's application for rehearing filed December 7, 1977, which requested that the Commission reverse its prior rejection of proposed firm power rates to Piqua, first revised schedule A, its prior denial of Dayton's request for waiver of 18 CFR § 35.13 filing requirements pertaining to firm power service and its prior denial of Dayton's request for waiver of 18 CFR § 35.11 notice requirements.

(2) Good cause exists to accept for filing first revised schedule A to suspend its use for one day to become effective as of May 11, 1977, subject to refund and subject to a final Commission order in Docket No. ER76-887.

The Commission orders: (A) Dayton's application for rehearing as de-

\*Dayton originally filed the modified interconnection agreement on August 5, 1977, whereas the proposed effective date of the agreement was designated by the parties as May 10, 1977, the first day of the superseding executed agreement.

scribed in finding paragraph (1), supra, is hereby granted.

(B) First revised schedules B, C, and D are hereby made effective as of May 10, 1977, without refund obligation.

(C) First revised schedule A is hereby accepted for filing, and its use suspended for one day to become effective as of May 11, 1977, subject to refund and subject to a final Commission order in Docket No. ER76-887.

(D) Within 30 days of the issuance of a final order in Docket No. ER76-887 Dayton shall file modified rates in accordance with order reflecting changes to the rates set forth in first revised schedule A.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1955 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. ER78-41]

## THE DETROIT EDISON CO.

## Notice of Proposed Change in Rate Schedule

JANUARY 17, 1978.

Take notice that the Detroit Edison Co. (Detroit Edison) on December 19, 1977, tendered for filing an amendment to the Electric Supply Agreement, Rate Schedule No. 20, with one of its customers, Michigan Municipal Electric Cooperative Power Pool (Michigan Municipal). Detroit Edison indicates that the amendment provides for a temporary increase in contract capacity of 10,000 kW for a six month period beginning November 1, 1977, necessary to assure Michigan Municipal an adequate supply of electricity during the 1977-78 winter heating season. Detroit Edison further indicates that the amendment will effect no change in rates or quality of service. Detroit Edison requests that the change be made effective as of November 1, 1977; waiver of the Commission's notice requirements is therefore requested.

Copies of the filing were served upon the public utilities' jurisdictional customers, according to Detroit Edison.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 3, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1950 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. E-7740]

## INDIANA &amp; MICHIGAN ELECTRIC CO.

## Notice of Further Extension of Time

JANUARY 16, 1978.

On January 6, 1978, Indiana & Michigan Electric Co. (I&M) filed a motion to further extend the time for complying with the Ordering Paragraphs of Opinion Nos. 817 and 817A, issued August 2, 1977, and September 30, 1977, respectively, in the above referenced docket. A previous extension of time was granted by Notice issued December 21, 1977.

The instant motion states that on December 30, 1977, a joint motion was filed in the captioned docket by I&M and Richmond Power & Light of the City of Richmond, Ind. (Richmond), seeking the approval of the Commission of an agreement of settlement and compromise reached by the parties.

Upon consideration, notice is hereby given that an extension of time is granted to and including September 7, 1978, for I&M to comply with Opinion Nos. 817 and 817A.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1949 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. CI77-497 and RP77-62]

## MESA PETROLEUM CO. AND TENNESSEE GAS PIPELINE CO.

## Notice of Further Extension of Time

JANUARY 17, 1978.

On January 13, 1978, Tennessee Gas Pipeline Co. (Tennessee) filed a motion to further extend the time for complying with Ordering Paragraph (F) of the Commission Order issued November 16, 1977, in the above referenced docket. A previous extension of time was granted to Tennessee by Notice issued December 28, 1977.

The instant motion states that a further extension is requested due to the fact that the Commission's response to the application for rehearing filed in this docket by Mesa Petroleum Company on December 18, 1977, will have a significant effect on the information Tennessee is to file in accordance with Ordering Paragraph (F).

Upon consideration, notice is hereby given that a further extension of time is granted to and including April 17, 1978, within which Tennessee shall comply with Ordering Paragraph (F) of the November 16, 1977 Order.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1951 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. ER78-185]

## PHILADELPHIA ELECTRIC CO.

## Notice of Extension of Time

JANUARY 17, 1978.

On January 10, 1978, the Borough of Lansdale, Pa., filed a motion to extend the time for filing petitions to intervene or protests to the proposed tariff changes tendered for filing by the Philadelphia Electric Co. (Philadelphia) on December 30, 1977, and noticed on January 6, 1978, in the above referenced docket. The motion states that Philadelphia does not object to the requested extension.

Upon consideration, notice is hereby given that the date for filing petitions to intervene or protests to the proposed tariff changes is extended to and including January 23, 1978.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1952 Filed 1-23-78; 8:45 am]

## [6740-02]

## TEXAS ENERGIES, INC.

## Order Granting Special Relief, Deleting Acreage, and Granting Intervention

JANUARY 18, 1978.

In the matter of Texas Energies, Inc., Docket No. R177-88, Sun Oil Company, Docket Nos. G-11122 and G-12972; FERC Gas Rate Schedule Nos. 338 and 86, Champlin Petroleum Company, Docket No. G-11150 and FERC Gas Rate Schedule No. 66.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be contin-

ued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On May 23, 1977, Texas Energies, Inc. (Texas Energies), a small producer, filed a petition for special relief in Docket No. R177-88 pursuant to section 2.76 of the Commission's General Policy and Interpretations. Texas Energies is requesting a total rate of \$1.00 per Mcf for the sale of its 100 percent interest in gas produced from the L. A. Ward Unit, Harper County, Okla., to Colorado Interstate Gas Co. (CIG) and Michigan Wisconsin Pipeline Co. (Michigan Wisconsin). Texas Energies also requests waiver of section 157.40(c) of the Commission's Regulations to allow this sale to be made pursuant to its small producer certificate issued in Docket No. CS72-428 on February 3, 1972.

The petition was noticed on June 29, 1977, with the period for filing interventions ending on July 29, 1977. CIG filed a petition in support of Texas Energies' petition.

Texas Energies gained its interest in the L. A. Ward Unit as successor to the interest of Sun Oil Co. (Sun) and Champlin Petroleum Co. (Champlin). Sun's interest was being sold under its FERC Gas Rate Schedule Nos. 86 and 338, and Champlin's interest was being sold under its FERC Gas Rate Schedule No. 66. Under contracts dated August 19, 1977, and April 18, 1977, CIG and Michigan Wisconsin, respectively, agreed to pay Texas Energies a total requested rate of \$1.00 per Mcf. The unit is currently shut-in.\*

Texas Energies proposes to spend a total of \$80,379 on the L. A. Ward Unit by installing compression facilities costing \$50,329 and performing other necessary repairs costing \$30,050. It is anticipated that the expenditures will enable Texas Energies to put the unit back in production and recover the estimated 434,400 Mcf of reserves remaining over the next 11 years.

Based on data filed by the applicant (which was complete enough that no

\*CIG will receive 55 percent of the gas and Michigan Wisconsin will receive the remaining 45 percent.

\*Extensive well repairs, tubing replacement and compression are necessary to place the well back on production.

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field audit was required), the Commission Staff has determined that Texas Energies' net remaining book investment as of June 1, 1977, amounted to \$28,257. Staff also estimates that operating expenses over the next 11 years would total \$282,533 based on current estimated annual operating expense of \$22,080, escalated 5% for inflation during the first five years, and including a \$500 compressor overhaul every three years.

Staff has conducted a traditional cost study using the above costs and reserves. The results of this study indicate that the rate requested Texas Energies is cost supported.

Texas Energies did not request an allowance for possible income tax liability resulting from the Tax Reform Act of 1975 and Staff did not include such an allowance.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Texas Energies' petition for special relief is warranted and that it is in the public interest to grant the petition.

We also believe it would be in the public interest to grant Texas Energies' request for waiver of section 157.40(c) of the Commission's Regulations to allow this sale to be made pursuant to its small producer certificate since, in view of our grant of special rate relief, this would have no bearing on the rate attributable to the properties involved herein. On the other hand, it would lift an avoidable administrative burden from Texas Energies. In this connection, we also deem it appropriate to utilize this order to delete the pertinent acreage dedications by Sun and Champlin.

The Commission finds: The petition for special relief filed by Texas Energies meets the criteria set forth in Section 2.76 of the Commission's General Policy and Interpretations; Texas Energies' request for waiver of Section 157.40(c) of the Commission's Regulations should be granted; and CIG should be permitted to intervene.

The Commission orders: (A) The petition for special relief filed by Texas Energies, Inc., is hereby granted.

(B) Texas Energies is authorized to collect a total rate of \$1.00 per Mcf for the sale of its gas from the L. A. Ward Unit, Harper County, Okla., to Colorado Interstate Gas Co. and Michigan Wisconsin Pipeline Co., effective upon issuance of this order or the date of completion of the proposed work, whichever is later, subject to the conditions set forth below.

(C) Within 30 days of the effective date of the authorization herein, Texas Energies must file statements signed by CIG and Michigan Wisconsin that the proposed work has been completed to their satisfaction.

(D) Within 30 days of issuance of this order, Texas Energies must file an appropriate rate change in accordance



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with section 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94).

(E) The provisions of section 157.40(c) are waived to the extent necessary to permit the sale from the L. A. Ward Unit, to be made under the small producer certificate issued in Docket No. CS 72-428 subject to the rate limitations provided in this order.

(F) The assignments of interest filed by Sun Oil Co. are accepted for filing as Supplement Nos. 29 and 23 to Sun's FERC Gas Rate Schedule Nos. 338 and 88, respectively, and the related acreage, all of Section 2, T25N, R25W, Harper County, Okla., is hereby deleted from dedication under the related certificate docket, Docket Nos. G-11122 and G-12972, effective as of the transfer of the property involved.

(G) The assignment of interest filed by Champlin Petroleum Co. is accepted for filing as Supplement No. 17 to Champlin's FERC Gas Rate Schedule No. 66, and the related acreage, all of section 2T25N, R25W, Harper County, Okla., is hereby deleted from dedication under the related certificate docket, Docket No. G-11150, effective as of the transfer of the property involved.

(H) CIG is permitted to intervene in the above-entitled proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*, That the admission of CIG in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1956 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Extension of Time

JANUARY 17, 1978.

On January 11, 1978, Staff Counsel

filed a motion to extend the time within which the Data Verification Committee (DVC) shall report to the Commission on the five matters directed to it in the Commission Order issued November 17, 1977, in the above referenced proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including January 30, 1978, within which the DVC shall report to the Commission pursuant to the November 17, 1977, Order.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-1953 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket No. R177-25]

WOODS EXPLORATION AND PRODUCING CO.,  
ET AL.

Notice of Informal Conference

JANUARY 10, 1978.

Take notice that an informal conference will be held, pursuant to section 1.18 of the Commission's Rules of Practice and Procedure, on January 25, 1978, at 10 a.m. in Room 8402, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

All interested persons will be permitted to attend, but attendance will not be deemed to authorize intervention as a party in these proceedings.

This conference will be for discussion purposes only without commitments.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-1945 Filed 1-23-78; 8:45 am]

## [6740-02]

[Docket Nos. G-4953, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE AND PETITIONS TO AMEND CERTIFICATES<sup>1</sup>

JANUARY 17, 1978.

Take notice that each of the Appli-

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

cants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
G-4953 (d) July 11, 1977	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipe Line Co., Red Fish Bay and Mustang Island Fields, Nueces County, Tex.	State Tract No. 445, well No. 1, plugged and abandoned; and lease released.	(*) 14.65
CI76-691 (C) Dec. 27, 1977	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad South et al Fields, Eddy and Lea Counties, N. Mex.		(*) 14.65
CI77-370 (C) Dec. 7, 1977	Union Oil Co. of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	El Paso Natural Gas Co., Cities Service Cawley "A" No. 1 well, Morrow Formation, sec. 28, T21S, R27E, Eddy County, N. Mex.		(*) 14.65
CI77-370 (C) Jan. 3, 1978	Union Oil Co. of Calif.	El Paso Natural Gas Co., Government "AD" No. 2 well, sec. 27, T21S, R27E and Elkando Federal "A" No. 5 well, sec. 34, T21S, R27E, Wolfcamp Formation, Eddy County, N. Mex.		(*) 14.65

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## NOTICES

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
CI78-261, G-4071 (B) Dec. 12, 1977	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water St., Wichita, Kans. 67201.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, DeWitt County, Tex.	Nonproduction. No sales since May 1974 and gas contract expired.	
CI78-262 (B) Dec. 23, 1977	CICO Oil & Gas Co., 1822 Bank of the Southwest Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., Mohat Field, Colorado County, Tex.	Depleted, plugged and abandoned and lease expired.	
CI78-263, CI65-31, (B) Dec. 27, 1977	Rex Monahan, Box 1321, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co. Inc., Pinto, Washington County, Colo.	Depleted.	
CI78-264, CI63-637 (B) Dec. 27, 1977	Rex Monahan	Kansas-Nebraska Natural Gas Co. Inc., Surveyor's Creek, Washington County, Colo.	Depleted.	
CI78-265, CI69-769 (B) Dec. 27, 1977	do	Kansas-Nebraska Natural Gas Co. Inc., Surveyor's Creek, Logan County, Colo.	Depleted.	
CI78-266, CI62-423 (B) Dec. 27, 1977	do	Kansas-Nebraska Natural Gas Co. Inc., Columbine Field, Logan County, Colo.	Depleted.	
CI78-267, (B) Dec. 27, 1977	do	Kansas-Nebraska Natural Gas Co. Inc., Logan County, Colo.	Depleted.	
CI78-268 (B) Dec. 27, 1977	W. Russell Birdwell, (operator) et al. P.O. Box 1837, McAllen, Tex. 78501.	Transcontinental Gas Pipe Line Corp., South Driscoll Field, Duval County, Tex.	Depleted.	
CI78-269, G-13129 (B) Dec. 27, 1977	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	Cities Service Gas Co., Southeast Gibbon Field, Grant and Alfalfa Counties, Okla.	Nonproduction.	
CI78-270, G-12071 (B) Dec. 27, 1977	Gulf Oil Corp.	Texas Eastern Transmission Corp., Buna West Field, Jasper County, Tex.	Plugged and abandoned and leases expired.	
CI78-271 (A) Dec. 29, 1977	do	El Paso Natural Gas Co., Morrow Formation in the Lechuguilla Canyon Unit No. 6 well located in Crooked Creek Field, Eddy County, N. Mex.	(*) 14.73	
CI78-272 (A) Dec. 29, 1977	Union Texas Petroleum, a Division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Northern Natural Gas Co., certain acreage in the Ozone Field, Crockett County, Tex.	(*) 14.65	
CI78-273 (A) Dec. 29, 1977	Enserch Exploration, Inc., 1817 Wood St., Dallas, Tex. 75201.	Texas Eastern Transmission Corp., certain acreage located in Jefferson County, Miss.	(*) 15.025	
CI78-274 (B) Dec. 30, 1977	Dye Gas Co., Floyd Fox, agent, Route 742, Box 37, Big Springs, W. Va. 26137.	Consolidated Oil & Gas Corp., Sheridan District, Calhoun County, W. Va.	Nonproduction, plugged and abandoned.	
CI78-275, G-16834 (B) Jan. 3, 1978	J.C. Barnes Oil Co., P.O. Box 1141, Midland, Tex. 79012.	Coastal States Gas Producing, Appling (Middle Mopnicky) Fault, segment "A", Calhoun County, Tex.	Depleted, plugged and abandoned.	
CI78-276 (D) Dec. 27, 1977	Petroleum Reserve Corp., P.O. Box 908, Stillwater, Okla. 74074.	Northern Natural Gas Co., sec. 22, block R, Brooks and Burleson Survey, Ochiltree County, Tex.	(*) 15.025	
CI78-277, CI70-232 (B) Dec. 27, 1977	W. Russell Birdwell, (operator) et al. (Succ. to The Superior Oil Co.) P.O. Box 1837, McAllen, Tex. 78501.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., East La Sara Field, Willacy County, Tex.	Depleted, plugged and abandoned.	
CI78-279, CI71-648 (B) Dec. 29, 1977	Michel T. Halbouty (operator) et al. 11th Floor, Bank of the Southwest Bldg., Houston, Tex. 77002.	Natural Gas Pipeline Co. of America, Sugar Valley Area, Matagorda County, Tex.	Depleted.	
CI78-280 (A) Dec. 30, 1977	Highland Resources, Inc., et al. (partial succ. in interest to San Salvador Development Co., Inc.) 800 San Jacinto Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., certain acreage in the San Salvador Field, Hidalgo County, Tex.	(*) 14.65	
CI78-281 (A) Dec. 30, 1977	Highland Resources, Inc., et al.	Texas Eastern Transmission Corp., certain acreage in the Union Church area, limited to a depth down to the base of the Hosston Formation, Jefferson County, Miss.	(*) 15.025	
CI78-282 (A) Dec. 30, 1977	do	Texas Eastern Transmission Corp., certain acreage in the Union Church area, limited to a depth down to the base of the Rodessa Formation, Jefferson County, Miss.	(*) 15.025	
CI78-283 (A) Jan. 3, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Columbia Gas Transmission Corp., Lake Raccourci Field, LaFourche Parish, La.	(*) 15.025	
CI78-284 (A) Jan. 3, 1978	Exxon Corp.	El Paso Natural Gas Co., Three Bar Field, Andrews County, Tex.	(*) 14.65	
CI78-285 (A) Jan. 3, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., Odessa-Gulf Little Federal No. 1-25 Basin Dakota Field, San Juan County, N. Mex.	(*) 14.73	
CI78-286, G-7345 (B) Jan. 3, 1978	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Lone Star Gas Co., Katie-Gibson Field, Garvin County, Okla.	No gas available for delivery since December 1974. Plugged and abandoned.	

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## NOTICES

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup>	Pressure base
CT78-287, G-7346 (B) Jan. 3, 1978	Sun Oil Co.	Lone Star Gas Co., West Katie Field, Garvin County, Okla.	No gas available for delivery since December 1974. Flagged and abandoned and contract dated Jan. 1, 1954, expired by its own terms on Jan. 1, 1974.	

<sup>1</sup>Applicant is filing under Gas Purchase Agreement dated May 24, 1976, as amended by amendment dated Sept. 27, 1977.  
<sup>2</sup>Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.  
<sup>3</sup>Royalty owner has the right to take his gas in kind under the Gas Contract and Oil and Gas Lease and wants to exercise his option. It is intended that the royalty owner have access to his royalty in kind to the extent of his requirements.  
<sup>4</sup>Applicant proposes that the sale of gas from the Brigido Marmolejo No. 1 well at the special relief rate found by the Commission to be just and reasonable on Sept. 28, 1977, in San Salvador Development Co., Inc., et al, Docket No. CT78-14.

Filing code:

A—Initial service.  
B—Abandonment.  
C—Amendment to add acreage.

D—Amendment to delete acreage.  
E—Succession.  
F—Partial succession.

[FR Doc. 78-1844 Filed 1-20-78; 8:45 am]

## [6740-02]

[Docket Nos. CS71-988, et al.]

**DAMSON OIL CORP., ET AL.****Applications for "Small Producer" certificates.**

JANUARY 10, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and section 157.40 of the Regulations thereunder, for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 2, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

**KENNETH F. PLUMB,**  
*Secretary.*

Docket No.	Date filed	Applicant
CS71-988	Dec. 19, 1977.	Damson Oil Corp., 260 North Belt East, Suite 300, Houston, Tex. 77060.
CS78-169	Dec. 16, 1977.	Dr. Herbert O. Feldman, Agent, 31275 Stonewood Ct., Farmington Hills, Mich. 48018.
CS78-170	Dec. 19, 1977.	George R. Alewyne, Jr., 800 Johnson Bldg., Shreveport, La. 71101.
CS78-171	do	John W. Raine, III, P.O. Box 52723, Lafayette, La. 70505.
CS78-172	Dec. 16, 1977.	Jerome F. and Pamela Shadid Schulte (husband and wife), 901 3d St., Apartment No. 402, Santa Monica, Calif. 90403.

Docket No.	Date filed	Applicant
CS78-173	do	Chase Exploration Corp., 2300 Philhower Bldg., Tulsa, Okla. 74103.
CS78-174	Dec. 19, 1977.	Holliday Drilling Co., P.O. Box 3489, Midland, Tex. 79702.
CS78-175	do	Henry H. Gungoll Associates, a partnership, P.O. Box 1422, Enid, Okla. 73701.
CS78-176	do	H. D. Shawver, Blue River Hills, Route No. 4, Manhattan, Kans. 66502.
CS78-177	Dec. 20, 1977.	A. Phil Foster, P.O. Box 5213, Shreveport, La. 71105.
CS78-178	do	James D. Hancock, Jr., et al., 4339 Versailles, Dallas, Tex. 75205.
CS78-179	Dec. 21, 1977.	Ronald C. Shultz, P.O. Box 754, Jennings, La. 70546.
CS78-180	do	Terry N. Shultz, P.O. Box 656, Jennings, La. 70546.
CS78-181	Dec. 20, 1977.	Bram Goldsmith, 400 N. Roxbury Drive, Beverly Hills, Calif. 90210.
CS78-182	Dec. 23, 1977.	H. H. Blair Oil Co., Box 138, Atlanta, Kans. 67008.
CS78-183	Dec. 27, 1977.	Stewart Bachman, Jr., Trustee of the Sauder Children Trusts, P.O. Drawer 5008, Wichita Falls, Tex. 76307.
CS78-184	do	F. H. N. Ltd., 3300 Liberty Tower, Oklahoma City, Okla. 73102.

## NOTICES

Docket No.	Date filed	Applicant
CS78-185	do	B & R Resources, Ltd., 2013 First National Center, West, Oklahoma City, Okla. 73102.
CS78-186	do	Lobo Oil & Gas Corp., c/o Sholars, Gunby, Allbritton & Hayden, P.O. Box 1661, Monroe, La. 71201.
CS78-188	Dec. 22, 1977.	M. Peyton Bucy, 1776 Lincoln St., No. 811, Denver, Colo. 80203.

<sup>1</sup>Being noticed to reflect Damson Oil Corp. as (Succ. in interest by merger with Damson Petroleum Corp.).

[FR Doc. 78-1843 Filed 1-20-78; 8:45 am]

## [6560-01]

**ENVIRONMENTAL PROTECTION AGENCY**

(FRL 846-5)

**NATIONAL DRINKING WATER ADVISORY COUNCIL****Open Meeting**

Under section 10(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Pub. L. 93-523, the "Safe Drinking Water Act," will be held at 9 a.m. on February 13, 1978, and at 8:30 a.m., February 14, 1978, in the Waterside Mall, Room 2117, 401 M Street SW., Washington, D.C. 20460.

The purpose of the meeting is to discuss regulations for controlling organic chemicals in drinking water, stream monitoring networks to detect accidental spills of hazardous materials and state program activities in implementing the safe drinking water program.

Both days of the meeting will be open to the public. The Council encourages the hearing of outside statements and allocates a portion of time for public participation. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at council meetings.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Water Supply (WH-550), Environmental Protection Agency, 401

M Street SW., Washington, D.C. 20460.

The telephone number is area code 202-426-8877.

Dated: January 18, 1978.

**THOMAS C. JORLING,**  
*Assistant Administrator for Water and Hazardous Materials.*  
(FR Doc. 78-2029 Filed 1-23-78; 8:45 am)

## [6720-01]

**FEDERAL HOME LOAN BANK BOARD**

(H. C. 237)

**OHIO SAVINGS FINANCIAL CORP.****Receipt of Application for Permission To Acquire Control of Shaker Savings Association**

JANUARY 19, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Ohio Savings Financial Corp. for approval of acquisition of control of Shaker Savings Association, Shaker Heights, Ohio, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4. of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected through the purchase of shares of the common stock of Shaker Savings Association. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before February 23, 1978.

**RONALD A. SNIDER,**  
*Assistant Secretary,*  
*Federal Home Loan Bank Board*  
(FR Doc. 78-1993 Filed 1-23-78; 8:45 am)

## [6730-01]

**FEDERAL MARITIME COMMISSION****AGREEMENTS FILED**

Notice is hereby given that the following agreements have been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary,

Federal Maritime Commission, Washington, D.C. 20573, on or before February 3, 1978. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing, the agreements (as indicated herein-after) and the statement should indicate that this has been done.

AGREEMENT NO.: T-3559.

**FILING PARTY:** Mr. Gary E. Koecheler, Director of Transportation, Maryland Port Administration, The World Trade Center Baltimore, Baltimore, Md. 21202.

**SUMMARY:** Agreement No. T-3559, between Maryland Port Administration (MPA) and Weyerhaeuser Co. (Weyerhaeuser), provides for the five-year lease (automatically extended for an additional five years) of premises known as Atlantic Terminals, consisting of 30.5 acres of land, including the adjacent pier, to be used in the handling of automobiles and pickup trucks and the assembly of pickup trucks. MPA will make certain improvements to the premises which are set out in the agreement. As compensation, MPA will pay rent, which will increase annually, ranging from \$13,979.00 per month for the first year to \$16,973.25 per month for the fifth year. Weyerhaeuser agrees to the sublease by MPA to Nissan Motor Corp. in U.S.A. (Nissan), under Agreement No. T-3560, and an additional sublease to Hovelmann Port Services, Inc., (Hobelmann) for the purpose of constructing a building in which Hobelmann intends to handle automobiles and pickup trucks and assemble pickup trucks. Weyerhaeuser also agrees to allow Nissan to sublease the premises to Skyline Terminal, Inc.

AGREEMENT NO.: T-3560.

**FILING PARTY:** Mr. Gary E. Koecheler, Director of Transportation, Maryland Port Administration, The World Trade Center Baltimore, Baltimore, Md. 21202.

**SUMMARY:** Agreement No. T-3560, between Maryland Port Administration (MPA) and Nissan Moto Corp. in U.S.A. (Nissan), provides for the sublease to Nissan of 30.5 acres of land, including the adjacent pier, which MPA leased from Weyerhaeuser Co.



## NOTICES

under Agreement No. T-3559. Nissan will use the premises for the handling of import automobiles and pickup trucks and the assembly of pickup trucks. As compensation, Nissan will pay rent, which will increase annually ranging from \$20,554.17 per month for the first year to \$23,566.77 per month for the fifth year. Nissan will also pay as additional rent, \$2.50 for each automobile or pickup truck in excess of 70,000 units up to a total of 100,000 units. Nissan will pay to MPA dockage fees from any vessel docking at the premises and Nissan will receive wharfage charges for any cargo loaded or unloaded at the premises, which will be assessed in accordance with the MPA tariff.

Dated: January 19, 1978.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,  
Assistant Secretary.

[FR Doc. 78-2019 Filed 1-23-78; 8:45 am]

[6730-01]

## AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before February 13, 1978, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: 10039-4.

FILING PARTY: Harry D. Hunter, Vice President, Delta Steamship Lines,

Inc., 17 Battery Place, New York, N.Y. 10004.

SUMMARY: Agreement No. 10039, between Empresa Lineas Maritima Argentinas and Delta Steamship Lines, Inc., is a cargo revenue pooling, sailing, and equal access agreement in the trades between United States Gulf ports and ports in Argentina.

Agreement No. 10039-4, the subject of this notice, amends the basic agreement by providing that each of the parties may arrange space charters on the other party's vessels.

AGREEMENT NO.: DC-127.

FILING PARTY: Mr. David F. Anderson, Associate General Counsel, Matson Navigation Co., 100 Mission Street, San Francisco, Calif. 94105.

SUMMARY: Agreement No. DC-127, between Matson Navigation Co. and Blue Eagle Transport, Inc., is a standard interchange agreement which provides for the interchange of cargo containers, containers mounted on chassis or a cargo trailer. The term of the agreement is for one year and will continue on a year-to-year basis and may be terminated by either party upon 10 days' notice to the other. Compensation for use of the equipment will be in accordance with provisions of Rule No. 215 of Matson Container Freight Tariff No. 32, F.M.C.-F. No. 152.

AGREEMENT NO.: T-2736-1.

FILING PARTY: Leslie E. Still, Jr., Deputy, Offices of the City Attorney of Long Beach, City Hall, 333 West Ocean Boulevard, Long Beach, Calif. 90802.

SUMMARY: Agreement No. T-2736-1, between the City of Long Beach (City) and Powell River-Alberni Sales Corp. (Powell River) modifies the parties basic agreement which provides for the preferential assignment to Powell River of Berths 52, 53, and 54, Pier 2, Long Beach, for use as a marine terminal and distribution warehouse. As a result of City's inability to make unobstructed water access to the premises for a limited period of time, this amendment reduces the minimum annual obligation of Powell River from \$200,000 to \$193,425 for the fifth year of the assignment.

AGREEMENT NO.: T-3561.

FILING PARTY: Mr. Albert E. Cronin, Jr., 716 Bank of America Building, 343 East Main Street, Stockton, Calif. 95202.

SUMMARY: Agreement No. T-3561, between the Stockton Port District (Port) and Stockton Elevators (STELLA), is an agreement and compromise settlement regarding claims arising from the Port's attempted imposition of a franchise fee upon STELLA. The parties agree to dismiss

their complaints in litigation between the Port and STELLA in the Superior Court of the State of California, County of San Joaquin, action number 122889, and a complaint before the Commission under Docket No. 77-29. STELLA further agrees to pay the Port for a four-year period four cents per short ton (2,000 lbs.) for the first 250,000 tons per year of bulk grain or grain products shipped over STELLA's wharf in Stockton, and five cents per short ton for each additional ton in that year of bulk grain or grain products shipped over STELLA's wharf in Stockton.

Dated: January 19, 1978.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,  
Assistant Secretary.

[FR Doc. 78-2020 Filed 1-23-78; 8:45 am]

[6730-01]

[Independent Ocean Freight Forwarder License No. 1410]

## APOLLO INTERNATIONAL, INC.

## Reinstatement of License

By Federal Maritime Commission Order served and published in the FEDERAL REGISTER, Apollo International, Inc.'s Independent Ocean Freight Forwarder License No. 1410 was revoked, effective September 18, 1977, for failure to maintain a valid surety bond on file with the Commission. The Order of Revocation was served on September 22, 1977.

An appropriate surety bond has been received in favor of Apollo International, Inc. and compliance pursuant to section 44, Shipping Act, 1916, and section 510.9 of the Commission's General Order 4 has been achieved.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) section 5.01(a), dated August 8, 1977, Independent Ocean Freight Forwarder License No. 1410 shall be reissued to Apollo International, Inc. effective January 4, 1978. A copy of this Notice of Reinstatement shall be published in the FEDERAL REGISTER and served upon Apollo International, Inc.

LEROY F. FULLER,  
Director, Bureau of  
Certification & Licensing.

[FR Doc. 78-2018 Filed 1-23-78; 8:45 am]

[1610-01]

## GENERAL ACCOUNTING OFFICE

## REGULATORY REPORTS REVIEW

## Receipt and Approval of Report Proposal

A request for clearance of a revised application form to collect informa-

tion from the public was received by the Regulatory Reports Review Staff, GAO, on January 6, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

## FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission (FCC) requested clearance of a revision to Form 756, Application for Commercial Radio Operator License. The form is required to be filed when applying for a new, renewed, replacement or duplicate commercial operator license other than amateur license and restricted radiotelephone operator permit. The revision incorporates the provisions of Paragraph 856A of the Radio Regulations of the International Telecommunications Union (ITU) which requires that certificates issued in the maritime mobile services after January 1, 1978, bear a photograph of the applicant. Only applicants for radiotelegraph permits will be affected, and FCC estimates they will number approximately 2,000.

The GAO granted emergency clearance of the revision to the application on January 19, 1978, under number B-180227 (R0394) because of the January 1, 1978, effective date and a finding that the new requirement is not excessively burdensome.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 78-2015 Filed 1-23-78; 8:45 am]

[1610-01]

## REGULATORY REPORTS REVIEW

## Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on January 18, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 13, 1978, and should be addressed to Mr. John M. Lovelady,

## NOTICES

[4110-03]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE  
FOOD AND DRUG ADMINISTRATION

[Docket No. 76G-0188]

## BASF WYANDOTTE CORP.

Withdrawal of Petition for Affirmation of Grass Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP 6G0069) proposing affirmation that sodium sulfate used as an inert ingredient in sanitizing solutions is generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 Withdrawal of petition without prejudice of the procedural food additive regulations (21 CFR 171.7), BASF Wyandotte Corp., Wyandotte, Mich. 48192 has withdrawn its petition (GRASP 6G0069), notice of which was published in the FEDERAL REGISTER of September 7, 1976 (41 FR 37657), proposing that sodium sulfate for use as an inert ingredient in sanitizing formulations is generally recognized as safe.

Dated: January 16, 1978.

HOWARD R. ROBERTS,  
Acting Director, Bureau of Foods.

[FR Doc. 78-1948 Filed 1-23-78; 8:45 am]

[1505-01]

[Docket No. 77N-0242; DESI 5509]

## CERTAIN ANTICOAGULANT DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

## Correction

In FR Doc. 77-34370 appearing at page 61306 in the issue for Friday, De-

Assistant Director, Regulatory Reports Review Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart, of the Regulatory Reports Review Staff, 202-275-3532.

## CIVIL AERONAUTICS BOARD

The CAB requests an extension without change clearance of Form 250, Report of Unaccommodated Passengers, and Form 251, Report of Passengers Denied Confirmed Space. These forms are filed by certificated route air carriers pursuant to Part 250 of the Board's Economic Regulations and their submission is mandatory under section 407 of the Federal Aviation Act of 1958, as amended. Forms 250 and 251 are used to monitor compliance with the requirement in Part 250 of the Board's Economic Regulations which requires the scheduled air carriers to establish priority rules for determining which passengers holding confirmed reserved space shall be denied boarding on oversold flights and to offer prescribed compensation to passengers holding confirmed reservations who are denied space on oversold flights. The CAB estimates that approximately 28 carriers file Form 250 quarterly and that reporting time averages 4.25 hours per response; and 23 carriers file Form 251 monthly and that reporting time averages 4.25 hours per response.

## INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Form EM-5, Data Sheet For Sampled Carload. Form EM-5 is filed by railroads in place of submitting copies of railroad waybills as required pursuant to order of the ICC (49 CFR 1244). The information collected on Form EM-5 will become a part of the ICC Continuous Waybill Sample and also part of the Department of Transportation Comprehensive Freight Flow Data Program. The ICC estimates reporting time for carriers averages 5 minutes per response with the number of responses expected from each of the 28 affected carriers ranging from 18 to 11,000 depending on the number of multiple car shipments terminated by each railroad.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 78-2016 Filed 1-23-78; 8:45 am]



ember 2, 1977, in the third column of page 61307, the last line of the second full paragraph, the reference to "21 CFR 314.200" should have read "21 CFR 314.200".

## [1505-01]

[Docket No. 76N-0450; DESI 2245]

## THYROGLOBULIN TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

## Correction

In FR Doc. 77-34372 appearing at page 61313 in the issue for Friday, December 2, 1977, in the third column of page 61313, four lines from the bottom of the 5th paragraph, "form FD-356h" should have read "form FD-356H".

## [4110-84]

Health Services Administration

## ADVISORY COMMITTEE

## Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1978:

## INDIAN HEALTH ADVISORY COMMITTEE

Date and Time: February 8-9, 1978, 9 a.m.  
Place: Conference room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Type of Meeting: Open for entire meeting.  
Purpose: The Committee advises the Secretary, Assistant Secretary for Health, Administrator, Health Services Administration; and Director, Indian Health Service on health and other related matters that have a bearing on the conduct of the Indian health program, as well as current and proposed regulations and policies.

Agenda: The Committee will discuss the current total Indian health program operations, more specifically the health status of the Indian people, and other specific items of Departmental interest and concern regarding Indian health endeavors.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, minutes of meeting, or other relevant information should contact Mr. Mose E. Parris, Room 5A-43, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-1104.

Agenda items are subject to change as priorities dictate.

Dated: January 16, 1978.

WILLIAM H. ASPDEN, Jr.,  
Associate Administrator  
for Management.

[FR Doc. 78-1977 Filed 1-23-78; 8:45 am]

## [4310-84]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 18107 (Wash.)]

## WASHINGTON

## Proposed Withdrawal and Reservation of Lands

JANUARY 13, 1978.

The Fish and Wildlife Service, Department of the Interior, on November 18, 1977, filed application, Serial No. OR 18107 (Wash.), for the withdrawal of the following described lands from settlement, sale, location or entry under all of the general land laws, including the mining laws (30 U.S.C., Ch. 2) and the mineral leasing laws, except as they pertain to oil and gas, subject to valid existing rights:

## WILLAMETTE MERIDIAN

The unsurveyed island of Tatoosh together with its islets and rocks, located between latitude 48°23' North and 48°24' North (protracted T. 33 N., R. 16 W., in Section 2 and protracted T. 34 N., R. 16 W., in Section 35), containing approximately 18 acres in Clallam County.

The Fish and Wildlife Service desires that the land be reserved for administration as a part of the existing Flattery Rocks National Wildlife Refuge, for protection of resting and breeding sites for sea birds.

On or before February 23, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management at the address shown below on or before February 23, 1978. Upon determination by the State Director that a public hearing will be held, a notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency

with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

The above described lands are temporarily segregated from operation of the public land laws, including the mining laws and mineral leasing law except as they pertain to oil and gas, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of the application shall terminate upon: (1) Rejection of the application by the Secretary, (2) withdrawal of the lands by the Secretary, or (3) the expiration of two years from the date of publication of this notice.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box. 2965, Portland, Ore. 97208.

HAROLD A. BERENDS,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 78-1980 Filed 1-23-78; 8:45 am]

## [4310-55]

Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Lincoln Park Zoological Garden, 2200 North Cannon Drive, Chicago, Ill. 60614.

The applicant requests a permit to import one male captive-bred Flat-headed Cat (*Felis planiceps*) from the Rotterdam Zoological Garden for enhancement of propagation. Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street

NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1832. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 22, 1978. Please refer to the file number when submitting comments.

Dated: January 19, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-1995 Filed 1-23-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Lincoln Park Zoological Garden, 2200 North Cannon Drive, Chicago, Ill. 60614.

The applicant requests a permit to purchase, in interstate commerce, four Madagascar radiated tortoises (*Geochelone (= Testudo) radiata*) from the Gladys Porter Zoo, for enhancement of propagation. Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1831. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 22, 1978. Please refer to the file number when submitting comments.

Dated: January 19, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-2011 Filed 1-23-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Bert S. Rosenbaum, 3411 South 90th Street, Tacoma, Wash. 98409.

The applicant wishes to apply for a captive self-sustaining population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1789. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 22, 1978. Please refer to the file number when submitting comments.

Dated: January 19, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-2012 Filed 1-23-78; 8:45 am]

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Regional Director, Region No. 2, U.S. Fish and Wildlife Service, 500 Gold Avenue SW., Box 1306, Albuquerque, N. Mex. 87103.

The applicant seeks a permit to collect, transport, propagate and restock the woundfin (*Plagioscion argentatus*) for enhancement of survival of the species. The fish will be taken from the Virgin River of Utah, Arizona, and Nevada. Humane care and treatment during transport have been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1793. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before February 22, 1978. Please refer to the file number when submitting comments.

Dated: January 19, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

[FR Doc. 78-2013 Filed 1-23-78; 8:45 am]

## [4310-70]

National Park Service

## GREEN SPRINGS HISTORIC DISTRICT

## National Historic Landmark

Notice is hereby given that on December 13, 1977, the Secretary of the

Interior determined that the Green Springs Historic District located in Louisa County, Va., is of national historic significance and, accordingly, confirmed its status as a National Historic Landmark listed on the National Register. In addition, Secretary Andrus accepted Historic Green Springs, Inc.'s offer of a donation of a number of preservation easements applicable to certain properties within the historic district. The boundaries of the historic district are as follows:

The boundary of Green Springs Historic District is defined by a line co-terminous with the outside boundary of a set of tracts and encompassing all those component tracts.

The component tracts of land are shown on maps of the Virginia State Department of Taxation, division of Assessment and Mapping. They are as follows:

Section 21, Green Springs District, Revised January 1, 1959 and January 1, 1971.

Tracts: 54, 56, 57, 58, 59, 60, 61, 61A, 61B, 62, 64, 64A, 72, 72D, 76, 77; only portion of parcel 78 included in the Historic District is located south of the South Anna River. Also included are parts of tracts 1A, 8 and 9 of Section 22 extending over to Section 21 and tract 7A of Section 36 extending over to Section 21.

Section 22, Green Springs District, Revised January 1, 1959 and January 1, 1971.

Tracts: 1A, 7, 7A, 7B, 7C, 7D, 7E, 8, 9, 10, 11, 12, 13, 15, 22, 23, 23A, 23B, 24, 25, 26, 26A, 31, 32, 33, 34, 35; the only portion of each of the following tracts included in the Historic District is that area located south of the South Anna River: 1, 2, 3, 4, 5, 7B (extending over to Section 22 from Section 21). Also included is tract 1 of Section 37 extending over to Section 22.

Section 36, Green Springs District, Revised January 1, 1959 and January 1, 1971.

Tracts: 1, (11-2, 3, 4, 5) 2, 3, 4, 5, 7, 7A, 8, 9, 11, 13, 14, 16, 17, 18, 21, 21A, 21B, 22, 23, 24, 58, 59, 60, 84. Also included are a portion of tract 1 of Section 37 extending over to Section 36 and portions of tract 58, 59, and 60 of Section 21 extending over to Section 36.

Section 37, Green Springs and Louisa Courthouse districts, Revised January 1, 1959 and January 1, 1971.

Tracts: 1, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 19A, 19B, 20, 21, 25, 25A, 25B, 25C, 26, 26A, 27, 27A, 28, 29, 30, 31, 32, 33, 34, 35, 36, 36A, 37, 48. Also included is the portion of tracts 9 and 7 of Section 36 extending over to Section 37; the portion of tracts 9 and 9A of Section 53 extending over to Section 37; and the portion of tract 13 of Section 22 extending over to Section 37.

Section 52, Green Springs and Louisa Courthouse Districts, Revised January 1, 1959 and January 1, 1972.

Tracts: (31-1, 2, 3), 9, 13, 16, 42, 63, 79, 81, 82, 83, 84; the only portion of each of the following parcels included in the historic



## NOTICES

district is that area located north and/or northeast of the main branch of Fosters Creek: 77, 78. Also included is the portion of tracts 13 and 16 of Section 36, the portion of tract 9 of Section 37, and the portion of tracts 9, 10B, and 12 of Section 53 extending over to Section 52.

Section 53. Green Springs and Louisa courthouse Districts, Revised January 1, 1959.

Tracts: 1, 2, 5, 6, 7, 8, 9, 9A, 10, 10A, 10B, 10C, 11, 12, 13, 36A, 37, 46, 46A, 47, 47A, 77; the only portion of each of the following tracts included in the historic district is that area located north and/or east of the main branch of Fosters Creek: 12, 77. Also included is the portions of tracts 14, 36A, and 37 of Section 37 and the portion of tract 77 of Section 52 extending over to Section 53.

## Section 20

Tracts: Included are those portions of tracts 58 and 61 of Section 21 extending over to Section 20.

## Section 23

Tracts: Included are those portions of tracts 23A, 24, 26, and 26A of Section 22 extending over to Section 23 and only to the east boundary of the right-of-way of route 636.

## Section 35

Tracts: Included are those portions of tracts 2 and 4 of Section 36 and the portion of tract 59 of Section 21 extending over to Section 35.

The following is a clarification of those segments of the boundary involving roads or streams. Proceeding clockwise around the boundary:

1. Route 636: Where Route 636 forms the east boundary of the district that boundary is the east edge of the right-of-way.

2. Route 613: Same as above.

3. South Anna River: Where the South Anna River is the boundary along the south edge of tract 37, Section 37, the boundary is the south bank of the river.

4. Route 626: Where Route 626 forms the south boundary along tracts 46, 46A, 47, and 47A the boundary is the south edge of the right-of-way.

5. Main Branch of Fosters Creek: Where this creek forms the south boundary through tracts 11 and 12 Section 53 and tracts 77 and 78 Section 52, the boundary is the south bank of the creek.

6. Route 613: Where Route 613 forms the extreme southwest corner of the boundary along tract 63, Section 52, the boundary is the north edge of the right-of-way.

7. Route 640: Where Route 640 forms the south boundary of tract 2, Section 36, the boundary is the south edge of the right-of-way.

8. Fielding Creek: Where the creek is the north boundary of tracts 54, 56, and 57, the boundary is the north bank of the creek.

9. Route 15: Where Route 15 forms the boundary at the northwest corner

of the district, the boundary is the west edge of the right-of-way.

10. Route 22: Where Route 22 forms the boundary along the south edge of tract 72C, Section 21, the boundary is the north edge of the right-of-way.

11. South Anna River: Where the river forms the north boundary of the district the boundary is the north bank of the river.

Notice is also given that the Keeper of the National Register, National Park Service, has determined that the Commonwealth of Virginia gave inadequate public notice of its intention to nominate the Green Springs Historic District to the National Register in 1973, and, accordingly, Green Springs Historic District shall not be considered as listed on the National Register pursuant to State nomination. However, Green Springs Historic District shall remain on the National Register as a National Historic Landmark.

Dated: January 1, 1978.

JERRY L. ROGERS,  
Chief, Office of Archeology  
and Historic Preservation.

[FR Doc. 78-1981 Filed 1-23-78; 8:45 am]

## [4310-70]

## NATIONAL REGISTER OF HISTORIC PLACES

## Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 16, 1978. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by February 3, 1978.

WILLIAM J. MURTAGH,  
Keeper of the National Register.

## ARIZONA

## Yavapai County

Wickenburg vicinity, Kay-El-Bar Ranch, N of Wickenburg on Rincon Rd.

## DELAWARE

## New Castle County

Hockessin, Public School No. 29, Valley Rd. and Old Lancaster Pike.  
Montchanin, Montchanin Historic District, DE 100.

## GEORGIA

## Hall County

Gainsville, Brenau College District, Academy, Prior, Washington, and Boulevard Sts.

## ILLINOIS

## Kane County

Aurora, Chicago, Burlington, and Quincy Roundhouse and Locomotive Shop, Broadway and Spring Sts.

## INDIANA

## Monroe County

Bloomington, Monroe Carnegie Library, 200 E. 6th St.

## MASSACHUSETTS

## Middlesex County

Arlington, Butterfield-Whittemore House, 54 Massachusetts Ave.  
Newton, Ware Paper Mill, 2276 Washington St.

## Norfolk County

Brookline, Cottage Farm Historic District, roughly bounded by Amroy, Dummer, Lenox, Brookline, and Beacon Sts.

## MINNESOTA

## Hennepin County

Minneapolis, Martin, Charles J., House, 1300 Mount Curve Ave.

## St. Louis County

Proctor, Northland (railroad car), off U.S. 2.

## Stearns County

St. Cloud, Foley-Brower-Bohmer House, 385 3rd Ave. S.  
St. Cloud, Majerus, Michael, House, 404 9th Ave. S.

## MISSISSIPPI

## Adams County

Natchez, Dubs, Dr. Charles H., Townhouse, 311 N. Pearl St.  
Washington, Assembly Hall (Charles De-France House), Assembly and Main Sts.

## Claiborne County

Port Gibson vicinity, Windsor Site, SW of Port Gibson.

## NEW MEXICO

## Bernalillo County

Albuquerque, Vigil, Antonio, House, 413 Romero St.

## OREGON

## Jackson County

Phoenix, McManus, Patrick F., House (Hiram Colver House), 117 W. 1st. St. HABS.

## Multnomah County

Portland, Palmer, John, House, 4314 N. Mississippi Ave.

## NOTICES

and shall publish this order in the FEDERAL REGISTER.

Issued: January 18, 1978.

Judge MYRON R. RENICK,  
Presiding Officer.

[FR Doc. 78-2025 Filed 1-23-78; 8:45 am]

## [7020-02]

[AA1921-176]

## IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

## Time and Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin on Wednesday, February 15, 1978, in New York City, will commence at 10 a.m., e.s.t., in the auditorium of the United States Mission to the United Nations, 799 U.N. Plaza, 45th Street and First Avenue, New York, N.Y. (please use 45th Street entrance). Requests for appearances should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Friday, February 10, 1978.

Notice of the investigation and hearing was published in the FEDERAL REGISTER of January 11, 1978 (43 FR 1655).

Issued: January 19, 1978.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2026 Filed 1-23-78; 8:45 am]

## [7020-02]

[AA1921-178]

## POLYVINYL CHLORIDE SHEET AND FILM FROM THE REPUBLIC OF CHINA

## Investigation and Hearing

Having received advice from the Department of the Treasury on January 12, 1978, that polyvinyl chloride sheet and film from the Republic of China, with the exception of that merchandise produced by Ocean Plastics Co., Ltd., and China Gulf Plastic Corp., is being, or is likely to be, sold at less than fair value, the U.S. International Trade Commission, on January 19, 1978, instituted investigation No. AA1921-178 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For the purposes of its determination concerning sales at less than fair value, the Treasury Department defined "polyvinyl sheet and

film" as "unsupported, flexible, calendared polyvinyl chloride sheet, film, and strips over 6 inches in width and over 18 inches in length, and at least 0.002 inches, but not over 0.020 inches in thickness."

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 9:30 a.m., e.s.t., on Thursday, March 2, 1978, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW. All persons shall have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Friday, February 10, 1978.

There will be a prehearing conference in connection with this investigation which will be held in Washington, D.C., at 9:30 a.m., e.s.t., on Wednesday, February 22, 1978, in Room 117, U.S. International Trade Commission Building, 701 E Street NW.

Issued: January 20, 1978.

By order of the Commission.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2185 Filed 1-23-78; 10:20 am]

## [4510-26]

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

## ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

## Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday, February 14 and Wednesday, February 15, 1978, in Room N-3437, Department of Labor Building, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210. The meeting is open to the public and will begin at 9 a.m.

The purpose of this meeting is to review and develop recommendations on Subpart L (Ladders and Scaffolds) of Part 1926—Construction Standards. The Committee will also finalize recommendations on Subpart M (Floor and Wall Openings, and Stairways) of Part 1926.

Written data, views, or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided



to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits. Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW, Room N-3635, Washington, D.C. 20210, phone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., this 18th day of January 1978.

EULA BINGHAM,  
Assistant Secretary,  
Occupational Safety and Health.  
(FR Doc. 78-2000 Filed 1-23-78; 8:45 am)

## [4510-28]

Office of the Secretary  
(TA-W-2236)

## BETHLEHEM STEEL CORP. SEATTLE, WASH.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2236: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 2, 1977 in response to a worker petition received on July 28, 1977 which was filed by the United Steelworkers of America on behalf of Workers and former workers producing structural steel, angle steel, plate steel, round and flat steel and reinforcing steel at the Seattle, Washington plant of the Bethlehem Steel Corp. Workers engaged in the production of reinforcing steel were covered under a certification issued July 27, 1977 (TA-W-1500). During the course of the investigation it was revealed that the other products were produced at the 22 inch mill.

The Notice of Investigation was published in the FEDERAL REGISTER on August 19, 1977 (42 FR 41934). A public hearing was requested but the request was later withdrawn.

The information upon which the determination was made was obtained

principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Iron and Steel Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met with respect to carbon steel plate, structural shapes and hot rolled carbon steel bars.

Bethlehem provided data for structural shapes, carbon steel bars and carbon steel plate. Rounds and flats are included in carbon steel bars. Angle steel, depending on its dimensions, is classified as bars or as structural shapes, and data for angle steel were included in both categories.

## SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Over 80 percent of production at the Seattle plant's 22" mill consists of carbon steel plate, bars and structural shapes. Employment of production workers on the 22 inch mill declined 46 percent in 1976 compared to 1975 and continued to decline 2 percent in the first six months of 1977 compared to the like period one year earlier. Workers on this mill are not separately identifiable by product.

## SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

## A. STEEL PLATE

Sales and production of carbon steel plate declined 48 percent and 50 percent, respectively, in 1976 compared to 1975, and increased 29 percent and 63 percent, respectively, in the first six months of 1977 compared to the like period of 1976.

## B. STRUCTURAL SHAPES

Production of structural shapes declined 23 percent in 1976 compared to

1975 and declined 9 percent in the first six months of 1977 compared to the like period in 1976.

## C. HOT ROLLED CARBON STEEL BARS

Sales of hot rolled carbon steel bars declined 4 percent in 1976 compared to 1975 and declined 10 percent in the first six months of 1976 compared to the like period in 1976.

## INCREASED IMPORTS

## A. STEEL PLATE

Imports of carbon steel plate decreased from 1,651.0 thousand short tons in 1972 to 1,322.0 thousand short tons in 1973, increased 1,699.0 thousand short tons in 1974, decreased to 1,353.0 thousand short tons in 1975, and increased to 1,555.4 thousand short tons in 1976. Imports increased from 690.3 thousand short tons in the first six months of 1976 to 793.0 thousand short tons in the first six months of 1977.

The ratio of imports to domestic shipments of plate decreased from 26.3 percent in 1972 to 16.4 percent in 1973, then increased in each year to 27.7 percent in 1976. The ratio increased from 23.5 percent in the first six months of 1976 to 25.7 percent in the first six months of 1977.

## B. STRUCTURAL SHAPES

Imports of carbon steel structural shapes decreased in each year from 1,614.0 thousand short tons in 1972 to 804.9 thousand short tons in 1975, then increased to 1,351.4 thousand short tons in 1976. Imports increased from 542.6 thousand short tons in the first six months of 1976 to 716.3 thousand short tons in the first six months of 1977.

The ratio of imports to domestic shipments of structural shapes decreased in each year from 34.1 percent in 1972 to 19.5 percent in 1975, then increased to 40.0 percent in 1976. The ratio increased from 30.2 percent in the first six months of 1976 to 40.2 percent in the first six months of 1977.

## C. HOT ROLLED CARBON STEEL BARS

Imports of hot rolled carbon steel bars declined in each year from 792.0 thousand tons in 1972 to 369.1 thousand tons in 1976. Imports increased from 113.0 thousand tons in the first six months of 1976 to 293.9 thousand tons in the first six months of 1977.

The ratio of imports to domestic shipments of carbon steel bars decreased in each year from 12.6 percent in 1972 to 6.7 percent in 1976. The ratio increased from 3.9 percent in the first six months of 1976 to 9.3 percent in the first six months of 1977.

## CONTRIBUTED IMPORTANTLY

## A. STEEL PLATE

On October 3, 1977 the U.S. Department of the Treasury issued an initial

finding of dumping of carbon steel plate by certain Japanese firms. This action was in response to a dumping complaint filed by Gilmore Steel Corp. on February 28, 1977. With this decision importers of Japanese carbon steel plate are required to post bond sufficient to cover the preliminary dumping margin which was found to be 32 percent. This is expected to decrease sales of Japanese plate to the U.S. However, in the past several months imports of Japanese carbon steel plate have been down while imports from the EEC countries have grown.

Carbon steel plate was also cited in the U.S. Steel's complaint which is currently pending before the Treasury. A preliminary decision on the U.S. Steel complaint and a final decision on the Gilmore case are due within 90 days.

The Department contacted a sample of the Seattle plant's plate customers. Several of these stated that there was an import influence in the steel plate market. This finding is consistent with the aggregate data on U.S. shipments and imports of plate in 1976. In that year, domestic steel producers reduced their plate shipments by 1.4 million tons, while imports rose by 15 percent from the previous year. The import penetration ratio increased from 19.4 percent in 1975 to 27.7 percent in 1976.

## B. STRUCTURAL SHAPES

The Department contacted a sample of Bethlehem's customers accounting for about 45 percent of sales of structural shapes from the Seattle plant. All but one of the responding customers purchased imported structural shapes. Most customers increased their purchases of imports while reducing purchases from Bethlehem.

## C. HOT ROLLED CARBON STEEL BARS

The Department contacted a sample of Bethlehem's customers accounting for about 45 percent of the Seattle plant's sales of bars. About half of the responding customers reported that they purchased imported bars, and several of these reduced purchases of bars from Bethlehem while increasing their purchases of imports.

## CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with the carbon steel plate, structural shapes and hot rolled carbon steel bars produced at the Seattle, Wash., plant of Bethlehem Steel Corp. contributed importantly to the decline in sales or production and to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certifications:

All workers at the Seattle, Wash., plant of Bethlehem Steel Corp. engaged in employment related to the production of carbon steel plate who became totally or partially separated from employment on or after July 25, 1976, and before January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers at the Seattle, Wash., plant of Bethlehem Steel Corp. engaged in employment related to the production of structural shapes who became totally or partially separated from employment on or after July 25, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

All workers at the Seattle, Wash., plant of Bethlehem Steel Corp. engaged in employment related to the production of hot rolled carbon steel bars who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2004 Filed 1-23-78; 8:45 am)

## [4510-28]

(TA-W-2404)

## BUCKBEE MEARS, INC., APERTURE MASK DIVISION, ST. PAUL, MINN.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2404: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 3, 1977, in response to a worker petition received on September 28, 1977, which was filed by the Graphic Arts International Union on behalf of workers and former workers producing aperture masks at the St. Paul, Minn., plant of the Aperture Mask Division of Buckbee Mears, Inc. The Notice of Investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55315). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Buckbee Mears, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or

an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

## SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers engaged in employment related to the production of aperture masks at the St. Paul plant declined in 1976 compared to 1975 and continued to decline in the first three quarters of 1977 compared to the like period in 1976.

## SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The St. Paul plant's production of aperture masks declined in quantity in 1976 compared to 1975 and continued to decline in the first three quarters of 1977 compared to the like 1976 period. Company sales of aperture masks declined in quantity in 1976 compared to 1975 and continued to decline in the first three quarters of 1977 compared to the like period of 1976.

## INCREASED IMPORTS

Imports increased 527.7 percent from 32,500 units in 1975 to 204,000 units in 1976 and continued to increase 57.4 percent from 160,000 units in the first three quarters of 1976 to 266,000 units in the first three quarters of 1977.

The ratio of imports of aperture masks to domestic production increased from 0.5 percent in 1975 to 2.8 percent in 1976 and continued to increase from 3.0 percent in the first three quarters of 1976 to 4.7 percent in the first three quarters of 1977.

## CONTRIBUTED IMPORTANTLY

A survey of customers of aperture masks of Buckbee Mears, Inc., revealed that customers have reduced purchases from Buckbee Mears and have increased purchases of imported aperture masks.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the aper-



ture masks produced at the St. Paul, Minn., plant of the Aperture Mask Division of Buckbee Mears, Inc., have contributed importantly to the decline in sales or production and to the total or partial separation of workers at the plant as required for certification under section 222 of the Trade Act of 1974.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of aperture masks at the St. Paul, Minn., plant of the Aperture Mask Division of Buckbee Mears, Inc., who became totally or partially separated from employment on or after September 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 78-2005 Filed 1-23-78; 8:45 am)

[4510-28]

(TA-W-21731)

PROXIMITY PRINT WORKS, CONE MILLS  
CORP., GREENSBORO, N.C.

Affirmative Determination Regarding  
Application for Reconsideration

On December 19, 1977, the petitioner for workers and former workers of Proximity Print Works, of Greensboro, N.C., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on December 6, 1977, (42 FR 61667).

The petitioner in this case raises two issues of substance. The first is that since the beginning of the Trade Act program of worker adjustment assistance on April 3, 1975, workers of a number of other print shops have been certified as eligible to apply for adjustment assistance. The petitioner claims that its workers are in basically the same situation as workers in those other print shops.

The second issue raised by the petitioner appears to be that the Department of Labor should have limited its evaluation of increased imports of "like or directly competitive articles" to imports of cotton broad woven print cloth and man-made woven printed fabric, rather than the broader classification of finished fabric (which included, in addition to print cloth and printed fabric, cotton and man-made dyed and flocked fabric).

#### CONCLUSION

After review of the application, I conclude that the claims of the petitioner are of sufficient importance to justify reconsideration of the Depart-

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ment of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 17th day of January, 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

(FR Doc. 78-2006 Filed 1-23-78; 8:45 am)

[7590-01]

#### NUCLEAR REGULATORY COMMISSION

##### ABNORMAL OCCURRENCE EVENT

##### Insulation Failures in Containment Electrical Penetrations

Section 208 of the Energy Reorganization Act of 1974, as amended, required the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events which the Commission determines are significant from the standpoint of public health and safety). The following incident was determined to be an abnormal occurrence using the criteria published in the FEDERAL REGISTER on February 24, 1977 (42 FR 10950). Appendix A (Example I.D.2) of the Policy Statement notes that a major deficiency in design, construction or operation having safety implications requiring immediate remedial action can be considered an abnormal occurrence.

**Date and Place.** During the period September 30-November 19, 1977, a series of events relating to insulation failures in containment electrical penetrations occurred at the Northeast Nuclear Energy Co.'s Millstone Nuclear Power Station, Unit 2, a pressurized water nuclear power plant located in Waterford, Conn.

**Nature and Probable Consequences.** On September 30, 1977, a valve in the letdown system unexpectedly closed and another normally closed drain valve in the safety injection system recirculation return line was found in an incorrect (open) position. The letdown system is a portion of the reactor coolant purification system. The safety injection system is one of the emergency core cooling systems. Subsequent investigation of the electrical penetration module associated with these valves revealed low insulation resistances between several conductors including those which supply control

Low voltage wiring for control and status indication of equipment inside containment is routed through the Containment Building wall via electrical penetration assemblies to keep the building sealed while allowing the wires to penetrate inside. Modules within these assemblies carry approximately 85 conductors (wires) each. The conductors are separated and insulated from each other by epoxy material at each end of the modules and by enamel on the conductors themselves in the region between the epoxy seals.

power to the valves. Low insulation resistance is a degradation of the modules that can cause electrical short circuits between conductors. The valve anomalies were presumably caused by such short circuits.

On October 14, 1977, a reactor coolant sample system valve failed to close on command. Investigation of this event identified conductors in another penetration module which were shorted (electrically connected) together due to low insulation resistance.

On November 19, 1977, short circuits of conductors associated with indication and alarm circuits for a reactor coolant pump resulted in anomalous alarms in the control room. The cause was again traced to low insulation resistance between conductors in the third penetration module.

None of these anomalous events resulted in unsafe conditions in the plant. However, the potential for unsafe conditions did exist since the proper functioning of safety-related equipment, which would be needed during certain accident conditions, depends on adequate electrical insulation resistances between conductors within the penetration modules.

**Cause or Causes.** The electrical short circuits between conductors in the penetration modules, which caused the observed anomalous electrical conditions, apparently resulted from moisture entering fissures (cracks) between conductors in the epoxy insulator/sealant. In the presence of such moisture, it is believed that an electrical path developed between conductors in the modules thereby resulting in low insulation resistances.

Prior to March 15, 1977, the affected penetration modules had been internally pressurized with dry nitrogen. On about March 15, 1977, the licensee decided to discontinue pressurization of the penetration modules because there was no requirement to maintain the gas pressure and maintenance of the pressure resulted in an increased loss of nitrogen gas. Removal of the nitrogen pressure may have contributed to the degradation of the resistance between the conductors in the penetration modules.

The actual cause for the short circuits will be determined when the results from a laboratory analysis of one of the failed penetration modules is received by the licensee.

**Action Taken to Prevent Recurrence.—Licensee.** Following each of the above cited events involving a reduction in insulation resistance, the conductors in question were taken out of service and spare conductors with acceptable insulation resistances were used as replacements.

A special surveillance test program was initiated to check selected conductor insulation resistances daily and to functionally check the operability of

selected components twice per week. The penetration modules were repressurized with dry nitrogen which produced some improvement in the insulation resistances.

After the November 19th anomalous condition, the plant was shut down and a scheduled refueling outage was commenced about two weeks earlier than was originally planned. The licensee has initiated action to obtain penetration modules of a different design. The adequacy of the environmental qualification of the new penetration module design will be reviewed by the NRC staff, and, if acceptable, the modules will be installed prior to plant startup.

**NRC** Recognizing the potential safety significance of all anomalous occurrences related to low insulation resistance in the electrical penetration assemblies, the NRC staff met with the licensee and discussed the problem on November 7, 1977. In addition, the NRC Region I Office issued letters to the licensee on November 4 and 8, 1977, documenting agreements that:

(1) The penetrations would be continuously pressurized with dry nitrogen, (2) a special surveillance program would be performed, and (3) the plant would be shut down if further degradation was identified or a recurrence of anomalous conditions was experienced. In accordance with these agreements, the plant was shut down on November 20, 1977, after the latest anomalous condition developed.

**NRC IE Bulletin 77-06**, was issued on November 22, 1977, in which the NRC staff requested that all licensees of operating reactors review their installed containment electrical penetrations, determine if the potential for similar failures exists at their facilities, identify methods to detect insulation resistance degradation, and outline appropriate corrective action.

Responses to this Bulletin and the completion of corrective actions are being reviewed by the NRC staff and are being verified by onsite inspection.

Dated at Washington, D.C. this 18th day of January 1978.

For the Nuclear Regulatory Commission

SAMUEL J. CHILK,  
Secretary of the Commission.

(FR Doc. 78-1938 Filed 1-23-78; 8:45 am)

[7590-01]

#### REGULATORY GUIDE

##### Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its regulatory guide series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regula-

#### NOTICES

tions and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.137, "Fuel-Oil Systems for Standby Diesel Generators," describes a method acceptable to the NRC staff for complying with the Commission's regulations regarding fuel-oil systems for standby diesel generators and assurance of adequate fuel-oil quality.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.137 will, however, be particularly useful in evaluating the need for an early revision if received by March 24, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 16th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,  
Director,  
Office of Standards Development.  
(FR Doc. 78-1937 Filed 1-23-78; 8:45 am)

[8010-01]

#### SECURITIES AND EXCHANGE COMMISSION

(Rel. No. 10093)

##### AUDAX FUND INC.

Filing of Application for Order Declaring That  
Applicant Has Ceased To Be an Investment  
Company

JANUARY 16, 1978.

In the matter of Audax Fund Inc.,

312 East Wisconsin Avenue, Milwaukee, Wis. 53202, 811-1866.

Notice is hereby given, that Audax Fund Inc. ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on December 27, 1977, pursuant to section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a corporation organized under the laws of Delaware, registered under the Act on May 22, 1969. On June 6, 1969, it filed a registration statement on form S-5 under the Securities Act of 1933 (File No. 2-33397) for the public sale of shares of its common stock. This registration statement was declared effective by the commission on November 14, 1969, and Applicant was thereby authorized to offer 5,000,000 shares of its common stock for sale to the public.

On November 16, 1977, at a special meeting of shareholders, a majority of Applicant's shareholders approved an Agreement and Plan of Reorganization ("Plan") dated August 19, 1977, which provided for, among other things, the acquisition by Nicholas Fund, Inc. ("Nicholas"), a registered, open-end management investment company, of substantially all of Applicant's assets (including all of its portfolio securities) in exchange for shares of common stock of Nicholas, and for the subsequent dissolution of Applicant. This sale of all of the assets of Applicant was consummated on December 5, 1977, and pursuant to the Plan Nicholas issued 178,191 shares of its common stock to the Applicant. These Nicholas shares were distributed to the shareholders of the Applicant on a pro-rata basis. Under the Plan, Nicholas assumed all of the liabilities of Applicant incurred in the ordinary course of its business which were outstanding as of December 5, 1977. Under the plan all of the expenses incurred by Applicant in implementing the Plan were paid by The Milwaukee Co., parent of Applicant's former investment adviser, Wisconsin Investment Management Co., Inc.

Applicant represents that it currently has no assets, no security holders, no known liabilities, and that it is not a party to any pending litigation or administrative proceeding. Applicant also represents that on December 5, 1977, it filed a Certificate of Dissolution with the State of Delaware pursuant to the General Corporation Law of the State of Delaware, thereby completing the process of corporate disso-



lution under Delaware state law. Applicant further represents that it has ceased all business activities.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 9, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1930 Filed 1-23-78; 8:45 am]

## [8010-01]

[Rel. No. 20388]

## EASTERN UTILITIES ASSOCIATES

Proposed Extension of Bank Borrowing by  
Subsidiary Company

JANUARY 17, 1978.

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Mass.

02107; Blackstone Valley Electric Co., P.O. Box 1111, Lincoln, R.I. 02865; Brockton Edison Co., 36 Main Street, Brockton, Mass. 02403; Fall River Electric Light Co., 85 North Main Street, Fall River, Mass. 02722; Montaup Electric Co., P.O. Box 391, Fall River, Mass. 02722 (70-5388).

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and its electric utility subsidiary companies, Blackstone Valley Electric Co. ("Blackstone"), Brockton Edison Co. ("Brockton"), Fall River Electric Light Co. ("Fall River") and Montaup Electric Co. ("Montaup"), have filed a post-effective amendment to their application-declaration, as previously filed and amended in this proceeding with this Commission designating Sections 6(a), 7, 9(a), 10, 12(b), 12(c), and 12(f) of the Act and Rules 43(a) and 45(a) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as further amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

The transactions dealt with by the original application have, insofar as hereto relevant, been duly authorized and consummated. The post-effective amendment deals only with a proposed extension of the maturity of a bank loan of Blackstone's, which was one of the original series of transactions.

As a part of this reorganization program, Blackstone has been authorized in this proceeding (order dated February 19, 1975, HCAR No. 18817) to borrow \$25,000,000 from the Chase Manhattan Bank (N.A.) ("Chase"). Blackstone originally issued Chase its note in that amount, maturing on February 16, 1976, and bearing interest at 115 percent of the prime rate in effect at Chase from time to time. By orders dated February 12, 1976 and February 8, 1977 (HCAR Nos. 19386 and 19880) Blackstone was authorized to extend the maturity of the note, in each instance for approximately one year. The note now matures on February 8, 1978. The note is secured by a second mortgage on certain properties of Blackstone, said second mortgage being subject, among other encumbrances, to the prior lien of Blackstone's Indenture of Mortgage and Deed of Trust dated as of November 1, 1943. No compensating balance is required in connection with this borrowing.

Proceeds of the loan have been used by Blackstone to reduce open account advances to Blackstone from EUA. EUA applied the funds so received to reduce its short-term borrowings.

By post-effective amendment filed in this proceeding, it is now proposed

that the term of the Chase note be further extended to mature on or about February 1, 1979. The interest rate will continue to be the prime as defined. No compensating balance will be required in connection with the extension of the Chase loan. Assuming a prime rate at Chase of 8 percent, the effective interest cost of the note, as revised and extended, would be 9.775 percent. It is stated that Blackstone had originally intended to convert that Chase note into a longer term secured obligation, but that restrictions on consolidated capitalization ratios contained in EUA's bond indenture make it impossible at the present time to extend the Chase note for more than one year.

It is stated that the Public Utilities Commission of the State of Rhode Island has jurisdiction over the proposed extension of the Chase loan to Blackstone and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Any fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment.

Notice is further given, that any interested person may, not later than February 3, 1978, request in writing that a hearing be held on this matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants EUA and Blackstone at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as further amended by said post-effective amendment, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1931 Filed 1-23-78; 8:45 am]

## [8010-01]

[Rel. No. 14376]

## MIDWEST STOCK EXCHANGE

## Order Approving Proposed Rule Change

JANUARY 16, 1978.

In the matter of Midwest Stock Exchange, 120 South LaSalle Street, Chicago, Ill. 60603 (SR-MSE-77-35).

On November 21, 1977, the Midwest Stock Exchange, Inc., filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act") as amended by the Securities Acts Amendments of 1975, and rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change provides that transfers of membership, whereby the transferor retains reacquisition rights, will not be processed unless the transferor is current in all filings and payments of dues, fees, and charges related to that membership.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act release No. 14216 (November 29, 1977)) and by publication in the FEDERAL REGISTER (42 FR 62233 (December 9, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder. More specifically, the Commission finds that the proposed rule change is consistent with section 6(b)(4) which provides for reasonable allocation of dues, fees, and other charges among exchange members.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on November 21, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1932 Filed 1-23-78; 8:45 am]

## [8010-01]

[Rel. No. 20387]

## NARRAGANSETT ELECTRIC CO.

## Proposed Sale of Utility Assets

JANUARY 16, 1978.

In the matter of the Narragansett Electric Co., 280 Melrose Street, Providence, R.I. 02901 (70-6109).

Notice is hereby given that the Narragansett Electric Co. ("Narragansett"), an electric utility subsidiary company of New England Electric System a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 12(d) of the Act and rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Narragansett proposes to sell to Blackstone Valley Electric Co. ("Blackstone"), an electric utility subsidiary company of Eastern Utilities Associates, a registered holding company, certain electric facilities ("facilities") located in Smithfield and Woonsocket, R.I., which had been constructed and were used by Narragansett to supply bulk power to Blackstone's Riverside substation in Woonsocket.

The facilities are composed of a 2.6 mile section of 115 kV transmission line, designated U-147, constructed in the early 1940's and extending from Narragansett's Woonsocket substation in North Smithfield, R.I., to Riverside Junction in Woonsocket, together with associated rights in real property. In 1963 this U-147 line was also utilized for through transmission of bulk power by connection to a newly constructed transmission line designated D-182 which terminated at New England Power Co.'s Brayton Point station in Somerset, Mass. In 1974 a portion of the D-182 line was dismantled to make room for a new 345 kV line, designated No. 315. When line No. 315 became operational in August 1974, Narragansett no longer had a need for the U-147 line. Blackstone, however, can utilize the U-147 line to supply its Riverside substation.

An agreement has been executed under which, subject to necessary corporate and regulatory approvals, Narragansett will transfer to Blackstone the facilities for a price equal to net book value (defined as original cost, \$162,362, less depreciation accrued to the date of transfer) plus a sum to be determined by formula covering Narragansett's cost of owning the facilities from the date of preliminary agreement to sell (August 24, 1974) to the date of transfer. On December 31, 1976, the facilities had a net book

value of approximately \$118,390. Under the agreement, Blackstone would also assume responsibility for Narragansett's costs incurred in effecting the transfer of title to the facilities up to \$5,000. Against the purchase price is to be credited \$4,400 representing the agreed estimated cost of labor and materials for completing present accumulated maintenance. As of October 30, 1977, the purchase price would have been approximately \$203,160.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at \$7,000, including \$5,000 of services to be performed at cost by New England Power Service Co., an affiliate of Narragansett. It is stated that the Rhode Island Division of Public Utilities and Carriers has jurisdiction over the sale and purchase of the facilities, and that Federal Energy Regulatory Commission has jurisdiction over the purchase of the facilities by Blackstone. No other State commission and no other Federal commission, other than this commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than February 9, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1933 Filed 1-23-78; 8:45 am]



## [8010-01]

[Release No. 34-14379; File No. SR-DTC-77-13 Amdt. No. 1]

## DEPOSITORY TRUST CO.

## Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 10, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission Amendment No. 1 to a proposed rule change as follows:

## STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The date of the annual meeting of the stockholders of the Depository Trust Co. ("DTC") has been changed.

## STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to allow extra time necessary for processing the annual reallocation and sale of DTC stock to its participants and self-regulatory organizations as required by the DTC stockholders agreement. Under the old bylaw the annual meeting date would have been March 22, 1978, and under the new bylaw it will be March 31, 1978. Since the date of distribution of notices of share amount (the "notices") to potential and existing stockholders is determined by the date of the annual meeting, postponement of the annual meeting date enables us to send out the notices on February 3, after we have received essential financial data (share price) from our auditors on January 30, 1978. Retaining the March 22 date would have required such notices to have been sent out before January 30, which would not be possible because of the absence of the essential financial information. March 31 is the latest possible date at which the meeting could have been set because of the requirement of section 6002.2 of the New York banking law that the annual meeting be held within the first three months of each calendar year.

The proposed rule change is concerned solely with the administration of DTC.

Comments on the proposed rule change were not solicited.

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change as amended by amendment No. 1 has become effective, pursuant to section 19(b)(3) of

<sup>1</sup> Defined in the stockholders agreement.

## NOTICES

the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the commission may summarily abrogate such rule change if it appears to the commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within twenty-one days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 16, 1978.  
[FR Doc. 78-1935 Filed 1-23-78; 8:45 am]

## [8010-01]

[File No. 81-258; Administrative Proceeding File No. 3-5359]

## TRIDAIR INDUSTRIES

## Application and Opportunity for Hearing

JANUARY 16, 1978.

Notice is hereby given that Tridair Industries ("applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("the 1934 Act") for exemption from the filing requirements of sections 12(g), 13, and 15(d) of the 1934 Act.

Section 13 provides that each issuer of a security which is registered pursuant to section 12 of the 1934 Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current, and quarterly reports.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective

pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of the 1934 Act in respect of a security registered pursuant to section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, and proxy solicitation provisions under sections 12, 13, and 14 of the 1934 Act and to grant exemptions from the insider reporting and trading provisions of section 16 of the 1934 Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The application states, in part:

1. On March 31, 1976, applicant merged with and become a wholly owned subsidiary of Rexnord, Inc. ("Rexnord"). As a result of the merger, applicant no longer has any publicly owned common stock.

2. Applicant's only other securities consist of 4 1/4 percent convertible subordinated debentures ("debentures") which are now convertible into shares of Rexnord common stock. As of March 28, 1976, the end of applicant's fiscal year, there were less than 250 record holders of the debentures. As of December 31, 1976, there were 230 record holders of the debentures.

3. On June 4, 1976, applicant transmitted to the Commission a certification pursuant to section 12(g)(4) of the 1934 Act, requesting termination of registration of its common stock. This was not received by the Commission until June 30, 1976, and became effective on September 30, 1976.

4. Applicant argues that no useful purpose would be served in filing the reports which are due.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C. 20549.

Notice is further given that any interested person not later than February 10, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street

NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-1934 Filed 1-23-78; 8:45 am]

## [4710-01]

## DEPARTMENT OF STATE

[Public Notice CM-8/3]

## STUDY GROUP 6 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

## Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 14-15, 1978, at Boulder, Colo. The meeting will open on February 14 at 9 a.m., Room 3012 of the Radio Building, 325 Broadway.

Study Group 6 deals with matters relating to the propagation of radio waves by and through the ionosphere. The purpose of the meeting will be a review of work approved at the international meeting of Study Group 6, Geneva, January 1978, and finalization of plans for Study Group 6 submission of documents to the Special Preparatory Meeting for the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join the discussions subject to instructions of the Chairman.

Dated: January 13, 1978.

GORDON L. HUFFCUTT,  
Chairman,  
U.S. CCIR National Committee.  
[FR Doc. 78-1979 Filed 1-23-78; 8:45 am]

## NOTICES

## [7040-01]

## SUSQUEHANNA RIVER BASIN COMMISSION

## PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

## Joint Public Meeting

The Susquehanna River Basin Commission and the Pennsylvania Department of Environmental Resources will hold three joint public meetings to receive public comment on the department's proposal to designate a segment of Pine Creek as part of the State wild and scenic rivers system. The meetings, to be held jointly by the two agencies for the convenience of the public, will begin at 7:30 p.m. on February 7, 1978, at New Avis Elementary School, 5th Street Extended, Avis, Pa.; February 16, 1978, at Jersey Shore Area Senior High School Auditorium, Thompson Street, Jersey Shore, Pa.; and February 22, 1978, at Wellsboro Area Senior High School Auditorium, Nichols Street, Wellsboro, Pa.

Under article 12.2 of the Susquehanna River Basin Compact, no State project will be deemed authorized unless it has first been included by the Commission, after public hearing, in its comprehensive plan. The Susquehanna River Basin Commission will separately review the department's proposal and the testimony received at these meetings when evaluating the proposal for inclusion in the comprehensive plan.

A summary of the proposal is available from the Pennsylvania Department of Environmental Resources, P.O. Box 1467, Harrisburg, Pa. 17102. All interested citizens and governmental agencies are urged to attend the meetings and present their views.

Dated: January 16, 1978.

ROBERT J. BIELO,  
Executive Director.  
[FR Doc. 78-1987 Filed 1-23-78; 8:45 am]

## [4810-25]

## DEPARTMENT OF THE TREASURY

## Office of the Secretary

[Treasury Department Order No. 190-1; Supplement 1]

## DEPUTY ASSISTANT SECRETARY (TAX LEGISLATION) ET AL.

## Delegation of Authority

Pursuant to the authority vested in the Secretary of the Treasury, it is provided that in the absence of the Assistant Secretary (Tax Policy) or in the event of a vacancy in that office, the below-named officials shall, in the following order of succession, perform all of the functions the Assistant Sec-

retary (Tax Policy) is authorized to perform:

Deputy Assistant Secretary (Tax Legislation)  
Deputy Assistant Secretary (Tax Analysis)  
Tax Legislative Counsel

Dated: January 5, 1978.

W. MICHAEL BLUMENTHAL,  
Secretary of the Treasury.

[FR Doc. 78-1994 Filed 1-23-78; 8:45 am]

## [4810-40]

[Supplement to Department Circular Public Debt Series—No. 1-78]

## SERIES K-1980

## Treasury Notes

JANUARY 19, 1978.

The Secretary of the Treasury announced on January 18, 1978, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 1-78, dated January 13, 1978, will be 7 1/2 percent per annum. Accordingly, the notes are hereby redesignated 7 1/2 percent Treasury Notes of Series K-1980. Interest on the notes will be payable at the rate of 7 1/2 percent per annum.

PAUL H. TAYLOR,  
Acting Fiscal Assistant Secretary.  
[FR Doc. 78-1991 Filed 1-24-78; 8:45 am]

## [7035-01]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 573]

## ASSIGNMENT OF HEARINGS

JANUARY 19, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. 36500, *Burt M. Gifford, et al. v. Ringsby Truck Lines, Inc.*, and No. 36613, *Bob E. Courtney, et al. v. Ringsby Truck Lines, Inc.*, now assigned April 5, 1978 (3 days), at Boise, Idaho in a hearing room to be later designated.  
MC 95876 Sub 204, *Anderson Trucking Service, Inc.*, now assigned April 10, 1978 (2 weeks), at Seattle, Wash., in a hearing room to be later designated.  
MC 138104 Sub 49, *Moore Transportation Co., Inc.*, now assigned February 22, 1978



at Dallas, Tex., will be held in Tax Court Room 330, U.S. Post Office and Court-house, Bryan and Ervay Streets.

MC 135797 Sub 76, J. B. Hunt Transport, Inc., now assigned February 23, 1978 at Dallas, Tex., will be held in Tax Court Room 330, U.S. Post Office and Court-house, Bryan and Ervay Streets.

MC 83835 Sub 145, Wales Transportation, Inc., now assigned February 24, 1978 at Dallas, Tex., will be held at Tax Court Room 330, U.S. Post Office and Court-house, Bryan and Ervay Streets.

AB-12 Sub 20, Southern Pacific Transportation Co.—Abandonment of its line of railroad—in Victoria, Goliad, Bee, San Patricio, Jim Wells, Brooks, and Hidalgo Counties, Tex.; FD-28024, Southern Pacific Transportation Co.—Trackage rights—Over Missouri Pacific Railroad Co. between Harlingen and Pecos, in Cameron and Victoria counties, Tex.; and FD-28078, Southern Pacific Transportation Co.—Construction and operation between lines of Missouri Pacific Railroad Co. and the Texas Mexican Railway Co. at Robstown, Nueces County, Tex., now assigned February 27, 1978 at Alice, Tex., will be held at the County Courthouse, District Court Room, 200 North Almond.

MC 109533 Sub 88, Overnite Transportation Co. now being assigned April 11, 1978 (9 days) at Salisbury, Md. in a hearing room to be later designated.

MC 1515 Sub 222, Greyhound Lines, Inc., now assigned February 6, 1978 at Atlantic City, N.J., will be held at the Howard Johnson's Motor Lodge, Pacific and Arkansas Avenues; and February 13, 1978, at New York, N.Y., will be held in the Americana Hotel, 7th Avenue and 52nd Street. Atlantic City hearing will begin at 1 p.m.

AB 16, San Diego & Arizona Eastern Railway Co. Abandonment in San Diego and Imperial Counties, Calif. now being assigned April 4, 1978 (14 days) at San Diego, Calif. in a hearing room to be later designated.

MC 140908 Sub 4, Commercial & Package Delivery Service, Inc. now assigned January 23, 1978 at Charlotte, N.C. is cancelled, application dismissed.

MC 78400 Sub 53, Beaufort Transfer Co., now assigned February 13, 1978 at Jefferson City, Mo., will be held in District Court Room, U.S. District Court, Western District of Missouri, Central Division.

MC 14337, Hannifan Body & Paint Co., Inc., now assigned March 1, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 123407 Sub 375, Sawyer Transport, Inc., now assigned February 28, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 119741 Sub 77, Green Field Transport Co., Inc., now assigned February 22, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 111710 Sub 9, Arkansas Transit Co., Inc., now assigned February 23, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2008 Filed 1-23-78; 8:45 am]

# [7035-01]

[Drought Order No. 71 (Sub-No. 5)]

## DROUGHT AREAS: NORTH CAROLINA

### Rail Transportation of Hay

Drought conditions exist in certain portions of the State of North Carolina. The Secretary of the United States Department of Agriculture has requested the Commission to enter an order under Section 22 of the Interstate Commerce Act authorizing railroads to transport hay to the disaster area at reduced rates.

It is ordered: Carriers by railroad participating in transportation of hay to the counties of:

Alamance, Alexander, Anson, Bladen, Burke, Cabarrus, Caldwell, Caswell, Catawba, Chatham, Cleveland, Columbus, Davidson, Davie, Durham, Edgecombe, Forsyth, Franklin, Gaston, Granville, Guilford, Harnett, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Nash, Orange, Person, Polk, Randolph, Rockingham, Richmond, Rowan, Rutherford, Stanly, Stokes, Surry, Union, Vance, Wake, Warren, Wayne, Wilkes, Wilson, and Yadkin

all located in the State of North Carolina are authorized under Section 22 of the Interstate Commerce Act to establish and maintain until May 1, 1978, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in Section 6 of the Interstate Commerce Act except that they may be effective upon-not less than one day's notice to the Commission and the public.

The class of persons entitled to reduced rates is defined as persons designated as being in distress and in need of relief by the United States Department of Agriculture or by State agents or agencies as may be designated by the United States Department of Agriculture to assist in relieving the distress caused by the drought.

During the period in which any reduced rates authorized by this order are effective the carriers may notwithstanding the provisions of Section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of the order. Any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

The use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relationship to the invoice value of the property at time of shipment, shall be in the same percentage relation which the re-

duced rates bear to the rates which otherwise would apply.

Tariffs containing released rates filed under authority of this order shall show in connection with the rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the reduced rates. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 71 (Sub No. 5).

Notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the director, Office of Federal Register; the Governor of North Carolina and that copies be mailed to the Chairman of the Traffic Executive Association-Eastern Railroads, New York, N.Y.; the Chairman of the Southern Freight Association, Atlanta, Ga.; the chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Ill.; the Vice President and Director, Economics and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroads Association, Washington, D.C.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Decided January 17, 1978.

By the Commission, Vice Chairman Christian.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2014 Filed 1-23-78; 8:45 am]

# [7035-01]

[General Temporary Order No. 11, Section 210(a); Ex Parte No. MC-64]

## EMERGENCY NEED FOR TRANSPORTATION SERVICE

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D.C., on December 16, 1977.

The Interstate Commerce Commission has considered the occasional emergency need for transportation service which can arise during those times when Commission employees are not available to grant authority applications. Such times would be weekends, holidays, and after business hours. Situations have been brought to our attention in which the unavail-

ability of field staff to meet these situations has caused serious hardship to shippers, and have caused danger to life and property.

Accordingly, the Commission is establishing with the effective date of this General Temporary Order new procedures which will allow for the granting of short term emergency temporary authority applications at the times mentioned above. These applications will be granted only under the following conditions, which can be summarized as involving situations in which life and property are in imminent danger.

(A) Transportation of firefighting material and supplies;

(B) Transportation of material and supplies needed to combat oil spills; and

(C) The transportation of material and supplies needed to deal with emergency situations caused by floods, earthquakes, or other natural disasters.

All other emergency temporary authority applications will be handled under procedures presently in effect. The following officials of the Commission are designated as authorized to grant applications of the type described above for a period not to exceed ten days.

### Name, Residence, and Home phone number

Arthur E. Bacon, Boston, Mass., 617-275-8696.

Daniel B. Lorusso, New York, N.Y., 914-738-4841.

Anthony W. Bummara, Philadelphia, Pa., 609-227-2793.

H. Forrest White, Philadelphia, Pa., 215-548-1421.

Jack K. Huff, Atlanta, Ga., 404-351-5301.

Bruce R. Reichelderfer, Atlanta, Ga., 404-992-9416.

Robert W. Waldron, Chicago, Ill., 312-392-3150.

James H. Berry, Fort Worth, Tex., 817-926-3385.

Haldon G. West, Fort Worth, Tex., 817-294-0965.

John L. Nancé, San Francisco, Calif., 415-489-8830.

Joseph F. Kucera, San Francisco, Calif., 415-755-7790.

Philip Yallowitz, Los Angeles, Calif., 213-347-3037.

Applicants seeking authority for transportation of commodities falling under any of the provisions listed above may make contact with any of the designated ICC officials.

Those applicants who do not presently hold authority from the Commission must supply evidence of their insurance coverage to the ICC official contacted. This evidence will consist of the name of their insurance company, their policy number, the type of insurance, and the limits of the policy.

After authority has been granted under these procedures, the applicant must supply the ICC field office having administrative supervision over

his operations with a letter containing the following information:

(1) A brief description of the authority granted, and the reasons for the emergency need.

(2) The name of the ICC official contacted.

(3) The date authority was granted.

(4) The rates charged for the transportation, together with a statement that these rates are no lower than comparable carrier rates now in effect.

(5) If no previous ICC authority is held, evidence of insurance coverage.

The Commission wishes to emphasize that the procedures outlined in this order are only to be used in "life and death" situations. The Commission believes that present procedures for handling emergency temporary authority applications are sufficiently flexible to meet all other emergency needs for transportation service. The Commission will closely monitor the use made of the procedures established in this order. Evidence of abuse of those procedures, or evidence that applicants are seeking authority for situations other than those specifically mentioned will constitute grounds for revocation of this order.

It is ordered that the provisions of General Temporary Order 11 shall become effective on February 1, 1978, and that they shall remain in effect until cancelled by further order of the Commission.

By the Commission, Division 1, Commissioners Stafford, Gresham and Christian.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2009 Filed 1-23-78; 8:45 am]

# [7035-01]

[Notice No. 5TA]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority under section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information. Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

### MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 355TA), filed December 20, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77921. Applicant's representative: Wray E. Hughes (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid animal feed supplements, in bulk, in tank vehicles, restricted against the transportation of corn syrup and liquid sugar, from Westwego, La., to points in Texas, except Waco, Nacogdoches and Center, Tex. for 180 days. Supporting shipper: Abbott Laboratories, 14 and Sheridan Road, North Chicago, Ill. 60064. Send protests to: District Supervisor, John F. Mensing, 8610 Federal Building, 515 Rusk Avenue, Houston, Tex. 77002.

No. MC 15735 (Sub-No. 28TA), filed December 22, 1977. Applicant: ALLIED VAN LINES, INC., 25th Avenue & Roosevelt Road, Broadview, Ill. 60153. Applicant's representative: Terry G. Fewell, P.O. Box 4403, Chicago, Ill. 60680. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Organs and organ benches, from Chicago and Romeoville, Ill., to all points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Lowrey Electronics Co., Lloyd E. Gomez, vice president, 4400 W. 45th Street, Chicago, Ill. 60632. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 19193 (Sub-No. 13TA), filed December 22, 1977. Applicant: LAFERTY TRUCKING CO., 3703 Beale Avenue, Altoona, Pa. 16601. Applicant's representative: S. Berne Smith, 100 Pine Street, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to



## NOTICES

operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, between the facilities of the Great Atlantic & Pacific Tea Company, Inc., in Altoona, Pa., on the one hand, and, on the other, points in the counties of Ashtabula, Columbiana, Cuyahoga, Geauga, Huron, Lake, Lorain, Mahoning, Ottawa, Portage, Sandusky, Summit, Stark, Erie, and Trumbull, Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the Great Atlantic & Pacific Tea Company, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Great Atlantic & Pacific Tea Company, Inc., Two Paragon Drive, Montvale, N.J. 07645. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 28060 (Sub-No. 38TA), filed December 23, 1977. Applicant: WILLER'S INC., d.b.a. WILLERS TRUCK SERVICE, P.O. Box 944, 1400 North Cliff Avenue, Sioux Falls, S. Dak. 57104. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing plants* (except hides and commodities in bulk), from plantsite of Geo. A. Hormel & Co., at Huron, S. Dak., to Fremont, Nebr., and Cedar Rapids, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Mark E. Matthews, Supervisor, Motor Carrier Services. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 47583 (Sub-No. 57TA), filed December 19, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from the plantsites and storage facilities of Kal Kan Foods, Inc., located at or near Hutchinson and Wichita, Kans., to all points and places in the states of Delaware, Maine, Michigan, New Hampshire, Rhode Island, Vermont, West Virginia, and Washington, D.C., for 180 days. Applicant has also filed an

underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, Calif. 90058. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 50069 (Sub-No. 529TA), filed December 19, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: William P. Fromm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, Ky., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, Virginia, and West Virginia, for 180 days. Supporting shipper: Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit St., Toledo, Ohio 43604.

No. MC 67227 (Sub-No. 2TA), filed December 23, 1977. Applicant: B & H TRUCKING CO., INC., 1414 Ferry Avenue, Camden, N.J. 08104. Applicant's representative: Carl C. Snyder (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in shipper owned tank vehicles, from Delaware City, Del., to Camden, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peter Cooper Corp., Palmer Street, Gowanda, N.Y. 14070. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 69116 (Sub-No. 197TA), filed December 23, 1977. Applicant: SPECTOR FREIGHT SYSTEM, INC., 1050 Kingerty Highway, Bensenville, Ill. 60106. Applicant's representative: Edward G. Bazelon, 39 S. La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic Pipe and fittings and cast iron and fittings*, from Bakers and Charlotte, N.C., to the Lower Peninsula of Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Charlotte Pipe and Foundry Co., Alan Biggers, manager-sales service and traffic, 2109 Randolph Road, Charlotte, N.C. 28203. Send protests to: Transportation Assistant, Patricia A. Roscoe, Interstate Commerce Com-

mission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 83539 (Sub-No. 474TA), filed December 19, 1977. Applicant: C & H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James, P.O. Box 5976, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Activated carbon*, in bags, from Marshall, Tex., to Durita mine site, Naturita, Colo., and Highland uranium mine site, Douglas, Wyo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: ICI Americas, Inc., Wilmington, Del. 19897. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 102567 (Sub-No. 205TA), filed December 22, 1977. Applicant: MCNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Joe C. Day, 2040 North Loop West, Suite 208, Houston, Tex. 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sulfuric acid*, in bulk, in tank vehicles, from Baton Rouge, La., to Norphlet, Ark., and (2) *acid sludge*, in bulk, in tank vehicles, from Norphlet, Ark., to Baton Rouge, La., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MacMillan Ring-Free Oil Co., Inc., P.O. Box 1623, El Dorado, Ark. 71730. Send protests to: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, T-9038 U.S. Postal Building, 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 106674 (Sub-No. 276TA), filed December 23, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 46977. Applicant's representative: Linda J. Sundry (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, in bulk, from the plantsite of Agrico Chemical Co. at Melbourne, Ky., to points in Illinois, Indiana, Kentucky, Ohio, Virginia, West Virginia, and Michigan. Restricted to the transportation of traffic originating at the above named plantsite, for 180 days. Supporting shipper: Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 113651 (Sub-No. 253TA), filed January 4, 1978. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, Ind., 47305. Applicant's representative: George E. Batty, P.O. Box 552, Muncie, Ind. 47305. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from the plantsite and warehouse facilities of Honey Beef House located at or near Mentone, Ind. to Bloomville and New York, N.Y. Restriction: Restricted to the transportation of traffic originating at the above named origins and destined to the named destinations, for 180 days. Supporting shipper: Honey Beef House, Box 57, Mentone, Ind. 46539. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 114989 (Sub-No. 20TA), filed December 22, 1977. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Highway 41-A North, Hopkinsville, Ky. 42240. Applicant's representative: Richard D. Gleaves, 631 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk cartons*, from Sikeston, Mo., and its commercial zone, to Hopkinsville, Ky., and its commercial zone, for the account of Model Pure Milk Co., and to Nashville, Tenn., and its commercial zone, for the account of Sealtest Foods, a division of Kraft, Inc., under a continuing contract, or contracts, with respective shippers, with Sealtest foods (Kraft, Inc.) and Model Pure Milk Co., for 180 days. Supporting shipper(s): (1) Mr. James R. Greaving, Distribution Manager, Sealtest Foods (Kraft, Inc.), 1401 Church Street, Nashville, Tenn. 37203. (2) Mr. Bobby Wall, Manager Procurement and Transportation, Model Pure Milk Co., Clay Street (12th and 13th) Hopkinsville, Ky. 42240. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 P.O. Building, Louisville, Ky. 40202.

No. MC 115904 (Sub-No. 90TA), filed December 22, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard*, from

Albuquerque, N. Mex., to points in Oregon, Washington, Nevada, Montana, Utah, Wyoming, Minnesota, South Dakota, and North Dakota, for 180 days. Applicant does not intend to tack or interline authority. Supporting shipper(s): Ace Wallboard Ltd., 116 Hanson, Iona, Idaho 83427. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, Idaho 83706.

No. MC 117119 (Sub-No. 663TA), filed December 20, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, and related materials and supplies* used in the manufacture therein (except commodities in bulk), between Siloam Springs, Ark., and Denver, Colo., restricted to traffic originating at and destined to the plantsites and facilities utilized by Gates Rubber Co. at the named points, for 180 days. Supporting shipper(s): Gates Rubber Co., 999 South Broadway, Denver, Colo. 80217. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 664TA), filed January 5, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail discount, department or variety stores* (except commodities in bulk), from points in Connecticut, Massachusetts, New Jersey, Rhode Island, New Hampshire, points in New York on and east of U.S. Highway 15, points in Pennsylvania on and east of U.S. Highway 15, and Wilmington, Del. to the facilities of Wal-Mart Stores, Inc. at Bentonville and Searcy, Ark., for 180 days. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, Ark. 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117119 (Sub-No. 665TA), filed January 4, 1978. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail discount, department, or variety*

stores (except commodities in bulk), from Charlotte, N.C. to the warehouse facilities of Wal-Mart Stores, Inc. at Searcy, Ark., for 180 days. Supporting shipper: Wal-Mart Stores, Inc., P.O. Box 116, Bentonville, Ark. 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117686 (Sub-No. 198TA), filed December 22, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, articles distributed by meat packing plants, and foodstuffs* (except hides and commodities in bulk), from the facilities of Geo. A. Hormel at Fort Dodge, Iowa, and Austin, Minn., to points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mark E. Matthews, Supervisor, Motor Carrier Services, Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 117786 (Sub-No. 4TA), filed December 23, 1977. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, Ariz. 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard or fiberboard*, from Chicago, Ill., to Phoenix, Ariz., from Natick, Mass., to Phoenix, Ariz., from Goshen, Calif., to Phoenix, Ariz., such merchandise as dealt in by mail-order houses, from St. Louis, Mo., to Phoenix, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: AMBA Marketing Systems, Inc., and Divisions thereof, 711 West Broadway, Tempe, Ariz. 85262; James E. Regalia. Send protests to: Andrew V. Baylor, District Supervisor, Room 2020 Federal Building, 230 North 1st Avenue, Phoenix, Ariz. 85025.

No. MC 117786 (Sub-No. 5TA), filed December 23, 1977. Applicant: FILEY WHITTLE, INC., P.O. Box 19038, Phoenix, Ariz. 85009. Applicant's representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle,



over irregular routes, transporting: *Alcoholic beverages*, from points in Illinois, Ohio, Kentucky, Indiana, and California, to Phoenix, Tucson, and Flagstaff, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Odom Corp., doing business as Arizona Distributing Co.—Division, 2929 Grand Avenue, Phoenix, Ariz. 85017; Jack Braddock, Vice President. Send protests to: Andrew V. Baylor, District Supervisor, Room 202 Federal Building, 230 North 1st Avenue, Phoenix, Ariz., 85025.

No. MC 118811 (Sub-No. 10TA), filed December 15, 1977. Applicant: LAWRENCE MCKENZIE, d.b.a. MCKENZIE TRUCKING SERVICE, Route 5, Box 111, Winchester, Ky. 40391. Applicant's representative: William L. Willis, 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, in dump vehicles, (1) between points and places in Gallia and Jackson Counties, Ohio, on the one hand, and, on the other, the plantsites of Kentucky Electric Steel Co., at or near Ashland, Ky., and Mansbach Metal Co., at or near Ashland, Ky.; (2) from Ironton, Ohio, to the plantsite of Kentucky Electric Steel Co. located at or near Ashland, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Warren R. Bocard, Traffic Manager, Mansbach Metal Co., Kentucky Electric Steel Co., P.O. Box 1179, Ashland, Ky. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 P.O. Building, Louisville, Ky. 40202.

No. MC 119555 (Sub-No. 20TA), filed December 23, 1977. Applicant: OIL AND INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, 640 12th Avenue SW., Calgary, Alberta, Canada T2P 2P9. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood preservative* (K33, Class B Poison), in bulk, in tank vehicles, from Memphis, Tenn., to the port of entry on the United States-Canada international boundary line at or near Pigeon River, Minn., restricted to traffic moving in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): P. S. Farrow, Assistant Plant Superintendent, Northern Wood Preservers, Ltd., P.O. Box 2900, Thunder Bay, Ontario, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

mission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 119726 (Sub-No. 113TA), filed December 20, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beatty, 130 East Washington Street, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, corrugated boxes (knocked down), caps and covers, tops*, from the plant and warehouse facilities of Kerr Glass Manufacturing Corp. at or near Dunkirk, Ind., to St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kerr Glass Manufacturing Corp., Sand Springs, Okla. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 120737 (Sub-No. 48TA), filed December 15, 1977. Applicant: STAR DELIVERY & TRANSFER, INC., South Fourth Avenue, P.O. Box 39, Canton, Ill. 61520. Applicant's representative: Charles E. Long (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements*, and (2) *parts and attachments* for agricultural machinery and implements, from Colchester, Ill., to points in Alabama, Arkansas, Georgia, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin, for 180 days. Supporting shipper: Bernard Whalen, General Manager, Yetter Manufacturing Co., Colchester, Ill. 62326. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Ill. 62701.

No. MC 121066 (Sub-No. 5TA), filed December 19, 1977. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 821, Scottsbluff, Nebr. 69381. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from Scottsbluff, Nebr., to Owatonna and Austin, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mark E. Matthews, Supervisor—Motor Carrier Services, Geo. A. Hormel, P.O. Box 800, Austin, Minn. 55912. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 123407 (Sub-No. 422TA), filed December 22, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard*, from Grants, N. Mex., to Carver County, Minn., for 180 days. Supporting shipper: Harlan O. Baumann, P.O. Box 1927, Grants, N. Mex. 87020. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 123972 (Sub-No. 15TA), filed November 23, 1977. Applicant: LEO J. UMERLEY, INC., 9813 Philadelphia Road, Baltimore, Md. 21237. Applicant's representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in packages, from White Marsh, Md., to points and places in North Carolina, under a continuing contract, or contracts, with Watkins Salt Co., Watkins Glen, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Larry P. Girven, GTM, Watkins Salt Co., P.O. Box 150, Watkins Glen, N.Y. 14891. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 126736 (Sub-No. 102TA), filed December 20, 1977. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel mill slue dust* in pneumatic hopper, or covered dump vehicles, in bulk, from Duval County, Fla., to points in Georgia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Plant-Roberts Chemicals, P.O. Box 2112, Huntsville, Ala. 35804. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 129631 (Sub-No. 59TA), filed December 20, 1977. Applicant: PACK TRANSPORT, INC., a Utah Corporation, 3975 South 300 West Street, Salt Lake City, Utah 84107. Applicant's representative: G. D. Davidson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane foam boards*, from North Salt Lake (Davis County), Utah, to Oregon and Washington, for 180 days. Supporting shipper: Apache Foam Products Co., 20 East Union Avenue, North Salt Lake, Utah 84054 (Henry F. Hekker, plant manager). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

Applicant: OVERLAND EXPRESS, INC., 715 First Street, SW., New

Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 128404 (Sub-No. 9TA), filed December 29, 1977. Applicant: BLACKWOOD CRANE & TRUCK SERVICE, INC., P.O. Box 3037, Knoxville, Tenn. 37917. Applicant's representative: Wayne R. Whaley, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Signs, sign parts, sign poles and accessories therefor*, from Knoxville, Tenn., to points in the United States, except Alaska and Hawaii, and return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A & E Plasti-Line, Box 5066, Knoxville, Tenn. 37918. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 134017 (Sub-No. 6TA), filed December 23, 1977. Applicant: R. M.

Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority requested is to operate as a *common carrier*, over irregular routes, in the transportation of: 1. *Meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses*, as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co. at Sioux Falls, South Dakota to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, and 2. *meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk), from the plantsite and storage facilities of John Morrell & Co. at Estherville, Iowa to points in Connecticut, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Virginia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, Ill. 60604. Send protests to: Marion L. Cheney, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 U.S. Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 133966 (Sub-No. 51TA), filed December 19, 1977. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cellular or expanded plastic sheet*, from Piscataway, N.J., to points in the state of Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Minnesota, Delaware, Maryland, Kentucky, New York, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Paramount Industries, Inc. 1715 South Second Street, Piscataway, N.J. 08852. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. P.O. Building, Scranton, Pa. 18503.

No. MC 134017 (Sub-No. 6TA), filed December 23, 1977. Applicant: R. M.

HENDERSON, d.b.a. H & M MOTOR LINES, 500 Pine Knoll Drive, P.O. Box 3585, Greenville, S.C. 29608. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and packinghouse products* (except in bulk), from points in Illinois, Iowa, Minnesota, and Nebraska to Jacksonville, Fla.; New Orleans, La.; Miami, Fla.; Savannah, Ga.; Charleston, S.C.; Norfolk, Va.; Baltimore, Md.; New York, N.Y.; Seattle, Wash.; Los Angeles and San Francisco, Calif.; Gulfport, Miss.; and their respective commercial zones, under a continuing contract, or contracts, with AJC International, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: AJC International, Inc., 6064 Roswell Road NE., Atlanta, Ga. 30328. Send protests to: E. E. Strotheld, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 134282 (Sub-No. 18TA), filed December 23, 1977. Applicant: ENNIS TRANSPORTATION CO., INC., P.O. Drawer 776, Ennis, Tex. 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds and accessories*. Restricted against the transportation of said commodities in bulk. From the plantsite of Elk Corp., Stephens, Ark., and the storage facilities of Elk Corporation located at East Camden, Ark., to points in Texas, Louisiana and Mississippi, for 180 days. Supporting shipper: Elk Corp., P.O. Box 37, Stephens, Ark. 71764. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 135082 (Sub-No. 62TA), filed December 22, 1977. Applicant: BURSCH TRUCKING, INC., d.b.a. ROADRUNNER TRUCKING, INC., Box 26748, 415 Rankin Road, Albuquerque, N. Mex. 87125. Applicant's representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and insulation material*, from the plantsite of Southwest Distributing Company, Mesa, Ariz., to the states of California, Colorado, Idaho, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Wash., for 180 days.



Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Southwest Distributing Co., 539 South Drew, Mesa, Ariz. 85201. Send protests to: D. W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 135082 (Sub-No. 63TA), filed December 23, 1977. Applicant: BURSCH TRUCKING, INC., d.b.a. ROADRUNNER TRUCKING, INC., Box 26748, 415 Rankin Road, Albuquerque, N. Mex. 87125. Applicant's representative: Randall R. Sain (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Brick & tile*, from Shawnee, Okla., to El Paso, Tex., from El Paso, Tex., to Albuquerque, N. Mex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kelley Brick and Tile Co., 624-C Comanche NE., Albuquerque, N. Mex. 87107. Send protests to: D. W. Hammons, District Supervisor, Interstate Commerce Commission, 1106 Federal Office Building, 51 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 135795 (Sub-No. 91TA), filed December 14, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stoves or fireplaces, chimney assemblies and spark arresters, ceramic hearths and other equipment and supplies* used in the installation or use thereof, in containers or on pallets, from the plantsite of Chinook Fire-place Co., Santa Cruz, Calif., to points in Arkansas, Colorado, Kansas, Missouri, and Oklahoma, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: L. D. Sales, Inc., 120 Range Rd., Rogers, Ark. 72756. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 136343 (Sub-No. 123TA), filed December 20, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, R.D. No. 1, Milton, Pa. 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N. J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *paper and plastic bags*, from Florence, Ky., to Long Island City, N.Y., Secaucus, N.J., Pennsauken, N.J., Philadelphia, Pa.; Leominster, Mass.;

Chelsea, Mass.; Baltimore, Md.; Washington, D.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Equitable Bag Co., Inc., 45-50 Van Dam Street, Long Island City, N.Y. 11101. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Federal Square Station, Harrisburg, Pa. 17108.

No. MC 136376 (Sub-No. 9TA), filed December 27, 1977. Applicant: MONT R. LYNCH, doing business as LYNCH TRUCKING, P.O. Box 712, Billings, Mont. 59103. Applicant's representative: G. Todd Baugh, Suite 805, Midland Bank Bldg., Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting*, from points in Georgia to points in Montana, for 180 days. Supporting shippers: There are approximately 9 statements of support attached to the application which may be examined at the field office named below. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 136595 (Sub-No. 9TA), filed December 28, 1977. Applicant: EASTSIDE ENTERPRISES, INC., d.b.a. EASTSIDE MOBILE HOME TRANSPORTING, INC., 1440 South "A" Street, Springfield, Ore. 97477. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave, Portland, Ore. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated modulars, in sections*, without fixed undercarriage, from the plantsite of Boise Cascade Corp. located at or near Port Falls, Idaho to points in Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Boise Cascade Corp., P.O. Box 7747, Boise, Idaho 83707. Send protests to: District Supervisor, A. E. Odums, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Ore. 97204.

No. MC 138258 (Sub-No. 8TA), filed December 29, 1977. Applicant: INTERIOR TRANSPORT, INC., North 2128 Waterworks Way, Spokane, Wash. 99220. Applicant's representative: George H. Hart, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Irrigation pipe, irrigation systems, and equipment, materials and supplies* used in the manufacture and installation of irrigation systems, from Eugene, Ore.; Pasco, Moses Lake, and Toppenish, Wash., to points in Arizona, Califor-

nia, Colorado, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, and Washington, for 180 days. Supporting shipper: Western Irrigation & Manufacturing, Inc., P.O. Box 2345, Eugene, Ore. 97402. Send protests to: Hugh H. Chaffee, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 138359 (Sub-No. 9TA), filed December 22, 1977. Applicant: LEN-NEMAN TRANSPORT, INC., 10 North Michigan Street, Hutchinson, Minn. 55350. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk), from LaCrosse and Milwaukee, Wis., to Jamestown, N. Dak., under a continuing contract or contracts with J. T. Beverage, Inc., for 180 days. Supporting shipper(s): J. T. Beverage, Inc., 970 2nd Street SE., Jamestown, N. Dak. 58401. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 138469 (Sub-No. 55TA), filed January 4, 1977. Applicant: DONCO CARRIERS, INC. P.O. Box 75354, 641 North Meridian, Oklahoma City, Okla. 73107. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, to transport: *Meats, meat products, meat by-products, dairy products and articles distributed by meat packing houses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by John Morrell & Co. at or near Estherville, Iowa, and Sioux Falls, South Dakota to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at the named origins and destined to the named destination states for 180 days. Supporting shipper: John Morrell & Co., 208 South LaSalle Street, Chicago, Ill. 60604. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Bldg., 215 NW. 3rd, Oklahoma City, Okla. 73102.

No. MC 138512 (Sub-No. 24TA), filed December 19, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box

477, Cudahy, Wis. 53110. Applicant's representative: Allan J. Morrison (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products and equipment, materials and supplies* used in the manufacture of cheese and cheese products (except commodities in bulk), from points in Wisconsin to points in Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., P.O. Box 610, Green Bay, Wis. 54305 (Robert Buchberger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 138512 (Sub-No. 25TA), filed December 21, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 477, Cudahy, Wis. 53110. Applicant's representative: Allan J. Morrison (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese products and equipment, materials and supplies* used in the manufacture of cheese and cheese products (except commodities in bulk), from points in Wisconsin to Arizona, California, and Montana, under a continuing contract, or contracts, with L. D. Schreiber Cheese Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. D. Schreiber, Cheese Co., Inc., P.O. Box 610, Green Bay, Wis. 54305 (Robert Buchberger). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 138875 (Sub-No. 69TA), filed December 23, 1977. Applicant: SHOE-MAKER TRUCKING CO., 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wooden beams and wood and steel trusses*, from Eugene and Hillsboro, Ore., to points in Washington east of U.S. Highway 97, points in Idaho north of Idaho County, and points in Montana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Trus

Joist Corp., 110 West 31st, Boise, Idaho 83706. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, Idaho 83706.

No. MC 138900 (Sub-No. 5TA), filed December 15, 1977. Applicant: REID J. CAVANAUGH, R.D. No. 1, Box 27, Connellsville, Pa. 15425. Applicant's representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feed and animal feed, livestock and animal feed ingredients, animal health products and animal health aid products*, from Kingwood and Reedsville, W. Va., to points in Cambria, Fayette, Somerset, and Westmoreland Counties, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Mills, Inc., P.O. Box 599, Worthington Station, Worthington, Ohio 43085. Send protests to: Joseph A. Niggemeyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 139495 (Sub-No. 297TA), filed December 19, 1977. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, 1501 East 8th Street, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drug, industrial, and scientific chemicals and related laboratory instruments and kits* (except commodities in bulk), from the facilities of Mallinkrodt, Inc., located at or near Paris, Ky., to points in Texas and Louisiana, for 180 days. Supporting shipper: Mallinckrodt, Inc., 675 Brown Road, P.O. Box 5840, St. Louis, Mo. 63134. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101A Litwin Building, Wichita, Kans. 67202.

No. MC 139526 (Sub-No. 4TA), filed December 22, 1977. Applicant: HARRY LINDBERY CO., INC., 6901 Maloney Avenue, Hopkins, Minn. 55343. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pipe, fittings and accessories*, between Osseo, Minn., on the one hand, and, on the other, points in Illinois (except points in the Chicago Commercial Zone), Iowa, Kansas, Michigan, Nebraska, South Dakota, and Wisconsin, restricted to traffic moving

on vehicles equipped with booms for loading and unloading, for 180 days. Supporting shipper(s): (1) T. J. Hopkins, Inc., 13842 189th Avenue NW., Elk River, Minn. 55330. (2) North Star Pipe & Supply Co., 3700 Williston Road, Minnetonka, Minn. 55343. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, 414 Federal Building and U.S. Courthouse, Bureau of Operations, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 139579 (Sub-No. 7TA), filed December 22, 1977. Applicant: GEORGE H. GOLDING, INC., 5879 Marion Drive, Lockport, N.Y. 14094. Applicant's representative: Raymond A. Richards/S. Michael Richards, P.O. Box 225, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Resins and pine oil*, in containers, from Pensacola, Tallahassee, and Tampa, Fla., to points in Erie and Niagara Counties, N.Y., under a continuing contract or contracts with Meyers Chemicals Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Meyers Chemicals, Inc., 4245 Union Road, Buffalo, N.Y. 14225. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 140986 (Sub-No. 4TA), filed December 19, 1977. Applicant: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, except in bulk, and materials and supplies used in the sale and distribution thereof on return, from Butler, N.J., to points in the United States, under a continuing contract or contracts with Cozy Coal Co., Inc., for 180 days. Supporting shipper: Cozy Coal Co., Inc., 2606 Middle Country Road, Center Reach, N.Y. 11720. Send protests to: Joel Morrows, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 141804 (Sub-No. 99TA), filed December 20, 1977. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and furniture parts*, from the facilities of Silver Manufac-



turing, Inc., at or near Knoxville, Tenn., to points in Washington, Montana, Idaho, Oregon, California, Nevada, New Mexico, Utah, and Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Silver Manufacturing, Inc., P.O. Box 2748, 2742 Hancock, Knoxville, Tenn. 37091. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 141921 (Sub-No. 9TA), filed December 21, 1977. Applicant: SAVON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03101. Applicant's representative: Jack N. Sarkisian (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides, skins and commodities in bulk), from Bedford, N.H., and Manchester, N.H., to points in Connecticut, Florida, Maine, Massachusetts, New York, Pennsylvania, Rhode Island, South Carolina, and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. M. Mades Co., Inc., P.O. Box 4997, Manchester, N.H. 03105. Send protests to: Ross J. Seymour, District Supervisor, Interstate Commerce Commission, 6 Loudon Street, Concord, N.H. 03301.

No. MC 141921 (Sub-No. 10TA), filed December 21, 1977. Applicant: SAVON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03101. Applicant's representative: Jack Sarkisian (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen or frozen and prepared fish and seafoods* (otherwise exempt from regulation), when moving in mixed shipments with frozen onion rings or frozen bakery products, frozen onion rings and frozen bakery products, from the plantsite and warehouse facilities of Boston Bonnie, Inc., in Boston, Mass., to points in Alabama, Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Boston Bonnie,

Inc., One Trilling Way, Boston, Mass. 02210. Send protests to: Ross J. Seymour, District Supervisor, Interstate Commerce Commission, 6 Loudon Street, Concord, N.H. 03301.

No. MC 142177 (Sub-No. 6TA) (correction), filed November 30, 1977, published in the FEDERAL REGISTER issue of December 28, 1977, and republished as corrected this issue. Applicant: B.W.C.S., INC., 14 Park Avenue, Salem, N.H. 03079. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Data processing materials*, between Salem, N.H., on the one hand, and, on the other, points in Massachusetts, restricted against the transportation of any package or article weighing more than 70 pounds or exceeding 108 inches in length and girth combined and each package or article shall be considered as a separate and distinct shipment, and restricted against transportation of packages or articles weighing in the aggregate more than 150 pounds from one consignor at one location to one consignee at one location on any one day, for 180 days. Supporting shipper: Atlantic Associates, Inc., 349 South Broadway, Salem, N.H. 03079, Attn: Howard L. Bowen, president. Send protests to: District Supervisor, Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 425 Federal Building, 55 Pleasant Street, Concord, N.H. 03301. The purpose of this republication is to show the county of Salem, N.H., in lieu of Salem, N.J., which was previously published in error.

No. MC 142704 (Sub-No. 2TA), filed December 23, 1977. Applicant: TRANS-TECH, INC., 516 Cerre Street, St. Louis, Mo. 63102. Applicant's representative: Robert Nelheiser (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Cellulose fibre products, insulating materials, fibred* (Fibromulch) ground cover and borates, from St. Louis, Mo., to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Texas, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, and Wisconsin, under a continuing contract or contracts with Fibron Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fibron Corp., St. Louis Division, 6701 Hall Street, St. Louis, Mo. 63147. Send protests to: District Supervisor, J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 142891 (Sub-No. 2TA), filed December 22, 1977. Applicant: A & H, INC., P.O. Box 346, Footville, Wis. 53537. Applicant's representative: Charles W. Belnhauer, One World Trade Center, Suite 4959, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cheese*, in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Sargento Cheese Co., Inc., at or near Plymouth, Wis., to points in the states of Virginia, Maryland, Pennsylvania, District of Columbia, Delaware, New Jersey, New York, Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont, and Maine, restricted to traffic originating at the above named origin and destined to points in the named states, for 180 days. Supporting shipper: Sargento Cheese Co., Inc., P.O. Box 360, Highway C, Industrial Park, Plymouth, Wis. 53073. Send protests to: Ronald A. Morken, District Supervisor, 139 West Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 142909 (Sub-No. 2TA), December 20, 1977. Applicant: TIMBER TRUCKING, INC., 4235 South 300 West, Salt Lake City, Utah 84107. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products, (including mineral mixtures)*, (a) from Little Mountain, Utah, to Oregon, Washington, Idaho and Montana, and (b) from Saltair, Utah, to Idaho and Montana; (2) *mineral mixtures*, from Saltair, Utah, to Oregon and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Leslie Salt Co., 866 West 2600 South, Salt Lake City, Utah. (James S. Blaine, regional manager.) Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 12964 (Sub-No. 3TA), filed December 16, 1977. Applicant: RONAR TRUCKING, INC., 32 Comanche Road, Gunniston, Colo. 81230. Applicant's representative: William J. Lippman, Suite 330 Steele Park, 50 South Steele, Commerce City, Colo. 80022. Authority sought to operate as a contract carrier, by motor vehicle over irregular routes, transporting: *Frozen beef*, in boxes, from the points of New York, N.Y., Philadelphia, Pa.; Wilmington, Del., and New Orleans, La., to points in Pennsylvania, West Virginia, Kentucky, Ohio, Michigan, Indiana, Illinois, Wisconsin, Missouri, Iowa, Minnesota, Kansas, Nebraska,

Colorado, Texas, and Arkansas, under a continuing contract, or contracts, with A. J. Cunningham Packing Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: A. J. Cunningham Packing Corp., 1776 Heritage Drive, Quincy, Mass. 02171. Send protests to: R. L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 143436 (Sub-No. 5TA), filed December 21, 1977. Applicant: CONTROLLED TEMPERATURE TRANSPORT, INC., 9049 Stonegate Road, Indianapolis, Ind. 46227. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, Ind. 46224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the plantsite and storage facilities of Nestle Co. located at or near Columbus, Ohio, to points in Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Nestle Co., 100 Bloomington Road, White Plains, N.Y. 10605. Send protests to: Beverly J. Williams Transportation Assistant, Interstate Commerce Commission, Federal Bldg., U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143797 (Sub-No. 2TA), filed December 27, 1977. Applicant: WALKER'S TRUCK CONTRACTORS, INC., P.O. Box 6173, Ruthledge Pike, Knoxville, Tenn. 37914. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylor's S.C. 29687. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Olivine crushed stone*, in bulk, in dump vehicles, from the plantsite of Northwest Olivine Co. at or near Addie, N.C. to Knoxville, Tenn., for subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Northwest Olivine Co., a wholly owned subsidiary of International Minerals & Chemical Corp., Route 1, Box 471, Sylva, N.C. 28779. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn.

No. MC 143939 (Sub-No. 1TA), filed December 27, 1977. Applicant: GERALD N. EVENSON, INC., 835 First Street SW., P.O. Box 328, Pelican Rapids, Minn. 56572. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a common

carrier, by motor vehicle, over irregular routes, transporting: *Slate, stone and rock*, from the facilities of G & T Fireplace Co., located in Lewis and Clark County, Mont., to the facilities of Picture Rock Co. located in Becker County, Minn., for 180 days. Supporting shipper: G & T Fireplace Co., 3764 Valley Drive, Helena, Mont. 59601. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 268, Federal Building and U.S. Post Office, 657 2nd Avenue North, Fargo, N. Dak. 58102.

No. MC 143957TA, filed November 10, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles M. Williams, Kimball and Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Chemicals acids, solvents, and edible oils* (except in bulk), (A) from (1) the facilities of Hawkins Chemical Co., and Exxon Chemical Corp., at or near Minneapolis, Minn.; (2) the facilities of F. M. C. Corp., at or near Lawrence, Kans.; (3) Chicago, Ill., and points in its commercial zone; (4) the facilities of Olin Chemical Co., at or near Joliet, Ill.; (5) the facilities of Sanford Chemical Co., at or near Elk Grove Village, Ill.; (6) the facilities of Velsicol Chemical Co., and James Barley & Son Co., at or near St. Louis, Mich.; (7) the facilities of BASF Wyandotte Chemical Corp., and Penwalt Corp., at or near Wyandotte, Mich.; (8) the facilities of Ozark-Mahoning Co., at or near Tulsa, Okla.; (9) the facilities of Floridin Co., at or near Berkeley Springs, W. Va., and Quincy, Fla.; (10) the facilities of Ash Grove Chemical Co., at or near Springfield, Mo.; (11) the facilities of Lien Chemical Co., at or near Rapids City, S. Dak.; (12) the facilities of Burriss Chemical Co., at or near Charleston, S.C.; (13) the facilities of Barnebey Cheney, at or near Columbus, Ohio; (14) the facilities of Cities Service Co., at or near Copperhill, Tenn.; (15) the facilities of Ft. Recovery Industries, at or near Ft. Recovery, Ohio; (16) the facilities of Great Lakes Chemical Corp., at or near Lafayette, Ind.; (17) the facilities of Keyes Fiber Co., at or near Hammond, Ind.; (18) the facilities of Marathon, Morco Co., at or near Dickinson, Tex.; (19) the facilities of Mazer Chemical, at or near Gurnee, Ill.; (20) the facilities of Quality Chemical Co., at or near Baltimore, Md.; (21) the facilities of Stauffer Chemical Co., at or near Greenriver, Wyo.; (22) the facilities of West Vaco Chemical Division, at or near Covington, Va.; (23) the facilities of Lowes Inc., at or near Oran, Mo.; (24) the facilities of P. P. G. Industries, at or near Barberton, Ohio

and Natrum, W. Va.; (25) the facilities of Diamond Shamrock Chemical Co., at or near Painesville, Ohio; (26) the facilities of Allied Chemical Co., at or near North Claremont, Del.; Richmond, Va., and Wilmington, Del.; (27) the facilities of E. I. DuPont, at or near Memphis, Tenn.; (28) the facilities of Dow Chemical Co., at or near Midland, Mich., to points in Iowa, Nebraska, Colorado, New Mexico, Texas, Oklahoma, Kansas, Illinois, and St. Louis, Mo., and Phoenix, Ariz., and points in their respective commercial zones, from the facilities of Warren-Douglas Chemical Co., at or near Omaha, Nebr., and Sioux City, Iowa, to points in Iowa, Nebraska, Colorado, New Mexico, Texas, Oklahoma, Kansas, Illinois, and St. Louis, Mo., and Phoenix, Ariz., and points in their respective commercial zones, restricted to transportation service performed under a continuing contract, or contracts, with Warren-Douglas Chemical Co., for 180 days. Supporting shipper(s): Warren-Douglas Chemical Co., Paul Wendte, Traffic Manager, 3002 F Street, Omaha, Nebr. 68107. Send protests to: Carroll Russell, District Supervisor, Interstate commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 144103 (Sub-No. 1TA), filed December 22, 1977. Applicant: LAWRENCE EVERS, P.O. Box 176, Darby, Mont. 59829. Applicant's representative: William E. O'Leary, 631 Helena Avenue, Helena, Mont. 59601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in bottles, cans, and kegs, and *wine*, from ports of entry on the United States-Canada international boundary line located in Washington, Idaho, and Montana, to points in Montana, Idaho, and Wyoming, restricted to traffic moving in foreign commerce, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bill White, General Manager, Coors of Missoula, Inc., 3115 West Broadway, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 144107 (Sub-No. 1TA), filed December 20, 1977. Applicant: CITY WIDE CARTAGE CONTRACT CARRIER, INC., 1800 Grand Avenue, West Des Moines, Iowa 50265. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in and used by wholesale and retail department stores, from the facilities of Mid America Warehousing, Inc., at Des



Moines, Iowa, to points in Iowa, restricted to traffic destined to the facilities of K-Mart Corp., under a continuing contract, or contracts, with K-Mart Corp. of Troy, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): K-Mart Corp., 3100 West Big Beaver Road, Troy, Mich. 48084. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 144110TA, filed December 20, 1977. Applicant: KANE TRANSPORT, INC., P.O. Box 126, Sauk Centre, Minn. 56378. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizers*, in bulk, in tank vehicles, from Alexandria, Minn., to points in North Dakota and South Dakota, for 180 days. Supporting shipper(s): Agrico Chemical Co., P.O. Box 3166, Tulsa, Okla. 74101. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 144111TA, filed December 22, 1977. Applicant: LEONARD KEATING, JR., d.b.a. KEATING TRUCK LINE, Charter Oak, Iowa 51439. Applicant's representative: Bradford E. Kistler, P.O. Box 82028,

Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry feed, animal and poultry health products, and animal and poultry feeding equipment*, from Fremont, Nebr., and points in its commercial zone, to points in Iowa south of U.S. Highway 20, west of U.S. Highway 71, and north of U.S. Highway 6, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Lawrence F. Olson, District Marketing Manager, Hubbard Milling Co., P.O. Box 986, Fremont, Nebr. 68025; (2) Donald Bartlett, President, Denison Seed Co., Inc., 506 South 14th, Denison, Iowa 51442; (3) Curt Sachau, Owner, Curt's Feed & Supply, Charter Oak, Iowa 51439. Send protests to: Carroll Russell, district Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 144118 (Sub-No. 1TA), filed December 22, 1977. Applicant: COMPUTER TRANSPORT OF OHIO, INC., 3699 Interchange Road, Columbus, Ohio 43204. Applicant's representative: A. Charles Tell, George, Greek, King, McMahon & McConnaughey, Columbus Center, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reproducing or copying machines, computers, verifiers, collators, sorters, receivers, and transmitters, printers, typewriters, x-ray equipment, and supplies, parts,*

*and accessories* used in connection therewith, between Akron, Ohio, on the one hand, and, on the other, points in Lawrence and Mercer Counties, Pa., under a continuing contract, or contracts, with Xerox Corp., Arlington, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Xerox Corp., 1616 North Fort Myer Drive, Arlington, Va. 22209. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 144124TA, filed December 27, 1977. Applicant: CONSOLIDATED BUS SERVICE, INC., 1515 Jefferson Street, Hoboken, N.J. 07030. Applicant's representative: Sidney J. Leshin, 575 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Deal, N.J., and New York, N.Y., under a continuing contract, or contracts, with E. J. Z. Corp., for 180 days. Supporting shipper: E. J. Z. Corp., 303 Parker Avenue, Deal, N.J. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

By the Commission.

H. G. HOMME, Jr.,  
Secretary.

[FR Doc.78-2010 Filed 1-23-78; 8:45 am]

# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 562b(e)(3).

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## [6320-01]

## CIVIL AERONAUTICS BOARD.

[M-95; Jan. 17, 1978]

TIME AND DATE: 10:00 a.m., January 24, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of items adopted by notation.

2. Dockets 31411 and 23888, application of Allegheny Airlines, Ransome Airlines, and the Sullivan County parties for approval of replacement agreement and postponement of inauguration of service at Sullivan County; petition of Altair for order modifying agreement between Allegheny and Ransome (BOR).

3. Docket 25135, Air Medic—Exemption to operate both as an air taxi operator and as an indirect air carrier performing air ambulance flights; staff proposal to amend Part 385 to expand delegated authority of Director, BOR to grant authority under section 101(3) to perform air ambulance operations as an indirect air carrier (Memo No. 3630-C, BOR, OGC).

4. Docket 30233, Northwest's Subpart N application for nonstop Seattle-Atlanta/Fort Lauderdale/Miami/Tampa Authority (Memo. No. 7711, BOR).

5. Docket 30984, Leavens Air Charter, Ltd., final Board action on show cause order 77-11-44 (Memo. No. 7551-A, BIA, BOR, OGC).

6. Docket 31645, application of Perimeter Aviation, Ltd., for issuance of a foreign air carrier permit (Memo. No. 7709, BIA, BOR, OGC).

7. Docket 29282, Pacific Coastal Airlines, Ltd., final Board action on show cause order 77-4-8 (Memo. No. 6953-A, BIA, BOR, OGC).

8. Docket 28125, Transportes Aereos Benianos, S.A., proposed permit cancellation (Memo. No. 5463-A, BIA, OGC).

9. Dockets 15529 and 27589, baggage liability rules case and domestic baggage liability rules investigation (Memo. No. 7132-C, BFR).

10. First-class "Freedom" excursion fares proposed by Braniff (BFR).

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,  
202-673-5068.

[S-153-78: Filed 1-20-78; 9:31 am]

## [6320-01]

## CIVIL AERONAUTICS BOARD.

[M-95 amdt. 1; Jan. 18, 1978]

ADDITION OF ITEM TO THE JANUARY 24, 1978, MEETING AGENDA

TIME AND DATE: 10 a.m., January 24, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 4a. FAA draft environmental impact statement on the Concorde (Memo. No. 7195A, BOR, OGC, BAS).

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,  
202-673-5068.

## SUPPLEMENTARY INFORMATION:

This item concerns FAA draft environmental impact statement on the Concorde. Because this item was not available at the time the agenda for January 24, 1978, was prepared, and so that the Board can review this as expeditiously as possible the following Members have voted that agency business requires the addition of this item to the agenda of January 24, 1978, and that no earlier announcement of this addition was possible:

Acting Chairman G. Joseph Minetti  
Member Lee R. West  
Member Richard J. O'Mella

Member Elizabeth E. Bailey

[S-154-78 Filed 1-20-78; 9:31 am]

## [6320-01]

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## CIVIL AERONAUTICS BOARD.

[M-96; Jan. 18, 1978]

TIME AND DATE: 10 a.m., January 25, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The National Air Carrier Association to make a presentation on the supplemental carriers.

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary,  
202-673-5068.

[S-155-78 Filed 1-20-78; 9:31 am]

## [6351-01]

## COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., January 24, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Litigation matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-151-78 Filed 1-20-78; 9:31 am]

## [6712-01]

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m., open Commission meeting, Wednesday, January 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Questions concerning parative proceeding for a new standard broadcast



## SUNSHINE ACT MEETINGS

station at Lares, P.R. (Docket Nos. 20968-20969), and request for reconsideration of the amendment of Rule 73.35(b) (Docket No. 20548).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

## CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone No. 202-632-7260.

Issued: January 18, 1978.

(S-159-78 Filed 1-20-78; 12:54 pm)

[6712-01]

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, January 25, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

## MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Draft order requesting comments of the parties for disposition of the WSTE-TV, Inc., case (Docket Nos. 18048-9).

General—1—Proposed Canada/United States channeling arrangements for maritime mobile correspondence frequencies (Docket No. 20617).

## Safety and special radio services:

1—Application for review of action concerning section 97.67(c) of the commission's amateur radio rules.

2—Amendment of Parts 89, 91, 93, and 95 of the Commission's rules to provide for use of digital voice modulation in secure communications systems (Docket No. 21142).

3—Central Station Electrical Protection Association's request for reconsideration of the Commission's May 20, 1977, decision denying its petition for rule making (RM-2698).

4—Simplification of the licensing and call sign assignment systems in the amateur radio service (Docket No. 21135).

## Common Carrier:

1—Memorandum opinion and order to show cause why the Commission should not revoke the license of Seaway Communications, Ship Bottom, N.J. (DPLMRS Station KUS413).

2—Petition filed by Warsaw Television Cable Corp. to suspend tariff filings of the Rochester Telephone Corp. for cable television signal distribution service.

3—American Television Relay refund proposal.

4—Petition for stay of order requiring COMSAT to file new informational tariffs for its Intelsat operations and to adjust its escrow account to reflect all arrearsages with interest (Docket No. 16070).

## Cable Television:

1—Proposals concerning regulation of cable television system carriage of AM

and FM radio and request that cable systems be prohibited from cablecasting radio programming (RM-2528) or offering cablecast unless all local FM stations are carried (RM-2575).

2—Application for review, filed by Forum Communications Co., licensee of KSFY-TV, Sioux Falls, KABY-TV, Aberdeen, and KPRY-TV, Pierre, all in South Dakota.

3—Petition for reconsideration, filed by Daniels Properties, Inc., operator of a cable television system at Nolanville, Tex. (CAC-07527).

4—Petitions for stay of Commission decision in Vanhu, Inc. (Seattle, Wash.), filed by United Community Antenna Systems, Community Telecable of Seattle and Tele-Vue Systems, and KIRO's objections.

5—Reconsideration of use of predicted field strength contours for cable television regulation, and expanding carriage of UHF stations on cable systems (Docket No. 20496).

6—Petition for partial reconsideration, filed by Clearview TV Cable of Enumclaw, Wash. (CSR-948).

Assignment of license and transfer of control—1—Application for assignment of WMDI(FM), McKean, Pa., from Mikrodawn, Inc., to Jet Broadcasting Co. (BALH-2357).

## Renewal:

1—Application of Bairdland Broadcasting, Inc., for renewal of KCHS, Truth or Consequences, N.M.

2—Mutually exclusive applications for renewal of license filed by the noncommercial share-time licensees on channel 2, Miami, Fla. (File Nos. BRET-184, BRET-17).

Television—1—Application (BPCT-4910) filed by Meyer Broadcasting Co. for a satellite television station and petition to deny filed by Dickinson Broadcasting (KDIX-AM and KDIX-TV), both of Dickinson, N. Dak.

Broadcast—1—Amendment of section 73.52 of the Commission's rules regarding relative phase tolerance of directional AM stations.

Complaints and compliance—1—Application for review of a January 21, 1976, decision ordering payment by Lenawee Broadcasting Co. of a forfeiture.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

## CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone No. 202-632-7260.

Issued: January 18, 1978.

(S-160-78 Filed 1-20-78; 12:54 pm)

[6740-02]

## FEDERAL ENERGY REGULATORY COMMISSION.

JANUARY 20, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

## FEDERAL ENERGY REGULATORY COMMISSION

Time and Date: January 20, 1978, 12 noon.  
Status: Open.

Matters to be considered: Matters relating to emergency purchases by natural gas pipelines in several undocketed proceedings.

Contact person for more information: Lois D. Cashell, Acting Secretary, telephone 202-275-4168.

The following members of the Commission have voted that agency business requires the holding of this meeting on less than the one week's notice required by the Government in the Sunshine Act: Chairman Curtis and Commissioners Smith, Sheldon, Holden, and Hall.

(S-157-78 Filed 1-20-78; 12:10 pm)

[6740-02]

## FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 3009.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 25, 1978, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

RP-9—RP77-140, Consolidated Gas Supply Corp.

RP-10—RP72-149(PGA77-10), Mississippi River Transmission Corp.

M-2—RM74-16, Natural Gas Cos.' annual report of proved domestic gas reserves: FPC Form No. 40.

ER-9—E-9609, Connecticut Municipal Electric Energy Cooperative, Complainant v. Power Authority of the State of New York, Respondent.

LOIS D. CASHELL,  
Acting Secretary.

(S-158-78 Filed 1-20-78; 12:10 pm)

[6720-02]

## FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: At the conclusion of the open meeting to be held at 2:30 p.m., January 26, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Closed meeting.

## CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED: Consideration of November 1977 financial statements; consideration of December 1977 financial statements and January 1978 cash budget.

## SUNSHINE ACT MEETINGS

Announcement is being made at the earliest practicable time.

No. 127, January 20, 1978.

RONALD A. SNIDER,  
Assistant Secretary.

(S-161-78 Filed 1-20-78; 4:43 pm)

[6720-02]

## FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., January 26, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

## CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED: Consideration of status report on FHLMC move to the New FHLBB Building; discussion of loan-to-value ratio on refinance loans.

Announcement is being made at the earliest practicable time.

No. 128, January 20, 1978.

RONALD A. SNIDER,  
Assistant Secretary.

(S-162-78 Filed 1-20-78; 4:43 pm)

[6210-01]

## FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 2474, January 17, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, January 20, 1978.

CHANGES IN THE MEETING: One of the items announced for inclusion at this closed meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item was added: Federal Reserve Bank and Branch director appointments. This matter was originally announced for a meeting on December 21, 1977.

## CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: January 20, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
(S-165-78 Filed 1-20-78; 4:43 pm)

[7020-02]

## INTERNATIONAL TRADE COMMISSION.

(USITC SE-78-3)

TIME AND DATE: 2 p.m., Friday, February 3, 1978.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20438.

STATUS: Open to the public.

## MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints (if necessary): (a) Teak windows—Docket No. 480; (b) tile setters—Docket No. 481.
5. Revised draft response to Chairman Vanik—see document OP2-B-005.
6. GSP (Inv. TA-503(a)-4 and 332-90)—vote.
7. Any items left over from previous agenda.

## CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

(S-166-78 Filed 1-20-78; 4:43 pm)

[7020-02]

## INTERNATIONAL TRADE COMMISSION.

(USITC SE-78-2A)

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 2046 (January 13, 1978).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., Friday, January 27, 1978.

CHANGES IN THE MEETING: Additional agenda item: 10. Doxycycline (Inv. 337-TA-3)—Motion by Pfizer to reactivate the investigation (see document GC-B-019).

## CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

(S-167-78 Filed 1-20-78; 4:43 pm)

[7035-01]

## INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9 a.m., Thursday, January 26, 1978.

PLACE: Office of Chairman O'Neal, Room 3130, Interstate Commerce

Commission Building, 12th and Constitution Avenue NW., Washington, D.C.

STATUS: Open informal conference.

MATTERS TO BE CONSIDERED: To facilitate general communication of information and ideas among members of the Commission as to general matters of common concern with respect to the Commission and its work. There will be no discussion or determination of any specific pending proceeding or agency action and there will be no formal agenda.

## CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

(S-163-78 Filed 1-20-78; 4:43 pm)

[7035-01]

## INTERSTATE COMMERCE COMMISSION.

15

JANUARY 20, 1978.

TIME AND DATE: 9:30 a.m., Tuesday, January 31, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Special open conference.

MATTER TO BE CONSIDERED: 1. Railroad merger standards and policy—Recommendations of the Rail Services Planning Office (briefing, discussion, and possible voting).

## CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

(S-164-78 Filed 1-20-78; 4:43 pm)

[7600-01]

## OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

16

TIME AND DATE: 10 a.m., January 27, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.



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#### SUNSHINE ACT MEETING:

##### CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Date: January 19, 1978.

(S-152-78 Filed 1-20-78; 9:31 am)

[4410-01]

17

PAROLE COMMISSION NATIONAL COMMISSIONERS (the Commissioners presently maintaining offices at Washington, D.C., Headquarters).

TIME AND DATE: Friday, January 27, 1978; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552(b)(10) and 28 CFR 16.205(b)(1).

MATTERS TO BE CONSIDERED: Referrals from regional commissioners of approximately 20 cases in which inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

##### CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

(S-156-78 Filed 1-20-78; 10:34 am)

TUESDAY, JANUARY 24, 1978  
PART II



## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

### ADVANCED NURSE TRAINING PROGRAMS

Proposed Grants Provisions

Registered  
Federal  
Parole



[4110-83]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

Public Health Service

[42 CFR Part 57]

**GRANTS FOR ADVANCED NURSE TRAINING  
PROGRAMS**

AGENCY: Public Health Service,  
HEW.

ACTION: Notice of proposed rulemak-  
ing.

SUMMARY: The Assistant Secretary  
for Health, Department of Health,  
Education, and Welfare, with the ap-  
proval of the Secretary of Health,  
Education, and Welfare, proposes reg-  
ulations for grants to public and non-  
profit private collegiate schools of  
nursing to meet the costs of projects  
to plan, develop, and operate, signifi-  
cantly expand, or maintain existing  
programs for the advanced training of  
professional nurses under section 821  
of the Public Health Service Act (42  
U.S.C. 2961).

DATES: Comments must be received  
on or before February 23, 1978.

ADDRESSES: Written comments,  
preferably in triplicate, may be ad-  
dressed to the Director, Bureau of  
Health Manpower, Health Resources  
Administration, 3700 East-West High-  
way, Center Building, Room 4-22, Hy-  
attsville, Md. 20782.

All comments received will be avail-  
able for public inspection and copying  
at the Office of Program Operations,  
Bureau of Health Manpower, at the  
above address, weekdays (Federal holi-  
days excepted) between the hours of  
8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION  
CONTACT:

Miss Edith Rathbun, Division of  
Nursing, Bureau of Health Manpow-  
er, Room 3-50, at the above address,  
301-436-6684.

SUPPLEMENTARY INFORMATION:  
The Assistant Secretary for Health,  
Department of Health, Education, and  
Welfare with the approval of the Sec-  
retary of Health, Education, and Wel-  
fare, proposes to add a new Subpart Z  
to Part 57 of Title 42, Code of Federal  
Regulations, as set forth in tentative  
form below, entitled "Grants for Ad-  
vanced Nurse Training Programs."

The purpose of this new subpart is  
to establish regulations implementing  
section 821 of the Public Health Ser-  
vice Act, as added by section 931 of  
Pub. L. 94-63, which authorizes the  
Secretary of Health, Education, and  
Welfare to award grants to public and  
nonprofit private collegiate schools of  
nursing to meet the costs of projects  
to (1) plan, develop, and operate, (2)

significantly expand, or (3) maintain  
existing programs for the advanced  
training of professional nurses to  
teach in the various fields of nurse  
training, to serve in administrative or  
supervisory capacities, or to serve in  
other professional nursing specialties  
(including service as nurse clinicians)  
determined by the Secretary to re-  
quire advanced training.

Written comments, objections, or  
data concerning the proposed regula-  
tions are invited from interested per-  
sons. All relevant material received on  
or before February 22, 1978, will be  
considered before promulgation of  
final regulations governing grants for  
advanced nurse training programs.  
The Department is particularly inter-  
ested in receiving comments on the  
following aspects of the proposed reg-  
ulations:

1. Section 821 of the Act provides  
support for projects for the advanced  
training of professional nurses. Under  
this section, projects for the advanced  
training of professional nurses in the  
fields of nursing administration, su-  
pervision, or education, or other pro-  
fessional nursing specialties (including  
service as nurse clinicians) which the  
Secretary determines require ad-  
vanced nurse training are eligible for  
such support. As set forth in  
§ 57.2502(h) of the proposed regula-  
tions, the Secretary has determined  
that the following six specialties re-  
quire advanced nurse training: (1)  
Geriatric nursing; (2) community  
health nursing; (3) maternal-child  
nursing; (4) acute care nursing; (5)  
medical-surgical nursing; and (6) adult  
nursing. Therefore, only projects for  
the advanced training of professional  
nurses in the above-listed six special-  
ties, or in nursing administration, su-  
pervision, or education are eligible for  
support.

2. Section 57.2506(b) of the proposed  
regulations provides that funding pri-  
ority will be given to eligible projects  
in any of the following specialties: (1)  
Geriatric nursing; (2) community  
health nursing; and (3) maternal-child  
nursing.

3. Section 57.2506(a) of the proposed  
regulations provides that in evaluating  
applications, the Secretary will consid-  
er the following, among other factors:  
(1) The need for nurses in the special-  
ty in which training is to be provided  
in the State in which the training pro-  
gram is located, as compared with the  
need for such nurses in other States;  
(2) the degree to which the applicant  
proposes to recruit students from  
States in need of nurses in the special-  
ty in which training is to be provided,  
and to encourage them to return to  
such States following completion of  
the training; and (3) the degree to  
which the applicant proposes to en-  
courage graduates to practice in States  
in need of nurses in the specialty in

which training is to be provided. Con-  
tinuation awards made after the final  
publication of these regulations will be  
subject to the above-described evalua-  
tion criteria, as well as the priorities in  
§ 57.2506(b).

In addition to the above, attention is  
called to the following features of the  
proposed regulations:

1. Section 57.2503 of the proposed  
regulations sets forth eligibility re-  
quirements for the three types of pro-  
jects (i.e. to (1) plan, develop, and op-  
erate, (2) significantly expand, or (3)  
maintain existing advanced nurse  
training programs) which may be sup-  
ported under section 821 of the Public  
Health Service Act.

2. Under § 57.2504 of the proposed  
regulations, an application for a pro-  
ject to significantly expand or to  
maintain an existing advanced nurse  
training program must contain an as-  
surance that the applicant will  
expand, in carrying out the program  
during the fiscal year for which the  
grant is sought, an amount of non-  
Federal funds (excluding costs of con-  
struction) at least as great as the av-  
erage amount of non-Federal funds (ex-  
cluding expenditures of a nonrecur-  
ring nature, including costs of con-  
struction) expended during the three  
fiscal years immediately preceding the  
fiscal year for which the grant is  
sought.

3. Although not required by statute,  
§ 57.2506(a) of the proposed regula-  
tions provides that the Secretary will  
make grants for advanced nurse train-  
ing programs only after consultation  
with the National Advisory Council on  
Nurse Training established under sec-  
tion 851(a) of the Public Health Ser-  
vice Act.

It is therefore proposed to add a new  
Subpart Z to Part 57 to read as set  
forth below.

NOTE.—The Department of Health, Educa-  
tion, and Welfare has determined that this  
document does not contain a major proposal  
requiring preparation of an Inflation  
Impact Statement under Executive Order  
11821 and OMB Circular A-107.

Dated: January 13, 1978.

**JULIUS B. RICHMOND,**  
*Assistant Secretary for Health.*

Approved: January 16, 1978.

**JOSEPH A. CALIFANO, JR.,**  
*Secretary.*

**Subpart Z—Grants for Advanced Nurse Training  
Programs**

Sec.	
57.2501	Applicability.
57.2502	Definitions.
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57.2508	Expenditure of grant funds.
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Sec.  
57.2511 Grantee accountability.  
57.2512 Publications and copyright.  
57.2513 Applicability of 45 CFR Part 74.  
57.2514 Additional conditions

AUTHORITY: Sec. 215, 58 Stat. 690, as  
amended (42 U.S.C. 216); sec. 821, 89 Stat.  
361 (42 U.S.C. 2961).

§ 57.2501 Applicability.

The regulations of this subpart are  
applicable to the award of grants to  
public and nonprofit private collegiate  
schools of nursing under section 821 of  
the Public Health Service Act (42  
U.S.C. 2961) to meet the costs of pro-  
jects to (1) plan, develop, and operate,  
(2) significantly expand, or (3) main-  
tain existing, programs for the ad-  
vanced training of professional nurses  
to teach in the various fields of nurse  
training, to serve in administrative or  
supervisory capacities, or to serve in  
other professional nursing specialties  
(including service as nurse clinicians)  
determined by the Secretary to re-  
quire advanced training.

§ 57.2502 Definitions.

As used in this subpart:

(a) "Act" means the Public Health  
Service Act, as amended.

(b) "Secretary" means the Secretary  
of Health, Education, and Welfare and  
any other officer or employee of the  
Department of Health, Education, and  
Welfare to whom the authority in-  
volved has been delegated.

(c) "Council" means the National  
Advisory Council on Nurse Training  
(established by section 851(a) of the  
Act).

(d) "Budget period" means the inter-  
val of time into which the approved  
activity is divided for budgetary pur-  
poses, as specified in the grant award  
document.

(e) "Project period" means the total  
time for which support for a project  
has been approved, as specified in the  
grant award document.

(f) "State" means a State, the Com-  
monwealth of Puerto Rico, the Dis-  
trict of Columbia, the Canal Zone,  
Guam, American Samoa, the Virgin Is-  
lands, or the Trust Territory of the  
Pacific Islands.

(g) "Collegiate school of nursing"  
means a department, division, or other  
administrative unit in a college or uni-  
versity which provides primarily or ex-  
clusively a program of education in  
professional nursing and allied sub-  
jects leading to the degree of bachelor  
of arts, bachelor of science, bachelor  
of nursing, or to an equivalent degree,  
or to a graduate degree in nursing, and  
including advanced training related to  
such program of education provided  
by such school, but only if such pro-  
gram, or such unit, college or universi-  
ty is accredited.

(h) "Advanced nurse training pro-  
gram" means a program of study in a  
collegiate school of nursing leading to

a graduate degree in nursing which  
trains professional nurses to teach in  
the various fields of nurse training, to  
serve in administrative or supervisory  
capacities, or to serve in other profes-  
sional nursing specialties (including  
service as nurse clinicians) determined  
by the Secretary to require advanced  
training. For purposes of this section,  
the Secretary has determined that the  
following professional nursing special-  
ties require advanced nurse training:

(1) Geriatric nursing, (2) community  
health nursing, (3) maternal-child  
nursing, (4) acute care nursing, (5)  
medical-surgical nursing, and (6) adult  
nursing.

(i) "Professional nurse" means a reg-  
istered nurse who has received initial  
nursing preparation from a diploma,  
associate degree, or collegiate school  
of nursing as defined in section 853 of  
the Act and who is currently licensed  
to practice nursing.

(j) "Nonprofit" as applied to any  
school means one which is a corpora-  
tion or association, or is owned and op-  
erated by one or more corporations or  
associations, no part of the net earn-  
ings of which inures or may lawfully  
inure, to the benefit of any private  
shareholder or individual.

(k) "Construction" means (1) the  
construction of new buildings and the  
acquisition, expansion, remodeling, re-  
placement, and alteration of existing  
buildings including architects' fees but  
not including the cost of acquisition of  
land (except in the case of acquisition  
of an existing building), offsite im-  
provements, living quarters, or pa-  
tient-care facilities, and (2) equipping  
new buildings and existing buildings,  
whether or not acquired, expanded, re-  
modeled, or altered.

§ 57.2503 Eligibility.

(a) *Eligible applicants.* To be eligible  
for a grant under this subpart the ap-  
plicant shall:

(1) Be a public or nonprofit private  
collegiate school of nursing.

(2) Be located in a State.

(b) *Eligible projects.* A grant under  
this subpart may be made to an eligi-  
ble applicant to meet the cost of:

(1) A project to plan, develop, and  
operate an advanced nurse training  
program (which will enroll students  
before the end of the project period);

(2) A project to significantly expand  
an advanced nurse training program  
through one of the following activi-  
ties:

(i) The addition to the program of a  
new clinical or functional (such as ad-  
ministration or teaching) specialty  
area,

(ii) A planned increase in student en-  
rollment during the project period, or  
(iii) The addition of a new training  
site for the program; or

(3) A project to maintain an existing  
advanced nurse training program.

§ 57.2504 Application.

(a) Each eligible applicant desiring a  
grant under this subpart shall submit  
an application in such form and at  
such time as the Secretary may pre-  
scribe.<sup>1</sup>

(b) The application shall be execut-  
ed by an individual authorized to act  
for the applicant and to assume on  
behalf of the applicant the obligations  
imposed by the terms and conditions  
of any award, including the regula-  
tions of this subpart.

(c) In addition to such other perti-  
nent information as the Secretary may  
require, an application for a grant  
under this subpart shall contain the  
following:

(1) A proposal for a project to (i)  
plan, develop, and operate, (ii) signifi-  
cantly expand, or (iii) maintain an ex-  
isting, advanced nurse training pro-  
gram.

(2) Information documenting the  
need for the proposed project.

(3) A description of specific attain-  
able and measurable objectives for the  
proposed project consistent with the  
purposes of section 821 of the Act.

(4) A detailed plan for achieving and  
measuring the stated objectives of the  
proposed project.

(5) A description of the anticipated  
impact of the proposed project, includ-  
ing its potential contribution to nurs-  
ing.

(6) Evidence satisfactory to the Sec-  
retary that the applicant will have  
available adequate resources for the  
conduct of the proposed project, in-  
cluding adequate faculty, staff, equip-  
ment, facilities, and an appropriate  
clinical practice setting or settings.

(7) A detailed budget for the pro-  
posed project and a justification of the  
amount of grant funds requested.

(8) A description of any Federal fi-  
nancial support related to the pro-  
posed project which the applicant is  
currently receiving.

(9) A detailed timetable for carrying  
out the activities of the proposed pro-  
ject, including any plans for continu-  
ing such activities beyond the project  
period.

(10) A description of the background  
and qualifications of the project staff  
and any proposed consultants.

(11) Information concerning the  
source and number of potential stu-  
dents for the training program, and a  
description of plans, if any to encour-  
age graduates of the training program  
to practice in States in need of nurses  
trained in the specialty in which train-  
ing is to be provided.

<sup>1</sup> Applications and instructions may be ob-  
tained from the Division of Nursing, Bureau  
of Health Manpower, Health Resources Ad-  
ministration, Department of Health, Educa-  
tion, and Welfare, Center Building, Room 3-  
50, 3700 East-West Highway, Hyattsville,  
Md. 20782.



## PROPOSED RULES

(d) In the case of a project to significantly expand or to maintain an existing advanced nurse training program, the application shall contain an assurance satisfactory to the Secretary that the applicant will expend, in carrying out such program during the fiscal year for which a grant under this subpart is sought, an amount of non-Federal funds (excluding costs of construction as defined in § 57.2502(k)) at least as great as the average amount of non-Federal funds (excluding expenditures of a nonrecurring nature, including costs of construction as defined in § 57.2502(k)) expended for this purpose during the three fiscal years immediately preceding the fiscal year for which such grant is sought.

## § 57.2505 Project requirements.

(a) A project supported under this subpart shall be conducted in accordance with its approved application.

(b) A project supported under this subpart shall enroll only professional nurses, as defined in § 57.2502(i), in its advanced nurse training program.

## § 57.2506 Evaluation and grant awards.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose projects will, in his judgment, best promote the purposes of section 821 of the Act, taking into consideration among other pertinent factors:

(1) The need for the proposed project including, with respect to projects to provide training in professional nursing specialties determined by Secretary to require advanced training, (A) the current or anticipated need for professional nurses trained in such specialty; and (B) the relative number of programs offering advanced training in such specialty;

(2) The need for nurses in the specialty in which training is to be provided in the State in which the training program is located, as compared with the need for such nurses in other States;

(3) The degree to which the applicant proposes to recruit students from States in need of nurses in the specialty in which training is to be provided, and to promote their return to such States following training;

(4) The degree to which the applicant proposes to encourage graduates to practice in States in need of nurses in the specialty in which training is to be provided;

(5) The potential effectiveness of the proposed project in carrying out the training purposes of section 821 of the Act and this subpart;

(6) The capability of the applicant to carry out the proposed project;

(7) The soundness of the fiscal plan for assuring effective utilization of grant funds; and

(8) The potential of the project to continue on a self-sustaining basis after the period of grant support.

(b) In making awards under paragraph (a) of this section, the Secretary will give preference to applications for projects for advanced nurse training in geriatric nursing, community health nursing, and maternal-child nursing.

(c) The amount of any award under this subpart will be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of the direct costs of the project plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs (such as fringe benefit rates) subject to upward (within the limits of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary.

(d) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee.

(e) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion thereof. For continuation support, grantees must make separate application annually and at such times and in such form as the Secretary may prescribe.

## § 57.2507 Grant payments.

The Secretary will from time to time make payments to the grantee of all or a portion of any grant award, either by way of reimbursement for expenses incurred in the budget period, or in advance for expenses to be incurred, to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

## § 57.2508 Expenditure of grant funds.

(a) Any funds granted pursuant to this subpart as well as other funds to be used in performance of the approved project shall be expended solely for carrying out the approved project in accordance with section 821 of the Act, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles

prescribed by Subpart Q of 45 CFR Part 74; *Provided*, That such funds shall not be expended for sectarian instruction or for any religious purpose.

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may be carried forward and be available for obligation during subsequent budget periods of the project period. The amount of a subsequent award will take into consideration the amount remaining in the grant account. At the end of the last budget period of the project period, any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

## § 57.2509 Nondiscrimination.

(a) Attention is called to the requirements of section 855 of the Act and 45 CFR Part 83, which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VIII of the Act to, or for the benefit of, any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. 2000d et seq.) and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his

handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such section 504, which is applicable to grants made under this subpart, has been issued by the Secretary (45 CFR Part 84).

(e) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965) as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

(f) The grantee shall not discriminate on the basis of religion in the admission of individuals to its training programs.

## § 57.2510 Human subjects.

No award may be made under this subpart unless the applicant has complied with 45 CFR Part 46 and any other applicable requirements pertaining to the protection of human subjects.

## § 57.2511 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each approved project the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart; *Provided*, That when the amount awarded for indirect costs was based on a predetermined fixed percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total or selected elements of the reimbursable direct costs incurred.

## PROPOSED RULES

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publication or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant shall be accounted for as follows:

(1) Royalties received during the period of grant support as a result of copyrights or patents may be retained by the grantee and, in accordance with the terms and conditions of the grant, use in either or both of the following ways:

(i) Used by the grantee for any purposes that further the objectives of section 821 of the Act.

(ii) Deducted from the total project costs for the purpose of determining the net costs on which the Federal share of costs will be based.

(2) Royalties received after the completion or termination of grant support shall be treated as follows:

(i) Patent royalties will be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(ii) Copyright royalties may be retained by the grantee, unless the terms and conditions of the grant or a specific agreement negotiated between the Secretary and the grantee provide otherwise.

(c) *Grant closeout.*—(1) *Date of final accounting.* A grant shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section; and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the

grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by setoff or other action as provided by law.

## § 57.2512 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

## § 57.2513 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants awarded under this subpart:

## Subpart

- A General.
- B Cash depositories.
- C Bonding and insurance.
- D Retention and custodial requirements for Records.
- F Grant-related income.
- G Matching and cost sharing.
- K Grant payment requirements.
- L Budget revision procedures.
- M Grant closeout, suspension, and termination.
- O Property.
- Q Cost principles.

## § 57.2514 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved project, the interests of the public health, or the conservation of grant funds.

[FR Doc. 78-1913 Filed 1-23-78; 8:15 am]



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Federal Register

WEDNESDAY, JANUARY 25, 1978



highlights

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# AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

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## List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS: FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[§ 980.212—Amdt. 1]

#### PART 980—VEGETABLES: IMPORT REGULATIONS

##### Tomatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This amendment exempts tomatoes imported into the United States from the grade, size, quality, and maturity provisions of the tomato import regulations if the tomatoes are used in noncommercial outlets for experimental purposes.

**EFFECTIVE DATE:** January 23, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202-447-6393.

**SUPPLEMENTARY INFORMATION:** The amendment will enable persons engaged in research to obtain supplies of tomatoes necessary for experimental purposes that might otherwise fail the requirements of the regulation. It is hereby found that the following amendment will tend to effectuate the declared policy of the act.

It is further found that it is impractical and contrary to the public interest to give preliminary notice, or to engage in public rulemaking procedure, and that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This amendment must become effective immediately if affected importers are to derive maximum benefits from it, (2) compliance with this amendment will not require any special preparation on the part of importers, and (3) this amendment relieves restrictions on the importation of tomatoes into the United States.

Section 980.212(b) is hereby amended to read as follows:

§ 980.212 Import regulations; tomatoes.

(b) *Grade, size, quality, and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic, and greenhouse tomatoes as defined herein, or tomatoes to be used in non-commercial outlets for experimental purposes unless they are inspected and meet the following requirements:

(2) Prior to importation of tomatoes to be used in noncommercial outlets for experimental purposes, the importer shall apply for and obtain from the Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, an approved Certificate for Special Purpose Shipment, complete Part I and comply with all procedures specified thereon. A separate certificate is required for each shipment. Three copies of the certificate shall accompany shipment, of which one copy shall be surrendered to the Federal or Federal-State Inspector of the U.S. Department of Agriculture at the port of entry.

(3) Upon completion of shipment receiver making final disposition of the tomatoes shall complete Part II of the Certificate. Importer shall be responsible for the return, within 10 days, of a signed copy of the certificate to the Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250, certifying that the tomatoes were used for the purpose specified thereon.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

**Effective date.** Dated January 20, 1978 to become effective January 23, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-2162 Filed 1-24-78; 8:45 am]

[3510-24]

## Title 13—Business Credit and Assistance

### CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

#### Amendment of Project Modification Policy

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Final rule.

**SUMMARY:** These amendments revise EDA's regulation on project modification by describing the policy and procedures for the modification of business development projects. Currently, EDA has published rules only on the modification of public works projects. The intended effect of this change is to establish a more comprehensive project modification policy and procedures.

**DATES:** Effective date: January 25, 1978. Comments by: February 24, 1978.

**ADDRESSES:** Send comments to Assistant Secretary for Economic Development, U.S. Department of Commerce, Room 7800B, Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** For information on these amendments only:

James F. Marten, U.S. Department of Commerce, Room 7009, Washington, D.C. 20230, 202-377-5441.

**SUPPLEMENTARY INFORMATION:** Currently, EDA has an articulated policy regarding the modification of public works projects only. This regulation is located at 13 CFR 309.26; it applies to public works projects receiving assistance under sections 101, 201, 304, and 403, and Titles IX and X of the Public Works and Economic Development Act of 1965, as amended (Act), and public works projects funded under Chapter 4 of Title II of the Trade Act of 1974.

As amended, § 309.26 will also contain the policy and procedures regarding the modification of business development projects. This new provision will apply to loan and guarantee projects receiving assistance under sections 202 and 304 of the Act, Title IX of the Act, and Title II, Chapters 3 and 4 of the Trade Act of 1974. The requirements for the modification of



business development projects are described in new subsection (b) of § 309.26. The existing rules on the modification of public works projects have been placed in a revised subsection (a) of § 309.26.

Parts 308, dealing with Title IX assistance, and 315, on Trade Act assistance, also are amended to include references to the new scope of § 309.26.

Because these amendments relate to the EDA grant and loan program, they are exempt from the procedures described in section 553 of the Administrative Procedure Act (5 U.S.C. 553). However, in the spirit of public policy set forth in that Act, interested persons may submit written suggestions regarding these amendments to the Assistant Secretary for Economic Development at the above address.

**NOTE.**—EDA has determined that this document does not constitute a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular No. A-107.

Accordingly, 13 CFR Chapter III is amended by revising Parts 308, 309 and 315 to read as follows:

**PART 308—SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE GRANTS**

1. Section 308.28(a)(1) is revised to read as follows:

**§ 308.28 General requirements.**

(a) \* \* \*

(1) Such project or activity complies with the requirements and conditions set forth in §§ 309.1, 309.3, 309.4, 309.5, 309.6, 309.9, 309.14, 309.15, 309.26 and Part 310 of these regulations, and section 702 of the Act, and that

**PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE**

1. Section 309.26 is revised to read as follows:

**§ 309.26 Project modification.**

(a) *Public works projects.* (1) Proposed modifications in public works projects receiving assistance under sections 101, 201, 304, and 403 of the Act, Titles IX and X of the Act and Title II, Chapter 4 of the Trade Act of 1974 must comply with the following requirements.

(i) The proposed changes must result from joint discussions between EDA and the grantee.

(ii) The proposed changes must be submitted to EDA for appropriate program and technical reviews.

(iii) The proposed changes must be accompanied by revised cost estimates to verify that the project can still be constructed within the approved funds.

(A) If the proposed changes reduce the project's cost, funds which would make the EDA grant rate exceed the maximum grant rate in the original offer will be deobligated unless the Assistant Secretary determines that increasing the grant rate to the maximum allowable grant rate at the time the project was approved is necessary to complete the project.

(2) Proposed changes will be processed for approval following normal amendment procedures.

(3) EDA is under no obligation to accept proposed project changes and may choose to deobligate the project's funds. The following project changes will not be accepted:

(i) Changes in the economic or community development purpose of the project unless the Assistant Secretary determines that, under circumstances existing with regard to the particular project, such changes would substantially further the economic and community development objectives of the project;

(ii) Changes in the target population which will benefit from the project;

(iii) Limitations in the accessibility of project facilities to the target population; and

(iv) Changes in the general geographic location (i.e. city, community, Indian Reservation, Redevelopment Area) of the project.

(b) *Business development loan and guarantee projects.* (1) Proposed modifications in loan and guarantee projects receiving assistance under sections 202 and 304 of the Act, Title IX of the Act, and Title II, Chapters 3 and 4 of the Trade Act of 1974 must comply with the following requirements.

(i) The proposed changes must result from joint discussions between EDA and the borrower.

(ii) The proposed changes must be submitted to EDA for appropriate program and technical reviews.

(iii) The proposed changes must be accompanied by revised cost estimates to verify that the project still can be accomplished within the approved funds.

(2) Proposed changes will be processed following normal amendment procedures.

(3) EDA is under no obligation to accept proposed changes and may choose to deobligate the project's funds.

**PART 315—ADJUSTMENT ASSISTANCE FOR FIRMS AND COMMUNITIES**

1. Subpart A of Part 315 is revised by adding a new § 315.4 to read as follows:

**§ 315.4 Project modifications.**

Projects receiving financial assistance under Subparts C and F of this part and public works projects receiving assistance under Subpart F of this

part may be modified according to the procedures described at 13 CFR 309.26

(Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 58702, as amended).)

Dated: January 12, 1978.

ROBERT HALL,  
Assistant Secretary for  
Economic Development.

[FR Doc. 78-2073 Filed 1-24-78; 8:45 am]

**[8010-01]**

**Title 17—Commodity and Securities Exchanges**

**CHAPTER II—SECURITIES AND EXCHANGE COMMISSION**

[Release Nos. 33-5899; IC-10096; File No. 87-537]

**PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER**

**PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER**

**Sales Literature For Mutual Funds**

AGENCY: Securities and Exchange Commission.

ACTION: Amendment to Statement of Policy.

**SUMMARY:** The Commission amends its Statement of Policy governing mutual fund sales literature to eliminate the ten-year limitation on the period that can be portrayed in certain total return charts and tables; to eliminate the required use, in most instances, of a certain total return chart; and to make certain technical modifications to the total return charts and tables. In addition, the Commission gives notice that it has decided against imposing a general ten-year limitation on the period of time which can be portrayed in charts and tables approved by the Statement of Policy and has also decided against requiring that a certain chart accompany the use of all other charts in the Statement. These actions were taken, primarily, to settle several issues on which public comment had been requested.

**EFFECTIVE DATE OF AMENDMENT:** January 10, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Gene A. Gohlke, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1815.

**SUPPLEMENTARY INFORMATION:** The Securities and Exchange Commission today announced the adoption of an amendment to its Statement of

Policy ("Statement") (Statement of Policy adopted by the Commission August 11, 1950, and amended January 31, 1955; November 5, 1957; May 19, 1975; and September 1, 1977 (115 FR 5469 as amended 20 FR 793; 22 FR 8977; 40 FR 21711; and 42 FR 45291)) governing sales literature of investment companies. The amendment eliminates the 10-year limitation on the presentation of investment results on a total return basis in Sample Charts E, F, and G and Sample Table 5; eliminates the required use of Sample Chart E with Sample Chart G; and makes certain modifications to the information presented in Sample Charts E and F and Sample Table 5. In addition and as a result of the comments received in response to the request for comments contained in Release No. 33-5862 and IC-9916 (42 FR 45291) the Commission has decided not to impose a 10-year limitation on the period of time that can be portrayed in Sample Charts A, B, C, and D and Sample Tables 1, 2, 3, and 4 and not to require the use of Sample Chart E whenever one or more of Sample Charts A, B, C, or D are used.

**ADOPTION OF THE TOTAL RETURN CHARTS AND TABLES AND REQUEST FOR COMMENTS**

In Release No. 33-5862 and IC-9916 the Commission amended the Statement by adopting three new charts, Sample Charts E, F, and G and a new table, Sample Table 5, all of which portrayed fund results on a total return basis (assumed reinvestment of income dividends and capital gains distributions). Among the requirements established for these charts and tables in order to make them not misleading were that the period portrayed was to be limited to the most recent 10 years or life of the fund if shorter and that Sample Chart E was to accompany all presentations of Sample Charts F and G.

The period portrayed was limited to the most recent 10 years because it was believed that the average, noninstitutional investor does not maintain an investment in a fund for more than 10 years and that the management and economic environment that existed more than a decade ago may not be relevant to an investor considering an investment in a fund today. Because the most recent 10 years was considered to be the longest period of time that could be portrayed in total return charts without making them misleading, the Commission decided that a 10-year limit would also be appropriate for other sample charts and tables approved by the Statement. However,

\*Such charts and tables can portray periods of time up to the life of the fund provided that periods in excess of 10 years (the minimum amount of time that can be portrayed) are in multiples of 5 years.

before imposing this limitation, the Commission decided to ask for public comment. If a 10-year limitation were to be imposed on all approved charts and tables, the Commission realized that there may be circumstances in which the portrayal of periods in excess of 10 would not be misleading. Therefore, the Commission also requested comments on how best to deal with such exceptional circumstances.

A further requirement for the use of total return charts is that Sample Chart E must be used in every piece of sales literature which contains any other total return chart. Thus, Sample Chart E must accompany Sample Charts F and G whenever they are used. The Commission also considered requiring the use of Sample Chart E whenever any chart approved by the Statement was used in order to attain some degree of comparability among funds as well as to avoid circumstances in which funds would use total return charts only when the results appear favorable and revert to other charts when total return results are not favorable. Before imposing such a requirement, the Commission requested comments from the public on the required use of Sample Chart E whenever any other chart was used in sales literature.

Comments on the above questions have been received. In regard to a 10-year limitation, all of the comments were opposed to any period limitation other than the life of the fund. The following reasons were among those given for believing that a time-period limitation was inappropriate:

1. The average period during which an investor holds funds shares is very difficult to calculate and varies greatly among funds having different investment objectives.

2. Even if the average holding period were 10 years, there are many investors who own shares for longer periods and they should be able to see how their fund performed during such longer periods of time.

3. A great emphasis on a 10-year period might give unsophisticated investors the idea that performance during the most recent 10 years was in some way predictive of future results.

4. Because the investment and economic environments are changing continually, the most recent 10 years appears to have no more or less relevance to the future than any other 10-year period and the record of results over a number of 10-year periods can be potentially valuable.

In regard to the proposal to require the use of Sample Chart E with all other charts and tables, all writers providing comments were opposed to such a requirement for a variety of reasons. Several of the reasons given were as follows:

1. The total return charts are complex and may result in investor confusion if they are used in conjunction with non-total return charts;

2. Total return charts may not be appropriate for all types of funds;

3. The additional cost of including a total return chart in every piece of sales literature that contains any other chart may result in a lesser use of charts to the detriment of investors; and

4. Registrants should have the option of using the total return charts in situations where they appear appropriate.

Based upon the comments received as well as the Commission's further consideration of the issues involved, the following decisions and amendments to the Statement have been made.

**NO CHANGE IN CURRENT STATEMENT TIME PERIOD REQUIREMENTS FOR NON-TOTAL RETURN CHARTS AND TABLES**

The Commission has determined that charts and tables are not misleading which portray investment results for periods of a minimum of the most recent 10 years (unless the life of the fund is shorter) and a maximum of the life of the fund with periods in excess of 10 years but less than the life of the fund shown in multiples of five years. Consequently, for Sample Charts A, B, C, and D and Sample Tables 1, 2, 3, and 4, the current time period requirements of the Statement remain unchanged.

The language of the Statement pertaining to Sample Charts E, F, and G, Sample Table 5 and total return successive period tables is amended to allow such charts and tables to portray fund results for a minimum of the most recent 10 years (unless the life of the fund is shorter) and for a maximum of the life of the fund so long as periods in excess of 10 years but less than the life of the fund are in multiples of five years. (For a further explanation, see the appendix.)

**REQUIRED USE OF SAMPLE CHART E**

The Commission has determined that Sample Chart E need not accompany any of the Sample Charts in the Statement except Sample Chart F. Thus, Sample Charts A, B, C, D, and G can be presented without also using Sample Chart E. However, Sample Chart E must accompany Sample Chart F in the same piece of sales literature as is currently required by the Statement. In order to avoid duplication if both Sample Charts E and F are used, the Statement is amended so that the percentages tabulated at the base of Sample Chart E can be eliminated because these same percentages are also shown on Sample Chart F.



Even though the Commission has determined that Sample Chart E need not accompany most other charts illustrated in the Statement, the Commission recognizes that the staff may require that Sample Chart E accompany certain novel presentations of investment results approved under the interpretive letter procedure which was added to the Statement in the recent amendment.

#### MODIFICATIONS OF TOTAL RETURN CHARTS AND TABLES

While not requested in the Release, several commentators suggested certain technical modifications to the total return charts and tables which would appear to make the tables more useful and provide sufficient information to enable readers to make certain rate of return calculations. The Commission has considered these suggestions and amends the charts and tables in the following manner:

1. The year-by-year summary of results in dollars at the base of Sample Chart E is expanded so as to show the following amounts:

a. The actual amount of dividends paid during each year assuming that all such dividends are reinvested in fund shares.

b. The actual amount of capital gains distributions paid during each year assuming that all such distributions are reinvested in fund shares.

In addition to these two sets of numbers, the dollar summary at the base of Sample Chart E will continue to show, for the end of each year, the value of the investment on a total return basis and the value of the investment assuming dividends were taken in cash.

2. The heading of the ten year average column on Sample Chart E is changed to read: "10 Year Average Compound Rate of Return." Several numbers in this column on both Sample Charts E and F were changed to correct a computational error. The appendix to this Release contains a new section which explains in some detail how the compound rate of return calculations should be made.

3. A footnote is added on both Sample Charts E and F in order to explain more fully that the last line of percentages reflecting fund expenses is provided for informational purposes only, that the income return already reflects fund expenses, and that the expense percentages should not be subtracted from any other number on the charts.

4. The explanation of Chart E is modified to provide that if Sample Chart F is also used, the percentages tabulated at the base of Chart E can be omitted because these same percentages are tabulated at the base of Chart F.

5. In order to make the total return charts and tables illustrated in the

Statement internally consistent, the paragraph describing the 7 1/4 percent sales charge on reinvested dividends in Sample Table 5 has been eliminated. If a fund does, however, impose a sales charge on reinvested dividends, a paragraph describing the reinvestment sales charge must be included in Sample Table 5.

For additional details on the above five points, see the appendix.

#### STAFF CONSIDERATION OF COMMENTS CONCERNING AFTER-TAX RATES OF RETURN

The compound average returns shown on Sample Charts E and F were calculated before deducting any income taxes that may be payable on the dividends and distributions paid and capital gains realized. Footnote one to the charts expresses this fact. One commentator noted that, in effect, the results shown could be attained only by a tax-free entity. The writer also noted that with the recent introduction of municipal bond and index funds there can be significantly different tax implications to the individual as between different funds. To show such differences he suggested that one or two tax rates, such as 20 percent and 50 percent, be used to compute what the after-tax compound rate of return would be for the sample investment illustrated after giving appropriate consideration to the time value of all of the investor's cash inflows and outflows resulting from the investment. The staff intends to consider the writer's suggestion during its review of the entire Statement as announced in Release IC-9931 dated September 14, 1977.

#### RESPONSIBILITY OF USERS OF CHARTS

Sample Charts E, F, and G, approved for use by the Commission's amendment to the Statement on September 1, 1977 (and modified in the amendment adopted herewith), should be considered experimental and subject to review by the Commission and its staff. Accordingly, the Commission may, if experience with their use so warrants, modify the requirements for the use of these charts or eliminate them from the Statement.<sup>2</sup> Further, users of these charts as well as other charts approved by the Statement are reminded that their responsibility is not discharged merely by complying with the technical requirements for construction of the charts. Paragraph (j) of the Statement includes the statement that "Charts or tables which conform to the 'Approved

<sup>2</sup>Attention is also directed to the Commission's Release 33-5864, IC-9931 (42 FR 47563) of September 14, 1977 announcing a general reconsideration of the entire statement. Such reconsideration may, of course, include the entire area of approved charts and tables included in the Statement.

Charts and Tables' . . . will not be regarded by the Commission as false and misleading in the absence of facts or circumstances which make such charts or tables or their use in fact false and misleading in a particular use." (Emphasis supplied.) Users are cautioned that such facts and circumstances could include, among other things, a change of an investment adviser, a material change in investment objectives or policies, a very substantial change in the size of the fund over a very brief period of time, or a material change in performance occurring subsequent to the period covered by the chart. Depending on the particular case, a user might be required, in order to make the use of a chart not misleading, to add explanatory notes or text to the chart, to limit the period covered by the chart, or to discontinue the use of the chart altogether.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 18, 1978.

#### APPENDIX—AMENDMENT TO THE STATEMENT OF POLICY

(j) . . .

(i) The period covered by that charts should be a minimum of the most recent ten years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of ten years but less than the life of the fund are in multiples of five years.

(viii) . . .

A. The growth of the investment in dollars on a total return basis showing both the growth due to net investment income (after fund expenses) and the growth due to capital appreciation, plotted on a semi-logarithmic scale on an annual fund-price-high to fund-price-low basis.

D. A year-by-year tabular summary of results in dollars, showing:

(a) The actual amount of dividends paid during each year assuming all such dividends and capital gains distributions are reinvested;

(b) The actual amount of capital gains distributions paid during each year assuming all such distributions and dividends are reinvested;

(c) The value of the investment at the end of each year on a total return basis; and

(d) The value of the investment at the end of each year assuming dividends are taken in cash.

E. A year-by-year and a period average tabular summary of results in percentages disclosing:

a. The year-by-year total return and the average, annually compounded total return after expense deductions for the period shown expressed as the sum of the returns

due to net investment income before deduction of any sales charges on reinvested dividends and capital appreciation before deduction of any initial sales charge and any withdrawal charge;

d. The effect of any withdrawal charge on the final year's total return;

e. The effect of any sales and/or withdrawal charges on the compound average total return;

f. The annual return and the compound average total return after deduction of all sales charges; and

g. The fund expenses applicable to the investment expressed as a percentage. By appropriate markings and footnote it should be made clear that the expense percentages are for information only, that the income return already reflects fund expenses, and that the expense percentage is not to be subtracted from any other figure.

(ix) The annual and the compound average annual rate of total return on a single investment of \$10,000 in a mutual fund may be portrayed on a semi-logarithmic chart substantially similar to Chart F which contains the following information:

A. A bar graph presentation of the total returns after sales charges and expense deductions for each year portrayed, side-by-side with the value on a total return basis, of an appropriate index. The use of a comparative index is optional. If an index is used, it should comply with the guidelines enumerated in paragraph (viii)C of this section. If indices are used in both Sample Charts E and F, the same index must be used on both charts.

B. A bar graph presentation of the average (for the period covered by the chart) annually compounded total return expressed as the sum of the average compound return due to capital appreciation and the average compound return due to investment income, indicating the effects of fund expenses and any sales charges on the initial investment and reinvested dividends (and any withdrawal charge) on the average compound return and highlighting the return after expenses and after the sales (and/or withdrawal) charges.

(x) If Sample Chart F is used, it should be accompanied in the same piece of literature by Sample Chart E. If Sample Charts E and F are both used, the percentages tabulated at the base of Sample Chart E may be omitted because the identical percentages are tabulated at the base of Sample Chart F.

(xi) . . .

C. Actual Investment Results Scale is a logarithmic scale which is used to measure changes in the dollar value of the sample investment on Chart E. The Actual Investment Results Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on semi-log graph paper may be used to construct the Actual Investment Results Scale.

a. . . .  
D. The Percentage Change Scale on Chart F is a logarithmic scale which is used to measure the annual percentage change in the value of the sample investment. The

Percentage Change Scale can be constructed using natural logarithms. Alternatively, the logarithmic scale on semi-log graph paper may be used to construct the Percentage Change Scale.

E. The annual percentage changes shown on Sample Chart E or on Chart F, if used, should be calculated in the following manner:

	Percent
Income return . . . . .	3.78
Appreciation return . . . . .	5.01

Total return before sales charge . . . . .	8.79
Sales charge . . . . .	.96

Total return after sales charge . . . . .	7.83
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On the sample charts, the compound growth rates may be rounded to one decimal place.

(d) The compound effect of fund expenses should be computed by comparing the unadjusted income return computed before and after deduction of fund expenses.

(j)(5) . . .

(i) The period covered by the charts and tables should be a minimum of the most recent 10 years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of 10 years but less than the life of the fund are in multiples of 5 years.

(ii) The investment results portrayed may be based on either a calendar or fiscal year so long as the calendar or fiscal year base is used consistently.

(iii) Distributions of both net investment income and capital gains that are to be reinvested in fund shares should be assumed to be reinvested at the net asset value per share on the date such distributions took place. If a sales charge is levied on reinvested net investment income, such charge should be considered in computing the number of new shares purchased.

(iv) If the sales charge for a fund has changed, the most recent charge, if any, applicable to an investment of \$10,000 and the reinvestment of dividends should be used.

(v) The value at the end of each year of a single investment of \$10,000 in a mutual fund on a total return basis may be portrayed on a chart substantially similar to Sample Chart G which contains the following information:

A. A column for each year during the period covered showing the total value of the \$10,000 investment at the end of the year in which the investment was assumed to have been made and at the end of every successive year thereafter up to the end of the most current year.

B. A row for each of the periods included in the chart with the rows constructed in such a way that the dollar amount shown at the intersection of each row and column would represent the value of \$10,000 invested at the beginning of the year listed at the top of the column and invested for the number of years indicated by the number of the row.

C. Appropriate explanations of the rows and columns and how the rows and columns are to be used in interpreting the chart.

(vi) Where a chart patterned after Sample Chart G is used, the chart should be accompanied in the same piece of literature by a table substantially similar to Sample Table 5 described in subparagraph (viii) of this subsection.

(vii) As an alternative to using Sample Chart G which shows investment results at a maximum for every possible successive period during the life of the fund, a table or tables may be presented which show total



# RULES AND REGULATIONS

investment results for only selected successive periods. Such successive periods may be any period such as every 5-year period or every 10-year period or 15-year period. Any whole number of years may be used at the length of the successive periods. All successive period total return charts should conform to the following requirements.

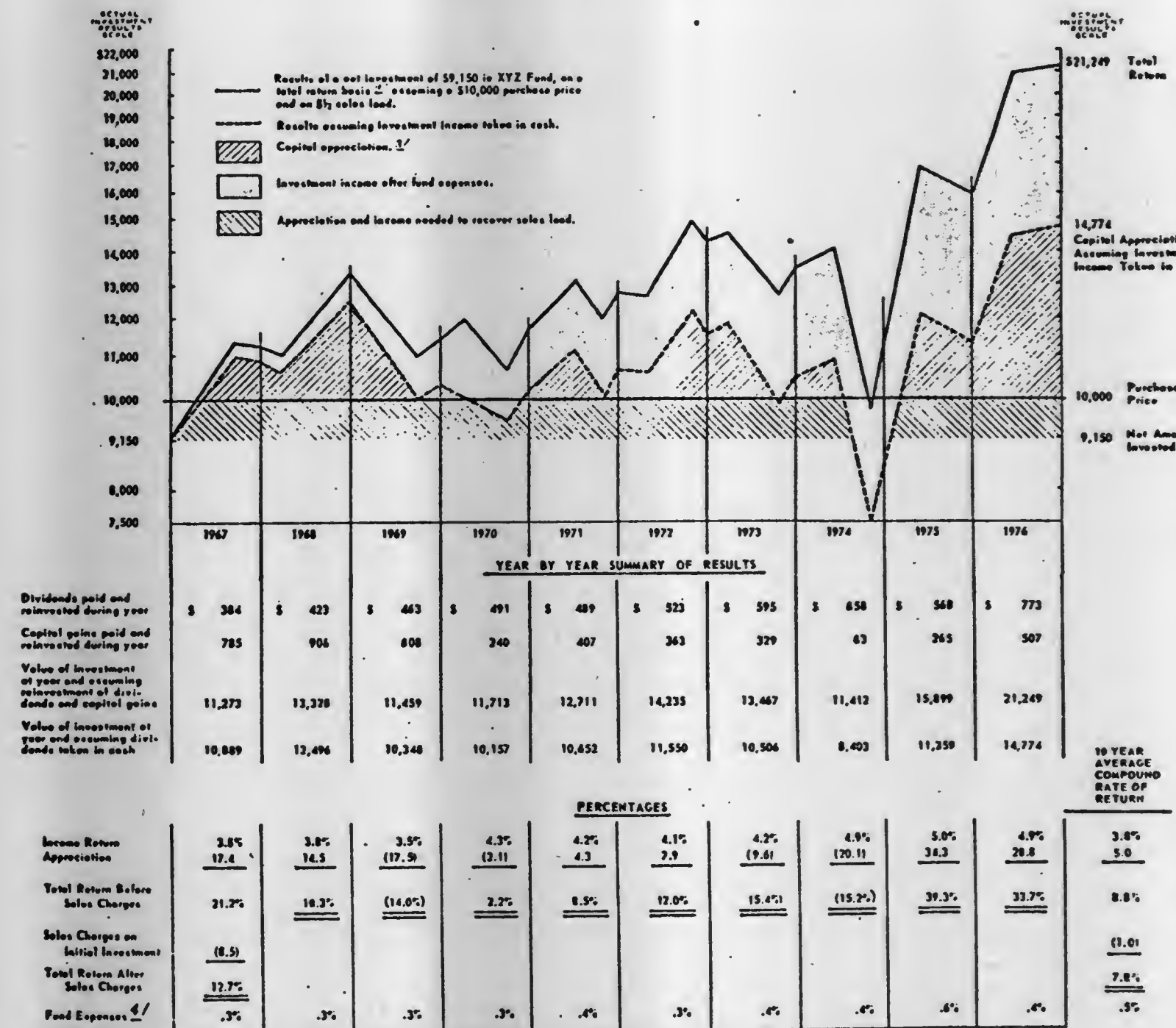
(viii) . . .  
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E. If the table is used alone, it should show at a minimum the most recent 10 years or life of the fund if shorter and a maximum of the life of the fund provided that periods in excess of 10 years but less than the life of the fund are in multiples of 5 years.

# RULES AND REGULATIONS

## SAMPLE CHART E RESULTS OF A \$10,000 INVESTMENT IN XYZ FUND With Dividends and Capital Gains Distributions Reinvested, before Taxes <sup>1/</sup>

NOTE: Results shown assume reinvestment of capital gains and dividends. If capital gains and dividends are not reinvested, results would be less than depicted.



<sup>1/</sup> Results shown do not take into account personal income and capital gains taxes.

<sup>2/</sup> Total return refers to the results available when dividends and capital gains distributions are reinvested.

<sup>3/</sup> Capital appreciation includes reinvested capital gains distributions.

<sup>4/</sup> The fund expense percentages are provided as additional information. They should not be subtracted from any other number on the chart because the income return percentages already reflects the effect of fund expenses.



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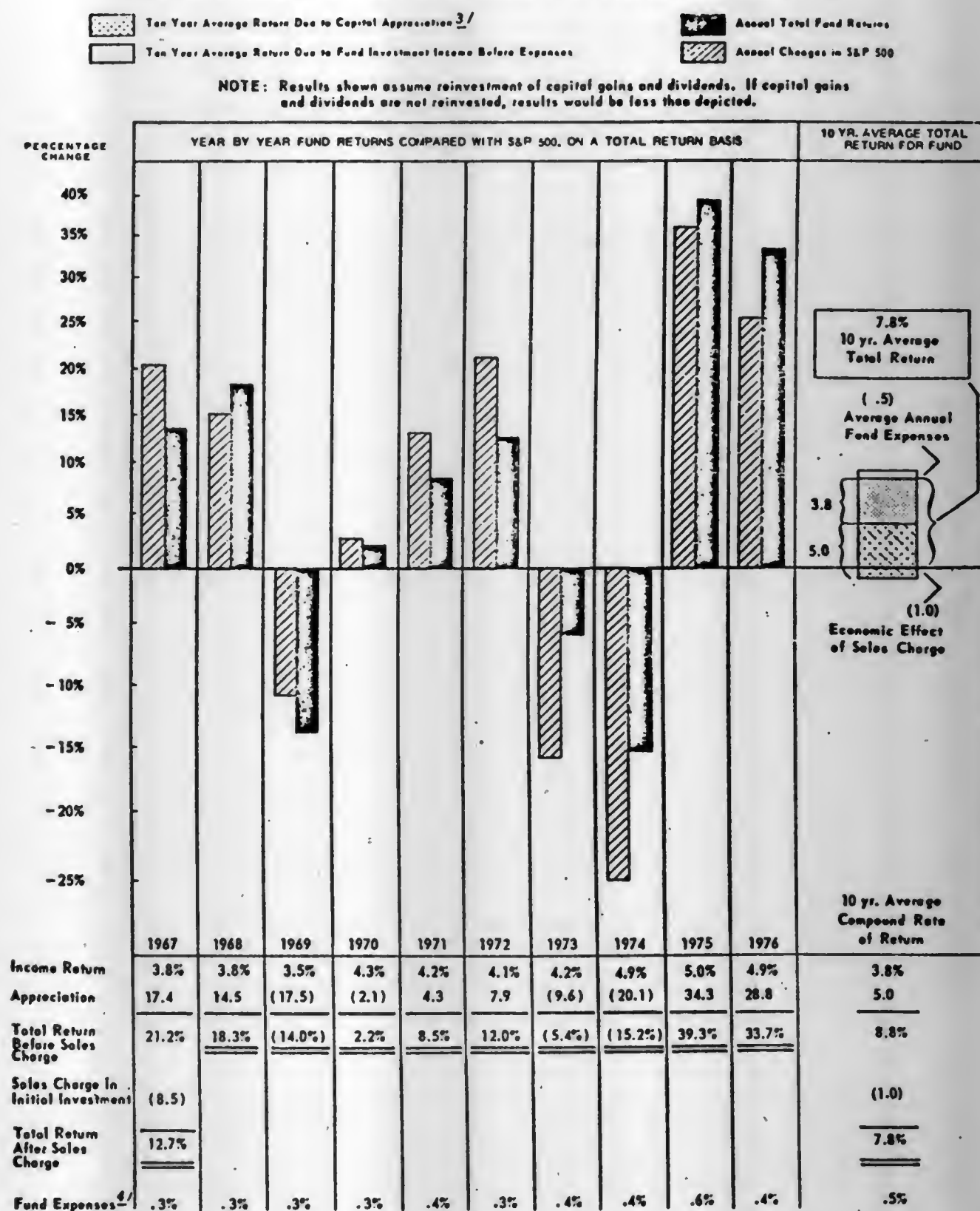
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RULES AND REGULATIONS

SAMPLE CHART F

ILLUSTRATION OF TEN YEAR AVERAGE 7.8% TOTAL RETURN FOR XYZ FUND 1/2/



1/ Results shown do not take into account personal income and capital gains taxes.

2/ Total return refers to the results available when dividends and capital gains distributions are reinvested.

3/ Capital appreciation includes reinvested capital gains distributions and appreciation/depreciation on reinvested income dividends.

4/ The fund expense percentages are provided as additional information. They should not be subtracted from any other number on the chart because the income return percentage already reflects the effect of fund expenses.

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SAMPLE TABLE 5

ILLUSTRATION OF AN ASSUMED INVESTMENT OF \$10,000 with Dividends Reinvested and Capital Gains Distributions Accepted in Shares

The table below covers the period from January 1, 1967 to December 31, 1976. This period was one in which common stock prices fluctuated severely and were generally at the same level at the end of the period as they were at the beginning. The results shown should not be considered as a representation of the dividend income or capital gain or loss which may be realized from an investment made in the fund today.

Year ended December 31	Value of Shares by Component			Total Value of Shares
	Value of \$10,000 Investment	Value of Capital gains Distributions	Value of Reinvested Dividends	
1967	\$10,104	\$ 785	\$ 384	\$11,273
1968	10,725	1,771	832	13,328
1969	8,360	1,988	1,111	11,459
1970	8,012	2,145	1,556	11,713
1971	8,082	2,570	2,059	12,711
1972	8,488	3,062	2,685	14,235
1973	7,479	3,027	2,961	13,467
1974	5,937	2,466	3,009	11,412
1975	7,838	3,521	4,540	15,899
1976	9,844	4,930	6,475	21,249

Cost plus actual amounts available for distributions and dividends \$10,000 \$ 4,473 \$ 5,367 \$20,274

No adjustment has been made for any income taxes payable by shareholders on capital gains distributions and dividends.

[FR Doc. 78-2169 Filed 1-24-78; 8:45 am]



## [4810-22]

## Title 19—Customs Duties

## CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

(I.T.D. 78-28)

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

## Guyana; Supplies and Equipment From Aircraft

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

**SUMMARY:** This document adds Guyana to the list of countries whose aircraft are exempt from the payment of Customs duties and internal revenue taxes on supplies and equipment to be used in certain circumstances. It has been determined that the Government of Guyana allows substantially the same privileges to aircraft registered in the United States engaged in foreign trade. Based on this determination and U.S. law, a reciprocal exemption from duties and taxes has been granted to aircraft registered in Guyana.

**EFFECTIVE DATE:** This exemption was effective on September 22, 1977.

**FOR FURTHER INFORMATION CONTACT:**

Benjamin H. Mahoney, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5778.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

Sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317), provide that foreign-registered aircraft engaged in foreign trade may withdraw articles of foreign or domestic origin from Customs or internal revenue custody without the payment of Customs duties and/or internal revenue taxes, for supplies (including equipment), ground equipment, maintenance, or repair of aircraft. This privilege is granted if the Secretary of Commerce finds, and advises the Secretary of the Treasury that the country in which the foreign aircraft is registered allows substantially reciprocal privileges to United States-registered aircraft. Section 10.59(f) of the Customs Regulations (19 CFR 10.59(f)) lists those countries whose aircraft have been found to be entitled to these privileges.

In accordance with section 309(d) of the Tariff Act, the Secretary of Commerce has found, and by letter dated September 22, 1977, has advised the Secretary of the Treasury, that

Guyana allows privileges substantially reciprocal to those provided in sections 309 and 317 to aircraft registered in the United States and engaged in foreign trade. Corresponding privileges accordingly are extended to aircraft registered in Guyana and engaged in foreign trade, effective as of September 22, 1977.

Because the subject matter of this document does not constitute a departure from established policy or procedures but merely announces the granting of an exemption for which there is a statutory basis, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

## DRAFTING INFORMATION

The principal author of this document was Sanford J. Parnes, Regulations and Legal Publications Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Department of Commerce participated in developing the document, both on matters of substance and style.

## AMENDMENTS TO THE REGULATIONS

To reflect the granting of reciprocal privileges to aircraft of Guyana, paragraph (f) of § 10.59, Customs Regulations (19 CFR 10.59(f)), is amended by the insertion of "Guyana" in appropriate alphabetical order and the number of this Treasury Decision in the opposite column headed "Treasury Decision(s)," in the list of countries in that paragraph.

(Secs. 309, 317, 624, 46 Stat. 690, as amended 696, as amended, 759 (19 U.S.C. 1309, 1317, 1624).)

G. R. DICKERSON,  
Acting Commissioner of Customs.

Approved: January 12, 1978.

BETTE B. ANDERSON,  
Under Secretary of the Treasury.  
[FR Doc. 78-2119 Filed 1-24-78; 8:45 a.m.]

## [6560-01]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS  
[FR L 847-4; FAP 8H5125/T32]

## PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

## Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This rule renews a feed additive regulation permitting the experimental use of the herbicide glyphosate in soybean hulls. The renewal was requested by Monsanto Co. This rule will permit the marketing of soybean hulls while further data is collected on the subject pesticide.

**EFFECTIVE DATE:** January 25, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, 202-755-4851.

**SUPPLEMENTARY INFORMATION:** On September 17, 1976, the EPA announced (41 FR 40100) that in response to a petition (FAP 6H5125) submitted by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, Mo. 63116, 21 CFR 561.253 was being amended to permit the use of the herbicide glyphosate (N-(phosphonomethyl)glycine) in a proposed experimental program involving application of the herbicide to growing soybeans with a tolerance limitation of 20 parts per million (ppm) for combined residues of the herbicide and its metabolite aminomethylphosphonic acid in soybean hulls in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). This experimental program expired September 7, 1977.

Monsanto Co. has requested a one-year renewal of this temporary tolerance both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity soybeans.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in soybean hulls from the agricultural use provided for in the experimental use permit, the feed additive regulation should be renewed along with the tolerance limitation. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on cottonseed; soybean grain, forage, and hay; cotton forage; and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's FEDERAL REGISTER.)

Accordingly, a feed additive regulation is renewed as set forth below.

Any person adversely affected by this regulation may, on or before February 24, 1978, file written objections with the Hearing Clerk, EPA, Rm. M-3706, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on January 25, 1978, 21 CFR 561.253 is amended as set forth below.

Dated: January 17, 1978.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

Section 561.253 Glyphosate is amended as follows:

§ 561.253 [Amended]

In § 561.253, the date at the end of the last line in paragraph (a)(2) is changed from "September 7, 1977" to "January 17, 1979."

[FR Doc. 78-2035 Filed 1-24-78; 8:45 am]

## [4410-01]

## CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

## Placement of Phencyclidine in Schedule II

AGENCY: Drug Enforcement Administration.

**ACTION:** Final Rule.

**SUMMARY:** This rule is issued as a result of the Drug Enforcement Administration's request that the Assistant Secretary for Health, Department of Health, Education, and Welfare, provide DEA with a scientific and medical evaluation of phencyclidine regarding its transfer from Schedule III to Schedule II of the Act, the Assistant Secretary's transmittal of the requested evaluation and recommendation, DEA's review thereof, subsequent publication in the FEDERAL REGISTER (42 FR 63647, Dec. 19, 1977) of a Notice of Proposed Rulemaking to transfer phencyclidine to Schedule II, and receipt and review by DEA of comments submitted in response to the published Notice. This rule requires that the manufacture, distribution, dispensing, importation, exportation of phencyclidine be subject to controls for Schedule II controlled substances.

**EFFECTIVE DATE OF SCHEDULE II CONTROL:** February 24, 1978, except as otherwise provided in Supplementary Information section of this order.

**FOR FURTHER INFORMATION CONTACT:**

Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, telephone 202-633-1366.

**SUPPLEMENTARY INFORMATION:** A Notice was published in the FEDERAL REGISTER on Monday, December 19, 1977 (42 FR 63647-48) proposing that phencyclidine be transferred from Schedule III to Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801-966), and that 21 Code of Federal Regulations, §§ 1308.12 and 1308.13 (Schedules II and III, respectively) be amended accordingly. All interested persons were given until January 18, 1978 to submit their comments or objections in writing regarding this proposal.

Two comments were received in response to the proposal from the State of Rhode Island Department of Health, Division of Drug Control and from the North Carolina State Drug Commission, which supported the proposed rescheduling of phencyclidine from Schedule III to Schedule II.

No further comments nor objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Assistant Secretary for Health in behalf of the Secretary of Health, Education, and Welfare, received pursuant to section 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Phencyclidine has a high potential for abuse;
2. Phencyclidine has a currently accepted medical use in veterinary treatment in the United States; and
3. Abuse of phencyclidine may lead to severe psychological dependence.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that §§ 1308.12(e) and 1308.13(c) of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1308.12 Schedule II.

(c) *Depressants.* Unless specifically excepted or unless listed in another

schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital .....	2125
(2) Methaqualone .....	2565
(3) Pentobarbital .....	2270
(4) Phencyclidine .....	7471
(5) Secobarbital .....	2315

§ 1308.13 Schedule III.

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:

(i) Amobarbital .....	2125
(ii) Secobarbital .....	2315
(iii) Pentobarbital .....	2270

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

(2) Any suppository dosage form containing:

(i) Amobarbital .....	2125
(ii) Secobarbital .....	2315
(iii) Pentobarbital .....	2270

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof .....	2100
(4) Chlorhexadol .....	2510
(5) Gluthethimide .....	2550
(6) Lysergic acid .....	7300
(7) Lysergic acid amide .....	7310
(8) Methyprylon .....	2575
(9) Sulfonethymethane .....	2600
(10) Sulfonethymethane .....	2605
(11) Sulfonmethane .....	2610

## OTHER EFFECTIVE DATES

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports phencyclidine or who proposes to engage in such activities, shall submit an application for registration to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations on or before April 25, 1978.

2. *Security.* Phencyclidine must be manufactured, distributed, and stored in accordance with §§ 1301.71, 1301.72 (a), (c), and (d), 1301.73, 1301.74 (a)-(f), 1301.75(b)(c) and 1301.76 of Title 21 of the Code of Federal Regulations on or before July 24, 1978. From now



## RULES AND REGULATIONS

until the effective date of this provision, it is expected that manufacturers and distributors of phencyclidine will initiate whatever preparations as may be necessary, including undertaking handling and engineering studies and construction programs, in order to provide adequate security for phencyclidine in accordance with DEA regulations so that substantial compliance with this provision can be met by July 24, 1978. In the event that this imposes special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of phencyclidine packaged after July 24, 1978, shall comply with the requirements of §§ 1302.03-1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations. In the event this effective date imposes special hardships on any manufacturer, as defined in section 102(14) of the Controlled Substances Act (21 U.S.C. 802(14)), the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possess any quantity of phencyclidine shall take an inventory pursuant to §§ 1304.11-1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of such substance on hand on February 24, 1978.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21-1304.27 of Title 21 of the Code of Federal Regulations shall maintain such records on phencyclidine commencing on the date on which the inventory of such substance is taken.

6. *Order Forms.* The order form requirements of §§ 1305.01-1305.16 of Title 21 of the Code of Federal Regulations shall be in effect on the date which the initial inventory of this Schedule II controlled substance is taken, February 24, 1978.

7. *Prescriptions.* All prescriptions for products containing phencyclidine shall comply with §§ 1306.01-1306.06 and §§ 1306.11-1306.15 of Title 21 of the Code of Federal Regulations, beginning February 24, 1978. All prescriptions for products containing such substances issued before February 24, 1978, if authorized for refilling, shall not be refilled on or after February 24, 1978.

8. *Importation and exportation.* All importation and exportation of phencyclidine shall, on or after April 25, 1978, be required to be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

9. *Criminal liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to phencyclidine as a Schedule II controlled substance not

authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after February 24, 1978, shall be unlawful, except that any person who is not now registered to handle phencyclidine as a Schedule II controlled substance but who is entitled to registration under such Acts may continue to conduct normal business or professional practice with phencyclidine between the date, on which this order is published and the date on which he obtains or is denied registration: *Provided*, That application for such registration is submitted on or before April 25, 1978.

10. *Other.* In all other respects, this order is effective February 24, 1978.

Dated: January 23, 1978.

PETER B. BENSINGER,  
Administrator,  
Drug Enforcement Administration.  
[FR Doc. 78-2239 Filed 1-24-78; 8:45 am]

## [4310-70]

Title 36—Parks, Forests, and Public Properties  
CHAPTER I—NATIONAL PARK SERVICE,  
DEPARTMENT OF THE INTERIOR

PART 17—CONVEYANCE OF FREEHOLD AND  
LEASEHOLD INTERESTS ON LANDS OF THE  
NATIONAL PARK SYSTEM

## Criteria

AGENCY: National Park Service, Interior.

ACTION: Amendment to final rule.

SUMMARY: This document amends the regulations governing the criteria for conveyance to private parties of freehold or leasehold interests in land within units of the National Park System. The amendment provides the Advisory Council on Historic Preservation with opportunity to comment on conveyances affecting properties listed or eligible for listing on the National Register of Historic Places. The amendment is necessary to comply with the National Historic Preservation Act.

EFFECTIVE DATE: December 15, 1977.

FOR FURTHER INFORMATION,  
CONTACT:

C. Allen Harpine, 202-523-5252.

SUPPLEMENTARY INFORMATION: On September 15, 1977, there was published in the FEDERAL REGISTER (42 FR 46303-46305) a notice of final rulemaking. This final rule did not provide the Advisory Council on Historical Preservation with an opportunity for comment mandated by the National Historic Preservation Act. Therefore, this rule is amended by adding the following sentences at the end of § 17.3.

## § 17.3 Land subject to disposition.

... Any conveyances affecting properties listed or eligible for listing on the National Register of Historic Places must be reviewed by the Advisory Council on Historic Preservation. Procedures for obtaining the Council's comments appear at 36 CFR Part 800, "Procedures for the Protection of Historic and Cultural Resources."

WILLIAM J. WHALEN,  
Director, National  
Park Service.

JANUARY 16, 1978.

[FR Doc. 78-2113 Filed 1-24-78; 8:45 am]

## [6560-01]

Title 40—Protection of Environment  
CHAPTER I—ENVIRONMENTAL PROTECTION  
AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 846-7]

## NEW SOURCE REVIEW

Delegation of Authority to the Commonwealth  
of Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The amendments below institute certain address changes for reports and applications required from operators of new sources. EPA has delegated to the Commonwealth of Kentucky authority to review new and modified sources. The delegated authority includes the reviews under 40 CFR Part 52 for the prevention of significant deterioration. It also includes the review under 40 CFR Part 60 for the standards of performance for new stationary sources and reviewed under 40 CFR Part 61 for national emission standards for hazardous air pollutants. A notice announcing the delegation of authority was published in the Notices section of a previous issue of the FEDERAL REGISTER. These amendments provide that all reports, requests, applications, submittals, and communications previously required for the delegated reviews will now be sent to the Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, West Frankfort Office Complex, U.S. 127, Frankfort, Ky. 40601, instead of EPA's Region IV.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION,  
CONTACT:

John Eagles, Air Programs Branch,  
Environmental Protection Agency,  
Region IV, 345 Courtland Street  
NE., Atlanta, Ga. 30308, phone 404-  
881-2864.

SUPPLEMENTARY INFORMATION: The Regional Administrator finds

good cause for foregoing prior public notice and for making this rulemaking effective immediately in that it is an administrative change and not one of substantive content. No additional substantive burdens are imposed on the parties affected. The delegation which is reflected by this administrative amendment was effective on April 12, 1977, and it serves no purpose to delay the technical change of this addition of the state address to the Code of Federal Regulations.

(Secs. 101, 110, 111, 112, 301, Clean Air Act, as amended, (42 U.S.C. 7401, 7410, 7411, 7412, 7601).)

Dated: January 10, 1978.

JOHN C. WHITE,  
Regional Administrator.

PART 52—APPROVAL AND PROMULGATION  
OF IMPLEMENTATION PLANS

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

## Subpart S—Kentucky

1. Section 52.920(c) is amended by adding a new paragraph (c)(11) as follows:

§ 52.920 Identification of plan.

## (c) \* \* \*

(11) Letters requesting delegation of Federal authority for the administrative and technical portions of the Prevention of Significant Deterioration program were submitted on May 5 and July 13, 1976 by the Secretary of the Department for Natural Resources and Environmental Protection.

2. Section 52.931 is amended by adding a new paragraph (c) as follows:

§ 52.931 Significant deterioration of air quality.

## (c) \* \* \*

(c) All applications and other information required pursuant to § 52.21 from sources located in the Commonwealth of Kentucky shall be submitted to the Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, West Frankfort Office Complex, U.S. 127, Frankfort, Ky. 40601, instead of the EPA Region IV office.

PART 60—STANDARDS OF PERFORMANCE  
FOR NEW STATIONARY SOURCES

Part 60 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

3. In § 60.4, paragraph (b)(S) is added as follows:

§ 60.4 Address.

## RULES AND REGULATIONS

## (b) \* \* \*

(S) Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, U.S. 127, Frankfort, Ky. 40601.

PART 61—NATIONAL EMISSION STANDARDS  
FOR HAZARDOUS AIR POLLUTANTS

Part 61 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

4. In § 61.04, paragraph (b)(S) is added as follows:

§ 61.04 Address.

## (b) \* \* \*

(S) Division of Air Pollution Control, Department for Natural Resources and Environmental Protection, U.S. 127, Frankfort, Ky. 40601.

[FR Doc. 78-2032 Filed 1-24-78; 8:45 am]

## [6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME  
COMMISSION

[General Order 39, Docket No. 77-22]

PART 507—ACTIONS TO ADJUST OR MEET  
CONDITIONS UNFAVORABLE TO SHIPPING  
IN THE FOREIGN TRADE OF THE UNITED  
STATES

## Suspension

AGENCY: Federal Maritime Commission.

ACTION: Suspension of rule.

SUMMARY: This document suspends shipping regulations recently adopted by the Commission which required Guatemalan-flag carriers and their associates to pay an Equalization Fee designed to eliminate the discriminatory diversion of cargo to those carriers caused by Guatemalan laws. This Fee amounting to 50 percent of the freight charges is calculated to offset the penalties imposed under certain Guatemalan laws for the transportation of cargo on carriers other than Guatemalan carriers or associated carriers. The Commission is suspending the regulations because of certain assurances that waivers will be granted and no penalties will be imposed under such laws with respect to any U.S./Guatemalan commerce.

EFFECTIVE DATE: January 18, 1978.  
FOR FURTHER INFORMATION  
CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5740.

al Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5740.

SUPPLEMENTARY INFORMATION: On January 16, 1978, officials of Flomercia Line, Armagua Line and Lineas Maritimas de Guatemala, S.A., advised the Commission by telex that Guatemalan flag lines will issue the necessary waivers to all exonerated cargoes moving through U.S. ports to Guatemala during the period January 13 through February 20, 1978. Guatemalan Decree 26-77 becomes effective February 21, 1978. Based on Guatemalan flag assurances that waivers will be granted and no penalties will be imposed under Decree 41-71 with respect to any U.S./Guatemalan commerce, the Commission will suspend 46 CFR Part 507 until further Notice. The rules contained in 46 CFR Part 507 promulgated at 42 FR 62914, December 14, 1977 are suspended until further Notice.

By the Commission.

JOSEPH C. POLKING,  
Assistant Secretary.

[FR Doc. 78-2089 Filed 1-24-78; 8:45 am]

## [6730-01]

[General Order 39, Amdt. 2]

PART 507—ACTIONS TO ADJUST OR MEET  
CONDITIONS UNFAVORABLE TO SHIPPING  
IN THE FOREIGN TRADE OF THE UNITED  
STATES

"Favored Carriers" Status; Revocations

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The list of "favored carriers" provided in 46 CFR 507.1 is amended by the deletion of Pan American Mail Line, Inc., d.b.a. Flomercia Trailer Service and Coordinated Caribbean Transport, Inc. These carriers have been certified by affidavit that their relations with Guatemalan-flag carriers have been severed and that they do not have national flag preference or associated carriers statute under the laws of Guatemala. Therefore it has been determined that these carriers should be deleted from the list of "favored carriers."

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION  
CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTAL INFORMATION: 46 CFR 507.1 Provides that the Com-



mission will modify the list of "favored carriers," subject to Part 507, as circumstances warrant. This authority was delegated to the Managing Director (Commission Order No. 1, Amendment 5, Subsection 7.21.)

Pan American Mail Line, Inc. (PAML) and Coordinated Caribbean Transport Inc. (CCT) have certified by affidavits that their relations with the Guatemalan-flag carriers have been severed and that they do not have national flag preference or associated carrier status under the laws of Guatemala. Based upon these certified affidavits it has been determined by the Managing Director that neither PAML nor CCT are Guatemala-flag or associated carriers and should be deleted from the list of "favored carriers."

Therefore, pursuant to section 191(6) of the Merchant Marine Act, 1920, (46 U.S.C. 876 (1)(b)) and section 43 of the Shipping Act, 1916, (46 U.S.C. 841a), the Commission amends § 507.1, Title 46 CFR to read as follows:

§ 507.1 Conditions unfavorable to shipping in foreign trade with Guatemala.

The Federal Maritime Commission has determined that the Government of Guatemala has created conditions unfavorable to shipping in the foreign trade of the United States by precluding vessels of United States and third flag registry from competing in the ocean trade between the United States and Guatemala on the same basis as Guatemalan carriers or non-Guatemalan carriers which are associated with the former, and by discriminating thereby against vessels of United States and third flag registry in favor of Guatemalan carriers and their associated carriers. For the purposes of this part, the term "favored carriers" will be used to indicate the following Guatemalan carriers or their associated carriers receiving preferential treatment as a result of Republic of Guatemala Decree No. 41-71: (a) Armagua Line; (b) Flota Mercante Gran Centroamericana, S.A. (Flomerca); and (c) Lineas Maritimas de Guatemala, S.A. The Commission will modify this list of "favored carriers" by notice in the FEDERAL REGISTER, as circumstances warrant.

By the Commission.

JOSEPH C. POLKING,  
Assistant Secretary.

[FR Doc. 78-2041 Filed 1-24-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

# CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19833; RM-2088]

## PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Beaufort, S.C.;  
Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action herein assigns a Class A FM channel to Beaufort, S.C., as that community's second FM assignment. The channel would provide for a station which could provide a third local nighttime aural service to a growing community.

EFFECTIVE DATE: March 1, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION, CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING  
TERMINATED

Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of Amendment of § 73.202(b), Table of Assignments FM Broadcast Stations (Beaufort, S.C.), Docket No. 19833, RM-2088.

1. The Commission has before it a Notice of Proposed Rule Making, adopted September 26, 1973, 38 FR 27844, proposing the assignment of FM Channel 285A as a second FM assignment to Beaufort, S.C. The Notice was issued in response to a petition filed on behalf of Sea Island Broadcasting Corp. ("Sea Island"), licensee of Station WSIB, a class IV AM station at Beaufort. Sea Island responded to the Notice reiterating its intent to seek broadcast authority if the assignment was made as requested.

2. On November 28, 1973 (approximately 2 months after the issuance of the Notice in this proceeding), the Commission initiated a license revocation proceeding and issued an Order to Show Cause and Notice of Apparent Liability to the petitioner, Sea Island, in connection with its operation of AM Station WSIB. By action of June 24, 1976, the Commission revoked the license of Sea Island for Station WSIB, effective October 1, 1976. On August 12, 1976, the Commission's decision was appealed (D.C. Cir. Case No. 78-1735), and the appeal is still pending.

3. On October 18, 1977, Kenneth Van Polan ("Van Polan"), filed com-

ments<sup>1</sup> in which he expresses his interest in the proposed channel assignment and states he will immediately prepare and file with the Commission an application for the proposed channel (285A), if it is assigned.

4. Although Van Polan's comments were filed several years after the deadline for filing comments specified in the Notice, we believe they should be accepted for consideration. Because Sea Island was the only party expressing an interest in the channel, it was necessary for the Commission to defer action in this case for over 4 years in order to await the resolution of the case concerning the qualifications of Sea Island to be a licensee of an AM station.<sup>2</sup> Now that another interest has been shown for the proposed channel, further action can be taken on the proposal to assign Channel 285A to Beaufort, S.C., without having to await the final resolution of that case. Under these circumstances, we believe that Van Polan's comments should be accepted even though they were late.

5. Beaufort (pop. 9,435), seat of Beaufort County (pop. 51,135),<sup>3</sup> is located on the southeastern coast of South Carolina approximately 24 kilometers (15 miles) from the Atlantic Ocean, 121 kilometers (75 miles) south of Charleston, S.C., and 72 kilometers (45 miles) north of Savannah, Ga. Beaufort is presently served by AM Station WSIB (class IV), daytime-only AM Station WBEU and class C FM Station WBEU-FM (Channel 254).

6. The Notice indicated that Beaufort, the largest city in Beaufort County, was a fast growing recreational center which had almost a 50 percent increase in permanent residents between 1960-1970. It also stated that Beaufort was the educational and civic center of the county, in addition to having the Beaufort Regional Technical Center and the regional branch of the University of South Carolina located there.

7. Channel 285A could be assigned to Beaufort in conformance with all minimum distance separation requirements without affecting existing assignments. The proposed assignment would foreclose future assignments only on Channels 285A and 288A in areas along the narrow Atlantic coastline in and near Beaufort and extend-

<sup>1</sup>Polan acknowledges that his comments are filed several years after the due date specified by the Commission in the Notice. He requests that in the event it is determined by the Commission that the comments cannot be treated as such, the Commission then consider them to be an informal request for action pursuant to section 1.41 of the Rules.

<sup>2</sup>60 F.C.C. 2d 148.

<sup>3</sup>Population figures are taken from the 1970 U.S. Census.

ing north to the Charleston area which presently has six AM and four commercial class C FM stations in operation. Communities of over 2,500 population without FM assignments in the Channel 285A "precluded" area include Capehart (pop. 4,490); Parris Island (8,868) and Port Royal (2,864), in Beaufort County. However, since they are all within 10 miles of Beaufort, a Beaufort Channel 285A assignment would be available to them for application and use under the "10-mile" rule (§ 73.203(b) of the rules). While Hilton Head is within the small precluded area for Channel 288A, Channel 292A, (Station WHHR) is assigned to that community, and it does not appear to warrant another FM channel assignment.

8. The assignment of Channel 285A to Beaufort would result in intermixing a class A with a class C channel (254). Although it is the usual policy not to intermix class A channels and class C channels in the same community, we have deviated from this policy where there is no other class C channel available, where there is a demand for a class A channel, and there is someone willing to compete under such circumstances. Yakima, Washington, 42 F.C.C. 2d 548 (1973). This case meets those requirements. The proposed channel would provide for a third local nighttime aural service in a growing community. Thus, it would be in the public interest to assign Channel 285A to Beaufort. This action should not be interpreted as prohibiting Sea Island from filing an application for the channel assigned herein. However, the disposition of any such application would necessarily have to give recognition to the outcome of the AM revocation proceeding.

9. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. In view of the foregoing: It is ordered, That effective March 1, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments, with respect to Beaufort, South Carolina, is amended, to read as follows:

City and Channel No.

Beaufort, S.C.—254, 285A.

11. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

[FR Doc. 78-2093 Filed 1-24-78; 8:45 am]

[6712-01]

[Docket No. 20033; RM-2200]

## PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Monahans and Odessa, Tex.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action reassigns VHF TV Channel 9 from Monahans, Tex., to Odessa-Monahans, Tex., on a hyphenated basis, in order to permit further evaluation of the need for an additional Odessa TV station in connection with the filing of an application.

EFFECTIVE DATE: March 1, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—PROCEEDING  
TERMINATED

Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Monahans and Odessa, Tex.), Docket No. 20033, RM-2200.

1. The Commission has before it a Notice of Proposed Rule Making, 39 FR 15317, proposing to reassign VHF TV Channel 9 from Monahans, Tex., to Odessa-Monahans, Tex., on a hyphenated basis. This Notice was issued in response to a petition by Grayson Enterprises, Inc. ("petitioner"), licensee of Station KMOM-TV (Channel 9), Monahans. Petitioner filed supporting comments and replies. Oppositions to the Notice were submitted by Forward Communications of Texas, Inc., licensee of Station KOSA-TV (Channel 7), Odessa, Tex.; Midland Telecasting Co., licensee of Station KDCD-TV (Channel 18), Midland, Tex.; the Monahans Chamber of Commerce; and the Association of Maximum Service Telecasters, Inc. ("AMST").

2. Grayson seeks a hyphenated assignment so that it may seek a modification of its license to specify Odessa, Tex., as its community of license, a step which would permit it to move its main studio to Odessa, approximately 59 kilometers (37 miles), northeast of Monahans. Petitioner states that this move will enable its station to become a viable competitive outlet in the Odessa-Midland market in which it

now competes<sup>1</sup> and thereby provide better service. The transmitter site for Station KMOM-TV is located approximately 43 kilometers (27 miles) north of Monahans and 48 kilometers (30 miles) west of Odessa. It already provides a city grade signal to both communities, and no change in the site or service area is proposed by petitioner.

3. The Notice proposed to hyphenate the assignment, noting that Odessa is the much larger community and that its size and economic base could better foster the development of an economically viable local station. It also stated that a fully competitive third network service in the Odessa-Midland market<sup>2</sup> was an important public interest objective which made this proposal worth pursuing in a rule making proceeding. It was thought that by using the hyphenation technique, a further and more extensive evaluation of a specific proposal to move the assignment from the smaller to the larger community could be undertaken in an application context. To lessen the effects of a possible loss in local service to Monahans, petitioner was asked to respond to the desirability of our requiring that an auxiliary studio be maintained in Monahans if Odessa were to ultimately become the city of license.

4. In its comments, petitioner states that it supports the Commission's proposal as set forth in the Notice. It reiterates that Channel 9 should be reassigned to Odessa-Monahans because of the great disparity in growth between the two communities and its own difficulty competing with two other network stations in the market. In this connection petitioner argues that Odessa has a greater need for and ability to sustain an additional channel since it is a thriving community of 78,380 in population whereas Monahans (pop. 8,333)<sup>3</sup> is a dying town. Opponents disagree with this assessment, citing what are essentially isolated examples of growth in Monahans. In addition, one opponent expressed a concern that Monahans will lose service if the reassignment is made. Another opponent warns that this proposal could seriously affect further development of UHF broadcasting in the Odessa-Midland market. AMST does not oppose the reassignment as such; rather, it urges that a short spacing

<sup>1</sup>Midland, which is part of this hyphenated television market, lies approximately 91 kilometers (57 miles) northeast of Monahans.

<sup>2</sup>This region is presently served by two other network affiliates—Station KMID-TV (Ch. 2) (NBC), Midland, and Station KOSA-TV (Ch. 7) (CBS), Odessa. Petitioner's Station KMOM-TV is affiliated with the ABC network.

<sup>3</sup>Population data are taken from the 1970 U.S. Census.



not be created with Channel 9, Abilene, Texas.\* Since no change in coverage is proposed, however, these questions present matters which are more appropriately considered in the specific context of an application for a station at Odessa.\* Looking towards adoption of its proposal, petitioner states that it would maintain a studio at Monahans from which at least 1 hour of local live programing would originate.

5. Hyphenation is an assignment tool used in those instances where it appears best to postpone until the application stage any unresolved questions as to which community warrants the assignment.\* Thus, the use of hyphenation permits the filing of an application to utilize the assigned channel at a choice of communities;\* it does not actually change an existing city of license.

6. In light of the growth patterns of the various communities in the area and the development of competitive factors over a 20 year period,\* hyphenation now appears appropriate. In our view, Monahans does not appear to be of sufficient size to warrant a TV station under normal circumstances,\* let alone in these circumstances where its local outlet must compete in this market with two other network stations both of which are licensed to much larger communities. However, to insure that the loss of service to Monahans be kept at a minimum, we have suggested, and petitioner has agreed, that an auxiliary studio should be maintained in Monahans. Therefore, we shall impose a condition that any

\*The present transmitter location is already short-spaced to Channel 9, Abilene, Tex., by 5.5 miles. Since no change in transmitter site is proposed, no short-spacing problem is presented at this stage.

\*Midland Telecasting Co. complained that its own chances of obtaining an ABC affiliation would be hampered by the proposal and asked that a petition to deny the renewal of petitioner's TV station, filed November 4, 1974, be incorporated herein. But this filing, since it concerns issues of an economic nature, including its chances for a network affiliation, are matters which should more appropriately be considered in connection with the application.

\*See *Hay Springs-Scottsbluff, Neb.*, Docket No. 20065, 42 Fed. Reg. 41123.

\*It is now settled, that if a reassignment of the channel is warranted, a new application for license rather than a modification of an existing license must be filed so that other interested persons may have the opportunity to apply for the new community. *Santa Ana, Cal.*, 65 F.C.C. 2d 920 (1977). See also *Hay Springs-Scottsbluff, Neb.*, *supra*.

\*Monahans has had a TV station in operation on Channel 9 since 1958.

\*When the Monahans channel was assigned in the original Table, the city, although small, was expected to grow. However the anticipated growth has not occurred.

application for Channel 9 to serve Odessa must include a provision for an auxiliary studio at Monahans. We note that under the action taken here, the station will continue to be licensed to Monahans until such time as favorable action would be taken on an application for a license to serve Odessa.

7. Mexican concurrence in the action taken here has been obtained.

8. Accordingly, it is ordered, That § 73.606(b) of the Commission's rules, is amended, effective March 1, 1978, insofar as the listed communities are concerned, as follows:

City:	Channel No.
Monahans, Tex.....	9
Monahans-Odessa, Tex.....	9

9. Authority for the adoption of the amendment contained herein appears in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

10. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

(FR Doc. 78-2092 Filed 1-24-78; 8:45 am)

#### [7035-01]

##### Title 49—Transportation

##### CHAPTER X—INTERSTATE COMMERCE COMMISSION

##### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 293; Sub. No. 2]

##### PART 1125—STANDARDS FOR DETERMINING RAIL SERVICES CONTINUATION SUBSIDIES

###### Extension of Comment Period

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Service Planning Office restated the Regional Subsidy Standards on January 11, 1978 (43 FR 1692) to conform with the ICC's new Uniform System of Accounts (USOA). Comments are invited on substantive changes and whether in light of the new USOA, the formulas for apportioning common costs may be refined. Due to delays in publication and distribution, and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Regional Subsidy Standards.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made. Interested parties are also asked to consider whether the formulas for apportioning costs (§ 1125.8) may be refined in light of the new USOA.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, that comments on the reissued Regional Subsidy Standards (Part 1125 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978. Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2070 Filed 1-24-78; 8:45 am)

#### [7035-01]

[Ex Parte No. 293; Sub. No. 8]

##### PART 1127—STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

###### Extension of Comment Period

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Services Planning Office restated the Commuter Standards on January 11, 1978 (43 FR 1715) to conform with the ICC's new Uniform System of Accounts (USOA). Comments were invited on substantive changes and whether in light of the new USOA, the formulas for apportioning common costs may be refined. Due to delays in publication and distribution, and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services

Planning Office, 1900 L Street NW., Washington, D.C. 20036. Attn: Commuter Standards.

FOR FURTHER INFORMATION CONTACT:

David S. Rind, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made. Interested parties are also asked to consider the appropriateness of the formulae for apportioning common costs in relationship to the new USOA.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, that comments on the reissued commuter standards (Part 1127 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978. Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2071 Filed 1-24-78; 8:45 am)

#### [7035-01]

[Docket No. 36366]

##### PART 1201—UNIFORM SYSTEM OF ACCOUNTS

###### Support B—Branch Line Accounting System

##### REVISION TO THE BRANCH LINE ACCOUNTING SYSTEM; EXTENSION OF COMMENT PERIOD

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Extension of comment period.

SUMMARY: The Rail Services Planning Office restated the Branch Line Accounting System regulations on January 11, 1978 (43 FR 1732) to conform with the ICC's new Uniform System of Accounts (USOA). Comments are invited on substantive changes. Due to delays in publication and distribution and in order to allow adequate time for interested persons to review the reissued rules, the comment period has been extended to February 27, 1978.

DATE: Comments may be filed on or before February 27, 1978.

ADDRESS: An original and six copies should be submitted to: Rail Services Planning Office, 1900 L Street, NW., Washington, D.C. 20036. Attn: Branch Line Accounting System.

FOR FURTHER INFORMATION CONTACT:

James Wells, Chief, Cost Evaluation Branch, Rail Services Planning Office, 202-254-7552.

SUPPLEMENTARY INFORMATION: RSPO invites comments on those areas in which substantive changes were made or a party believes substantive changes may have been made.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, it is ordered, That comments on the reissued Branch Line Accounting System (Part 1201 of Chapter X of Title 49 of the Code of Federal Regulations) will be accepted until February 27, 1978.

Issued January 18, 1978, by Alan M. Fitzwater, Director, Rail Services Planning Office.

By the Commission.

H. GORDON HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2072 Filed 1-24-78; 8:45 am)

#### [7035-01]

##### SUBCHAPTER D—TARIFFS AND SCHEDULES [Docket No. 35867]

##### PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

###### Revision of Regulations for the Construction, Filing, and Posting of Tariffs of Common Carriers of Property by Motor Vehicle and Tariffs of Certain Common Carriers by Water

AGENCY: Interstate Commerce Commission, Washington, D.C. 20423.

ACTION: Clarification.

SUMMARY: FR Doc. 77-25737, published at 42 FR 44236, September 2, 1977, showed an effective date of October 5, 1977, for the regulations published in Part 1310 which were adopted in the above-entitled proceeding. This notice is to clarify that the regulations in Part 1310, as amended, became effective in their entirety on that date, as provided in the order of the Commission served August 23, 1977. This order thereby discontinued the stay order served March 17, 1977, and all the regulations in Part 1310, as amended, became effective October 5, 1977.

\*This proceeding is consolidated with Docket No. 35867 (Sub-No. 1), standard headings and standard item numbers for commonly published rules in tariffs of class I motor common carriers of property and of agents.

This document is therefore amended to read as follows:

Under "EFFECTIVE DATES" change the sentence now reading: "The effective date of the regulations is October 5, 1977." to read "The effective date of Part 1310 is October 5, 1977."

EFFECTIVE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Geinsenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7739.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2163 Filed 1-24-78; 8:45 am)

#### [4310-55]

##### Title 50—Wildlife and Fisheries

##### CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

##### PART 33—SPORT FISHING

###### National Wildlife Refuges in Florida, Georgia and South Carolina

AGENCY: Fish and Wildlife Service.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the condition under which sport fishing will be permitted on portions of certain National Wildlife Refuges in Florida, Georgia, and South Carolina.

DATES: Effective on January 25, 1978, for duration of calendar year 1978.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

Donald J. Hankla, Area Office Manager, U.S. Fish and Wildlife Service, 900 San Marco Boulevard, Jacksonville, Fla. 32207. Telephone: 904-791-2267.

John P. Davis, Refuge Manager, Savannah (and Blackbeard Island) National Wildlife Refuge, P.O. Box 8487, Savannah, Ga. 31402. Telephone: 912-232-4321, Ext. 415.

Bruce Blihovde, Refuge Manager, Lake Woodruff National Wildlife Refuge, P.O. Box 488, DeLeon Springs, Fla. 32028. Telephone: 904-985-4673.

Thomas W. Martin, Refuge Man-



ager, Loxahatchee National Wildlife Refuge, Route 1, Box 278, Boynton Beach, Fla. 33437. Telephone: 305-732-3684.

Stephen Vehrs, Refuge Manager, Merritt Island National Wildlife Refuge, P.O. Box 6504, Titusville, Fla. 32780. Telephone: 305-867-4820.

John R. Eadie, Refuge Manager, Okefenokee National Wildlife Refuge, P.O. Box 117, Waycross, Ga. 31501. Telephone: 912-283-2580.

Ronnie L. Shell, Refuge Manager, Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Telephone: 912-986-3651.

Joe D. White, Refuge Manager, St. Marks National Wildlife Refuge, Box 68, St. Marks, Fla. 32355. Telephone: 904-925-6280.

Harry T. Stone, Refuge Manager, St. Vincent National Wildlife Refuge, P.O. Box 447, Apalachicola, Fla. 32320. Telephone: 904-653-8808.

#### SUPPLEMENTARY INFORMATION:

##### GENERAL

Sport fishing on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to sport fishing are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

##### FLORIDA

###### LAKE WOODRUFF NATIONAL WILDLIFE REFUGE

Sport fishing on the Lake Woodruff National Wildlife Refuge, DeLeon Springs, Fla. is permitted on approximately 650 acres. The sport fishing season is open year-round on delineated refuge waters west of Norris Dead River, Lake Woodruff, Spring Garden Creek, Highland Park Canal, and the canal bordering the east side of Norris Dead River. Refuge waters east of Norris Dead River Canal, Lake Woodruff, and Spring Garden Creek will be open to fishing and access March 15 to October 15, 1978. Fishing and access on refuge waters are permitted during daylight hours only. Air thrust boats are prohibited.

###### LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted in all waters (61,352 acres) of the Loxahatchee National Wildlife Refuge, Delray Beach, Fla., except those marked by

signs as being closed. All public entry onto the refuge for any purpose is limited to the following points: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters area; (c) Loxahatchee Recreation Area. Sport fishing is permitted year-round. Fishing is restricted to 1½ hours before sunrise until 1 hour after sunset. Boats must enter or leave the refuge through the three public ramps: (a) S-5A (Twenty-Mile Bend) boat ramp; (b) Headquarters boat ramp; (c) S-39 (Loxahatchee Recreation Area) boat ramps. Method of fishing allowed is with attended rod and reel and/or pole and line. Air thrust boat use is authorized only by special permit issued by the refuge manager. Speed boats and racing craft are prohibited.

###### MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Sport fishing on the Merritt Island National Wildlife Refuge, Titusville, Fla., is permitted on designated areas. Sport fishing is permitted during daylight hours, year-round, except when posted as closed. Sport fishing is permitted from boats at night by those persons possessing a refuge special use permit under the following conditions: (a) Subject to the payment of an annual fee (\$5); (b) Refuge boat launching is permitted only at Beacon 42 Fish Camp. Air thrust boats are not allowed on refuge waters. Coast Guard approved life preservers shall be worn by persons in small craft less than 20 feet in length while these boats are in motion in the Indian River, Banana River, and Mosquito Lagoon within refuge boundaries.

###### ST. MARKS NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Marks National Wildlife Refuge, St. Marks, Fla., is permitted on approximately 50,000 acres. The sport fishing season on the refuge extends from March 15 through October 15, 1978. Fishing is permitted ½ hour before sunrise until ½ hour after sunset during open season. Boats with electric motors and gasoline engines up to and including 4 horsepower are permitted. Trotlines shall be taken up daily prior to closing hours of fishing.

###### ST. VINCENT NATIONAL WILDLIFE REFUGE

Sport fishing on the St. Vincent National Wildlife Refuge, Franklin County, Apalachicola, Fla., is permitted on 360 acres. The sport fishing season extends from March 1 through October 30, 1978. Fishermen are permitted on the refuge from 1 hour before sunrise to 1 hour after sunset. No motors of any type may be used. Boats may be left on the island at designated points during the open season provided they are identified with their owner's name and address. Boats must

be removed from the refuge no later than October 30, 1978. Use of live minnows as bait is prohibited.

##### GEORGIA

###### BLACKBEARD ISLAND NATIONAL WILDLIFE REFUGE

Fresh water sport fishing on the Blackbeard Island National Wildlife Refuge, McIntosh County, Townsend, Ga., is permitted only on two areas totaling 350 acres. The sport fishing season extends from March 15 through October 25, 1978. Fishing is permitted in daylight hours only. Boats with electric motors permitted. Gasoline powered motors prohibited. Use of live minnows as bait prohibited.

###### KEFENOKEE NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on the Okefenokee National Wildlife Refuge, Waycross, Ga., in the designated open water areas connected by established boat runs. Fishing permitted during posted hours only. Boats with motors not larger than 10 horsepower, canoes, and rowboats permitted. Use of live minnows as bait prohibited. Trotlines, limb lines, nets, or other set tackle prohibited. Persons entering refuge from main access points must register with the respective concessioner. Persons using the sill access ramp on the pocket and Kingfisher Landing access ramp are required to sign the respective registers when they enter the swamp and again when they leave.

###### PIEDMONT NATIONAL WILDLIFE REFUGE

Sport fishing on the Piedmont National Wildlife Refuge, Round Oak, Ga., is permitted on approximately 32 acres, during daylight only. Open Season: March 11 through September 16, 1978—The Falling Creek Bridge Area on Round Oak-Juliette Road and the Little Falling Creek Area at County Line Bridge; April 29 through September 16, 1978—Allison Lake; July 15 through September 16, 1978—Five Points Lake. Boats permitted in Allison Lake only. Electric motors permitted; all other motors prohibited. Boats may not be left on the refuge overnight. Bank fishing permitted within posted areas only.

##### GEORGIA AND SOUTH CAROLINA

###### SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge is permitted only in designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport fishing season extends from March 15 through October 25, 1978. Fishing is permitted from sunrise to 1 hour past sunset. Outboard motors are prohibited in impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25,

1978. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

##### SOUTH CAROLINA

###### SAVANNAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Savannah National Wildlife Refuge, Jasper County, Hardeeville, S.C., is permitted only on designated impounded waters, tidal creeks, ditches and canals in an area comprising 26,000 acres. The sport

fishing season extends from March 15 through October 25, 1978 for all impounded waters. Fishing is permitted from sunrise to 1 hour past sunset. Outboard motors are prohibited in impounded waters. Tidal creeks may be fished from boats only from February 1 through October 25. Rod and reel, pole and line, artificial and live baits are permitted. All areas posted with "closed area" signs are closed to all activities including fishing. Private boats may not be left on the refuge overnight.

The provisions of these special regulations supplement the regulations set

forth in Title 50 Code of Federal Regulations, Part 33, which govern sport fishing on wildlife refuge areas generally. The public is invited to offer suggestions and comments at any time.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 17, 1978.

JOHN C. OBERHEU,  
Acting Area Manager.

[FR Doc. 78-2083 Filed 1-24-78; 8:45 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[7590-01]

### NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 71 and 73]

#### RADIOACTIVE MATERIAL

Packaging and Transportation by Air,  
Environmental Statement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Issuance of a Final Environmental Statement on Transportation of Radioactive Material by Air and other Modes.

SUMMARY: A final environmental statement on transportation of radioactive material has been issued and will be considered in deciding the disposition of the present transportation rule making proceeding.

DATES: Comments must be received on or before March 15, 1978.

ADDRESS: Comments should be filed with the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Office of Standards Development.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald R. Hopkins, phone: 301-443-6910.

**SUPPLEMENTARY INFORMATION:** In its advance notice initiating a rule-making proceeding to reevaluate the Commission's regulations concerning the transportation of radioactive material by air published in the FEDERAL REGISTER on June 2, 1975, (40 FR 23768), the Nuclear Regulatory Commission noted that a generic environmental impact statement would be prepared and related ground transportation. Although the statement was to be directed at air transportation, other transportation modes—land and water—were to be considered in light of the requirement of the National Environmental Policy Act of 1969 (NEPA) that the relative cost and benefit of alternatives to certain proposed federal actions be fully considered. The statement was to be generic in nature, assessing the impact from all transportation, not just that associated with a particular rule change.

Pursuant to the National Environmental Policy Act of 1969 and the Commission's regulations in 10 CFR Part 51 "Licensing and Regulatory

Policy and Procedures for Environmental Protection," the Commission's Office of Standards Development issued a draft environmental statement on transportation in March, 1976. After consideration of the 28 letters of comment received from the public and from Federal, state and local agencies, a Final Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes, dated December 1977, and designated NUREG-0170, has been issued.

Taking into account the conclusions of the final environmental statement, public comments received on the proceeding, and other information, the Nuclear Regulatory Commission will consider the disposition of the rule making proceeding announced on June 2, 1975. Persons with views on the content or conclusions of the final environmental statement which may be helpful to the Commission in its deliberations should file such comments by March 15, 1978, with the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Office of Standards Development. If sufficient need for clarification of the final environmental statement becomes apparent, the Office of Standards Development will consider holding one or more public meetings for this purpose.

The final environmental statement is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Single copies of the statement (NUREG-0170) may be obtained by written request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Copies can also be obtained from the National Technical Information Service, Springfield, Va. 22161.

(5 U.S.C. 552(a).)

Dated at Silver Spring, Md., this 29th day of December 1977.

CLIFFORD V. SMITH, Jr.,  
Director, Office of Nuclear  
Material Safety and Safeguards.  
[FR Doc. 78-2040 Filed 1-24-78; 8:45 am]

[4810-33]

### DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 24]

#### PROCEDURES AND STANDARDS APPLICABLE TO SUSPENSIONS AND PROHIBITIONS WHERE FELONY IS CHARGED

Proposed Rulemaking

AGENCY: Comptroller of the Currency.

ACTION: Proposed regulations.

**SUMMARY:** The procedures and standards set forth in these proposed regulations would be applicable to proceedings by the Comptroller of the Currency to suspend and/or prohibit from participation any officer or director or other person participating in the affairs of a national bank, where such person is charged with a felony involving dishonesty or breach of trust. These proposed regulations are also intended to make available to such persons a hearing at which they may present such facts as will aid the Comptroller in determining whether any existing suspension should continue in effect.

DATE: Comments must be received on or before February 24, 1978.

ADDRESS: Interested parties are invited to submit written data, views or arguments in connection with these proposed regulations to Mr. John E. Shockey, Chief Counsel, Comptroller of the Currency, 490 L'Enfant Plaza, Washington, D.C. 20219. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION, CONTACT:

Robert S. Pasley, Attorney, Office of the Comptroller of the Currency, Washington, D.C. 20219, Tel. No. 202-447-1989.

**SUPPLEMENTARY INFORMATION:** Substantially identical regulations were adopted by the Federal Deposit Insurance Corporation on November 18, 1977 (42 FR 59491) and have been proposed by the Federal Home Loan Board on June 23, 1977 (42 FR 31803).

#### DRAFTING INFORMATION

The principal drafter of this document was Robert S. Pasley, Attorney.

## PROPOSED RULES

3369

### PROPOSED AMENDMENT

Accordingly, the Comptroller hereby proposes to adopt 12 CFR Part 24, to read as follows:

#### PART 24—PROCEDURES AND STANDARDS APPLICABLE TO SUSPENSIONS AND PROHIBITIONS WHERE FELONY IS CHARGED

Sec.

24.1 Suspension and prohibition where a felony is charged.

24.2 Notice of hearing.

24.3 Hearing.

24.4 Waiver of hearing.

24.5 Decision of the Comptroller.

24.6 Reconsideration by the Comptroller.

24.7 Relevant considerations.

AUTHORITY: 12 U.S.C. 1818(g)(1).

§ 24.1 Suspension and prohibition where a felony is charged.

Whenever a director or officer of a national bank, or any other person participating in the conduct of the affairs of such bank, is charged in any State, Federal or territorial information or indictment, or in any complaint authorized by a United States Attorney, with the commission of or participation in a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law) involving dishonesty or breach of trust, the Comptroller, upon a preliminary determination that the offense alleged in the information, indictment or complaint is, or may be, within any or all of the criteria established in § 24.7, shall, by written notice served upon such director, officer, or other person by registered United States mail, suspend him from office or prohibit him from further participation in any manner in the affairs of the bank, or both. A copy of the notice of suspension shall also be served upon the bank.

§ 24.2 Notice of hearing.

(a) Any notice of suspension issued pursuant to § 24.1 shall be accompanied by a further notice to the individual that he may request in writing a hearing, at which he may present evidence and argument as to why the suspension and/or prohibition should not continue in effect. Any notice of the opportunity for a hearing shall be accompanied by a description of the hearing procedure and the criteria to be considered.

(b) A petition filed pursuant to paragraph (a) of this section shall state with particularity the relief desired, the grounds therefor, and shall include, when available, supporting evidence. Such petition and supporting evidence shall be filed with the Comptroller.

(c) If an individual fails to request a hearing, or fails to appear at a hearing, either in person or through an at-

torney, or fails to submit a written argument where a hearing has been waived pursuant to § 24.4, the suspension and/or prohibition shall remain in effect until such information, indictment or complaint is finally disposed of, or until terminated by the Comptroller.

§ 24.3 Hearing.

(a) After the receipt of a petition complying with § 24.2(b), the Comptroller will order a hearing to commence within 30 days, to be held in Washington, D.C., or in such other place as is designated by the Comptroller, before a panel designated by the Comptroller to conduct said hearing.

(b) The Notice of Hearing shall be served by the Comptroller upon the party or parties afforded the hearing, and shall set forth the time and place of the hearing, and the names and business addresses of the members of the hearing panel.

(c) The subject individual may appear at the hearing personally, through counsel, or personally with counsel. The individual shall have the right to introduce relevant and material evidence, and to present an oral argument before the panel. Members of the Comptroller's legal staff may also attend the hearing, and may participate as a party. Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 551, et seq.) shall apply to the hearing. The proceedings shall be recorded and a transcript will be furnished to the subject individual, upon request and after the payment of the cost thereof. Witnesses may be presented so long as a list of the witnesses is furnished to the panel prior to the hearing. Witnesses shall not be sworn, unless specifically requested by either party, or by the panel. The panel may ask questions of any witness, and every party shall have the opportunity to cross-examine any witness presented by a participating party. Upon the request of either the subject individual or a representative of the Comptroller's legal staff, the record shall remain open for a period of five (5) business days following the hearing, during which time the parties may make any additional, relevant submissions to the record. Thereafter, the record shall be closed.

(d) The panel will make its recommendations to the Comptroller within ten (10) business days following the closing of the record, except that such period may be extended by the Comptroller.

§ 24.4 Waiver of hearing.

The subject individual may, in writing, waive an oral hearing, and elect instead to have the matter determined by the Comptroller on the basis of written submissions alone.

§ 24.5 Decision of the Comptroller.

(a) Within thirty (30) days following receipt of the panel's recommended decision, or receipt of the subject individual's written submissions where a hearing has been waived pursuant to § 24.4, the Comptroller shall render his decision. The decision shall include a statement of the basis for the decision, and such statement shall be provided to the subject individual and to the bank.

(b) The Comptroller may extend this thirty (30) day time period for good cause, but in no instance shall the extension be greater than sixty (60) days after the close of the hearing, or after the receipt of written submissions if the hearing has been waived. Where an extension is required, the individual will be notified of the reason for the extension and of the expected date upon which a final decision will be rendered.

§ 24.6 Reconsideration by the Comptroller.

(a) The subject individual shall have ten (10) business days following receipt of the decision of the Comptroller in which to petition the Comptroller for reconsideration.

(b) The subject individual shall also be entitled to petition the Comptroller for reconsideration of his decision any time after the expiration of a one-year period from the date of the Comptroller's decision; *Provided, however*, that no petition for reconsideration may be made within one year of a previous petition.

(c) A petition for reconsideration shall state with particularity the basis for reconsideration, the relief sought, and any exceptions the individual takes to the Comptroller's finding. A petition may be accompanied by a memorandum of points and authorities in support of the petition, and any supporting documentation the individual may wish to have considered.

(d) No hearing need be granted on any such petition for reconsideration. The Comptroller shall promptly render his decision following receipt of the petition.

§ 24.7 Relevant considerations.

(a) In deciding the question of suspension under this section, the Comptroller will consider the following:

(1) Whether the alleged offense: (i) Is a felony (or a misdemeanor under State or territorial law which, because of the length of the maximum sentence that may be imposed, is equivalent to a felony under Federal law), and (ii) involves dishonesty or breach of trust;

(2) Whether the continued presence of the subject individual in his position constitutes a possible danger to the safety of deposits or the soundness of the national bank because of: (i) The nature and extent of the individ-



ual's participation in the affairs of the national bank; or (ii) the nature of the offense with which the individual has been charged;

(3) Whether there is cause to believe that there may be an erosion of public confidence in the integrity, safety, or soundness of the particular bank or the national banking system (either generally or in the particular locality in which the bank is situated) if the subject individual is permitted to remain in his position in that bank; and

(4) Whether the individual is covered by the bank's fidelity bond, and, if so, whether the bonding company is likely to revoke the bond, or coverage under the bond is likely to be adversely affected, as a result of the charge.

(b) The Comptroller may consider any other factors which, in the specific case appear relevant to the continuation of a suspension order.

(d) In deciding whether a notice of suspension and/or prohibition shall continue in effect or shall terminate, the Comptroller shall not consider the ultimate question of the guilt or innocence of the subject individual with regard to the offense with which he has been charged.

Dated: January 6, 1978.

JOHN G. HEIMANN,  
Comptroller of the currency.  
[FR Doc. 78-2117 Filed 1-24-78; 8:45 am]

#### [6210-01]

##### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[12 CFR Ch. II]

#### [4810-33]

##### DEPARTMENT OF THE TREASURY

Comptroller of the currency  
[12 CFR Ch. I]

#### [6714-01]

##### FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Ch. III]

#### [6720-01]

##### FEDERAL HOME LOAN BANK BOARD

[12 CFR Ch. V]  
[FRB Docket No. R-0139]

##### COMMUNITY REINVESTMENT ACT OF 1977

Joint Hearing

AGENCY: Federal Reserve System, Comptroller of the Currency, Federal

Deposit Insurance Corporation, and Federal Home Loan Bank Board.

ACTION: Notice of joint hearing.

SUMMARY: The Community Reinvestment Act of 1977 (the "CRA") requires each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. This document announces a joint hearing to be held to aid these agencies in the preparation of regulations prescribed by the "CRA". The document also sets forth questions the agencies are especially interested in having addressed in written and oral submissions.

DATES: Hearing: March 15 and 16, 1978, at 10 a.m. Comments: Due on or before March 8, 1978. The agencies also expect to hold hearings in the following cities between March 20 and April 20, 1978: Atlanta, Boston, Chicago, Dallas, and San Francisco. Details regarding exact times and places will be announced later.

ADDRESSES: Hearing location: Conference Room E, Terrace Level, Federal Reserve Martin Building Annex, 20th and C Street NW., Washington, D.C. Comments: Send to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

#### FOR FURTHER INFORMATION CONTACT:

Robert J. Lawrence, Deputy Staff Director for Management, Federal Reserve System, Washington, D.C. 20551, phone 202-452-3766.

SUPPLEMENTARY INFORMATION: On October 12, 1977, the President signed into law the Housing and Community Development Act of 1977 (Pub. L. 95-128). Title VIII of that Act is the Community Reinvestment Act of 1977 ("the CRA"). The CRA requires that, in connection with its examination of a financial institution within its jurisdiction, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the agencies") shall assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution, and that the appropriate agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares. Pursuant to the author-

ity contained in section 806 of the CRA, the agencies will prescribe regulations to carry out the purposes of the CRA to take effect no later than November 8, 1978.

On behalf of the four agencies, notice is hereby given that, to aid in the preparation of those regulations, a hearing will be held before representatives of the agencies in conference room E on the terrace level of the Federal Reserve's Martin Building Annex, 20th and C Streets NW., Washington, D.C., on March 15 and 16, 1978. The proceedings will commence at 10 a.m. on both dates and will consist of presentations of statements in oral or written form. Interested persons are invited, however, to submit written comments regardless of whether they intend to participate in the hearing.

The agencies also expect to hold hearings in the following cities between March 20 and April 20, 1978: Atlanta, Boston, Chicago, Dallas, and San Francisco. Details regarding exact times and places will be announced later.

Any person desiring to submit written comments, give testimony, present evidence, or otherwise participate in the proceedings should file with the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, on or before March 8, 1978, four copies of their written comments or a written request containing a statement of the nature of the petitioner's interest in the proceedings, the city in which petitioner wishes to testify, the length of time requested for oral presentation, a summary of the matters concerning which the petitioner wishes to give testimony or submit evidence, and the names and identify of witnesses who propose to appear. Copies of all written submissions will be distributed by the Board of Governors to each of the other agencies and will be made available for public inspection and copying upon request in accordance with the agencies' respective rules regarding availability of information. All material submitted should refer to Docket No. R-0139.

To aid persons in preparing written comments and testimony, the text of the CRA is reprinted below, followed by questions that the agencies are especially interested in having addressed in written and oral submissions.

#### TITLE VIII—COMMUNITY REINVESTMENT

Sec. 801. This title may be cited as the "Community Reinvestment Act of 1977."

Sec. 802. (a) The Congress finds that—

(1) Regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) The convenience and needs of communities include the need for credit services as well as deposit services; and

(3) Regulated financial institutions have continuing and affirmative obligation to

help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

Sec. 803. For the purposes of this title—

(1) The term "appropriate Federal financial supervisory agency" means—

(A) The Comptroller of the Currency with respect to national banks;

(B) The Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) The Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) The Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) The term "regulated financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act; and

(3) The term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) A charter for a national bank or Federal savings and loan association;

(B) Deposit insurance in connection with a newly chartered State bank, savings bank, savings and loan association, or similar institution;

(C) The establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) The relocation of the home office or a branch office of a regulated financial institution;

(E) The merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(e) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) The acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

Sec. 804. In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) Assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) Take such record into account in its evaluation of an application for a deposit facility by such institution.

Sec. 805. Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section out-

lining the actions it has taken to carry out its responsibilities under this title.

Sec. 806. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

#### QUESTIONS

A. Community. Section 804 of the Act requires the Agencies to assess an institution's record of meeting the credit needs "of its entire community, including low- and moderate-income neighborhoods . . ."

1. How should the terms "entire community" and "low- and moderate-income neighborhoods" be defined?

2. Should the geographic determination of community vary for different types of credit needs, such as mortgage, agricultural, business, or consumer credit needs?

3. Should identical community measurement criteria be used for urban, suburban, and rural communities?

4. Should the definitions take into account the size, location, or branch structure of an institution?

5. Should the geographic criteria for these definitions be framed in terms of political boundaries, such as city limits, counties and metropolitan areas; or should the criteria relate to economic bases such as trading areas, areas from which deposits are obtained, or banking market areas?

B. Credit needs. Section 804 of the Act requires the agencies to assess an institution's record of meeting the "credit needs" of its community.

1. How should "credit needs" be defined and measured? What is the difference, if any, between needs for credit and demands for credit? To what extent should the lenders' creditworthiness standards influence the definition and measurement of credit needs?

2. Do community credit needs include financing needs of State and local governments and other local public agencies?

3. How should the credit needs of those who have access to regional or national credit markets, and those who do not have such access, be taken into account in determining community credit needs?

4. To what extent do community credit needs include the credit needs of borrowers operating within many communities such as the Federal government and large manufacturing and retail firms?

C. Assessing an institution's record. Section 804 of the Act requires the agencies "to assess" an institution's record in meeting community credit needs.

1. What reporting or record keeping by financial institutions is necessary to carry out the purposes of the Act?

2. To what extent should the agencies consider lending policy statements of a financial institution?

3. In the assessment process, should the same standards be applied to national banks; State-chartered banks which are members of the Federal Reserve System; bank holding companies; State-chartered banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation; and savings and loan holding companies?

4. Should the agencies apply the same standards in assessing the records of large and small institutions? Urban, suburban, and rural institutions? Institutions that may lawfully open branches and those that may not?

5. For what period of time should an institution's record be assessed?

6. In determining whether the credit needs of a community are being met, should the credit extended by all financial institutions in that community be combined and compared to the community's total credit needs? Should a particular institution be considered to have a satisfactory record if it is contributing a proportionate share of the total credit extended in the community?

7. Should an institution's efforts in meeting specific types of local credit needs be weighed equally in assessing whether it is helping to meet the credit needs of its entire community?

8. In making assessments, how should the agencies take into account specialization in meeting certain types of credit needs (for example, agricultural loans, business loans, mortgage loans, investments in municipal securities) by an institution being assessed or by other institutions in the community?

9. What criteria should be used in determining whether an institution is helping to meet community credit needs "consistent with the safe and sound operation" of that institution?

10. How should the agencies assess the record of institutions with branch offices, of affiliated institutions within a holding company, or of affiliated institutions not in a holding company? How should the records of individual offices be taken into account in assessing the parent or affiliated company?

11. In making the assessment, what consideration, if any, should be given to the institution's costs and sources of funds? To its rate of return on investment? To its liquidity?

12. For institutions with foreign offices, how should the extent of foreign loans and foreign deposits be taken into account, if at all, in the assessment?



## PROPOSED RULES

D. *Evaluating applications.* Section 804 of the Act requires the agencies to take an institution's record into account in evaluating its applications.

1. What weight should be given to the record of the institution in meeting community credit needs compared to the weight given other factors such as competition, safety and soundness, and other managerial and financial factors?

2. Under what circumstances, if any, should the agencies deny an application? Approve an application on the condition that the institution improve its record? Grant unconditional approval?

E. *Other administrative matters.* 1. Section 802(b) of the Act indicates that its purpose is to require the agencies to "encourage" institutions to help meet community credit needs. In addition to decisions on applications, how may or should the agencies use their authority to "encourage" institutions?

2. If an agency believes that an institution's record in meeting community credit needs is unsatisfactory, what action, if any, may or should the agency take when there is not a pending application?

3. What are the specific policies or regulatory requirements, other than those stated in response to the previous questions, which you believe the agencies are required to follow or should follow in fulfilling their responsibilities under the Act?

This notice is published pursuant to section 553(b) of Title 5 United States Code.

THEODORE E. ALLISON,  
Secretary of the Board.  
GAIL W. POHN,  
Associate Deputy Comptroller.  
ALAN R. MILLER,  
Executive Secretary, Federal  
Deposit Insurance Corporation.  
J. J. FINN,  
Secretary,  
Federal Home Loan Bank Board.

JANUARY 19, 1978.

[FR Doc. 78-2231 Filed 1-24-78; 8:45 am]

[4210-01]

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-37961]

CITY OF AVALON, LOS ANGELES COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Avalon, Los Angeles County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Planner's Office, Santa Catalina Island, Avalon, Calif. Send comments to Mr. Charles Wagner, City Manager, City of Avalon, City Hall, 209 Metropole Avenue, Avalon Calif. 90704.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Avalon, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Avalon Canyon.....	Intersection of Tremont St. and Claressa Ave.	32
	Intersection of Beacon St. and Catalina Ave.	19
	Intersection of Third St. and Catalina Ave.	15
	Intersection of Sumner Ave. and Crescent Ave.	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1705 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-37971]

CITY OF NEWARK, ALAMEDA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newark, Alameda County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations

are available for review at City Hall, Newark, Calif. Send comments to: Mr. Will Wolbertus, Assistant Civil Engineer, City of Newark, City Hall, 37101 Newark Boulevard, Newark, Calif. 94560.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Newark, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Line B.....	Birch St.*.....	26
	Cherry Rd.....	22
	Mowry Ave.*.....	10
Line I.....	Sycamore St.....	17
	Southern Pacific RR.	16
	Spruce St.....	11
	Thorton Ave.....	10
Line H.....	Haley St.....	15
	Southern Pacific RR.	15
	Bettencourt St.....	10
	Thornton Ave.....	10
Line F-1.....	Cedar St.....	32
	Birch St.....	26
	Cherry St.....	22
	Magnolia St.....	20
	Southern Pacific RR.	18
	Fibert St.....	11
	Elm St.....	10

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
.....	Hickory St.....	8
Line D.....	Cedar St.....	24
.....	Southern Pacific RR.	12
.....	Tidal gate at mouth.	9

Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1706 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-37981]

CITY OF THOUSAND OAKS, VENTURA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Thousand Oaks, Ventura County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 401 West Hillcrest Drive, Thousand Oaks, Calif. Send Comments to: Mayor Alex Fiore, City Hall, 401 West Hillcrest Drive, Thousand Oaks, Calif. 91360.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Thousand Oaks, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Arroyo Conejo.	Vent-Tu Park Rd.	621
	U.S. Highway 101 (Rancho Conejo Blvd. Overpass).	641
	Kimber Rd.....	684
	West Lynn Rd.....	736
	Briar Rd.....	757
	(upstream side).	
Tributary to South Branch Arroyo Conejo.	Reno Rd.....	663
Lang Creek.....	Wilbur Rd.....	750
	Combes Ave.....	761
	Gainsborough Rd..	763

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)



Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1707 Filed 1-24-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3799]

#### TOWN OF ERIE, WELD AND BOULDER COUNTIES, COLO.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Erie, Weld and Boulder Counties, Colo. These base (100-year) flood elevations are the basis for the flood plan management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Erie, Colo. Send comments to: Mayor Harlan Brock, P.O. Box 98, Erie, Colo. 80516.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Erie, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum

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that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Coal Creek.....	Briggs, St.....	5011
	Cheesman St.....	5016
	Moffat St.....	5020
	Anderson St.....	5023

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1708 Filed 1-24-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3536]

#### TOWN OF OLD SAYBROOK, MIDDLESEX COUNTY, CONN.

##### Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.  
SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 55709 of the FEDERAL REGISTER of October 18, 1977.

EFFECTIVE DATE: October 18, 1977.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing Brook.....	Upstream private drive off Schoolhouse Rd., upstream side.	18
	Downstream private drive off Schoolhouse Rd., upstream side.	17
	Old Back Rd.....	16
	I-95-Connecticut Turnpike, upstream side.	16
Long Island Sound	I-95-Connecticut Turnpike, downstream side.	11
	Oyster River Estuary.	11
	Waterfront from Lynde Point to Chapman Point.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1709 Filed 1-24-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3612]

#### TOWN OF MILTON, SUSSEX COUNTY, DEL.

##### Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 59197 of the FEDERAL REGISTER of November 15, 1977.

EFFECTIVE DATE: November 15, 1977.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following elevation should be added:

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SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Apopka, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Francis.....	From a point on Francis Dr. which is 970 ft west along the road from the intersection with Kilean Court, flooding exists from 120 ft south of this point to the shoreline.	68
Lake Alden.....	From a point on Errol Parkway which is 3,900 ft south along the road from the intersection with Francis Dr., flooding exists from 150 ft east of this point to the shoreline.	70
Lake Marion.....	East of Schopke Lester Rd.	66
Dream Lake.....	The intersection of Laurel St. and Central Ave.	117
Lake McCoy.....	Votaw Road Bridge.	65
Buchan Pond.....	West side of Lake Ave. from Nightingale St. to Grossenbacher Dr.	140
Upper Doe Lake.....	At north, south, and west corporate limits.	70

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waggons Pond.....	Shoreline.....	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1710 Filed 1-24-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3800]

#### CITY OF APOPKA, ORANGE COUNTY, FLORIDA

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Apopka, Orange County, Fla.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Apopka, Fla. Send comments to: Mayor John J. Laud, P.O. Drawer 1229, Apopka, Fla. 32703.

##### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marshall Lake.....	Along the corporate limits along the south side of the lake.	70
Pike Lake.....	Along the corporate limits which extend east through the lake.	67
Unnamed lake I.....	From the southern point on the shoreline and extending south 130 ft.	87
Unnamed lake II.....	The northern edge of 5th St., 230 ft east from the intersection of 5th St. and Washington Ave.	150
Unnamed lake III.....	North of 6th St....	81
Unnamed lake IV.....	From the eastern edge of the lake extending east to the corporate limits.	75

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1711 Filed 1-24-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3801]

#### TOWN OF EATONVILLE, ORANGE COUNTY, FLA.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Eatonville, Orange County, Fla.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed



rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Eatonville, Fla.

Send comments to: Mayor Nathaniel Vereen, P.O. Box 2163, Eatonville, Fla. 32751.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Eatonville, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Hungerford..	Ark Pl. from a point 210 ft east from the center of the intersection of Ark Pl. and Bethune Dr. to the lake.	97
Lake Bell .....	From the corporate limits north to a point 20 ft south of Fitzgerald St.	92

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake King.....	From the northeast corner of Sunnyview Circle, east to the lake.	97
	Starting 20 ft from the east side of Amador Circle, east to the lake.	97

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1712 Filed 1-24-78; 8:45 a.m.]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3802]

#### CITY OF EDGEWOOD, ORANGE COUNTY, FLA.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Edgewood, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Edgewood, Fla. Send comments to: Mayor Craig Andrews, P.O. Box 13548, Orlando, Fla. 32809.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Edgewood, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents. The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Lake Conway.	Mandalay Rd. extended from corporate limits to a point 80 ft southwest.	89
Lake Gatlin.....	On Prescott Dr. from corporate limits to a point 40 ft west.	89
Lake Jennie Jewell.	At a point 1,600 ft east along Gatlin Ave. from the center of the intersection of Gatlin Ave. and Orange Ave., the flooding exists 170 feet north of this point, north to the corporate limits.	92
Lake Jessamine .....	Jamaica Lane extended to corporate limit, 600 feet north and 400 feet south from this point.	94

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

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Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1713 Filed 1-24-78; 8:45 am]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3803]

#### CITY OF WINTER GARDEN, ORANGE COUNTY, FLA.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Winter Garden, Orange County, Fla. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Winter Garden, Fla. Send comments to: Mayor Ray S. Pears, P.O. Box 1005, Winter Garden, Fla. 32787.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Winter Garden, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban

Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Winter Garden co-op ditch.	Fuller's Crossing Highway—72 in culvert (upstream side).	76
	Seaboard Coast Line RR (downstream side).	91
Lake Apopka.....	From a point 530 ft west along Division St. from the center of the intersection of Division St. and Lakeview Ave west to the shoreline.	69

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1714 Filed 1-24-78; 8:45 am]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3804]

#### COBB COUNTY, GEORGIA

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the pro-

posed base (100-year) flood elevations listed below for selected locations in Cobb County, Ga.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Cobb County Courthouse, 10 East Park Square, Marietta, Georgia. Send comments to: Mr. Ernest W. Barrett, Chairman, Cobb County Commission, P.O. Box 649, Marietta, Ga.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Cobb County, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:



## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chattahoochee River	1-20.....	760
	1-75.....	774
	Johnson Ferry Rd. 128008.....	
Sweetwater Creek	Lithia Springs Rd.....	898
	Brownsville Rd.....	905
Gordon Creek	South Gordon Dr. (upstream side).....	953
	Kenneth Lane.....	988
Gordon Branch	South Dillon Rd.....	923
Pine Creek	Cardell Rd. (upstream side).....	896
	Jewell Dr.....	947
Davis Branch	Old Alabama Rd.....	935
Pine Branch	Thunderwood Rd.....	943
Buttermilk Creek	U.S. Highway 278.....	898
	Clay Rd.....	932
Clay Branch	Brookwood Dr.....	935
	Green Valley Rd.....	963
Olley Creek	Flinthill Rd.....	902
	Hurt Rd.....	919
	Cunningham Rd.....	977
	Carruth Dr.....	1,038
Noses Creek	Clay Rd.....	881
	Macdonia Rd.....	907
	Mt. Calvary Rd.....	964
Wildhorse Creek	Old Villa Rica Rd.....	928
Mud Creek	Mallard Rd.....	914
	West Sandtown Rd.....	940
Luther Ward Branch	Castell Rd.....	937
	Luther Ward Rd.....	955
Ward Creek	John Ward Rd.....	945
	Cheatham Hill Rd.....	951
Powder Springs Creek	Oglesby Rd.....	898
	Macland Rd.....	939
Florence Branch	U.S. Highway 278.....	914
	Macland Rd.....	958
Mill Creek No. 1	Wright Rd.....	954
Lost Mountain Creek	Forest Hills Rd.....	919
	Brownsville Rd.....	902
Gothards Creek	Felker Rd.....	782
Nickajack Creek	Buckner Rd.....	779
	Cooper Lake Dr.....	815
	Seaboard Coast Line RR.....	893
	Church Rd.....	923
	Pat Meli Rd.....	1,012
Queen Creek	Queen Mill Rd.....	770
	Dodgen Rd.....	969
Liberty Hill Branch	Queen Mill Rd.....	776
Milam Branch	Sheraton Way.....	958
	Garner Rd.....	990
Laurel Creek	Southern RR.....	800
	Park Bridge.....	879
	Forest Dr.....	959
Cooper Lake Creek	Seaboard Coastline RR.....	834
Concord Creek	South Hurt Rd.....	925
Mill Creek No. 2	Cyndys Lake Dam.....	922
Favor Creek	Church Rd.....	933
	Smyrna-Powder Springs Rd.....	946
Theater Branch	Old Concord Rd.....	929
Smyrna Branch	South Cobb Dr.....	941
Gilmore Creek	Woodland Brook Dr.....	776
Vinings Branch	do.....	771
Powers Branch	Columns Dr.....	798
Terrell Branch	do.....	802
Rottenwood Creek	I-285 southbound.....	835
	Windy Hill Rd.....	886
	Terrell Mill Rd.....	908
Poplar Creek	U.S. Highway 41.....	955
	Bethel Rd.....	894
	Spring Rd.....	953
Poorhouse Creek	U.S. Highway 41.....	949

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Powers Creek	Powers Ferry Dr.....	938
Sope Creek	South Roswell Rd.....	908
	Holt Rd.....	933
	Barnes Mill Rd.....	989
Bishop Creek	Indian Hills Trail.....	907
	Addie Lane.....	974
Eastside Creek	Lake Dam.....	927
Sewell Mill Creek	Robinson Rd.....	921
	Karen Dr.....	1,083
Robertson Creek	Old Canton Rd.....	931
	Benson Dr.....	1,012
Thompson Creek	Liberty Lane.....	943
Piney Grove Creek	Castel Rd.....	963
	Hembree Rd.....	1,028
Campground Creek	Sope Creek Dr.....	928
	Robinson Rd.....	944
Wildwood Branch	Amanda Dr.....	1,025
Blackjack Creek	Merritt Rd.....	999
	Allgood Rd.....	1,029
Elizabeth Branch	Overbrook Circle.....	1,032
Willow Creek	Willow Rd. near the mouth of Timber Ridge Branch.....	859
Timber Ridge Branch	Timber Ridge Dam.....	939
Harmony Grove Creek	Mountain Creek Dr.....	953
	Johnson Ferry Rd.....	1,053
Sweet Mountain Creek	Loch Highland Parkway.....	995
Rubes Creek	Jamerson Rd.....	909
	Blackwell Rd.....	952
	Bryant Lane.....	1,018
Trickum Creek	Jamerson Rd.....	913
	Steinhauer Rd.....	985
Procktor Creek	Pete Shaw Rd.....	1,050
	Power line crossing.....	898
Butler Creek	U.S. Highway 41.....	878
	Pine Mountain Rd.....	988
Allatoona Creek	Old Stilesboro Rd.....	861
	Stilesboro Rd.....	883
	Due West Rd.....	935
	Holland Rd.....	1,055
Little Allatoona Creek	Old Stilesboro Rd.....	861
	County line Rd.....	868
	Burnt Hickory Rd.....	908
Pitner Creek	do.....	931
Due West Creek	Rolling Oaks Rd.....	898
	Paul Samuel Rd.....	941
Allatoona Branch	Holland Rd.....	1,017
Noonday Creek	Shallow Ford Rd.....	900
	Bells Ferry Rd.....	920
	Duncan Rd.....	947
	Jones St.....	971
Tate Creek	Bells Ferry Rd.....	951
Noonday Creek	Hawkins Store Rd.....	937
Little Noonday Creek	Canton Rd.....	913
	Liberty Hill Rd.....	979
Noonday Creek tributary 3	Rock Bridge Rd.....	928
	Mark Ave.....	997
Little Noonday Creek tributary 4	Roberts Rd.....	934
Little Noonday Creek tributary 8	do.....	942
Little Noonday Creek tributary 7	Big Shanty Rd.....	971
Hope Creek	I-75.....	963
Tanyard Creek	Cowan Rd.....	890

\* Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1715 Filed 1-24-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3805]

CITY OF NEWNAN, COWETA COUNTY, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newnan, Coweta County, Ga.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 25 Jefferson Street, Newnan, Ga.

Send comments to: Mayor Joe P. Norman or City Planner George D. Robinson, P.O. Box 1193, Newnan, Ga. 30264.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Newnan, Coweta County, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 930234), 87

Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wahoo Creek	Just downstream of Atlanta and West Point Railroad.	851
	Approximately 150 feet upstream of Bullsboro Dr. (State Highway 34).	874
	Approximately 75 feet upstream of East Broad St.	890
Tributary 1	Phillips Street (extended).	930
Tributary 2	Approximately 100 feet upstream of lower crossing of Bullsboro Dr. (State Highway 34).	871
	Just upstream of Jefferson St.	909
Tributary 3	Just upstream of Bullsboro Dr.	871
Tributary 4	Approximately 630 feet upstream of confluence with Tributary 3.	872
Tributary 5	Approximately 120 feet upstream of confluence with Tributary 2.	875
Tributary 6	Approximately 200 feet upstream of confluence with Tributary 2.	881
Tributary 7	Just upstream of American Avenue.	880
	Approximately 100 feet downstream of Church St.	
Tributary 8	Just downstream of Greison Trail.	896

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 9	Approximately 860 feet upstream of confluence with Wahoo Creek.	875
Tributary 10	Approximately 160 feet downstream of Greison Trail.	930
Tributary 11	Just upstream of Roberts Rd.	893
Tributary 12	Just downstream of Pinson St.	915
	Just upstream of Calhoun St.	930
Snake Creek	Just upstream of Christian Dr.	859
	Just upstream of Willow Dr.	890
	Just downstream of Atkinson St.	925
Tributary 13	Approximately 180 feet upstream of confluence with Snake Creek.	875
Tributary 14	Just downstream of Willow Dr.	899
Mineral Springs Branch	Just upstream of Boone Drive.	885
	Approximately 75 feet downstream of Fourth St.	890
Tributary 15	Southern corporate limits.	841
Tributary 16	Western corporate limits.	835
	Just downstream of Washington St.	870
Sandy Creek	Just upstream of Water Works Rd.	835
	Just upstream of Sewell Rd.	860
	Just upstream of Alpine Dr.	901

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1716 Filed 1-24-78; 8:45 am)

[4120-01]

[24 CFR Part 1917]

[Docket No. FI-3806]

UNINCORPORATED AREAS OF ROCKDALE COUNTY, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the pro-

posed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Rockdale County, Ga.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning and Inspection office, 922 Court Street, Conyers, Ga.

Send comments to: Mr. Hayward Woodward, Chairman of the County Commissioners, or Mr. Raymond G. Davis, Jr., Director of Community Development, P.O. Box 289, Conyers, Ga. 30207.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Rockdale County, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood evaluations for selected locations are:



Source of flooding	Location	Elevation, in feet, national geodetic vertical datum
Yellow River.....	Just upstream of Gees Mill Rd. Just upstream of Georgia Highway 138. Just downstream of Irwin Bridge Rd.	650 680 709
Carr Branch.....	Just upstream of Hi-Roc Rd.	675
Carr Branch Tributary.....	Just upstream of Hi-Roc Rd.	676
Boar Tusk Creek...	Just downstream of Boar Tusk Rd.	670
North Conyers Tributary.....	Norton Rd..... Approximately 50 feet upstream Sigmund Road Bypass.	763 756
Mark Branch.....	Almand Rd.....	784
Lake Capri Tributary.....	Lake Capri Dr.....	727
Snapping Shoals Creek.....	Approximately 150 feet upstream Honey Creek Rd. Approximately 100 feet upstream Old Salem Rd.	706 752
Almand Creek.....	Approximately 100 feet upstream McDonough Highway (Route 20). Just upstream Stockbridge Highway (Route 138).	729 756
Snapping Shoals Creek Tributary.	Confluence with Snapping Shoals Creek.	750
Snapping Shoals Creek Tributary No. 2.	Confluence with Snapping Shoal Creek Tributary.	763
South River.....	Confluence of Bailey Creek. Approximately 100 feet upstream Oglesby Bridge.	622 634
Honey Creek.....	Approximately 300 feet downstream Georgia Highway 138. Just upstream Georgia Highway 212. Confluence with Rowan Rd. tributary. Approximately 100 feet upstream Tucker Mill Rd. Just upstream Smyrna Rd. Just upstream Turner Rd.	651 642 653 680 710 777
McLane Creek.....	Approximately 100 feet upstream Troupe Smith Rd.	663
McLane Creek Tributary.....	Confluence of McLane Creek Tributary No. 2. Hall Road (Extended). Old Honey Creek Rd.	681 700 659
Goodard Road Tributary.....	Ebenezer Rd.....	693
Bailey Creek.....	Northwestern Corporate Limit. Wendwood Rd.....	747 654
Scott Creek.....	East Shore Dr.....	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1717 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR PART 1917]

[Docket No. FI-3807]

## CITY OF DEKALB, DEKALB COUNTY, ILL.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of DeKalb, DeKalb County, Ill.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the DeKalb City Hall, 200 South Fourth Street, DeKalb, Ill. Send comments to: Honorable Judy King, Mayor of DeKalb, DeKalb City Hall, 200 South Fourth Street, DeKalb, Ill. 60115.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of DeKalb, DeKalb

County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128 and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Branch Kishwaukee River.	North corporate limit.	837
	Hillcrest Dr.....	842
	Lucinda Ave.....	846
	Chicago and Northwestern Railroad.	848
	Taylor St.....	850
	South corporate limit.	851
Unnamed tributary to Kishwaukee River.	Confluence with South Branch Kishwaukee River.	647
	Castel St.....	847
	Normal Rd.....	850
	Carroll Ave.....	852
	Lucinda Ave.....	855
	Downstream of Glidden Ave.	859
	Upstream of Glidden Ave.	863
	Upstream of Grant Dr. (East).	870

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1718 Filed 1-24-78; 8:45 a.m.]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3808]

## VILLAGE OF EAST CHICAGO HEIGHTS, COOK COUNTY, ILL.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of East Chicago Heights, Cook County, Ill.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Village Hall, 1327 Ellis Avenue, East Chicago Heights, Ill. Send comments to: Honorable Saul Beck, Mayor of East Chicago Heights, 1327 Ellis Avenue, East Chicago Heights, Ill. 60411.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of East Chicago Heights, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances

that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Deer Creek.....	East Chicago Heights corporate limits upstream. Lincoln Highway.. East Chicago Heights corporate limits downstream.	641 636 629

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 28, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1719 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3809]

## VILLAGE OF ELK GROVE, COOK COUNTY, ILL.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Elk Grove, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Elk Grove Village Hall, 901 Wellington Street, Elk Grove, Ill. Send comments to: Honorable Charles Zettek, Mayor of Elk Grove, 901 Wellington Street, Elk Grove, Ill. 60007.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Elk Grove, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Salt Creek.....	Downstream corporate limits. J. F. Kennedy Blvd.	683 685
	Upstream corporate limits. J. F. Kennedy Blvd.	687 684
Elk Grove Blvd. drainage ditch.	Elk Grove Blvd..... Ridge Ave..... Victoria LA..... Crest Ave..... Love St.....	684 684 685 685 685



## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed creek	Tonne Rd.	885
	Downstream corporate limits.	711
	Nerge Rd. (downstream).	712
West branch of Salt Creek.	Nerge Rd. (upstream).	716
	Downstream corporate limits.	709
	Confluence with Tributary D.	710
Tributary D of west branch Salt Creek.	Upstream corporate limits.	711
	Confluence with west branch Salt Creek.	710
	Elk Grove corporate limits.	722

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: December 27, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1720 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3810]

## CITY OF SATSUMA, MOBILE COUNTY, ALABAMA

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Satsuma, Mobile County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Satsuma, Ala. Send comments to: Mayor W. A. Winters, P.O. Box 517, Satsuma, Ala. 36572.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Satsuma, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second-layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Steele Creek	Old Highway 43	11
	Southern RR	12
Spat Creek	Orange Ave	10
	Corporate limits, 1,760' upstream from Orange Ave.	10
Tributary to Spat Creek	Tajacha Dr. North.	10
	Corporate limits, 720' upstream from Tajacha Dr. North.	11
Sweet Gum Creek	Juniper Ave.	11
	Northeast corporate limits.	11
Gunnison Creek	East corporate limits.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1721 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3811]

## CITY OF DOUGLAS, COCHISE COUNTY, ARIZ.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Douglas, Cochise County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of Public Works, City Hall, Douglas, Ariz. Send comments to: Mayor Ray D. Wilcox, 425 10th Street, Douglas, Ariz. 85607.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Douglas, Cochise County, Ariz., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum

that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum	Depth of flooding in feet above ground surface
Palm Grove Wash.	Just upstream of 16th St.	3,963	
	Intersection of "J" Ave. and 17th St.	3,968	
Palm Grove branch.	Intersection of 20th St. and Pan American Ave.	3,990	
Airport Rd. Channel.	Just downstream of Airport Ave.	4,120	
Major floodwater collection area within southwest section of city.	Just upstream of Pan American Avenue Bridge.	3,950	
Shallow flooding in southwest-central portion of town.	Intersection of "C" Ave. and 3d St.	1	
	Intersection of Dolores Ave. and 4th St.	1	
Pan American Ave. Channel.	Intersection of Pan American Ave. Channel and 10th St.	2	
Rose Ave. Channel.	West of intersection of Rose Ave. and 6th St.	3	
Washington Ave. Channel.	Intersection of Washington Ave. and 7th St.	3	
Louis Ave. Channel.	West of intersection of Louis Ave. and 17th St.	2	

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1722 Filed 1-24-78; 8:45 am]

## PROPOSED RULES

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3812]

## CITY OF BANNING, RIVERSIDE COUNTY, CALIF.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Banning, Riverside County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Public Works Department, City Hall, Banning, Calif. Send comments to: Mr. Norman C. Rubel, Director of Public Works, City of Banning, P.O. Box 998, Banning, Calif. 92220.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Banning, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood

plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gilman Home Channel.	Confluence with Smith Creek.	2,209
	George St.	2,455
	12th St.	2,460
Highland Spring Channel.	Wilson St.	2,520
	8th St.	2,601
Montgomery Creek (below Southern Pacific RR).	Confluence with Smith Creek.	2,218
	Westward Ave.	2,347
	Southern Pacific RR.	2,394
	Southern Pacific RR.	2,403
Montgomery Creek, improved channel.	Williams St.	2,465
	Nicolet St.	2,490
	Sunrise Ave.	2,507
	Wilson St.	2,556
	Sunset Ave.	2,634
San Geronio River.	Downstream corporate limits.	2,426
	Corporate limits 87,360 ft above confluence with Whitewater River.	2,600
	Upstream corporate limits.	2,671
Smith Creek.	Panoramic Highway.	2,205
	Confluence with Pershing Channel.	2,237
Smith Creek (West Tributary).	Southern Pacific RR.	2,504
	Interstate 10.	2,507
	Wilson St.	2,570
West Pershing Channel.	Southern Pacific RR.	2,501
	Ramsey St.	2,507
	Wilston St.	2,550

<sup>1</sup> Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1723 Filed 1-24-78; 8:45 am]



## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3813]

## CITY OF BEAUMONT, RIVERSIDE COUNTY, CALIF.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Beaumont, Riverside County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Building Department, Beaumont City Hall, Beaumont, Calif. Send comments to: Mr. Don R. Long, Chief Building Inspector, City of Beaumont, Beaumont City Hall, 550 East 6th Street, Beaumont, Calif. 92223.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Beaumont, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances

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that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Marshall Creek	14th St.	2,609
Highland Springs Channel	8th St.	2,601

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1724 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3814]

## CITY OF FILLMORE, VENTURA COUNTY, CALIF.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Fillmore, Ventura County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Building Department, City Hall, Fillmore, Calif. Send comments to: Mr. R. W. Nichols, City Manager, City of Fillmore, P.O. Box 487, Fillmore, Calif. 93015.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Fillmore, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pole Creek	Highway 126	472
	Main St.	483
	Sespe Ave.	498
	Second St.	534
	Fourth St.	580
Santa Clara River	Highway 23	424
	(upstream side).	
	Confluence with Pole Creek.	439
Sespe Creek	Highway 126	394
	West Fork	
	(upstream side).	
	Southern Pacific RR, East Fork.	438
	Southern Pacific RR, West Fork.	443

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

## PROPOSED RULES

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3816]

## CITY OF OJAI, VENTURA COUNTY, CALIF.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ojai, Ventura County, Calif.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Ojai, Calif.

Send comments to: Mr. Barry Lockton, director of Public Works, City of Ojai P.O. Box 5067, Ojai, Calif. 93023.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ojai, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1725 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3815]

## CITY OF NEWPORT BEACH, ORANGE COUNTY, CALIF.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Newport Beach, Orange County, Calif.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 330 Newport Boulevard, Newport Beach, Calif.

Send comments to: Mr. Robert Wynn, City Manager, City of Newport Beach, City Hall, 330 Newport Boulevard, Newport Beach, Calif. 92660.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Newport Beach, Calif., in accordance with section 110 of the Flood Disaster Protection Act

of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Canyon	Backbay Dr.	7
	Jamboree Rd.	55
San Diego Creek	Jamboree Rd.	12
Newport Bay	Intersection of Emerald Ave. and Park Ave.	6
	Intersection of Topaz Ave. and Park Ave.	6
	Intersection of Jade Ave. and Park Ave.	6
	Intersection of Balboa Boulevard and 39th St.	6
Santa Anna River	Intersection of Prospect St. and Newport Shores Dr.	10
	Intersection of Neptune Ave. and 52nd St.	9

<sup>1</sup> Upstream side.  
(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1726 Filed 1-24-78; 8:45 am]



stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents. The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation, feet, National Geodetic Vertical Datum
Fox Canyon Storm Drain.	Creek Rd.....	684
	Southern Pacific Railroad, Upstream Corporate Limits.	727
San Antonio Creek.	Creek Rd. (Country Club Dr.).	614
	Private Rd. (Dip Crossing).	644
	Ojai Avenue (State Highway 150).	768
Stewart Canyon Storm Channel.	Grand Ave.....	815
	Southern Pacific Railroad (upstream side).	726
	Matilija St.....	767
	Eucayptus St.....	783
	McKee St.....	820
Thatcher Creek.....	Confluence with San Antonio Creek.	712
	Boardman Rd.....	771

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1727 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3817]

CITY OF SONOMA, SONOMA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sonoma, Sonoma County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the

community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Sonoma, Calif. Send comments to: Mr. Richard Rowland, Director of Public Works, City of Sonoma, City Hall, Sonoma, Calif. 95476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Sonoma, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sonoma Creek.....	Confluence with Dowdell Creek.	58
	Riverside Dr.....	75

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Nathanson Creek..	Napa Rd.....	51
	East MacArthur St.	68
	Patten St.....	79
	Sebastiani Bridge.	96
Fryer Creek.....	MacArthur St. (upstream side).	64
	Andrieux St.....	68

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1728 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3818]

CITY OF UNION CITY, ALAMEDA COUNTY, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Union City, Alameda County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Union City, Calif. Send comments to: Mr. William Zaner, City Manager, City of Union City, City Hall, 1154 Whipple Road, Union City, Calif. 94587.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance,

ance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Union City, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Creek.....	Alvarado-niles Rd	35
	Railroad Ave.....	69
	Mission Blvd.....	100
Union City "M" Line.	Decoto Rd.....	35
	Union Square.....	39
	Gregory Ave.....	47
Old Alameda Creek and A and D Line.	Hesperian Blvd.....	9
	State Highway 17.	10

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1729 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3819]

ARCHULETA COUNTY, COLO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Archuleta County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Archuleta County Courthouse Planning Office, Pagosa Springs, Colo. Send comments to: Mr. W. H. Diestelkamp, Archuleta County Chairman, Board of Commissioners, Archuleta County Courthouse Planning Office, Pagosa Springs, Colo. 81147.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Archuleta County, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be

construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
San Juan River.....	U.S. Highway 160.	7,308
	Adrian Bridge.....	7,345
McCabe Creek.....	4 Mile Rd.....	7,117
North Fork.....	Confluence with McCabe Creek.	7,114
Rio Blanco River...	Bridge No. 1.....	6,855
	Bridge No. 2*.....	6,972
	Bridge No. 3*.....	6,984
	Bridge No. 4*.....	7,033
	Bridge No. 5*.....	7,099

\*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1730 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3125]

CITY OF AURORA, ARAPAHOE COUNTY, COLO.

Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 55828 of the FEDERAL REGISTER of October 19, 1977 (42 FR 55828).

EFFECTIVE DATE: October 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line



800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Toll Gate.....	At the confluence with West Toll Gate Tributary.	5,522

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1731 Filed 1-24-78; 8:45 am]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3820]

#### TOWN OF BAYFIELD, LA PLATA COUNTY, COLO.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Bayfield, La Plata County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Bayfield, Colo. Send comments to: Mayor E. W. Ranta, Town Hall, Bayfield, Colo. 81122.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Ad-

ministrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Bayfield, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Los Pinos River .....	U.S. Highway 160 (alternate).	6,865

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1732 Filed 1-24-78; 8:45 am]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3821]

#### TOWN OF ESTES PARK, LARIMER COUNTY, COLO.

##### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Estes Park, Larimer County, Calif. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Office of the Director of Public Works, Town Hall, Estes Park, Colo. Send comments to: Mayor Harry Tregent, Town Hall, P.O. Box 1200, Estes Park, Colo. 80517.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Estes Park, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Thompson River.	Crags Dr. ....	7,538
	Ivy St. ....	7,525
	East Riverside Dr. ....	7,522
	St. Vrain Ave. ....	7,505
	Footbridge at station 318230.	7,491
	Footbridge at station 317570.	7,484
	Footbridge at station 1310.	7,491
Big Thompson River overflow channel No. 1.	Corporate limit from confluence. ....	7,549
Big Thompson River overflow channel No. 2.	70 ft upstream with Big Thompson River.	7,541
Fall River .....	Private road at station 15730.	7,805
	Private road at station 14810. ....	7,784
	Private road at station 13650.	7,760
	James McIntyre Rd. ....	7,733
	Pine Rd. ....	7,708
	Private road at station 9910.	7,675
	Fall River Lane. ....	7,647
	Old Ranger Dr. ....	7,593
	Elkhorn Ave. at station 3730.	7,573
	Spruce Dr. ....	7,550
	Moraine Ave. ....	7,527
	Footbridge at station 110.	7,523
Fish Creek .....	Brook Dr. ....	7,593
	Country Club Dr. ....	7,576
	Private road at station 3190.	7,521
Black Canyon Creek.	Brodie Ave. ....	7,499
	Elkhorn Ave. ....	7,512

<sup>1</sup>Downstream side.  
<sup>2</sup>Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1733 Filed 1-24-78; 8:45 am]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3822]

#### TOWN OF GEORGETOWN, CLEAR CREEK COUNTY, COLO.

##### Proposed Flood Elevation Determinations

Agency: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Georgetown, Clear Creek County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Georgetown, Colo. Send comments to: Mayor Dwight Graham, P.O. Box 426, Georgetown, Colo. 80444.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Georgetown, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek .....	Bridge over Georgetown Lake	8,446
	15th St. ....	8,466
	11th St. ....	8,483
	6th St. ....	8,511
South Clear Creek	Rose St. ....	8,492
	9th St. ....	8,499
	Taos St. ....	8,503
	Main St. ....	8,522

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1734 Filed 1-24-78; 8:45 a.m.]

#### [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3480]

#### TOWN OF PALMER LAKE, EL PASO COUNTY, COLO.

##### Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 54363 of the FEDERAL REGISTER of October 5, 1977.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monument Creek bypass.	Cloven Hoof Rd. and private driveway.	6,956

The above elevation should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended



## PROPOSED RULES

(42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.).

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1735 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3823]

**TOWN OF SILVER PLUME, CLEAR CREEK COUNTY, COLO.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Silver Plume, Clear Creek County, Colo. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Silver Plume, Colo. Send comments to: Mayor Peter Kenney, Box 457, Silver Plume, Colo. 80476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Silver Plume, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek .....	U.S. Interstate 70 (upstream side).	9,905
	Cherokee St .....	9,108
	Woodward Ave .....	9,114
	Garland St .....	9,123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1736 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3824]

**TOWN OF MADISON, NEW HAVEN COUNTY, CONN.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Madison, New Haven County, Conn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the Na-

tional Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning and Zoning Office, Town Hall, Madison, Conn.

Send comments to: Mrs. Vera Dallas, First Selectman, or Mr. Edward Ellertson, Planning and Zoning Officer, 8 Meeting House Lane, Madison, Conn. 06443.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Madison, New Haven County, Conn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hammonasset River.	Approximately 100 feet upstream of Chestnut Hill Rd.	52
Hammonasset River.	Approximately 100 feet upstream of confluence of Camp Laurelwood Brook.	121
Hammonasset River.	Route 80 (Old Toll Rd.).	214
Camp Laurelwood Brook.	Just upstream of Summer Hill Rd.	184
Bailey Creek .....	Approximately 100 feet upstream of Sandeewood Rd.	11
Bailey Creek .....	Approximately 100 feet of Salem Rd.	12
Neck River .....	Approximately 100 feet upstream of Fort Path Rd.	17
Neck River .....	Approximately 200 feet downstream of Route 95 (Connecticut Turnpike).	21
Neck River .....	Approximately 100 feet downstream of Warpass Rd.	31
Long Island Sound	Entire shoreline...	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1737 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3825]

**CITY OF BELLE ISLE, ORANGE COUNTY, FLA.**

**Proposed Flood Elevation Determinations**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Belle Isle, Orange County, Fla.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or

show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Belle Isle, Fla.

Send comments to: Mayor W. C. Hand, P.O. Box 13135, Orlando, Fla. 32809.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Belle Isle, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These evaluations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Conway .....	Shoreline .....	89
Little Lake Conway.	Shoreline .....	89

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1738 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3537]

**INDIAN RIVER COUNTY, FLA.**

**Proposed Flood Elevation Determinations; Correction**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 55709 of the FEDERAL REGISTER of October 13, 1977.

EFFECTIVE DATE: October 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William Wodtke, Chairman, Board of County Commissioners, Indian River County Courthouse, 14th Avenue, Vero Beach, Fla. 32960.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1739 Filed 1-24-78; 8:45 am]



## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3484]

## TOWN OF JUNO BEACH, PALM BEACH COUNTY, FLA.

## Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 54365 of the FEDERAL REGISTER of October 5, 1977.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7.0
	Celestial Way to Galaxy Pl.	7.0

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1740 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3826]

## RICHMOND COUNTY, GA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in

## PROPOSED RULES

Richmond County, Ga. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City-County Building, Augusta, Ga. Send comments to: Mr. Harrell Tiller, Chairman, Richmond County Commissioners, Room 605, City-County Building, Augusta, Ga. 39003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Richmond County, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Savannah River	Seaboard	134
	Coastline RR *.	136
	Lester S. Moody Bridge.	126
Spirit Creek	Central of Georgia RR—downstream crossing.	128
	Georgia Highway 66 *.	146
	Goshen Rd. *.	155
	Old Waynesboro Rd. *.	195
	Central of Georgia RR—upstream crossing *.	199
	Windsor Spring Rd. *.	205
	Willis Foreman Rd. *.	244
Spirit Creek Tributary 1.	Blrbwell Dr. *.	159
Horsepen Branch	McDade Farm Rd	242
Butler Creek	Willis Foreman Rd. *.	126
	Loop of Georgia Highway 56 *.	135
	Central of Georgia RR.	153
	Old Savannah Rd. and Georgia Highway 56 *.	161
	Georgia and Florida RR *.	163
	U.S. Highway 25 *.	189
	Windsor Spring Rd. *.	209
	U.S. Highway 1.	210
	Old U.S. Highway 1.	223
	Old McDuffie Rd. railroad.	271
	U.S. Highways 78 and 278.	275
Butler Creek Tributary 1.	Morgan Rd. *.	232
Butler Creek Tributary 2.	Fort Gordon Highway *.	281
	Georgia RR *.	294
Rocky Creek	New Savannah Rd. *.	128
	Central of Georgia RR *.	129
	Georgia and Florida RR *.	133
	Old Savannah Rd. *.	139
	Georgia Highway 21 and U.S. Highway 25 *.	148
	Deans Bridge Rd. *.	162
	Wheelless Rd. *.	177
	Milledgeville Rd. *.	186
	Old McDuffie Rd. *.	213
	Bobby Jones Expressway.	249
	Fort Gordon Highway.	294
	Barton Chapel Rd. *.	311
	Georgia RR.	318
Rocky Creek Tributary 1.	New Savannah Rd. *.	126
	Central of Georgia RR.	126
Rocky Creek Tributary 2.	Nixon Rd.	129
Rocky Creek Tributary 3.	Nixon Rd.	128
Rocky Creek Tributary 4.	Central of Georgia RR *.	131

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Old Savannah Rd. *.	136
	Lumpkin Rd. *.	144
	Kings Grant Dr. *.	150
	Durham Court.	151
	Wonder Springs Rd.	152
Rocky Creek Tributary 5.	Virginia Ave. *.	139
	Coleman Ave. *.	141
	Peach Orchard Rd. *.	148
Rocky Creek Tributary 6.	Milledgeville Rd. *.	180
	Gordon Highway *.	190
Rocky Creek Tributary 7.	Wyld Rd.—downstream crossing *.	200
	Gordon Highway *.	206
	North Leg Rd. *.	248
	Georgia RR *.	285
	Wyld Rd.—upstream crossing *.	299
	Bobby Jones Expressway *.	332
Rocky Creek Tributary 8.	Sharon Rd. *.	334
	Fort Gordon Highway *.	229
	Bobby Jones Expressway *.	266
	Georgia RR *.	297
	Barton Chapel Rd. *.	311
Rocky Creek Tributary 9.	Confluence with Rocky Creek.	335
Oates Creek	Port Gordon Highway *.	128
	New Savannah Rd. *.	127
	Central of Georgia RR.	136
	Old Savannah Rd. *.	141
	Athens St.	142
	Boykin St.	142
	Grand St. *.	142
	Dyer St. *.	142
	15th St.	143
	Milledgeville Rd. *.	147
	Oliver Rd. *.	147
Oates Creek Tributary 1.	White Rd. *.	154
Raes Creek	Oliver Rd.	154
	Old Broad Street Bridge.	160
	Foot bridge—downstream crossing.	173
	Foot bridge—upstream crossing.	173
	Berkman Rd. *.	181
	Boy Scout Rd. *.	208
	Ramsate Rd. *.	221
	Scott Way *.	228
	Wheeler Rd. *.	242
	West Lake Forest Dr. *.	268
	Jackson Rd. *.	288
	Marks Church Rd. *.	304
	Bobby Jones Expressway.	309
	Wrightsboro Rd. *.	337
	downstream crossing *.	
	Wrightsboro Rd.—upstream crossing *.	340
No Name Creek	Maddox Rd.	378
	Ingleside Dr.	188
	Henderson Dr. *.	190
	Ashland Dr. *.	208
	Boy Scout Rd.	208

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Wheeler Rd. ....	229
	Oberlin Rd. ....	250
Crane Creek	Skinner Mill Rd. *.	243
	U.S. Interstate 20 East.	250
	U.S. Interstate 20 West.	254
	Warren Rd. ....	255
	Pleasant Home Rd. *.	292
	Bobby Jones Expressway.	293
	Frontage Rd. ....	293
	Scott Nixon Rd. *.	307
	Wrightsboro Rd. *.	342
Raes Creek Tributary 1.	Confluence with Raes Creek.	337
Raes Creek Tributary 2.	Maddox Rd. *.	406
Raes Creek Tributary 3.		

\* Upstream side.  
\* Upstream crossing.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1741 Filed 1-24-78; 8:45 am]

## [4210-01]

[24 CFR part 1917]

[Docket No. FI-3827]

## VILLAGE OF WHEELING, COOK COUNTY, ILL.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Wheeling, Cook County, Ill. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the pro-

posed base (100-year) flood elevations are available for review at Village Hall, Wheeling, Ill. Send comments to: Mr. Gregory J. Peters, Acting Village President, Village of Wheeling, Village Hall, Wheeling, Ill. 60090.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Wheeling, Illinois, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Des Plaines River	Dan No. 1	640
	Dundee Rd.	641
Wheeling Drainage Ditch.	Hintz Rd.	641
	Jeffery Ave.	645
	Dundee Rd.	648
	12th St.	648
	Soo Line RR.	650
	Wheeling Rd.	652
Buffalo Creek	Elmurst Rd.	654
	Aptakisc Rd.	668
	Buffalo Grove Rd.	670
McDonald Creek	Camp McDonald Rd.	647
	Wheeling Rd.	651
	Cornell Rd.	668

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development



Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1742 Filed 1-24-78; 8:45 a.m.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3828]

CITY OF ELLINWOOD, BARTON COUNTY,  
KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ellinwood, Barton County, Kans.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Ellinwood, Kans. Send comments to: Mr. Ken Bittel, City Administrator, City of Ellinwood, City Hall, Ellinwood, Kans. 67526.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Ellinwood, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the

Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arkansas River.....	950 feet upstream from County Road Bridge.	1,788
	2000 feet upstream from County Road Bridge.	1,787
	0.86 mile upstream from County Road Bridge.	1,790

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1743 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3829]

CITY OF HALSTEAD, HARVEY COUNTY, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Halstead, Harvey County,

Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Halstead, Kans. Send comments to: Mr. Ken Pfeiffer, City Administrator, City of Halstead, City Hall, Halstead, Kans. 67056.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Halstead, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Arkansas River.	1900 feet Upstream from County Rd. (6th Street Extended) Bridge.	1,393
	50 feet Downstream from Atchison Topeka Santa Fe Railroad Bridge.	1,394
	Upstream of Atchison Topeka Santa Fe Railroad Bridge.	1,396
	530 feet Upstream from Main Street Bridge.	1,397
	1160 feet Downstream from County Road FAS 307.	1,398
Black Kettle Creek.	350 feet Downstream from Main Street.	1,397
	County Road ..... 1100 feet	1,398
Halstead Slough.....	Upstream from Tenth Street Bridge.	1,392

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1744 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3830]

CITY OF IOLA, ALLEN COUNTY, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Iola, Allen County, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the

second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Office of City Engineer, 2 West Jackson, Iola, Kans. 66749. Send comments to: Mayor Jack E. Hastings, 2 West Jackson, Iola, Kans. 66749.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Iola, Allen County, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neosho River.....	Riverside Park.....	953
Elm Creek.....	Washington St.....	952
	Intersection of Third and Vine Sts.	953
Rock Creek.....	Neosho St.....	957
Coon Creek.....	State St. (U.S. 169).	962
	Jefferson St.....	965
	Buchanan St.....	971
	Just downstream Kentucky Stream.	968

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974.)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1745 Filed 1-24-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3831]

CITY OF SEDGWICK, HARVEY AND SEDGWICK COUNTIES, KANS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sedgwick, Harvey and Sedgwick Counties, Kans. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Building, 316 Washington Street, Sedgwick, Kans. Send Comments to: Mayor Donald K. DeHaven, P.O. Box 131, Sedgwick, Kans. 67135.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Sedgwick, Harvey and Sedgwick Counties, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub.



## PROPOSED RULES

L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Arkansas River	Just downstream of 4th St.	1,377
Sand Creek (backwater from Little Arkansas River)	Approximately 100 ft upstream of Madison Ave. Bridge.	1,379
Sedgwick Ditch	Fifth St. (extended).	1,378

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1746 Filed 1-24-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3832)

## TOWN OF ABBOT, PISCATAQUIS COUNTY, MAINE

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations

listed below for selected locations in the town of Abbot, Piscataquis County, Maine. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Office, Abbot, Maine 04406. Send comments to: Mr. Erwin McAllister, Chairman of the Board of Selectmen, RFD, Abbot, Maine 04406.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Abbot, Piscataquis County, Maine, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Piscataquis River	Just upstream of Upper Abbot Bridge (Government Farm Rd.).	419
	Just downstream of Back Gullford Rd.	401
Brown Brook	Approximately 200 ft downstream of the abandoned railroad bridge.	403
Kingsbury Stream	Approximately 150 ft upstream of Abbot Village Bridge (Perkins Rd., Route 15).	433

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1747 Filed 1-24-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3833)

## TOWN OF EAST LONGMEADOW, HAMPDEN COUNTY, MASS.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of East Longmeadow, Hampden County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines

of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Department of Public Works, Town Hall, 60 Center Square, East Longmeadow, Mass. 01028. Send comments to: Mr. Alfred A. Melien, Town Engineer, Town of East Longmeadow, Town Offices, 60 Center Square, East Longmeadow, Mass. 01028.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of East Longmeadow, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Watchaug Brook	Corporate limit with Somers.	205
	At Elm Crest Country Club golf course bridge.	207
	105 ft downstream of Somers Rd culvert.	214
	105 ft upstream of Somers Rd culvert.	219
	105 ft downstream of Meadow Brook Rd culvert.	219

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	105 ft upstream of Meadow Brook Rd culvert.	222
	At Hampden corporate limits.	222
South Branch Mill River	At Springfield corporate limits.	221
	100 ft upstream of Porter Rd.	223
	3,540 ft upstream of Porter Rd.	224
	At Hampden corporate limits.	226
Tributary A, confluence with Watchaug Brook	At confluence with Watchaug Brook.	207
	1,110 ft downstream of Pease Rd.	214
	At Pease Rd.	219
	100 ft downstream of culvert (1,850 ft upstream of Pease Rd.).	223
	100 ft upstream of culvert (1,850 ft upstream of Pease Rd.).	225
	100 ft downstream of Somers Rd.	235
	100 ft upstream of Somers Rd.	238
	1,850 ft upstream of Somers Rd.	239

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1748 Filed 1-24-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3542)

## TOWN OF LEXINGTON, MIDDLESEX COUNTY, MASS.

## Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

**SUMMARY:** This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 42 FR 55712 of the FEDERAL REGISTER of October 18, 1977, (42 FR 55712)

EFFECTIVE DATE: October 18, 1977.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Brook	Barrett Rd.	202
Mill Brook	Bow St.	158
	Fotler Ave.	172

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1749 Filed 1-24-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3834)

## TOWN OF LONGMEADOW, HAMPDEN COUNTY, MASS.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Longmeadow, Hampden County, Mass. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Planning Board's Office, Town Hall, 20 Williams



Street, Longmeadow, Mass. 01106. Send comments to: Mr. Clifford Zundell, Chairman, Board of Selectmen, Town Hall, 20 Williams Street, Longmeadow, Mass. 01106. Attention: Mr. Joseph Coty, Town Engineer.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Longmeadow, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	At southern corporate limit.	56
	10,000' ft upstream of confluence of Longmeadow Brook.	58
Longmeadow Brook.	Confluence with Connecticut River.	57
	400 ft downstream of Route 91.	58
	300 ft upstream of Route 91.	63
	150 ft downstream of Longmeadow St.	64
	Upstream end of Longmeadow St. culvert.	78

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	800 ft upstream of Mill Rd.	78
	325 ft downstream of Old Shaker Rd.	82
	50 ft downstream of Old Shaker Rd.	88
	50 ft upstream of Shaker Rd.	101

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1750 Filed 1-24-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]

(Docket No. FI-3835)

CITY OF DAVISON, GENESSEE COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Davison, Genessee County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Davison, Mich. Send comments to: Mr. Jack Abernathy, City Superintendent, City of Davison, City Hall, 200 East Flint Street, Davison, Mich. 48423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance,

202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Davison, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing building and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Creek.....	Private bridge at upstream corporate limits.	785
	Main St.*	782
	Michigan	780
	Route 15* Dayton St.*	777

\*Downstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1751 Filed 1-24-78; 8:45 a.m.)

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

(Docket No. FI-3836)

VILLAGE OF GOODRICH, GENESSEE COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Goodrich, Genessee County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Village Hall, 10237 Hegel Road, Goodrich, Mich. Send comments to: Mr. Douglas Pierson, Village President, Village of Goodrich, Village Hall, 10237 Hegel Road, Goodrich, Mich. 48438.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Goodrich, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood

plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kearsley Creek.....	Dutch Rd.....	858
	Erie St.....	864
	Rhodes Rd.....	882

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1752 Filed 1-24-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]

(Docket No. FI-3837)

CITY OF HOLLAND, OTTAWA COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Holland, Ottawa County, Mich. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall,

Holland, Mich. Send comments to: Mr. Terry Hofmeyer, City Manager, City of Holland, City Hall, 270 River Avenue, Holland, Mich. 49423.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Holland, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Macatawa River ....	River Ave.	584
	Butternut Dr.	
	U.S. Highway 31...	587
	120th Ave .....	588
	Paw Paw Dr .....	592
Lake Macatawa ....	American Legion golf course foot bridge.	593
	Pine Ave .....	584
	East End .....	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)



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Issued: November 29, 1977.  
PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1753 Filed 1-24-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3572]

CITY OF IRONWOOD, GOGEBIC COUNTY,  
MICH.

Proposed Flood Elevation Determinations;  
Correction

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a  
proposed rule on base (100-year) flood  
elevations that appeared on page  
56237 of the FEDERAL REGISTER of Oc-  
tober 21, 1977.

EFFECTIVE DATE: October 21, 1977.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Ad-  
ministrator, Office of Flood Insur-  
ance, 202-755-5581 or toll-free line  
800-424-8872, Room 5270, 451 Sev-  
enth Street SW., Washington, D.C.  
20410.

The following source, elevation and  
location corrections should be made  
and the previous data deleted:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Montreal River.....	U.S. Route 2' .....	1,426
	Silver St.' .....	1,476
	Oma St.' .....	1,485
*Upstream side.		

(National Flood Insurance Act of 1968 (Title  
XIII of Housing and Urban Development  
Act of 1968), effective January 28, 1969 (33  
FR 17804, November 28, 1968), as amended  
(42 U.S.C. 4001-4128); and Secretary's dele-  
gation of authority to Federal Insurance  
Administrator 34 FR 2680, February 27,  
1969, as amended (39 FR 2787, January 24,  
1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1754 Filed 1-24-78; 8:45 am)

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3838]

TOWNSHIP OF MENOMINEE, MENOMINEE  
COUNTY, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or  
comments are solicited on the pro-  
posed base (100-year) flood elevations  
listed below for selected locations in  
the township of Menominee, Meno-  
minee County, Mich. These base (100-  
year) flood elevations are the basis for  
the flood plain management measures  
that the community is required to  
either adopt or show evidence of being  
already in effect in order to qualify or  
remain qualified for participation in  
the national flood insurance program  
(NFIP).

DATES: The period for comment will  
be ninety (90) days following the  
second publication of this proposed  
rule in a newspaper of local circulation  
in the above-named community.

ADDRESSES: Maps and other infor-  
mation showing the detailed outlines  
of the flood-prone areas and the pro-  
posed base (100-year) flood elevations  
are available for review at Township  
Hall, Menominee, Mich. Send com-  
ments to: Mr. Art Ostrenga, Township  
Supervisor, Township of Menominee,  
RA 392, Menominee, Mich. 49858.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Ad-  
ministrator, Office of Flood Insur-  
ance, 202-755-5581 or Toll Free Line  
800-424-8872, Room 5270, 451  
Seventh Street SW., Washington,  
D.C. 20410.

SUPPLEMENTARY INFORMATION:  
The Federal Insurance Administrator  
gives notice of the proposed determi-  
nations of base (100-year) flood eleva-  
tions for the township of Menominee,  
Mich., in accordance with section 110  
of the Flood Disaster Protection Act  
of 1973 (Pub. L. 93-234), 87 Stat. 980,  
which added section 1363 to the Na-  
tional Flood Insurance Act of 1968  
(Title XIII of the Housing and Urban  
Development Act of 1968 (Pub. L. 90-  
448)), 42 U.S.C. 4001-4128, and 24 CFR  
1917.4(a).

These elevations, together with the  
flood plain management measures re-  
quired by section 1910.3 of the pro-  
gram regulations, are the minimum  
that are required. They should not be  
construed to mean the community  
must change any existing ordinances  
that are more stringent in their flood  
plain management requirements. The

community may at any time enact  
stricter requirements on its own, or  
pursuant to policies established by  
other Federal, State or regional enti-  
ties. These proposed elevations will  
also be used to calculate the appropri-  
ate flood insurance premium rates for  
new buildings and their contents and  
for the second layer of insurance on  
existing buildings and their contents.  
The proposed base (100-year) flood  
elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Menominee River..	Riverbank at downstream corporate limits.	611
	Riverbank at upstream corporate limits.	615
Green Bay .....	Shoreline .....	584

(National Flood Insurance Act of 1968 (Title  
XIII of Housing and Urban Development  
Act of 1968), effective January 28, 1969 (33  
FR 17804, November 28, 1968), as amended  
(42 U.S.C. 4001-4128); and Secretary's dele-  
gation of authority to Federal Insurance  
Administrator, 34 FR 2680, February 27,  
1969, as amended (39 FR 2787, January 24,  
1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1755 Filed 1-24-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3839]

CITY OF NEW BALTIMORE, MACOMB COUNTY,  
MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Adminis-  
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or  
comments are solicited on the pro-  
posed base (100-year) flood elevations  
listed below for selected locations in  
the city of New Baltimore, Macomb  
County, Mich. These base (100-year)  
flood elevations are the basis for the  
flood plain management measures  
that the community is required to  
either adopt or show evidence of being  
already in effect in order to qualify or  
remain qualified for participation in  
the national flood insurance program  
(NFIP).

DATES: The period for comment will  
be ninety (90) days following the  
second publication of this proposed  
rule in a newspaper of local circulation  
in the above-named community.

ADDRESSES: Maps and other infor-  
mation showing the detailed outlines  
of the flood-prone areas and the pro-  
posed base (100-year) flood elevations  
are available for review at City Hall,  
6535 Green Street, New Baltimore,  
Mich. Send comments to: Mayor  
Herman Staffhorst, City Hall, 6535  
Green Street, New Baltimore, Mich.  
48047.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard Krimm, Assistant Ad-  
ministrator, Office of Flood Insur-  
ance, 202-755-5581 or toll free line  
800-424-8872, Room 5270, 451 Sev-  
enth Street SW., Washington, D.C.  
20410.

SUPPLEMENTARY INFORMATION:  
The Federal Insurance Administrator  
gives notice of the proposed determi-  
nations of base (100-year) flood eleva-  
tions for the city of New Baltimore,  
Mich., in accordance with section 110  
of the Flood Disaster Protection Act  
of 1973 (Pub. L. 93-234), 87 Stat. 980,  
which added section 1363 to the Na-  
tional Flood Insurance Act of 1968  
(Title XIII of the Housing and Urban  
Development Act of 1968 (Pub. L. 90-  
448)), 42 U.S.C. 4001-4128, and 24 CFR  
1917.4(a).

These elevations, together with the  
flood plain management measures re-  
quired by section 1910.3 of the pro-  
gram regulations, are the minimum  
that are required. They should not be  
construed to mean the community  
must change any existing ordinances  
that are more stringent in their flood  
plain management requirements. The  
community may at any time enact  
stricter requirements on its own, or  
pursuant to policies established by  
other Federal, State, or regional enti-  
ties. These proposed elevations will  
also be used to calculate the appropri-  
ate flood insurance premium rates for  
new buildings and their contents and  
for the second layer of insurance on  
existing buildings and their contents.  
The proposed base (100-year) flood  
elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crapaud Creek .....	Main St. ....	578
	Green St. ....	578
	Perren St. ....	579
	Base Rd .....	580
	Washington Rd. ....	581
	Bedford Rd .....	582
	Ashley Rd .....	584
Lake St. Clair .....	Shoreline .....	578.5

(National Flood Insurance Act of 1968 (Title  
XIII of Housing and Urban Development  
Act of 1968), effective January 28, 1969 (33  
FR 17804, November 28, 1968), as amended  
(42 U.S.C. 4001-4128); and Secretary's dele-  
gation of authority to Federal Insurance

PROPOSED RULES

Administrator, 34 FR 2680, February 27,  
1969, as amended (39 FR 2787, January 24,  
1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
(FR Doc. 78-1756 Filed 1-24-78; 8:45 am)

[6560-01]

ENVIRONMENTAL PROTECTION  
AGENCY

[40 CFR Part 55]  
[ERL 846-6]

ENERGY RELATED AUTHORITY: KANSAS

Proposed Withdrawal of Compliance Date  
Extension

AGENCY: Environmental Protection  
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Administrator of the  
U.S. Environmental Protection Agency  
proposes to withdraw the Compliance  
Date Extension previously issued to  
the Kansas City, Kansas Board of  
Public Utilities, Kaw Station, Unit K-  
3, Kansas City, Kans. The Compliance  
Date Extension was promulgated in  
the FEDERAL REGISTER of October 5,  
1976, (41 FR 43904), pursuant to § 119  
of the Clean Air Act of 1970, as  
amended (42 U.S.C. 1857c-10), setting  
out compliance by September 1, 1977.

DATE: Comments must be received on  
or before February 24, 1978.

ADDRESS: Comments should be sent  
to Director, Enforcement Division,  
U.S. Environmental Protection  
Agency, Region VII, 1735 Baltimore,  
Kansas City, Mo. 64108. Information  
on which this proposal is based is  
available for public inspection at the  
Environmental Protection Agency,  
Region VII Office, 1735 Baltimore,  
Kansas City, Mo. 64108.

FOR FURTHER INFORMATION  
CONTACT:

Gale A. Wright or Henry F. Rom-  
page, Legal Branch, EPA, Region  
VII, 1735 Baltimore, Kansas City,  
Mo. 64108, 816-374-2576.

SUPPLEMENTARY INFORMATION:  
This withdrawal of the Compliance  
Date Extension is made necessary by  
the failure of the source to meet the  
September 1, 1977, date for compli-  
ance, due to an inability to upgrade  
the original control equipment to the  
necessary efficiency to achieve compli-  
ance, as originally planned. New equip-  
ment must be installed under a new  
compliance schedule. The Compliance  
Date Extension for Unit K-1 issued at  
the same time remains in effect.

This proposed rulemaking is issued  
under the authority of sections 110,  
113(d) and 301 of the Clean Air Act.

3401

Dated January 16, 1978.

EARL J. STEPHENSON,  
Acting Regional Administrator.

In part 55 of Chapter I, Title 40 of  
the Code of Federal Regulations,  
§ 55.872 is amended by revising the in-  
troduutory text of paragraph (a) and  
by revising paragraph (a)(1) to read as  
follows:

Subpart R—Kansas

§ 55.872 Compliance date extension.

(a) The Administrator issues a Com-  
pliance Date Extension to the Kansas  
City Board of Public Utilities, Kaw  
Station, Unit K-1, 2015 Kansas,  
Kansas City, Kansas (the source) upon  
the following conditions:

(1) *Regional Limitation.* Unit K-1  
shall comply with KAPEC 28-19-31A  
by December 31, 1978, in accordance  
with the approved compliance plan.

• • • • •  
(FR Doc. 78-2034 Filed 1-24-78; 8:45 am)

[6560-01]

[FRL 847-3]

[40 CFR Part 162]

PESTICIDE PROGRAMS

Special Packaging of Pesticides

AGENCY: Office of Pesticide Pro-  
grams, Environmental Protection  
Agency.

ACTION: Notice of availability of list  
of registrants.

SUMMARY: A list is being made avail-  
able of registrants who may have pes-  
ticide products that will be affected by  
the proposed regulations for the spe-  
cial packaging of pesticides.

DATES: This list will be available as  
of January 25, 1978.

ADDRESS: Requests for the list  
should be addressed to: Maureen J.  
Grimmer, Project Leader, (WH-566),  
Office of Pesticide Programs, Environ-  
mental Protection Agency, 401 M  
Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION  
CONTACT:

Maureen J. Grimmer, 202-755-8030  
or at the above address.

SUPPLEMENTARY INFORMATION:  
Since the publication of the proposed  
regulations for the special packaging  
of pesticides (42 FR 55235, Oct. 14,  
1977; 42 FR 63437, Dec. 16, 1977) the  
Agency has received several requests  
for a list of affected pesticide manu-  
facturers. The packaging industry  
would use such information to discov-  
er the packaging needs of the pesticide  
industry. Registrants would be con-  
tacted on the numbers, sizes and types



of containers needed. The sooner the flow of this information begins, the quicker and more smoothly the special packaging regulations will be implemented.

For this reason the Agency is making available a list of pesticide registrants who may have products affected by the proposed special packaging regulations. The list is not intended as a complete list. There may be registrants not on the list who have products which will be affected, and there may be registrants on the list who do not have products affected. However, this is as complete a list as the agency can compile at this time. Requests should specify the list entitled "Registrants who may have products affected by the proposed regulations for the Special Packaging of Pesticides."

Dated: January 18, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant  
Administrator  
for Pesticide Programs.

(FR Doc. 78-2033 Filed 1-24-78; 8:45 am)

## [6712-01]

FEDERAL COMMUNICATIONS  
COMMISSION

[47 CFR PARTS 1, 73]

[Docket No. 21473]

## AM BROADCAST STATIONS

Conversion of Radiation Patterns for Inquiry;  
Order Extending Time for Filing Comments  
and Reply Comments

AGENCY: Federal Communications  
Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the dates for filing comments and reply comments in a rulemaking proceeding concerning rules governing the conversion of radiation patterns for AM broadcast stations. Petitioner, Association of Federal Communications Consulting Engineers, states that the additional time is needed so that an ad hoc committee which it has established can review and respond to the questions outlined in the Notice of Inquiry in addition to obtaining suggestions from its members.

DATES: Comments must be filed on or before April 24, 1978, and reply comments on or before May 24, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:

Mildred B. Nesterak, Broadcast  
Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: January 11, 1978.

Released: January 18, 1978.

In the matter of amendment of rules governing the conversion of radiation patterns for AM Broadcast Stations, Docket No. 21473.

1. On November 9, 1977, the Commission adopted a *Notice of Inquiry*, 42 F.R. 59889, in the above-entitled proceeding. The dates for filing comments and reply comments are January 23, and February 22, 1978, respectively.

2. On January 9, 1978, the Association of Federal Communications Consulting Engineers ("AFCEE"), requested a 90-day extension of time in which to file comments. In support of its request, AFCEE states that at its meeting in December an ad-hoc committee was set up to review and respond to the questions outlined in the *Notice of Inquiry*, to obtain suggestions from members and to prepare comments to be submitted to the Executive Committee and to the outstanding membership of the AFCEE. AFCEE notes that the comments must then be approved by the membership before filing with the Commission.

3. We are of the view that the public interest would be served by this extension so that the Association of Federal Communications Consulting Engineers may file any information which could well be helpful to the Commission in reaching a decision in this proceeding.

4. Accordingly, it is ordered, That the dates for filing comments and reply comments in Docket No. 21473 are extended to and including April 24, and May 24, 1978, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules. For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

(FR Doc. 78-2095 Filed 1-24-78; 8:45 am)

## [6712-01]

[47 CFR Part 73]

[BC Docket No. 78-18; RM-2928]

TELEVISION BROADCAST STATION IN  
OPELIKA, ALA.

## Proposed Changes in Table of Assignments

AGENCY: Federal Communications  
Commission.

ACTION: Notice of Proposed Rule-  
making.

SUMMARY: Action herein proposes the assignment of a first UHF television channel to Opelika, Alabama. Petitioner, Wardean, Inc., states the proposed channel could bring a first local television service to the community.

DATES: Comments must be filed on or before March 17, 1978, and reply comments on or before April 6, 1978.

ADDRESSES: Federal Communica-  
tions Commission, Washington, D.C.  
20554.

FOR FURTHER INFORMATION  
CONTACT:

Mildred B. Nesterak, Broadcast  
Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:  
Adopted: January 13, 1978.

Released: January 20, 1978.

In the matter of amendment of § 73.606(b), *Table of Assignments*, Television Broadcast Stations. (Opelika, Alabama), BC Docket No. 78-18, RM-2928.

1. The Commission has under consideration a petition for rulemaking<sup>1</sup> seeking amendment of § 73.606(b) of the Commission's rules, the Table of Television Assignments. The petition was filed on behalf of Wardean, Inc. ("petitioner") requesting the assignment of UHF TV Channel 66 to Opelika, Alabama.

2. Opelika (pop. 19,027),<sup>2</sup> seat of Lee County (pop. 66,100), is located in the central eastern part of Alabama, approximately 24 kilometers (15 miles) west of the border between Alabama and Georgia.

3. According to estimates in a population study of Lee County by James Wright Associates of Atlanta, Opelika will have a population of 31,100 by 1995. We are told that Opelika is a growing community with a balance of industry, agriculture, commerce and trade. Petitioner notes that Opelika's industries are diversified and number over fifty. It adds that its agricultural products are beef, cotton, dairy products and poultry.

4. Opelika does not have a local television broadcast station nor is there one elsewhere in Lee County.

5. In view of the above, the Commission is persuaded that a sufficient public interest showing has been made to warrant further consideration of petitioner's proposal in a rule making proceeding. Channel 66 could be assigned in conformity with the Commission's distance separation requirements and other technical criteria and could bring the community its first local television service.

6. Accordingly, the Commission proposes to amend § 73.606(b) of the Commission's rules, the Television Table of Assignments, with regard to Opelika, Alabama, as follows:

<sup>1</sup>Public Notice of the petition was given on July 29, 1977 (Report No. 1068).

<sup>2</sup>Population figures are taken from the 1970 U.S. Census unless otherwise indicated.

## City and Channel No.

Opelika, Ala., Present —, Proposed 66.

7. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix below and are incorporated herein.

NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 17, 1978, and reply comments on or before April 6, 1978.

For the Federal Communications  
Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(8) of the Commission's rules, it is proposed to amend the TV Table of Assignments § 73.606(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. Showings required. Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which

the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules).

5. Number of copies. In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW, Washington, D.C.

[FR Doc. 78-2096 Filed 1-24-78; 8:45 am]

## [6712-01]

[47 CFR Part 73]

[Docket No. 19784; RM-2036; RM-2835]

FM BROADCAST STATIONS IN LEONARDTOWN  
AND LEXINGTON PARK, MD. AND FAL-  
MOUTH, VA.

## Proposed Changes in Table of Assignments

AGENCY: Federal Communications  
Commission.

ACTION: Memorandum Opinion and  
Order and Further Notice of Proposed  
Rulemaking.

SUMMARY: The FCC proposes to add FM Channel 240A at Leonardtown, Maryland, or in the alternative to add Channel 240A at Falmouth, Virginia. The channel can only be used in one of those places. It also proposes to delete FM Channel 249A at Leonardtown and add it at nearby Lexington Park, Maryland, since the station using Channel 249A is actually located at Lexington Park.

DATES: Comments are due on or before March 20, 1978, and reply comments on or before April 10, 1978.

ADDRESSES: Federal Communica-  
tions Commission, Washington, D.C.

FOR FURTHER INFORMATION  
CONTACT:

Carol P. Foelak, Broadcast Bureau,  
202-632-7792.

## SUPPLEMENTAL INFORMATION:

MEMORANDUM OPINION AND ORDER AND  
FURTHER NOTICE OF PROPOSED RULE  
MAKING

Adopted: January 17, 1978.

Released: January 24, 1978.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Leonardtown and Lexington Park, Md., and Falmouth, Va., Docket No. 19784, RM-2036, RM-2835.

1. We are considering here (1) a "Supplement to Petition for Rule Making: Order to Show Cause" ("Supplement") filed by Sound Media, Inc. ("Sound Media"), on October 26, 1976;

(2) a Response to the "Supplement" filed by Key Broadcasting Corporation ("Key"), on December 10, 1976; (3) an Opposition to the "Supplement" filed by Vincent L. Carr ("Carr"), on January 19, 1977; and (4) Sound Media's Reply to Carr's Opposition filed on January 28, 1977.

2. Background: Since this proceeding has involved several parties and several requests for different FM assignments, a brief history is in order. Originally, Sound Media and Key were mutually exclusive applicants for FM Channel 249A, Leonardtown, Md., which Key proposed to use at nearby Lexington Park, Md., under the 10 mile rule. The applications were designated for hearing in 1972, and a final Commission decision granting Key's application was released August 11, 1976. Key Broadcasting Corporation, 60 F.C.C. 2d 575 (1976). Both applicants were found qualified, but Key prevailed on a Section 307(b) (of the Communications Act) issue since its proposal would provide a first aural outlet at night to Lexington Park, while Sound Media's would provide a second aural outlet at night to Leonardtown, and Key's would provide a first nighttime aural service to more persons than Sound Media's. Since then Key has built its station, WMDM-FM, at Lexington Park, and has been on the air since December 10, 1976.

3. At an earlier stage in this proceeding, while the hearing between Sound Media and Key was still going on, we decided between conflicting proposals involving Sound Media and a third party, Edward Mason De Maso ("De Maso"). De Maso had proposed assigning Channel 276A at Grasonville, Md., while Sound Media, in an attempt to resolve the conflict between it and Key by providing both of them with assignments, proposed Channel 276A at Leonardtown and Channel 249A at Lexington Park. We granted De Maso's request and assigned Channel 276A at Grasonville, so De Maso is no longer a party in this proceeding. At the same time we declined to decide on an alternative proposal, to assign Channel 240A at Lexington Park, while leaving Channel 249A at Leonardtown, until after the end of the hearing between Sound Media and Key. Grasonville, Maryland, 35 R.R. 2d 614 (1975). Key was the only applicant interested in Lexington Park, and if its application were denied because of adverse findings on disqualifying issues, there would be no need for an assignment there.

<sup>1</sup>47 CFR Sec. 203(b) provides, "A [Class A] channel assigned to a community listed in the Table of Assignments is available upon application in any unlisted community which is located within 10 miles of the listed community \* \* \*."



4. The pleadings now under consideration were filed after the decision in the Sound Media-Key hearing became final, and relate to the proposal we had declined to decide while the hearing was going on: Whether Channel 240A should be assigned at Lexington Park, leaving Channel 249A at Leonardtown. However, there is now an additional conflicting proposal, that of Carr, to assign Channel 240A to Falmouth, Va. Sound Media asks that Channel 240A be assigned to Lexington Park, and Key be required to change to 240A, leaving Channel 249A vacant at Leonardtown. Key opposes this since it has already built its station on Channel 249A and could not change to 240A at its existing site because it would be short spaced to WISZ-FM, Glen Burnie, Md. Carr wishes Channel 240A to be assigned at Falmouth, Virginia, which conflicts with assigning it at Lexington Park. Sound media, however, argues that Carr's proposal cannot be entertained because it is untimely, by several years.

5. The first issue we must decide is whether Carr's proposal should be dismissed as untimely since it was not filed at the time that the original proposal for Leonardtown and Lexington Park were made. If so, we need only to decide on the proposals for Lexington Park and Leonardtown. If not, we must also consider whether we should propose assigning Channel 240A at Falmouth.

6. *Timeliness of Carr's proposal.* Sound Media argues that the cut-off provision of § 1.420(d) of the rules precludes consideration of Carr's proposal, since the original proposal and comments, which should have embodied all counterproposals, were filed in 1973, while Carr's proposal was filed in 1977. Carr, however, argues that the purpose of Section 1.420(d) is to facilitate orderly processing of FM proposals, and since in this case the Commission deferred deciding on the Channel 240A proposal until after the end of the comparative hearing, consideration of his proposal will not disrupt orderly processing.

7. We agree with Carr. We halted this proceeding in our decision in *Grasonville, Maryland, supra*, and announced we would consider the Channel 240A proposal later, after the comparative hearing was over. Since the facts are likely to have changed over a period of several years, it is only natural that a new round of pleadings would be filed after the hearing was over. (In fact the new round was started

\*Section 1.420(d) provides, "Counterproposals (in proceedings to amend the FM or TV Table of Assignments) shall be advanced in initial comments only and will not be considered if they are advanced in reply comments."

by Sound Media, although it was careful to phrase its request as a supplement to the original proposal rather than making a new or different proposal.) Carr's proposal is timely in reference to the new round of pleadings now before us. The purpose of the cut-off rule is to provide orderly processing of proposals taking into account the petitioner's interest in avoiding unnecessary delay and uncertainty as well as the public interest in having assignments to provide the most fair, efficient, and equitable distribution of service. Cf. Broadcast Applications (adopting cut-off rules for FM and TV applications), 53 F.C.C. 2d 1089, 1092 (1975). Carr's proposal, did not delay consideration of the Channel 240 proposal; the Sound Media-Key hearing caused the delay. Carr filed his proposal in a timely fashion after Sound Media's "Supplement" reviving the earlier proposal, and the public interest in assuring the best distribution of service will be better served by at least considering it.

8. *Sound Media's request.* Sound Media wishes us to adopt the proposal on which we did not act in 1975, to assign Channel 240A to Lexington Park, leaving Channel 249A at Leonardtown, and also asks us to require Key to change from operating on Channel 249A to Channel 240A. This would leave Channel 249A vacant for Sound Media to use at Leonardtown. However, Key's Station WMDM-FM presently operates from the site of its AM station at Lexington Park, and it could not operate from this site on Channel 240A since it is short spaced to WISZ-FM, Glen Burnie, Maryland. Anticipating this problem, Sound Media states that it has found and even obtained FAA clearance for a site from which Key could operate and that it will pay the expenses of moving to the new site.

9. In response, Key says it has already built at its AM site and details unexpected difficulties and expenses which it encountered in so doing. For instance, after installing the FM antenna on one of its AM towers, it learned that the tower was not structurally sound, so that it had to be torn down and rebuilt. It states that zoning clearances might not be obtained for Sound Media's proposed site and notes that even if Sound Media paid all expenses of moving, it would cost more in operating expenses to operate from two sites. Key suggests adding Channel 240A at Leonardtown, instead, or in the alternative, it says it would accept a change to Channel 240A if it were simultaneously granted a waiver for the short spacing so that it could operate from its present site.

10. Carr also comments adversely on Sound Media's request that we adopt the proposal to add Channel 240A at Lexington Park and require Key to

change channels. He states that circumstances have changed since the proposal was originally made, noting that Sound Media's "Supplement" refers to "documents heretofore filed" in the earlier stages of this proceeding to show "the public interest factor involved in the allocation of a channel at Leonardtown." In its earlier comments in response to the Notice in 1973, Sound Media had supported its proposal by saying Leonardtown had no nighttime AM service; that a Leonardtown FM station would provide a first FM service to 21,273 persons, a first aural service to 19,035, and a second aural service to 13,000. All of these facts have changed, Carr asserts, since Sound Media was granted full-time authority for its AM station, WKIK, Leonardtown, on November 14, 1973. WMDM-FM is now on the air in Lexington Park, and there have been changes in the facilities of FM stations in other communities.

11. Concerning Sound Media's request to require Key to change channels, Carr points out that Sound Media probably also wants to operate the FM station it hopes to build from its AM site, which is also short spaced to WISZ. As to waiving the short spacing for Key on Channel 240A, Carr argues that such waivers are granted on the basis of applications, not as part of the assignment process.

12. We will not assign Channel 240A to Lexington Park, and will reject Sound Media's request that Key be required to change to Channel 240A. We will, however, propose to add Channel 240A at Leonardtown. It is apparent that both Key and Sound Media want to operate from their AM sites, which they cannot do on Channel 240A without being short spaced to WISZ-FM. However, Key should be favored. It, after all, won the comparative hearing between it and Sound Media. Also, the inconvenience to Key which would be occasioned by changing to Channel 240A would be greater since it has already built and would have to move. The disruption to its audience, which is accustomed to Channel 249A, would not be felt by Sound Media. Accordingly, we will propose to assign Channel 240A to Leonardtown, and if the proposal is adopted, Sound Media will be able to apply for Channel 240A. We will also propose to delete Channel 249A from Leonardtown and add it at Lexington Park, since Key's station is actually at Lexington Park.

13. *Carr's request.* Carr proposes to assign Channel 240A to Falmouth, Va., which conflicts with assigning it to Leonardtown/Lexington Park. Sound Media filed a reply questioning the timeliness of Carr's proposal, as discussed above in paragraphs 6-7, but did not comment substantively. Key did not comment.

14. Carr states that Falmouth, Va., is an unincorporated community which

had a 1970 population of 2,139, and has no local transmission service. He says that Stafford County, in which it is located, had a 1970 population of 24,587, and has no radio station. We note that Falmouth is adjacent to Fredericksburg, Virginia (pop. 14,450), which has two Class B FM stations and two AM stations, one of which is fulltime, WFVA-AM/FM and WFIS AM/FM. Carr states that Falmouth is the largest community within the Channel 240A preclusion area with no local radio station. According to his engineering study, the precluded communities with no AM or FM station assignment are Shenandoah, Virginia (pop. 1,714), Elkton, Virginia (pop. 1,511), Stanley, Virginia (pop. 1,208), and Colonial Beach, Virginia (pop. 2,058). Carr made some estimates of persons which his proposed assignment would provide with second and third aural service at night, but these were made on the basis of presently available service and not on a proper *Roanoke Rapids/Anamosa* showing.\* In light of the stations at Fredericksburg, his proposal obviously would not provide second aural of FM services to Falmouth.

15. While we are proposing assignment of Channel 240A at Falmouth as an alternative to proposing it at Leonardtown, there are some specific questions on which we would like comment. Is Falmouth a community? While Carr provided a list of businesses, churches, and other organizations located in Falmouth, we would like comment on whether it really is a community. We must also point out that the reasoning behind the "suburban community" *Policy Statement*,<sup>4</sup> which applied to applications for new and changed AM facilities, has been applied to FM applications, *Berwick Broadcasting Corporation*, 20 F.C.C. 2d 393 (1969). Thus, under *Berwick*, an applicant could not specify a small town to meet the priority of bringing a first service to it while really intending to serve a nearby larger town.

16. Carr should make a *Roanoke Rapids* showing if he wishes to support his estimates of second and third services at night. For purposes of com-

\**Roanoke Rapids, N.C.*, 9 F.C.C. 2d 672 (1967), sets forth assumptions to be used in calculating the extent of service which an FM proposal would provide, and under *Anamosa, Iowa*, 40 F.C.C. 2d 520 (1974), a petitioner must take into account nighttime AM service.

<sup>4</sup>*Policy Statement on Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 F.C.C. 2d 190 (1965). Although "suburban community" was subsequently limited to apply only in comparative hearing, the Commission's concern that applicants intend to serve the communities they specify remains. *AM Assignment Standards*, 54 F.C.C. 2d 1, 21-22.

paring Falmouth and Leonardtown, parties may wish to update the showings filed previously in this proceeding to take account of new or changed service.

17. *It is ordered* That, the proposal to assign FM Channel 240A at Lexington Park, Maryland, is denied.

18. *Conclusion:* The Commission proposes to amend the FM Table of Assignments, 47 CFR 73.202(b), as follows:

#### City and Channel No.

Leonardtown, Md., Present 249A, Proposed 240A.

Lexington Park, Md., Present — Proposed 249A.

Or, in the alternative,

Leonardtown, Md., Present 249A, Proposed —.

Lexington Park, Md., Present —, Proposed 249A.

Falmouth, Va., —, Proposed 240A.

19. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

20. Interested parties may file comments on or before March 20, 1978, and reply comments on or before April 10, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2097 Filed 1-24-78; 8:40 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-21; RM-2932]

#### FM BROADCAST STATION IN RONAN, MONT.

##### Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes to assign a first class C FM channel to Ronan, Mont. Petitioner, KDMR, Inc., states that the proposed channel could bring first and second FM, as well as first and second nighttime aural service to Ronan and the surrounding area.

DATES: Comments must be received on or before March, 17, 1978, and reply comments on or before April 6, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.



## SUPPLEMENTARY INFORMATION:

Adopted: January 18, 1978.

Released: January 23, 1978.

In the matter of amendment of § 73.202(b), table of Assignments, FM broadcast stations (Ronan, Mont.), BC Docket No. 78-21, RM-2932.

1. *Petitioner, comments, proposal.*—(a) Notice of proposed rulemaking is given concerning amendment of the FM table of assignments (§ 73.202(b) of the Commission's rules) as it relates to Ronan, Mont.

(b) Petition for rulemaking<sup>1</sup> was filed on behalf of KDMR, Inc., ("petitioner"), licensee of AM station KERR, Polson, Mont., seeking the assignment of class C FM channel 222 to Ronan, Mont. No responses to the petition have been received.

(c) Petitioner states that it will file an application for a construction permit to operate on the proposed channel, if assigned, and if granted, will promptly construct the station and commence operation.

2. *Community data.*—(a) *Location.* Ronan is located in Lake County in northeastern Montana, 218 kilometers (135 miles) west of Great Falls, Mont., and 248 kilometers (155 miles) east of Spokane, Wash. It is located in the Flathead Indian Reservation which extends through several counties.

(b) *Population.* Ronan—1,347; Lake County—14,445.<sup>2</sup>

(c) *Local aural broadcast service.* None.

(d) *Economic data.* Petitioner states that Lake County has had a 10 percent increase in population between 1960-1970. It notes that the county is essentially rural and is situated in the heart of the Flathead Indian Reservation. The principal industry in the area surrounding the reservation is related to forestry. Petitioner adds that natural recreation attractions of the reservation and its proximity to Glacier Park makes the entire Flathead Valley a potentially important tourist center. Petitioner has submitted detailed information which demonstrates a need for a first local full-time broadcast service in Ronan and Lake County.

3. *Preclusion studies.* Preclusion will be caused on noncommercial educational channels (219A, 220A, 220C) to Kallispell (population 10,526), Columbia Falls (2,652), Missoula (29,497), Polson (2,464), and Whitefish (3,349). All of the above, plus nine additional communities over 1,000 population will sustain preclusions on one or more commercial channels. A total of nine communities<sup>3</sup> are without commercial

FM assignments and will sustain commercial channel preclusion. However, petitioner states that other class A and class C channels (educational or commercial as the case may be) are available for the communities in the precluded areas.

4. *Additional considerations.* Petitioner states that there is no FM broadcast service in Ronan or Lake County. It asserts that Ronan is centrally located in a large, sparsely populated area and, because of its importance to the area and the Indian population in and around the Flathead Reservation, as well as the general population, granting of the proposed assignment is warranted. In its Roanoke Rapids-Anamosa study it shows that a class C station operating with effective radiated power of 74 kilowatts and antenna height of 152 meters (500 feet) would provide a first FM service to 3,046 persons in a 2,800 square kilometer (1,050 square miles) area and a second FM service to 5,104 persons in a 4,000 square kilometer (1,580 square miles) area. The same figures would apply to a first and second nighttime aural service.

5. Based on an examination of petitioner's proposal there appears to be a basis for considering an exception to our general policy of assigning class C channels only to larger communities. The proposed assignment of an FM channel to this small isolated community could provide for an aural broadcast service to people residing in the sparsely populated areas.

6. Accordingly the Commission proposes to amend the FM table of assignments (§ 73.202(b) of the Commission's rules) with regard to Ronan, Mont., as follows:

## City and Channel No.

Ronan, Mont., present: —; proposed: 222.

7. The Commission's authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

8. Interested parties may file comments on or before March 17, 1978, and reply comments on or before April 6, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of

Browning (1,700), Columbia Falls (2,652), Whitefish (3,349), Polson (2,464); Idaho: Mullan (1,279), Kellogg (3,811).

the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's public reference room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2098 Filed 1-24-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-20; RM-2925]

## FM BROADCAST IN CLOVIS, N. MEX.

## Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a third FM channel to Clovis, N. Mex. Petitioner, Zia Broadcasting Co., states that additional areas would be provided with first and second FM as well as first and second aural nighttime service as a result of the proposed assignment.

DATES: Comments must be filed on or before March 14, 1978, and reply comments on or before April 3, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

## SUPPLEMENTARY INFORMATION:

Adopted: January 13, 1978.

Released: January 23, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations (Clovis, N. Mex.), BC Docket No. 78-20, RM-2925.

1. *Petitioner, proposal, and comments.* (a) Notice of proposed rulemaking is hereby given concerning amendment to the FM table of assignments, § 73.202(b) of the Commission's rules, regarding the assignment of class C channel 298 to Clovis, N. Mex., as that community's third FM assignment.

(b) The petition was filed on behalf of Zia Broadcasting Co. ("petitioner") and was given public notice on July 26, 1977 (report No. 1066). No responses to the petition were received.

(c) Petitioner states that, if the channel is assigned, it will file an application for its use.

2. *Demographic data.* (a) *Location.* Clovis, the seat of Curry County, is situated in eastern New Mexico, 152 kilometers (95 miles) southwest of Amarillo, Tex.

(b) *Population.* Clovis—28,495; Curry County—39,517.<sup>1</sup>

(c) *Present aural services.* FM stations: KMTV-FM (channel 256) and KTQM-FM (channel 260). Full-time AM stations: KCLV, KICA, and KWKA.

3. *Community data.* Petitioner states that the Clovis Chamber of Commerce

<sup>1</sup>Population figures are taken from the 1970 U.S. Census.

estimated the population of Clovis to be 32,864 in 1976, as compared to 28,495 in 1970. We are told that the city's economy is dominated by agriculture, grain storage, ranching, cattle raising, and meat packing. In addition there are said to be several significant manufacturing concerns in the area consisting of sash and door factories, concrete, dairy products, steel pipe, feed mills, etc. Petitioner notes that Clovis is the center of a large trading area and the hub of transportation for eastern New Mexico.

4. *Preclusion considerations.* Assignment of channel 298 to Clovis would cause preclusion on seven channels for 49 communities with populations greater than 1,000. Twenty-five of these communities have no commercial FM channel assignments. Of the 25, 7 have populations over 2,500. All are in Texas. They are: Wellington (2,884), Abernathy (2,625), Post (3,854), Tahoka (2,956), Friona (3,111), Dimit (4,327), and Littlefield (6,738). Post, Dimit, and Littlefield have AM stations. Petitioner also states that channels 298A and 244A could be assigned to Post and Friona. Petitioner did not indicate whether FM channels are available for assignment to Abernathy, Tahoka, Dimit, Littlefield, and Wellington, and it should provide this information in its comments.

5. *Additional considerations.* Petitioner submitted a Roanoke Rapids-Anamosa study which indicates that a first FM service would be provided to 1,007 persons in a 550 square kilometer (204 square mile) area and a second FM service to 1,610 persons in a 850 square kilometer (324 square mile) area. The same figures would hold true for first and second nighttime aural service. Petitioner asserts that on this basis Clovis needs a third FM assignment and it asserts that it could support an additional station.

6. The request for a third FM assignment to a community of 28,495 persons exceeds the FM population guidelines. However, in view of petitioner's showing that the proposed assignment would provide additional areas and populations with a first and second FM and first and second nighttime aural service, we believe consideration of the proposal described above is warranted.

7. In light of the foregoing, the Commission proposes to amend the FM table of assignments, § 73.202(b) of the Commission's rules, with regard to Clovis, N. Mex., as follows:

## City and Channel No.

Clovis, N. Mex., Present: 256, 260; Proposed: 256, 260, 298.

8. The Commission's authority to institute rulemaking proceedings; showings required; cutoff procedures; and filing requirements are contained in the attached appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the appendix before a channel will be assigned.

9. Interested parties may file comments on or before March 14, 1978, and reply comments on or before April 3, 1978.

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM table of assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the notice of proposed rulemaking to which this appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the notice of proposed rulemaking to which this appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cutoff procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the notice of proposed rulemaking to which this appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for



examination by interested parties during regular business hours in the Commission's public reference room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2099 Filed 1-24-78; 8:45 am]

[6712-01]

[47 CFR Part 87]

[SS Docket No. 78-9; FCC 78-3]

#### AVIATION SERVICES

Permitting Authorization of an Additional Aeronautical Advisory Station at a Landing Area To Separate Helicopter and Fixed-Wing Aircraft Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

**SUMMARY:** The Commission is proposing to amend the rules to permit the authorization of an additional Aeronautical Advisory station at a landing area to separate communications for helicopters and fixed wing aircraft. Present rules provide for separate frequencies for this, but limit their use to one station. Where the service and landing facilities for these two types of aircraft are widely separated at one location, it is practical to permit a separate station to be installed at each facility. This will enable both to operate simultaneously and independent of each other, thus providing a more efficient use of the spectrum.

**DATES:** Comments must be received on or before February 24, 1978, and reply comments must be received on or before March 6, 1978.

**ADDRESSES:** Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:**

John E. Jacobs, Safety and Special Radio Services Bureau, 202-632-7197.

**SUPPLEMENTARY INFORMATION:** Adopted: January 11, 1978.

Released: January 23, 1978.

In the matter of amendment of Part 87 of the FCC rules and regulations to permit the authorization of an additional Aeronautical Advisory Station at a landing area to separate helicopter and fixed-wing aircraft communications, SS Docket No. 78-9.

1. Notice of proposed rulemaking in the above entitled matter is hereby given.

2. The Commission rules provide that only one aeronautical advisory (Unicom) station may be authorized at any one landing area. The reason for such a limitation is safety. Since the primary purpose of these Unicom sta-

tions is to provide advisory information necessary to the safe and expeditious operation of private aircraft, but not traffic control a definite safety hazards would exist were two stations to give conflicting information to two different aircraft. For the most part, the information exchanged between the aircraft and the Unicom station consists of airport information (services available, etc.) and, where permitted, wind, weather and runway conditions.

3. In further interests of safety, only one frequency is normally authorized to each station. Because of the differences in the types and methods of operation, separate and discrete frequencies are available for those landing areas used primarily for fixed-wing aircraft and those used exclusively as heliports. Many stations combine both types of operations on the one frequency, but where a licensee can show a need, an additional, specified frequency can be authorized to separate the communications. In instances such as this, multiple control points may be authorized for the station with each separate operation having the ability to communicate over the station facility for its own purpose.

4. During the past several years, there has been a substantial growth in the use of both helicopters and fixed-wing aircraft for business and pleasure. The number of helicopters in use has grown at a rate of 12.5 percent per year for the past ten years and in 1976 the number increased at a rate almost double that of fixed-wing aircraft. Quite naturally, this has resulted in an increase in activities at many airports. The facilities providing service to these aircraft have expanded accordingly in many areas and the airports have become rather large complexes. As a result of this expansion and because of the inherent differences in their needs and methods of operation, the fixed-wing and helicopter facilities have become widely separated physically, even though still located at one location classified as a landing area. In many instances, helicopters and fixed-wing aircraft operate in separate patterns safely. Although separate frequencies can be authorized for the two operations to separate their communications, it still remains under current rules that they both must be operated from one station. Additionally, the characteristically normal short flight operations and the numerous short transmissions of helicopters have a tendency to heavily load the channel being used. This presents an operational problem in that, although separate frequencies are available, only one person can be the licensee and it often become impossible for the Unicom station operator to provide adequate and timely communications to both types of aircraft. This

is especially true during peak periods of activity at the landing area. Further, if the Unicom operator's main business is fixed-wing aircraft he will naturally tend to render better services to these aircraft as they represent his livelihood.

5. In order to relieve this situation, we propose to amend the rules to permit the authorization of an additional Unicom station for separation of fixed-wing and helicopter communications. Obviously, the mixture of aircraft types does not present a problem at most airports, but our concern here is to facilitate the safe and efficient operation at those airports where not only frequency, but traffic congestion is a problem. Our intent is not to subvert the original valid reasons for the "one station" limitation; nor is it to give the impression that additional air traffic control, with its inherent element of danger, is available. Rather, we wish to relieve any frequency congestion which might be caused by combining fixed-wing and helicopter operations in one station and to relieve the station licensees of the necessity to communicate for two diverse functions from the same station. We believe that, even though traffic at a busy airport may be heavy, it is possible to separate helicopters and fixed-wing aircraft and have them conduct their affairs within the same environment without including a safety hazard.

6. Accordingly, we propose to amend Rule § 87.251 to permit the authorization of an additional aeronautical advisory station for the specific purpose of separating the helicopter and fixed-wing communications where a need is determined. Any applicant for the additional station must show conclusively that the radio traffic on the existing Unicom station is such that authorization of an additional station will relieve the congestion and, further, that the available facilities serving the two types of aircraft are separated to the point that the proximity of the stations will not present an interference or a safety problem. We do not intend to make a second station available, per se, but to provide a more efficient means of communicating with two different types of aircraft activities. Therefore, where such authorizations are granted, the communications from each station must be limited to that purpose for which application was made.

7. Additionally, we will amend § 87.253(b) to continue to permit the authorization of a second frequency where and in the manner presently permitted when a second physical installation cannot be justified.

8. The proposed amendments to the rules as set forth below are issued pursuant to the authority contained in sections 4(i), 303(b), (d), (f) and (r) of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before February 24, 1978, and reply comments on or before March 6, 1978. All relevant and timely comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. In § 87.251 paragraph (a) is amended, new paragraphs (b) and (c) are added to read as follows; and pre-

sent paragraphs (b), (c), (d), and (e) are redesignated as paragraphs (d), (e), (f) and (g) to read as follows:

#### § 87.251 Special conditions.

(a) Except as provided in paragraphs (b) and (c) of this section, only one aeronautical advisory station may be authorized to operate at a landing area.

(b) Where the Commission has good cause to believe that an existing station has been abandoned or ceased operation, another station may be authorized to provide service at the landing area on an interim basis while the original station is not operating and pending final determination of the status of the original station.

(c) Upon showing of need, an additional aeronautical advisory station may be authorized at a landing area for the specific purpose of separating the communications pertaining to helicopters and fixed wing aircraft. Such showing must clearly demonstrate to the Commission the need for the additional station and why the anticipated communications cannot be accommodated from one station. Further, it must be clearly demonstrated that the facilities for helicopters and fixed wing aircraft are sufficiently separated physically at the landing area that operation of both types of aircraft at

the same time will not introduce a safety hazard.

2. In § 87.253 paragraphs (a)(3) and (b) are amended to read as follows:

#### § 87.253 Frequency assignment.

(a) . . . .

(3) Landing area that is used (i) exclusively as a heliport or (ii) for helicopters when a second station is justified pursuant to § 87.251(c); 123.050 or 123.075 MHz.

(b) Upon a showing of need, and where a second station cannot be justified in accordance with § 87.251(c), stations authorized to operate on 123.050 or 123.075 MHz also may be assigned 122.700, 122.800 or 123.000 MHz for communications primarily with fixed wing aircraft, and stations authorized use of 122.700, 122.800, 122.950 or 123.000 MHz may also be assigned 123.050 or 123.075 MHz for communications primarily with helicopters.

[FR Doc. 78-2094 Filed 1-24-78; 8:45 am]



# notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

## DEPARTMENT OF AGRICULTURE

Farmers Home Administration  
[Notice of Designation No. A559]

### LOUISIANA

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in certain Louisiana Parishes as a result of various adverse

weather conditions shown in the following chart.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 Subpart C, Exhibit B, Paragraph V B, including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for emergency loans must be received by this Department no later than July 19, 1978, for physical losses and January 18, 1979, for

production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 19th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.

#### 10 PARISHES

Parish	Drought	Excessive rainfall	Flooding
Calcasieu.....	May 1 through July 14, 1977.	Aug. 3 through Dec. 10, 1977.	
Cameron.....	do	July 26 through Dec. 16, 1977.	
East Baton Rouge.....	May 4 through June 27, 1977.	July 20 through Nov. 30, 1977.	
Evangeline.....	Apr. 30 through July 15, 1977.	June 16 through Dec. 31, 1977.	
Grant.....	May 1 to June 16, 1977.	Aug. 1 through Sept. 30, 1977 and	
Iberia.....	Apr. 1 through June 30, 1977.	Nov. 1 through Nov. 30, 1977.	
Morehouse.....	May 1 through Oct. 1, 1977.	July 26 through Sept. 14, 1977.	Apr. 17 through Apr. 22, 1977.
Pointe Coupee.....	May 4 through June 30, 1977.		
Ouachita.....	May 1 through Oct. 1, 1977.	Aug. 1 to Dec. 15, 1977.	
St. Mary.....	Apr. 1 to June 30, 1977.		

[FR Doc. 78-2164 Filed 1-24-78; 8:46 am]

[3410-07]

[Notice of Designation Number A554]

### NEW YORK

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of flooding, severe low temperatures, frost and/or freezing conditions, drought, excessive rainfall, snow, wind, and hail during the period March 13 through October 25, 1977: Delaware, Montgomery, Schoharie, Tioga.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans

must be received by this Department no later than July 17, 1978, for physical losses and January 18, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 78-2165 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A557]

### NORTH CAROLINA

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or

aquaculture operations have been substantially affected in the following North Carolina Counties as a result of excessive rainfall September 1, 1977, through November 15, 1977, in Tyrrell County and drought June 1, 1977, through September 15, 1977, and excessive rainfall September 16, 1977, through October 15, 1977, in Hertford County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor James B. Hunt, Jr. that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 18, 1979, for production losses, except that quali-

fied borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 78-2166 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A555]

### TEXAS

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, and aquaculture operations have been substantially affected in the following Texas Counties as a result of drought during the period ranging from April 1 through November 29, 1977: Anderson, Kaufman, Lamar, San Saba, Shackelford.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the Provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 16, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 18th day of January, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 78-2167 Filed 1-24-78; 8:45 am]

[3410-07]

[Notice of Designation Number A558]

### TEXAS

#### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or

aquaculture operations have been substantially affected in the following Texas Counties as a result of drought June 1 through December 12, 1977, in Baylor and Stonewall Counties; and hailstorms May 22, 1977, in Floyd County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR Part 1904 Subpart C, Exhibit D, Paragraph V B, including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than July 17, 1978, for physical losses and January 16, 1979, for production losses, except for qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 18th day of January, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
[FR Doc. 78-2168 Filed 1-24-78; 8:45 am]

[3410-11]

### Forest Service

#### VOLUME I, MOUNT ROGERS NATIONAL RECREATION AREA UNIT PLAN, AND EIS VOLUME II, MOUNT ROGERS SCENIC HIGHWAY EIS

#### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Mount Rogers National Recreation area, Jefferson National Forest, Va., USDA-FS-R8/DES (Adm.) 78-02 and in cooperation with the Federal Highway Administration an environmental statement on the Mount Rogers Scenic Highway, Jefferson National Forest, Va. FHWA-VA-EIS-77-03-D.

The volume I environmental statement concerns the proposed environmental impacts of proposed activities in each project component and are discussed in relation to each component of the environment. The unit contains 107,660 acres of national forest land in Carroll, Grayson, Smyth, Washington, and Wythe Counties, Va. Volume II environmental statement summarizes and expands on the direct or physical impacts of the scenic highway.

These draft environmental statements were transmitted to EPA on

January 20, 1978. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, 1720 Peachtree Road NW., Room 804, Atlanta, Ga. 30309.

USDA, Forest Service, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011.

USDA, Forest Service, Jefferson National Forest, Mount Rogers NRA District Office, Route 1, Box 303, Marion, Va. 24354.

A limited number of single copies are available upon request to Forest Supervisor Michael J. Penfold, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically. Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Michael J. Penfold, Jefferson National Forest, 210 Franklin Road SW., Roanoke, Va. 24011. Comments must be received by April 3, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: January 20, 1978.

ROBERT F. WILLIAMS,  
Regional Environmental  
Coordinator.

[FR Doc. 78-2118 Filed 1-24-78; 8:45 am]

[3510-25]

## DEPARTMENT OF COMMERCE

### Industry and Trade Administration

#### CCNY RESEARCH FOUNDATION

#### Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of



Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00349. Applicant: City College of New York Research Foundation, 138 Street and Convent Avenue, New York, N.Y. 10031. Article: Spin Lock CPS-2 NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Lock Electronics Co., Canada. Intended use of article: The article will provide capabilities for detecting and quantitating the formation of each of the ternary enzyme-metal PRPP complexes and the quaternary enzyme-metal PRPP-nitrogenous substrate complexes using water-proton relaxation rate enhancement techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the U.S. Customs Service received this application (August 29, 1977).

Reasons: The foreign article provides for a combination of pulsed operation and the capability of operation at 30 megahertz (MHz). The Department of Health, Education, and Welfare advises in its memorandum dated November 26, 1977 that: (1) The combination of capabilities described above is pertinent to the applicant's intended use and (2) it knows of no domestic instrument which provides this combination of pertinent features.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the U.S. Customs Service received this application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.

(FR Doc. 78-2049 Filed 1-24-78; 8:45 am)

### [3510-25]

#### COLORADO STATE UNIVERSITY

#### Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 77-00332. Applicant: Colorado State University, Fort Collins, CO 80523. Article: FX-100 NMR Spectrometer. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a variety of studies of the molecular structure type, utilizing <sup>13</sup>C and <sup>1</sup>H nuclear magnetic resonance (NMR) in the fourier transform (FT) mode. Specific research will include studies of the following:

(1) Geometrical dependence of substituent effects on <sup>13</sup>C chemical shifts,  
(2) <sup>13</sup>C signal intensities in hydrocarbons,  
(3) The synthesis of complex organic systems,  
(4) Structural characterizations of natural products,  
(5) Biosynthesis of toxic plant nitro compounds, and  
(6) Polymer chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for making <sup>13</sup>C measurements. The National Bureau of Standards advises in its memorandum dated November 30, 1977 that (1) the capability of the article described above is pertinent to the applicant's intended research and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.

(FR Doc. 78-2050 Filed 1-24-78; 8:45 am)

### [3510-25]

#### ERDA—RICHLAND, WASHINGTON

#### Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00325. Applicant: United States Energy Research and Development Administration, P.O. Box 550, Richland, Wash. 99325. Article: Camera, Image Converter Imacon Model 790/520 and Accessories. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used for the investigation of recording photographic images of transient events in experiments to see if laser heated solenoid will provide energy. The article and accessories will be attached to the laser beam tube in such a way as to allow them to be used to photograph the events which occur during the experiments.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for making <sup>13</sup>C measurements. The National Bureau of Standards advises in its memorandum dated December 1, 1977 that the capability of the articles to provide the maximum possible frames per period (up to 16) and a framing rate of at least 10° per second is pertinent to the applicant's intended use. NBS also advises that it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.

(FR Doc. 78-2051 Filed 1-24-78; 8:45 am)

### [3510-25]

#### GEOPHYSICAL INSTITUTE

#### Decision on Application for Duty-free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00173. Applicant: Geophysical Institute, C.T. Elvey Bldg., University of Alaska, Fairbanks, Alaska 99701. Article: Recording Current Meter, Model 4 and Pressure and Conductivity Sensors. Manufacturer: Aanderaa Instruments, Norway. Intended use of article: The article is intended to be used to measure the basic water circulation parameters for the first time under arctic conditions on the Alaskan coastal shelf.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (March 18, 1977). REASONS: In response to Question 8, the applicant alleges the foreign article provides the following pertinent features:

- (1) Ability to operate instrument under Arctic Conditions,
- (2) Ability to measure current speed and direction at the same place that the water quality parameters are measured (conductivity, temperature and depth),
- (3) Ability to operate at temperatures below 0 degrees C.,
- (4) Small compact size of instrument, and
- (5) Long term reliable operation under cold water conditions.

The National Oceanic and Atmospheric Administration (NOAA) advises in its memorandum dated May 20, 1977 that features (1), (2), (3), and (4) are provided by the article and are

pertinent to the applicant's intended uses within the meaning of Subsection 301.2(n) of the regulations. In addition, NOAA advises that two domestic instruments, the Model 9021 and the Model Sea Trak, manufactured by Plessey Environmental Systems (Plessey) and Hydro Products (Hydro) respectively, provide all the features cited above found to be pertinent. As to the specific allegations of the applicant in reply to Question 8.c.(2), in the order listed above, the following is noted:

(1) The Plessey Model 9021 and Hydro Sea Trak both provide the ability to operate under Arctic conditions. The Model 9021 provides a temperature range of -5° to +40° centigrade (°C) and the Sea Trak provides -5 to +35°C. NOAA advises that these instruments both provide the ability to operate at temperatures below 0°C and based on their temperature specifications are designed for Arctic operations. The Department notes that the article provides an operational range of -2.46°C to 24.60°C as its standard range and that the domestic instruments are designed to operate at lower temperatures than the article.

(2) NOAA advises and we concur, that both the Model 9021 and the Sea Trak provide this pertinent feature.

(3) As noted in (1) above, both domestic instruments provide the ability to operate at temperatures below zero degrees centigrade.

(4) The applicant states that the foreign article is to be used in shallow water. The size/weight specifications of the shallow water versions of domestic instruments are similar to those of the article. The Model 9021 has a weight in air of 51 pounds (lbs.), a housing diameter of 5.5 inches (in.), a guard frame width of 8 in., an instrument and fin height of 24 in. and an instrument and fin length of 51.8 in. The Sea Trak has a weight in air of the recording unit and vane of 67.9 lbs., and a recording unit height of 26.1 in. with a 6 in. diameter. The foreign article has a weight in air of 56.1 lbs. for recorder and vane assembly, an overall length of 53.9 in., an overall height of 29.5 in. and a recording unit height of 20 in. with a diameter of 5 in. NOAA has compared the size/weight specifications of the domestic instruments with those of the foreign article and advises and we find that both of the domestic instruments meet the applicant's requirement for small compact size.

(5) The applicant states he requires long term reliable operation under cold water conditions. In this connection, the Department notes that both domestic instruments are designed to provide for operation in cold water to a lower limit of -5°C whereas the article is designed to operate in cold water to a lower limit of -2.46°C. We note

that the domestic instruments are capable of operation at lower temperatures than the article. Further we find that reliability which is associated with the level of maintenance and hence, cost of ownership, is not a pertinent specification within the meaning of § 301.2(n) of the regulations. In general, information which can lead to a direct quantitative comparison of the reliability (i.e., ability to conform to specifications without excessive breakdown) of two instruments is almost never available. When a specification is "guaranteed" the manufacturer is stating, in effect, that the necessary steps have been taken to verify ability to meet this obligation. Thus a guaranteed specification presupposes a determination of reliability to some "engineered-in" degree. Customarily, manufacturers neither issue quantitative specifications on reliability nor guarantee reliability. Moreover, the reliability of a single instrument can, and frequently does, improve abruptly with time (for example, as the manufacturer gains experience and makes minor modifications dictated by such experience). No two instruments of the same model supplied by the same manufacturer will have identical records insofar as reliability is concerned and a documented history of poor reliability does not mean that such performance will not vastly improve with the very next instrument (and subsequent instruments) produced. Without strong and substantive supporting evidence in the record that the reliability of two instruments were measurably different and the difference in reliability precluded performance of the work intended, reliability could not be considered a justifiable basis for duty-free entry under Pub. L. 89-651. While reputations with respect to reliability which are derived from subjective, word-of-mouth allegations or even personal experience may, reasonably or otherwise, enter into a person's decision to buy a particular instrument, such a yardstick could not serve as a clear-cut objective basis for duty-free entry. Moreover, we would reemphasize that reliability is considered a cost-related consideration for duty-free entry purposes which by regulation and by Congressional intent is not a sufficient basis for the granting of duty-free entry.

Thus, based on NOAA advice, our own review of the application as well as factual information in our possession (specifications, textbooks, etc.), we find that the Model 9021 and Sea Trak recording current meters were of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the foreign article was ordered.



(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.  
(FR Doc. 78-2052 Filed 1-24-78; 8:45 am)

## [3510-25]

## IOWA STATE UNIVERSITY AND UNIVERSITY OF FLORIDA

## Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 78-00010. Applicant: Iowa State University, College of Veterinary Medicine, Ames, Iowa 50011. Article: LKB 8800A Ultratome III Ultramicrotome complete and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare tissues and cells taken from animals involved in a variety of research projects, including studies of nutritional, metabolic, toxicological, infectious, and parasitic diseases for ultramicrotomy and electron microscopic examination. Research projects will include studies of changes in cell organelles and membrane in response to nutritional deficiencies, evaluation of cell reactions to parasitism and bacterial infections, studies of parasite ultrastructure, determinations of the presence and precise location of viruses in tissues, observations in subcellular responses to toxicological agents and drugs and histochemical localizations in enzymes within cells. The article will also be used to prepared specimens for demonstrations of pathological changes in animal tissues in various graduate and undergraduate courses in Vet. Pathology. Application received by Commissioner of Customs: October 12, 1977. Advice submitted by the Department of Health, Education, and Welfare on: December 13, 1977.

Docket No. 78-00018. Applicant: University of Florida, College of Dentistry, Box J-424, J. Hillis Miller Health Center, Gainesville, Fla. 32610. Article: LKB 8800A Ultratome III Ultramicrotome and Accessories. Manufacturer:

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LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to support research studies related to dental research including the following: (a) Electron microscopy of fibril purification from Actinomyces viscosus, (b) comparative ultrastructure of various strains of Actinomyces viscosus, (c) effects of carbohydrate and nutrient of the ultrastructure of Actinomyces viscosus, (d) electron microscopy of osteoclasts in studies on stress related bone resorption, (e) electron microscopy studies on the effect of pharmacologic agents on salivary gland cells, and (f) electron microscopy of obligated anaerobic microorganisms in the oral cavity. The overall objective of this research is further basic knowledge and understanding of the ultrastructure of cells and tissues and microorganisms found in the oral cavity, the reaction of such cells and tissues to the introduction of foreign objects such as implants, and to gain insight into the mechanisms leading to periodontal disease. In addition the article will be used in the courses "Introduction to Electron Microscopy" and "Electron Microscopy in Dental Research" for the instruction of dental students. Application received by Commissioner of Customs: October 18, 1977. Advice submitted by the Department of Health, Education, and Welfare on: December 13, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved.

No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each of the foreign articles provides a range of cutting speeds 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such other) factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned.

The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section. In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.  
(FR Doc. 78-2057 Filed 1-24-78; 8:45 am)

## [3510-25]

## LONG ISLAND UNIVERSITY

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 73-00406-01-77040. Applicant: Long Island University, Chem-

istry Department, 385 Flatbush Avenue Extension, Brooklyn, N.Y. 11201. Article: Mass Spectrometer, Model CH-7. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used as both a teaching and research tool. Studies concern quantitative analysis of trace amounts of material, measurement of molecular weight, scanning of ion fragmentation spectra, determination of appearance potentials and determination of isotope abundance ratio. The research programs involve inorganic, organic, biological, physical, and nuclear chemistry.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 18, 1969).

Reasons: This application is a resubmission of Docket No. 71-00413-01-77040 which was denied without prejudice to resubmission on September 25, 1972 for information deficiencies.

In response to Question 8, the applicant alleges that the foreign article provides certain features which are pertinent to the purposes for which the foreign article is intended to be used that are unmatched in comparable domestic instruments. However, the National Bureau of Standards in its memorandum dated February 2, 1977 and May 18, 1977 (which references and reaffirms the findings of its memorandum of August 15, 1972, March 12, 1975, and September 9, 1976) advises that these features are either not pertinent within the meaning of § 301.2(n) of the regulations or were matched by features available at the time of order in Nuclide's Model 12-90-G mass spectrometer. A description of the features listed in the response to Question 8 and our discussion thereof follows.

1. Sensitivity—The foreign article yields well evaluable mass spectra at a rate of sample consumed of only 0.01 nanograms per second. The detection limit is 0.001 nanograms of sample consumed per second. All sensitivity values are referred to resolving power  $M/\Delta M$  of 1000 on the 10 percent valley definition. (Alternate definition:  $10^{-12}$  g/sec cholesterol will produce S/N of 3 to 1 or better at parent peak). Ionizing current 300  $\mu$ a accelerating voltage 2 kV (kilovolts).

Discussions. In the notice of denial without prejudice to resubmission of the original application, the applicant was referred to Section 701.4 of the regulations then in force (15 CFR 301.4 in current regulations) which requires that the specifications of the

## NOTICES

foreign article which are alleged to be pertinent to the applicant's intended purposes must be in a form that permits comparison with the specifications of domestic instruments. This is especially important in the comparison of mass spectrometers because the specification for any given parameter (resolution, sensitivity, mass range, etc.), is functionally related to the substance used as a reference sample and to the values of other relevant parameters that are correspondingly attained. For example, the specification for resolution is meaningful only if the corresponding value for sensitivity, scan speed, the mass range over which the specified resolution is attainable and the basis for measuring the resolution—i.e., 10 percent valley definition, 50 percent valley definition, one percent cross contribution, etc.—are also given. A basic factor in determining sensitivity is the substance used as the reference sample, the minimum quantity of the sample which provides a useable spectrum, signal-to-noise ratio, the corresponding accelerating voltage and the ionizing current. In this resubmitted application, however, the applicant did not comply with § 301.4 of the applicable regulations.

NBS states and we concur that it is difficult to make a comparison of sensitivity for a given resolution of a mass spectrometer, for various instruments because many sensitivity definitions

"In fact the various definitions for sensitivity used by the applicant proved to be very confusing. In the initial submission the specifications of the foreign article cited by the applicant in response to Question 13 (identification of pertinent specifications and comparison with similar characteristics of available domestic instruments) of the application form applicable at the time of submission did not identify the sample, the signal to noise ratio (S/N), accelerating voltage or ionizing current. Although these specifications were in agreement with manufacturer's literature attached to the application, they did not agree fully with specifications provided in response to Question 8 and Question 11. In this, the second, submission the applicant submitted typed undated specifications in response to Question 5 expressing the article's sensitivity as follows:  $10^{-12}$  g/s (grams per second) cholesterol will produce a S/N of 3 to 1 or better at the parent peak with resolution m/m (sic) 1000 (10 percent valley). However, the applicant's purchase specifications and the foreign manufacturer's quotation (no. 187484) express sensitivity as follows:  $1 \times 10^{-11}$  grams/sec flow of cholesterol will give S/N=100:1 with wide slits, at an scan rate of 10 sec/mass decade at resolution 600:1 on the 10 percent valley definition; detection limit of  $1 \times 10^{-12}$  gram/sec of cholesterol under the same conditions with S/N=3:1. In view of the multiplicity of specifications to be considered confusion is to be expected. In this connection, we note that NBS addresses itself to sensitivity specifications claimed for the foreign article which exceed the specifications actually guaranteed.

are employed rendering such comparisons meaningless. NBS notes, for example, that (a) the applicant claims a required sensitivity for the foreign article of:  $10^{-12}$  g/s cholesterol will produce a S/N of 3 to 1 or better at the parent peak with resolution m/m 1000 (10 percent valley), (b) the normal sensitivity of Consolidated Electrodynamic Corporation (CEC; now doing business as DuPont Instruments) is given as:  $3 \times 10^{-11}$  amperes per micron-microampere for mass charge ratio (m/e) 58 of normal butane at a leak rate of 0.2 cubic centimeters per second and a resolving power of 2500, and (c) Nuclide states that the sensitivity in terms of nitrogen partial pressure is less than  $5 \times 10^{-14}$  torr with a standard source; further the Nuclide 12-90-G is capable of detecting above background signals of  $10^{-12}$  amperes or less. In addition, the Department notes that Nuclide's 12-90-G brochure (effective at the time the foreign article was ordered) also states that (1) with the direct insertion probe, 10 nanograms of cholesterol (or similar material) can readily be identified and (2) with a gas chromatograph and single stage glass frit helium separator, 2 nanograms of benzene injected into the column can be detected at a signal-to-noise ratio of 500 to 1 for the parent peak at a sample flow rate of  $1 \times 10^{-11}$  gm/sec into the separator (Emphasis added to show capability of the 12-90-G after the sample has passed through the gas chromatograph). Thus NBS feels, and we concur, that the comparison of the sensitivity of various instruments must be done within the same parameters in order to be considered relevant.

Although Nuclide provides sensitivity which, with respect to S/N at a flow rate of  $1 \times 10^{-11}$  g/s, appears superior to that of the foreign article and the applicant makes no claim that the Nuclide 12-90-G is not equivalent with respect to sensitivity, we find that the sensitivity specification of the foreign article is not presented in a form that affords a direct comparison with the same specification of the domestic Nuclide instrument as required by Section 301.4 of the regulations. NBS advises, however, that sensitivity better than that provided by the Nuclide 12-90-G is not pertinent to the applicant's intended purposes. It is noted in this connection, that Nuclide, in a letter to the Department dated June 30, 1969 stated that both its 12-90-G and its smaller 6-60-G could meet the sensitivity specifications of the foreign article.

2. Resolving Power—On the 10 percent valley definition, a resolving power of  $M/\Delta M=1000$  is standard;  $M/\Delta M=3000$  is the upper limit. With the mechanical slit option the resolution guaranteed is  $M/\Delta M=7000$ . This resolution over the mass range from 18 to 2500 at scan rate of one mass decade/sec, sensitivity 0.1 nanogram/sec.



**Discussion.** NBS notes in its memorandum of February 2, 1977 that the resolving power with the mechanical slit was not guaranteed by the foreign manufacturer to be  $M/\Delta M=7000$ . NBS points out not only that the manufacturer quoted a resolving power of only  $M/\Delta M=5000$  (10 percent valley) but also that the applicant provided no information indicating that this option was even ordered. In this connection, the Department notes that the mechanical slit option is described in Quotation No. 111169 which is dated November 11, 1969, i.e., after the foreign article was ordered. Pursuant to § 301.6(a)(3) this option cannot be a factor in the Department's decision because it is not an accompanying accessory. The slit option will be discussed further below.

Regarding resolving power without the mechanical slit option, NBS notes that the applicant no longer claims a resolving power of  $M/\Delta M=5000$  without the mechanical slit option (e.g., in reply to Question 8 of the initial submission), but changed the specification to correspond to that of the foreign article  $M/\Delta M=3000$  (10 percent valley) as the upper limit resolving power (as indicated on the purchase order). The Department notes that, at the time of order, Nuclide provided a guaranteed resolving power of  $M/\Delta M=5000$  (10 percent valley) which exceeds the resolving power of the foreign article. The Department further notes that the applicant makes no claim that the 12-90-G is not equivalent to the foreign article with respect to resolution. Accordingly, we find that the Nuclide 12-90-G is scientifically equivalent to the foreign article for the applicant's intended purposes where resolving power is concerned. Moreover, NBS advises that resolving power is not a pertinent issue.  $\frac{1}{2}$  North Atlantic).

3. Mass range—The foreign article covers masses one to 1200 at 3 kV and 2-3600 at 1 kV.

**Discussion.** NBS finds this feature to be pertinent but matched by Nuclide because the 12-90-G provided a mass range of from one to 6500 to satisfy the pertinent aspects of specification 3 at the time of order. In this connection, we note that, at the time of order, Nuclide provided mass ranges of 1-1300 at 5 kV, 1-2600 at 2.5 kV and 1-6500 at 1 kV which compares favorably with the mass ranges of the article.

4. Mass Scale—Both logarithmic and linear mass readout are standard.

**Discussion.** Although the Department would consider any matching feature that a domestic manufacturer would be willing and able to provide as an option, we note that this feature was a standard item in the 12-90-G at the time of order. Moreover, NBS advises that this feature is a convenience which is not pertinent. Based on the

foregoing, we find that the Nuclide 12-90-G is scientifically equivalent to the foreign article with respect to mass scale.

5. Ionizing Voltage—Continuously variable from 5 to 105 volts (v). Resettable to 0.1 percent, regulated to better than  $5 \times 10^{-3}$  with line voltage fluctuation to 10 percent.

**Discussion.** The applicant states in both submissions that this work requires a wide range of ionizing voltages "(up to at least 100v, resettable to better than 1 percent)". The applicant also states that he specifically requires for his work the ionizing voltage ranges: 0-20v, 5-25v, and 50-100v. NBS advises that an ionizing voltage of 5 to 100v is pertinent to the applicant's intended purposes. NBS also advises that Nuclide provides an ionizing voltage range variable from 0-100v satisfying the pertinent aspects of this specification. In addition, the Department notes that ionizing voltages of 5 to 105v, resettable to 0.01 percent, and stability of better than  $5 \times 10^{-3}$  as described above is a special order variant of the ionizing voltage specifications not listed in the foreign manufacturer's literature available at the time of order. A Nuclide brochure for the 12-90-G which was received by the Department in August 1969 states:

"... The electron energy can be varied from 0 to 100 e.v. The potential selected will remain constant to within  $\pm 0.02$  percent  $\pm 0.01$  volts. Resettable of the voltage is approximately 20 millivolts hour-to-hour and 50 millivolts day-to-day. Automatic switching between two pre-set levels can be provided." These specifications match the requirement of 0 to 100v, provide resettable ranging from 0.4 percent to 0.02 percent and provide regulations ranging from  $2 \times 10^{-3}$  to  $3 \times 10^{-4}$ .

The applicant makes no claim that feature 5 as described in the foreign manufacturer's quotation could not be provided by Nuclide and Nuclide was not afforded an opportunity to bid on this or any other specification. Accordingly, we find that Nuclide could provide the pertinent aspects of feature 5.

6. Reproducibility—In measuring the ratio of the peaks 43 and 35 amu, reproducibility of ratio to a precision of one percent with a resolution of 600, when measured at 20 minute intervals over a period of 2 hours. In addition, Varian guaranteed accuracy of 0.01 percent on ratio of 1:100 such as  $H_2/D_2$  and  $C_{12}/C_{13}$ .

Accuracy of 0.1 percent on ratio of 1:100 such as  $H_2/D_2$  and  $C_{12}/C_{13}$  is dependent on a double collector accessory which the applicant did not order as part of the foreign article. Therefore, pursuant to §§ 301.2(d) and 301.6(a)(3) of the regulations, this aspect of feature 6 cannot be a factor in our decision. The balance of feature 6, relating to reproducibility of ratio

to a precision of one percent, is a special order variant which was not listed in the specifications of the article available at the time of order but is a part of the foreign manufacturer's quotation (187484) and the applicant's purchase order. Nuclide was not given an opportunity to bid on this specification. Further, the applicant, in the denial without prejudice to resubmission of the initial application, was asked to compare the pertinent specifications of the foreign article with similar pertinent specifications of the 12-90-G and has made no claim that Nuclide could not match feature 6. Moreover, NBS advises that feature 6 could have been satisfied by the domestically manufactured 12-90-G. Accordingly, we find that the 12-90-G is scientifically equivalent to the article with respect to feature 6.

7. Three Separate Entry Devices—These are available, independent from one another with respect to temperature and operation. Each may be connected to the instrument in operational form at any time.

**Discussion.** We note that Nuclide could provide three or four separate entry devices which can be attached to the source for simultaneous use at the time of order. Therefore, Nuclide could match this feature at the time of order. In addition, NBS advises this feature is a convenience which is not pertinent.

8. Direct Entry—The entry device ESV allows an inlet temperature range from ambient to  $+300^\circ C$  in 2 seconds. The ESV can maintain a sample at any intermediate temperature regulated to  $\pm 0.5^\circ C$ .

**Discussion.** According to §§ 301.2(d) and 301.6(a)(3) of the regulations features not ordered with the article cannot be considered in the Department's determination. Since this feature was not ordered with the article as an accompanying accessory in August 1969 but was ordered in March 1971 the capabilities that it might confer on the article cannot become a factor in our decision.

9. Vacuum System Cooling—The vacuum system may be cooled electrically with a Peltier baffle system.

**Discussion.** We note that Peltier cooled baffles could have been supplied by Nuclide at the time the article was ordered. Therefore, Nuclide could have matched this feature at the time the article was ordered. Moreover, NBS advises that this feature is not pertinent for the intended purposes.

10. The instrument is very simple to operate, requiring only two manual operations for recording a spectrum (injection and mass scan start).

**Discussion.** The applicant's program is research oriented with education at a relatively sophisticated level. Although, in response to Question 7, the applicant identifies 5 courses for ad-

vance undergraduate and graduate students involving some use of the foreign article (including one entitled "undergraduate research" and one consisting of "research toward masters degree"), only one student activity is discussed in response to Question 8 (wherein the need for simplicity must be related to the purposes described in response to Question 7). That activity is research by advanced undergraduate students (Chemistry 186). For such research the applicant states that a mass spectrometer must be simple enough for such students to learn to operate in a short time, sufficiently uncomplicated for them to handle without constant supervision, and rugged enough to withstand the wear and tear that relatively untrained personnel may put upon it.

The applicant states that the 12-90-G is a research instrument which is not suited for student use and quotes, in part, undated Nuclide literature entitled "Modular Mass Spectrometers for the Analysis of Gases, Liquids, and Volatile Solids" which describes the 12-90-G as the "ideal basic instrument for both research and control laboratories." The applicant did not attach the quoted literature to the application but the Department found a very similar quotation in specifications for the 12-90-G received in 1966. Section "J" of these specifications terms the 12-90-G the "ideal instrument for both research and control laboratories." But it also states, "The 12-90-G is nevertheless relatively easy to operate, so that experimenters who are not specialists in mass spectrometry can use the instrument with complete confidence."

NBS advises that the applicant's rejection of the Nuclide 12-90-G as unacceptable for teaching purposes is based, not on fact, but on a description (quoted by the applicant above) extracted from promotional literature. The Department cannot regard the comparison of such promotional literature as the comparison of instruments which was requested of the applicant in the denial without prejudice to resubmission of the initial application and which is a requirement of § 301.11(a) of the regulations. For this reason, NBS advises that the applicant's outright rejection of the Nuclide instrument is not justified.

NBS further advises that (a) for the applicant's use "in courses for advanced undergraduates and graduate students" instrument sophistication should pose no significant problem to them or the lecturer and (b) the foreign article is no less complex than the domestic instruments (including the 12-90-G) referred to for comparison purposes by the applicant. Accordingly, NBS advises that feature 10 is not pertinent to the applicant intended purposes. The Department concurs

[3510-25]

## NATIONAL INSTITUTES OF HEALTH

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00364. Applicant: DHEW, National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 37, Room 2B23, Bethesda, Md. 20014. Article: LKB 8800A Ultratome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumor cells and tumor tissues following treatments with various agents (e.g., enzymes, hormones, metabolic inhibitors, etc.). Investigations will involve cyto- and histochemical studies on tumor cells and tumor tissues treated with various chemical and physical agents. The studies will include (a) localization of antigen and complement binding sites, (b) fine structure analysis of membranes, and (c) subcellular changes in the cells. The objectives pursued in the course of the investigations is to understand the alterations which take place in tumor cells following various treatments and to correlate these changes with susceptibility to immune attack.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a cutting speed range of 0.1 to 50 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by the National Bureau of Standards in its memorandum dated December 6, 1977 that (1) cutting speeds in the excess of 4mm/sec. are pertinent to the applicant's research studies and (2) the domestic instrument does not provide the pertinent feature. We, therefore, find that the

with NBS and moreover finds that such matters as ruggedness are cost-related matters which are not pertinent within the meaning of Subsection 301.2(n) of the regulations.

11. Variable Slit System—Adjustment of a single knob allows variation of the resolution from 0 to 7000  $M/\Delta M$ .

**Discussion.** According to §§ 301.2(d) and 301.6(a)(3) of the regulations, features not ordered with the article cannot be considered in the Department's determination of scientific equivalency. This feature was not ordered with the foreign article. NBS further notes that applicant is quoting specifications in 1969 that are only now being made available by the foreign manufacturer, and in the case of the variable slit system, the foreign manufacturer today does not guarantee  $M/\Delta M=7000$  or better as a standard available option. Moreover, the Department notes that Nuclide could have provided a matching variable slit option at the time of order.

In connection with the foregoing discussion of the features listed by the applicant in response to Question 8, we note that Nuclide was not afforded an opportunity to bid on the applicant's technical requirements (although the applicant did request literature from Nuclide and received a response dated May 22, 1968—a full 15 months before the article was ordered). We note further that the Department requested the applicant to compare the pertinent specifications of the foreign article with similar pertinent specifications of Nuclide's 12-90-G in the Denial Without Prejudice to Resubmission of the applicant's initial application for the foreign article. On resubmission, the only reason given for rejecting the 12-90-G was the claim that it was not suited for student use. The balance of the features listed in reply to Question 8 were not compared with similar ones in the 12-90-G, presumably because the applicant considered the 12-90-G, scientifically equivalent to the foreign article in these respects.

Based on the foregoing considerations, NBS advice, our own review of the application as well as other information in our possession (specifications, textbooks, etc.) we find that the Nuclide Model 12-90-G mass spectrometer was of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

(FR Doc. 78-2503 Filed 1-24-78; 8:45 am)



Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Division.

(FR Doc. 78-2054 Filed 1-24-78; 8:45 am)

## [3510-25]

## STEVENS INSTITUTE OF TECHNOLOGY

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00329. Applicant: Stevens Institute of Technology, Castle Point Station, Hoboken, N.J. 07030. Article: PLM-3 Platinum NMR Thermometer and Accessories. Manufacturer: Instruments for Technology, Finland. Intended use of article: The article is intended to be used for studying experimentally low temperature properties of helium-three with the objective of furthering the conceptual understanding of the phenomenon of superfluidity.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides temperature measurements of Helium-Three in its superfluid phases (0.1 to 100 millikelvins). The National Bureau of Standards advises in its memorandum dated December 6, 1977 that (1) the specification of the article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or

apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

(FR Doc. 78-2055 Filed 1-24-78; 8:45 am)

## [3510-25]

## UNIVERSITY OF CALIFORNIA—LOS ALAMOS

## Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00338. Applicant: University of California, Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Image Converter Camera System with S-20 image tube. Manufacturer: Hadland Photonics, Ltd., United Kingdom. Intended use of article: The article is intended to be used to photograph the behavior of a high velocity (up to 10<sup>6</sup> cm/sec) plasma stream emerging from a coaxial plasma gun. The phenomena to be studied will include the initial gas breakdown and subsequent behavior inside the gun (gun barrel phase) and the behavior of the plasma as it is injected into appropriate magnetic fields. Specific experiments to be conducted include the following:

A. Studies of the initial gas breakdown in the gun.

B. Study of the formation and subsequent behavior of the plasma stream in front of the gun nozzle.

C. The injection of this plasma into a magnetic field.

D. The measurement of the plasma properties such as axial velocity, transverse energy, temperature, impurity content, total energy.

E. Experiments to optimize gun parameters for production of thermonuclear plasmas.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the combination of streak and framing capability with a framing rate of at least 10<sup>4</sup> per second and up to 20 frames per run. The National Bureau of Standards advises in its memorandum dated December 5, 1977, that: (1) The combination of capabilities of the article described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.  
(FR Doc. 78-2056 Filed 1-24-78; 8:45 am)

## [3510-25]

## COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

## Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Thursday, February 16, 1978, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Committee advises the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving: (A) technical matters; (B) Worldwide availability and actual utilization of production technology; (C) licensing procedures which may affect the level of export controls

applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

## GENERAL SESSION

- (1) Opening remarks by the Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Report on the work programs of the Subcommittees: a. Technology Transfer; b. Foreign Availability; c. Hardware; and d. Licensing Procedures.

## EXECUTIVE SESSION

- (4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Acting Assistant Secretary of Commerce for administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10 (d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer Room 3012, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

(FR Doc. 78-2076 Filed 1-24-78; 8:45 am)

## [3510-25]

## FOREIGN AVAILABILITY SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

## Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 14, 1978, at 1:30 p.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving: (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is

available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has five parts:

## GENERAL SESSION

- (1) Opening remarks by the Subcommittee Chairman.
- (2) Presentation of papers or comments by the public.
- (3) Review of RYAD II draft report.
- (4) Discussion of other areas to be considered for future reports.

## EXECUTIVE SESSION

- (5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5) the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The Complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Ad-



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visory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-2074 Filed 1-24-78; 8:45 am]

## [3510-25]

## LICENSING PROCEDURES SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

## Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, February 14, 1978, at 9:30 a.m. in Room 5611, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

- GENERAL SESSIONS
- (1) Opening remarks by the Subcommittee Chairman.
  - (2) Presentation of papers or comments by the public.
  - (3) Discussion of proposed modifications to Part 379 (Technical Data) of the Export Administration Regulations.
  - (4) Discuss current regulations with respect to proposals, documentation, and training.
  - (5) Discussion of the future work program for the Subcommittee.

## EXECUTIVE SESSION

- (6) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (6) the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Ad-

visory Committee and of any Subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 6374).

Dated: January 20, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, Department of Commerce.

[FR Doc. 78-2075 Filed 1-24-78; 8:45 am]

## [3510-22]

National Oceanic and Atmospheric Administration  
FOREIGN FISHING

## Proposed Amendment to Schedule of Fees

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Proposed amendment to schedule of fees for foreign fishing.

SUMMARY: This proposed amendment would add sharks and certain species of billfish, and the "ex-vessel" price for each, to the list of species which was published in the FEDERAL REGISTER on October 7, 1977 (42 FR 54588).

DATES: Public comments concerning this proposed amendment must be received no later than midnight, February 15, 1978.

ADDRESS: Comments may be addressed to the Assistant Administrator for Fisheries, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235. Telephone: 202-634-7454.

SUPPLEMENTARY INFORMATION: Section 204 of the Fishery Conservation and Management Act requires that certain fees be charged foreign fishermen who desire to participate in fisheries over which the United States exercise exclusive fishery management authority.

A schedule of species together with their "ex-vessel" values from which the fees are derived was published on October 7, 1977. (42 FR 54588).

This proposed amendment would add the following to that list of species:

Species	Average ex-vessel value (per metric ton)
Swordfish, Pacific	\$4,040
Striped marlin, Pacific	1,579
Other billfish, Pacific	875

Species	Average ex-vessel value (per metric ton)
Sharks, Atlantic (except dogfish)	140
Sharks, Pacific (except dogfish)	134

\* Includes blue marlin, black marlin, and sailfish.

Prices are based on U.S. commercial landings in 1978 (source: Data Management and Statistics Division, National Marine Fisheries Service).

Signed at Washington, D.C., this 19th day of January 1978.

WINFRED H. MEIBOHM,  
Associate Director.

[FR Doc. 78-2081 Filed 1-24-78; 8:45 am]

## [3510-22]

## GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

## Public Meeting With Partially Closed Session

Notice is hereby given of a meeting of the Gulf of Mexico Fishery Management Council established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The meeting will be held, Tuesday, Wednesday, and Thursday, February 7, 8, and 9, 1978, in the Fortress Room of the Fort Brown Motor Hotel, 1900 East Elizabeth Street, Brownsville, Tex. The meeting will convene at 1:30 p.m. on February 7, and adjourn at about noon on February 9, 1978. The daily sessions will start at 8:30 a.m. and adjourn at 5 p.m. except as otherwise noted. The meeting may be extended or shortened depending on progress on the agenda.

Proposed Agenda: February 7; (1) Management plans; (2) Personnel and administration categories; (3) Review of foreign fishing applications, if any; February 8; (1) Closed session to discuss proposals by potential contractors in a negotiated procurement for the preparation of a draft fishery management plan; (2) Other fishery management business. February 9; (1) Other fishery management business.

With the exception of the first agenda item on February 8 the meeting is open to the public. For information on seating arrangements, changes to the agenda, and/or written comments, contact: Mr. Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Fla. 33609; Telephone: 813-228-2815.

The closed session is planned for 8:30 a.m. until 12 noon, but may continue into the afternoon on February 8, 1978, to discuss proposals by potential contractors in a negotiated pro-

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curement for the preparation of a draft fishery management plan.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on January 18, 1978 pursuant to section 10(d) of Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein because these items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c) (4), (6), and (9)(B). (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce.)

Dated: January 18, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-2017 Filed 1-24-78; 8:45 am]

## [3510-25]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## TEXTILE CATEGORY SYSTEM

## Correlation; Correction

JANUARY 20, 1978.

AGENCY: Committee for the Implementation of Textile Agreement.

ACTION: Corrections and changes in the Correlation: Textile and apparel categories with tariff schedules of the United States Annotated.

SUMMARY: A notice, published in the FEDERAL REGISTER on January 4, 1978, Part VI, announced adoption of a new textile category system to be effective January 1, 1978. There is published below a list citing corrections and changes in the textile category system. These corrections and changes are identified by page numbers in the correlation which was reproduced in the FEDERAL REGISTER on January 4, 1978.

EFFECTIVE DATE: January 25, 1978.

## FOR FURTHER INFORMATION CONTACT:

Leonard A. Mobley, Director, Trade Analysis Division, Office of Textiles,

U.S. Department of Commerce, Washington, D.C. 20230, 202-377-4212.

ROBERT E. SHEPHERD,  
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development, U.S. Department of Commerce.

## CORRECTION AND CHANGE SHEET—TEXTILE CATEGORY SYSTEM

Page	Item	Action
Title	Last line	Change officer to office.
V.	Heading	Change conversation to conversion.
1	Conversion factor for category 300.	Change 3.1 to 4.6.
1	Conversion factor for category 301.	Change 3.2 to 4.6.
4	Conversion factor for category 602.	Change 5.3 to 11.6.
5	Conversion factor for category 603.	Change 3.8 to 3.4.
5	Conversion factor for category 604.	Change 5.1 to 4.1.
5	604 310.5050	Eliminate.
5	604 310.5046	Add.
5	604 310.5047	Add.
5	604 310.5048	Add.
81	359 380.3980	Eliminate.
82	359 382.3380	Do.
89	659 372.7000	Add.
91	659 372.7520	Add.
91	659 372.7540	Add.
93	363 366.1860	Eliminate.
93	363 366.1865	Add.
97	369 358.0610	Eliminate.
99	369 366.1855	Add.
101	369 380.3960	Add.
101	369 382.3380	Add.
101	369 385.5520	Eliminate.
101	369 385.6020	Do.
101	369 385.8020	Do.
101	369 385.5500	Add.
101	369 385.6000	Add.
101	369 385.8000	Add.
102	369 372.8210	Eliminate.
102	369 372.8230	Do.
102	369 372.8200	Add.
111	669 358.5020	Eliminate.
111	669 358.5040	Do.
113	2d column, 310.5050	Change to 310.5046, 5047, 5048.
114	Last column, lines 4, 7 and 12.	Change 629 to 627.
114	Last column 358.5020, 358.5040; category 669.	Eliminate.
114	Last column 358.2600; category 369.	Do.
115	3d column, 372.7000—659.	Add.
115	3d column, 372.7520—659.	Add.
115	3d column, 372.7540—659.	Add.
116	1st column, TSUSA 380.3980.	Change 359 to 369.
116	Last column, TSUSA 382.3380.	Do.
116	Last column, 382.3912	Change 312 to 342.

[FR Doc. 78-2048 Filed 1-24-78; 8:45 am]



[3910-01]

## DEPARTMENT OF DEFENSE

Department of the Air Force

## USAF SCIENTIFIC ADVISORY BOARD

## Meeting

JANUARY 19, 1978.

The USAF Scientific Advisory Board Electronic Systems Division Advisory Group, Air Force Systems Command, will hold meetings on February 9, 1978, from 8:30 a.m. to 5 p.m., and February 10, 1978, from 8:30 a.m. to 12 p.m., at Hanscom Air Force Base, Massachusetts, in the Command Management Center, Building 1606.

The group will receive classified briefings and hold classified discussions on selected Air Force Command, control and communications programs.

The meetings concern matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,  
Air Force Federal Register Liaison Officer, Directorate of Administration.

(FR Doc. 78-2187 Filed 1-24-78; 8:45 am)

[6740-02]

## DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

(Docket No. E-9805)

## BLACK HILLS POWER &amp; LIGHT CO.

Order of Authorizing Transfer of Electric Facilities

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE

## NOTICES

now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On September 27, 1977, the Black Hills Power & Light Co. (BHP&L) filed with the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission), pursuant to section 203 of the Federal Power Act, an application seeking authorization for the sale by BHP&L and the purchase by the city of Gillette, Wyo. (city), of a 1-mile section of 69 kV single pole transmission line and a 10,500 kVA substation.

Black Hills Power & Light is incorporated under the laws of the State of South Dakota with its principal place of business in Rapid City, S. Dak. The company is engaged in the generation, transmission, distribution, and sale of electric power in a territory comprising 19 incorporated communities, certain unincorporated communities, and rural areas located in western South Dakota, eastern Wyoming and southeastern Montana utilizing an interconnected transmission network. During 1976, BHP&L generated at its system plants 710,249 MWh; purchased 667,250 MWh, and delivered to other systems 570,970 MWh. The resulting net energy from its system after energy transfers and losses was 743,003 MWh which the company supplied to 40,483 customers.

The city of Gillette operates a small municipally owned electric system without generation. It purchases all of its energy requirements from BHP&L. In 1976, the city purchased 51,948 MWh which it delivered to 4,176 customers all of which are located within the city limits. The city's system is presently experiencing considerable growth requiring it to expand its distribution facilities. As an example, the city's 1972 energy requirements were 28,394 MWh. It expects continued growth resulting from the increased mining of nearby coal deposits.

BHP&L has agreed to sell the facilities in question to the city for \$62,482. This amount is stated by BHP&L to be equal to the original cost of the transmission line and substation amounting to \$18,070 and \$60,049, respectively, minus \$15,637 for the accumulated depreciation as of March 1, 1977.

The city has been leasing the substation facilities for \$741 per month from BHP&L pursuant to a rental agreement filed with this Commission and designated supplemental No. 1 to FPC rate schedule No. 17, effective December 3, 1969. As a result of the sale, supplement No. 1 should be amended to reflect the sale and a description of the delivery point.

The application states that the city has agreed to purchase the facilities involved in this instant proceeding, and in addition, to provide additional substation facilities when necessary to meet its contemplated load growth.

BHP&L states that the sale of the subject facilities will not affect its ability to provide electric energy at whole-sale to the city.

Public notice of the application was issued by the Secretary on September 29, 1977, and published in the FEDERAL REGISTER on October 6, 1977 (42 FR 54457). The notice provided that any protest or petition for intervention in this application should be filed on or before October 11, 1977. No petition or request to be heard has been received.

The Commission finds: (1) The Black Hills Power & Light Co., a corporation, is a public utility within the meaning of section 203 of the Federal Power Act, and, as such, it is subject to the jurisdiction of the Federal Energy Regulatory Commission.

(2) The proposed sale of the electric facilities owned by the Black Hills Power & Light Co. as described above, will constitute a transaction within the purview of section 203 of the Federal Power Act.

(3) The proposed transaction, as described above, upon the terms and conditions of this order, will be consistent with the public interest as expressed in section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed transaction, as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application, subject to the provisions of this order.

(B) The applicant, Black Hills Power & Light Co., shall record the proposed transaction related to the facilities described above in accordance with the Commission's uniform system of accounts.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of this order.

(D) The foregoing authorization is without prejudice to the authority to this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost, or any matter

## NOTICES

whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

(F) Pursuant to this authorization of sale of the described facilities, Black Hills Power & Light Co. is advised that the change in ownership requires a change in supplement No. 1 to rate schedule FPC No. 17 to reflect the sale and a description of the new delivery point which applicant should file within 60 days from the date of this order.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-2126 Filed 1-24-78; 8:45 am)

## Economic Regulatory Administration

## CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of January 6 through January 13, 1978

Notice is hereby given that during the week of January 6 through January 13, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

## APPENDIX—List of cases received by the Office of Administrative Review

Week of Jan. 6, 1978 through Jan. 13, 1978

Date	Name and location of applicant	Case No.	Type of submission
Jan. 10, 1978	Buck's Butane & Propane Service San Jose, Calif. If granted: The Nov. 15, 1977 decision and order issued to Buck's Butane & Propane Service would be modified to provide the acting director of enforcement, DOE Region IX an additional period of time in which to prepare remedial orders regarding the level of refunds and payments of interest to be required of Buck's.	DRX-0025	Supplemental order.
Do	Clarke County Supply, Inc., Berryville, Va. If granted: Clarke County Supply, Inc. would be required to file only 1 of 2 monthly survey reports: Form EIA-9 "No. 2 Heating Oil Supply/Price Monitoring Report" or Form EIA-2 "Monthly Coal Report—Retail Dealers—Upper Lake Docks".	DEE-0452	Exception to reporting requirements.
Do	Howmet Aluminum Corp., Lancaster, Pa. If granted: The Howmet Aluminum Corp. would be supplied propane by Suburban Propane Gas, Inc. rather than its base period supplier, Ugitte Gas Co.	DEE-0453	Exception to change suppliers.
Do	Jacobus Co. (Quickflash), Milwaukee, Wis. If granted: Jacobus Co. (Quickflash) would be permitted to compute retroactively its cost of product in inventory on a separate inventory basis.	DEE-0454	Price exception (pt. 212, subpt. f).
Do	Arizona Fuels Corp., Salt Lake City, Utah. If granted: Arizona Fuels Corp. would receive a reduction of its entitlement purchase obligations pending a final determination on its application for exception.	DEX-0027	Supplemental order.
Do	Charter Oil Co., Jacksonville, Fla. If granted: Charter Oil Co. would receive an exception from the provisions of sec. 212.83 which pertain to the pass through of increased costs for the production levels attained by the firm in December 1977.	DEE-0456	Price exception (§ 212.83).
Do	Coastal States Gas Corp., Houston, Tex. If granted: Coastal States Gas Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of \$0.005/gal for natural gas liquid products produced at the Lakin plant.	DEE-0458	Price exception (§ 212.165).
Do	Dorchester Gas Corp., American Petrofina, Washington, D.C. If granted: The Nov. 22, 1977 decision and order issued to Dorchester Gas Corp. and American Petrofina would be modified with respect to the assignment of certain base period supply obligations.	DEX-0028	Supplemental order.
Do	Doric Petroleum, Inc., Washington, D.C. If granted: Doric Petroleum, Inc. would receive an extension of the exception relief granted in the July 22, 1977 decision and order which would permit it to increase its prices to reflect nonproduct cost increases in excess of \$0.005/gal for natural gas liquid products produced at the Enid plant.	DXE-0457	Extension of the relief granted in Doric Petroleum, Inc., case No. FXE-4353 (decided July 22, 1977) (unreported decision).
Do	Great Southern Oil & Gas Co., Inc., Lafayette, La. If granted: Great Southern Oil & Gas Co., Inc. would be permitted to sell the crude oil produced from the St. Martin No. 1 and Tipton No. 1 wells located in the Anse LaButte Field in St. Martin Parish, La. at upper tier ceiling prices.	DEE-0455	Price exception (§ 212.73).
Do	Phillips-Good Oil Co., Enid, Okla. If granted: The remedial order issued by DOE Region VI on Dec. 20, 1977 would be rescinded and Phillips-Good Oil Co. would not be required to refund overcharges made on its sales of crude oil.	DRA-0108 and DRS-0108	Appeal of remedial order issued by DOE Region VI. Stay request.

Under the DOE's procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be January 25, 1978, or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

MELVIN GOLDSTEIN,  
Director, Office of  
Administrative Review.

JANUARY 18, 1978.



Date	Name and location of applicant	Case No.	Type of submission
Jan. 10, 1978	Southland Oil Co./VOS Corp. Jackson, Miss. If granted: The Office of Administrative Review would reduce the level of entitlements exception relief which was granted the Southland Oil Co./VOS Corp. in a decision and order issued on Dec. 20, 1977 on the basis of revised data made available to the DOE.	DEX-0026	Supplemental order.
Do	Common Carrier Pipelines, Washington, D.C. If granted: The Federal Trade Commission would receive access to the confidential material developed by the Interstate Commerce Commission in its investigation of the common carrier pipeline.	DOP-0002	Application for review of ICC confidential information determination.
Do	Lunday-Thagard Oil Co., Washington, D.C. If granted: Lunday-Thagard Oil Co. would receive a stay of its entitlement purchase obligations for December 1977 and January 1978 pending a final determination on its Application for Exception.	DES-0023	Stay request.

NOTICES OF OBJECTION RECEIVED  
Week of Jan. 6 through Jan. 13, 1978

Date	Name and location of applicant	Case No.
Jan. 10, 1978	Fountain & Associates Oil & Gas, San Antonio, Tex.	FEE-4436
Do	Polaris Production Corp., Midland, Tex.	FMR-0119
Do	B.D.O. Petroleum Corp., New York, N.Y.	DRC-0010

[FR Doc. 78-2082 Filed 1-24-78; 8:45 am]

[1505-01]

Federal Energy Regulatory Commission

[Docket Nos. G-2889, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES

Correction

In FR Doc. 77-35501 appearing at page 62968 in the issue for Wednesday, December 14, 1977, the following changes should be made to that portion of the table which appears on the right side of page 62969:

1. In the left column, fourth entry from the bottom, add "CI78-179" above "CI72-709".
2. In the left column, third entry from the bottom, add "CI78-180" above "A 11/25/77".
3. In the left column, second entry from the bottom, add "CI78-181" above "A 11/25/77".
4. In the left column, bottom entry, add "CI78-182" above "A 11/25/77".

[1505-01]

[Docket Nos. G-10012, et al.]

APPLICATIONS FOR CERTIFICATES, ABANDONMENT OF SERVICE, AND PETITIONS TO AMEND CERTIFICATES

Correction

In FR Doc. 77-37226 appearing at page 790 in the issue for Wednesday, January 4, 1978, on page 792, add "CI78-227" above "B 12-12-77" in the

last entry in the left column of the table.

[6740-02]

SUPRON ENERGY CORP. (FORMERLY SOUTHERN UNION PRODUCTION CO.)

[Docket Nos. CI61-1265, et al.]

Redesignation

JANUARY 17, 1978.

On May 11, 1977, as amended, May 17 and June 2, 1977, the Commission was advised that effective April 18, 1977, the Certificate of Incorporation of Southern Union Production Co. (Southern) was amended to change the name to Supron Energy Corp. (Supron). Supron requests amendment of the certificates and redesignation of the related rate schedules, as listed in the attached Appendix A to reflect the change in name. In addition, Supron is being substituted in the proceedings listed in the attached Appendix B.

Accordingly, the rate schedules listed on the attached Appendix A are redesignated, and the related notices of change in name dated May 5, 1977, are accepted for filing to be effective April 18, 1977, and the certificates issued in the dockets shown on Appendix A are amended to reflect the change in name from Southern to Supron, and Supron is substituted as a party in the proceedings listed in the Appendix B in lieu of Southern.

Lois D. CASHELL,  
Acting Secretary.

APPENDIX B

NATIONAL RATE PROCEEDINGS

Docket Nos. RM75-14, and RM77-13.

RATE SUSPENSION PROCEEDINGS

Docket Nos. RI74-134, RI74-151, RI74-209, RI75-100, RI75-102, RI75-105, and RI76-93.

APPENDIX A.—Rate schedule designation

Southern Union Production Co. gas rate schedule No. (former)	Supron Energy Corp. FERC gas rate schedule No. (new)	Certificate docket No.
1	1	CI61-1265
2	2	CI61-1265
3	3	CI61-1265
5	5	CI61-1267
6	6	CI61-1265
7	7	CI61-1268
8	8	CI61-1268
10	10	CI64-262
11	11	CI64-935
12	12	CI65-26
13	13	CI65-263
14	14	CI65-472
15	15	CI65-767
16	16	CI65-846
17	17	CI66-403
18	18	CI66-772
19	19	CI66-1003
20	20	CI66-1346
21	21	CI67-304
22	22	CI67-195
24	24	CI68-679
25	25	CI68-1107
26	26	CI69-1163
32	32	CI73-605
33	33	CI65-767
34	34	CI75-136
35	35	CI77-314

Operator, et al.

[FR Doc. 78-1941 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. CP74-192]

FLORIDA GAS TRANSMISSION CO.

Settlement Conference

JANUARY 18, 1978.

Take notice that on January 25, 1978, at 10 a.m., in a room at the Federal Energy Regulatory Commission, a further settlement conference will be held in the above-referenced proceeding.

Lois D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2127 Filed 1-24-78; 8:45 am]

[6740-02]

[Docket No. E-9588]

FLORIDA POWER CORP.

Order Authorizing Sale of Certain Electric Facilities

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 48467 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On April 8, 1977, Florida Power Corp. (Applicant) filed an application pursuant to section 203 of the Federal

Power Act for authority to sell 2.1 miles of transmission facilities to Gulf Power Co. (Gulf).

Applicant is a public utility incorporated in the State of Florida with its principal office in St. Petersburg, Fla., and is engaged in the generation, transmission, distribution, and sale of electricity wholly within the State of Florida.

The transmission facilities to be sold are the westernmost 2.1 miles of applicant's 115 kV transmission line extending from applicant's Port St. Joe substation 37 miles westward to Gulf's Wewa Road substation. The facilities connect the Wewa Road substation to a tap serving Gulf's Parker Road substation, and they are used, and will continue to be used, to supply Gulf's Parker Road substation from its Wewa Road substation as well as part of the interconnection between the Parker Road substation and applicant's Port St. Joe substation.

Applicant has agreed to sell the subject facilities to Gulf for consideration of \$146,090. The original cost of the facilities was \$274,377, and the accumulated depreciation attributable to the facilities is \$44,763. Applicant states that the proposed sale of the subject facilities will provide Gulf with control over its power source to its Parker Road substation, and thereby, will avoid Gulf having to construct an additional transmission line, or to obtain transmission services from applicant, in order to supply this substation.

By letter of May 17, 1977, the Commission Secretary told Gulf that it too must submit an application in accordance with Part 33 of the Commission's regulations under the Act requesting authorization to purchase the above-described facilities from applicant. In a letter to the Commission dated July 25, 1977, Gulf stated that it concurs in Florida Power Corp.'s application, but, Gulf argued, it is not required to file its own application with the Commission in this proceeding because, inter alia, Gulf has previously filed an application with the Securities and Exchange Commission pursuant to the Public Utility Holding Company Act of 1935. Section 318 of the Federal Power Act states that if the acquisition of facilities is subject to a requirement of the Public Utility Holding Company Act and to a requirement of the Federal Power Act, then the acquisition is subject to the requirements of the Public Utility Holding Company Act and not the requirements of the Federal Power Act. In view of section 318, Gulf is not required to file an application in this proceeding with this Commission.

Notice of the proposed sale was

given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest with reference to said application should, on or before April 27, 1977, file petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR, 1.8, 1.10), with the Federal Power Commission, Washington, D.C. 20426. No protest or petition to be heard in opposition to the granting of the application has been received.

The Commission finds: (1) Florida Power Corp. is a public utility within the meaning of section 203 of the Federal Power Act, and subject to the jurisdiction of the Commission.

(2) The proposed sale of electric facilities, as described above, will constitute a transaction within the purview of section 203 of the Federal Power Act.

(3) The proposed transaction, as described above, upon the terms and conditions and for the purposes set forth in this order, will be consistent with the public interest as expressed in section 203 of the Federal Power Act.

(4) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed transaction, as described above, is authorized and approved upon the terms and conditions and for the purposes set forth in the application subject to the provisions of this order.

(B) Applicant shall record the proposed transaction related to the facilities and properties described above in accordance with the Commission's uniform system of accounts.

(C) This authorization shall expire unless the transaction herein authorized and approved is consummated within 90 days from the date of issuance of this order.

(D) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates, or determinations of cost, or any matter whatsoever now pending or which may come before this Commission.

(E) Nothing in this order shall be construed to imply acquiescence by this Commission in any estimate or determination of cost or any valuation of property claimed or asserted.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2128 Filed 1-24-78; 8:45 am]



## [6740-02]

(Docket Nos. CP75-104, et al.)

## HIGH ISLAND OFFSHORE SYSTEM

Notice of Gas Tariff Filing

JANUARY 18, 1978.

Take notice that on December 28, 1977, High Island Offshore System (HIOS) filed its FERC Gas Tariff consisting of Original Volume Nos. 1 and 2.

HIOS requests that the Commission waive the notice requirements of section 154.51 of the Regulations in order to permit the tariff to become effective on January 10, 1978. HIOS states that it is anticipated that gas will be available for transportation in the HIOS system early in January 1978. HIOS states that the requested waiver is necessary in order to avoid a possible delay in the delivery of gas to HIOS from shippers having gas available for transportation in the High Island offshore area.

HIOS states that the Interim Transportation Rate specified in the Schedule of Rates is the same as that approved by the Commission in its order issued December 6, 1977, in this proceeding.

HIOS further states that the demand and commodity rates have not been set forth in the tariff as these rates will be determined in accordance with HIOS' certificate issued in this docket and will be submitted to the Commission prior to the termination of the Interim Transportation Rate. According to HIOS, the demand charge for short haul shippers will be based upon the percentage of capacity which is actually utilized in transporting the maximum daily volumes to be received from such shippers. For long haul shippers, the percentage will be shown as 100 percent. HIOS also enclosed as Original Volume No. 2, conformed copies executed transportation agreements between HIOS of the shippers.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filings of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file

a petition to intervene in accordance with the Commission Rules.

LOIS D. CASHELL,  
Acting Secretary.

(FER Doc. 78-2129 Filed 1-24-78; 8:45 am)

## [6740-02]

(Docket No. ER77-90)

## HOLYOKE WATER POWER CO. AND HOLYOKE POWER &amp; ELECTRIC CO.

Order Approving Settlement Agreements

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act) Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 56267 (September 15, 1977) the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC), which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On August 3, 1977, the Holyoke Water Power Co. and the Holyoke Power & Electric Co. (hereinafter collectively referred to as "HWP") filed with the Federal Power Commission an executed Settlement Agreement, dated as of July 21, 1977. The Settlement Agreement was executed by HWP, the city of Chicopee and the town of South Hadley, being all of the parties rendering or receiving service under the rate schedule which is the subject of the Commission's proceeding in the above-captioned docket. The Commission finds that the Settlement Agreement is in the public interest and accepts and approves it as hereinafter ordered and conditioned.

Proceedings in this docket were initiated on December 1, 1976, when the HWP tendered for filing a proposed increase in rates to its wholesale customers, the city of Chicopee and the town of South Hadley, Mass. The proposed rates would yield additional revenues from jurisdictional sales of \$3,202,000 based on the estimated (Period II) test year ended December 31, 1977.

By order issued December 27, 1976, in the above-captioned docket, the Federal Power Commission determined that the contracts between the parties are most reasonably interpreted as requiring prospective relief from the date of a final decision by the appropriate regulatory agency.

Settlement discussions were held by the parties, including the Staff and an executed settlement was reached. As noted previously, the executed Settlement Agreement and a motion for acceptance and approval were filed with the Federal Power Commission on August 3, 1977. Public notice of the filing of the Settlement Agreement was issued on August 15, 1977, with comments, protests and petitions to be filed on or before October 12, 1977. Both Staff and the Intervenor Cities filed comments in support of the proposed settlement which would reduce the originally requested increase of \$3,202,000 by \$1,399,200. On November 14, 1977, HWP and the Intervenor Cities filed a joint motion for expedited action on the Settlement Agreement. No other comments were received.

In particular, the Settlement Agreement provides for a Period II test year dollar increase of \$1,802,800 (\$1,157,105 from the city of Chicopee and \$645,659 from the town of South Hadley, such revenue level being achieved by reducing the originally proposed demand charges to each customer) and includes an August 1, 1977 effective date. In addition, the Agreement provides that upon Commission approval, HWP agrees to withdraw its petition for review of the Federal Power Commission's December 27, 1976, order which held that the contracts between the parties are most reasonably interpreted as requiring prospective relief from the date of a final decision. Such petition is currently pending before the United States Court of Appeals for the District of Columbia Circuit. Further, the Agreement provides that no principles are being established which would be binding in future cases.

The proposed Settlement Agreement would yield additional revenues from jurisdictional sales of \$1,802,800 based on the estimated test year ending December 31, 1977. Staff's analysis indicates that the settlement rate will not produce revenues in excess of Staff's recommended rate of return of 8.74

percent, including 12.20 percent return on common equity with a 50.60 percent common equity ratio.

Upon review of the entire record in this proceeding, the Commission finds that the proposed Settlement Agreement represents a reasonable resolution of all of the issues in this proceeding. Accordingly, the proposed Settlement Agreement shall be incorporated herein by reference and shall be approved and adopted.

The Commission finds: The Settlement Agreement submitted for the Federal Power Commission approval in this docket on August 3, 1977, should be approved and made effective as hereinafter ordered.

The Commission orders: (A) The Settlement Agreement submitted to the Federal Power Commission on August 3, 1977, in this proceeding is hereby accepted as of August 1, 1977, incorporated herein by reference and approved subject to the following conditions.

(B) HWP is hereby ordered to file within 30 days of the issuance of this order, rate schedules appropriate to reflect terms of the proposed Settlement Agreement.

(C) This order is without prejudice to any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against HWP or any person or party.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FER Doc. 78-2130 Filed 1-24-78; 8:45 am)

## [6740-02]

(Docket No. ER77-511)

## NEW YORK POWER POOL

Order Establishing Procedures; Electric Rates

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to

\*Consonant with the provisions of ordering paragraph (F) of the Federal Power Commission's Order of December 27, 1976, HWP shall file a fuel adjustment clause which conforms to §35.14 of the Regulations within 30 days of the issuance of this order.

exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On July 11, 1977, the New York Power Pool (Pool) tendered for filing a proposed superseding New York Power Pool Agreement containing increased rates and charges for Pool members. By order issued August 1, 1977, the Commission accepted the submittal for filing, suspended the rates and charges for 1 day, to become effective April 5, 1977, subject to refund, and called for a public hearing.

Notice of the Pool submittal was issued on August 1, 1977, with protests or petitions due on or before August 12, 1977. No protests or petitions have been filed.

It is in the public interest to set a date for a prehearing conference in this docket. At the conference, a date shall be set for the Pool's submission of its Case-In-Chief as well as for the service of Staff's top sheets.

The Commission finds: Good cause exists to set a prehearing conference date in this docket.

The Commission orders: (A) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR 33.5(d)), shall convene a prehearing conference in this proceeding at 10 a.m. on February 7, 1978, in a hearing

\*See Attachment for rate designations and descriptions.

\*The Pool requested a retroactive effective date of April 4, 1977, the date of initiation of Pool-wide central dispatching of generating units.

room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure, and is specifically directed to set the dates for the Pool's submission of its Case-In-Chief and Staff's top sheets in this proceeding.

(B) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to §1.18 of the Commission's Rules of Practice and Procedure.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

NEW YORK POWER POOL DOCKET NO. ER 77-511 RATE SCHEDULE DESIGNATIONS

Filing date: July 11, 1977

Description: Superseding New York Power Pool Agreement

Other party	Rate schedule FPC No.	Supersedes as supplemented FPC No.
Central Hudson Gas & Electric Co.	54	54
Consolidated Edison Co. of N.Y.	43	36
Long Island Lighting Co.	26	21
New York State Electric & Gas Corp.	68	66
Niagara Mohawk Power Corp.	99	93
Orange & Rockland Utilities.	38	35
Rochester Gas and Electric Corp.	23	20

## NON-JURISDICTIONAL.—Power Authority of the State of New York

Supplements to all the above Rate Schedules	
Supplement No. 1.	Schedule A—reserve factor.
Supplement No. 2.	Schedule B—Capacity deficiency charge.
Supplement No. 3.	Schedule C-1—Supplemental capacity and energy.
Supplement No. 4.	Schedule C-2—Assured economy capability and economy energy.
Exhibit A.....	Interconnection points.
Exhibit B.....	Methods and procedures No. 1-2 (Method of determining fossil fuel costs.)
Exhibit C.....	Methods and procedures No. 8-9 (Methods for determining operating capability costs.)



**Non-Jurisdictional.—Power Authority of the State of New York—Continued**

Supplements to all the above Rate Schedules	
Exhibit D.....	Methods and procedures No. 9-1. (Method for determining incremental and decremental energy production costs for fossil fueled steam generating units.)
Exhibit E.....	Methods and procedures No. 12-1. (Method of determining maintenance costs for fossil fueled steam generating units.)

[FR Doc. 78-2125 Filed 1-24-78; 8:45 am]

**[6740-02]**

[Docket No. RP76-52, et al.]

**NORTHERN NATURAL GAS CO.**

**Technical Conference**

JANUARY 18, 1978.

Take notice that on January 24, 1978, at 9 a.m. in a room at the Federal Energy Regulatory Commission, a technical conference will be held on Staff's Draft Environmental Impact Statement in the above-referenced proceeding. The Staff environmental team will be present to answer questions concerning the data contained in the DEIS.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2131 Filed 1-24-78; 8:45 am]

**[6740-02]**

[Docket Nos. CI77-701, CI77-703]

**PENNZOIL LOUISIANA AND TEXAS OFFSHORE, INC. AND PENNZOIL OFFSHORE GAS OPERATORS, INC.**

**Application for Certificate Pursuant To Optional Procedure**

JANUARY 18, 1978.

Take notice that on July 25, 1977, Pennzoil Louisiana and Texas Offshore, Inc. (PLATO) and Pennzoil Offshore Gas Operators, Inc. (POGO), P.O. Box 2967, Houston, Tex. 77001 filed respectively in Docket No. CI77-702 and CI77-703, applications for certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and section 2.75 of the Commission's General Policy and Interpretations (18 CFR § 2.75). Each applicant requests authorization to sell to Sea Robin Pipe Line Co. (Sea Robin) its gas interests underlying 7 offshore Louisiana blocks, namely, West Cameron Blocks 563, 609, and 617 and Eugene Island Blocks 261, 262, 312, and 333. PLATO requests an initial rate of \$3.30/Mcf and POGO asks for approval of a \$2.54/Mcf initial rate. Both Applicants request Commission approval of the periodic price escalation methodology which, if ap-

**NOTICES**

proved, would allow the company to recalculate its price based on the most current reserve and cost data. Each Applicant has depth limitation clauses in its contracts with Sea Robin there are approximately 169 Bcf of reserves involved in the 7 blocks which if approved to be sold at the initial rates proposed would result in total charges to the purchasing pipeline of about \$477 million over the life of the reserves.

Any person desiring to be heard or to make any protest with reference to said petition should on or before February 9, 1978, file with the Federal Energy Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2132 Filed 1-24-78; 8:45 am]

[Dockets Nos. CP71-264, CP71-276]

**SOUTHERN ENERGY CO. AND SOUTHERN NATURAL GAS CO.**

**Order Granting Further Extension of Time**

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsibilities for the function under the DOE Act and regulations promulgated thereunder.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided

that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

In Opinion No. 622, issued June 28, 1972, 47 FPC 1624 the Federal Power Commission issued certificates of public convenience and necessity authorizing construction and operation of an LNG terminal at Elba Island, Georgia (Docket No. CP71-264) and construction and operation of certain pipeline and related facilities (Docket No. CP71-276) to be utilized in conjunction with a program to import natural gas from Algeria. December 31, 1975, was set as the original deadline for completing construction and placing the facilities in operation. By motion dated November 12, 1975, the Applicants requested a two year extension, alleging delays in foreign and domestic construction, which motion was granted by Commission order issued December 27, 1975. Owing to additional delays, the Commission has been presented with a request for an additional extension which is authorized herein.

On August 8, 1977, the Applicants filed a motion for an extension of the construction completion date alleging additional delays in both foreign and domestic construction. At the time this motion was filed the Applicants' best estimate for completion and testing of the certificated facilities was during the first half of 1978. The Applicants accordingly sought extension until June 30, 1978. On November 22, 1977, the Applicants filed a supplemental motion requesting an extension until December 31, 1978. They cite further unspecified delays, and note that certain appurtenant facilities necessary to accomplish reverse flow of regassified LNG west of the Wrens Station will not be completed until sometime after the start-up of the other LNG facilities. No answers to either of these motions have been received.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the previous orders in the above-captioned dockets be amended as hereafter ordered.

The Commission orders: The order issued December 22, 1975, in Docket Nos. CP71-264 and CP71-276 is amended to provide that the facilities authorized in these dockets be completed and placed in service by December 31, 1978. In all other respects this order shall remain in full force and effect.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2133 Filed 1-24-78; 8:45 am]

**NOTICES**

**[6740-02]**

[Docket Nos. RP73-3 (PGA76-2), RP73-69 and RP72-99 (EPGA76-3)]

**TRANSCONTINENTAL GAS PIPE LINE CORP.**

**Order Disapproving Retroactive Increase in Frozen Rates, and Directing Refunds**

JANUARY 18, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

**SUMMARY**

The Federal Power Commission, by order issued April 5, 1974 (51 FPC 1243, at page 1246), found that the Article IV of a settlement agreement pertaining to the rates of Transcontinental Gas Pipe Line Corp. (Transco) in Docket No. RP73-69 was reasonable and should be approved "[t]o the extent jurisdiction rests with this Commission," but the Commission left for future decision questions pertaining to whether Article IV was consistent with the Economic Stabilization Act of 1970, as amended. Today,

<sup>1</sup>As used herein, the term "Commission" means the Federal Power Commission in contexts prior to October 1, 1977, and the Federal Energy Regulatory Commission in contexts on and after that date.

we find that Article IV has resulted in a retroactive increase in Transco's rates for natural gas service rendered from July 1, 1973, through August 12, 1973, while those rates were subject to a price freeze, and, therefore, that Article IV is inconsistent with the Economic Stabilization Program. Accordingly, we are ordering a refund of a surcharge which Transco has collected thereunder.

**BACKGROUND**

On December 15, 1972, Transco tendered for filing in Docket No. RP73-69 certain revised tariff sheets by which it proposed general increases in its rates. After notice, the Commission, by order issued January 31, 1973, among other matters, suspended the use of the revised tariff sheets and consequently, the rate increases, until July 1, 1973, and permitted the intervention, among others, of the Public Service Commission of the State of New York (New York).

The rate increases were subject to Phase III of the President's Economic Stabilization Program. 6 CFR § 130.80 then provided, in this connection, that the regulatory subpart pertaining to increase in rates of public utilities applied "to each rate increase authorized under law to be placed into effect after January 10, 1973." But on June 13, before Transco's suspended rate increases went into effect, the President issued Executive Order 11723 which initiated "pre-Phase IV", as it was called, and imposed "a comprehensive freeze for a maximum period of 60 days on the prices of all commodities and services offered for sale except the prices charged for raw agricultural products." And the Commission, on June 19, 1973 (but effective as of June 13, 1973), issued Order No. 437-B in which it reaffirmed its Statement of General Policy To Implement the Economic Stabilization Act of 1970, as Amended, and Executive Orders 11615 and 11627 (18 CFR §§ 2.90 and 2.90a) and promulgated § 2.90b of its General Policy and Interpretations (18 CFR § 2.90b), which said, among other matters, that the Commission would continue to carry out its responsibilities under the Natural Gas Act and the Federal Power Act by establishing just and reasonable rates.

With a view toward consistency of those rates with the Economic Stabilization Act of 1970, as amended.

On or about June 13, 1973, the Cost of Living Council adopted regulations to implement the pre-Phase IV price freeze. 6 CFR § 140.40(a) provided, in this connection,

Any practice which constitutes a means to obtain a price higher than is permitted by this regulation is a violation of this regulation. Such practices include, but are not

limited to, devices making use of . . . retroactive increases . . .

The Economic Stabilization Program entered Phase IV on August 13, 1973, at which time the Cost of Living Council's regulations provided, 6 CFR § 150.56,

Rate increases for commodities or services provided by a public utility are exempt.

On January 4, 1974, the presiding Administrative Law Judge certified to the commission a proposed agreement for settlement of Docket No. RP73-69. Article IV of that agreement utilized a technique which in the past was utilized with so-called "tracking" rate increases for increased costs of purchased gas, and is now utilized with purchased gas adjustment provisions. The technique, simply stated, is to charge (debit) a deferral account with the increased costs associated with sales during one period of time, and to reduce (credit) that account against an adjusted rate (or surcharge) applied to sales during a later period of time. Thus, Article IV provides,

The settlement agreement herein is based upon a recognition of costs incurred and settlement rates to be collected effective July 1, 1973. However, in compliance with the President's freeze order and in an effort to stabilize Transco's rates for a period of time beyond the freeze period, Transco hereby agrees that it will not place into effect prior to September 1, 1973 the settlement rates provided in Article III hereof; provided, however, in recognition of the legitimate costs to be incurred by Transco during period from July 1, 1973 to September 1, 1973, it is agreed that from after July 1, 1973 until September 1, 1973, Transco shall accumulate and charge to Account No. 186, Miscellaneous Deferred Debits, an amount of costs represented by the difference between the rates in effect as of April 1, 1973 (the currently effective rates) and the settlement rates provided in Article III hereof based upon actual sales and services rendered during such period. (viz., July 1, 1973, to September 1, 1973, most of which was included in the pre-phase IV price freeze); provided, further, that such accumulated amount shall, for rate purposes, be treated in the same manner as a balance in the Unrecovered Purchased Gas Cost Account. . . . Accordingly, any such amount would be included in the determination of the amount of rate adjustment by Transco for the next subsequent effective date occurring at least thirty (30) days from September 1, 1973. . . . (Emphasis added.)

Article IV also provides,

It is understood and agreed that the foregoing rate treatment shall be subject to the approval of the Cost of Living Council or any successor agency under the Economic Stabilization Act of 1970, as amended and extended, either by specific ruling or by general rules and regulations as are applicable. It is further agreed and understood that such rate treatment shall not be effectuated by Transco unless the Cost of Living Coun-

<sup>2</sup>Similar language appears in 6 CFR § 150.20 applicable to Phase IV.



cil or successor agency, either by specific approval or by general rules and regulations as are applicable, permits such increased rates to be reflected in the rates of Transco's customers.

The Commission, by order issued April 5, 1974 (51 FPC 1243), approved the settlement agreement with certain modifications. It said, beginning at page 1245, that New York, among others, filed comments in opposition to Article IV:

The commenting parties express the view that Article IV of the settlement would, in effect, result in circumvention of the price freeze by Transco, and would be contrary to the policy and regulations of the Cost of Living Council. Transco replies that pursuant to Article IV it would not be collecting increased rates for sales made during the price freeze period, but rather simply deferring costs incurred during the price freeze period for collection at a later date. The disagreement between the parties appears to be one purely of semantics.

Article IV provides that the specified procedures shall be subject to approval by the Cost of Living Council or 'successor agency'. Transco, in its motion for approval of the settlement, argues that this Commission is in a position to approve the proposed procedures as the 'successor agency', referring to the fact that on August 7, 1973, the Cost of Living Council published its final Phase IV regulations to be effective from and after August 13, 1973. These regulations provide, in Section 150.56, that "Rate increases for commodities or services provided by a public utility are exempt." Transco argues that the effect of this exemption of utilities was to give this Commission full power to approve rates in accordance with the standards of the Natural Gas Act, and, therefore, the power to approve Article IV of the Settlement.

We are unable to determine on the record before us whether authority to approve Article IV resides with this Commission or with the Cost of Living Council. The Phase IV regulations under which we would have authority in this matter, apply only from and after August 13, 1973, and it is true that Transco's collection of the deferred amount will occur under Article IV subsequent to August 13, 1973. Yet the amounts to be collected are clearly applicable to sales made by Transco during the price freeze. To the extent the Cost of Living Council retains jurisdiction to approve the provisions of Article IV of the settlement, we defer to that jurisdiction. To the extent jurisdiction rests with this Commission, we find that Article IV is reasonable, and should be approved. The amounts to be recovered represent costs which we have found justified and approved to be included in the settlement cost of service and related rates. Article IV is specifically approved as to all amounts related to the period from August 13, 1973, to September 1, 1973.

In light of the foregoing we shall require Transco, as a condition to approval of the proposed settlement, to make application to the Cost of Living Council for approval of the procedures set forth in Article IV as it applies to amounts deferred during the period July 1, 1973, through August 12, 1973. At such time as Transco applies to this Commission for authorization to track these deferred amounts, it shall submit a statement outlining its efforts to obtain Cost of

Living Council approval, and the results of such efforts. We shall consider such representations by Transco in determining the action to be taken.

Transco applied for such approval by letter dated April 11, 1974; and the Cost of Living Council, on April 18, 1974, replied that it would be inappropriate to approve or disapprove Article IV, explaining that "'costs' do not include revenues lost or foregone because of Stabilization Regulations".

It is the opinion of the Council that, while the FPC is free to judge the reasonableness of rate increases based on all the facts and circumstances and without adherence to Economic Stabilization pricing rules, the FPC should not approve any rate increase which is specifically based upon the principle of retroactive recovery of revenues which were not permissible prior to August 12, 1973, and which could not have been recovered under the Phase IV rules. To permit such rate increases would be to nullify the purposes of the Economic Stabilization Act and the results achieved thereunder.

Transco sought clarification by letter dated April 26, 1974. (The Economic Stabilization Act of 1970, as amended, expired at midnight, April 30, 1974.) And the Cost of Living Council replied again on June 4, 1974, stating:

During the meeting held on May 28, 1974, at your request, you advised me that your proposed rate increase does in fact include a temporary 'surcharge' designed to recoup revenues lost because cost-justified price increases had to be deferred during the 1973 price freeze.

The Cost of Living Council takes the general position that any action taken after the end of controls to recover specific revenues which were prohibited during the Economic Stabilization Program is unlawful.

The Cost of Living Council thereby equated the procedures set forth in Article IV to the unlawful practice of "back billing", and reaffirmed its prior position.

On or about June 28, 1974, Transco sought reconsideration, and by letter dated August 13, 1974, the Office of Economic Stabilization of the Department of the Treasury, as successor to the Cost of Living Council, reaffirmed the prior decisions.

Transco, on or about September 20, 1974, filed a Complaint against the Department of the Treasury and others in the United States District Court for the District of Columbia, Civil Action No. 74-1389, seeking an order which would vacate and set aside the Office of Economic Stabilization's disapproval of Article IV. On October 17, 1975, the parties entered into a Stipulation to the effect that (1) the litigation was moot, (2) because the litigation was moot, the determinations by the Cost of Living Council and the Office of Economic Stabilization did not prohibit implementation of Article IV, and (3) because the litigation was moot, the implementation of Article IV was subject to the exclusive jurisdiction of

the Commission under the Natural Gas Act. And by order also dated October 17, 1975, the Honorable Joseph C. Waddy dismissed the litigation for mootness.

On March 31, 1976, Transco tendered for filing in the captioned dockets certain revised tariff sheets embodying, among other matters, a proposed rate increase of 2.0 cents per Mcf to recover costs incurred by Transco during the pre-Phase IV price freeze. New York, on April 21, 1976, filed a Protest asking the Commission to "reject so much of the rate filing as purports to provide for recovery over a six months period of the increased revenues which Transco was required to forego as a result of the . . . price freeze in effect between June 13, 1973 and August 12, 1973 . . . or to suspend this part of the proposed increase for such period of time as may be necessary for the Commission to receive and consider briefs from all interested parties on the legal and factual issues involved." Transco filed a response on April 27, 1976. And the Commission, by order issued April 30, 1976, among other matters, accepted the revised tariff sheets for filing and suspended their use until May 2, 1976, and ordered briefing of the price freeze issues.

In the case before us, Transco and others agreed to Article IV while the Economic Stabilization Act was still in effect and, in the eyes of the Cost of Living Council and the Office of Economic Stabilization, the implementation of Article IV after the expiration of price controls would operate to violate both the Economic Stabilization Act and the regulations thereunder. While we therefore have reservations with respect to the legal basis for the Stipulation, it would appear that Transco and the Department of the Treasury are bound by it.

#### POSITION OF THE PARTIES

Initial and reply briefs were filed by Transco, New York and the Commission staff.

Transco argues that under the terms of the Stipulation by which the District Court litigation was dismissed for

"The stipulation of mootness relied principally upon *United States v. State of California, et al.*, 504 F.2d 750 (1974), cert. denied, 421 U.S. 1015 (1975), wherein Judge Estes said, speaking for the Temporary Emergency Court of Appeals, at page 755:

The second exception to the general expiration provision of Section 218 [of the Economic Stabilization Act of 1970, as amended] is that 'such expiration shall not affect . . . any action or proceeding based upon any act committed prior to May 1, 1974.' This provision is clearly designed to allow the initiation of proceedings after the expiration date of the Act, so long as such proceedings are based upon an act committed before expiration.

mootness, the implementation of Article IV is subject to the exclusive jurisdiction of the Commission, and the rulings of the Cost of Living Council and the Office of Economic Stabilization do not prohibit implementation of Article IV. Transco argues, additionally, that in its order of April 5, 1974, approving the settlement agreement, the Commission approved as just and reasonable the costs incurred by Transco from July 1, 1973, through August 31, 1973, and, as a result, "the only lawful action which the Commission can now take is approval of the specific tracking filing here involved."

The Commission staff supports Transco, stating:

There can be no question that the Commission in its order of April 5, 1974, gave full approval to Article IV by stating "To the extent jurisdiction rests with this Commission, we find that Article IV is reasonable, and should be approved."

And the staff characterizes the "essential issue raised by New York's protest" as

... whether the Commission can now vacate or revoke its prior approval of Article IV, and whether, in light of the representations of the Cost of Living Council and the Office of Economic Stabilization, it should do so,

concluding that, "In the staff's judgment the Commission should not and cannot." And, finally, the staff points out that Transco made refunds to its customers in reliance upon the Commission's approval of the settlement agreement and, therefore, "the Commission should not now revoke the prior approval."

New York, on the other hand, characterizes the "underlying issue before the Commission" as

... whether Transco . . . should now be permitted to recoup from its customers the increased revenues foregone during the freeze through a temporary surcharge on its currently effective rates.

New York asserts, in this connection, that it was not the intent of the parties to the settlement agreement that Transco be permitted to charge its customers for the increased revenues foregone as a result of the freeze unless it was affirmatively determined by the Cos. of Living Council, or its successor under the Economic Stabilization Program, that such charges would be lawful under the Economic Stabilization Act; that the Cost of Living Council and the Office of Economic Stabilization specifically rejected Article IV as being unlawful; and the fact that *United States v. California, supra*, precluded judicial review of those agencies' determinations does not transform the Commission into a "successor agency" within the meaning of Article IV. New York asserts that the parties could not reach a substantive agreement with respect to the

foregone revenues and, therefore, negotiated a procedural agreement by which, in the words of New York, "Transco would accumulate and charge to Account 186 an amount reflecting the difference between the previously effective rates and the settlement rates."

In reply, Transco asserts,

New York's principal argument . . . boils down to the simple proposition that, whatever may be the actual lawfulness of this Commission's approval of the collection by Transco of its legitimate freeze period costs, Transco did not receive a specific piece of paper from the Cost of Living Council . . . or successor agency which states that such approval is lawful and, therefore, the terms of Article IV have not been complied with and the Commission may not approve the collection. New York also argues that, even if this interpretation of Article IV is incorrect, the Commission should still regard the [Cost of Living Council] letters as governing.

Transco points out, in this connection, that Article IV provides that its approval by the Cost of Living Council may be "by general rules and regulations as are applicable"; and it argues that 6 CFR § 150.56, which exempted public utility rate increases from Phase IV "exempted Transco from the scope of the Economic Stabilization Act and restored full authority to the Commission to sanction rates in accordance with the standards of the Natural Gas Act." And Transco repeats its position that the Stipulation in the District Court is lawful and binding and, therefore, the Commission "is exclusively empowered to rule on the instant surcharge proposal" and must authorize it in conformance with its previous finding.

The staff claims, in reply, that New York's arguments must be rejected because they conflict with the Stipulation in the District Court. The staff claims, additionally, that the Commission agreed to be bound by the ruling of the Cost of Living Council only if that body had jurisdiction in the matter:

In light of the rulings of the Cost of Living Council it is clear that if the Council had jurisdiction over the matter, it would reject Article IV. The . . . Commission, however, does have jurisdiction in the matter, and has approved Article IV.

And the staff concludes that no facts or circumstances have been shown which would warrant any change in the Commission's prior approval of the settlement agreement.

New York, in reply, disagrees with the staff's formulation of the "essential issue", asserting that New York "seeks not the abrogation of the terms of Article IV of the Settlement

\* The staff thereby implies that the Cost of Living Council did not have jurisdiction, but does not explain why.

Agreement approved by the Commission[,] but its enforcement." Article IV precludes the presently proposed surcharge, New York asserts, because the rate treatment therein was not approved by the Cost of Living Council or the Office of Economic Stabilization, which office was the Cost of Living Council's only successor "under the Economic Stabilization Act of 1970, as amended and extended", within the meaning of that phrase in Article IV. And finally, New York asserts, since the Commission conditioned its approval of Article IV upon Transco's applying to the Cost of Living Council for approval of the procedures set forth therein, Transco knew, when it made refunds based on the settlement rates, that it was assuming the risk that it might never be permitted to impose the surcharge which is now before the Commission.

#### DISCUSSION

Transco's surcharge was permitted to go into effect, subject to refund, on May 2, 1976, and in view of its temporary character, it has expired. Transco claims that the amounts which it collected thereunder are "costs". New York, on the other hand, contends that those amounts are "foregone revenues". In view of this difference in terminology, which the Commission characterized on April 5, 1974, as "one purely of semantics," it is appropriate to begin our analysis by focusing upon the nature of the accumulations in Account No. 186 which were recovered by Transco's surcharge.

As appears from Article IV of the settlement agreement, Transco was to accumulate in Account No. 186 an amount of costs which was to be measured by the difference between the rates in effect on July 1, 1973 (the date within the pre-Phase IV price freeze on which its then-proposed suspended rates would have gone into effect), and the settlement rates which went into effect on September 1, 1973, "based upon actual sales and services rendered during such period" (viz., July 1, 1973, to September 1, 1973). Account No. 186 entitled "Miscellaneous Deferred Debits" is an asset account which includes "all debits not elsewhere provided for, such as . . . unusual or extraordinary expenses not included in other accounts which are in process of amortization. . . ." 18 CFR, Part 201.

The process of rate-making practiced by this Commission allows a public utility to set rates which will cover its

\* The \$3,932,252 in issue is limited to the accumulation from July 1, 1973, through August 12, 1973, after which Phase IV went into effect. Conversely, New York does not take issue with respect to the accumulation beginning August 13, 1973, through August 31, 1973.



operating costs and result in a reasonable rate of return on the property devoted to its business. The utility's costs are, therefore, to be recovered dollar for dollar, and are said to be "flowed through" in setting its rates. When Article IV is considered in the light of this flow-through concept, and in the light of what may be debited to Account No. 186, it becomes apparent that Transco is referring to the costs which enter the rate-making formula, and that New York is referring to the equal amount of revenues which must be collected to recover those costs. In other words, the difference in terminology is one of perspective.

The same difference in perspective appears within Article IV of the settlement agreement. While Transco could not accumulate foregone revenues in Account No. 186, it could accumulate costs and later amortize them. But the amounts of accumulations were measured by the revenues which were foregone by Transco during the pre-Phase IV price freeze. And Transco would amortize the accumulations, or at least credit them, against the surcharge in question.

Turning to the issues involving the Economic Stabilization Act of 1970, as amended, we would observe that the Commission was not a party to the District Court litigation and, therefore, we believe that we are not bound by the terms of the Stipulation. Nonetheless, we believe that the Stipulation binds Transco and the Department of the Treasury and, as a result, that it precludes judicial review of the Office of Economic Stabilization's affirmation of the Cost of Living Council's determination that Article IV is inconsistent with the Economic Stabilization Program.\* As a further result, the Stipulation leaves the implementation or final rejection of Article IV to our exclusive jurisdiction. But we, and not the Stipulation, will decide upon the appropriate statutory standard; and we, and not the Stipulation, will decide upon the weight to be given to the Cost of Living Council and Office of Economic Stabilization decisions.

The Economic Stabilization Act of 1970, as amended, did not establish rate-making machinery to supersede the areas of economic activity regulated by the Commission. Instead, it supplemented the Federal Power Act and the Natural Gas Act in much the same way that the Environmental Policy Act of 1969 supplements those statutes. In furtherance of that concept, the Commission issued a statement of policy in Order No. 437 on August 18, 1971, effective as of August 15, 1971, implementing the Economic Stabilization Act of 1970, as amended, and Ex-

\*This assumes, of course, that judicial review is not precluded under the principles of *United States v. California*, supra.

ecutive Order 11615 which stabilized prices, rents, wages and salaries for a period of 90 days from August 15, 1971, and established the Cost of Living Council which was specifically authorized to utilize the services of other agencies, such as the Federal Power Commission. On November 16, 1971, the Commission issued Order No. 437-A which reaffirmed Order No. 437 and promulgated further regulations to implement Executive Order 11627 which, in turn, authorized certain increases in rates during Phase II of the Economic Stabilization Program (effective November 14, 1971) if found to be consistent with the Economic Stabilization Act of 1970, as amended.

The Economic Stabilization Program entered Phase III, a period of price, rent, wage and salary reporting and monitoring, as a result of Executive Order 11695 issued January 11, 1973. And finally, it entered pre-Phase IV, as noted, as a result of Executive Order 11723, issued June 13, 1973, which order was superseded in part by Executive Order 11730 issued July 18, 1973, establishing Phase IV effective August 13, 1973. Executive Order 11730 confirmed and ratified all other orders which were in effect on July 18, 1973, including Executive Orders 11615, 11627 and 11695.

No party contends that the matter which is before us is not "saved" by Section 218 of the Economic Stabilization Act of 1970, as amended. Indeed, the Commission's order of April 5, 1974, indicates that Article IV was drafted during the pre-Phase IV price freeze (as the prospective language therein confirms), during which period Cost of Living Council approval of the rate treatment therein would clearly have been required. But the settlement agreement was not finally certified to the Commission for approval until Phase IV had gone into effect; and although rate increases of public utilities were then exempt from stabilization, the provision in Article IV requiring Cost of Living Council approval had not been eliminated or modified. The Commission could, of course, have conditioned its approval of the settlement agreement upon Transco's receipt of approval of the rate treatment in Article IV from the Cost of Living Council, which approval is required by the terms of Article IV, but the Commission appears to have been concerned that the Cost of Living Council might not issue a ruling on the merits in the light of 6 CFR § 150.56. Accordingly, the Commission

\*12 U.S.C. § 218 provided, "The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1974, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1974."

conditioned its approval of the settlement agreement upon Transco's applying to the Cost of Living Council for approval (which condition was subsequently fulfilled), stating in Ordering Paragraph (C), among other matters,

At such time as Transco applies to this Commission for authorization to track the deferred amounts under said Article IV, it shall submit, as part of its application, a statement outlining its efforts to obtain Cost of Living Council approval, and the results of such efforts.

And the Commission said that when Transco applied for such tracking authorization it would consider Transco's representations "in determining the action to be taken." The Commission thereby left for future decision questions pertaining to Transco's possible failure to obtain Cost of Living Council approval of the then-proposed rate treatment in Article IV, whether through outright rejection of Article IV or failure to obtain a ruling on the merits. These issues have been pending in Docket No. RP73-69 at least since April 5, 1974, prior to the expiration of the Economic Stabilization Act, and they are now ripe for decision.

Since we have before us questions which were left unresolved by the Commission's order of April 5, 1974, we believe that Order Nos. 437, 437-A and 437-B continue to reflect the policy of the Commission in carrying out our regulatory duties under the Natural Gas Act with respect to such questions. Under that policy, we are required by 18 CFR § 2.90b, as noted, to establish just and reasonable rates under the Natural Gas Act "with a view toward consistency of those rates with the Economic Stabilization Act of 1970 as amended." A rate which would be "just and reasonable" within the meaning of Section 4 of the Natural Gas Act, but which would violate the Economic Stabilization Act of 1970, as amended, and/or its implementing orders and/or regulations, would in turn be unjust and unreasonable within the meaning of the Natural Gas Act to the extent of such violation. In other words, the Cost of Living Council, and later the Office of Economic Stabilization, were delegated the authority to determine the extent to which natural gas rates subject to the Commission's jurisdiction might violate the economic stabilization law, orders and/or regulations and, consequently, also the Natural Gas Act.\* But they were not delegated

\*We find, in this connection, the Cost of Living Council and the Office of Economic Stabilization acted within the scope of their authority in considering, on the merits, Transco's application for approval of the procedures set forth in Article IV. But, as noted, we believe that the stipulation in the District Court precludes the Office of Economic Stabilization from acting further.

authority to determine the extent to which such rates might violate the Natural Gas Act other than in an economic stabilization context.

We find, therefore, that the Economic Stabilization Act of 1970, as amended, has continued viability with respect to the matter which is before us and, as a result, that the appropriate legal standard to apply is the "just and reasonable" standard of the Natural Gas Act to the extent that such standard is not inconsistent with the policies of the Economic Stabilization Act, 18 CFR § 2.90b. We find, additionally, that while 6 CFR § 150.56 exempted public utility rate increases from Phase IV, it did not exempt public utilities from Phase IV generally.\* And we find incorrect Transco's position in its brief opposing exceptions that 6 CFR § 150.56 "exempted Transco from the scope of the Economic Stabilization Act and restored full authority to the Commission to sanction rates in accordance with the standards of the Natural Gas Act."

We conclude, therefore, that 6 CFR § 150.1(d) was applicable to public utilities, including Transco, during Phase IV:

Price renegotiation provisions in price or rent contracts which depend for their operation upon the modification of or termination of the Economic Stabilization Program, were previously declared to be inoperative as unreasonably inconsistent with the goals of the Economic Stabilization Program. Such renegotiation provisions continue to be inoperative on the same ground. This part shall not operate to permit:

(1) A retroactive increase in prices or rents for goods or services sold or leased while those prices or rents were subject to past or present provisions of this title, or

(2) A prospective increase in prices or rents under the terms of a contract subject to a decision and order issued at any time pursuant to this title, except to the extent consistent with such decision and order.

Indeed, one of the policies of the Economic Stabilization Program throughout its various phases was the prohibition of practices by which prices which were frozen or otherwise stabilized during one phase might be raised retroactively in a subsequent phase or after decontrol, thereby nullifying the effects of the prior freeze or other stabilization. Such a practice was specifically prohibited by Execu-

\*6 CFR § 140.2, which was applicable to the pre-Phase IV price freeze, defines the term "exemption" as meaning "a general waiver of the requirements of all rules, regulations, and orders issued pursuant to the Act." Since that provision was superseded by the Phase IV regulations, and since the Phase IV regulations did not include a similar definition, we believe that we are justified in concluding that the exemption of public utility rate increases from Phase IV did not also exempt public utilities, as such, from Phase IV.

tive Order 11695 in essentially the same language as 6 CFR § 150.1(d). The Commission specifically provided in Order No. 437-A that increases retroactive to Phase I would not be allowed, and the Commission in fact prohibited such a retroactive increase in its order issued February 14, 1977, in *Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.*, Docket Nos. RP71-6, et al.

Although the Federal Power Commission on April 5, 1974, approved Article IV "[t]o the extent jurisdiction rests with this Commission", we read such approval in context as being an exercise of its authority under the Natural Gas Act without also considering possible inconsistencies with the Economic Stabilization Act. First, the Commission was unsure of its jurisdiction under the Economic Stabilization Act, as Transco concedes. Second, the Finding Paragraph states that the settlement agreement (which includes Article IV) "is reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act", without also mentioning the Economic Stabilization Act. And third, the Commission appears to have deferred any decisions under the Economic Stabilization Act by directing Transco to file an application with the Cost of Living Council and stating that it would later consider the results of such action.

Furthermore, we find that the Federal Power Commission did not have exclusive authority to act in the premises because the Cost of Living Council then had the primary responsibility under the Economic Stabilization Act of 1970, as amended, for determining whether Article IV was consistent with the Economic Stabilization Program. And we reject the staff's position that the Commission "gave full approval to Article IV."

Although Transco's surcharge was applied to natural gas service which was rendered for a limited period of time beginning May 2, 1976, we find that it clearly resulted in a retroactive increase in Transco's rates for natural gas service rendered from July 1, 1973, through August 12, 1973. We agree, in this connection, with the similar findings of the Cost of Living Council and the Office of Economic Stabilization that implementation of Article IV would have such a result. In the context of the Economic Stabilization Program, the "foregone revenues" perspective of the ratemaking formula is the significant one. And since the revenues (and costs) foregone by Transco

\*A petition for review was filed on June 7, 1977, in the United States District Court for the District of Columbia, sub nom *Tennessee Gas Pipeline Company v. Federal Power Commission*, No. 77-1511.

were measured, in the words of Article IV, by the "actual sales and services rendered during such period" (viz., July 1, 1973, to September 1, 1973, but limited for present purposes through August 12, 1973), Transco's surcharge accomplished precisely what was forbidden by 6 CFR § 150.1(d). Transco, New York and others negotiated a settlement rate in Docket No. RP73-69 which, insofar as concerns the period from July 1, 1973, through August 12, 1973, depended for its effectiveness upon the modification or termination of the Economic Stabilization Program. We find that such rate is inoperative for that period as being unreasonably inconsistent with the goals of the Economic Stabilization Program. And we find that Article IV is unjust and unreasonable insofar, but only insofar, as it is inconsistent with the Economic Stabilization Program and, therefore, violative of 18 CFR § 2.90b. And, lastly, we find that the revenues which were collected by Transco thereunder should be refunded with interest.

Finally, we agree with New York's basic position that Transco was not authorized by the terms of Article IV to have collected the surcharge because of a condition precedent to its collection—approval by the "Cost of Living Council or successor agency"—has not occurred. Assuming *arguendo* that the Federal Power Commission, and this Commission as its successor, is a "successor agency under the Economic Stabilization Act, as amended and extended", within the meaning of Article IV, Transco agreed in Article IV not to impose a surcharge "unless the Cost of Living Council or successor agency, either by specific approval or by general rules and regulations as are applicable, authorized Transco to charge the increased rates. Today, we join the Cost of Living Council and the Office of Economic Stabilization in rejecting the procedures described

"The Federal Power Commission was not, and this Commission as its successor is not, a 'successor agency under the Economic Stabilization Act, as amended and extended,' because neither agency was formally designated as such by an Executive Order. The authority which we exercise today was possessed by the Federal Power Commission from the beginning of economic stabilization, and is possessed by this Commission as its successor, but was subservient to the dominant authority of the Cost of Living Council and other bodies under the Executive Orders which implemented the Economic Stabilization Act. The Office of Economic Stabilization, which was the last successor to possess the dominant authority, was legally disabled by the Stipulation in the District Court litigation from acting further in the premises, thereby leaving the Federal Power Commission, and this Commission as its successor, with the exclusive authority in the premises under the Economic Stabilization Act.



in Article IV and, as a result, the condition precedent will not occur.<sup>12</sup>

The Commission orders: (A) Within 60 days from the date of issuance of this order, Transcontinental Gas Pipe Line Corporation shall refund, with interest at 9% per annum from May 2, 1976, the revenues collected based on charges to its Miscellaneous Deferred Debits Account in Docket No. RP73-69 during the period from and including July 1, 1973, through August 12, 1973.

(B) The refunds mandated by Ordering Paragraph (A) shall be based upon the sales of Transcontinental Gas Pipe Line Corporation from and including July 1, 1973, through August 12, 1973, and shall be reported to the Commission in accordance with 18 CFR §154.67(c). One copy of each such refund report shall be transmitted concurrently to each State Commission having jurisdiction over the customers of Transcontinental Gas Pipe Line Corporation to receive the refunds.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2134 Filed 1-24-78; 8:45 am]

#### [6550-01] ENVIRONMENTAL PROTECTION AGENCY

[FRL 847-5; PP 6G1757/T1371]  
GLYPHOSATE

##### Renewal of Temporary Tolerances

On September 17, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 40220) that in response to a pesticide petition (PP 6G1757) submitted to the Agency by Monsanto Co., 800 N. Lindbergh Blvd., St. Louis, Mo. 63166, temporary tolerances were established for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities cottonseed at 5 parts per million (ppm), soybean grain, soybean forage, and soybean hay at 10 ppm, cotton forage at 20 ppm, and the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep at 0.1 ppm. These temporary tolerances expired September 7, 1977.

Monsanto Co. has requested a one-year renewal of these temporary tolerances both to permit continued testing

"That part of the Stipulation in the District Court litigation which states that the determinations of the Cost of Living Council and the Office of Economic Stabilization 'do not prohibit the implementation of Article IV' is not a 'specific approval' of the surcharge. Nor is 6 CFR §150.56 a general regulatory approval in the light of 6 CFR §150.1(d)(1).

to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 69 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. (A related document renewing a feed additive regulation for residues of glyphosate in soybean hulls appears elsewhere in today's FEDERAL REGISTER). Therefore the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Monsanto Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Food and Drug Administration.

These temporary tolerances expire January 17, 1979. Residues not in excess of 5 ppm remaining in or on cottonseed; 10 ppm remaining in or on soybean grain, forage, and hay; 20 ppm remaining in or on cotton forage; and 0.1 ppm remaining in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These Temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Branch, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M Street SW., Washington, D.C. 20460 202-755-4851.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(j)).)

Dated: January 13, 1978.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 78-2036 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 847-2; PF86]

#### PESTICIDE PROGRAMS

##### Filing of Pesticide Petition

BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181, Parsippany, N.J. 07054, has submitted a petition (PP 8F2033) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.355 be amended by establishing a tolerance of 0.50 part per million for the combined residues of the herbicide bentazon (3-Isopropyl-1H-2,1,3-benzothiadiazine-4(3H)-one 2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodities beans and peas (succulent). The proposed analytical method for determining residues is gas chromatography using a flame photometric detector in the sulfur specific mode. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the FEDERAL REGISTER section, Technical Services Division, (WH-569), Office of Pesticide Programs, EPA, Room 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. Inquiries concerning this petition may be directed to Product Manager (PM)25, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202-426-2456. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: January 17, 1978.

DOUGLAS D. CAMPT,  
Acting Director,  
Registration Division.

[FR Doc. 78-2037 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 847-1; OTS-040002]

#### REPORT BY TSCA INTERAGENCY TESTING COMMITTEE

Extension of Comment Period; Availability of Documents

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period; availability of documents.

SUMMARY: On October 12, 1977, EPA published a notice in the FEDERAL

REGISTER inviting all interested persons to submit comments within 90 days on a report by the Toxic Substances Control Act (TSCA) Interagency Testing Committee (ITC). The report also appeared in the October 12, 1977 FEDERAL REGISTER. This notice extends the deadline for comments on the ITC report from January 12 to March 12, 1978. Written comments shall bear the identifying notation OTS-040002 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, Attention: Joan Urquhart. All written comments will be available for public inspection in Room 623 East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Also in the October 12, 1977 FEDERAL REGISTER notice, EPA announced that dossiers for specific chemicals, containing references used in developing the ITC report, would be available within a few weeks. The dossiers are now available. Copies may be obtained by ordering from the National Technical Information Service (NTIS), Springfield, Va. 22161, 703-557-4650. Reference should be made to document number PB-275-367. Price per printed copy is \$13 for those copies mailed to addressees in the United States and \$26 for those copies mailed to addressees outside the United States. Microfiche copies are \$3 for those copies mailed to addressees within the United States and \$4.50 for those copies mailed to addressees outside the United States. To facilitate review, a limited number of copies will be available at no cost for associations, societies, and other membership groups, and single copies will be available to individual firms, from the Director, Industry Assistance Office, OTS (TS-788), Environmental Protection Agency, Washington, D.C. 20460, 202-755-0535.

Dated: January 17, 1978.

STEVEN D. JELLINEK,  
Assistant Administrator  
for Toxic Substances.

[FR Doc. 78-2038 Filed 1-24-78; 8:45 am]

[6560-01]

[FRL 846-8; OPP-42005E]

#### WYOMING

Final Approval of State Plan for the  
Certification of Pesticide Applicators

Section 4(a)(2) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators of restricted use pesticides to submit a plan for such purpose to the Environmental Protection Agency. On

January 9, 1978, the Wyoming State Plan was approved by EPA contingent upon promulgation of necessary regulations under the Wyoming Environmental Pesticide Control Act. Notice of contingent approval was published in the FEDERAL REGISTER on January 29, 1978 (41 FR 4359).

Subsequently, on May 26 and September 29, 1977, Wyoming submitted final regulations to implement the Plan and to meet the terms of the contingent approval. These final regulations differed substantially from the draft regulations upon which the contingent approval was based. On November 18, 1977 (42 FR 59548), EPA published its intent to approve the Wyoming Plan as amended and allowed thirty days for public comment on the changes in the Plan. No comments were received. Therefore, the Regional Administrator, EPA Region VIII, gives notice that the Wyoming State Plan is now a fully approved state plan.

Dated: January 13, 1978.

ALAN MERSON,  
Regional Administrator,  
Region VIII.

[FR Doc. 78-2039 Filed 1-24-78; 8:45 am]

[6712-01]

#### FEDERAL COMMUNICATIONS COMMISSION

##### CABLE SIGNAL LEAKAGE ADVISORY COMMITTEE

Establishment of a Federal Advisory  
Committee

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Federal Communications Commission is establishing a new advisory committee, the Advisory Committee for Cable Signal Leakage, for an initial period of one year. The Commission has determined that establishment of this committee is in the public interest and necessary in order for the FCC and other participating Federal agencies to properly discharge their responsibilities.

The purpose of the Advisory Committee for Cable Signal Leakage is to assist in the design of a research program necessary to protect against interference to aeronautical and marine navigation and communications from cable television systems. The commit-

[6712-01]

[Report No. 1097]

#### PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED JANUARY 18, 1978.

Docket or RM No.	Rule No.	Subject	Date received
20548	Secs. 73.35, 73.240, 73.836.	Amendment of §§ 73.35, 73.240 and 73.836 of the Commission's rules relating to multiple ownership of standard, FM, and television broadcast stations.	

tee will also monitor progress of the research and recommend areas for additional study. The committee will consist of representatives of the Federal Communications Commission, the Federal Aviation Administration, the U.S. Department of Commerce (Office of Telecommunications), the National Cable Television Association, and other interested parties.

Individuals desiring to participate in the work of the committee may contact Robert Powers, Cable Television Bureau, 2025 M Street NW., Washington, D.C. 20554, telephone 632-9797, for further information.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-2079 Filed 1-24-78; 8:45 am]

[6712-01]

#### FCC SETS NEW SYSTEM FOR ASSIGNING DOCKET NUMBERS

DECEMBER 30, 1977.

Effective January 3, the Commission will institute a new system for assigning docket numbers. The new docket designation will include reference to the type of service, the year in which the docket was established and the number assigned. The docket numbers will follow in sequence, regardless of the service involved. The following examples illustrate the new numbering system:

BC Docket No. 78-1 (first docket established in 1978; Broadcast proceeding)  
CC Docket No. 78-2 (second docket established in 1978; Common Carrier proceeding)  
SS Docket No. 78-3 (Safety and Special proceeding)  
BC Docket No. 78-4 (second Broadcast docket of the year)  
CT Docket No. 78-5 (Cable Television proceeding)  
GEN Docket No. 78-6 (a proceeding involving two or more Bureaus)

When reference is made to a docket established under the new numbering system the entire designator (BC Docket No. 78-4) should be used. The new numbering system will not affect in any way the numbers previously assigned for existing dockets.

For the Federal Communications Commission.

William J. Tricarico,  
Secretary.

[FR Doc. 78-2080 Filed 1-24-78; 8:45 am]



Docket or RM No.	Rule No.	Subject	Date received
20548.....	Secs. 73.35, 73.240, 73.636.	Filed by Alan Y. Naftalin, attorney for Great Trails Broadcasting Corp.	Jan. 6, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before February 9, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-2078 Filed 1-24-78; 8:45 am]

[6712-01]

#### RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

##### Meetings

JANUARY 18, 1978.

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

To: RTCM Officers, Executive Committee Representatives and Alternates, and Special Committee Chairman.  
Subject: Executive Committee Meeting, Thursday, February 16, 1978.

The next Executive Committee Meeting will be on Thursday, February 16, at 9:30 a.m. in Conference Room 847, 1919 M Street NW., Washington, D.C.

##### AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Committee Reports—SC-65: "Ship Radar"; SC-66: "Receiver Standards for the Maritime Mobile Service"; SC-69: "WARC Advisory Committee"; SC-70: "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"; SC-71: "VHF Automated Radiotelephone Systems"; and SC-72: "Numerical Identification of Stations in Maritime Telecommunications Systems."
5. New Membership Applications for Executive Committee Approval.
6. Approval of SC-65 "Ship Radar" papers.
7. Approval of SC-66 "Receiver Standards" paper.
8. Approval of establishment of SC-73 "Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment."
9. Report of Nominating Committee for RTCM officers.
10. Acceptance of First Quarter FY-78 Financial Statement.
11. Acceptance of FY-1977 Audit Report.
12. Discussion on Establishment of RTCM Award for Outstanding Technical Papers.
13. Report on 1978 Assembly Meeting.
14. Summary Reports and Announcements.

15. New business.
16. Establishment of next meeting date.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone: 202-632-6490.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-2077 Filed 1-24-78; 8:45 am]

[6730-01]

#### FEDERAL MARITIME COMMISSION

[Amdt. No. 5 to Commission Order No. 1  
(Revised)]

#### SECTION 7. SPECIFIC AUTHORITIES DELEGATED TO THE MANAGING DIRECTOR

##### Organization and Functions

Subsection 7.21 of the Revised Order is amended to give the Managing Director additional authority to carry out certain provisions of 46 CFR Part 507. The new subsection is amended to read:

7.21 Authority pursuant to section 19 of the Merchant Marine Act of 1920 and 46 CFR Part 507 to (1) issue orders of the Commission requiring a "favored carrier" to show cause why such carrier is not in violation of 46 CFR Part 507 and why it should not be ordered to cease and desist such violations whenever the Commission receives notification from the U.S. Customs Service or is otherwise aware that a vessel owned, operated, controlled by, or carrying cargo for such "favored carrier" has departed a U.S. port while carrying cargo destined for Guatemala and such carrier does not have an Equalization Fee Payment Guarantee on file with the Commission or such carrier does not file an Equalization Fee or Summary Report of Cargo Carrying within four days of his departure from the last U.S. port of call; (2) to reject any Surety Bond (FMC

Form 128), Equalization Fee Payment Guarantee (FMC Form 129) or Summary Report of Cargo Carrying (FMC Form 147) whenever such forms are incomplete, inaccurate or incorrectly filed or completed as required by 46 CFR Part 507; (3) receive any payment of money due under 46 CFR Part 507; (4) to return any Equalization Fee whenever it is determined that (a) the particular shipment is not receiving benefits under the Guatemalan industrial development laws or the Central American Agreement on Tax Incentives for Industrial Development, (b) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on all cargo carried by non-favored carriers, or (c) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on the same class of cargo for which the refund is requested (commodity, container, etc.) carried by non-favored carriers; (5) return any amount received as a guarantee for the payment of Equalization Fees upon a showing that the carrier has withdrawn from the U.S./Guatemalan trade and that all Equalization Fees and Summary Reports have been filed; and (6) amend, by appropriate notice in the FEDERAL REGISTER, the list of "favored carriers" designated in 46 CFR 507.2 whenever the Managing Director determines that (a) an unlisted carrier is a Guatemalan-flag or associated carrier, or (b) that a listed carrier is not a Guatemalan-flag or associated carrier.

JANUARY 13, 1978.

By the Commission.

JOSEPH C. POLKINO,  
Assistant Secretary.

[FR Doc. 78-2090 Filed 1-24-78; 8:45 am]

[6210-01]

#### FEDERAL RESERVE SYSTEM

##### CHEMICAL NEW YORK CORP.

Proposed Expansion of Activities of Sun States Life Insurance Co. and Great Lakes Insurance Co.

Chemical New York Corp., New York, N.Y., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to expand the activities of its subsidiaries, Sun States Life Insurance Co., Cleveland Ohio, and Great Lakes Insurance Co., Cleveland, Ohio. Notice of the application was published on November 22, 1977, in The New York Times, a newspaper circulated in New York, N.Y., and on November 17, 1977, in The Plain Dealer, a newspaper circulated in Cleveland, Ohio.

Applicant states that by the proposed expansion, the two subsidiaries would engage in the activity of reinsuring credit life and credit accident and health insurance written in connection with extensions of credit by Applicant's indirect subsidiaries in Arizona, Indiana, Kentucky, Mississippi, and Oklahoma. Such activities have

been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 17, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 78-2156 Filed 1-24-78; 8:45 am]

[6210-01]

#### CHILTON BANCSHARES, INC.

##### Formation of Bank Holding Company

Chilton Bancshares, Inc., Thorsby, Ala., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 84 per cent of the voting shares of Chilton County Bank, Thorsby, Ala. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than February 14, 1978.

Board of Governors of the Federal Reserve System, January 18, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[FR Doc. 78-2157 Filed 1-24-78; 8:45 am]

[6210-01]

#### DESHLER STATE CO.

##### Formation of Bank Holding Company

Deshler State Co., Deshler, Nebr., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Nebraska Security Bank, Deshler, Nebr. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 9, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2158 Filed 1-24-78; 8:45 am]

[6210-01]

#### GROOM BANCSHARES, INC.

##### Formation of Bank Holding Company

Groom Bancshares, Inc., Groom, Tex., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of The State National Bank of Grooms, Grooms, Tex. The factors that are considered in acting on the application are set forth in § 3(c) of the act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 22, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2159 Filed 1-24-78; 8:45 am]

[6210-01]

#### MERCANTILE BANCORPORATION, INC.

##### Proposed Acquisition of Thorp Credit Co. of Charleston

Mercantile Bancorporation, Inc., St. Louis, Mo., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for permission to acquire, through its subsidiary,

Franklin Finance Co., Clayton, Mo., the assets of Thorp Credit Co. of Charleston, Charleston, W. Va. Notice of the application was published on November 5, 1977, in the Charleston Gazette, a newspaper circulated in Charleston, W. Va.

Applicant states that the proposed subsidiary would engage in the activities of making direct consumer loans under the West Virginia Industrial Loan Act (operating as an industrial loan company) and of selling credit related life and disability insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than February 14, 1978.

The Board of Governors of the Federal Reserve System, January 18, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2160 Filed 1-24-78; 8:45 am]

[6210-01]

#### FEDERAL OPEN MARKET COMMITTEE

##### Domestic Policy Directive of December 19-20, 1977

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on December 19-20, 1977.

The Record of Policy Actions of the Committee for the meeting of December 19-20, 1977, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.



The information reviewed at this meeting suggests that real output of goods and services is growing in the current quarter at about the pace in the third quarter. The dollar value of total retail sales, which had increased sharply in October, rose considerably further in November. Industrial production continued to expand, and employment increased substantially. However, the unemployment rate, at 6.9 per cent, remained in the narrow range prevailing since April. The wholesale price index for all commodities rose sharply in November for the second successive month, reflecting another large increase in average prices of farm products and foods. However, the rise in average prices of industrial commodities was less rapid than in the preceding 2 months. The index of average hourly earnings has advanced at a somewhat faster pace so far this year than it had on the average during 1976.

The dollar has been under considerable pressure in foreign exchange markets in recent weeks, and its trade-weighted value against major foreign currencies has declined more than 3 per cent further since mid-November. In October the U.S. foreign trade deficit widened sharply, primarily as a result of the dock strike at many U.S. ports.

M-1—which had expanded substantially in October—declined slightly in November, and M-2 increased relatively little. The total of savings deposits and small-denomination time deposits at commercial banks declined somewhat, but growth in large-denomination time deposits accelerated sharply further as credit demands remained strong. Inflows to nonbank thrift institutions slowed further in November. Market interest rates have changed relatively little since mid-November.

In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster bank reserve and other financial conditions that will encourage continued economic expansion and help resist inflationary pressures, while contributing to a sustainable pattern of international transactions.

At its meeting on October 18, 1977, the Committee agreed that growth of M-1, M-2, and M-3 within ranges of 4 to 6 1/2 percent, 6 1/2 to 9 percent, and 8 to 10 1/2 percent, respectively, from the third quarter of 1977 to the third quarter of 1978 appears to be consistent with these objections. These ranges are subject to reconsideration at any time as conditions warrant.

At this time, the Committee seeks to maintain about the prevailing money market conditions during the period immediately ahead, provided that monetary aggregates appear to be growing at approximately the rates currently expected, which are believed to be on a path reasonably consistent with the longer-run ranges for monetary aggregates cited in the preceding paragraph. Specifically, the Committee seeks to maintain the weekly-average Federal funds rate at about the current level, so long as M-1 and M-2 appear to be growing over the December-January period at annual rates within ranges of 2 1/2 to 8 1/2 percent and 6 to 10 percent, respectively.

If, giving approximately equal weight to M-1 and M-2, it appears that growth rates over the 2-month period are approaching or moving beyond the limits of the indicated ranges, the operational objective for the weekly-average Federal funds rate shall be modified in an orderly fashion within a range of 6 1/2 to 8 1/2 percent. In the conduct of day-to-day operations, account shall be

taken of emerging financial market conditions, including the unsettled conditions in foreign exchange markets.

If it appears during the period before the next meeting that the operating constraints specified above are proving to be significantly inconsistent, the Manager is promptly to notify the Chairman who will then decide whether the situation calls for supplementary instructions from the Committee.

NOTE.—On January 9, 1978, the Committee modified the domestic policy directive adopted at its meeting of December 19-20, 1977, by raising the range for the Federal funds rate to 6 1/2 to 7 percent and by instructing the Manager to raise the rate to 6 1/2 percent over the next few days.

By order of the Federal Open Market Committee, January 20, 1978.

ARTHUR L. BROIDA,  
Secretary.

[FR Doc. 78-2161 Filed 1-24-78; 8:45 am]

#### [6210-01]

##### ROYAL TRUSTCO LTD.

###### Acquisition of Bank

Royal Trustco Ltd., Ottawa, Ontario, Canada, a wholly-owned subsidiary of the Royal Trust Co., Quebec, Canada, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to indirectly acquire, through Royal Trust Bank Corp., Miami, Fla., 51 percent or more of the voting shares of the American Bank of Orange County, Orlando, Fla. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 7, 1978.

Board of Governors of the Federal Reserve System, January 23, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2264 Filed 1-24-78; 8:45 am]

#### [1610-01]

##### GENERAL ACCOUNTING OFFICE

###### REGULATORY REPORTS REVIEW

###### Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports

Review Staff, GAO, on January 19, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FEC and ICC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 13, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review Office, Room 5106, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

##### FEDERAL ELECTION COMMISSION

In a Decision dated April 20, 1977 (File B-130961), the Comptroller General considered whether 44 U.S.C. 3512 applies to the Federal Election Commission (FEC) and concluded that it does and that, accordingly, FEC's information-gathering activities are subject to review and clearance by GAO. The FEC's Form 3 and supporting schedules, which are discussed in this notice, represent FEC's first submission to GAO under the Federal Reports Act.

The Federal Election Commission (FEC) requests clearance of revisions to its Form 3 and supporting schedules. Included in the revision are FEC Form 3, Report of Receipts and Expenditures for a Candidate or Committee Supporting Candidate(s) for Nomination or Election to Federal Office; Schedule A, Itemized Receipts; Schedule B, Itemized Expenditures; Schedule C, Debts and Obligations; Schedule D, Itemized Receipts, Sales and Collections; Schedule E, Itemized Independent Expenditures; and a new schedule, Schedule F, Itemized Coordinated Expenditures Made by Political Party Committees. Most revisions are simply clarification of what information needs to be reported and greater detail has been provided concerning reporting of contributions in-kind, transfers and primary and general receipts.

Any candidate for Federal Office who has not been granted a waiver or any political committee which receives contributions or makes expenditures in excess of \$1,000 in any calendar quarter during an election year (or the combined total of \$5,000 of receipts and expenditures in the case of a can-

didate or authorized committees in a non-election year) must file reports of receipts and expenditures on FEC Form 3. Political committees not receiving or expending more than \$1,000 in a calendar quarter of any election year (or the combined total of \$5,000 of receipts and expenditures in the case of a candidate or an authorized committee in a non-election year) may file on FEC Form 3a except that a pre-election, a post-election and an annual report must be filed by all reporting candidates and committees on FEC Form 3.

The FEC estimates that respondents to Form 3 are comprised of four categories as follows: approximately 1,400 candidates whose reporting time averages 2.5 hours each report; 3,200 candidate committees whose reporting time averages 4.5 hours each report; 800 political party committees whose reporting time averages 12 hours per response; and other party committees whose reporting time averages 10 hours per report.

##### INTERSTATE COMMERCE COMMISSION

The ICC requests an extension without change clearance of Quarterly Report of Revenues, Expenses and Statistics, Form QFF, which is required to be filed by some 146 Class A freight forwarders pursuant to Section 412 of the Interstate Commerce Act. Data collected by the form are used for economic regulatory purposes. Reports are mandatory and available for use by the public. The ICC estimates that reporting time averages 9 hours per report.

The ICC requests an extension without change clearance of Quarterly Report of Revenues, Expenses and Statistics, Form QWS, which is required to be filed by some 90 carriers by water having average annual revenues of \$100,000 or more pursuant to Section 313 of the Interstate Commerce Act. Reports are mandatory and available for use by the public. Data collected by Form QWS are used for economic regulatory purposes. The ICC estimates that reporting time averages 3 1/2 hours per report.

JOHN M. LOVELADY,  
Assistant Director,  
Regulatory Reports Review.

[FR Doc. 78-1996 Filed 1-24-78; 8:45 am]

#### [4110-08]

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

###### Office of the Assistant Secretary for Health

##### NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

###### Notice of Meeting

The National Commission for the Protection of Human Subjects of Bio-

medical and Behavioral Research will meet on February 10 and 11, 1978, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including the performance of institutional review boards, the basic ethical principles that should underlie the conduct of research on human subjects, delivery of health services under programs conducted or supported by the Department of Health, Education, and Welfare (including comments on proposed regulations applicable to sterilizations) and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer, 301-496-7776, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Md. 20016.

Dated: January 18, 1978.

MICHAEL S. YESLEY,  
Staff Director, National Commission for the Protection of  
Human Subjects of Biomedical  
and Behavioral Research.

[FR Doc. 78-2064 Filed 1-24-78; 8:45 am]

#### [4110-02]

##### Office of Education

##### GUARANTEED STUDENT LOAN PROGRAM

###### Special Allowance for Quarter Ending December 31, 1977

The Commissioner announces that for the 3-month period ending December 31, 1977, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at the annual rate of 2 1/2 percent will be paid to holders of eligible loans in the guaranteed student loan program.

Using the statutory formula, the special allowance for this 3-month period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (6.32 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (2.82) upward to the nearest one-eighth of 1 percent (2.875), and by dividing the resultant percent by 4 (0.71875 percent). Thus the special allowance to be paid for this period will be 0.71875 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(20 U.S.C. 1087-1(b).)

Dated: January 19, 1978.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
[FR Doc. 78-2063 Filed 1-24-78; 8:45 am]

#### [4110-12]

##### Office of Human Development Services

[Program Announcement No. 13629-782]

##### REHABILITATION LONG-TERM TRAINING

###### Announcement of Grants for FY 1978

The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted from State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education, wishing to compete for grants in fiscal year 1978 under the Rehabilitation Long-Term Training Grant Program authorized by section 203 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

Applications in the areas of "Rehabilitation Medicine," "Rehabilitation Counseling," "Prosthetics and Orthotics," "Rehabilitation Continuing Education," and "Experimental and Innovative Training Projects" will be accepted until March 24, 1978.

Applications in all other areas of rehabilitation long-term training will be accepted until April 21, 1978.

All applications received by these closing dates which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations governing rehabilitation long-term training were published in the FEDERAL REGISTER in Subpart A and Subpart E, Part 1362 of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR Part 1362) on November 25, 1975.

Scope of this Program Announcement: This program announcement identifies the general program objectives of the Rehabilitation Long-Term Training Program for Fiscal Year 1978.

A. Program purpose. Long-term training grants in vocational rehabilitation are made for the purpose of paying part of the costs of projects designed to increase the supply of personnel available for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely disabled. Long-term training projects include: Training projects in established rehabilitation disciplines, experimental and innovative training projects; and rehabilitation continuing education programs.



**B. Eligible applicants.** Applications may be submitted by State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

**C. Available funds.** An estimated \$28 million will be available for rehabilitation long-term training grants during the 1978-1979 academic year beginning July 1, 1978. Of the 425 rehabilitation long-term training projects funded during the 1977-1978 academic year, 130 new and competing extension applications were approved and funded. The size of the individual grants is variable and may range from approximately \$10,000 to approximately \$200,000.

**D. Program objectives and priorities for funding.** Grants are made to provide a balanced program of assistance to meet the medical, vocational and other personnel training needs of both public and private rehabilitation programs and institutions. In awarding long-term training grants, priority will be given to the support of ongoing training projects which are eligible for continuation grants and which have been determined to be making satisfactory progress toward achieving established objectives. In addition, special priority will be assigned to training in those professional fields which directly support and enhance the vocational rehabilitation service delivery activities of the State vocational rehabilitation agencies.

**E. Grantee Share of Project.** It is expected that grantees will provide some of the total project costs. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q. Institutions of higher learning and other nonprofit institutions may consider actual indirect costs in excess of the 8 percent allowed on training grants as part of the grantee contribution to the project.

**F. The application process—OMB Circular A-95 Clearinghouse Notice.** Applicants for rehabilitation long-term training grants are not routinely required to notify the State and Area-wide A-95 Clearinghouse of the intent to apply for Federal assistance. States are authorized to extend the project notification and review procedures of OMB Circular A-95 to include training grants. If the applicant's State has extended the coverage of OMB Circular A-95 to this program, however, the Clearinghouse procedures must be observed.

**State vocational rehabilitation agency review.** Applicants are advised to consult with their State vocational rehabilitation agency in the initial stages of application development. Applications submitted under this program are not expected to have State vocational rehabilitation agency ap-

proval before submission to the Rehabilitation Services Administration. State vocational rehabilitation agencies are requested to review and comment on the application after formal submission.

**Application submission.** In order to be considered for a rehabilitation long-term training grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner, Rehabilitation Services Administration, in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Long-Term Training Program.

One signed original and two copies of the grant application, including all attachments, are required.

1. Applications for the support of special long-term training projects of national scope including experimental and innovative training projects, should be addressed as follows: Division of Grants and Contracts Management, Office of Human Development Services, Room 1427, 330 C Street SW., Washington, D.C. 20201.

Special long-term training projects of national scope are those projects which are designed to: (a) have a direct impact on vocational rehabilitation programs throughout the country; (b) have objectives which, if achieved, could result in an improved delivery system for vocational rehabilitation services, especially as it relates to those with the most severe handicaps; and which could affect national policies or standards established for the rehabilitation training program; (c) encompass participants from all sections of the country and do not necessarily relate to a single rehabilitation field of practice; and (d) be conducted by an institution, agency or organization with the capacity to offer training in more than one geographical location.

2. Applications for the support of long-term training projects of Regional scope should be addressed to the appropriate Director, Office of Rehabilitation Services as follows:

#### REGION I

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Room 2011, Government Center, Boston, Mass. 02203.

#### REGION II

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 26 Federal Plaza, Room 4106, New York, N.Y. 10007.

#### REGION III

Director, Office of Rehabilitation Services, Department of Health, Education, and

Welfare, 3535 Market Street, P.O. Box 13716, Philadelphia, Pa. 19101.

#### REGION IV

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 101 Marietta Street NW., Suite 903, Atlanta, Ga. 30323

#### REGION V

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive, 31st Floor, Chicago, Ill. 60606.

#### REGION VI

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Fidelity Union Life Building, Room 340, 1511 Bryan Street, Dallas, Tex. 75201.

#### REGION VII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Room 384, Kansas City, Mo. 64106.

#### REGION VIII

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, Room 11037, 19th and Stout Streets, Denver, Colo. 80294.

#### REGION IX

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Office Building, 50 United Nations Plaza, San Francisco, Calif. 94102.

#### REGION X

Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Arcade Building, 1321 Second Avenue (MS 622), Seattle, Wash. 98101.

**Application consideration.** The Commissioner, Rehabilitation Services Administration determines the final action to be taken with respect to each grant application.

All grant applications are subject to a competitive review and evaluation conducted by qualified non-Federal consultants experienced in the training of rehabilitation personnel. The Commissioner takes into account the competitive review by the non-Federal consultants, and the comments of the State vocational rehabilitation agencies, the HEW Regional Offices and the Rehabilitation Services Administration Central Office program office, in reaching a decision on each competitive application.

After the Commissioner has reached a decision either to disapprove or not to fund a competing grant application, the unsuccessful applicant is notified of that decision.

**Grant Awards.** The Commissioner makes grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award

document is the Notice of Grant Awarded which sets forth in writing the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation. The initial award also specifies the project period for which support is contemplated.

**G. Criteria for review and evaluation of grant applications.** All applications received in response to this announcement will receive a technical review by qualified experts. Applications are evaluated against the following criteria:

1. The relevance of the purpose of the content and the training project to the administratively established objectives of the public rehabilitation program and the Rehabilitation Act of 1973, as amended;
2. The methodology to be employed in implementing the project and its feasibility for the achievement of the established educational objectives;
3. The adequacy of the plan for the evaluation of the effectiveness of project activities;
4. The existence of a working relationship with the State vocational rehabilitation agency and other agencies and rehabilitation facilities providing vocational rehabilitation services;
5. The extent to which the training projects holds promise of increasing the supply of personnel or improving the skill competence of personnel trained to deliver vocational rehabilitation services to physically or mentally handicapped persons, especially those with the most severe handicaps, or other groups of handicapped persons, such as handicapped persons from minority groups;
6. The extent to which other training programs in the same field are available in the State or Region;
7. The utilization, for clinical, field, or instructional experiences, of a "rehabilitation setting": Which means an agency or institution operating an organized program of vocational rehabilitation services designed to help severely physically or mentally handicapped persons function optimally in society within their capacities and limitations.
8. Evidence that the supervised clinical practice will be educationally focused and that standards to assure the competence of those staff persons supervising students have been established and will be maintained by the training institution;
9. Designation of a project director qualified in a professional field which contributes to the vocational rehabilitation of the disabled, who is able to devote sufficient time to the project to ensure its proper direction;
10. The financial resources of the applicant for accomplishing the objec-

tives of the training project, how much the applicant plans to contribute to the total cost of the project, and the extent to which the estimated cost to the government is reasonable and necessary to accomplish the project objectives.

11. The personnel and facility resources available to the applicant for accomplishing the objectives of the training project;

12. The criteria to be used for the selection of students to whom traineeships are to be awarded;

13. Evidence that the training institution and all clinical and field instruction settings are free of architectural and other barriers to the training of handicapped students;

14. Where appropriate, evidence of current accreditation by the designated accrediting agency;

15. Information on the employment outlook for graduates of the training program including reports from potential employers, job vacancies in the geographical area served by the educational institution, and records of positions held by students who have completed the training program; and

16. Extent to which application instructions are adequately addressed, including both the narrative statement and budget justification.

**H. Closing Date for Receipt of Applications.** 1. Applications in the areas of "Rehabilitation Medicine", "Rehabilitation Counseling", "Prosthetics and Orthotics", "Rehabilitation Continuing Education", and "Experimental and Innovative Rehabilitation Long-Term Training Projects" will be accepted until March 24, 1978.

2. Applications in all other areas of rehabilitation long-term training will be accepted until April 21, 1978.

3. Applications will be judged on time if: a. The application was sent by registered or certified mail not later than the date specified above as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

b. The application is sent by mail and received on or before the closing date in the appropriate Department of Health, Education, and Welfare, the Office of Human Development Services of the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

c. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than close of business on the date specified above in any case.

**I. Late Applications.** Applications received after the closing date are not accepted and applicants are notified accordingly.

**J. Availability of application forms.** Application kits which contain the prescribed application forms and other appropriate information for the applicant will be mailed to grantees who have been conducting long-term training projects during the 1977-1978 academic year. Other eligible applicants may request application materials from the appropriate Regional Office of the Rehabilitation Services Administration.

(29 U.S.C. 763.)

(Catalog of Federal Domestic Assistance Number 13.629, Rehabilitation Training.)

Dated: December 29, 1977.

ROBERT R. HUMPHREYS,  
Commissioner, Rehabilitation  
Services Administration.

Approved: January 20, 1978.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.

(FR Doc. 78-2124 Filed 1-24-78; 6:45 am)

[78-2214]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### National Institutes of Health

### COMMITTEE ON CANCER IMMUNOTHERAPY

#### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Committee on Cancer Immunotherapy, National Cancer Institute, February 9, 1978, Building 10, Room 4B14, National Institutes of Health. The meeting will be open to the public on February 9, 1978, from 1:15 p.m. to 1:45 p.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 9, 1978, from 1:45 p.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708 will provide summaries of the meeting and a roster of committee members.

Dr. George M. Steinberg, Executive Secretary, National Cancer Institute, Building 10, Room 4B09, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1791) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.395, National Institutes of Health)



Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc. 78-2214 Filed 1-24-78; 8:45 am]

#### [4110-08]

##### GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on February 6 and 7, 1978, at the LaPlaya Hotel, Camino Real at 8, Carmel-by-the-Sea, Calif.

The meeting will be open to the public on February 6, 1978, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10 (d) of Pub. L. 92-463, the meeting will be closed to the public on February 6 from 11 a.m. to 5 p.m., and on February 7 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md. 20014, telephone 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.

[FR Doc. 78-2213 Filed 1-24-78; 8:45 am]

#### NOTICES

#### [4210-01]

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

###### Office of the Secretary TASK FORCE ON HOUSING COSTS Advisory Committee Meetings

AGENCY: Department of Housing and Urban Development.

ACTION: Notice is given of meetings of Committees established by the Task Force on Housing Costs, whose functions were published at 42 FR 42383.

SUMMARY: Meetings of the Task Force on Housing Costs' Committees on (1) Building and Technology, (2) Land Supply, Acquisition and Development, and (3) Financing, Money Markets and Marketing. Each of these three committees will meet in the New Communities Conference Room, Seventh Floor (Room 7106), Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, on the following dates and times: The Committee on Building and Technology will convene at 9 a.m. on February 8, 1978. The Committee on Land Supply, Acquisition and Development will convene at 9 a.m. on February 9, 1978. The Committee on Financing, Money Markets and Marketing will convene at 9 a.m. on February 10, 1978.

SUPPLEMENTARY INFORMATION: The purpose of and agendas for each of these meetings may include, but are not limited to, the following:

1. Review of the minutes of the last committee meeting.
2. Review of draft committee recommendations.
3. Testimony from members of the general public.
4. Discussion of other issues and ideas not previously considered, and
5. Consideration of other committee business.

ADDRESS: Task Force on Housing Costs, Staff Chairman Edward J. Cachine, Room 7110, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

###### FOR FURTHER INFORMATION CONTACT:

Edward J. Cachine, 202-755-7362 (substantive inquiries), Thomas Bacon, 202-755-5277 (press inquiries), or Donald K. McLain, 202-755-5333.

These committee meetings will be open to the public.

Issued at Washington, D.C., January 23, 1978.

WILLIAM J. WHITE,  
Chairman, Task Force on  
Housing Costs.

[FR Doc. 78-2202 Filed 1-24-78; 8:45 am]

#### [4310-84]

##### DEPARTMENT OF THE INTERIOR

###### Bureau of Land Management [F-14909-A2]

###### ALASKA NATIVE CLAIMS SELECTION

On November 15, 1973, Kuugpik Corp., Inc., for the Native village of Nookksut (Nuiqsut, Nuiqsat), filed selection application F-14909-A2 under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Nookksut area.

As to the lands described below, the application, as amended is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(b), aggregating approximately 7,637 acres, is considered proper for acquisition by Kuugpik Corp., Inc. and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

###### UMIAT MERIDIAN, ALASKA (UNSURVEYED)

T. 12 N., R. 2 E.

Secs. 2 to 12, inclusive, all.  
Containing approximately 8,917 acres.

T. 14 N., R. 2 E.

Secs. 19 and 20 (fractional), all; Secs. 28 to 32 (fractional), inclusive, all.  
Containing approximately 720 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

A right-of-way thereon for ditches and canals constructed by the authority of the United States, as prescribed and directed by the act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945;

2. A right-of-way thereon for the construction of railroads, telegraph, and telephone lines, as prescribed and directed by the act of March 12, 1914, 38 Stat. 305, 43 U.S.C. 975d;

3. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

4. Pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1618(b) (Supp. V, 1975)), the following public easements, referenced by easement identification under (EIN) on the easement maps in case file F-14909-EE are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C3, D1) An easement for an existing access trail fifty (50) feet in width from section 38, T. 13 N., R. 2 E., Umiat Meridian, southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

b. (EIN 5 C3, C5, D1, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

c. (EIN 11 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

d. (EIN 12C) Easements for the transportation of energy, fuel, and natural resources which are the property of the United States or which are intended for delivery to the United States or which are produced by the United States. These easements also include the right to build any related facilities necessary for the exercise of the right to transport energy, fuel, and natural resources, including those related facilities necessary during periods of planning, locating, constructing, operating, maintaining, or terminating transportation systems. The specific location of these easements shall be determined only after consultation with the owner of the servient estate. Whenever the use of such easements will require removal or relocation of any structure owned or authorized by the owner of the servient estate, such use shall not be initiated without the consent of the owner of such improvement. Provided, however, That the United States may exercise the right of eminent domain if such consent is not given. Only those portions of these easements that are actually in use or that are expressly authorized on March 3, 1996, shall continue to be in force.

e. In addition to the foregoing, the United States incorporates by reference the agreement of May 14, 1974, between the United States Department of the Navy, Arctic Slope Regional Corp., Kuugpik Corp., Inc., and three other Arctic Slope village corporations, and reserves those easements necessary to implement said agreement. A copy of the agreement is located in Bureau of Land Management file F-14909-EE.

The grant of land shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under

section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him;

3. Requirements of section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

4. The terms and condition of the agreement dated August 6, 1976 between the Secretary of the Interior, Arctic Slope Regional Corporation, Kuugpik Corp., Inc., and the seven other Arctic Slope village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for Kuugpik Corp., Inc., serialized F-14909-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Arctic Slope Regional Corporation has reallocated 8,403 acres to Kuugpik Corporation, Inc., for selection pursuant to section 12(b) of the Alaska Native Claims Settlement Act. Upon this initial conveyance of 7,637 acres, a total of approximately 766 acres will remain to be conveyed to the corporation before the village reaches full 12(b) entitlement.

Conveyance of the remaining entitlement to Kuugpik Corporation, Inc. will be made at a later date. It should be noted that no interim conveyance will be issued to the Arctic Slope Regional Corp. for the subsurface estate of the lands hereinabove described since they lie within the National Petroleum Reserve in Alaska. Section 12(a)(1) of the Alaska Native Claims Settlement Act provides that when a village corporation selects the surface estate of lands within this reserve, the regional corporation may make in lieu selections of the subsurface estate, in an equal acreage, from other lands withdrawn by subsection 11(a) of the act; therefore, Arctic Slope Regional Corp. is entitled to approximately 7,637 acres in lieu subsurface estate.

No determination of navigability or tidal influence affecting the inland water bodies within the lands herein described is necessary as the lands were withdrawn by Public Land Order No. 82 (43 FR 1796, February 3, 1943) when the Alaska Statehood Act of July 7, 1958 was passed (see 72 Stat. 339, 343; 48 U.S.C., Ch. 2, Sec. 6(m) (1970)); therefore, the lands beneath tidal or navigable water bodies did not vest in the State pursuant to the Submerged Lands Act of May 22, 1953 (67 Stat. 29, 32, Sec. 5; 43 U.S.C. Ch. 29, 1313(a) (1970)).

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in

the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until February 24, 1978, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of, and requirements for, filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

If an appeal is taken, the adverse parties to be served are:

Kuugpik Corp., Inc., Nookksut (Nuiqsut), Alaska 99724.  
Arctic Slope Regional Corp., P.O. Box 129, Barrow, Alaska 99723.

ROBERT E. SORENSON,  
Chief, Branch of Lands  
and Minerals Operations.

[FR Doc. 78-2123 Filed 1-24-78; 8:45 am]

#### [4310-70]

##### National Park Service

##### CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

###### Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, February 18, 1978, at 10 a.m. at the Williamsport Municipal Building (second floor council chambers), Williamsport, Md.

The Commission was established by Pub. L. 91-664 to meet and consult with the Secretary of the Interior on



## NOTICES

general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.  
Mrs. Bonnie Troxell, Cumberland, Md.  
Miss Nancy Long, Glen Echo, Md.  
Mrs. Constance Morella, Bethesda, Md.  
Mr. Kenneth Rollins, Brookmont, Md.  
Mr. Vladimir A. Whabe, Baltimore, Md.  
Mr. Edwin F. Wesely, Jr., Brookmont, Md.  
Mr. John D. Millar, Cumberland, Md.  
Mr. James B. Coulter, Annapolis, Md.  
Mrs. Dorothy Grotos, Arlington, Va.  
Miss Margaret Diets, Lovettsville, Va.  
Mr. James H. Gilford, Frederick, Md.  
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.

Mr. Dayton C. Casto, Jr., Great Cacapon, W. Va.

Mr. Silas F. Starry, Shepherdstown, W. Va.  
Mr. Rockwood H. Foster, Washington, D.C.  
Mr. R. Lee Downey, Williamsport, Md.  
Mr. John C. Frye, Gapland, Md.

The matters to be discussed at this meeting include:

1. On-site inspections of various areas in the Williamsport vicinity.
2. Call to order and roll call.
3. Approval of minutes, November 19, 1977.
4. Widespread area construction project.
5. Access to Town of Brunswick campground.
6. State of Maryland study on the Potomac River by the Department of Natural Resources.
7. Water pollution report.
8. Interpretive signs and status report on Interpretive Planning on the Palisades District.
9. Construction program and priorities through 1981.
10. Abner Cloud House site plans.
11. Harpers Ferry Road improvements.
12. Turning basin, Williamsport.
13. Western Maryland Railroad abandonment (Roundtop to Cumberland).
14. District of Columbia Planning Office report on Georgetown planning activities.
15. B&O Railroad line abandonment in Washington County.
16. Water intake structures, WSSC and Fairfax County.
17. Potomac River Safety program.
18. Committee reports.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and it is expected that not more than 30 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish

to submit written statements, may contact William R. Fallor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Md. 21782, telephone area code 301-432-2231. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at park Headquarters, Sharpsburg, Md.

Dated: January 16, 1978.

MANUS J. FISH, Jr.,  
Regional Director,  
National Capital Region.

[FR Doc. 78-2061 Filed 1-24-78; 8:45 am]

## [4310-70]

Office of the Secretary

[INT-DES 77-35]

## BISCAYNE NATIONAL MONUMENT, FLA.

## Notice of Availability and Notice of Public Meetings on Draft Environmental Statement on General Management Plan

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Draft Environmental Statement on the proposed General Management Plan for Biscayne National Monument.

The statement discusses proposals for the management, development and operation of Biscayne National Monument.

Copies are available from or for inspection at the following locations:

Southeast Regional Office, National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.  
Superintendent, Everglades National Park, P.O. Box 279, Homestead, Fla. 33030.  
Superintendent, Biscayne National Monument, P.O. Box 1390, Homestead, Fla. 33030.

In addition, as part of the Service's program for public participation in planning, public meetings to consider the material in the assessment will be held at the following locations and times:

January 25, 1978 at 7 p.m.:  
Vizcaya Museum Auditorium, 3251 South Miami Avenue, Miami, Fla.  
January 26, 1978 at 7 p.m.:  
Dade County Agricultural Center, 18710 Southwest 288 Street, Homestead, Fla. (Biscayne Drive at Redlands Road).

Public comments on the proposed General Management Plan and Environmental Statement are solicited. Written and oral comments on the statement and its contents will be received for consideration at the meetings. In addition written comments will be received at the offices listed above for a period of 30 days following the public meetings.

NOTE.—The U.S. Department of the Interior has determined that this document

does not contain a major proposal requiring a preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: December 6, 1977.

DAVID USHIO,  
Acting Deputy Assistant  
Secretary of the Interior.

[FR Doc. 78-2060 Filed 1-24-78; 8:45 am]

## [6820-35]

## LEGAL SERVICES CORPORATION

## GRANTS AND CONTRACTS

JANUARY 19, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Greater Boston Legal Services, Inc. in Boston, Mass. to serve Brookline, Malden, Medford and environs and the Quincy/South Shore area, Massachusetts.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Boston Regional Office, 84 State Street, Room 520, Boston, Mass. 02101.

THOMAS EHRLICH,  
President.

[FR Doc. 78-2111 Filed 1-24-78; 8:45 am]

## [6820-35]

## GRANTS AND CONTRACTS

JANUARY 19, 1978.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract or project."

The Legal Services Corporation hereby announces publicly that it is considering the grant application sub-

mitted by: Prairie State Legal Services, Inc. in Rockford, Ill. to serve LaSalle, Lee, Bureau, Grundy, Livingston, DeKalb, and Kendall counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Chicago Regional Office, 310 South Michigan Avenue, 24th Floor, Chicago, Ill.

THOMAS EHRLICH,  
President.

[FR Doc. 78-2112 Filed 1-24-78; 8:45 am]

## [7555-01]

## NATIONAL SCIENCE FOUNDATION

## LONG-TERM ECOLOGICAL MEASUREMENTS

## Conference

The Biological Research Resources Program of the National Science Foundation is sponsoring a meeting to be held at the Marine Biological Laboratory, Woods Hole, Mass., on February 6, 7, 8, 9, and 10th, 1978.

The objective of the conference is to formulate an integrating system for collection of long-time series ecological data.

While this meeting is not considered to be a meeting of an "advisory committee" as defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

The conference will be coordinated by Daniel B. Botkin of the Marine Biological Laboratory.

Copies of the final report of the conference will be available through William E. Sievers, Biological Research Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,  
Program Director, Biological  
Research Resources Program.

[FR Doc. 78-2084 Filed 1-24-78; 8:45 am]

## [7555-01]

## SYSTEMATICS/ECOLOGY COMMUNITY

## Symposium on the Impact of Federal Wildlife Regulations

The Biological Research Resources Program of the National Science Foundation is sponsoring a symposium to be held at the National Academy of Sciences, Washington, D.C. on February 14 and 15th, 1978.

The symposium will be devoted to the impact of federal wildlife regulations on the work of systematists and ecologists. It is the intent to explore the histories and intents of various wildlife laws, to inform the scientific

community of its responsibilities, and to initiate a balanced dialogue between the regulators and the regulated.

While this meeting is not considered to be a meeting of an "advisory committee" as defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open to the public.

Dr. Peter Raven, of the Missouri Botanical Garden will act as moderator. Copies of the final report of the symposium will be available through William E. Sievers, Biological Research Resources Program, NSF, Washington, D.C. 20550.

WILLIAM E. SIEVERS,  
Program Director, Biological  
Research Resources Program.

[FR Doc. 78-2085 Filed 1-24-78; 8:45 am]

## [7555-01]

## SUBCOMMITTEE ON HUMAN CELL BIOLOGY

## Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Human Cell Biology of the Advisory Committee for Physiology, Cellular, and Molecular Biology.

DATE AND TIME: February 10 and 11, 1978—9 a.m. to 6 p.m. each day.

PLACE: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

## CONTACT PERSON:

Dr. Herman W. Lewis, Program Director, Human Cell Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4200.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in Human Cell Biology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of

## NOTICES

Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 20, 1978.

[FR Doc. 78-2088 Filed 1-24-78; 8:45 am]

## NUCLEAR REGULATORY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

## Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on February 9-11, 1978, in Room 1046, 1717 H Street N.W., Washington, D.C. The agenda for the subject meeting will be as follows:

THURSDAY, FEBRUARY 9, 1978

8:30 A.M.—9:30 A.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities. The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present regarding the request for an operating license for Arkansas nuclear one, unit 2. Portions of this session will be closed if necessary to discuss proprietary information applicable to this facility and provisions for physical protection of this plant.

9:30 A.M.—12:30 P.M.—ARKANSAS NUCLEAR ONE, UNIT 2 (OPEN)

The committee will hear and discuss presentations by representatives of the NRC staff and the applicant related to the request for operation of this unit. Portions of this session will be closed if necessary to discuss proprietary information applicable to this facility and provisions for physical protection of this plant.

1:30 P.M.—2 P.M.—EXECUTIVE SESSION (OPEN)

The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present regarding proposed operation of the Maine Yankee atomic power station at increased power. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

2 P.M.—3:30 P.M.—MAINE YANKEE ATOMIC POWER STATION (OPEN)

The committee will hear and discuss presentations by representatives of



the NRC staff and the applicant related to the request for a power level increase for this plant. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

**3:30 P.M.-4 P.M.—EXECUTIVE SESSION (OPEN)**

The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present on the La Crosse boiling water reactor. Portions of this session will be closed if required to discuss proprietary information related to this plant.

**4 P.M.-5:30 P.M.—LA CROSSE BOILING WATER REACTOR (OPEN)**

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the Dairyland Power Cooperative regarding operation of the La Crosse boiling water reactor specifically related to performance of the reactor fuel and proposed operation with replacement fuel. Portions of this session will be closed if required to discuss proprietary information related to this plant.

**5:30 P.M.-6:30 P.M.—EXECUTIVE SESSION (OPEN)**

The committee will hear and discuss reports of subcommittees, working groups, and members on a number of generic matters related to reactor safety including proposed regulatory guides, program plans for resolution of generic matters, and calculation of control room doses following postulated accidents.

FRIDAY, FEBRUARY 10, 1978

**8:30 A.M.-9:30 A.M.—MEETING WITH NRC STAFF (OPEN)**

The committee will hear presentations from and hold discussions with members of the Nuclear Regulatory Commission staff regarding recent licensing actions and operating experience including seismic reevaluation of the Vallecitos boiling water reactor, combination of seismic and other loadings in the design of nuclear plants, requirements for key-card security systems for nuclear facilities.

The future schedule for ACRS activities will also be discussed including consideration of a request for information regarding the seismic design of the North Anna power station.

**9:30 A.M.-10 A.M.—EXECUTIVE SESSION (OPEN)**

The committee will hear and discuss the report of the ACRS subcommittee and consultants who may be present related to the request for an operating license for the Edwin I. Hatch nuclear plant, unit 2. Portions of this session will be closed if required to discuss

proprietary information related to this plant and provisions for physical protection of this facility.

**10 A.M.-12:30 P.M.—EDWIN I. HATCH NUCLEAR PLANT, UNIT 2 (OPEN)**

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the applicant related to the request for an operating license for this plant. Portions of this session will be closed if required to discuss proprietary information related to this plant and provisions for physical protection of this facility.

**1:30 P.M.-2 P.M.—EXECUTIVE SESSION (OPEN)**

The committee will hear and discuss the report of its subcommittee and consultants who may be present on the design of containers for the air shipment of plutonium.

**2 P.M.-4 P.M.—CONTAINERS FOR AIR SHIPMENT OF PLUTONIUM (OPEN)**

The committee will hear presentations by and hold discussions with representatives of the NRC staff and the Sandia Laboratory regarding the design and qualification testing of containers to be used for the air shipment of plutonium.

**4 P.M.-4:30 P.M.—EXECUTIVE SESSION (OPEN)**

The committee will hear and discuss the report of its subcommittee and consultants who may be present on plans and procedures for the decommissioning of nuclear facilities.

**4:30 P.M.-6:30 P.M.—MEETING ON DECOMMISSIONING OF NUCLEAR FACILITIES (OPEN)**

The committee will hear presentations by and hold discussions with representatives of the NRC staff, the Department of Energy, and the nuclear industry regarding procedures and practices related to the decommissioning of nuclear facilities. Portions of this session will be closed if required to discuss proprietary information related to this matter.

SATURDAY, FEBRUARY 11, 1978

**8:30 A.M.-4 P.M.—EXECUTIVE SESSION (OPEN/CLOSED)**

The committee will prepare its reports to the Nuclear Regulatory Commission on the Edwin I. Hatch nuclear plant, unit 2; Arkansas nuclear one, unit 2; Maine Yankee atomic power station; and the La Crosse boiling water reactor.

The committee will complete the preparation of comments and positions discussed during this meeting including comments regarding the design of containers for air shipment of plutonium and procedures for decommissioning of nuclear facilities.

Portions of this session will be closed as necessary to discuss matter involved in adjudicatory proceedings.

I have determined in accordance with subsection 10(d) of Pub. L. 92-463

that it is necessary to close portions of the meeting as noted above to protect proprietary information (5 U.S.C. 552b(c)(4)), and to preserve the confidentiality of information related to safeguarding of special nuclear material and the physical protection of nuclear facilities (5 U.S.C. 552b(c) (1) and (4)). The portions of the meeting during which ACRS comments on matters involved in adjudication are prepared will be held in closed session pursuant to exemption (10) of 5 U.S.C. 552b(c). Separation of factual information from information considered exempt from disclosure during closed portions of the meeting is not considered practical.

Procedures for the conduct of and participation in this meeting were outlined in the FEDERAL REGISTER on October 31, 1977, page 56972. In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the committee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

Background information concerning items to be considered during this meeting can be found in documents on file and available for public inspection in the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the following public document rooms:

ARKANSAS NUCLEAR ONE, UNIT 2  
Arkansas Polytechnic College, Russellville, Ark. 72801.

MAINE YANKEE ATOMIC POWER STATION  
Wiscasset Public Library, High Street, Wiscasset, Maine 04578.

LA CROSSE BOILING WATER REACTOR  
La Crosse Public Library, 800 MAIN STREET, La Crosse Wis. 54601.

E. I. HATCH NUCLEAR PLANT, UNIT 2  
Appling County Public Library, Parker Street, Baxley, Ga. 31513.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley, telephone 202-634-1371, between 8:15 a.m. and 5 p.m. e.s.t.

Dated: January 19, 1978.

JOHN C. HOYLE,  
Advisory Committee,  
Management Officer.

[FR Doc. 78-2042 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. STN 50-560]

FLUOR PIONEER, INC.

Notice of Receipt of Amendment to Standard Safety Analysis Report

Fluor Pioneer, Inc., in accordance with the provisions of Appendix O to 10 CFR Part 50 of the Nuclear Regulatory Commission's (Commission) rules and regulations, filed with the Commission a document entitled, "Balance of Plant Standard Safety Analysis Report" (BOPSSAR), which was docketed on January 27, 1976. A Notice of Receipt of Standard Safety Analysis Report was published in the FEDERAL REGISTER on February 6, 1976 (41 FR 5640).

The original BOPSSAR application describes the balance of plant design for a pressurized water reactor standard nuclear power plant utilizing the Westinghouse Electric Corp.'s RESAR-41 nuclear steam supply system standard design for which the Commission staff issued a Preliminary Design Approval on August 17, 1977.

On October 31, 1977, Fluor Pioneer, Inc. filed Amendment No. 15 to the BOPSSAR application which revised the application to reflect changes to the balance of plant design for a plant utilizing the Babcock & Wilcox Company's BSAR-205 nuclear steam supply system standard design. Certain portions of the Fluor Pioneer, Inc. application which utilizes the RESAR-41 design previously reviewed by the staff, are proposed to be the same for utilization of the BSAR-205 design. Therefore, the staff review of BOPSSAR/BSAR-205 will be directed toward the differences from the previous approved design.

Upon completion of the review of BOPSSAR/BSAR-205 the Commission's staff will publish a Safety Evaluation Report (SER) documenting the results of the review. Moreover, BOPSSAR/BSAR-205 will be referred to the Advisory Committee on Reactor Safeguards (ACRS) for its review and a report thereon. Copies of the SER and ACRS report will be made available to the public. A notice relating to the availability of these documents will be published in the FEDERAL REGISTER.

All interested persons who desire to submit written comments for consideration by the staff and ACRS should send them to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555,

ATTN: Docketing and Service Section by March 27, 1978.

A copy of the BOPSSAR/BSAR-205 application and amendments thereto and other related documents are available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington, D.C. 20555. When available, the SER and ACRS report will also be made available for public inspection at the Commission's Public Document Room.

Dated at Bethesda, Md., this 18th day of January 1978.

For the Nuclear Regulatory Commission.

JOHN F. STOLZ,  
Chief, Light Water Reactors  
Branch No. 1, Division of Project Management.

[FR Doc. 78-2043 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket Nos. 50-282 and 50-306]

NORTHERN STATES POWER CO.

Notice of Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 25 and 19 to Facility Operating License Nos. DPR-42 and DPR-60, issued to the Northern States Power Co. (the licensee), which revised the licenses and their appended Technical Specifications for operation of Unit Nos. 1 and 2 of the Prairie Island Nuclear Generating Plant (the facilities) located in Goodhue County, Minn. The amendments are effective as of their date of issuance.

The amendments consisted of miscellaneous changes in the Technical Specifications to (1) revise the diesel generator testing, (2) revise the sampling tests for Boron and I-131, (3) clarify the dual role of the Residual Heat Removal system, and (4) make miscellaneous administrative changes to correct typographical errors, clarify the intent of the Technical Specifications and relocate the Spent Fuel Pool Special Ventilation System limiting conditions for operation and surveillance requirements. In addition, we have deleted from the Technical Specifications any reference to respiratory protection equipment since it is now specifically addressed by section 20.103 of 10 CFR Part 20 of the Commission's regulations.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

For further details with respect to this action, see: (1) The application for amendments dated July 8, 1977, (2) Amendment Nos. 25 and 19 to License Nos. DPR-42 and DPR-60, respectively, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at The Environmental Conservation Library of the Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minn. 55401. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 18th day of January 1978.

For the Nuclear Regulatory Commission.

MARSHALL GROTEHUIS,  
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-2044 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Notice of Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment modifies portions of the Administrative Controls section and portions of the Environmental Technical Specifications dealing with Planktonic and Larval Organisms and the chemical and thermal discharge limits.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act



of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) The applications for amendment dated January 21, March 14 (which was superseded in its entirety by letter dated October 11), September 16, and October 31, 1977, (2) Amendment No. 35 to License No. DPR-40, (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of January 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors  
Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-2045 Filed 1-24-78; 8:45 am]

[7590-01]

[Docket No. PRM-20-10]

#### CITIZENS UNITED FOR RESPONSIBLE ENERGY

##### Filing of Petition for Rule Making

Notice is hereby given that Citizens United for Responsible Energy, by letter dated December 27, 1977, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulation "Standards for Protection Against Radiation", 10 CFR Part 20.

The petitioner requests the Commission to amend § 20.403 Notifications of

incidents, of 10 CFR Part 20, to require that all abnormal incidents be reported immediately (within ½ hour) to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office. The petitioner defines "Abnormal incident" as an incident which involves the release of radioactive products to either the air or water. The petitioner requests also that the amendment of § 20.403 require the utility involved to report immediately (within ½ hour) to the director of a designated state agency responsible for public health and safety which is within 200 miles of such incident.

The petitioner states that the basis for the requested amendment is the provision in § 20.403 which allows up to 24 hours in certain instances for reporting abnormal occurrences in nuclear power plants, and the absence of rules requiring any communications with State agencies within close geographic proximity. The petitioner states also that the petition is prompted by numerous incidents occurring in close proximity to Iowa, as well as in other sections of the country, which have not been reported promptly to State officials.

A copy of the petition for rule making is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by March 27, 1978.

Dated at Washington, D.C. this 18th day of January 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,  
Secretary of the Commission.  
[FR Doc. 78-1940 Filed 1-24-78; 8:45 am]

[3110-01]

#### OFFICE OF MANAGEMENT AND BUDGET

##### CLEARANCE OF REPORTS

###### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 16, 1978 (44 U.S.C. 3509). The purpose of

publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

#### NEW FORMS

##### DEPARTMENT OF ENERGY

Distillate Fuel Oil Weekly Status Monitoring Telephone Questionnaire, EIA-47, weekly, distillate refiners and bulk terminal operators, C. Louis Kincannon, 395-3211.

Weekly Propane Status Monitoring Telephone Questionnaire, EIA-48, weekly, propane storage operators, C. Louis Kincannon, 395-3211.

Weekly Telephone Survey of Prime Suppliers, weekly, prime suppliers of distillate fuel oil and propane, C. Louis Kincannon, 395-3211.

##### DEPARTMENT OF AGRICULTURE

Extension Service, Headboat Survey, North Carolina, single-time, operators of recreational headboats, Ellett, C. A., Office of Federal Statistical Policy and Standard, 395-6132.

##### DEPARTMENT OF DEFENSE

Department of the Navy, Enlistee Financial Statement, NAVCRUIT, 1130-13, on occasions, prospective enlistees, Marsha Traynham, 395-3773.

##### DEPARTMENT OF LABOR

Employment and Training Administration, Summary of the Public's Views of the Problem of Unemployment, ETA-281, single-time, U.S. population 18 years or older, Strasser, A., Housing, Veterans and Labor Division, 395-6132.

##### REVISIONS

##### VETERANS' ADMINISTRATION

Notice of Eligibility, Application and Enrollment Certification, 22-1990V, on occasions, veterans, Lowry, R. L., 395-3772.

Application for Dependency and Indemnity Compensation by Parent(s), 21-535, on occasions, parent(s), Lowry, R. L., 395-3772.

##### DEPARTMENT OF COMMERCE

Bureau of Census, Quality Control Sample Listing Sheet, single time, retail and selected service firms, Lowry, R. L., 395-3772.

##### DEPARTMENT OF LABOR

Bureau of Labor Statistics, Monthly Report on Employment, Plant Man-Hours, and

Straight-Time Payrolls in Selected Shipyards, BLS-1360, monthly, shipyards selected naval sea system command, Strasser, A., 395-6132, Office of Federal Statistical Policy and Standard.

Employment Standards Administration, Application for Handicapped Worker Certificate, WH-222, on occasion, employers of all types, Strasser, A., 395-6132.

##### DEPARTMENT OF THE TREASURY

Departmental and Other "Short Term" Liquid Claims on "Foreigners," C/3, monthly, nonbanking business concerns, C. Louis Kincannon, 395-3211, Office of Federal Statistical Policy and Standard.

Departmental and Other Liabilities to, and Claims on, Foreigners, ICAP form C-1/2, quarterly, nonbanking business concerns, C. Louis Kincannon, 395-3211, Office of Federal Statistical Policy and Standard.

##### EXTENSIONS

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Grants to Strengthen Developing Institutions (Title III, Public Law 89-329), OE-1049, on occasion, institutions of higher education, Laverne V. Collins, 395-3214, Budget Review Division.

##### DEPARTMENT OF LABOR

Bureau of Labor Statistics, Sample Refinement—FLSA Exemption Studies, BLS 3064, single time, business firms, Strasser, A., 395-6132.

VELMA N. BALDWIN,  
Assistant to the Director  
For Administration.

[FR Doc. 78-2207 Filed 1-24-78; 8:45 am]

[8010-01]

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14386; File No. SR-Amex-77-40]

##### AMERICAN STOCK EXCHANGE, INC.

###### Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 3, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission (the "SEC") a proposed rule change as follows:

###### TEXT OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposed to amend paragraph (c) of Rule 5, which pertains to over-the-counter transactions in equity securities admitted to dealings on the Amex. Words to be added are italicized and words to be deleted are bracketed[ ].

Rule 5

(c) The provisions of paragraph (a) of this Rule shall not apply to any of the following transactions:

(vii) any purchase or sale of any security trading in which [has been suspended by the Exchange pending review of the listing status of such security] is currently subject to (i) a suspension by the Exchange, or (ii) a halt by the Exchange which has been in effect in excess of thirty days;

Commentary .50 to Rule 5 is proposed to be added, as follows:

Members and member organizations making markets over-the-counter in securities exempt pursuant to paragraph (c)(vii) of this Rule are subject to the requirements of Rule 15c2-11 under the Securities Exchange Act of 1934.

##### AMEX'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

When a security is suspended or has been subject to a halt for over 30 days, but where the SEC permits trading to continue, the interests of investors are served by permitting Exchange members to participate in over-the-counter trading of such securities.

The Amex believes that the proposed amendment will enhance competition among market makers consistent with section 6(b)(5) of the Act. Section 6(b)(5) requires, among other things, that the rules of a national securities exchange be designed to facilitate securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Amex states that no comments were solicited or received with respect to the proposed rule change.

In addition the Amex has determined that no burden on competition will be imposed by the proposed rule change.

On or before March 1, 1978 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be

available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 17, 1978.

[FR Doc. 78-2154 Filed 1-24-78; 8:45 am]

[8010-01]

[Release No. 34-14367; File No. SR-Amex-77-36]

##### AMERICAN STOCK EXCHANGE, INC.

###### Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 27, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

##### AMERICAN STOCK EXCHANGE, INC. ("AMEX'S") STATEMENT OF BASIS AND PURPOSE OF THE PROPOSED RULE CHANGE

The American Stock Exchange, Inc. (the "Amex") proposes to amend certain Constitutional and rule provisions relating to record-keeping and certain other matters. The terms of substance of the proposed rule changes are summarized in the following section of this notice.

##### AMEX'S STATEMENT OF BASIS AND PURPOSE

In December 1976, the Commission informed the Exchange by letter that in its view certain Exchange rules appeared not to comply with the amended Exchange Act. Discussions were subsequently held between the Exchange and Commission staffs. The proposed rule changes outlined below are designed to bring these rules into compliance with the Act.

##### A. AMEX RECORDKEEPING RULES

The Commission indicated that a number of Amex record-keeping and reporting rules could be interpreted as being less restrictive than corresponding requirements imposed by the SEC under section 17(a) of the Exchange Act, and suggested that members



## NOTICES

might be misled into believing that the SEC requirements do not apply to them. The Exchange therefore proposes to amend the following Amex provisions to make clear that SEC requirements are applicable to Exchange members:

Article XI, Section 3—general requirement concerning the keeping of accurate books and records.  
Rules 153 and 180—preservation of records of orders.  
Rule 192—records and reports of commission income and dealer profit and loss.  
Rule 317 (Commentary .23)—books and records of corporate affiliates.  
Rule 340 (Commentary .02)—information relating to prospective employees.  
Rule 441—financial statements of certain member organizations.  
Rule 442—reporting financial condition to customers of member organizations.  
Rule 443—annual audit of sole Amex member organizations.  
Rule 447—filing of financial information with Exchange.  
Rule 448—periodic securities counts of certain member organizations.

## B. AMEX RULE 7 ("SHORT SALES")

SEC Rule 10a-1 and Amex Rule 7 both prohibit a member from executing a short sale on the Exchange on a minus or zero-minus tick. However, the Commission pointed out that the exemptions contained in Rule 7 do not completely conform to exemptions contained in Rule 10a-1 and suggested that Rule 7 be amended to achieve conformity.

The proposed amendment would provide that transactions exempted from the SEC rule are also exempt from the Amex rule and would reproduce the full text of SEC Rule 10a-1 in a commentary for the convenience of the membership.

## C. AMEX RULE 418 ("BUCKET SHOPS")

Amex Rule 418 prohibits a member, member organization or employee thereof from transacting business, or being in any way connected, with (1) any bucket shop, (2) any organization which falsely purports to offer exchange quotations, and (3) any organization which purports to handle customer orders on an agency basis, but instead deals as principal from its own inventory.

The Commission staff stated that paragraph (2) of this rule was unnecessary because the practice it was intended to prohibit no longer exists today, and, moreover, would be sufficiently protected against by the anti-fraud provisions of the Exchange Act. The Commission stated that the practice covered by paragraph (3) is also dealt with adequately by federal regulation.

In view of the Commission's comments and since conduct in violation of these provisions would, in many cases, be violative of the Amex Consti-

tutional provision prohibiting conduct inconsistent with just and equitable principles of trade, the Exchange proposes to delete both paragraphs (2) and (3) of Rule 418.

The basis under the Act for the proposed rule changes is as follows:

## A. AMEX RECORDKEEPING RULES

The amendments to the Amex recordkeeping and reporting rules, which would make clear that SEC requirements are applicable to Exchange members, would enable the Exchange to enforce compliance by its members with Section 17(a) of the Exchange Act and are consistent with Section 6(b)(1) of the Act.

## B. AMEX RULE 7 ("SHORT SALES")

The amendment to Rule 7 would facilitate the Exchange's enforcement of compliance with the Exchange Act and Rule 10a-1 thereunder and would eliminate an Exchange provision that is not related to the purposes of the Act or the administration of the Exchange. The amendment is consistent with Sections 6(b)(1) and 6(b)(7) of the Act, respectively.

## C. AMEX RULE 418 ("BUCKET SHOPS")

The proposed amendment to Rule 418 is consistent with Section 6(b)(7) of the Act in that it eliminates an Exchange provision that is not related to the purposes of the Act or the administration of the Exchange.

Amex states that no comments were solicited or received with respect to the proposed rule changes.

The Exchange has determined that no burden on competition will be imposed by the proposed rule changes.

On or before March 1, 1978 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the princi-

pal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 15, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE FITZSIMMONS,  
Secretary.

JANUARY 11, 1978.

(FR Doc. 78-2155 Filed 1-24-78; 8:45 am)

## [8010-01]

(File No. 500-11)

## CHICAGO MILWAUKEE CORP.

## Suspension of Trading

DECEMBER 30, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Chicago Milwaukee Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.s.t.) on December 30, 1977 through January 6, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2150 Filed 1-24-78; 8:45 am)

## [8010-01]

(File No. 500-11)

## HALLCRAFT HOMES, INC.

## Suspension of Trading

DECEMBER 30, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Hallcraft Homes, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (e.s.t.) on December 30, 1977 through January 8, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2151 Filed 1-24-78; 8:45 am)

## NOTICES

## [8010-01]

(Rel. No. 10094; 811-2227)

HARTFORD VARIABLE ANNUITY LIFE  
INSURANCE CO. SEPARATE ACCOUNT NO. 2

Notice of Filing of Application for Order Pursuant to Section 8(f) of the Act Declaring That Company Has Ceased To Be an Investment Company

JANUARY 18, 1978.

Notice is hereby given that Hartford Variable Annuity Life Insurance Co. Separate Account No. 2 ("Applicant"), Hartford Plaza, Hartford, Conn. 06115, a separate account of Hartford Variable Annuity Life Insurance Co., a Connecticut stock life insurer, which is registered as a unit investment trust under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1977, pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the Act on September 3, 1971. On November 12, 1971, Applicant filed a Registration Statement under the Securities Act of 1933 pursuant to which Applicant proposed to make a public offering of \$5,000,000 of individual variable annuity contracts. The Registration Statement was never declared effective and no public offering was ever made. On January 9, 1978, the Commission by Order consented to the withdrawal of the Registration Statement.

On November 7, 1977, the Board of Directors of Hartford Variable Annuity Life Insurance Co., Applicant's depositor, approved the immediate abandonment of the Applicant. As of that date Applicant's existence under Connecticut law was terminated.

The Applicant has always been completely inactive, has never had any assets, liabilities or shareholders. No public offering of Applicant's securities is being made presently and no such public offering is proposed for the future.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of

his interest, the reason for such request, and the issues, if any, of fact, or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following February 13, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2152 Filed 1-24-78; 8:45 am)

## [8010-01]

(Rel. No. 10095; 811-2370)

HARTFORD VARIABLE ANNUITY LIFE  
INSURANCE CO. SEPARATE ACCOUNT NO. 3

Filing of Application for Order Pursuant to Section 8(f) of the Act Declaring That Company Has Ceased To Be an Investment Company

JANUARY 18, 1978.

Notice is hereby given that Hartford Variable Annuity Life Insurance Co. Separate Account No. 3 ("Applicant"), Hartford Plaza, Hartford, Conn. 06115, a separate account of Hartford Variable Annuity Life Insurance Co., a Connecticut stock life insurer, which is registered as an open-end management investment company under the Investment Company Act of 1940 ("Act"), filed an application on November 23, 1977, pursuant to section 8(f) of the act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the act on April 3, 1973. No registration statement was ever filed by the Applicant under the Securities Act of 1933.

On November 7, 1977, the Board of Directors of Hartford Variable Annu-

ity Life Insurance Co., approved the immediate abandonment of the Applicant. As of that date Applicant's existence under Connecticut law was terminated.

The Applicant has always been completely inactive, has never had any assets, liabilities or contractholders. No public offering of Applicant's securities is being made presently and no such public offering is proposed for the future.

Section 8(f) of the act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than February 13, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by rule 0-5 of the Rules and Regulations promulgated under the act, an order disposing of the application herein will be issued as of course following February 13, 1978, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2153 Filed 1-24-78; 8:45 am)

## [8025-01]

SMALL BUSINESS ADMINISTRATION  
COLUMBIA VENTURES, INC.  
(License No. 03/02-0021)

Approval of Transfer of Control of Licensed Small Business Investment Company  
On December 18, 1977, a Notice of filing of application for transfer of



## NOTICES

control was published in the *FEDERAL REGISTER* (Vol. 42, No. 242). This Notice stated that an application had been filed with the Small Business Administration (SBA) pursuant to Section 107.701 of the Regulations governing Small Business Investment Companies (13 CFR 107.701 (1977)), for the transfer of control of Columbia Ventures, Inc. (Columbia), 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.

The application stated that three individuals would each purchase 1/3 of a total of 327,242 shares of the outstanding stock of Columbia from Intermediate Credit Corp., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006. The three individuals are George J. Darnelle, 502 South Post Oak Lane, Houston, Tex. 77056; Maurice T. Reed, Jr., 4042 Pinehill Drive, Jackson, Miss. 39206; and Stradco Trading Co., Ltd., P.O. Box N4743, Nassau, Bahamas.

Interested parties were invited to submit to SBA by December 27, 1977 their comments relative to the transfer of control. No comments were received.

Notice is hereby given that, after having considered the application and all other relevant information, SBA approved this application for transfer of control effective December 28, 1977.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: January 18, 1978.

JOHN M. TRASK, Jr.,  
Associate Administrator for  
Finance and Investment.

(FR Doc. 78-2144 Filed 1-24-78; 8:45 am)

## [8025-01]

REGION I—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting

The Small Business Administration Region I Regional Advisory Councils Executive Board will hold a public meeting at 1 p.m., Monday, February 13, 1978 in the Conference Room, 60 Battery March Street, Tenth Floor, Boston, Mass., to discuss such matters as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call John J. McNally, 60 Battery March Street, Boston, Mass. 02110, 617-223-4495.

Dated: January 16, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2138, Filed 1-24-78; 8:45 am)

## [8025-01]

REGION II—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region II—Regional Executive Board—Public Meeting published in the *FEDERAL REGISTER* on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-800 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region II—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2143; Filed 1-24-78; 8:45 am)

## [8025-01]

REGION III—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region III—Regional Executive Board—Public Meeting published in the *FEDERAL REGISTER* on January 12, 1978 (43 FR 1863).

DATE: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-801 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region III—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2142; Filed 1-24-78; 8:45 am)

## [8025-01]

REGION IV—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region IV—Regional Executive Board—Public Meeting published in the *FEDERAL REGISTER* on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-797 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region IV—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2141 Filed 1-24-78; 8:45 am)

## [8025-01]

REGION VI—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region VI—Regional Executive Board—Public Meeting published in the *FEDERAL REGISTER* on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-799 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region VI—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2140 Filed 1-24-78; 8:45 am)

## [8025-01]

REGION VII—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting; Correction

AGENCY: Small Business Administration.

ACTION: Correction.

SUMMARY: This corrects notice of meeting for Region VII—Regional Executive Board—Public Meeting published in the *FEDERAL REGISTER* on January 12, 1978 (43 FR 1863).

DATES: Effective January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

K. Drew, Deputy Advocate for Advisory Councils, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202-653-6748.

In FR Doc. 78-798 (8025-01) appearing at page 1863 in the issue for Thursday, January 12, 1978, title of meeting should have read, "Region VII—Regional Advisory Councils Executive Board—Public Meeting".

Dated: January 18, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2139; Filed 1-24-78; 8:45 am)

## [8025-01]

REGION IX—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting

The Small Business Administration Region IX Regional Advisory Councils Executive Board will hold a public meeting at 1 p.m., Wednesday, February 8, 1978, in Room 15343, U.S. Federal Building, 450 Golden Gate Avenue, San Francisco, Calif., to discuss such matters as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Marx L. Cazenave II, 450 Golden Gate Avenue, Box 36044, San Francisco, Calif. 94102, 415-556-7487.

Dated: January 16, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2137 Filed 1-24-78; 8:45 am)

## [8025-01]

REGION X—REGIONAL ADVISORY COUNCILS  
EXECUTIVE BOARD

## Public Meeting

The Small Business Administration Region X Regional Advisory Councils Executive Board will hold a public

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meeting at 1 p.m., Tuesday, February 7, 1978, in Room 1042, Federal Building, 915 Second Avenue, Seattle, Wash., to discuss such business as may be presented by members, the staff of the Small Business Administration, or others attending. For further information, write or call Larry C. Gourlie, Regional Director, U.S. Small Business Administration, Dexter Horton Building, 5th Floor, 710 Second Avenue, Seattle, Wash. 98104, 206-399-5676.

Dated: January 16, 1978.

K. DREW,  
Deputy Advocate for  
Advisory Councils.

(FR Doc. 78-2136 Filed 1-24-78; 8:45 am)

## [4810-22]

## DEPARTMENT OF THE TREASURY

## Customs Service

OPTIC LIQUID LEVEL SENSING SYSTEMS FROM  
CANADAReceipt of Countervailing Duty Petition and  
Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been initiated for the purpose of determining whether or not benefits are granted by the Government of Canada to manufacturers/exporters of optic liquid level sensing systems which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made no later than May 14, 1978 and a final determination no later than November 14, 1978.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent Kane, Operations Officer, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition was received in satisfactory form on November 14, 1977, alleging that payments or bestowals conferred by the Government of Canada upon the manufacture, production or exportation of optic liquid level sensing systems constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Optic liquid level sensing systems are classifiable under item 711.84 of the Tariff schedules of the United States (TSUS).

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute within 6 months of the receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant and a final determination within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 14, 1978 as to whether or not alleged payments or bestowals conferred by the Government of Canada upon the manufacture, production, or exportation of the above-described merchandise constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 14, 1978.

The payments involved in this case were made under a program administered by the Canadian Government which provides funds for the research and development of new products. There is no stipulation under this program that the product under development must be export oriented. In determining whether assistance of this kind constitutes a bounty or grant, the Treasury intends to consider, among other factors, the ad valorem benefits involved as well as whether a preponderance of the production which benefits from such assistance is exported. Information regarding Canadian sales of this product is not presently available although sufficient information regarding exports of optic liquid level sensing devices to the U.S. has been received to warrant a formal investigation.

This notice is published pursuant to section 303(a)(3), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 14), July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General  
Counsel of the Treasury.

JANUARY 19, 1978.

(FR Doc. 78-2047 Filed 1-24-78; 8:45 am)



[4830-01]

## Office of the Secretary

## ISSUANCE OF NEW BOYCOTT GUIDELINES

JANUARY 20, 1978.

The Treasury Department today issued new guidelines, consisting of questions and answers, relating to the provisions of the Tax Reform Act of 1976 which deny certain tax benefits for participation in or cooperation with international boycotts.

The new guidelines supersede earlier sets of guidelines issued November 4, 1976 (Treasury news release WS-1156), December 30, 1976 (WS-1239), and August 12, 1977 (B-390), and published in the FEDERAL REGISTER on November 11, 1976, January 5, 1977, and August 17, 1977, respectively. The guidelines issued today generally are effective for operations occurring after, requests received after, and agreements made after November 3, 1976. As qualified by the following exceptions, this effective date affords a retroactive benefit to taxpayers who can claim the advantage of any rule in today's guidelines which is more favorable than previous guidelines. There are five exceptions to this general effective date:

First: Until February 13, 1978, affected persons will be entitled to the benefits of any previously published Treasury guidelines with respect to any specific issue covered in parts H through M of the guidelines.

Second: In the case of binding contracts entered into before October 25, 1977, operations that do not constitute participation in or cooperation with an international boycott under any previously published Treasury guideline will not constitute participation in or cooperation with an international boycott until July 1, 1978.

Third: In the case of binding contracts entered into before February 13, 1978, but after October 24, 1977, operations that do not constitute participation in or cooperation with an international boycott under the August 12, 1977, guidelines will not constitute participation in or cooperation with an international boycott until January 1, 1979.

Fourth: In the case of binding contracts entered into before February 13, 1978, guidelines H-1B, H-8, H-29A, H-29B, I-8, J-11, and K-5 of today's guidelines will not be effective until July 1, 1978.

Fifth: If a particular guideline in parts A through G or N through O of today's guidelines results in an increase in the reporting burden or tax liability of a person, that answer will be effective for taxable years ending after January 20, 1978.

Although the guidelines issued today differ in many respects from earlier guidelines, substantial revisions are reflected in guidelines A-3, A-10B,

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A-14A, A-14B, A-23, D-3, D-4, D-5, F-2, H-1B, H-2B, H-29A, H-29B, H-32, H-33, H-34, I-8, J-2A, J-2B, J-5, J-11, K-5, M-5, N-1A, N-1B, and N-2.

The principal authors of these guidelines were John C. Holberton, Russell L. Munk, and Leonard E. Santos of the Office of the Secretary of the Treasury.

Contact: Robert E. Nipp, 202-566-5328.

DEPARTMENT OF THE TREASURY GUIDELINES  
BOYCOTT PROVISIONS (SECTION 999) OF THE  
INTERNAL REVENUE CODE

## Table of Contents

- A. Boycott reports.
- B. Definition of "operations."
- C. Definition of "reason to know" of official requirement of boycott participation.
- D. Definition of "clearly separate and identifiable operations."
- E. Effective date provisions.
- F. International boycott factor and specifically attributable taxes and income.
- G. Determinations.
- H. Definition of an agreement to participate in or cooperate with a boycott (section 999(b)(3)).
- I. Refraining from doing business with or in a boycotted country (section 999(b)(3)(A)(i)).
- J. Refraining from doing business with any U.S. person engaged in trade in a boycotted country (section 999(b)(3)(A)(ii)).
- K. Refraining from doing business with any company whose ownership or management in made up, in whole or in part, of individuals of a particular nationality, race, or religion (section 999(b)(3)(A)(iii)).
- L. Refraining from employing individuals of a particular nationality, race, or religion (section 999(b)(3)(A)(iv)).
- M. As a condition of the sale of a product, refraining from shipping or insuring that product on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott (section 999(b)(3)(B)).
- N. Reduction of foreign tax credit.
- O. Subpart F income.
- In the questions and answers:
  - (a) Company A and company B are companies organized under the laws of one of the States of the United States;
  - (b) Company C, company D, and company E (and bank C and bank D), unless otherwise stated in the question, are companies organized under the laws of any country, including the United States;
  - (c) Country X is a boycotting country, which, inter alia, boycotts country Y;
  - (d) Country Y is a country boycotted by country X;
  - (e) Country Z is any country and may be the United States; a boycotting country, or a boycotted country;
  - (f) All references to "sections" are to sections of the Internal Revenue Code of 1954, as amended;
  - (g) In parts H-M in instances where the action described in the question by itself does not, according to the answer, provide sufficient evidence to support an inference that an agreement under section 999(b)(3) exists, an overall course of conduct which includes such action in addition to other factors could support such an inference; whether an agreement can be inferred from

a given course of conduct is an evidentiary question which turns on the probative value of particular facts and circumstances; the examples offered in parts H-M are illustrative, not comprehensive; and

(h) In many questions in part H-M, a person deals with either country X or the government, a company or a national of country X. The result reached in the answer to each of those questions would be the same irrespective of whether the person is an individual, a company or any other type of person, and whether the person dealt with is country X or the government, a company or a national of country X.

## BOYCOTT REPORTS

A-1. Q. Who must report as required by section 999(a)?

A. Generally, a U.S. person (within the meaning of section 7701(a)(30)) is required to report under section 999(a) if it—

1. Has operations; or
2. Is a member of a controlled group (within the meaning of section 993(a)(3)), a member of which has operations; or
3. Is a U.S. shareholder (within the meaning of section 951(b)) of a foreign corporation that has operations, but only if the U.S. shareholder owns (within the meaning of section 958(a)) stock of that foreign corporation; or
4. Is a partner in a partnership that has operations (see, however, answer A-17); or
5. Is treated under section 671 as the owner of a trust that has operations.

in or related to a boycotting country (or with the government, a company, or a national of a boycotting country). A person (within the meaning of section 7701(a)(1)) that is not a U.S. person is required to report under section 999(a) if it satisfies any one of the five conditions specified above and it either claims the benefit of the foreign tax credit under section 901 or owns stock of a DISC. For purposes of section 999(a), a foreign corporation engaged in a trade or business in the United States is not a U.S. person.

If a person controls a corporation within the meaning of section 304(c) and that person is required to report under section 999(a), then under section 999(e) that person must report whether the corporation participated in or cooperated with the boycott. If the corporation is required to report under section 999(a), then under section 999(e) the corporation must report whether the person participated in or cooperated with the boycott.

A boycotting country is—

- (i) Any country that is on the list maintained by the Secretary under section 999(a)(3), or
- (ii) Any country not on the list maintained by the Secretary under section 999(a)(3), in which the person required to file the report (or a member of the controlled group that includes that person) has operations, and which that person knows or has reason to know requires any person to participate in or cooperate with an international boycott that is not excepted by section 999(b)(4) (A), (B), or (C). Thus, even if the boycott participation required of the person reporting the operation is excepted by section 999(b)(4) (A), (B), or (C), if that person knows or has reason to know that boycott participation not excepted by section 999(b)(4) (A), (B), or (C) is required of any other person, the country is a boycotting country.

If the person required to file the report (or a member of the controlled group that includes that person) has operations related to a country, but not operations in that country, that country is not a boycotting country with respect to that person unless it is on the list maintained by the Secretary under section 999(a)(3). (For the definition of operations in or related to a country, see the questions and answers under part B.)

A-2. Q. Do the reporting requirements of section 999(a) that refer to "U.S. shareholders" of foreign corporations require U.S. minority shareholders to report the operations of such foreign corporations?

A. Yes. Under section 951(b) the term "U.S. shareholder" includes any U.S. person who owns (within the meaning of section 958(a)), or is considered as owning (by the application of the rules of ownership of section 958(b)), 10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation. The reporting requirement applies even if the U.S. shareholder is a minority shareholder and even if the foreign corporation is not a controlled foreign corporation within the meaning of section 957(a). However, as stated in answer A-1, the reporting requirement applies only to minority shareholders that actually own some stock within the meaning of section 958(a).

A-3. Q. If one member of a controlled group of corporations (within the meaning of section 993(a)(3)) files a report under section 999(a) with respect to the reportable operations of all members of that group, is this sufficient to discharge the reporting obligation of all members of the group?

A. Generally, every member of a controlled group of corporations (within the meaning of section 993(a)(3)) is required to report under section 999(a) if any member of the controlled group has operations in or related to a boycotting country. There are, however, two exceptions to this rule. First: A common parent (as defined in the regulations under section 1504) may file the report under section 999(a) on behalf of all the members of a controlled group that join with the common parent in the filing of a consolidated income tax return, and thereby discharge the obligation of each such member to file the report. Second: The requirement that each member of the controlled group file a report under section 999(a) is waived for each such member who, for its own taxable year:

1. Had no operations (other than those that meet the requirements of Answer A-20) in or related to a boycotting country (or with the government, a company, or a national of a boycotting country) and owned no stock, directly or indirectly, of any corporation having such operations; and
2. Received no request to participate in or cooperate with an international boycott and owned no stock, directly or indirectly, of any corporation receiving such a request; and
3. Is not entitled to (or forfeits) any benefits of deferral, DISC, or the foreign tax credit; and
4. Attaches to its income tax return a certificate signed by a person authorized to sign the tax return of the common parent certifying that the common parent filed a form 5713 on behalf of such member.

A-4. Q. If one U.S. shareholder of a foreign corporation files a report under section 999(a) in respect of the reportable operations of the foreign corporation, is this sufficient to discharge the reporting obligation of all U.S. shareholders of the foreign corporation in respect of that corporation's operations?

A. No. Each U.S. shareholder of a foreign corporation must file the section 999(a) report in respect of the activities of that corporation. However, if two or more U.S. shareholders of a foreign corporation are included in the same consolidated return, only one report need be filed with respect to all U.S. shareholders included in the return.

A-5. Q. How will the reporting requirements under section 999(a) be satisfied?

A. A taxpayer required to file an international boycott report under section 999(a) will fulfill this requirement by filing IRS Form 5713, "International Boycott Report," and all applicable supporting schedules and forms contained in the taxpayer's income tax returns that indicate the amounts and computations of benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) of the Internal Revenue Code.

A-6. Q. What degree of confidentiality will the international boycott reports submitted by taxpayers receive?

A. The reports by taxpayers will be submitted as part of the income tax return and, therefore, will be accorded the same degree of confidential treatment under section 6103 as any other information contained in an income tax return.

A-7. Q. Where and how should the Form 5713 be filed?

A. The Form 5713 should be filed in duplicate by all reporting taxpayers. One copy of Form 5713 should be sent to the Internal Revenue Service, 11601 Roosevelt Blvd., Philadelphia, Pa. 19155, and the other copy of Form 5713 should be attached to the taxpayer's income tax return that is filed with the taxpayer's customary Internal Revenue Service Center.

A-8. Q. Do individuals as well as corporations use Form 5713?

A. Yes. All taxpayers required to file a report under section 999(a) use IRS Form 5713. However, some parts of the form apply to corporations only; individual taxpayers can ignore these parts and complete only the parts relevant to individuals.

A-9. Q. Section 999(b)(4) permits a person to agree to comply with certain laws without being treated as having agreed to participate in or cooperate with an international boycott. In the course of its operations in or related to a boycotting country, a person agrees to comply with a prohibition on importation and exportation that is described in section 999(b)(4)(B) and section 999(b)(4)(C). Is that person required to report the operations on Form 5713?

A. Yes, although agreements described in section 999(b)(4) (B) and (C) do not constitute participation in or cooperation with an international boycott, the operations in or related to a boycotting country must be reported on Form 5713.

A-10A. Q. Section 999(b)(4)(A) permits a person to meet requirements imposed by a foreign country with respect to an international boycott if U.S. law or regulations, or an Executive order, sanctions participation in or cooperation with that international boycott. If a person's operations fall within this exception, is the person required to report such operations?

A. No. The reporting requirements with respect to operations under such international boycotts are waived.

A-10B. Q. Certain types of conduct that would otherwise be covered under section 999 of the Internal Revenue Code are not covered by, or are excepted from the penalties of, the Export Administration Amendments of 1977. Are those types of conduct permitted under section 999(b)(4)(A) of the Internal Revenue Code and thereby exempt from the coverage of section 999?

A. No. Both the reporting requirements of section 999 and the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) apply to those types of conduct. The exception of section 999(b)(4)(A) applies to an international boycott such as the embargo against Rhodesia in which the United States participates or with which the United States cooperates pursuant to U.S. law or regulations or to an Executive order.

A-11. Q. Company C sells goods or services outside a boycotting country to a person that is not a boycotting country, or the government, a company, or a national of a boycotting country. Company C knows or has reason to know that person in turn will either use the goods or services in a boycotting country, or will sell the goods or services for use in a boycotting country. Is company C required to report its sale of goods or services to that person?

A. Although the sale of the goods or services by company C constitutes an operation of company C related to a boycotting country (see answer B-1), the requirement that company C report the sale is waived, provided that in connection with the operation company C does not receive a request to participate in or cooperate with an international boycott (within the meaning of section 999(b)(3)), company C does not participate in or cooperate with an international boycott, and facilitation of participation in or cooperation with an international boycott was not one of the principal purposes for company C's entering into either the relationship or the transaction between company C and the other person. If facilitation of boycott participation or cooperation is a principal purpose of the relationship or the transaction, then company C's failure to report the sale of the goods or services to the other person is a willful failure to report within the meaning of section 999(f). The result in this answer would be the same were company C an individual or any other type of person, or if company C did other business with the other person outside a boycotting country.

A-12. Q. Company A is a U.S. shareholder (within the meaning of section 951(b)) of company C, a foreign corporation that is not a member of a controlled group that includes company A. Company A has a taxable year ending January 31, and company C has a taxable year ending June 30. Both companies have operations in country X, which is on the list maintained pursuant to section 999(a)(3). Who should file Form 5713 and for what period?

A. As indicated in answer A-1, company C need not file Form 5713 unless it claims the benefit of the foreign tax credit under section 901 or owns stock of a DISC. Company A must file Form 5713 for its taxable year ending January 31, and must report operations of company C during company C's taxable year ending within the period covered by company A's report.

A-13. Q. In the case of a Form 5713 filed by a member of a controlled group, what period of time should be reflected in the report, and when should the report be filed?

A. Each person described in Answer A-1 ("reporting person") is required to report all reportable operations, requests and participation or cooperation of each member of



the controlled group for each member's taxable year that ends with or within the common taxable year of the controlled group that ends with or within the taxable year of the reporting person.

In addition, each reporting person is required to report all reportable operations, requests and participation or cooperation of each foreign corporation having a United States shareholder that is a member of the controlled group. Such operations, requests and participation or cooperation of a foreign corporation are reported for the foreign corporation's taxable year that ends with or within the taxable year of the United States shareholder that ends with or within the common taxable year of the controlled group that ends with or within the taxable year of the reporting person.

In general, the common taxable year of the controlled group is the taxable year of the common parent of the controlled group. However, the members of the controlled group may elect the taxable year of one of the members of the controlled group to serve as the common taxable year of the controlled group. In the event that no common parent exists and that no common taxable year election has been made, the common taxable year of the controlled group will be the taxable year of the member of the controlled group whose taxable year ends latest in the calendar year.

In general, if a common taxable year election is made, it must be consented to in writing by each member of the controlled group. A common parent may, however, consent to the common taxable year election on behalf of all members of the controlled group that join with the common parent in the filing of a consolidated income tax return. In addition, foreign corporations that are members of the controlled group need not sign the consent if they are not required to report under Answer A-1. (However, if a foreign corporation is required to report in a year subsequent to the year in which a common taxable year election is made by the domestic members of the controlled group, it will be bound by the common taxable year election previously made by the group.) The consents must be attached to each member's Form 5713 filed during the first taxable year of such member to which the common taxable year election applies. The common taxable year election is a binding election and is made only once. Approval of the Secretary of the Treasury or his delegate is required for any changes in the common taxable year.

Each reporting person will use its normal taxable year for making adjustments required under sections 908(a), 952(a)(3) and 995(b)(1)(F), and for all purposes other than reporting and computing the international boycott factor. For example, if the reporting person uses the international boycott factor, the international boycott factor will be applied to the reporting person's normal taxable year for determining the reporting person's adjustments under sections 908(a), 952(a)(3) and 995(b)(1)(F).

More details concerning the time period covered in the international boycott report are contained in the instructions to Form 5713. Details concerning the time period covered in the international boycott factor are contained in the instructions to Form 5713 and in Temp. Regs. § 1.999-1 and Proposed Regs. § 1.999-1.

As stated in Answer A-7, the reporting person's Form 5713 is filed at the time the reporting person files its income tax return.

**A-14A. Q.** Company A is a U.S. corporation and is required to report under section 999(a). Company A is also a subsidiary or a sister of a foreign corporation that is not required to report under section 999(a). Is Company A required to report the operations, requests and participation or cooperation of the foreign parent or sister corporation?

**A.** Generally, under section 999(a) and Answer A-1, a person required to report must report the operations, requests and participation or cooperation of all members of the controlled group of which it is a member. However, if the foreign parent or sister corporation is not otherwise required to report, the requirement that Company A report the operations, requests and participation or cooperation of the foreign parent or sister corporation will be waived if Company A—

1. Is not entitled to any benefits of deferral, DISC, or the foreign tax credit; or

2. Applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e., applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)(F)); or

3. Identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit attributable to: (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott; or (b) operations in boycotting countries which have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

Although the requirement that Company A report operations, requests and the participation or cooperation of its foreign parent or sister corporations may be waived, Company A must report all operations, requests and participation or cooperation—

(i) Of itself, and

(ii) Of all United States members of each controlled group of which Company A is a member, and

(iii) Of all foreign corporations of which Company A is a United States shareholder within the meaning of section 951(b), but only if Company A owns (within the meaning of section 958(a)) stock of the foreign corporation.

If Company A is required to report on behalf of a foreign corporation under (iii) above, it must report all operations, requests and participation or cooperation of the foreign corporation, even if conducted or received by the foreign corporation in connection with operations that are not effectively connected with a United States trade or business.

**A-14B. Q.** Company C, a foreign corporation engaged in operations in the United States through U.S. Branch A, is required to report under section 999(a). Company C may also have a parent, subsidiaries or sister corporations that are not United States persons. Is Company C required to report either the operations, requests and participation or cooperation of its non-U.S. parent, subsidiaries or sister corporations or its own operations, requests and participation or cooperation that do not relate to Branch A?

**A.** Generally, under section 999(a) and Answer A-1, a person required to report must report the operations, requests and

participation or cooperation of all members of the controlled group of which it is a member. However, the requirement that Company C report the operations, requests and participation or cooperation of its non-U.S. parent, subsidiaries or sister corporations and its own operations, requests and participation or cooperation that do not relate to Branch A will be waived if Company C—

1. Is not entitled to any benefits of deferral, DISC, or the foreign tax credit; or

2. Applies the international boycott factor, and forfeits all the benefits of deferral, DISC and the foreign tax credit to which it is entitled (i.e., applies an international boycott factor of one under sections 908(a), 952(a)(3), and 995(b)(1)(F)); or

3. Identifies specifically attributable taxes and income, and forfeits all the benefits of deferral, DISC, and the foreign tax credit attributable to: (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott; or (b) operations in boycotting countries which have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

Although there may be a waiver of the requirement that Company C report the operations, requests and participation or cooperation of its non-U.S. parent, subsidiaries, or sister corporations and of itself to the extent that the operations, requests and participation or cooperation do not relate to Branch A, Company C must report all operations, requests and participation or cooperation—

(i) Of Branch A, and

(ii) Of all United States members of each controlled group of which Company C is a member.

Company C is, moreover, required to report all the operations, requests and participation or cooperation of Branch A, even if conducted or received by Branch A in connection with operations that are not effectively connected with a United States trade or business. In addition, if Company C or any member of a controlled group of corporations that includes Company C engages in operations in the United States directly (i.e., not through Branch A), and those operations are also operations in or related to a boycotting country, then those operations, as well as all requests and participation or cooperation relating to those operations, must be reported by Company C.

**A-15. Q.** Company C receives an unsolicited invitation to tender for a contract for the construction of an industrial plant in Country X. The tender documents contain a provision stating that the person inviting the tender will not enter into the contract unless the successful tenderer makes an agreement described in section 999(b)(3). Company C does not respond to the unsolicited invitation. Is Company C required to report the invitation under section 999(a)(2) as a request to participate in or cooperate with an international boycott?

**A.** No. The section 999(a)(2) reporting requirement will be waived provided that Company C neither solicited the invitation to tender nor responded to the invitation. This answer would be the same were Company C an individual or any other type of person.

**A-16. Q.** Before May 13, 1977, Company C received requests to comply with interna-

tional boycotts. Company C preserved the requests that were evidenced in writing and preserved the notations it made concerning the details of oral requests. When Form 5713 was issued on May 13, 1977, it required more details concerning the requests made of Company C than were preserved, and many of those details can no longer be ascertained. Will Company C's report under section 999(a)(2) be deemed deficient?

**A.** On October 4, 1976, Company C was put on notice that it would be required to document boycott requests received after November 3, 1976. Form 5713 does not require any details that would not have been preserved by a prudent person having such notice. In addition, under Answer A-15, the reporting requirements of section 999(a)(2) have been waived for certain unsolicited boycott requests. If Company C does not supply the required information with respect to the remaining requests that were either solicited or responded to, its report will be deficient. This answer would be the same were Company C an individual or any other type of person.

**A-17. Q.** A United States partnership consisting of 100 United States partners has operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country. Is each partner required to file Form 5713?

**A.** Generally, if a partnership has operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country, each partner is required to file Form 5713. However, if the partnership files Form 5713 with its information return and has no operations for the taxable year that constitute participation in or cooperation with an international boycott, then the requirement that each partner file Form 5713 will be waived for each partner that has no operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country other than operations that are reported on the Form 5713 filed by the partnership.

**A-18. Q.** A United States shareholder (within the meaning of section 951(a)) owns stock of Company C, a foreign corporation that has operations in Country X, but the United States shareholder does not have effective control over Company C. The United States shareholder is required to report under section 999(a). The United States shareholder requests information from Company C in order to meet its reporting obligations under section 999(a). Company C refuses to provide (or is prevented by local law, regulation, or practice from providing) that information. Will the United States shareholder be subject to the section 999(f) penalties for willful failure to report the activities of Company C?

**A.** The United States shareholder must report on the basis of that information that is reasonably available to it. For example, in most cases it will be aware that Company C has operations in or related to Country X, even though it is not aware of the operational details. The United States shareholder must report on Form 5713 that Company C has operations in or related to Country X. The United States shareholder should also describe in a statement attached to Form 5713 the good faith efforts that it has made to obtain all the information required under section 999(a). Although each case must be resolved on the basis of the particular facts and circumstances, the United States shareholder will not be sub-

ject to the section 999(f) penalties for willful failure to provide the information relating to Company C if it can demonstrate that it made good faith efforts to obtain the information but was denied the information by Company C.

**A-19. Q.** The facts are the same as in Question A-18 except that the United States shareholder owns less than 50 percent of the stock of Company C and Company C is not a controlled foreign corporation. What are the tax sanctions to which the United States shareholder will be subject?

**A.** Since Company C is neither a controlled foreign corporation nor a DISC, the sanctions of section 952(a)(3) and 995(b)(1)(F) are not relevant. However, the United States shareholder will be subject to the sanctions of section 908(a). Thus, if the United States shareholder applies an international boycott factor, that factor is applied to its foreign tax credits in accordance with Answers F-5, N-1A and N-2. If the United States shareholder identifies specifically attributable taxes and income under section 999(c)(2), it will lose its section 902 indirect foreign tax credit for those taxes paid by Company C that the United States shareholder cannot demonstrate are attributable to Company C's operations that are:

(a) Not in or related to a boycotting country;

(b) Related to a boycotting country and in connection with which there was no participation in or cooperation with an international boycott; or

(c) In a boycotting country and have been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

(To determine whether Company A will lose its section 901 direct foreign tax credit for income tax withheld by Country X on dividends paid by Company C to Company A, see Answer N-3.)

**A-20. Q.** Individual G is a national of Country X, which is on the list maintained by the Secretary. G engages in an operation with Company C. For example, if Company C were a bank, the operation might involve a deposit by G, or if Company C were an automobile dealer, the operation might involve the purchase of a car, or if Company C were a stockbroker, the operation might involve the purchase or sale of a security, or if Company C were a hotel, the operation might involve the letting of a room. Irrespective of the specific nature of the operation, the agreement under which the operation is consummated is the same agreement that Company C requires of all other customers. Company C is aware of G's nationality, but participation in or cooperation with an international boycott is neither contemplated nor required as a condition of G's willingness to enter into the operation with Company C. Under section 999(a), what are the reporting obligations of Company C with respect to these operations?

**A.** In many business operations, there will be incidental contacts between the nationals or business enterprises of boycotting countries and persons from other countries. Company C's obligation to report these incidental contacts under section 999(a) will be waived provided that the contacts satisfy the following criteria:

1. All aspects of the operation contemplated by the parties are carried on outside a boycotting country; and

2. No request for an agreement described in section 999(b)(3) is made or received by any party to the operation; and

3. There is no such agreement in connection with the operation; and

4. a. The operation does not involve the importation of property, funds or services from or produced in a boycotting country and Company C does not know or have reason to know that the property, funds or services involved in the operation will be used, consumed or disposed of in a boycotting country; or

b. The value of the property, funds or services involved in the operation does not exceed \$5,000.

The answer to the question would be the same if Company C were an individual or any other type of person and if G were a corporation or any other type of person.

**A-21. Q.** Individual G, a U.S. citizen, owns 15 percent of the stock of Company A. Company A has operations in Country X. Is Individual G required to report the operations of Company A?

**A.** An individual generally is not required to report the operations of a domestic corporation of which the individual is a shareholder. However, if Individual G controls (within the meaning of section 304(c)) Company A and if Individual G is required to report under section 999(a), then under section 999(e) Individual G must report whether Company A participated in or cooperated with an international boycott.

**A-22. Q.** Companies C, D, and E are all U.S. or foreign corporations reporting on a calendar year basis. Companies C, D, and E each had operations in Country X during the calendar year and were each required to file Form 5713. From January 1 to June 1, Company C owned more than 50 percent of the stock of Company D. On June 1, Company E acquired more than 50 percent of the stock of Company D. What operations must be reflected in the Forms 5713 filed by Companies C, D, and E for the calendar year?

**A.** The Form 5713 filed by Company C must reflect the operations of Company C for the entire calendar year and the operations of Company D for the period January 1-May 31. The Form 5713 filed by Company E must reflect the operations of Company E for the entire calendar year and the operations of Company D for the period June 1-December 31. The Form 5713 filed by Company D must reflect the operations of Company D for the entire calendar year, the operations of Company C for the period January 1-May 31 and the operations of Company E for the period June 1-December 31. If the sale of stock had occurred during the first 30 days of the calendar year, the requirement that Company C report the operations of Company D and that Company D report the operations of Company C for the period of 30 days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company C for that period. The requirement that Company D report the operations of Company E, and that Company E report the operations of Company D for the period of 30 days or less would also be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company E for that period. Similarly, if the sale of stock had occurred during the last 30 days of the calendar year, the requirement that Company C report the operations of Company D and that Company D report the operations of Company C for the period of 30



days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company C for that period, and the requirement that Company D report the operations of Company E and that Company E report the operations of Company D for the period of 30 days or less would be waived unless under Reg. § 1.1502-76(b)(5) Company D is included in the consolidated return filed by Company E for that period.

A-23. Q. In 1977, Company A owns more than 10 percent and up to 50 percent of the stock of Company C, a foreign corporation that has operations in Country X that constitute participation in or cooperation with an international boycott. Company C is not a controlled foreign corporation. Company A reports on a calendar year basis and computes its loss of tax benefits using the section 999(c)(2) specific attribution of taxes and income method. Company C pays no dividend in 1977, but pays a dividend in 1978 attributable to its 1977 earnings.

In 1978 neither Company A nor Company C has operations in any boycotting country. Company A claims a foreign tax credit under section 902 in 1978 in respect of the taxes paid by Company C. For which year, 1977 or 1978, must Company A report the operations of Company C, and for which year is the sanction of section 908(a) applicable?

A. Company C's operations are reported by Company A in 1977. The sanction of section 908(a) is applicable to Company A's foreign tax credits in 1978. Accordingly, in 1978 Company A will lose that portion of the section 902 foreign tax credits specifically attributable to Company C's 1977 boycott operations. In this case, even though in 1978 Company A and Company C have no operations that are required to be reported by Company A on Form 5713, Company A must nevertheless file Form 5713 in 1978 (which will show no reportable operations) and complete Schedules B and C to Form 5713, on which Company A will show the loss of the section 902 foreign tax credits attributable to Company C's boycott operations for 1977.

Had Company C been a controlled foreign corporation, section 952(a)(3) would have applied to require Company A to take into income in 1977 its pro rata share of Company C's income attributable to boycotting operations. In addition, under section 908(a), Company A would lose in 1977 the section 902 foreign tax credits accompanying Company C's income included in Company A's income under section 952(a)(3).

#### B. DEFINITION OF "OPERATIONS"

B-1. Q. Under what circumstances does a person have operations in, or related to, a boycotting country (or with the government, a company, or a national of that country)?

A. A person has operations in, or related to, a boycotting country (or with the government, a company, or a national of that country) if the operation in which it engages:

1. Is carried on in whole or part in a boycotting country ("in a boycotting country");
2. Is carried on outside a boycotting country either for or with the government, a company, or a national of a boycotting country ("with the government, a company, or a national of a boycotting country"); or
3. Is carried on outside a boycotting country for the government, a company, or a national of a non-boycotting country if the

person having the operation knows or has reason to know that the specific goods, services or funds produced by the operation are intended for use in a boycotting country, for use by or the benefit of the government, a company, or a national of a boycotting country, or use in forwarding or transporting to a boycotting country ("related to a boycotting country").

For purposes of applying the presumption of section 999(b)(1) and the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F), and for purposes of computing the international boycott factor, operations "with the government, a company, or a national of a boycotting country" that are carried out in whole or in part in a boycotting country are deemed to be operations "in a boycotting country", and operations with such governments, companies and nationals that are not carried out in whole or in part in a boycotting country are deemed to be operations "related to a boycotting country."

The term "operation" encompasses all forms of business or commercial activities and transactions (or parts of transactions), whether or not productive of income, including, but not limited to, selling; purchasing; leasing; licensing; banking; financing and similar activities; extracting; processing; manufacturing; producing; constructing; transporting; performing activities ancillary to the foregoing (e.g., contract negotiating, advertising, site selecting, etc.); and performing services, whether or not ancillary to the foregoing.

Operations described in principles 2 and 3 above are illustrated in the following two examples:

(a) Company C engages in a joint venture manufacturing operation in a non-boycotting country with Company D, a company incorporated under the laws of Country X. Alternatively, Company C sells goods or services to Company D in a non-boycotting country. In both cases, Company C has operations "with" a company of a boycotting country.

(b) D, a national of a non-boycotting country, has a contract to construct a dam in Country X. D subcontracts to Company C for the manufacture of a generator for the dam. The contract between D and Company C and the generator specifications indicate that the generator is for use in Country X. The contract specifies delivery of the generator to D f.o.b. New York. Company C has operations "related to" a boycotting country.

B-2. Q. Individual G is a U.S. citizen living in Country X. G is retired. G receives social security payments and a pension, but has no business activities. Does G have "operations" in, or related to, Country X?

A. No. G is not engaged in any business or commercial activities.

B-3. Q. Individual H is a U.S. citizen living in Country X and working there as an employee. H earns a salary and has passive investment income, but has no business income. Does H have "operations" in, or related to, Country X?

A. No. The performance of personal services as an employee does not constitute an "operation."

#### C. DEFINITION OF "REASON TO KNOW" REQUIREMENT OF BOYCOTT PARTICIPATION

C-1. Q. Under what circumstances, in the absence of a Treasury listing of a country under section 999(a)(3), will it be deemed under section 999(a)(1)(B) that a person knows or has reason to know that partici-

pation in or cooperation with an international boycott is required as a condition of doing business within such country or with the government, a company, or a national of such country?

A. A person will be deemed to know or have reason to know that a country requires participation in or cooperation with an international boycott as a condition of doing business within a country or with the government, a company, or a national of a country, if that person receives what could be interpreted as an official request of that country to participate in or cooperate with an international boycott or if that person knows that others have received such requests. Whether a request could be interpreted as an official request of a country depends on an analysis of the facts and circumstances surrounding the request. However, the request need not be made directly by a government official or representative in order to be interpreted as an official request. For example, assume that Company C has a contract with the government of a boycotting country to build a dam in that country and is required under the contract to require its subcontractors to agree to participate in or cooperate with the boycott. Assume further that Company C requires Subcontractor D to make such an agreement as a condition of receiving the subcontract to build a generator for the dam. Subcontractor D will be deemed to have reason to know that participation in or cooperation with an international boycott is a condition of doing business within the boycotting country or with the government, a company, or a national of such country.

D. DEFINITION OF "CLEARLY SEPARATE AND IDENTIFIABLE OPERATIONS"

D-1. Q. If a person or a member of a controlled group (within the meaning of section 993(a)(3)) enters into an agreement that constitutes participation in or cooperation with an international boycott (within the meaning of section 999(b)(3)), what operations of that person or group will be considered to be operations in connection with which such participation or cooperation occurred?

A. All operations of that person or any member of that group in—

- (a) The country in connection with which the agreement is made; and
- (b) Any other country that requires participation in or cooperation with the boycott with respect to which the agreement is made

will be presumed to be operations in connection with which there was participation in or cooperation with an international boycott. (See, however, Answer D-4 for an exception to the presumption in the case of agreements that are unintentional and unauthorized and that relate to a minor aspect of an operation.)

This presumption may be rebutted, however, if the person (or, if applicable, the U.S. shareholder of a foreign corporation) or member of the group clearly demonstrates that a particular operation is a clearly separate and identifiable operation from the operation in connection with which the agreement was made, and that no agreement constituting participation in or cooperation with an international boycott applied to, or was made in connection with, such separate and identifiable operation.

The presumption of participation in or cooperation with the boycott will not apply

with respect to operations outside the countries described in (a) and (b) above, but such operations will be considered to be operations in connection with which there was participation in or cooperation with an international boycott if so warranted by the facts.

D-2. Q. Who has the burden of proof of clearly demonstrating that a particular operation is a "clearly separate and identifiable operation" and that there was no participation in or cooperation with an international boycott in connection with that operation?

A. If a person or a member of a controlled group has participated in or cooperated with an international boycott in connection with one or more of its operations, that person (or, if applicable, the U.S. shareholder of a foreign corporation) or that group bears the burden of proof of clearly demonstrating that any other operation is clearly separate and identifiable from the operation in connection with which such participation or cooperation occurred and that no such participation or cooperation occurred in connection with the separate and identifiable operation.

D-3. Q. How can a taxpayer determine what constitutes a "clearly separate and identifiable operation"?

A. The determination whether an operation constitutes a clearly separate and identifiable operation must be based on an examination of all the facts and circumstances. The following factors are among those that may be considered in determining whether an operation is clearly separate and identifiable from an operation in connection with which participation in or cooperation with an international boycott occurred:

1. Were the two operations conducted by different corporations, partnerships, or other business entities?
2. Were the operations, whether conducted by separate entities or not, supervised by different management personnel?
3. Did the operations involve distinctly different products or services?
4. Were the operations undertaken pursuant to separate and distinct contracts?
5. If business operations in the countries conducting the international boycott in question were not continuous over time, was each transaction separately negotiated and performed?

The factors listed above are not intended to represent all the factors that will be considered in determining whether an operation is a clearly separate and identifiable operation. Additional factors will be considered if so warranted by the facts. No relative weight is assigned to any specific factor; instead, the weight to be given to any factor will depend on the facts and circumstances of each individual case. In addition, a positive answer to all the listed factors will not necessarily result in a determination that an operation is a clearly separate and identifiable operation if a contrary conclusion is warranted by the facts.

The application of the five factors is illustrated by the following examples:

(a) Company C contracts to build several major buildings in Country X. Company C has never engaged in any business in Country X prior to such contract. Nine months later Company C enters into a second contract to build a large dock facility in Country X. Construction of the dock facility will constitute an operation separate and identifiable from construction of the buildings.

(b) Company C contracts, as general contractor, to build a pipeline in Country X. In connection with the construction of the pipeline, Company C must retain engineering consultants. Company D, a member of the same controlled group of which Company C is a member, is engaged in the business of providing engineering consulting services to both related and unrelated parties. Company C is not headquartered in the same city as Company D, and does not share any management personnel with Company D. Company C retains Company D to provide such services with respect to the pipeline construction. The engineering consulting services provided by Company D will constitute operations separate and identifiable from the construction of the pipeline by Company C.

(c) Company C markets electronic computers and medical diagnostic equipment in Country X and Country Z. The two product lines, computers and medical equipment, are handled by representatives of two separate divisions which are located in different offices. The managers of each division report to different superiors in the United States. The activities of Company C with respect to sales of computers will constitute operations separate and identifiable from Company C's activities in connection with the sales of medical equipment.

(d) Company C imports and sells motor vehicles in Country X. Company C maintains a national office and import depot at a major port in Country X and has five sales offices located in various cities in Country X. The managers of the sales offices are authorized to handle local matters relating to maintaining the offices and are subject to the close supervision and inspection of national office personnel. For internal accounting purposes, Company C treats each sales office as a profit center, charging each office for its inventory and a proportional share of corporate overhead. The marketing activities of the various sales offices do not constitute operations separate and identifiable from each other, nor do the marketing activities of Company C as a whole constitute operations separate and identifiable from the import and distribution activities of Company C.

(e) Company C markets appliances, such as refrigerators, washers and dryers, and home entertainment equipment, such as televisions and tape recorders, in Country X. The appliances are manufactured in Country X by Company D, a company wholly-owned by Company C, and the home entertainment equipment is manufactured in Country X by Company E, also wholly-owned by Company C. Company C purchases the production of Company D and Company E for resale to independent retailers who generally handle both lines of products. Company C's resales to the various independent retailers are made pursuant to separate and distinct contracts, each of which is separately negotiated. The boards of directors of Companies C, D, and E are composed of the same individuals and the same individual serves as president of each company. The products of Companies D and E are manufactured in the same plant, and the executive offices of Companies C, D, and E are all located in a building adjacent to that plant. Company C's various resale operations are not separate and identifiable from one another, and the respective operations of Companies C, D, and E do not constitute operations that are clearly separate and identifiable from each other.

(f) Bank C provides international banking and financing services throughout the world through its home office and foreign branches and subsidiaries. The services include wholesale lending, retail lending, deposit gathering and letter of credit services. The letter of credit services involve the opening, confirming and advising of letters of credit and the negotiation, payment and acceptance of drafts by beneficiaries under letters of credit. The letter of credit services are performed by specialized bank personnel that are organized into separate sections in the respective offices of Bank C and of its subsidiaries. These letter of credit services are supervised by management personnel different from the personnel responsible for the other banking and financing services provided by Bank C. The letter of credit services of Bank C, conducted through the respective offices of Bank C and of its subsidiaries, constitute operations that are separate and identifiable from the other international banking and financing services provided by Bank C and its subsidiaries.

D-4. Q. Company C has operations in or related to Country X. In connection with a minor aspect of those operations, an employee of Company C enters into an unintentional and unauthorized boycott agreement. For example, a clerk of Company C signs an invoice for office supplies. On the reverse side of the invoice, a boycott clause is printed in fine print or in a foreign language. Will that agreement give rise to the presumption that all the operations of C

company C in boycotting countries are operations in connection with which there is participation in or cooperation with an international boycott? Will that agreement trigger the application of the sanctions of 908(a), 952(a)(3), or 995(b)(1)(F)?

A. An agreement to participate in or cooperate with an international boycott made in connection with a minor aspect of Company C's operations will not taint the operations of Company C in boycotting countries and will not trigger the application of the sanctions of sections 908(a), 952(a)(3), or 995(b)(1)(F) if the agreement was unintentional. Company C has not authorized the employee to agree to participate in or cooperate with the international boycott and Company C does not comply with the terms of the unauthorized boycott clause.

D-5. Q. The facts are the same as in example (c) of Answer D-3 with the following additional facts:

Company C's computer sales, each made pursuant to a separately negotiated contract, are as follows:

(a) Sales in Country X with boycott agreements.....	10
(b) Sales in Country X without boycott agreements.....	15
(c) Sales in Country Z related to Country X with boycott agreements.....	20
(d) Sales in Country Z related to Country X without boycott agreements.....	25
(e) Sales in Country Z not related to Country X.....	30

(f) Total sales of computers..... 100

Company C's medical equipment sales, each made pursuant to a separately negotiated contract, are as follows:

(g) Sales in Country X with boycott agreements.....	0
(h) Sales in Country X without boycott agreements.....	35
(i) Sales in Country Z related to Country X with boycott agreements.....	0



(j) Sales in Country Z related to Country X without boycott agreements.....	40
(k) Sales in Country Z not related to Country X.....	45
(l) Total sales of computers.....	120

To which sales does the section 999(b)(1) presumption apply, and to which sales do the sanctions of section 908(a), 952(a)(3), and 995(b)(1)(F) apply?

A. Since Company C has participated in an international boycott in connection with at least one sale, the presumption of section 999(b)(1) applies to Company C's 60 sales in Country X (a+b+g+h). The presumption does not apply to the 85 sales related to Country X (c+d+i+j) or to the 75 sales that are not in or related to Country X (e+k). The sanctions of 908(a), 952(a)(3), and 995(b)(1)(F) apply to Company C's 20 sales related to Country X that involve boycott participation or cooperation (c+i) and also to Company C's 25 computer sales in Country X that Company C has not clearly demonstrated are clearly separate and identifiable from sales in connection with which there was participation in or cooperation with an international boycott (a+b). Had Company C not been able to clearly demonstrate that the 35 sales of medical equipment in Country X (g+h) were clearly separate and identifiable from the tainted sales of computers in Country X (a+b), then the sanctions of 908(a), 952(a)(3), and 995(b)(1)(F) would also have applied to those 35 sales.

#### E. EFFECTIVE DATE PROVISIONS

E-1. Q. What are the effective dates of the reporting requirements and sanctions of the international boycott provisions?

A. Generally, the reporting requirements and the sanctions of the international boycott provisions apply to agreements to participate in or cooperate with an international boycott made after November 3, 1976, and to agreements made on or before November 3, 1976, that continue in effect thereafter. However, there are two exceptions to this general rule. First, the reporting requirements of section 999(a) apply to all operations referred to in section 999(a)(1) or (2) after November 3, 1976, whether or not there has been an agreement to participate in or cooperate with an international boycott, and whether or not the operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976. All operations on or before November 3, 1976, are reportable if there has been participation in or cooperation with the boycott during the taxable year after November 3, 1976, in connection with any operation (see Answer E-2). Second, in the case of an operation carried out in accordance with the terms of a binding contract entered into before September 2, 1976, the sanctions of the international boycott provisions apply only to agreements to participate in or cooperate with an international boycott made on or after September 2, 1976, and to agreements made before that date that continue in effect after December 31, 1977. More details concerning reporting requirements and the application of sanctions for years affected by the effective date of the international boycott provisions are contained in the instructions to Form 5713, in Temp. Regs. § 7.999-1 and in Proposed Regs. § 1.999-1.

E-2. Q. If a person who reports tax liability on a calendar year basis makes an agreement on November 20, 1976, to participate in or cooperate with an international boy-

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cott, which of that person's operations conducted during the taxable year are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire 1976 taxable year (including pre-November 20, 1976, operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

The sanctions are applied to the year 1976 on a pro rata basis. If a person uses the international boycott factor for 1976, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 58/366, representing the number of days after the November 3, 1976, effective date remaining during the calendar year. If a person identifies specifically attributable taxes and income, the tax benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to all operations that are—

(1) related to boycotting countries and in connection with which there was boycott participation or cooperation, and

(2) in boycotting countries and that are not clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

and then multiplying those amounts by 58/366.

E-3. Q. If a person having a July 1-June 30 taxable year carries out an operation or operations in accordance with the terms of a binding contract entered into before September 2, 1976, and, in furtherance of that contract, makes an agreement on February 15, 1978, to participate in or cooperate with an international boycott, which of the person's operations conducted during the taxable year July 1, 1977-June 30, 1978, are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire July 1, 1977-June 30, 1978, taxable year (including pre-February 15, 1978 operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in

which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

The sanctions are applied to the July 1, 1977-June 30, 1978, taxable year on a pro rata basis. If a person uses the international boycott factor for the taxable year, the factor is applied under sections 908(a), 952(a)(3), and 995(b)(1)(F) after it has been multiplied by the fraction 194/366, representing the number of days after the December 31, 1977, effective date remaining during the taxpayer's taxable year. (See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.) If a person identifies specifically attributable taxes and income, the tax benefits denied under sections 908(a), 952(a)(3), and 995(b)(1)(F) are computed by first ascertaining the tax benefits of the foreign tax credit, deferral, and DISC, respectively, for the taxable year attributable to all operations that are—

(1) related to boycotting countries and in connection with which there was boycott participation or cooperation, and

(2) in boycotting countries and that are not clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

and then multiplying those amounts by 194/366.

E-4. Q. What is a binding contract for purposes of the binding contract rule?

A. A binding contract with respect to a person, a member of a controlled group that includes that person, or a foreign corporation of which that person is a United States shareholder is a contract that was, on September 1, 1976, and is at all times thereafter, binding on that person, foreign corporation or member, and under which all material terms are fixed or are ascertainable with reference to an objectively determinable standard.

E-5. Q. If, under a binding contract existing before September 2, 1976, a person made an agreement described in section 999(b)(3), will the operation or operations that are the subject of the contract be subject to the international boycott provisions in years after 1977?

A. Yes, unless the person establishes that, on or before December 31, 1977, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1977.

E-6. Q. If, under a contract made in 1979, a person who reports tax liability on a calendar year basis makes an agreement described in section 999(b)(3), but does not comply with the agreement after 1980, will the operation or operations that are the subject of the contract be subject to the in-

ternational boycott provisions in years after 1980?

A. Yes, unless the person establishes that, on or before December 31, 1980, the agreement to participate in or cooperate with the boycott was renounced, the renunciation was communicated to the government or person with which the agreement was made, and the agreement was not reaffirmed after 1980.

E-7. Q. If, under a contract made after January 1, 1977, a person makes an agreement described in section 999(b)(3), and later renounces the agreement and communicates such renunciation to the government or person with which the agreement was made, which operations of such person during the taxable year of the renunciation are reportable, which operations are included in the international boycott factor calculations, and how are the sanctions applied?

A. All operations of the person during the entire taxable year within which the agreement was renounced (including post-renunciation operations) in or related to a boycotting country or with the government, a company, or a national of such country must be reported under section 999(a) and will be considered in calculating the international boycott factor (or the amount of taxes or income specifically attributable to operations in which there was participation in or cooperation with an international boycott) for the taxable year. However, under section 999(c)(1), those operations that are—

(1) related to boycotting countries and in connection with which there was no boycott participation or cooperation, and

(2) in boycotting countries and that are clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

need not be reflected in the numerator of the international boycott factor. In addition, under section 999(c)(2) the tax benefits specifically attributable to such operations will not be denied. See also Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1. There is no proration between the pre-renunciation and post-renunciation portions of the taxable year of either the boycott factor or the specifically attributable taxes and income.

E-8. Q. Before September 2, 1976, Company A entered into a binding contract that did not contain an agreement to boycott or by itself support an inference of the existence of an agreement to boycott. However, Company A's course of conduct in carrying out the operation or operations in accordance with the terms of the contract evidences that there is an implied agreement that constitutes participation in or cooperation with an international boycott. Will the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) be applied to such participation or cooperation that takes place prior to January 1, 1978?

A. If the course of conduct from which the existence of the implied agreement was inferred took place before September 2, 1976, then the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) will not be applied to such participation in or cooperation with an international boycott that takes place prior to January 1, 1978. However, if the inference of the existence of the implied agreement would depend on conduct on or after September 2, 1976, then those sanctions will be applied to participation in or cooperation with the international boycott

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after November 3, 1976. See section 1068(a)(1) of the Tax Reform Act of 1976.

E-9. Q. Company C entered into a binding contract prior to September 2, 1976, to manufacture and deliver equipment to a customer located in Country X. The contract requires Company C to use no components that are manufactured by blacklisted United States companies. The contract also requires that the vessel on which the equipment is shipped not be blacklisted. On January 15, 1977, Company C is able to have the contract amended to eliminate the requirement regarding components, but is unable to secure any change regarding vessels. Will the amendment regarding components remove the binding contract protection otherwise afforded until December 31, 1977, that Company C has regarding vessels?

A. No. Since Company C could have waited to abrogate or renegotiate its contract until the end of 1977 and since it is in accord with the legislative purpose for Company C to accelerate elimination of the provision regarding components, it will remain protected until December 31, 1977, from the consequences of its continuing to refrain from shipping the goods on blacklisted vessels.

E-10. Q. If, before December 31, 1977, a person carries out several different operations in boycotting countries and the only operation of that person that constitutes participation in or cooperation with an international boycott is carried out in accordance with the terms of a binding contract entered into before September 2, 1976, will the existence of that one boycotting operation trigger the section 999(b)(1) presumption that the other operations of that person in boycotting countries are also operations in connection with which boycott participation or cooperation occurred?

A. No. Operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, will not trigger the section 999(b)(1) presumption. However, if the boycott agreements are not renounced on or before December 31, 1977, those operations will trigger the section 999(b)(1) presumption after December 31, 1977.

E-11. Q. Are operations of a person that constitute participation in or cooperation with an international boycott reflected in the numerator of a person's international boycott factor before December 31, 1977, if those operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976?

A. No. Boycotting operations carried out before December 31, 1977, in accordance with the terms of a binding contract entered into before September 2, 1976, are not reflected in the numerator of the international boycott factor. They are reflected in the denominator, however. See Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

E-12. Q. On June 30, 1976, Company A, a domestic corporation that reports its operations on a calendar year basis, disposed of all of its stock in Company C, a foreign corporation. Will Company A be required to report any operations, requests or participation or cooperation of Company C for calendar year 1976? Will the operations of Company C be included in Company A's international boycott factor for 1976?

A. No. Since Company A did not own any stock of Company C after the effective date of the boycott provisions, Company A is not required to report any operations, requests or participation or cooperation of Company

C in 1976 and will exclude Company C's operations from its international boycott factor computations.

E-13. Q. Are operations, requests or participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976, required to be reported, either by that person or by any other person?

A. No. Operations, requests and participation in or cooperation with an international boycott of a person for that person's taxable year that ends before November 4, 1976, need not be reported by any person. However, as stated in Answers E-1 and E-2, operations, requests and participation in or cooperation with an international boycott before November 4, 1976, during a taxable year that ends on or after that date are reportable if there has been participation in or cooperation with an international boycott during that taxable year but on or after that date.

#### F. INTERNATIONAL BOYCOTT FACTOR AND SPECIFICALLY ATTRIBUTABLE TAXES AND INCOME

F-1. Q. How is the international boycott factor computed?

A. Section 999(c)(1) provides that the international boycott factor is determined under regulations prescribed by the Secretary. The international boycott factor is a fraction the numerator of which reflects boycotting operations in or related to countries associated in carrying out an international boycott and the denominator of which reflects worldwide foreign operations. Temporary and proposed regulations setting forth the method of determining the international boycott factor were issued in February, 1977. See Temp. Regs. § 7.999-1 and Proposed Regs. § 1.999-1.

F-2. Q. In the case of a controlled group (within the meaning of section 993(a)(3)), is a single international boycott factor computed for the entire group?

A. Yes. All members of a controlled group share a single, common international boycott factor. Currently, the international boycott factor regulations provide that the international boycott factor of a controlled group reflects the operations of all members of the controlled group, regardless of whether all members of the group choose to compute their loss of tax benefits using the international boycott factor. It is anticipated that those regulations will be changed to provide that the international boycott factor of a controlled group will reflect the operations of only those members of the controlled group that choose to compute their loss of tax benefits using the international boycott factor.

F-3. Q. Once an international boycott factor has been computed for a controlled group (within the meaning of section 993(a)(3)), how is the factor applied to individual members of the group?

A. The international boycott factor of a controlled group is applied separately under sections 908(a), 952(a)(3), and 995(b)(1)(F) to each individual member of the controlled group that chooses to compute its loss of tax benefits using the international boycott factor.

F-4. Q. If a person applies the international boycott factor to some operations during the taxable year, must the factor be applied to all operations of that person for the taxable year?

A. Yes. If a person applies the international boycott factor to one operation during the taxable year, the factor must be applied



to all operations during the taxable year under each of sections 908(a), 952(a)(3), and 995(b)(1)(F). If a person identifies specifically attributable taxes and income under section 999(c)(2), that method must be applied to all operations during the taxable year and must be applied under each of sections 908(a), 952(a)(3), and 995(b)(1)(F).

F-5. Q. In the case of a controlled group (within the meaning of section 993(a)(3)), may one member use the international boycott factor under section 999(c)(1) and another member identify specifically attributable taxes and income under section 999(c)(2)?

A. Yes. Each member may independently choose either to apply the international boycott factor under section 999(c)(1) or to identify specifically attributable taxes and income under section 999(c)(2). The method chosen by each member for determining the loss of tax benefits must be applied consistently to determine all loss of tax benefits of that member. For example, if one member of a controlled group, Company A, chooses to use the international boycott factor, then it must apply the international boycott factor to determine its loss of the section 902 indirect foreign tax credit in respect of a dividend paid to it by another member of the controlled group, Company C, even if Company C determines its loss of tax benefits by identifying specifically attributable taxes and income.

F-6. Q. If a person chooses to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2), may it demonstrate the amount of foreign taxes paid and income earned attributable to the specific operations by applying an overall effective rate of foreign taxes and an overall profit margin to each operation?

A. No. A person must clearly demonstrate foreign taxes paid and income earned attributable to specific operations by analyzing the profit and loss data of each separate and identifiable operation. The principles of Regs. 1.861-8 are applicable in determining income and taxes attributable to specific operations.

F-7. Q. A United States partnership has operations in a boycotting country. Is the international boycott factor computed at the partnership level?

A. No. The international boycott factor is computed separately by each partner based on information submitted by the partnership and on other activities of that partner. Of course, if the partner can meet the conditions of section 999(c)(2) of the Code, he need not use the international boycott factor.

F-8. Q. A person desires to determine its loss of tax benefits by applying the specifically attributable taxes and income method set forth in section 999(c)(2). That person is able to clearly demonstrate that some of its operations in boycotting countries consti-

tute clearly separate and identifiable operations in connection with which there was no participation in or cooperation with an international boycott. That person is also able to clearly demonstrate the taxes and income attributable to those operations. With respect to the remainder of its operations in boycotting countries, that person is either unable to clearly demonstrate that those operations are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott or is unable to identify taxes and income specifically attributable to separate and identifiable operations in connection with which there was such participation or cooperation. Under these facts, will that person be required to determine its loss of tax benefits by applying the international boycott factor?

A. No. That person may compute its loss of tax benefits by applying the specifically attributable taxes and income method if it forfeits the benefits of deferral, DISC and the foreign tax credit attributable to all its operations that are in boycotting countries and which it cannot clearly demonstrate are operations that are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

F-9. Q. If a person chooses to compute its loss of tax benefits in one year by applying the international boycott factor, may that person compute its loss of tax benefits in another year using the specifically attributable taxes and income method?

A. Yes. The election to use the international boycott factor or the specifically attributable taxes and income method is an annual election. The election is made by completing the appropriate Schedule A or B to Form 5713.

F-10. Q. In 1978 a person computes its loss of tax benefits using the international boycott factor. On audit, it is determined that adjustments are to be made to the international boycott factor. May that person then recompute its loss of tax benefits for 1978 using the specifically attributable taxes and income method?

A. Yes. A person may change its method of computing loss of tax benefits under the international boycott provisions at any time for any open taxable year.

#### G. DETERMINATIONS

G-1. Q. What degree of confidentiality will determinations, and requests for determinations, under section 999(d) receive?

A. A determination under section 999(d) will be treated as a "written determination" within the meaning of section 6110(b)(1). Therefore, the determination and any background file document related thereto will be subject to public inspection in accordance with the rules set forth in section 6110, and subject to the deletions set forth in section 6110(c).

G-2. Q. What procedures are applicable to requests for, and the issuance of, determinations under section 999(d)?

A. The procedures applicable to requests for, and the issuance of, determinations under section 999(d) are set forth in Revenue Procedure 77-9, 1977-10 IRB 12.

#### H. DEFINITION OF AN AGREEMENT TO PARTICIPATE IN OR COOPERATE WITH A BOYCOTT (SECTION 999(b)(3))

H-1A. Q. Company C enters into a written contract to export goods to Country X. The

contract requires Company C not to obtain any of the goods from any person blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Generally, any express agreement (written or oral) providing that a person will refrain from doing business with a person blacklisted by Country X (or by a group of countries associated with Country X in carrying out an international boycott) constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3). Blacklists are normally maintained to provide a convenient list of persons that engage in activities that are inconsistent with the boycott.

However, such an agreement does not constitute participation in or cooperation with an international boycott if it is established that the blacklist is maintained for reasons other than furtherance of the boycott as, for example, to exclude persons who have previously supplied defective goods.

H-1B. Q. Company C enters into a contract to export goods to Country X. The contract requires Company C to obtain goods from Company D, which is specified in the contract, and to pass on to the purchaser a certificate from Company D that Company D is not blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Yes, if Company D is a company organized under the laws of Country Y or is a U.S. person within the meaning of section 7701(a)(30).

The result would be the same if Company C had reason to know that it would not be able to obtain the required certificate because of the nationality, race or religion of Company D's ownership, management or directors.

However, if Company D is neither a company organized under the laws of Country Y nor a U.S. person and if Company C does not have reason to know that it will not be able to obtain the certificate because of the nationality, race or religion of Company D's ownership, management or directors, Company C's action in entering into such a contract would not constitute participation in or cooperation with an international boycott under section 999(b)(3).

H-2. Q. During negotiations concerning a contract for the export of goods to Country X, Company C and Country X agree orally that Company C will not purchase any of the goods from any blacklisted company. They also agree that this agreement will not be reflected in the written contract for the export of the goods or in any other writing. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Generally, yes. See Answer H-1A.

H-3. Q. Company C signs a contract to construct an industrial plant in Country X. The contract states that the laws, regulations, requirements or administrative practices of Country X will apply to Company C's performance of the contract in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement under section 999(b)(3)?

A. No. An agreement under section 999(b)(3) will not be inferred solely from the inclusion in a contract of a provision stating that the laws, regulations, require-

ments or administrative practices of Country X will apply to the performance of the contract in that country. However, an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors could support such an inference. Examples of other factors which could give rise to such an inference include the termination or lessening of business relationships with blacklisted firms or with Country Y (in the absence of compelling non-boycott considerations) or the refusal to enter into such business relationships where there are opportunities and compelling business reasons for doing so (apart from boycott considerations). On the other hand, repeated inclusion of such a provision in contracts does not give rise to such an inference.

H-4. Q. The facts are the same as in Question H-3, except that the contract states that Company C will comply with the laws, regulations, requirements or administrative practices of Country X in its performance of the contract in Country X. Does Company C's action constitute an agreement according to section 999(b)(3)?

A. Yes. Entering into a contract that requires compliance with the laws, regulations, requirements or administrative practices of Country X constitutes an agreement under section 999(b)(3), if some of those laws, regulations, requirements or administrative practices prohibit the importation into Country X of goods manufactured by any company engaged in trade in Country Y or with the government, companies or nationals of Country Y.

H-5. Q. Company C signs a contract to export goods to Country X. The contract contains no clause concerning a boycott. The laws, regulations, requirements or administrative practices of Country X include prohibitions on the importation into Country X of goods manufactured by persons engaged in trade in Country Y. Company C does not purchase any goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. Does Company C's action constitute an agreement under section 999(b)(3)?

A. Where there is no express agreement, the existence of an agreement will not be inferred solely from the fact that Company C, consistent with the laws, regulations, requirements or administrative practices of Country X, has not purchased goods with which to fulfill its obligations under the contract from any U.S. company engaged in trade in Country Y or with the government, companies or nationals of Country Y. An agreement under section 999(b)(3) will not be inferred solely from the absence of a business relationship. But an overall course of conduct which includes such an absence of business relationships in addition to other factors could support such an inference. See Answer H-3.

H-6. Q. Questions and answers H-1A, H-1B, H-2, and H-5 all involve contracts for the export of goods by company C to country X. Would the issue of whether an agreement exists under section 999(b)(3) be resolved in the same way as in each of the above answers if the contract were for (a) the supply of services to country X or (b) a construction project in country X?

A. Yes.

H-7. Q. (a) Company C incorporates a subsidiary in country X. In the documents submitted by company C relating to the incor-

poration of the subsidiary there is a general acknowledgment that the subsidiary is subject to the laws, regulations, requirements, and administrative practices of country X.

(b) Company C establishes a branch in country X. In the documents relating to the registration of the branch there is a general acknowledgment that the laws, regulations, requirements, and administrative practices of country X apply to the branch.

Included in the laws, regulations, requirements, or administrative practices of country X is a requirement that companies incorporated in country X and branches registered in country X refrain from doing business with any person engaged in trade in country Y or with the government, companies, or nationals of country Y. Does either the acknowledgment of the subsidiary or the undertaking of the branch constitute an agreement under section 999(b)(3)?

A. The mere acknowledgment in incorporation or registration documents of the general applicability of the laws, regulations, requirements, or administrative practices of a boycotting country will not give rise to the inference of the existence of an agreement under section 999(b)(3). However, such an acknowledgment in addition to other factors could support such an inference. See answer H-3. Moreover, if the incorporation or registration documents state that the subsidiary or branch will comply with the laws, regulations, requirements, or administrative practices, there is an agreement under section 999(b)(3).

H-8. Q. Company C signs a contract to export goods to country X. The contract contains no clause concerning a boycott. Payment is made by means of a letter of credit that requires, as a condition of payment, that company C provide bank D with a certificate that the goods were not manufactured by a person blacklisted by country X. Company C provides the required certificate to bank D. Does company C's action constitute an agreement under section 999(b)(3)?

A. Generally, yes. See answer H-1A. The terms of a letter of credit upon which payment is made are part of the agreement made by company C.

H-9. Q. Company C signs a contract to carry out a construction project in country X. The contract says nothing about the nationality, race, or religion of the individuals who are to be employed to carry out the contract within country X. However, company C is aware that the laws, regulations, requirements, or administrative practices of country X may prohibit the issuances of visas by country X to individuals of religion R to work on projects in that country. Company C excludes individuals of that religion from consideration for employment on the project in country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Where there is no express agreement, the existence of an agreement under section 999(b)(3) will not be inferred solely from the fact that a person's action is apparently consistent with boycott requirements of country X, provided that there appear to be valid business reasons for such action. In the absence of valid business reasons, such an action could support the inference of an agreement under section 999(b)(3). It is highly unlikely here that there are valid business reasons for company C's action.

H-10. Q. Company C signs a contract to carry out a construction project in country X. The contract says nothing about the na-

tionality, race, or religion of the individuals who are to be employed to carry out the contract within country X. However, company C is aware that the laws, regulations, requirements, or administrative practices of country X may prohibit the issuance of visas to individuals of religion R. Company C, in hiring people for the project, informs all such people that if they cannot obtain a visa to enter country X, their employment will be terminated. Several individuals of religion R are unsuccessful in obtaining visas and their employment is subsequently terminated. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The existence of an agreement under section 999(b)(3) will not be inferred from company C's action.

H-11. Q. The facts are the same as in question H-10, except that company C enters into employment contracts with individuals for work on the project in country X subject to the condition that such individuals obtain visas from country X that will permit them to work in country X. Few, if any, individuals of religion R are successful in obtaining visas. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The existence of an agreement under section 999(b)(3) will not be inferred from company C's action.

H-12. Q. The facts are the same as in question H-10, except that no individuals of religion R are willing to accept employment on the terms offered by company C. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. H-13. Q. Company C signs a contract with country X to carry out a construction project in country X. The contract says nothing about who may or may not be a subcontractor to do certain work in country X other than that country X has the right of prior approval of all subcontractors. Does company C's action constitute an agreement under section 999(b)(3)?

A. The contract provision giving the project owner a right of prior approval does not itself constitute an agreement under section 999(b)(3). However, an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors could give rise to such an inference. Examples of other factors which could give rise to such an inference include: Company C's supplying of boycott information relating to possible subcontractors and the compilation by company C of lists of subcontractors from which blacklisted companies are excluded for no valid business reasons. On the other hand, repeated inclusion of such a provision in contracts does not give rise to such an inference.

H-14. Q. Company C signs a contract to carry out a construction project in country X. The contract specifies a number of permissible subcontractors. All the subcontractors, in the view of company C, are capable of carrying out the work, but none of them appears on a list of companies that are blacklisted by country X. Company C has previously done business with each of the specified companies, but it has also done business with certain of the blacklisted companies with which it has had satisfactory relations. Does company C's action constitute an agreement under section 999(b)(3)?

A. A contract that on its face indicates a pattern of exclusion of certain companies, including companies with which company C has no particular reason not to do business,



gives rise to an inference that company C has agreed to refrain from doing business with the blacklisted companies, unless company C is able to show that the excluded companies were not specified as permissible subcontractors for reasons not related to the boycott. See answer H-1A.

H-15. Q. Company C signs a contract to carry out a construction project in country X. The contract provides that country X is to engage all the subcontractors that are to be engaged from outside country X but that are to perform all or part of their services in country X. Company C, however, is given the right to disapprove any company that country X proposes to engage for a subcontract. While the contract is being carried out, none of the companies that country X proposes to prequalify or invite to bid are included on a list of companies blacklisted by country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Under the contract, company C has not agreed to refrain from doing business with companies that are on the blacklist. The contract, moreover, does not give company C the right to select subcontractors other than those nominated by country X. Therefore, company C's action does not constitute an agreement under section 999(b)(3). Nevertheless, an agreement may be inferred from an overall course of conduct which includes the signing of a contract with such a provision in addition to other factors. See answer H-13 for examples of such other factors. On the other hand, the repeated signing of contracts with such provisions would not give rise to such an inference.

H-16. Q. Company C signs a contract to carry out a construction project in country X. The contract states that any disputes arising under the contract will be resolved in accordance with country X's laws. The laws of country X contain boycott provisions. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. The provision that disputes will be resolved in accordance with country X's laws does not constitute an agreement by company C to comply with country X's boycott laws with respect to the carrying out of the contract.

H-17. Q. Company C receives an inquiry from country X about certain goods that company C manufactures. The inquiry also requests company C to furnish information about the following matters: Whether it does business with country Y and whether it does business with any U.S. person engaged in trade in country Y. Company C furnishes the requested information to country X. Later company C signs a contract with country X to export goods to country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. By furnishing such information company C has not agreed to take any action, as a condition of doing business with country X, that is described in section 999(b)(3). Nevertheless, an agreement under section 999(b)(3) could be inferred from an overall course of conduct that includes the furnishing of such information in addition to other factors. An example of another factor which could give rise to such an inference is any contemporaneous termination or lessening in company C's relationships with country Y or with U.S. persons engaged in trade with country Y for no valid business reason. On the other hand, the repeated furnishing of such information would not give rise to such an inference.

H-18. Q. Company C signs a contract to export goods to country X. The contract contains a clause requiring company C not to obtain any of the goods from any company blacklisted by country X. Company C, however, purchases some of the goods from one of the blacklisted companies. Does company C's action constitute an agreement according to section 999(b)(3)?

A. Yes. An agreement to refrain from doing business with persons blacklisted by country X generally constitutes participation in or cooperation with an international boycott within the meaning of section 999(b)(3), even if company C, fully or partially, does not abide by, or intend to abide by, such agreement. See answer H-1A.

H-19. Q. Company C signs a contract with country X to export goods to country X. Included in the contract is a provision that company C will refrain from doing business with country Y. Company C has done considerable business with country Y in the past, but soon after it concludes the contract with country X its distributor in country Y, learning of the contract with country X, refuses to continue to handle company C's products and company C tries but is unable to conclude any other satisfactory distribution arrangement in country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes, for the reason stated in answer H-18.

H-20. Q. Company C has been unable to do business with country X because company C has been on a blacklist of companies maintained by an organization of countries to which country X belongs. As a condition of being removed from the list, company C agrees to refrain from doing business with country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes. Even though company C has not yet entered into a contract to do business with any boycotting country, it has agreed, as a condition of being in a position to do business with one or more of the countries maintaining the blacklist, to refrain from doing business with country Y. This action constitutes an agreement under section 999(b)(3).

H-21. Q. The facts are the same as in question H-20, except that company C does several different types of business with country Y. It is requested to, and agrees to, refrain from doing one of those types of business with country Y, but it continues to do the other types of business with country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. Yes. An agreement to refrain from some, but not all, business with a boycotted country constitutes an agreement under section 999(b)(3).

H-22. Q. Company C is doing business in country X. It contracts with company D, which is not related to company C, for company D to build an office building for company C's use in country X. In the course of constructing the building, company D participates in or cooperates with an international boycott imposed by country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. Unless company C directs or requires company D to take action that constitutes participation in or cooperation with the boycott by company D, or unless company C's relationship with company D is established to facilitate participation in or cooperation with the boycott, company D's action will not be attributed to company C

under section 999(b)(3), and company C will not be deemed to be participating in or cooperating with an international boycott.

H-23. Q. Company C signs a contract with country X to export goods to country X. The contract does not contain any provision as to which ships should be used for shipping the goods to country X or which insurance companies should be used. The laws, regulations, requirements or administrative practices of country X do not permit the importation of goods carried on a ship owned by companies that trade in country Y or goods insured by companies that trade in country Y. Company C is aware of these laws, regulations, requirements, or administrative practices and ships the goods on the ships of a company, and insures the goods with a company, that does not trade in country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. See Answer H-5.

H-24. Q. Company C is competing for an industrial plant construction contract for which country X is inviting international tenders. The tender documents contain a provision to the effect that country X will not enter into the contract unless the successful tenderer certifies that in carrying out the contract it will refrain from doing business with companies blacklisted by country X. Company C does not win the contract, but in its tender it indicates that it would be prepared to sign a contract in the form indicated in the tender documents, and gives country X a tender bond to that effect. Does company C's action constitute an agreement under section 999(b)(3)?

A. Since its offer was not accepted, company C has not made an agreement under section 999(b)(3). Nevertheless, an agreement may be inferred, in other direct or indirect business transactions of company C in boycotting countries or with the governments, companies, or nationals of boycotting countries, from an overall course of conduct which includes company C's stated willingness to cooperate with country X's boycott in addition to other factors.

H-25. Q. Company C successfully prequalifies to tender for a contract for the construction of an industrial plant in country X. At the time it attempts to prequalify, company C is required to state that it understands that the successful tenderer for the contract will have to agree not to do business in connection with the project with any company blacklisted by country X or with the government, companies, or nationals of country Y. After it prequalifies, company C decides not to tender for the contract. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. But see answer H-24.

H-26. Q. Company C competes for an industrial plant construction contract for which country X is inviting international tenders. The tender documents contain a provision to the effect that country X will not enter into a contract unless the successful tenderer certifies that in carrying out the contract it will refrain from doing business with any company blacklisted by country X. Company C wins the tender and successfully convinces country X that the boycott clause should be deleted from the final contract. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. Company C has not made an agreement under section 999(b)(3). However, if the deletion of the boycott clause is not accomplished in good faith or is a subterfuge to mask an unstated understanding to par-

ticipate in or cooperate with an international boycott, there is an agreement under section 999(b)(3).

H-27. Q. Company D charters a vessel to company C to be used by company C in carrying its goods to country X. At the request of company D, company C agrees in the charter agreement not to issue any orders to, or take any action with respect to, the vessel that would result in limiting the vessel's ability to call at ports in country X or subject the vessel to arrest or confiscation in country X. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. Company C's agreement to take actions enumerated in section 999(b)(3) is not as a condition of doing business directly or indirectly within a boycotting country or with the government, a company, or a national of a boycotting country.

H-28. Q. Company D charters a vessel to company C to be used by company C in carrying its goods to or from specifically named ports, or a range of ports within a specified geographical area. Company D and company C agree on a charter agreement which precludes that vessel from calling at a number of countries, including country Y. Does company C's action constitute an agreement under section 999(b)(3)?

A. No. Q. Company A signs a contract to export goods to country X. The contract provides that payment will be made by means of a letter of credit confirmed by bank C. The letter of credit requires company A to provide to bank C a certificate that it is not blacklisted before it can be paid by bank C. Bank C confirms the letter of credit and later makes payment to company A after determining that all documents, including the boycott certificate, are in order. Does bank C's action constitute an agreement under section 999(b)(3)?

A. Yes. Bank C's action constitutes an agreement to refrain from doing business with a U.S. person and therefore constitutes an agreement under section 999(b)(3)(A)(ii). The answer would be the same under section 999(b)(3)(A)(i) if the beneficiary of the letter of credit were organized under the law of country Y and under section 999(b)(3)(A)(iii) if company C had reason to know that it will not be able to obtain the required certificate because of the nationality, race, or religion of the beneficiary's ownership, management, or directors. The answer would also be the same were bank C merely to confirm, pay, honor, negotiate, open, or otherwise implement the letter of credit. However, merely advising company A of the letter of credit does not constitute an agreement under section 999(b)(3).

Bank C's action would not constitute participation in or cooperation with an international boycott under section 999(b)(3) if the beneficiary were neither a country Y person nor a U.S. person and if bank C did not have reason to know that it would not be able to obtain the required certification because of the nationality, race, or religion of the beneficiary's ownership, management, or directors. See answer H-1B. If bank C has reason to know that a person has been inserted as the beneficiary of the letter of credit solely for the purpose of funneling payment to another person, the letter of credit will be viewed as also having that other person as a beneficiary.

H-29B. Q. The facts are the same as in H-29A, except that company A is required to provide to bank C a certificate that none of

the goods for which it is to be paid under the letter of credit is produced by a blacklisted person. Does bank C's action constitute an agreement under section 999(b)(3)?

A. Yes, for the same reasons and with the same qualifications as in Answer H-29A.

H-30. Q. Company C signs a contract to supply goods to Country X. The contract provides that Company C will not trade with Country Y, and that payment will be made by means of a letter of credit confirmed by Bank D provided that Bank D certifies to Country X that it will not confirm letters of credit relating to the export of goods to Country Y. Bank D confirms the letter of credit, after issuing the requested certificate. Does Bank D's action constitute an agreement under section 999(b)(3)?

A. Yes, regardless of Company C's nationality.

H-31. Q. Company C signs a contract to export goods to Country X. The contract, consistent with the laws, regulations, requirements or administrative practices of Country X, provides that the goods may not be produced in whole or in part in Country Y or contain any parts, raw materials or labor originating in Country Y. The contract also provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that the goods are not produced in whole or in part in Country Y and contain no parts, raw materials or labor originating in Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the certificate, are in order. Does Bank D's action constitute an agreement under section 999(b)(3)?

A. No. Bank D's action constitutes an agreement in furtherance of a prohibition on the importation of goods produced in whole or in part in a country that is the object of an international boycott. According to section 999(b)(4)(B), agreeing to such a prohibition does not constitute participation in or cooperation with an international boycott. (Similarly, Company C's action does not constitute participation in or cooperation with an international boycott. See Answer I-1.)

H-32. Q. Company C signs a contract to export goods to Country X. The contract contains no clause concerning a boycott. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods manufactured by persons engaged in trade with Country Y and require import licenses. In order to obtain an import license, Company C provides a certificate indicating that the goods were not manufactured by a person engaged in trade in Country Y or with the government, companies or nationals of Country Y and that they were not shipped on a blacklisted ship. Does Company C's action constitute an agreement under section 999(b)(3)?

A. No. Merely providing at the time of import a certificate as to the content and shipper of goods, as is required to obtain an import license, does not by itself constitute an agreement under section 999(b)(3). Nor does the repetitive supplying of such certificates at the time of import by itself constitute an agreement under section 999(b)(3). However, an agreement to provide such a certificate would constitute an agreement under section 999(b)(3).

H-33. Q. Country X deposits money in a foreign branch of Bank C, a U.S. bank. As a

condition of making the deposit, Country X requires that all loans by the branch be made only to companies which can supply certificates that they are not blacklisted. The branch agrees to this condition. Does Bank C's action constitute an agreement under section 999(b)(3)?

A. Yes. Bank C's action constitutes an agreement under section 999(b)(3), which is made as a condition of doing business with Country X.

H-34. Q. Company C enters into an agreement with Country X to manufacture airplanes for Country X. The contract between Company C and Country X provides that no components in the airplane may be produced by blacklisted companies. Company C enters into an agreement with Company D pursuant to which Company D agrees to manufacture the seats and to provide Company C with a certificate that no components in the seats were produced by blacklisted companies. Company D knows or has reason to know that the seats are being incorporated in the airplanes being sold to Country X. Does Company D's action constitute an agreement under section 999(b)(3)?

A. Yes. Company D has agreed to refrain from doing business with blacklisted persons as a condition of doing business indirectly with Country X.

I. REFRAINING FROM DOING BUSINESS WITH OR IN A BOYCOTTED COUNTRY (SECTION 999(b)(3)(A)(i)).

I-1. Q. Company C signs a contract to export goods to Country X. In that contract, consistent with the laws, regulations, requirements or administrative practices of Country X, there is a provision that none of the goods to be provided shall be produced in whole or in part in Country Y or contain any parts, raw materials or labor from Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C is complying with Country X's prohibition on the importation of goods produced in whole or in part in a country which is the object of an international boycott. Such action, according to section 999(b)(4)(B), does not constitute participation in or cooperation with an international boycott.

I-2. Q. Company C owns a number of ships. It understands that if one of its ships visits Country Y, that ship will thereafter be unable to visit Country X. Company C has some ships that visit Country Y but not Country X and other ships that visit Country X but not Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C has not agreed to refrain from doing business with Country Y. Therefore Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i).

I-3. Q. Company C signs a contract licensing a company in Country X to use to certain of its patents and trademarks in Country X. The contract provides that Company C will not enter into any agreement with any national of Country Y with respect to the use in Country Y of patents and trademarks. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?



A. Yes. Company C has agreed to refrain from doing business with nationals of Country Y and such action constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(i).

I-4. Q. The facts are the same as in Question I-3, except that Company C has a number of licensing agreements with Country Y and enters into still more such agreements after it signs the contract with Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. Yes, for the reasons stated in Answer I-3. Answer H-18 is also relevant in this context.

I-5. Q. Company C signs a contract to export products from Country X. The contract, consistent with the laws, regulations, requirements or administrative requirements of Country X, requires Company C to certify that the goods will not be sent to Country Y. Company C so certifies. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Company C's compliance with Country X's prohibition on the exportation of products of Country X to Country Y does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i).

I-6. Q. Company C signs a contract to export goods to Country X. The contract provides that no capital of Country Y origin will be used in the production or manufacture of the goods. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. Yes. Company C has agreed to refrain from doing business with the government, a company or a national of Country Y.

I-7. Q. Company C enters into a contract for the manufacture and sale of goods to Country X and the provision of customer support services. The contract provides that Company C may assign its rights and obligations under the contract, but that such rights and obligations cannot be assigned to a company incorporated under the laws of Country Y without the express approval of Country X. There is no similar requirement with respect to companies incorporated under the laws of other countries. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. The contract provision requiring company C to obtain the approval of Country X prior to an assignment of the rights and obligations to a company incorporated under the laws of Country Y constitutes sufficient evidence from which to infer the existence of an agreement under section 999(b)(3)(A)(i) unless Company C can establish valid business reasons for this provision apart from the boycott.

I-8. Q. Company C, incorporated under the laws of any country other than Country X, signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that it is not organized under the laws of Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participa-

tion in or cooperation with an international boycott under section 999(b)(3)(A)(i)?

A. No. Because Company C is not a Country Y company, Bank D's action does not constitute an agreement to refrain from doing business with a person described in section 999(b)(3)(A)(i).

#### J. REFRAINING FROM DOING BUSINESS WITH ANY UNITED STATES PERSON ENGAGED IN TRADE IN A BOYCOTTED COUNTRY (SECTION 999(b)(3)(A)(ii)).

J-1. Q. Company C signs a contract with Country X for the turn-key construction of an industrial plant in Country X. The contract provides that Company C will not use as subcontractors a number of named U.S. firms whose past performance on contracts in Country X has been unsatisfactory, according to Country X, for reasons unrelated to the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. The exclusion of subcontractors based on performance is not covered by section 999(b)(3).

J-2A. Q. Company C enters into a contract to export goods to Country X. The contract provides that Company C will not use any goods manufactured by Company A in performing the contract since Company A is blacklisted by Country X even though Company A does not engage in any kind of trade in Country Y or with the government, companies, or nationals of that country. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Yes. An agreement providing that a person will refrain from doing business with a blacklisted U.S. person constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii), even if that person is not engaged in trade with Country Y, unless Company C can establish that the blacklist is maintained for reasons other than the furtherance of the boycott. See Answer H-1A.

J-2B. Q. The facts are the same as in Question J-2A, except that the contract provides that Company C will not use any goods manufactured by Company D, a company incorporated under the laws of any country other than the United States or Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No, because Company D is not a United States person. In addition, since Company D is not organized under the laws of Country Y, Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii). However, if Company C had reason to know that Company D was blacklisted because of the nationality, race or religion of Company D's ownership, management or directors, Company C's action would constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii). See Answer H-1B.

J-3. Q. Company C competes for an industrial plant construction contract for which Company P of Country W is inviting international tenders. The contract is to be financed by Country X, which maintains a blacklist of companies. Country X requires contracts for projects which it finances to state that the contractor is required to refrain from making any purchase for the

project from any blacklisted company. Country W does not boycott those companies. Company C wins the tender and signs the contract with Company P with the blacklist provision. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Generally, yes. See Answer H-1A. Although the boycott is not implemented by Country W, but by Country X, and the project is being carried out in Country W, Company C has agreed not to do business with blacklisted U.S. companies as a condition of doing business indirectly with Country X.

J-4. Q. Company C signs a contract to export goods to Country X. The contract provides that Company C will not do business with any company blacklisted by Country X. Company C establishes that although a number of the blacklisted companies are foreign subsidiaries of U.S. companies, no U.S. companies are on the list. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Yes. For purposes of this particular section, "United States person" does not include foreign subsidiaries of a United States person. However, since the blacklist may be changed to add U.S. persons between the time when Company C enters into the agreement and when it completes performance, Company C has agreed not to do business with any U.S. person that may be added to the blacklist.

J-5. Q. Bank C advises Country X on its investments in the United States. Country X instructs Bank C not to recommend for investment any shares of certain companies that are blacklisted by Country X. Bank C follows these instructions. Does Bank C's action constitute participation in or cooperation with an international boycott according to section 999(b)(3)(A)(ii)?

A. No. The recommendation of shares of certain companies by Bank C does not constitute "doing business" with those companies. Therefore Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

J-6A. Q. Bank C manages Country X's investment portfolio in the United States. Bank C has been given certain powers to act for Country X pursuant to instructions that, among other things, require Bank C not to invest Country X's funds in stocks and bonds issued by certain blacklisted United States companies. Bank C is authorized by Country X to purchase and sell stocks and bonds only through recognized exchanges, over the counter markets, or the so-called third market. Does Bank C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Purchasing stocks or bonds of any company on recognized exchanges, over the counter markets, or the so-called third market does not constitute "doing business" with that company, and an agreement to refrain from such purchases does not constitute an agreement to refrain from doing business with that company. Accordingly, Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

J-6B. Q. The facts are the same as in Question J-6A, except that Bank C is also authorized to purchase original issues of stocks and bonds directly from the issuing company. Does Bank C's action constitute

participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. Generally, yes. An agreement not to purchase original issues of stocks or bonds directly from a U.S. company blacklisted by Country X constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii). If, however, Bank C can establish that the blacklist is maintained for reasons other than the furtherance of the boycott, Bank C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3). See Answer H-1A.

J-7. Q. Company C signs a contract to construct an industrial plant in Country X. The laws, regulations, requirements or administrative practices of Country X prohibit the importation into Country X of goods produced by blacklisted companies. The contract states that the laws, regulations, requirements or administrative practices of Country X will apply to company C's performance of the contract in Country X. In carrying out the project, Company C invites bids to furnish all goods and equipment on a delivered-in-Country X basis. No company on the blacklist maintained by Country X bids. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. By the terms of the agreement Company C has not agreed to refrain from doing business with any of the blacklisted companies. The fact that blacklisted companies are unable to meet the conditions that Company C establishes is not due to any agreement by Company C with Country X, but is due to Country X's laws, regulations, requirements or administrative practices.

J-8. Q. The facts are the same as in Question J-7, except that Company C's purchase contracts require vendors to reimburse Company C for the purchase price and transportation costs, plus interest, of any goods that Company C cannot import into Country X because of Country X's import restrictions. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No, for the reasons given in Answer J-7. J-9. Q. Company C signs a contract to produce goods in Country X for export. The contract requires Company C to certify that, consistent with the laws, regulations, requirements or administrative practices of Country X, the goods will not be sent to Country Y and that Company C will require any purchaser of the products to certify that the goods will not be sent to Country Y if they are substantially unaltered at the time of resale by the purchaser. Company C thereafter sells these goods to Company A, requiring the certification. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Company C's agreement to refrain, and to require Company A to refrain, from sending Country X's unaltered products to Country Y does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii).

J-10. Q. Company C signs a contract to export goods to Country X. The contract requires that the goods be produced by Company A and that a certain component in the goods be produced by Company B. The laws, regulations, requirements or administrative practices of Country X prohibit the impor-

tation into Country X of goods manufactured by any company blacklisted by Country X. Company A and Company B are not blacklisted by Country X. Does Company C's action constitute an agreement under section 999(b)(3)(A)(ii)?

A. No. The existence of an agreement to refrain from doing business with a person blacklisted by Country X will not be inferred solely from a provision in a contract that goods or components must be produced by a specific company that does not in fact appear on the blacklist. Accordingly, Company C's action does not constitute an agreement under section 999(b)(3).

J-11. Q. Company C, incorporated under the laws of any country other than the United States, signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that it is not engaged in trade with Country Y before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(ii)?

A. No. Bank D's confirmation represents its agreement to refrain from doing business with a person that is not a United States person. Such an agreement does not come within the coverage of section 999(b)(3)(A)(ii).

#### K. REFRAINING FROM DOING BUSINESS WITH ANY COMPANY WHOSE OWNERSHIP OR MANAGEMENT IS MADE UP, IN WHOLE OR IN PART, OF INDIVIDUALS OF A PARTICULAR NATIONALITY, RACE OR RELIGION (SECTION 999(b)(3)(A)(iii)).

K-1. Q. Company C signs a contract to export goods to Country X. The contract provides that the goods will not bear any mark symbolizing Country Y or religion R. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. No. Section 999(b)(3)(A)(iii) prohibits agreements to refrain from doing business on the basis of the nationality, race or religion of the owners or management of an organization and to refrain from selecting (or to remove) directors of a particular nationality, race or religion. It does not prohibit agreements not to import goods bearing certain marks into a country. No part of section 999(b)(3) concerns refusals to purchase goods bearing marks symbolizing a certain country or religion.

K-2. Q. As a condition of doing business in Country X, Company C's subsidiary in Country X agrees that the board of directors of the subsidiary must consist of a specified number of nationals of Country X. Does such action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. No. K-3. Q. Company C is the leader of a syndicate of U.S. and foreign banks that is underwriting a public bond issue of Country X. Company D is a member of that syndicate. During the loan negotiations Country X indicates that Company E, which is not a U.S. company, should be excluded from the syndicate because of the religion of some of its directors. Company C and Company D did

not contemplate that Company E would be a member of the syndicate in any event and they agree to comply with the request of Country X. Does the action of Company C and Company D constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. The action of Company C and Company D is an agreement to refrain from doing business with a company whose management consists of individuals of a particular religion. Under section 999(b)(3)(A)(iii) this constitutes participation in or cooperation with an international boycott.

K-4. Q. The facts are the same as in Question K-3, except that Country X indicates that Company E may be included only if it removes several of its directors who are of nationality Y. Does the action of Company C and Company D in agreeing to the request of Country X constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. The action of Company C and Company D is an agreement to obtain the removal of corporate directors of a particular nationality as a condition of including Company E. This constitutes an agreement under section 999(b)(3)(A)(iii).

K-5. Q. Company C signs a contract to export goods to Country X. The contract provides that payment will be made by means of a letter of credit confirmed by Bank D. The letter of credit requires Company C to provide to Bank D a certificate that its board of directors does not contain any Country Y nationals before it can be paid by Bank D. Bank D confirms the letter of credit and later makes payment to Company C after determining that all documents, including the boycott certificate, are in order. Does Bank D's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii)?

A. Yes. Bank D's action constitutes an agreement to refrain from doing business with companies whose management includes individuals of a particular nationality. This constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(iii).

#### L. REFRAINING FROM EMPLOYING INDIVIDUALS OF A PARTICULAR NATIONALITY, RACE OR RELIGION (SECTION 999(b)(3)(A)(iv)).

L-1. Q. Company C signs a construction contract that provides that Company C is not to employ individuals of religion R to work on the project in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes. L-2. Q. Company C signs a contract for a construction project in Country X. The contract specifies that only individuals who are nationals of the United States or Country X will be allowed to work on the project. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. No. There is no evidence of an attempt to specifically exclude persons of a particular nationality. Persons of a number of different nationalities, including those from both friendly and unfriendly countries, have been evenhandedly excluded.

L-3. Q. As a condition of doing business in Country X, Company C agrees to employ a specified percentage of nationals of Country X or to employ increasing numbers of nationals of Country X. Does such action con-



stitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. No.

L-4. Q. Company C, incorporated under the laws of Country Z, signs a contract for the engineering and construction of an industrial plant in Country X. The contract excludes from working in Country X nationals of Country Z who are also nationals of Country Y. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes. Any agreement to differentiate among citizens of Country Z on the basis of dual nationality for employment on a project constitutes participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv).

L-5. Q. Company C signs a contract for the engineering and construction of an industrial plant in Country X. The contract provides that Company C is not to employ in its home office any individuals who are nationals of Country Y to work on the design of the plant. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(A)(iv)?

A. Yes.

M. AS A CONDITION OF THE SALE OF A PRODUCT, REFRAINING FROM SHIPPING OR INSURING THAT PRODUCT ON A CARRIER OWNED, LEASED, OR OPERATED BY A PERSON WHO DOES NOT PARTICIPATE IN OR COOPERATE WITH AN INTERNATIONAL BOYCOTT (SECTION 999(b)(3)(B))

M-1. Q. Company C enters into a c.i.f. contract to export goods to Country X. The contract states that the goods are not to be shipped on a ship blacklisted by Country X. The blacklist contains the names of vessels that have called at ports in Country Y, vessels that are owned, leased or operated by the government, a company or a national of Country Y, and vessels that are owned, leased or operated by persons who engage in activities that are inconsistent with the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. Yes. Company C has entered into an agreement described in section 999(b)(3)(B), as well as section 999(b)(3)(A). The answer would be the same if the contract stated that the goods were not to be insured by a company blacklisted by Country X.

M-2. Q. Company C enters into a f.a.s. Port of New York contract for the sale of goods to Country X. While no overseas shipping or insurance provisions are contained in the contract, Company C has reason to believe that arrangements will be made by the purchaser to see that the goods are not shipped on a carrier owned, leased or operated by a person who does not participate in or cooperate with Country X's boycott of Country Y and that the goods are not insured by a person who does not participate in or cooperate with the boycott. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. Company C has not agreed as a condition of sale to refrain from shipping on a carrier owned, leased or operated by a person who does not participate in or cooperate with an international boycott or to refrain from insuring the goods with a person who does not participate in or cooperate with an international boycott. It has not

agreed to any shipping or insurance arrangements. Its action thus does not constitute participation in or cooperation with an international boycott according to section 999(b)(3)(B).

M-3. Q. Company C, having its place of business in Country Z, is requested by Country X to enter into a c.i.f. contract to export goods to Country X. However, to avoid participating in or cooperating with an international boycott, Company C successfully convinces Country X that the contract should specify shipment f.a.s. port of Country Z. The remainder of the circumstances are as described in Question M-2. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No, for the reasons given in Answer M-2.

M-4. Q. Company C, a freight forwarding company having its place of business in Country Z, has a contract with Country X to make, as an agent of Country X, shipping and insurance arrangements for goods which Country X purchases in Country Z on a f.a.s. port of Country Z basis. The contract provides that no shipments will be made on a carrier owned, leased or operated by a person who does not participate in or cooperate with Country X's boycott of Country Y and that the goods will not be insured by a person who does not participate in or cooperate with the boycott. Company C makes shipping and insurance arrangements on that basis. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. Company C's agreement is not made as a condition of the sale of a product to Country X. Therefore, Company C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3)(B). However, Company C's agreement may constitute participation in or cooperation with an international boycott under section 999(b)(3)(A).

M-5. Q. Company C enters into a contract to export goods to or from Country X. As a precaution to protect against war risk or confiscation, the contract requires Company C not to ship the goods on a Country Y flag vessel or on a vessel owned, controlled, operated or chartered by Country Y or by companies or nationals of Country Y, or on a ship which during the voyage calls at Country Y enroute to or from Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. No. The requirement in the contract is not a restrictive boycott practice. Rather, the contract provision is presumed to arise from the need to protect goods from damage or loss. However, this answer would not cover a restriction on the choice or route of a vessel when it carries no goods destined for or originating in Country X.

M-6. Q. Company C enters into a contract to export goods to Country X. The contract requires Company C to ship the goods only on a ship registered in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. An agreement to ship goods only on a ship registered in Country X does not constitute an agreement to refrain from shipping or insuring those goods on a carrier owned, leased, or operated by a person who does not participate in or cooperate with an international boycott. Therefore, Company

C's action does not constitute participation in or cooperation with an international boycott under section 999(b)(3).

M-7. Q. Company A signs a contract to export goods to Country X. The contract provides that the goods may not be shipped on a vessel that has been blacklisted by Country X because it has called at Country Y in the past. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. Yes.

M-8. Q. Company C signs a contract to export goods to Country X. The contract contains no requirement that the seller refrain from shipping the goods on a vessel that has been blacklisted by Country X. Company C does not ship the goods on a blacklisted vessel. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)(B)?

A. No. See Answers H-5 and H-23.

M-9. Q. Company C signs a c.i.f. contract to export goods to Country X to be paid for by means of a letter of credit. The letter of credit for this transaction requires, as a condition of payment, that Company C certify as to the identity of the vessel and the identity of the insurer. Company C provides such a certificate to the paying bank. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A. An agreement under section 999(b)(3) will not be inferred solely from Company C's certification. However, an overall course of conduct which includes the furnishing of such a certificate in addition to other factors could give rise to such an inference. Repeatedly furnishing such certificates does not constitute such a course of conduct.

#### N. REDUCTION OF FOREIGN TAX CREDIT

N-1A. Q. In the case of a taxpayer applying the international boycott factor under section 999(c)(1), how is the reduction of foreign tax credits for the current year computed under section 908, and how are the foreign taxes carried from the current year to other years treated?

A. 1. *Treatment of foreign tax credits available after applying the limitations of sections 904 and 907.* The international boycott factor is applied to the foreign tax credits available after the application of the limitations of sections 904 and 907 (determined without regard to section 908) in accordance with the following rules:

a. *Foreign tax credits attributable to current year sections 901, 902, and 906 taxes.* The foreign tax credits attributable to foreign taxes paid in the current year under sections 902 or 906 are multiplied by the taxpayer's international boycott factor for the current year. Foreign tax credits in the amount of this product are disallowed in the current year under section 908(a).

b. *Foreign tax credits attributable to section 904(c) and 907(f) taxes carried from a boycott factor year.* The foreign tax credits attributable to foreign taxes deemed paid in the current year under sections 904(c) and 907(f) that are carried from a year in which the taxpayer applied the international boycott factor are multiplied by the taxpayer's international boycott factor for the year from which the foreign taxes were carried. Foreign tax credits in the amount of this product are disallowed in the current year under section 908(a).

c. *Other section 904(c) and 907(f) taxes.* There is no disallowance in the current year under section 908(a) for foreign tax credits attributable to foreign taxes deemed paid in the current year under section 904(c) and 907(f) that are carried from a year: (i) in which the taxpayer did not participate in or cooperate with an international boycott; or (ii) in which the taxpayer applied the specific attribution of taxes and income method under section 999(c)(2); or (iii) ending before November 4, 1978.

If Answers E-2 or E-3 are applicable, the disallowance of foreign tax credits may be computed on a pro rata basis in accordance with those answers.

After the amount of disallowed foreign tax credits has been determined, the taxpayer determines the amount of the disallowed foreign tax credits that may be deducted under Answers N-4 and N-5. No adjustment is made under sections 901, 904 or 908 to reflect the deduction for disallowed credits. Thus, the allowable foreign tax credits for the current year equals the foreign tax credits available (after applying sections 904 and 907 without regard to section 908) less the foreign tax credits disallowed under a. and b. above.

2. *Treatment of foreign taxes not available as a credit by reason of the limitations of sections 904 and 907.* There is no reduction or disallowance in the current year for foreign taxes paid or deemed paid that are not available as credits solely by reason of the limitations of sections 904 and 907. Instead, those foreign taxes remain available for carrying-over and will be disallowed in the year to which they are carried in accordance with the following rules:

a. If the foreign taxes are carried to a year in which the taxpayer applies the international boycott factor, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were carried.

b. If the foreign taxes are carried to a year in which the taxpayer applies the specific attribution of taxes and income method, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were carried. (See Answer N-1B.)

c. If, the foreign taxes are carried either to a year in which there was no participation in or cooperation with an international boycott or to a year ending before November 4, 1978, there will be a disallowance (after applying the limitations of sections 904 and 907) of foreign tax credits attributable to the carried-over foreign taxes in an amount equal to the product of those credits multiplied by the taxpayer's international boycott factor for the year from which the taxes were first carried.

If Answers E-2 or E-3 are applicable, the disallowance of the credits attributable to the carried-over taxes may be computed on a pro rata basis in accordance with those answers. No adjustment is made under sections 901, 904 or 908 to reflect any deduction that may be allowed under Answers N-4 and N-5 for the disallowed credits.

N-1B. Q. In the case of a taxpayer applying the specific attribution of taxes and

income method under section 999(c)(2), how is the reduction of foreign taxes or foreign tax credits computed for the current year under section 908, and how are foreign taxes carried from the current year to other years treated?

A. 1. *Treatment of foreign taxes other than foreign taxes carried from a boycott factor year.* The taxpayer first reduces the amount of all foreign taxes paid or deemed paid in the current year, other than foreign taxes deemed paid in the current year under sections 904(c) and 907(f) that are carried from a year in which the taxpayer applied the international boycott factor, by the sum of those foreign taxes that are attributable to specific operations that are—

(a) related to boycotting countries and in connection with which there was boycott participation or cooperation; or

(b) in boycotting countries and have not been clearly demonstrated to be clearly separate and identifiable from operations in connection with which there was boycott participation or cooperation.

There is, of course, no reduction for foreign taxes that are deemed paid in the current year but are attributable to operations completed before November 4, 1976, or to operations completed before December 31, 1977 if the operations are carried out in accordance with the terms of a binding contract entered into before September 2, 1976. Additionally, if Answers E-2 or E-3 are applicable, the reduction of foreign taxes may be computed on a pro rata basis in accordance with those answers.

After the amount of the reduction of foreign taxes has been determined, the taxpayer determines which of the disallowed foreign taxes are deductible under Answers N-4 and N-5. The taxpayer then computes its section 904 limitation, which will reflect a reduction in both taxable income from sources without the United States and entire taxable income for the entire amount of the disallowed foreign taxes that are deducted under Answers N-4 and N-5.

2. *Treatment of foreign taxes carried from an international boycott factor year.* After the taxpayer has determined the reduction in foreign taxes (other than taxes carried from an international boycott factor year) and after the limitations of sections 904 and 907 have been applied in accordance with 1. above, the taxpayer multiplies the foreign tax credits that are attributable to foreign taxes carried from a year in which the taxpayer applied the international boycott factor by the international boycott factor for the year from which the taxes were carried. Foreign tax credits in this amount are disallowed. If Answers E-2 or E-3 are applicable, the disallowance of these credits may be computed on a pro rata basis in accordance with those answers. No adjustment is made at this point under sections 901, 904 or 908 to reflect any deduction that may be allowed under Answers N-4 and N-5 for the disallowed credits attributable to foreign taxes carried from a year in which the taxpayer applied the international boycott factor.

3. *Treatment of foreign taxes carried from a specific attribution of taxes and income year.* Since, in a year in which the taxpayer uses the specific attribution of taxes and income method, the reduction in foreign taxes is made before the determination of the section 904 limitation (see 1. above), no "tainted" foreign taxes will be available for carrying-over to another year. Thus, there will be no reduction in foreign taxes and no

disallowance of credits in another year for taxes carried from a year in which the taxpayer used the specific attribution of taxes and income method.

N-2. Q. After the reduction of foreign taxes or the disallowance of foreign tax credits has been determined in accordance with the processes described in Answers N-1A and N-1B, some of the disallowed taxes or credits may be deductible under section 908(b). If the disallowed taxes or credits are deducted, is a new limitation under section 904, a new section 901 amount or a new section 908(a) amount computed to reflect the reduction in income by reason of the deduction?

A. See Answers N-1A and N-1B.

N-3. Q. Company A owns 20 percent of the stock of Company C, a corporation organized under the laws of Country Z, a foreign country. Company C participates in an international boycott in connection with all its operations. Company C pays a dividend to Company A and Country Z withholds income tax on the dividend paid to Company A. Company A computes its loss of tax benefits by identifying specifically attributable taxes and income under section 999(c)(2). Will Company A be denied its section 901 direct foreign tax credit in respect of the income tax withheld by Country Z on the dividend paid by Company C?

A. If Company A can clearly demonstrate that its investment in Company C is a clearly separate and identifiable operation in connection with which Company A did not participate in or cooperate with an international boycott, Company A will not be denied its section 901 direct foreign tax credit in respect of the withholding tax on the dividend paid by Company C. On the other hand, even if Company C had not participated in an international boycott, if Company A participated in or cooperated with an international boycott in connection with its investment in Company C, Company A would lose its foreign tax credit in respect of the withholding tax on the dividend. Thus, whether Company C participates in an international boycott is not relevant to the determination of Company A's loss of foreign tax credit under the facts of this question. (To determine the denial of the section 902 indirect foreign tax credit for foreign income taxes paid by Company C, see Answer A-19.)

N-4. Q. As a result of participation in or cooperation with an international boycott and the application of section 908(a), Company A loses a portion of its foreign tax credit under both sections 901 and 902. Are the foreign taxes denied creditability under both sections 901 and 902 deductible under section 908(b)?

A. The section 901 taxes denied creditability by reason of section 908(a) are deductible, but the section 902 taxes are not. Section 908(b) merely renders sections 275(a)(4) and 78 inapplicable to taxes denied creditability under section 908(a). Since section 902 taxes are not otherwise deductible under the Code, and since no section 78 gross-up is required in respect of section 902 taxes denied creditability, no deduction is allowed for those section 902 taxes.

N-5. Q. Company A has foreign tax credits under both sections 901 and 902. Company A applies the international boycott factor to determine its loss of foreign tax credits under section 908(a). What portion of the taxes denied creditability will be deductible under section 908(b)?

A. Since the section 901 taxes denied creditability under section 908(a) are deductible



but the section 902 taxes are not, Company A may deduct that portion of the total taxes denied creditability under section 908(a) that the total section 901 taxes (before application of section 908(a)) bear to the total section 901 and 902 taxes (before application of section 908(a)).

#### O. SUBPART F INCOME

O-1. Q. In determining the amount of subpart F income included in gross income by reason of section 952(a)(3), may any deductions be taken into account?

A. Yes. In computing subpart F income included in gross income under section 952(a)(3), a reasonable allowance may be made for deductions (including foreign taxes) properly allocable to that income. See Regs. sections 1.861-8 and 1.954-1(c) for guidance in this regard.

Dated: January 20, 1978.

W. MICHAEL BLUMENTHAL,  
Secretary.

(FR Doc. 78-2171 Filed 1-24-78; 8:45 am)

#### [4810-22]

##### NYLON YARN FROM FRANCE

##### Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether nylon yarn is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market or to third countries.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

David P. Mueller, Operations Officer, United States Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On December 15, 1977, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from E. I. duPont de Nemours & Company, Inc., Wilmington, Del., indicating the possibility that the subject merchandise from France is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

For purposes of this investigation, the term "nylon yarn" means nylon

yarn and grouped nylon filaments, not textured, provided for in items 309.3030, 309.3130, 310.0149, and 310.0249, Tariff Schedules of the United States, Annotated.

Pricing information thus far obtained indicates that imports of nylon yarn from France may be sold up to 40 percent below French home market prices for such or similar merchandise.

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This information indicates that imports of nylon yarn from France are underselling prices of domestic nylon yarn by approximately 10 percent. This underselling is fully accounted for by the alleged dumping margins. In addition, petitioner's production of nylon yarn which had previously been returning profits has now declined to a loss position. Employment in petitioner's plants producing nylon yarn have declined approximately 21 percent between 1975 and 1977, accompanied by a decline in production of similar proportions. Capacity utilization and capital investment have also declined.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

This notice is being published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

HENRY C. STOCKELL, Jr.,  
Acting General Counsel of  
the Treasury.

JANUARY 19, 1978.

(FR Doc. 78-2102 Filed 1-24-78; 8:45 am)

#### [7035-01]

##### INTERSTATE COMMERCE COMMISSION

(Ex Parte No. 241, Rule 19; 35th Rev.  
Exemption No. 90)

##### 50-FT. PLAIN BOXCARS

##### Exemption Under Mandatory Car Service Rules

To all railroads:  
It appearing, that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote

from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 405 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Apalachicola Northern Railroad Co., reporting marks: AN.  
Camino, Placerville & Lake Tahoe Railroad Co., reporting marks: CPLT.  
City of Prineville, reporting marks: COP.  
The Clarendon and Pittsford Railroad Co., reporting marks: CLP.  
Duluth, Missabe and Iron Range Railway Co., reporting marks: DMIR.  
Greenville and Northern Railway Co., reporting marks: GRN.  
Greenwich & Johnsonville Railway Co., reporting marks: GJ.  
Lake Erie, Franklin & Clarion Railroad Co., reporting marks: LEF.  
Louisville and Wadley Railway Co., reporting marks: LW.  
Louisville, New Albany & Corydon Railroad Co., reporting marks: LNAC.  
McCloud River Railroad Co., reporting marks: MR.  
Middletown and New Jersey Railway Co., Inc., reporting marks: MNJ.  
Minneapolis, Northfield and Southern Railway, reporting marks: MNS.  
Missouri-Kansas-Texas Railroad Co., reporting marks: BKTY-MKT.  
Municipality of East Troy, Wisconsin, reporting marks: METW.  
New Orleans Public Belt Railroad, reporting marks: NOPB.  
North Louisiana & Gulf Railroad Co., reporting marks: NLG.  
Pearl River Valley Railroad Co., reporting marks: PRV.  
The Pittsburgh and Lake Erie Railroad Co., reporting marks: P&LE.  
Providence and Worcester Co., reporting marks: PW.  
Raritan River Rail Road Co., reporting marks: RR.  
Sacramento Northern Railway, reporting marks: SN.  
St. Johnsbury & Lamolille County Railroad, reporting marks: SJL.  
St. Lawrence Railroad, reporting marks: NSL.  
Sierra Railroad Co., reporting marks: SERA.  
Terminal Railway, Alabama State Docks, reporting marks: TASD.  
Tidewater Southern Railway Co., reporting marks: TS.  
Toledo, Peoria & Western Railroad Co., reporting marks: TPW.  
Vermont Railway, Inc., reporting marks: VTR.  
WCTU Railway Co., reporting marks: WCTR.  
Yreka Western Railroad Co., reporting marks: YW.

\* Addition.

Effective January 15, 1978, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., January 10, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

(FR Doc. 78-2146 Filed 1-24-78; 8:45 am)

#### [7035-01]

##### FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 20, 1978.

These applications for long-and-short-haul relief have been filed with the ICC.

Protests are due at the ICC on or before February 9, 1978.

FSA No. 43492, The East Asiatic Company's No. 102, on intermodal rates on general commodities, from ports in Japan and Korea, to rail terminals on the U.S. Atlantic and Gulf Coasts by way of U.S. Pacific Coast interchanges, in Trans-Pacific Freight Conference of Japan/Korea, Agent, tariff No. 1, ICC No. 1, to become effective February 16, 1978. Grounds for relief—water competition.

FSA No. 43493, Seaspeed Services' No. 4, on intermodal rates on general commodities, from rail terminals at U.S. Pacific Coast ports, by way of Houston, Tex., to ports in the Middle East, in its tariff No. 1, ICC No. 1, to become effective February 17, 1978. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2147 Filed 1-24-78; 8:45 am)

#### [7035-01]

(Notice No. 6)

##### SPECIAL PROPERTY BROKERS

JANUARY 19, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness on or before February 24, 1978. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation March 13, 1978.

##### REPUBLICATION

B-77-10, filed October 20, 1977. Applicant: BEKINS DISTRIBUTION SERVICES CO., a California corporation, 910 Grand Central, Glendale, Calif. 91201. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-14, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO. OF HAWAII, INC., a California corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-16, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO. OF MARYLAND, INC., a Maryland corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-17, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a Massachusetts corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-22, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a New Mexico corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

B-77-23, filed October 30, 1977. Applicant: BEKINS MOVING & STORAGE CO., INC., a New York corporation, 777 Flower Street, Glendale, Calif. 91202. Applicant's representative: Norman S. Marshall, 1335 South Figueroa Street, Los Angeles, Calif. 90015.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2145 Filed 1-24-78; 8:45 am)



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

## CONTENTS

Item	
1	Federal Home Loan Bank Board
2	Federal Home Loan Mortgage Corporation
3	Federal Maritime Commission
4	Federal Reserve System (Board of Governors)
5, 6	Federal Trade Commission
7	National Mediation Board
8	Nuclear Regulatory Commission
9, 10	Renegotiation Board

### [6720-01]

#### FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 14, Pg. 3010, Friday, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. January 25, 1978.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

CHANGES IN THE MEETING: The following item has been added to the open portion of the meeting: Appointment of Director, Office of Community Investment, No. 129, January 20, 1978.

[S-177-78 Filed 1-23-78; 3:57 pm]

### [6720-02]

#### FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., January 26, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Henry Judy, 202-624-7107.

MATTERS TO BE CONSIDERED: Consideration of Status Report on FHLMC moved to the New FHLBB

Building. Discussion of Loan-to-Value Ratio on Refinance Loans. Announcement is being made at the earliest practicable time.

RONALD A. SNIDER,  
Assistant Secretary.

[S-169-78 Filed 1-23-78; 9:36 am]

### [6730-01]

#### FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: January 12, 1978, 43 FR 1883.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: January 18, 1978, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

9. Docket No. 77-22—Action to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States with Guatemala—Petition for Postponement of Effective Date.

[S-170-78 Filed 1-23-78; 2:14 pm]

### [6210-01]

#### BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, January 30, 1978.

The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion: (1) Proposed guide to conduct for directors of Federal Reserve Banks and regulation to be issued, pursuant to 18 U.S.C. 208, regarding specific actions by such directors.

(2) Possible amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) to require that State member banks that effect certain transactions for customers provide confirmations of and maintain certain records with respect to such transactions. Consider-

ation will also be given to seeking comments on the need for regulations involving obtaining the best execution of securities transactions and the establishment of competency and testing requirements for bank employees.

(3) Any agenda items carried forward from a previously announced meeting.

Closed portion: (1) Appointment of new members to the Consumer Advisory Council.

(2) Proposed negotiation of a competitive purchase of computer equipment at the Federal Reserve Bank of Cleveland.

(3) Request by the Federal Reserve Bank of Dallas for approval of a refurbishment program, many aspects of which will involve competitive purchases.

(4) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

GRIFFITH L. GARWOOD,  
Deputy Secretary of  
the Board.

JANUARY 20, 1978.

[S-168-78 Filed 1-23-78; 9:36 am]

### [6750-01]

#### FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, January 27, 1978.

PLACE: Room 432, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Review of first quarter fiscal year 1978 budget and consideration of fiscal year 1979 budget request to Congress for the following three missions: Maintaining Competition, Consumer Protection, and Economic Activities.

CONTACT PERSON FOR MORE INFORMATION:

Wibur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-175-78 Filed 1-23-78; 3:29 pm]

### [6750-01]

#### FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 and 11:30 a.m., and 2 p.m., Thursday, January 26, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed/open.

MATTERS TO BE CONSIDERED:

Closed Session: 10 a.m. and 2 p.m.: Monthly policy review session.

(a) (10 a.m.) Discussion of current Commission activities concerning energy, including non-public Part II matters, energy surveys, ad substantiation and Section 205 (Magnuson-Moss) enforcement programs.

(b) (2 p.m.) Discussion of certain future Commission activities relating to energy, including initiation of non-public investigations and intervention in civil proceedings.

Open Session: 11:30 a.m.

Monthly policy review session—Focus on energy; discussion of general Commission responsibilities under the Energy Policy and Conservation Act and proposed National Energy Act, and of the proposed trade regulation rule on labeling and advertising of thermal insulation materials.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-176-78 Filed 1-23-78; 3:29 pm]

### [7550-01]

#### NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, February 1, 1978.

PLACE: Board Hearing Room, 8th floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of January 1978.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Rowland K. Quinn, Jr., Exec-

## SUNSHINE ACT MEETINGS

tive Secretary, telephone, 202-523-5920.

(Date of Notice: January 23, 1978.)

[S-173-78 Filed 1-23-78; 3:24 pm]

### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of January 23, 1978 (Changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Schedule of Meetings for the week has been changed to the following:

Monday, January 23

(11 a.m.)

1.—Proposals for Settlement of Sheffield Waste Disposal Case. Approximately ½ hour, public meeting, as announced.

(1:30 p.m.)

1.—Discussion of Appellate Review in Midland. Approximately 1 hour, closed—Exemptions 6 and 10. Replaces Briefing on Safeguards Contingencies, which is cancelled.

2.—Discussion of Notification of Congress with Regard to International Safeguards Matters. As announced, approximately 1 hour, public meeting.

3.—Briefing on MBO on Decommissioning. As announced, approximately 1 hour, public meeting.

Tuesday, January 24

(9:30 a.m.)

1.—Oral Arguments in St. Lucie (ALAB-420). As announced, approximately 1 hour, public meeting.

2.—Discussion of St. Lucie (ALAB-420). As announced, approximately 1 hour, public meeting.

(1:30 p.m.)

1.—Briefing by Department of State Representatives on Export Matters. As announced, approximately 1 hour, closed—Exemption 1.

2.—Staff Notification to Boards of Relevant and Material New Information. Approximately 1 hour, public meeting. Previously announced as "Briefing on NRC Policy on Notifying Boards and Panels"; rescheduled from January 23, 1978.

3.—Affirmations items, approximately 5 minutes, public meeting, as announced.

Wednesday, January 25

(2 p.m.)

Briefing on Supergrade Study. Approximately 1 hour, public meeting, portions may be closed. Postponed from January 24, 1978.

Thursday, January 26

(11 a.m.)

Discussion of FOIA Appeal for EICSB Report. Approximately 1 hour, postponed from January 24, 1978, public meeting, portions may be closed.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.

JANUARY 20, 1978.

[S-171-78 Filed 1-23-78; 3:24 pm]

### [7910-01]

#### RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, January 31, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 5 are open to the public. Matter 6 is closed to the public. Status is not applicable to matters 7 and 8.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held January 24, 1978 and other Board meetings, if any.

2. Claim for Partial Mandatory Exemption of New Durable Productive Equipment.

Leeds & Northrup Co. fiscal year ended May 30, 1976.

3. Special Accounting Agreement:

A. Security Pacific National Bank, fiscal years ended December 31, 1971 through 1975.

B. Security Pacific Leasing Co., fiscal year ended December 31, 1975.

C. Security Pacific National Leasing, Inc., fiscal years ended December 31, 1973, 1974 and 1975.

4. Recommendation for Clearance:

Timex Corp. fiscal year ended December 31, 1971.

5. Recommended Clearances Without Assignment (List No. 1893):

A. Foster Wheeler Corp., fiscal year ended December 31, 1974.

A-1 Forney Engineering Co., fiscal year ended December 31, 1974.

A-2 Glitsch, Inc., fiscal year ended December 31, 1974.

A-3 Atwood & Morrill Co., Inc., fiscal year ended December 31, 1974.

A-4 Foster Wheeler Energy Corp., fiscal year ended December 31, 1974.

B. Foster Wheeler Energy Corp., fiscal year ended December 31, 1975.

B-1 Glitsch, Inc., fiscal year ended December 31, 1975.

B-2 Forney Engineering Co., fiscal year ended December 31, 1975.



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3474-3500

SUNSHINE ACT MEETINGS

B-3 Atwood & Morrill Co., Inc., fiscal year ended December 31, 1975.  
C. Adams-Russell Co., Inc., fiscal year ended September 30, 1976.  
D. Cooper Industries Inc., fiscal year ended December 31, 1974.  
E. Cooper Airmotive Inc., fiscal year ended December 22, 1974.

6. Special Accounting Agreement:

AMF Inc., fiscal years ended December 31, 1969 and 1970.

7. Approval of Agenda for meeting to be held February 14, 1978.

8. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Washington, D.C. 20446, 202-254-8277.

Dated: January 20, 1978.

GOODWIN CHASE,  
Chairman.

(S-172-78 Filed 1-23-78; 3:24 pm)

[7910-01]

10

THE RENEGOTIATION BOARD.

DATE AND TIME: Friday, February 3, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Open to public observation.

MATTER TO BE CONSIDERED:

Special board meeting concerning: MB Associates, fiscal year ended April 1, 1973.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated January 20, 1978.

GOODWIN CHASE,  
Chairman.

(S-174-78 Filed 1-23-78; 3:24 pm)

WEDNESDAY, JANUARY 25, 1978  
PART II



ENVIRONMENTAL  
PROTECTION  
AGENCY

PRIVACY ACT OF 1974

Systems of Records;  
Annual Publication

Register  
Federal



[6560-01]

# U.S. ENVIRONMENTAL PROTECTION AGENCY

[FRL 845-2]

## PRIVACY ACT OF 1974

### Systems of Records; Annual Compilation

Pursuant to 5 U.S.C. 522a(e)(4), the U.S. Environmental Protection Agency hereby publishes the systems of records as currently maintained by the Agency. EPA has added four systems of records to the compilation since the previous annual publication in *FEDERAL REGISTER* Vol. 41, No. 180, pages 39689-39692, Wednesday, September 15, 1976. Additionally corrections have been made at reference EPA-2 (addresses for system locations in the regions) and at EPA-4 (authority citation for maintenance of the system).

Dated: January 8, 1978.

WILLIAM DRAYTON, Jr.,  
Assistant Administrator  
for Planning and Management.

EPA-1 Payroll System (Departmental Integrated Payroll System; Payroll Accounting Master File; and Detail History File).

EPA-2 General Personnel Records.

EPA-3 Health Unit and Stress Lab Medical Records.

EPA-4 Inspection Branch Reports.

EPA-5 Personnel Security File System.

EPA-6 Security Computer Program System.

EPA-7 Travel Voucher Folders.

EPA-8 Confidential Statement of Employment and Financial Interest Files.

EPA-9 Freedom of Information Act Record.

EPA-10 Parking Permits File System.

EPA-11 Professional Expertise Inventory.

#### EPA-1

**System name:** Payroll System (Departmental Integrated Payroll System; Payroll Accounting Master File; and Detail History File)—EPA

**System location:** U.S. Geological Survey Computer Facility, Reston, Virginia, 20244, HSMA Computer Facility, DHEW, Parklawn Bldg., Rockville, Maryland, 20203; Financial Management Division, EPA, 401 M Street, S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** EPA employees.

**Categories of records in the system:** Salary and related payroll cost data and reports.

**Authority for maintenance of the system:** 5 U.S.C. 301; 44 U.S.C. 3301; Title 6, GAO Policy and Procedures Manual, pursuant to 31 U.S.C. 66(a) and sections of 112(a) and 113 of Budget and Accounting Procedures Act of 1950.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To conduct all necessary and appropriate intra-agency payroll activities. To furnish information U.S. Treasury requires to issue paychecks and distribute pay according to employees' directions. To report tax withholding to IRS and appropriate State and local taxing authorities; FICA deductions to SSA; dues deductions to labor unions; withholdings for health and life insurance to insurance carriers and U.S. C.S.C.; charity contribution deductions to agents of charitable institutions; annual W-2 statements to taxing authorities and the individual. Also see routine use paragraphs in Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Computer records maintained on tape, others on paper.

**Retrievability:** Name and employee number.

**Safeguards:** Paper records in locked metal file cabinets and automated filing banks within locked room.

**Retention and disposal:** Retained and disposed of according to (proposed) EPA Records Control Schedules, Appendix B, Records Management Manual.

**System manager(s) and address:** Chief, Payroll Accounts Office, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Individuals, supervisors, timekeepers, official personnel records, IRS.

#### EPA-2

**System name:** General Personnel Records—EPA

**System location:** (a) Personnel Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

(b) EPA, Rm. 2211, John F. Kennedy Federal Bldg., Boston, MA 02203

(c) EPA, Rm. 1032, 26 Federal Plaza, New York, NY 10007

(d) EPA, Curtis Bldg., 6th and Walnut Sts., Philadelphia, PA 19106

(e) 345 Courtland Street N.W., Atlanta, Georgia 30308

(f) EPA, 230 S. Dearborn, Chicago, IL, 60604

(g) 1201 Elm Street, First International Building, Dallas, Texas 75201

(h) EPA, 1735 Baltimore Ave., Kansas City, MO 64108

(i) EPA, Lincoln Tower Bldg., 1860 Lincoln St., Denver CO 80203

(j) EPA, 100 California St., San Francisco, CA 94111

(k) EPA, 1200 Sixth St., Seattle, WA 98101

(l) EPA Laboratory, P.O. Box 15027, Las Vegas, NV 89114

(m) EPA Laboratory, 26 West St. Clair Street, Cincinnati, Ohio 45268

(n) EPA, Research Triangle Park, NC 27711

(o) EPA, Office of Mobile Source Air Pollution Control, 2565 Plymouth Rd., Ann Arbor, MI 48105

**Categories of individuals covered by the system:** Employees of EPA and applicants for EPA employment.

**Categories of records in the system:** Nonpermanent personnel records not required to be maintained by the CSC.

**Authority for maintenance of the system:** 5 U.S.C. 301, implemented by 5 CFR Parts 293 and 297.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** These records and the information in the records are used to carry out authorized personnel programs. Routine uses include: Review of employment histories of employees and applicants. Identification of high potential employees designated under the Agency executive development program. Review of developmental needs of high potential employees and current managers GS-15 and above. Review of status of employees participating in special counseling or developmental programs. Identification of candidates for job vacancies.

The records system may include files covering employee relations, individual development plans for high potential employees, individual development plans for current managers GS-15 and above, ACCENT program, Academic Career Advancement program, counseling programs, exit interviews, and voluntary applications. All of the above files are not maintained at each Headquarters/field location. Also see routine use paragraphs of Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** These records are maintained in file folders and generally, in locked cabinets.

**Retrievability:** Indexed by name.

**Safeguards:** Access to and use of is limited to those persons whose official duties require such access.

**Retention and disposal:** Records of employees are kept manually and are generally maintained until the individual terminates his employment with EPA. Records of applicants are kept manually and are destroyed or returned after one year.

**System manager(s) and address:** For records at location (a)—Director, personnel Management Division, (address as given in Systems location above). For records located at (b) to (o)—Personnel Officers (address as given in Systems location above).

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Information in this system comes from the individual to whom it applies or is derived from information provided by Agency officials.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 522a(k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

#### EPA-3

**System name:** Health Unit and Stress Lab Medical Records—EPA

**System location:** EPA Health Unit, Room 3228, WSM, and EPA Stress Lab, Room 2915, WSM, 401 M Street, S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** EPA employees, contract employees, and EPA visitors requiring or requesting medical attention and full-time EPA employees participating in Stress Lab.

**Categories of records in the system:** Medical histories and treatment records.

**Authority for maintenance of the system:** OMB Circular No. A-78, EPA Contract for Health Care.

**Routine uses of records maintained in the system including categories of users and the purposes of such uses:** To document single incidences of walk-in patients, symptoms and treatment, and to maintain a continuing history file on each patient. To document the treatment of those patients requiring the recurring administration of allergy shots and other shots, such as travel immunizations. To document physicals, complete with histories and lab reports, of those 500 employees so examined annually. (Physicals limited to those in grades 14 and above and those over age 40 in grades 11, 12, and 13.) To document requested screenings of patients for various illnesses and conditions through the use of diagnostic tools and tests. For referral of patients to private doctors for treatment, as indicated. To evaluate cardiac status of exercise program participants and the individual desirability of such a program. To detail for patient and personnel specifics and exercise treatment program.

Users of the system are restricted to contracted health personnel, patients, and, upon patient approval, to the patient's private doctor. Also see routine use paragraphs in Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** The records, primarily handwritten or typed cards, forms, files, and EKG graphs, are stored in locked file cabinets.

**Retrievability:** Indexed by name.

**Safeguards:** Access to and use of system is limited to Health Unit and Stress Lab personnel, patients, and, upon patient approval, the patient's doctor. All materials are under lock and key. (Records relating to psychiatric matters may not be made available to a patient, if the physician deems it imprudent, but may be released upon patient approval to the patient's designated physician.)

**Retention and disposal:** Records maintained until employee leaves Agency, when employee may take permanent possession of same. Should employee not take possession, sealed records are sent to Personnel Office for inclusion in official personnel folder, which is sent to Federal Records Center in St. Louis for retention or to new Federal employer, as appropriate.

**System manager(s) and address:** Assistant Director for Operations, Personnel Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Patients, patient's doctors, on approval of patient, accident/incidence of illness witnesses, family members of patients, and past Federal employer medical records.

#### EPA-4

**System name:** Inspection Branch Reports—EPA

**System location:** Security and Inspection division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** EPA employees, or persons or firms under contract to EPA or receiving grants from EPA, suspected of having committed illegal or unethical acts.

**Categories of records in the system:** Contains investigative case file of any person or firm suspected of having committed illegal or unethical acts.

**Authority for maintenance of the system:** Title 28, U.S. Code, Section 535(b), and EPA Order 3120.1A, dated November 29, 1976.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Records reviewed and cases investigated within EPA for illegal or unethical acts. Also see routine use paragraphs of Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** In individual case files.

**Retrievability:** Indexed by name or type of violation.

**Safeguards:** Records are maintained in a vault room secured by a Class 6 manipulation proof three-way combination lock on the vault door, an ultrasonic space alarm, and contact points on the door.

**Retention and disposal:** Held 10 years after investigation is completed and then destroyed by fire.

**System manager(s) and address:** Chief, Inspection Branch, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Individual on whom the record is maintained, fellow workers, acquaintances, concerned citizens, phone calls, letters, law enforcement agencies.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 522a(k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

#### EPA-5

**System name:** Personnel Security File System—EPA

**System location:** Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** EPA employees and consultants in sensitive and nonsensitive positions and applicants for sensitive positions within EPA.

**Categories of records in the system:** Full field investigations, national agency checks and inquiries from prior employers, credit checks, and local police checks on the individual and any other checks necessary to further develop questionable suitability/security information. May contain copies of the SF-85, SF-86, and the SF-171, furnished by the individual depending on the sensitivity of the position the individual occupies or will occupy.

**Authority for maintenance of the system:** E.O. 10450, E.O. 11652, and Atomic Energy Act of 1954, as amended.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Information used with E.O. 11652, E.O. 10450, Civil Service Regulations, and the Federal Personnel Manual to issue a security clearance and/or to make suitability determinations on hiring or retention of EPA employees. Also see routine use paragraphs of Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Paper records in file folders.

**Retrievability:** By name.

**Safeguards:** When not in use, within a vault room which has a three-way combination locked door with a contact alarm and an ultrasonic alarm system. Within the vault room, the files are also stored within either a key-locked or three-way combination power file or security cabinet. Access to this vault room is limited to EPA Security and Inspection Division personnel.

**Retention and disposal:** Procedures require a one-year retention after the employee terminates employment with EPA. Upon termination,



the Civil Service Commission investigative reports are destroyed by shredding as is the remainder of the file unless the personnel security file contains derogatory information. If the file contains derogatory information, it is forwarded to the Federal Record Center for retention for 20 years.

**System manager(s) and address:** Director, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Direct written requests to the system manager. The request should include requester's full name, date and place of birth, and social security number and signature to preclude erroneous identification. A comparison of the signature of the requester and those in the record will be made to determine identity prior to any release.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Sources vary, but normally could include information furnished by the subject, background data furnished through investigations by authorized Federal investigatory agencies; local police department checks; former employers' inquiries; credit inquiries; and educational institutions inquiries.

**Systems exempted from certain provisions of the act:** Pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), all information and material in the record which meets the criteria of these subsections are or may be exempted from the notice, access, and contest requirements.

#### EPA-6

**System name:** Security Computer Program System—EPA

**System location:** Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** Security clearance status of EPA employees or consultants and terminated employees who have been processed through the Security and Inspection Division.

**Categories of records in the system:** Security computer programs are a subsystem of the Personnel Computer System. Security data is entered into the system as follows: social security number, type of investigation requested, position sensitivity, type security clearance requested, place of birth, type of clearance granted, date of clearance, agency conducting investigation, ERDA clearance, date of ERDA clearance and ERDA file number. Only security clearance information applicable to the individual in his EPA position is lifted. Other data listed on the Personnel Computer System is retrievable under the security computer programs, such as name, date of birth, organization, geographical location, etc., and is retrievable through matching of the social security number.

**Authority for maintenance of the system:** E.O. 10450 and E.O. 11652.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Internal use is limited to exchanges between EPA offices requiring clearance data prior to release of classified information. Records of this system of records may be disclosed as 'routine use' to security representatives of Federal, State, or local agencies or to Government contractors performing classified work where security clearance information is required under a statute, or by regulation, rule or order issued pursuant thereto, to permit EPA employees access to classified national security information.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Disc-pack on line with the computer contractor with a backup file stored off line.

**Retrievability:** By Security and Inspection Division personnel via a low-speed remote terminal utilizing IRS Alpha computer language and is printed out on a remote printer. Access to security computer program is gained by using account names, initials, and key words known only to personnel working directly with the system.

**Safeguards:** Printouts obtained from the system are stored, when not in use, within a vault room which has a three-way combination locked door and an ultrasonic alarm system. Access to the printout information is limited to EPA Security and Inspection Division Personnel.

**Retention and disposal:** Clearance information is maintained in an active file until the employee terminates. Subsequent to the employee's termination, the clearance information is removed from the active file,

placed in a terminated file, and maintained for archival purposes.

**System manager(s) and address:** Director, Security and Inspection Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries should be addressed to system manager as above.

**Record access procedures:** Direct written requests to system manager. Request should include subject's full name, date and place of birth, and social security number to preclude erroneous identification. A comparison of the signature of the requester and those of record will be made to determine identity prior to any release.

**Contesting record procedures:** Requests should be addressed to the system manager as above.

**Record source categories:** Sources for this information are obtained from the Personnel Security File and the Personnel Computer System maintained on subject.

#### EPA-7

**System name:** Travel Voucher Folders, Advance Cards, and Payee Files—EPA

**System location:** Financial Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Categories of individuals covered by the system:** Employees of EPA, consultants, and private citizens who travel or perform services for EPA.

**Categories of records in the system:** Travel vouchers with reimbursable details for specific trips. Travel advance cards with details of advances received and trip expenses applied. Payee files with itemized invoices.

**Authority for maintenance of the system:** Travel Expense Amendments Act of 1975 (P.L. 94-22); Budget and Accounting Act of 1921; Accounting and Auditing Act of 1950; Federal Claim Collection Act of 1966.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** Subgroups of files are used to determine amounts due an individual for authorized and official travel for EPA, and conduct other payee-related activities. Transmittal to U.S. Treasury for payment. Also see routine use paragraphs of Prefatory Statement.

**Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**

**Storage:** Manual

**Retrievability:** Name

**Safeguards:** Voucher files are kept in locked room. Advance cards in lockable metal file cabinets. Payee files in locked cabinets.

**Retention and disposal:** Retained and disposed of according to (proposed) EPA Records Control Schedules, Appendix B, Records Management Manual.

**System manager(s) and address:** Accountant-In-Charge, Financial Management Division, EPA, 401 M St., S.W., Washington, D.C. 20460.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Individual, supervisors, and finance (or accounting) office standard references.

#### EPA-8

**System name:** Confidential Statements of Employment and Financial Interest Files

**System location:** (a) Agency Counselor and Deputy Counselors; EPA, 401 M St., S.W., Washington, DC 20460.

(b) EPA, John F. Kennedy Federal Bldg., Boston, MA 02203.

(c) EPA, 26 Federal Plaza, New York, NY 10007

(d) EPA, 6th & Walnut Sts., Philadelphia, PA 19106

(e) EPA, 345 Courtland Street, N.W., Atlanta, GA 30308

(f) EPA, 230 S. Dearborn, Chicago, IL 60604

(g) EPA, 1201 Elm Street, First International Bldg., Dallas, TX 75270

(h) EPA, 1735 Baltimore Avenue, Kansas City, MO 64108

(i) EPA, Lincoln Tower Bldg., 1860 Lincoln Street, Denver, CO 80203

(j) EPA, 215 Fremont St., San Francisco, CA 94105

(k) EPA, 1200 Sixth Street, Seattle, WA 98101

(l) EPA, Research Triangle Park, NC 27711

(m) EPA Laboratory, 26 West St. Clair Street, Cincinnati, OH 45268

**Categories of individuals covered in the system:** EPA employees at the GS-13 and above grade level or receiving equivalent pay, consultants and experts, Public Health Commissioned Officers.

**Categories of records covered in the system:** Contains EPA Form 1320.1.

**Authority for maintenance of the system:** 40 CFR 3, Section 3.304, EPA Conduct and Discipline Manual, Chapter 4, dated 10/18/76, and E.O. 11222.

**Routine uses of records maintained in the system, including categories of users and the purpose of such use:** Records are evaluated for possible conflict of interest in accordance with law 18 U.S.C. 208 prohibiting Federal employees participation in official activities where there is conflicting interest and Agency regulation in 40 CFR Part 3.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:** Paper records in file folders.

**Retrievability:** By name.

**Safeguards:** Records are maintained in locked limited access file cabinets.

**Retention and disposal:** Records maintained until employee leaves the Agency then destroyed.

**System manager(s) and address:** For records at (a) Agency Counselor and Deputy Counselors (address as given in system location above). For records located at (b) to (m) Regional Administrators (address as given in system location above).

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Information in this system comes from the individual to whom it applies.

**Systems exempted from certain provisions of the Act:** Pursuant to 5 U.S.C. 522a(k)(5), all information and material which meets the criteria of these subsections are or may be exempted from notice, access, and contest requirements.

#### EPA-9

**System name:** Freedom of Information Act Requests File

**System location:**

(a) Freedom of Information Section, Office of the Administrator, EPA, 401 M St., S.W., Washington, DC 20460.

(b) EPA, Region I, Room 2303, John F. Kennedy Federal Building, Boston, MA 02203

(c) EPA, Region II, Room 1005, 26 Federal Plaza, New York, NY 10007

(d) EPA, Region III, Curtis Building, 6th & Walnut Sts., Philadelphia, PA 19106

(e) EPA, Region IV, 345 Courtland Street, N.E., Atlanta, GA 30308

(f) EPA, Region V, 230 S. Dearborn St., Chicago, IL 60604

(g) EPA, Region VI, First International Building, 1201 Elm St., Dallas, TX 75201

(h) EPA, Region VII, 1735 Baltimore Ave., Kansas City, MO 64108

(i) EPA, Region VIII, Suite 900, 1860 Lincoln Street, Denver, CO 80203

(j) EPA, Region IX, 215 Fremont St., San Francisco, CA 94105

(k) EPA, Region X, 1200 Sixth Ave., Seattle, WA 98101

(l) EPA, Office of General Counsel, 401 M St., S.W., Washington, DC 20460

**Categories of individuals covered by the system:** All persons requesting information under the Freedom of Information Act.

**Categories of records in the system:** Copy of each Freedom of Information Act request received and a copy of the Agency's response and other pertinent correspondence and records.

**Authority for maintenance of the system:** EPA Order 1550.1B, dated 5/31/75 and 40 CFR Part dated September 1, 1976.

**Routine uses of records maintained in the system, including categories of users and the purposes of such uses:** To conduct all necessary and

appropriate intra-agency Freedom of Information activities. To compile the reports required by 5 U.S.C. 522(d).

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:** These records are maintained in file folders and in locked cabinets (Duplicate copies of FOI requests and agency responses are filed in binders and are available for public inspection).

**Retrievability:** Name and request identification control number.

**Retention:** Records are maintained in accordance with EPA Record Control Schedules.

**System manager(s) and address:** For records at (a) through (k) Freedom of Information Office (address as given in system location). For records at (l) Contracts and General Administration Branch (address as given in system location above).

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Information in this system comes from the individual to whom it applies.

**System exempted from certain provisions of the Act:** Pursuant to 5 U.S.C. 522a(k)(5), all information and material which meets the criteria of these subsections are or may be exempted from notice, access, and contest requirements.

#### EPA-10

**System name:** EPA Parking Control Office File

**System location:** General Services Branch, Facilities and Support Division, EPA, 401 M St., S.W., Washington, DC 20460.

**Categories of individuals covered by the system:** Persons in existing carpool with principal member being an EPA employee other members may be employed by other Federal agencies or private industry.

**Categories of records in the system:** Permit applications, EPA Form 5160.1.

**Authority for maintenance of the system:** EPA Administrative Services Manual, Chapter 11, dated April 23, 1975.

**Routine uses of records maintained:** To maintain control of numbers of vehicles authorized to use EPA Waterside Mall Garage.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:** These files are maintained in file folder.

**Retrievability:** Filed by name and permit number.

**Retention:** Records are maintained until carpool is disbanded or employee leaves the Agency.

**System manager(s) and address:** Parking Control Office, General Services Branch, address same as given in system location.

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Information in this system comes from the individual to whom it applies.

#### EPA-11

**System name:** Professional Expertise Inventory

**System location:**

(a) Office of Research and Development; EPA, 401 M St., S.W. Washington, DC 20460

(b) EPA, Office of Administration, 26 West St. Clair Street, Cincinnati, OH 45268

(c) EPA Laboratories, Research Triangle Park, NC 27711

(d) EPA Laboratories, 26 West St. Clair Street, Cincinnati, OH 45268

(e) EPA, P.O. Box 15027, Las Vegas, NV 89114

(f) EPA, College Station Road, Athens, GA 30605

(g) EPA, P.O. Box 1198, Ada, OK 74820

(h) EPA, 200 S.W. 35th St., Corvallis, OR 97330

(i) EPA, 6201 Congdon Blvd., Duluth, MN 55804

(j) EPA, P.O. Box 277, Narragansett, RI

(k) EPA, Sabine Island, Gulf Breeze, FL 32561



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NOTICES

**Categories of records covered in the system:** Name of individual, current organization, title, educational background, disciplines, specialty areas, specific subject knowledge, specific chemical substance experience, names of government organizations with which the individual has worked with or for, names of countries with which the individual has a technical or environmental awareness, specific language skills, membership in professional societies and working group affiliations, publication references, and professional history (includes period of employment, name of employer, position title, and description of significant projects).

**Authority for maintenance of the system:** 5 U.S.C. 301.

**Routine uses of records maintained in the system:** Information will be used internally by EPA to identify individuals with appropriate expertise for appointment or nomination to working groups and task forces, provision of consultation support on projects, and contact on collaborative studies.

**Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:**

**Storage:** Maintained in file folders in cabinets and on computer disk.

**Retrievability:** By any data item included in a record.

**Safeguards:** Access and use of information is limited to those persons whose official duties require access.

**Retention and disposal:** Records maintained until employee leaves the Agency, then destroyed.

**System manager(s) and addresses:** For records at (a) Assistant Administrator for Research and Development (address as given in system location in (a) and (b) above). For records located at (b) Laboratory Directors (address as given in system location for (c) through (k) above).

**Notification procedure:** Inquiries may be addressed to system manager.

**Record access procedures:** Requests should be addressed to system manager.

**Contesting record procedures:** Requests should be addressed to system manager.

**Record source categories:** Information in this system comes from the individual to whom it applies.

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restricted  
Federal Register

WEDNESDAY, JANUARY 25, 1978  
PART III



DEPARTMENT OF  
COMMERCE  
Industry and Trade  
Administration

RESTRICTIVE  
TRADE PRACTICES  
OR BOYCOTTS



## [3510-25]

## Title 15—Commerce and Foreign Trade

## CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, BUREAU OF TRADE REGULATION, DEPARTMENT OF COMMERCE

## PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

AGENCY: Industry and Trade Administration (formerly Domestic and International Business Administration), Bureau of Trade Regulation, Department of Commerce.

ACTION: Final Rules.

SUMMARY: The agency is amending the Restrictive Trade Practices or Boycotts part of the Export Administration Regulations (Part 369, Title 15, Code of Federal Regulations). The changes are being made to implement Title II of the Export Administration Amendments of 1977 (Pub. L. 95-52), signed into law on June 22, 1977. In general, these regulations prohibit United States persons from complying with specified foreign boycott requirements, including the furnishing of boycott-related information.

DATE: These rules are effective January 18, 1978, as required by Pub. L. 95-52, upon filing with the Federal Register. The promulgation of these boycott regulations is exempt from Administrative Procedure Act rulemaking procedures.

FOR ADDITIONAL INFORMATION CONTACT: Vincent J. Rocque (telephone 202-377-5491) or Kent N. Knowles (telephone 202-377-2512).

SUPPLEMENTARY INFORMATION: Pursuant to Section 4A(a)(5) of the Export Administration Act of 1969, as amended (the "Act") (50 U.S.C. App. 2403-1a(a)(5)), the Department of Commerce published proposed rules concerning restrictive trade practices or boycotts in the FEDERAL REGISTER dated September 23, 1977 (42 FR 48556).

More than 7,000 copies of the proposed rules were mailed to members of Congress, state government officials, exporters, business and trade associations, special interest groups, law firms, and all persons requesting a copy. Interested parties were invited to provide comments on or before noon, November 21, 1977. Department officials have carefully considered all comments received and revised the proposed regulations as appropriate.

## DISCUSSION OF COMMENTS

On September 20, 1977 the Department invited interested persons to submit comments on its proposed regulations to implement Title II of the Export Administration Amendments of 1977. Comments were to be deliv-

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ered by noon, November 21, 1977. In response, the Department received 178 submissions containing comments and suggestions totalling over 1,000 pages. Earlier, in response to its July 13, 1977 advance notice of proposed rulemaking in this matter, the Department received 152 submissions containing comments totalling over 1,750 pages. Included in these totals are written summaries of meetings between officials of the Department and numerous persons who requested such meetings in order to make comments and suggestions on the regulations to implement the Act. All these comments are on the public record and have been carefully considered by the Department.

The principal issues raised by the comments and the Department's response to them are described below.

## "CONTROLLED IN FACT"

Title II of the Export Administration Amendments of 1977 applies only to United States persons. The statute defines "United States person" to include any domestic concern's foreign subsidiary or affiliate which is controlled in fact by such domestic concern as determined by the regulations.

Under the proposed regulations, the presence of certain factors (such as ownership or control of more than 50 percent of a subsidiary's voting stock) would have created a conclusive presumption that a foreign subsidiary was controlled in fact by its domestic parent. Other factors (such as ownership or control of more than 25 percent of a subsidiary's voting stock) would have created a rebuttable presumption of control. In addition, a presumption of control would have existed where a United States person had authority to appoint both a majority of the members of the board of directors and the chief operating officer of its foreign subsidiary or affiliate.

A number of those commenting argued that there should be no conclusive presumptions of control and that the presumptions set forth as rebuttable presumptions were invalid presumptions. They further argued that a foreign subsidiary or affiliate should be presumed not to be controlled by its domestic parent where the parent owns or controls 50 percent or less of the subsidiary's or affiliate's voting securities.

Others contended that the regulations should not require that the authority to appoint both a majority of the subsidiary's board and its chief operating officer be present in order to raise a presumption of control. Either authority, it was argued, should be sufficient.

The final regulations provide that all presumptions of control are rebuttable; none are conclusive. Conclusive presumptions leave no scope for the

wide variety of factors which bear on the question of control. It is possible, for example, to own well over 50% of a foreign subsidiary's voting securities and not possess effective control. Under the regulations as modified, presumptions of control still exist; however, they may be rebutted by competent evidence showing that despite the existence of certain factors evidencing control, control does not in fact exist.

The final regulations establish a rebuttable presumption of control where the domestic concern owns or controls more than 50 percent of the voting securities of the foreign subsidiary or affiliate. In addition, they establish a rebuttable presumption of control where the domestic concern owns or controls more than 25 percent of the voting securities of the foreign subsidiary or affiliate and no other person owns or controls an equal or larger percentage.

Finally, the final regulations provide for a presumption of control if the domestic concern has the authority to appoint either a majority of the board of directors or the chief operating officer of the foreign subsidiary of affiliate. The first power presumes the authority or ability to establish the general policies of the subsidiary or affiliate. The second power presumes the authority or ability to control the subsidiary's or affiliate's day-to-day operations.

All these presumptions of control may be rebutted by competent evidence showing that control does not in fact exist.

The final regulations establish no presumptions regarding the absence of control. Control in fact consists of the authority or ability to establish a subsidiary's or affiliate's general policies or control its day-to-day operations. Control in practice does not necessarily require ownership of a particular proportion of a subsidiary's voting securities, nor does it necessarily require any other particular relationship between parent and subsidiary to the exclusion of all others. Hence, it would be illogical to presume that any particular factor indicated the absence of control.

## ACTIVITIES IN THE INTERSTATE AND FOREIGN COMMERCE OF THE UNITED STATES

Disposition of U.S.-origin goods by controlled foreign subsidiaries or affiliates. The proposed regulations provided that a controlled foreign subsidiary's or affiliate's activities with respect to U.S.-origin goods are in United States commerce if the goods are acquired for incorporation into or manufacture of another product for purposes of filling an order from or completing a transaction with a boycotting country. They further provided that the activities of such sub-

sidary or affiliate with respect to U.S.-origin goods are in United States commerce if the goods are ultimately used, without substantial alteration or modification, in filling an order from or completing a transaction with a boycotting country.

The final regulations remain essentially unchanged.

Several persons argued for adoption of a "come to rest" theory whereby United States commerce would end at the point where U.S.-origin goods reach the foreign subsidiary. Under that theory, the subsidiary's subsequent disposition of the goods would not constitute an activity in United States commerce.

The final regulations do not adopt this "come to rest" theory. The legislative history makes it clear that Congress intended the Act to apply to dispositions by a controlled foreign subsidiary of U.S.-origin goods and services. Under the "come to rest" theory, such dispositions would not be subject to this Part.

The regulations give the term "activities in the interstate or foreign commerce of the United States" a scope sufficiently broad to accomplish the Congressional purpose without unduly interfering in the interest of foreign countries in regulating the conduct of persons subject to their jurisdiction.

Ancillary services. The proposed regulations provided that if any part of a transaction were in U.S. commerce, the entire transaction would be in U.S. commerce. For example, a U.S. bank's financing (other than through a letter of credit) of a U.S.-controlled foreign subsidiary's transaction with a boycotting country would bring the subsidiary's transaction into U.S. commerce even though the transaction was otherwise wholly outside U.S. commerce.

A number of persons commented that a foreign subsidiary's receipt from the United States of ancillary services such as financial assistance, insurance, or legal counsel should not, in and of itself, bring the subsidiary's transaction with a third party into U.S. commerce.

The final regulations provide that the furnishing of such U.S.-source "ancillary" services is itself an activity in U.S. commerce. However, they further provide that a foreign subsidiary's receipt of such services does not, in and of itself, bring the subsidiary's otherwise foreign transaction into U.S. commerce.

Ancillary services are provided primarily for the subsidiary's own use rather than that of a third person. They include financial, accounting, legal, transportation or other services (whether provided by the subsidiary's parent or an unrelated entity).

Such ancillary services are typically interchangeable with those furnished

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by non-U.S. persons and could be obtained from non-U.S. sources with relative ease. A rule which discourages the use of U.S.-source ancillary services would have little if any positive anti-boycott effect. Indeed it could have adverse anti-boycott consequences by driving U.S.-controlled foreign subsidiaries into the hands of foreign companies which have little if any compunction about complying with foreign boycotts opposed by the United States.

Thus, the provision of project financing by a U.S. bank or legal services by a U.S. law firm to a U.S.-controlled foreign subsidiary is an ancillary service which, in and of itself, will not cause the subsidiary's transaction to be in U.S. commerce. By contrast, where a domestic concern, on behalf of its controlled foreign subsidiary, gives a guaranty of performance to a boycotting country customer, that is a service provided to the customer, and, as such, brings the subsidiary's transaction with the customer into U.S. commerce. Similarly, architectural or engineering services provided by a U.S. company in connection with a U.S.-controlled foreign subsidiary's construction project in a third country are typically passed through to the subsidiary's customers and, as such, bring the subsidiary's transaction in the third country into U.S. commerce.

Direction to a Foreign Subsidiary. The proposed regulations provided that the activities of a U.S. parent corporation in specifically directing the activities of its controlled foreign subsidiary or affiliate are activities in U.S. commerce. The proposed regulations further provided that such activities brought the foreign subsidiary's otherwise wholly foreign transaction into U.S. commerce.

Several of those who commented argued that it is an impermissible extension of the concept of U.S. commerce to bring within its framework otherwise wholly foreign activities simply because they were taken at the direction of a U.S. person. Furthermore, it was pointed out that jurisdiction over the person making the specific direction is sufficient to accomplish the anti-boycott objectives of the statute.

The final regulations agree with this view. The activities of a U.S. parent corporation in specifically directing prohibited boycott compliance by its controlled foreign subsidiary or affiliate are activities in U.S. commerce. In and of themselves they do not bring into U.S. commerce activities which are otherwise wholly outside U.S. commerce. From the point of view of U.S. anti-boycott policy, this distinction is immaterial. From the point of view of conformity with permissible notions of U.S. commerce, this distinction is essential.

## FURNISHING PUBLICLY AVAILABLE BOYCOTT-RELATED INFORMATION

The statute prohibits a U.S. person from furnishing or knowingly agreeing to furnish information relating to its own or any other person's past, present or proposed business relationships with a boycotted country or any person who is known or believed to be blacklisted. However, the law permits the furnishing of normal business information in a commercial context.

The proposed regulations provided that no information could be furnished in response to a boycott request even if the information is publicly available—such as through a company's annual report.

A number of persons submitted comments arguing that the regulations permit a subtle form of "international blackmail." They expressed the fear that competitors would prompt boycotting countries to send American companies boycott questionnaires to which a law-abiding company will refuse to respond and, thus, result in the company being blacklisted. They contend, therefore, that this potential harm should be mitigated by permitting companies to respond to boycott requests with information which is publicly available.

The final regulations carry forward the provision in the proposed regulations. No information about business relationships with blacklisted persons or boycotted countries may be furnished—with intent to comply with, further, or support a foreign boycott. It makes no difference whether the information is publicly available. The statute creates no exception for such circumstances. So long as the necessary intent exists, the furnishing of such information is a violation of the law.

## "INTENT"

In order for there to be a violation of the law, the statute requires that a person take action with intent to comply with, further or support an un-sanctioned foreign boycott.

The proposed regulations provided a definition of intent under which a person would be presumed to have the necessary intent when the boycott was "a motivating factor" in its decision.

Some persons urged that no regulations on intent be issued and that the matter of intent be left entirely to the courts to decide. Others argued that a person must specifically intend to comply with, further, or support a boycott before a violation can be proven. Still others took the position that the use of the term "motivating factor" in defining intent created an unnecessary and difficult standard for the Government in proving the requisite intent.

The final regulations provide that a person has the necessary intent when



compliance with, furthering, or supporting an unsanctioned foreign boycott is at least one of the reasons for his action. So long as that is at least one of the reasons for his action, a violation occurs regardless of whether the action is also taken for non-boycott reasons. Stated differently, the fact that an action is taken for legitimate business reasons does not remove that action from the scope of these regulations if compliance with a boycott is also a reason for the action.

So far as the meaning of intent is concerned, the statute makes it clear that intent is a necessary element of any violation. It is not sufficient that one take action that is specifically prohibited under the statute. It is essential that one take such action with intent to comply with, further, or support a foreign boycott. Intent in that context means the reason or purpose for one's behavior. It does not mean that one has to agree with the boycott in question or desire that it succeed or that it be furthered or supported. But it does mean that the reason why a particular action was taken must be established.

Reason or purpose can be proved by circumstantial evidence. For example, if a person receives a request to supply certain boycott information which the statute proscribes and he knowingly supplies that information in response, he clearly intends to comply with that boycott request. It is irrelevant that he may disagree with or object to the boycott itself. On the other hand, if he refuses to do business with someone who happens to be blacklisted, but the reason is because that person produces an inferior product, the requisite intent does not exist.

This view of intent is consistent with the Congressional intent, as evidenced by the statute and its legislative history, to require that action be punishable only if its reason or purpose was to comply with, further, or support an unsanctioned foreign boycott.

#### UNILATERAL SELECTION

The statute allows an exception for compliance with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or suppliers of specifically identifiable goods to be imported into a boycotting country.

**Pre-selection services.** Under the proposed regulations, a person's selection of goods or services is "unilateral" even if he has been provided pre-selection services so long as such services are not in any way boycott based.

Pre-selection services might consist of a general contractor supplying his client with a list of qualified architects or competent engineers from which the customer may make his selection.

Under the proposed regulations, so long as such services are provided wholly without reference to boycott considerations (e.g., so long as the contractor does not exclude an architect from his list of qualified architects because he is blacklisted), they do not destroy the unilateral character of the customer's or client's subsequent selection.

Some of those who commented took the position that the provision of any pre-selection services destroys the "unilateral" character of the selection subsequently made by the client, and, thus, no such selection may be complied with by a person subject to the Act where pre-selection services have been provided.

As in the proposed regulations, the final regulations provide that the provision of so-called "pre-selection" services does not, in and of itself, destroy the unilateral character of another person's selection so long as such services are not boycott-based. However, the final regulations also require that such services be of a type customarily provided in similar transactions by the firm (or industry of which the firm is a part) as measured by the practice in non-boycotting as well as boycotting countries. If such services are not customarily provided in similar transactions or are provided in such a way as to exclude blacklisted persons from participating in a transaction or diminish their opportunity for such participation, then they may not be provided without destroying the unilateral character of any subsequent selection.

These additional constraints are imposed in the final regulations in order to ensure that pre-selection services are not used as a device to facilitate boycott-based decisions by boycotting country buyers. But pre-selection services, in and of themselves, do not destroy the unilateral character of another person's selection so long as that other person in fact is the one that makes the selection and so long as those services are not provided in order to help that other person make a boycott-based selection.

To conclude otherwise would effectively bar U.S. persons, principally those engaged in general contracting, from providing in boycotting countries services which they customarily provide elsewhere, and there is no evidence of Congressional intent to do so.

Indeed, such an absolute bar would be counter-productive from the point of view of U.S. anti-boycott policy, since it would drive boycotting country buyers into the hands of foreign suppliers of pre-selection services who might have no compunction about excluding blacklisted suppliers from lists of qualified suppliers or otherwise discriminating against blacklisted persons. By permitting U.S. persons to

supply pre-selection services and by insisting that they be provided wholly without reference to any boycott, the opportunity for blacklisted persons to participate in boycotting country transactions is likely to be enhanced.

**Services to be performed within the boycotting country.** The proposed regulations permitted a person to comply with a unilateral selection of a supplier of services so long as some portion of the services were to be performed within the boycotting country.

Several persons urged the Department to permit use of the exception for the selection of services only if the services are to be performed exclusively or almost exclusively within the boycotting country. Others took the position that the exception should be permitted only if most of the services are to be performed within the boycotting country. Many urged that the provision be retained as proposed.

Neither the statute nor its legislative history restrict the availability of this exception to services which are performed totally or primarily within the boycotting country. However, in order to prevent use of this exception as a device for complying with foreign boycotts in circumstances where it was not intended, the final regulations provide that services are "to be performed within the boycotting country" for the purposes of this exception only if they are of a type which would customarily be performed within the boycotting country and the part performed within the country is a necessary and not insignificant part of the total service performed.

What is "customary" and "necessary" for these purposes depends on the practice of the supplier of the service or the industry of which it is a part as measured by the practice in non-boycotting as well as boycotting countries insofar as the practice in boycotting countries is not the result of accommodation to these regulations.

These constraints will permit use of the exception for the selection of suppliers of services which in good faith must be performed within the boycotting country while ensuring that it is not used as a mechanism for unrestrained compliance with foreign boycotts in the selection of suppliers of services.

**Specifically identifiable goods.** The statute contains two exceptions—for "unilateral selections" and compliance with local law—which, under certain conditions, permit the boycott-based importation of products into a boycotting country. In order for the exceptions to be available, the statute requires that the origin of the products be specifically identifiable at the time of their entry into the boycotting country.

Under the proposed regulations, identifiability is measured by the ability

to identify the source of the product either by physical inspection of the goods themselves or their packaging.

Several persons who commented argued that the proposed regulations construe the exceptions too narrowly and that identifiability should also be measurable by what an inspection of the import or shipping documents accompanying the goods would disclose. Others took the position that the proposed regulations construe this exception too broadly and that identifiability must be measured only by what a physical inspection of the items themselves would disclose and not by what an inspection of their packaging would disclose.

The final regulations adopt neither view and are retained as proposed. The legislative history of the statute makes it clear that the test for "identifiability" is whether it is generally possible, in the normal course of business, for the buyer or customs agent or similar official to identify the supplier or manufacturer of a particular product or component by inspection of the product itself. The "product" necessarily includes both the items and their packaging. For example, a product such as ready-to-eat breakfast cereal clearly consists of both the cereal itself as well as the box in which it is contained. On the other hand, to permit identifiability to be measured by what the shipping documents would disclose would vitiate virtually all limitations on the notion of specific identifiability.

Regardless of whether an inspection is in fact made, the test is whether an inspection of the items, including their packaging but excluding their shipping documentation, would disclose the source of the product. If so, it is "specifically identifiable" for purposes of these exceptions; if not, it does not qualify. This view is consistent with legislative purpose and intent.

#### COMPLIANCE WITH LOCAL LAW

The statute contains an exception to the prohibitions to permit a U.S. person resident in a boycotting country to comply with that country's boycott laws with respect to his activities exclusively within the country and with respect to the importation of products "for his own use, including the performance of contractual services."

"For his own use, including the performance of contractual services." The proposed regulations interpreted the phrase "for his own use, including the performance of contractual services," to include goods imported for turnkey and general retail merchandising operations.

Several of those who commented took the position that the phrase was construed too broadly. They argued

that the exception should be available only with respect to goods intended for a person's own use in the sense of consumption or permanent possession and not where the goods might subsequently be transferred directly or indirectly to another person's possession. Under that view, the exception would not be available for goods imported for resale in a retail operation or for goods, such as cement, nails, steel, etc., which were incorporated into a building being constructed for another.

Under the final regulations, the importation of goods that are to be placed in inventory for subsequent resale without further manufacture or incorporation into another product are excluded from the coverage of this exception. In addition, the final regulations restrict the availability of the exception to situations where goods are imported for further manufacture or incorporation into a project, such as a construction project, whether on a turnkey basis or otherwise. Moreover, under the final regulations, goods imported for such purposes are not for one's own use if they are not customarily incorporated into, or do not customarily become permanently affixed as a functional part of, the project.

These limitations are intended to ensure that this exception is not utilized for import transactions which are akin to import for resale operations. The legislative history of this exception makes it clear that it was not intended to be used for simple resale operations or where the person making the imports acts as a procurement agent for another. By limiting its availability to circumstances where the goods are incorporated as a functional part of another product or project, the final regulations will help ensure that the exception is not used in a manner unintended by the Congress.

**Importation of services.** The exception which permits a U.S. person who is a bona fide resident of another country to comply with the import laws of that country with respect to the importation of products for his own use, makes no mention of services.

A number of persons who commented contended that the exception should be available for compliance with laws or regulations relating to the import of services as well as goods. A principal party to the negotiations that led to the drafting of the statutory language has characterized the omission of an express reference to services in this exception as "an inadvertent error in draftsmanship."

The final regulations have not been modified to bring services within this exception. However forceful the arguments the other way, the language of the statute is simply not susceptible of such a construction. In other provisions of the statute (e.g. the excep-

tions for unilateral selection and compliance with import requirements) the Congress made express reference to services. It could have done so under this provision as well but did not.

**Scope of the exception.** The proposed regulations provide that the exception governing compliance with local import law would be available for all United States persons qualifying as bona fide residents of a foreign country in order to avoid serious adverse economic and political consequences for the United States.

Some of those who commented took the position that the exception should be available not through regulations, but only through individual applications for case-by-case waivers. Others urged that the exception should be available only in limited circumstances, but they did not specify which circumstances.

The final regulations governing the scope of this exception have not been substantively changed. The legislative history of the Act clearly demonstrates Congressional intent that this exception be available through regulations and not through a case-by-case waiver system advocated in some of the comments. Under such a system, the exception would be available for a company only after its waiver application was approved by the Department. The result would be inherent unfairness for those whose applications awaited approval. In addition, it would impose on the Department an administrative burden which it could not possibly meet.

Congress intended this exception not as an avenue for general boycott compliance but rather as a means to permit limited boycott compliance by U.S. persons resident in a boycotting country. Accordingly, the final regulations place careful limits on its scope.

A resident must be a bona fide resident before the exception is available. Nine criteria are set out for determining whether a United States person is a bona fide resident. In addition, the regulations limit the exception's coverage to products that are both "specifically identifiable" and for the importing person's own use with stringent tests of what constitutes "own use."

Use of this exception will be monitored and continually reviewed to determine whether its continued availability is consistent with the national interest. Its availability may be limited or withdrawn as appropriate.

#### "RISK OF LOSS" CONTRACTUAL PROVISIONS

The statute prohibits boycott-based refusals to do business. Under the proposed regulations, use of a contractual clause requiring a person to assume the risk of loss for non-delivery of his products in a boycotting country would not, in and of itself, constitute a



refusal to do business. The rationale for that position is that a person insisting on such a provision stands ready to do business with anyone. His insistence that the supplier of goods bear any loss arising from the inability of the goods to gain entry into a boycotting country is not a refusal to do business with anyone who will not agree to such a provision.

Some of those commenting took the position that use of the "risk of loss" provision constitutes a refusal to do business, because it would inhibit anyone on a blacklist from bidding to supply a product destined for a boycotting country. At the very least, they argued, its use should constitute evasion. Others who commented agreed with the proposed regulations on this point.

The final regulations recognize that various devices, including risk of loss provisions, may be employed in such a way as to place a person at a commercial disadvantage because he is blacklisted and thereby effect discrimination against him because of his blacklisted status. Accordingly, use of any artifice, device, or scheme which is intended to place a person at a commercial disadvantage or imposes on him special burdens because he is blacklisted or otherwise restricted from having a business relationship with or in a boycotting country will be regarded as evidence of evasion for purposes of these regulations. Among the factors which will be considered in determining whether a particular arrangement is employed for purposes of evasion are customary practice and usage.

Unless permitted under one of the exceptions, use of risk of loss provisions which expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of these regulations, there is a rebuttable presumption that they are used for purposes of evasion. If used by a U.S. person prior to the effective date of these regulations, there is a presumption that his use does not constitute evasion.

The Department recognizes that it is not possible to deal categorically with the variety of contractual or other arrangements that may be employed in transactions with boycotting countries. But unusual arrangements which have the effect of limiting the economic opportunities of blacklisted persons because of their blacklisted status will be carefully scrutinized to determine whether they are employed for purposes of evading these regulations.

#### EVASION

The anti-evasion section of the statute provides that the law applies to any transaction or activity undertaken

with intent to evade the provisions of the law.

The proposed regulations gave some examples of what constitutes evasion and also expressly stated that repeated use of the exceptions would not constitute or give rise to an inference of evasion.

Some persons commented that repeated use of the exceptions should be evidence of, or should raise a presumption of, an intent to evade the Act. They urged that the regulations spell out the type of activity that will constitute evidence of intent to evade.

Others took the position that the interpretation of evasion should be limited to the use of contrivances or artifices to accomplish what would otherwise be an unlawful act.

Still others argued that the matter of evasion should be left to the courts. However, they suggested that the regulations clarify that restructuring one's business relationships in an effort to comply with the Act should not be considered evasion.

The final regulations on evasion make it clear that the exceptions do not permit activities or agreements (express or implied by a course of conduct, including a pattern of responses) which are otherwise prohibited and which are not within the intent of the exceptions. However, activities within the coverage and intent of the exceptions do not constitute evasion regardless of how often the exceptions are utilized. The rationale for this position is that repeated lawful actions cannot be treated as violations of the law just because they are repeated. The creation of these exceptions would have been a futile gesture by the Congress if their use were itself a violation of the law.

Under the final regulations, use of any artifice, device or scheme which is intended to place a person at a commercial disadvantage or impose on him special burdens because he is blacklisted will be regarded as evasion unless permitted by one of the exceptions. In addition, unless permitted under one of the exceptions, use of risk of loss provisions which expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of these regulations, there will be a rebuttable presumption that they are used for purposes of evasion. If used by a U.S. person prior to the effective date of these regulations, there is a presumption that such use does not constitute evasion. Furthermore, use of dummy corporations or other devices to mask prohibited activity will also be regarded as evasion. Similarly, it is evasion to divert specific boycotting country orders from United States parent companies to their foreign subsidiaries for purposes of complying

with prohibited boycott requirements. However, alteration of a person's structure or method of doing business will not constitute a violation of this section so long as the alteration is based on legitimate business considerations and is not undertaken solely to avoid the application of the prohibitions of this Part.

In all potential cases of evasion, the facts and circumstances of an arrangement or transaction will be carefully scrutinized to see whether appearances conform to reality.

**DRAFTING INFORMATION:** The principal authors of these rules were Stanley J. Marcuss, Deputy Assistant Secretary for Trade Regulation; Homer E. Moyer, Jr., Deputy General Counsel; Kent N. Knowles, Deputy Assistant General Counsel for Industry and Trade; Vincent J. Rocque, Special Assistant to the Director, Bureau of Trade Regulation; and Pamela P. Breed, Office of General Counsel.

The old sections 369.1, 369.2, and 369.3 of Part 369 of Title 15 of the Code of Federal Regulations are revoked, and new sections 369.1, 369.2, 369.3, 369.4 and 369.5 of this Part 369 are issued as set forth below. The old section 369.4 of this Part is redesignated as section 369.6, to remain in effect until later revised. (Proposed regulations to revise old section 369.4 were published for comment in the *FEDERAL REGISTER* on December 30, 1977 (42 FR 65592).)

Issued in Washington, D.C., on January 18, 1978.

STANLEY J. MARCUSS,  
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for Trade Regulation.

#### § 369.1 Definitions.

(a) *Definition of "Person".* For purposes of this Part, the term "person" means any individual, or any association or organization, public or private, which is organized, permanently established, resident, or registered to do business, in the United States or any foreign country. This definition of "person" includes both the singular and plural and, in addition, includes:

- (1) any partnership, corporation, company, branch, or other form of association or organization, whether organized for profit or non-profit purposes;
- (2) any government, or any department, agency, or commission of any government;
- (3) any trade association, chamber of commerce, or labor union;
- (4) any charitable or fraternal organization; and
- (5) any other association or organization not specifically listed above.

(b) *Definition of "United States Person".* (1) Part 369 applies to United States person. For purposes of this Part, the term "United States person"

means any person who is a United States resident or national, including individuals, domestic concerns, and controlled in fact foreign subsidiaries, affiliates, or other permanent foreign establishments of domestic concerns. This definition of "United States person" includes both the singular and plural and, in addition, includes:

- (i) the government of the United States or any department, agency, or commission thereof;
- (ii) the government of any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any subdivision, department, agency, or commission of any such government;
- (iii) any partnership, corporation, company, association, or other entity organized under the laws of (i) or (ii) above;
- (iv) any foreign concern's subsidiary, partnership, affiliate, branch, office, or other permanent establishment in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and
- (v) any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is controlled in fact by such domestic concern. (See section 369.1(c) on "Definition of 'Controlled in Fact'".)

(2) The term "domestic concern" means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction named in (i) or (ii) above, or any permanent domestic establishment of a foreign concern.

(3) The term "foreign concern" means any partnership, corporation, company, association, or other entity of, or organized under the laws of, any jurisdiction other than those named in (i) or (ii) above.

(4) The term "United States person" does not include an individual United States national who is resident outside the United States and who is either (a) employed permanently or temporarily by a non-United States person or (b) assigned to work as an employee for, and under the direction and control of, a non-United States person.

#### EXAMPLES OF "UNITED STATES PERSON"

The following examples are intended to give guidance in determining whether a person is a "United States person". They are illustrative, not comprehensive.

(i) U.S. bank A has a branch office in foreign country P.

Such branch office is a United States person, because it is a permanent foreign establishment of a domestic concern.

(ii) Ten foreign nationals establish a manufacturing plant, A, in the United States, incorporating the plant under New York law.

A is a United States person, because it is a corporation organized under the laws of one of the states of the United States.

(iii) A, a foreign corporation, opens an office in the United States for purposes of soliciting U.S. orders. The office is not separately incorporated.

A's U.S. office is a United States person, because it is a permanent establishment, in the United States, of a foreign concern.

(iv) A, a U.S. individual, owns stock in foreign corporation B.

A is a United States person. However, A is not a "domestic concern", because the term "domestic concern" does not include individuals.

(v) A, a foreign national resident in the United States, is employed by B, a foreign corporation.

A is a United States person, because he is resident in the United States.

(vi) A, a foreign national, who is resident in a foreign country and is employed by a foreign corporation, makes occasional visits to the United States, for purposes of exploring business opportunities.

A is not a United States person, because he is not a United States resident or national.

(vii) A is an association of U.S. firms organized under the laws of Pennsylvania for the purpose of expanding trade.

A is a United States person, because it is an association organized under the laws of one of the states of the United States.

(viii) At the request of country Y, A, an individual employed by U.S. company B, is transferred to company C as an employee. C is a foreign company owned and controlled by country Y. A, a U.S. national who will reside in Y, has agreed to the transfer provided he is able to retain his insurance, pension, and other benefits. Accordingly, company B has agreed to keep A as an employee in order to protect his employee benefits, and company C has agreed to pay for A's salary. At all times while he works for C, A will be under C's direction and control.

A is not a United States person while under C's direction and control, because he will be resident outside the United States and assigned as an employee to a non-United States person. The arrangement designed to protect A's insurance, pension, and other benefits does not destroy his status as an employee of C so long as he is under the direction and control of C.

(ix) A, a U.S. citizen, has resided in Europe for three years, where he is a self-employed consultant for United States and foreign companies in the communications industry.

A is a United States person, because he is a U.S. national and because he is not a resident outside the United States who is employed by other than a United States person.

(c) *Definition of "Controlled in Fact".* (1) Part 369 applies to any domestic concern's foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment which is "controlled in fact" by such domestic concern. "Control in fact" consists of the authority or ability of a domestic concern to establish the general policies or to control day-to-day operations of its foreign subsidiary, partnership, affiliate, branch, office, or other permanent foreign establishment.

(2) A foreign subsidiary or affiliate of a domestic concern will be presumed to be controlled in fact by that

domestic concern, subject to rebuttal by competent evidence, when:

(i) the domestic concern beneficially owns or controls (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the foreign subsidiary or affiliate;

(ii) the domestic concern beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the foreign subsidiary or affiliate, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(iii) the foreign subsidiary or affiliate is operated by the domestic concern pursuant to the provisions of an exclusive management contract;

(iv) a majority of the members of the board of directors of the foreign subsidiary or affiliate are also members of the comparable governing body of the domestic concern;

(v) the domestic concern has authority to appoint the majority of the members of the board of directors of the foreign subsidiary or affiliate; or

(vi) the domestic concern has authority to appoint the chief operating officer of the foreign subsidiary or affiliate.

(3) A brokerage firm or other person which holds simple record ownership of securities for the convenience of clients will not be deemed to control the securities.

(4) A domestic concern which owns, directly or indirectly, securities that are immediately convertible at the option of the holder or owner into voting securities is presumed to own or control those voting securities.

(5) A domestic concern's foreign branch office or other unincorporated permanent foreign establishment is deemed to be controlled in fact by such domestic concern under all circumstances.

#### EXAMPLES OF "CONTROLLED IN FACT"

The following examples are intended to give guidance in determining the circumstances in which a foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern is "controlled in fact". They are illustrative, not comprehensive.

(i) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(ii) Company A is incorporated in a foreign country. Ten percent of the voting stock of A is owned by U.S. company B. A has an exclusive management contract with B pursuant to which A is operated by B.

As long as such contract is in effect, A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iii) Company A is incorporated in a foreign country. Ten percent of the voting



stock of A is owned by U.S. company B. A has 10 persons on its board of directors. Six of those persons are also members of the board of directors of U.S. company B.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(iv) Company A is incorporated in a foreign country. Thirty percent of the voting securities of A is owned by U.S. company B and no other person owns or controls an equal or larger share.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(v) Company A is incorporated in a foreign country. In A's articles of incorporation, U.S. company B has been given authority to appoint A's board of directors.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vi) Company A is a joint venture established in a foreign country, with equal participation by U.S. company B and foreign company C. U.S. company B has authority to appoint A's chief operating officer.

A is presumed to be controlled in fact by B. This presumption may be rebutted by competent evidence showing that control does not, in fact, lie with B.

(vii) Same as (vi), except that B has no authority to appoint A's chief operating officer.

B is not presumed to control A, absent other facts giving rise to a presumption of control.

(viii) Company A is incorporated in a foreign country. U.S. companies B, C, and D each own 20 percent of A's voting securities and regularly cast their votes in concert.

A is presumed to be controlled in fact by B, C, and D, because these companies are acting in concert to control A.

(ix) U.S. bank B located in the United States has a branch office, A, in a foreign country. A is not separately incorporated.

A is deemed to be controlled in fact by B, because A is a branch office of a domestic concern.

(x) Company A is incorporated in a foreign country. Fifty-one percent of the voting stock of A is owned by company B, which is incorporated in another foreign country. Fifty-one percent of the voting stock of B is owned by C, a U.S. company.

Both A and B are presumed to be controlled in fact by C. The presumption of C's control over B may be rebutted by competent evidence showing that control over B does not, in fact, lie with C. The presumption of B's control over A (and thus C's control over A) may be rebutted by competent evidence showing that control over A does not, in fact, lie with B.

(xi) B, a U.S. individual, owns 51 percent of the voting securities of A, a manufacturing company incorporated and located in a foreign country.

A is not "controlled in fact" under this Part, because it is not controlled by a "domestic concern."

(d) Definition of "Activities in the Interstate or Foreign Commerce of the United States".

#### ACTIVITIES INVOLVING UNITED STATES PERSONS LOCATED IN THE UNITED STATES

(1) For purposes of this Part, the activities of a United States person located in the United States are in the interstate or foreign commerce of the United States if they involve the sale, purchase, or transfer of goods or services (including information) between:

(i) two or more of the several States (including the District of Columbia);

(ii) any State (including the District of Columbia) and any territory or possession of the United States;

(iii) two or more of the territories or possessions of the United States; or

(iv) a State (including the District of Columbia), territory or possession of the United States and any foreign country.

(2) For purposes of this Part, the export of goods or services from the United States and the import of goods or services into the United States are activities in United States commerce. In addition, the action of a domestic concern in specifically directing the activities of its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment is an activity in United States commerce.

(3) Activities of a United States person located in the United States may be in United States commerce even if they are part of or ancillary to activities outside United States commerce. However, the fact that an ancillary activity is in United States commerce does not, in and of itself, mean that the underlying or related activity is in United States commerce.

(4) Hence, the action of a United States bank located in the United States in providing financing from the United States for a foreign transaction that is not in United States commerce is nonetheless itself in United States commerce. However, the fact that the financing is in United States commerce does not, in and of itself, make the underlying foreign transaction an activity in United States commerce, even if the underlying transaction involves a foreign company that is a "United States person" within the meaning of this Part.

(5) Similarly, the action of a United States person located in the United States in providing financial, accounting, legal, transportation, or other ancillary services to its controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment in connection with a foreign transaction is in United States commerce. But the provision of such ancillary services will not, in and of itself, bring the foreign transaction of such subsidiary, affiliate, or permanent foreign establishment into United States commerce.

#### ACTIVITIES OF CONTROLLED IN FACT FOREIGN SUBSIDIARIES, AFFILIATES, AND OTHER PERMANENT FOREIGN ESTABLISHMENTS

(6) Any transaction between a controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment of a domestic concern and a person located in the United States is an activity in United States commerce.

(7) Whether a transaction between such a foreign subsidiary, affiliate, or other permanent foreign establishment and a person located outside the United States is an activity in United States commerce is governed by the following rules.

#### ACTIVITIES IN UNITED STATES COMMERCE

(8) A transaction between a domestic concern's controlled in fact foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, involving goods or services (including information) but not including ancillary services) acquired from a person in the United States is in United States commerce under any of the following circumstances:

(i) If the goods or services were acquired for the purpose of filling an order from a person outside the United States;

(ii) If the goods or services were acquired for incorporation into, refining into, reprocessing into, or manufacture of another product for the purpose of filling an order from a person outside the United States;

(iii) If the goods or services were acquired for the purpose of fulfilling or engaging in any other transaction with a person outside the United States; or

(iv) If the goods were acquired and are ultimately used, without substantial alteration or modification, in filling an order from, or fulfilling or engaging in any other transaction with, a person outside the United States (whether or not the goods were originally acquired for that purpose). If the goods are indistinguishable as to origin from similar foreign-origin goods with which they have been mingled in a stockpile or inventory, the subsequent transaction involving the goods is presumed to be in United States commerce unless, at the time of filling the order, the foreign-origin inventory on hand was sufficient to fill the order.

(9) For purposes of this section, goods or services are considered to be acquired for the purpose of filling an order from or engaging in any other transaction with a person outside the United States where:

(i) they are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment upon the

receipt of an order from or on behalf of a customer with the intention that the goods or services are to go to the customer;

(ii) they are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment to meet the needs of specified customers pursuant to understandings with those customers, although not for immediate delivery; or

(iii) They are purchased by the foreign subsidiary, affiliate, or other permanent foreign establishment based on the anticipated needs of specified customers.

(10) If any non-ancillary part of a transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States is in United States commerce, the entire transaction is in United States commerce. For example, if such a foreign subsidiary is engaged in filling an order from a non-United States customer both with goods acquired from the United States and with goods acquired elsewhere, the entire transaction with that customer is in United States commerce.

#### ACTIVITIES OUTSIDE UNITED STATES COMMERCE

(11) A transaction between a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment and a person outside the United States, not involving the purchase, sale, or transfer of goods or services (including information) to or from a person in the United States, is not an activity in United States commerce.

(12) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to goods acquired from a person in the United States are not in United States commerce where:

(i) they were acquired without reference to a specific order from or transaction with a person outside the United States; and

(ii) they were further manufactured, incorporated, into, refined into, or reprocessed into another product.

(13) The activities of a domestic concern's controlled foreign subsidiary, affiliate, or other permanent foreign establishment with respect to services acquired from a person in the United States are not in United States commerce where:

(i) they were acquired without reference to a specific order from or transaction with a person outside the United States; or

(ii) they are ancillary to the transaction with the person outside the United States.

(14) For purposes of this section, services are "ancillary services" if they

are provided to a controlled foreign subsidiary, affiliate, or other permanent foreign establishment primarily for its own use rather than for the use of a third person. These typically include financial, accounting, legal, transportation, and other services, whether provided by a domestic concern or an unrelated entity.

(15) Thus, the provision of project financing by a United States bank located in the United States to a controlled foreign subsidiary unrelated to the bank is an ancillary service which will not cause the underlying transaction to be in United States commerce. By contrast, where a domestic concern, on behalf of its controlled foreign subsidiary, gives a guaranty of performance to a foreign country customer, that is a service provided to the customer and, as such, brings that subsidiary's transaction with the customer into United States commerce. Similarly, architectural or engineering services provided by a domestic concern in connection with its controlled foreign subsidiary's construction project in a third country are services passed through to that subsidiary's customer and, as such, bring that subsidiary's foreign transaction into United States commerce.

#### GENERAL

(16) Regardless of whether the subsequent disposition of goods or services from the United States is in United States commerce, the original acquisition of goods or services from a person in the United States is an activity in United States commerce subject to this Part. Thus, if a domestic concern's controlled foreign subsidiary engages in a prohibited refusal to do business in stocking its inventory with goods from the United States, that action is subject to this Part whether or not subsequent sales from that inventory are.

(17) In all the above, goods and services will be considered to have been acquired from a person in the United States whether they were acquired directly or indirectly through a third party, where the person acquiring the goods or services knows or expects, at the time he places the order, that they will be delivered from the United States.

#### LETTERS OF CREDIT

(18) Implementation of a letter of credit in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign concern, is an activity in United States commerce.

(19) Implementation of a letter of credit outside the United States by a United States person located outside the United States is in United States commerce where the letter of credit

(a) specifies a United States address for the beneficiary, (b) calls for documents indicating shipment from the United States, or (c) calls for documents indicating that the goods are of United States origin.

(20) See Section 369.2(f) on "Letters of Credit" to determine the circumstances in which paying, honoring, confirming, or otherwise implementing a letter of credit is covered by this Part.

#### EXAMPLES OF ACTIVITIES IN THE INTERSTATE OR FOREIGN COMMERCE OF THE UNITED STATES

The following examples are intended to give guidance in determining the circumstances in which an activity is in the interstate or foreign commerce of the United States. They are illustrative, not comprehensive.

#### UNITED STATES PERSON LOCATED IN THE UNITED STATES

(i) U.S. company A exports goods from the United States to a foreign country.

A's activity is in U.S. commerce, because A is exporting goods from the United States.

(ii) U.S. company A imports goods into the United States from a foreign country.

A's activity is in U.S. commerce, because A is importing goods into the United States.

(iii) U.S. engineering company A supplies consulting services to its controlled foreign subsidiary, B.

A's activity is in U.S. commerce, because A is exporting services from the United States.

(iv) U.S. company A supplies consulting services to foreign company B. B is unrelated to A or any other U.S. person.

A's activity is in U.S. commerce even though B, a foreign-owned company located outside the United States, is not subject to this Part, because A is exporting services from the United States.

(v) Same as (iv), except A is a bank located in the United States and provides a construction loan to B.

A's activity is in U.S. commerce even though B is not subject to this Part, because A is exporting financial services from the United States.

(vi) U.S. company A issues policy directives from time to time to its controlled foreign subsidiary, B, governing the conduct of B's activities with boycotting countries.

A's activity in directing the activities of its foreign subsidiary, B, is an activity in U.S. commerce.

#### FOREIGN SUBSIDIARIES, AFFILIATES, AND OTHER PERMANENT FOREIGN ESTABLISHMENTS OF DOMESTIC CONCERNS

(i) A, a controlled foreign subsidiary of U.S. company B, purchases goods from the United States.

A's purchase of goods from the United States is in U.S. commerce, because A is importing goods from the United States. Whether A's subsequent disposition of these goods is in U.S. commerce is irrelevant. Similarly, the fact that A purchased goods from the United States does not, in and of itself, make any subsequent disposition of those goods an activity in U.S. commerce.

(ii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for the materials.



A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y.

(iii) A, a controlled foreign subsidiary of U.S. company B, receives an order from boycotting country Y for construction materials. A places an order with U.S. company B for some of the materials, and with U.S. company C, an unrelated company, for the rest of the materials.

A's transaction with Y is an activity in U.S. commerce, because the materials are purchased from the United States for the purpose of filling the order from Y. It makes no difference whether the materials are ordered from B or C.

(iv) A, a controlled foreign subsidiary of U.S. company B, is in the wholesale and retail appliance sales business. A purchases finished air conditioning units from the United States from time to time in order to stock its inventory. A's inventory is also stocked with air conditioning units purchased outside the United States. A receives an order for air conditioning units from Y, a boycotting country. The order is filled with U.S.-origin units in A's inventory.

A's transaction with Y is in U.S. commerce, because its U.S.-origin goods are resold without substantial alteration.

(v) Same as (iv), except that A is in the chemicals distribution business. Its U.S.-origin goods are mingled in inventory with foreign-origin goods.

A's sale to Y of unaltered goods from its general inventory is presumed to be in U.S. commerce unless A can show that at the time of the sale the foreign-origin inventory on hand was sufficient to cover the shipment to Y.

(vi) A, a foreign subsidiary of U.S. company B, receives an order from boycotting country Y for computers. A places an order with U.S. company B for some of the components; with U.S. company C, an unrelated company, for other components; and with foreign company D for the rest of the components. A then assembles the computers and ships them to Y.

A's transaction with Y is an activity in U.S. commerce, because some of the components are acquired from the United States for purposes of filling an order from Y.

(vii) Same as (vi), except A purchases all the components from non-U.S. sources.

A's transaction with Y is not an activity in U.S. commerce, because it involves no export of goods from the United States. It makes no difference whether the technology A uses to manufacture computers was originally acquired from its U.S. parent.

(viii) A, a controlled foreign subsidiary of U.S. company B, manufactures computers. A stocks its general components and parts inventory with purchases made at times from the United States and at times from foreign sources. A receives an order from Y, a boycotting country, for computers. A fills that order by manufacturing the computers using materials from its general inventory.

A's transaction with Y is not in U.S. commerce, because the U.S.-origin components are not acquired for the purpose of meeting the anticipated needs of specified customers in Y. It is irrelevant that A's operations may be based on U.S.-origin technology.

(ix) Same as (viii), except that in anticipation of the order from Y, A orders and receives the necessary materials from the United States.

A's transaction with Y is in U.S. commerce, because the U.S.-origin goods were

acquired for the purpose of filling an anticipated order from Y.

(x) A, a controlled foreign subsidiary of U.S. company B, manufactures typewriters. It buys typewriter components both from the United States and from foreign sources. A sells its output in various places throughout the world, including boycotting country Y. Its sales to Y vary from year to year, but have averaged approximately 20 percent of sales for the past five years. A expects that its sales to Y will remain at approximately that level in the years ahead although it has no contracts or orders from Y on hand.

A's sales of typewriters to Y are not in U.S. commerce, because the U.S. components are not acquired for the purpose of filling an order from Y. A general expectancy of future sales is not an "order" within the meaning of this section.

(xi) U.S. company A's corporate counsel provides legal advice to B, its controlled foreign subsidiary, on the applicability of this Part to B's transactions.

While provision of this legal advice is itself an activity in U.S. commerce, it does not, in and of itself, bring B's activities into U.S. commerce.

(xii) A, a controlled foreign subsidiary of U.S. company B, is in the general construction business. A enters into a contract with boycotting country Y to construct a power plant in Y. In preparing engineering drawings and specifications, A uses the advice and assistance of B.

A's transaction with Y is in U.S. commerce, because B's services are used for purposes of fulfilling the contract with Y. B's services are not ancillary services, because the engineering services in connection with construction of the power plant are part of the services ultimately provided to Y by A.

(xiii) Same as (xii), except that A gets no engineering advice or assistance from B. However, B's corporate counsel provides legal advice to A regarding the structure of the transaction. In addition, B's corporate counsel draws up the contract documents.

A's transaction with Y is not in U.S. commerce. The legal services provided to A are ancillary services, because they are not part of the services provided to Y by A in fulfillment of its contract with Y.

(xiv) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to construct an apartment complex in boycotting country Y. A will fulfill its contract completely with goods and services from outside the United States. Pursuant to a provision in the contract, B guarantees A's performance of the contract.

A's transaction with Y is in U.S. commerce, because B's guaranty of A's performance involves the acquisition of services from the United States for purposes of fulfilling the transaction with Y, and those services are part of the services ultimately provided to Y.

(xv) Same as (xiv), except that the guaranty of A's performance is supplied by C, a non-U.S. person located outside the United States. However, unrelated to any particular transaction, B from time to time provides general financial, legal, and technical services to A.

A's transaction with Y is not in U.S. commerce, because the services acquired from the United States are not acquired for purposes of fulfilling the contract with Y.

(xvi) A, a foreign subsidiary of U.S. company B, has a contract with boycotting country Y to conduct oil drilling operations in that country. In conducting these oper-

ations, A from time to time seeks certain technical advice from B regarding the operation of the drilling rigs.

A's contract with Y is in U.S. commerce, because B's services are sought for purposes of fulfilling the contract with Y and are part of the services ultimately provided to Y.

(xvii) A, a controlled foreign subsidiary of U.S. company B, enters into a contract to sell typewriters to boycotting country Y. A is located in non-boycotting country P. None of the components are acquired from the United States. A engages C, a U.S. shipping company, to transport the typewriters from P to Y.

A's sales to Y are not in U.S. commerce, because in carrying A's goods, C is providing an ancillary service to A and not a service to Y.

(xviii) Same as (xvii), except that A's contract with Y calls for title to pass to Y in P. In addition, the contract calls for A to engage a carrier to make delivery to Y.

A's sales to Y are in U.S. commerce, because in carrying Y's goods, C is providing a service to A which is ultimately provided to Y.

(xix) A, a controlled foreign subsidiary of U.S. company B, has general product liability insurance with U.S. company C. Foreign-origin goods sold from time to time by A to boycotting country Y are covered by the insurance policy.

A's sales to Y are not in U.S. commerce, because the insurance provided by C is an ancillary service provided to A which is not ultimately provided to Y.

(xx) A, a controlled foreign subsidiary of U.S. company B, manufactures automobiles abroad under a license agreement with B. From time to time, A sells such goods to boycotting country Y.

A's sales to Y are not in U.S. commerce, because the rights conveyed by the license are not acquired for the specific purpose of engaging in transactions with Y.

(e) "Intent." (1) Part 369 prohibits a United States person from taking or knowingly agreeing to take certain specified actions with intent to comply with, further, or support an unsanctioned foreign boycott.

(2) A United States person has the intent to comply with, further, or support an unsanctioned foreign boycott when such a boycott is at least one of the reasons for that person's decision whether to take a particular prohibited action. So long as that is at least one of the reasons for his action, a violation occurs regardless of whether the prohibited action is also taken for non-boycott reasons. Stated differently, the fact that such action was taken for legitimate business reasons does not remove that action from the scope of this Part if compliance with an unsanctioned foreign boycott was also a reason for the action.

(3) Intent is a necessary element of any violation of this Part. It is not sufficient that one take action that is specifically prohibited by this Part. It is essential that one take such action with intent to comply with, further, or support an unsanctioned foreign boycott. Accordingly, a person who inadvertently, without boycott intent, takes a prohibited action, does not commit any violation of this Part.

(4) Intent in this context means the reason or purpose for one's behavior. It does not mean that one has to agree with the boycott in question or desire that it succeed or that it be furthered or supported. But it does mean that the reason why a particular

prohibited action was taken must be established.

(5) Reason or purpose can be proved by circumstantial evidence. For example, if a person receives a request to supply certain boycott information, the furnishing of which is prohibited by this Part, and he knowingly supplies that information in response, he clearly intends to comply with that boycott request. It is irrelevant that he may disagree with or object to the boycott itself. Information will be deemed to be furnished with the requisite intent if the person furnishing the information knows that it was sought for boycott purposes. On the other hand, if a person refuses to do business with someone who happens to be blacklisted, but the reason is because that person produces an inferior product, the requisite intent does not exist.

(6) Actions will be deemed to be taken with intent to comply with an unsanctioned foreign boycott if the person taking such action knew that such action was required or requested for boycott reasons. On the other hand, the mere absence of a business relationship with a blacklisted person or with or in a boycotted country does not indicate the existence of the requisite intent.

(7) In seeking to determine whether the requisite intent exists, all available evidence will be examined.

#### EXAMPLES OF "INTENT"

The following examples are intended to illustrate the factors which will be considered in determining whether the required intent exists. They are illustrative, not comprehensive.

(i) U.S. person A does business in boycotting country Y. In selecting firms to supply goods for shipment to Y, A chooses supplier B because B's products are less expensive and of higher quality than the comparable products of supplier C. A knows that C is blacklisted, but that is not a reason for A's selection of B.

A's choice of B rather than C is not action with intent to comply with Y's boycott, because C's blacklist status is not a reason for A's action.

(ii) Same as (i), except that A chooses B rather than C in part because C is blacklisted by Y.

Since C's blacklist status is a reason for A's choice, A's action is taken with intent to comply with Y's boycott.

(iii) U.S. person A bids on a tender issued by boycotting country Y. A inadvertently fails to notice a prohibited certification which appears in the tender document. A's bid is accepted.

#### § 369.2 Prohibitions.

##### (a) Refusals to do business.

#### RULES AND REGULATIONS

A's action in bidding was not taken with intent to comply with Y's boycott, because the boycott was not a reason for A's action.

(iv) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipment of U.S. goods to boycotting country Y. As A knows, such letters of credit routinely contain conditions requiring prohibited certifications. A fails to take reasonable steps to prevent the implementation of such letters of credit. A receives for implementation a letter of credit which in fact contains a prohibited condition but does not examine the letter of credit to determine whether it contains such a condition.

Although Y's boycott may not be a specific reason for A's action in implementing the letter of credit with a prohibited condition, all available evidence shows that A's action was taken with intent to comply with the boycott, because A knows or should know that its procedures result in compliance with the boycott.

(v) U.S. bank A engages in letter of credit transactions, in favor of U.S. beneficiaries, involving the shipment of U.S. goods to boycotting country Y. As A knows, the documentation accompanying such letters of credit sometimes contains prohibited certifications. In accordance with standard banking practices applicable to A, it does not examine such accompanying documentation. A receives a letter of credit in favor of a U.S. beneficiary. The letter of credit itself contains no prohibited conditions. However, the accompanying documentation, which A does not examine, does contain such a condition.

All available evidence shows that A's action in implementing the letter of credit was not taken with intent to comply with the boycott, because A has no affirmative obligation to go beyond applicable standard banking practices in implementing letters of credit.

(vi) A, a U.S. company, is considering opening a manufacturing facility in boycotted country X. A already has such a facility in boycotting country Y. After exploring the possibilities in X, A concludes that the market does not justify the move. A is aware that if it did open a plant in X, Y might object because of Y's boycott of X. However Y's possible objection is not a reason for A's decision not to open a plant in X.

A's decision not to proceed with the plant in X is not action with intent to comply with Y's boycott, because Y's boycott of X is not a reason for A's decision.

(vii) Same as (vi), except that after exploring the business possibilities in X, A concludes that the market does justify the

move to X. However, A does not open the plant because of Y's possible objections due to Y's boycott of X.

A's decision not to proceed with the plant in X is action taken with intent to comply with Y's boycott, because Y's boycott is a reason for A's decision.

(viii) A, a U.S. chemical manufacturer, receives a "boycott questionnaire" from boycotting country Y asking, among other things, whether A has any plants located in boycotted country X. A, which has never supported Y's boycott of X, responds to Y's questionnaire, indicating affirmatively that it does have plants in X and that it intends to continue to have plants in X.

A's responding to Y's questionnaire is deemed to be action with intent to comply with Y's boycott, because A knows that the questionnaire is boycott-related. It is irrelevant that A does not also wish to support Y's boycott.

(ix) U.S. company A is on boycotting country Y's blacklist. In an attempt to secure its removal from the blacklist, A wishes to supply to Y information which demonstrates that A does at least as much business in Y and other countries engaged in a boycott of X as it does in X. A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may furnish the information, because in doing so it has no intent to comply with, further, or support Y's boycott.

(x) U.S. company A has a manufacturing facility in boycotted country X. A receives an invitation to bid on a construction project in boycotting country Y. The invitation states that all bidders must complete a boycott questionnaire and send it in with the bid. The questionnaire asks for information about A's business relationships with X. Regardless of whether A's bid is successful, A intends to continue its business in X undiminished and in fact is exploring and intends to continue exploring an expansion of its activities in X without regard to Y's boycott.

A may not answer the questionnaire, because, despite A's intentions with regard to its business operations in X, Y's request for completion of the questionnaire is for boycott purposes and by responding, A's action would be taken with intent to comply with Y's boycott.

(NOTE.—Example (ix) is distinguishable from (x), because in (ix) A is not responding to any boycott request or requirement. Instead, on its own initiative, it is supplying information to demonstrate non-discriminatory conduct as between X and Y without any intent to comply with, further, or support Y's boycott.)

#### PROHIBITION AGAINST REFUSALS TO DO BUSINESS

(1) No United States person may:	to do business	when such refusal is pursuant to
refuse, knowingly agree to refuse, require any other person to refuse, or knowingly agree to require any other person to refuse,	with or in a boycotted country, with any business concern organized under the laws of a boycotted country, with any national or resident of a boycotted country, or with any other person,	an agreement with the boycotting country, a requirement of the boycotting country, or a request from or on behalf of the boycotting country.



(2) Generally, a refusal to do business under this section consists of action that excludes a person or country from a transaction for boycott reasons. This includes a situation in which a United States person chooses or selects one person over another on a boycott basis or takes action to carry out another person's boycott-based selection when he knows or has reason to know that the other person's selection is boycott-based.

(3) Refusals to do business which are prohibited by this section include not only specific refusals, but also refusals implied by a course or pattern of conduct. There need not be a specific offer and refusal to constitute a refusal to do business; a refusal may occur when a United States person has a financial or commercial opportunity and declines for boycott reasons to consider or accept it.

(4) A United States person's use of either a boycott-based list of persons with whom he will not deal (a so-called "blacklist") or a boycott-based list of persons with whom he will deal (a so-called "whitelist") constitutes a refusal to do business.

(5) An agreement by a United States person to comply generally with the laws of the boycotting country with which it is doing business or an agreement that local laws of the boycotting country shall apply or govern is not, in and of itself, a refusal to do business. Nor, in and of itself, is use of a contractual clause explicitly requiring a person to assume the risk of loss of non-delivery of his products a refusal to do business with any person who will not or cannot comply with such a clause. (But see section 369.4 on "Evasion.")

(6) If, for boycott reasons, a United States general manager chooses one supplier over another, or enters into a contract with one supplier over another, or advises its client to do so, then the general manager's actions constitute a refusal to do business under this section. However, it is not a refusal to do business under this section for a United States person to provide management, procurement, or other pre-award services for another person so long as (i) the provision of such pre-award services is customary for that firm (or industry of which the firm is a part), without regard to the boycotting or non-boycotting character of the countries in which they are performed, and (ii) the United States person, in providing such services, does not act to exclude a person or country from the transaction for boycott reasons, or otherwise take actions that are boycott-based. For example, a United States person under contract to provide general management services in connection with a construction

project in a boycotting country may compile lists of qualified bidders for the client if that service is a customary one and if persons who are qualified are not excluded from that list because they are blacklisted.

(7) With respect to post-award services, if a client makes a boycott-based selection, actions taken by the United States general manager or contractor to carry out the client's choice are themselves refusals to do business if the United States contractor knows or has reason to know that the client's choice was boycott-based. (It is irrelevant whether the United States contractor also provided pre-award services.) Such actions include entering into a contract with the selected supplier, notifying the supplier of the client's choice, executing a contract on behalf of the client, arranging for inspection and shipment of the supplier's goods, or taking any other action to effect the client's choice. (But see section 369.3(c) on "Compliance with Unilateral Selection" as it may apply to post-award services.)

(8) An agreement is not a prerequisite to a violation of this section since the prohibition extends to actions taken pursuant not only to agreements but also to requirements of, and requests from or on behalf of, a boycotting country.

(9) Agreements under this section may be either express or implied by a course or pattern of conduct. There need not be a direct request from a boycotting country for action by a United States person to have been taken pursuant to an agreement with or requirement of a boycotting country.

(10) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott. The mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with national(s) or resident(s) of the boycotted country, or with any other person does not indicate the existence of the required intent.

#### EXAMPLES OF REFUSALS AND AGREEMENTS TO REFUSE TO DO BUSINESS

The following examples are intended to give guidance in determining the circumstances in which, in a boycott situation, a refusal to do business or an agreement to refuse to do business is prohibited. They are illustrative, not comprehensive.

#### REFUSALS TO DO BUSINESS

(i) A, a U.S. manufacturer, receives an order for its products from boycotting coun-

try Y. To fill that order, A solicits bids from U.S. companies B and C, manufacturers of components used in A's products. A does not, however, solicit bids from U.S. companies D or E, which also manufacture such components, because it knows that D and E are restricted from doing business in Y and that their products are, therefore, not importable into that country.

Company A may not refuse to solicit bids from D and E for boycott reasons, because to do so would constitute a refusal to do business with those persons.

(ii) A, a U.S. exporter, uses company B, a U.S. insurer, to insure the shipment of its goods to all its overseas customers. For the first time, A receives an order for its products from boycotting country Y. Knowing that B is on the blacklist of Y, A arranges with company C, a non-blacklisted U.S. insurer, to insure the shipment of its goods to Y.

A's action constitutes a refusal to do business with B.

(iii) A, a U.S. exporter, purchases all its liability insurance from company B, a U.S. company that does business in boycotted country X. A wishes to expand its operations into country Y, the boycotting country. Before doing so, A decides to switch from insurer B to insurer C in anticipation of a request from Y that A sever its relations with B as a condition of doing business in Y.

A may not switch insurers for this reason, because doing so would constitute a refusal to do business with B.

(iv) U.S. company A exports goods to boycotting country Y. In selecting vessels to transport the goods to Y, A chooses only from among carriers which call at ports in Y.

A's action is not a refusal to do business with carriers which do not call at ports in Y.

(v) A, a U.S. bank with a branch office in boycotting country Y, sends representatives to boycotted country X to discuss plans for opening a branch office in X. Upon learning of these discussions, an official of the local boycott office in Y advises A's local branch manager that if A opens an office in X it will no longer be allowed to do business in Y. As a result of this notification, A decides to abandon its plans to open a branch in X.

Bank A may not abandon its plans to open a branch in X as a result of Y's notification, because doing so would constitute a refusal to do business in boycotted country X.

(vi) A, a U.S. company that manufactures office equipment, has been restricted from doing business in boycotted country Y because of its business dealings with boycotted country X. In an effort to have itself removed from Y's blacklist, A ceases its business in X.

A's action constitutes a refusal to do business in boycotted country X.

(vii) A, a U.S. computer company, does business in boycotting country Y. A decides to explore business opportunities in boycotted country X. After careful analysis of possible business opportunities in X, A decides, solely for business reasons, not to market its products in X.

A's decision not to proceed is not a refusal to do business, because it is not based on boycott considerations. A has no affirmative obligation to do business in X.

(viii) A, a U.S. oil company with operations in boycotting country Y, has regular-

ly purchased equipment from U.S. petroleum equipment suppliers B, C, and D, none of whom is on the blacklist of Y. Because of its satisfactory relationship with B, C, and D, A has not dealt with other suppliers, including supplier E, who is blacklisted by Y.

A's failure affirmatively to seek or secure business with blacklisted supplier E is not a refusal to do business with E.

(ix) Same as (viii), except U.S. petroleum equipment supplier E, a company on boycotting country Y's blacklist, offers to supply U.S. oil company A with goods comparable to those provided by U.S. suppliers B, C, and D, because it has satisfactory, established relationships with suppliers B, C, and D, does not accept supplier E's offer.

A's refusal of supplier E's offer is not a refusal to do business, because it is based solely on non-boycott considerations. A has no affirmative obligation to do business with E.

(x) A, a U.S. construction company, enters into a contract to build an office complex in boycotting country Y. A receives bids from B and C, U.S. companies that are equally qualified suppliers of electrical cable for the project. A knows that B is blacklisted by Y and that C is not. A accepts C's bid, in part because C is as qualified as the other potential supplier and in part because C is not blacklisted.

A's decision to select supplier C instead of blacklisted supplier B is a refusal to do business, because the boycott was one of the reasons for A's decision.

(xi) A, a U.S. general contractor, has been retained to construct a highway in boycotting country Y. A circulates an invitation to bid to U.S. manufacturers of road-building equipment. One of the conditions listed in the invitation to bid is that, in order for A to obtain prompt service, suppliers will be required to maintain a supply of spare parts and a service facility in Y. A includes this condition solely for commercial reasons unrelated to the boycott. Because of this condition, however, those suppliers on Y's blacklist do not bid since they would be unable to satisfy the parts and services requirements.

A's action is not a refusal to do business, because the contractual condition was included solely for legitimate business reasons and was not boycott-based.

(xii) Company A, a U.S. oil company, purchases drill bits from U.S. suppliers for export to boycotting country Y. In its purchase orders, A includes a provision requiring the supplier to make delivery to A's facilities in Y and providing that title to the goods does not pass until delivery has been made. As is customary under such an arrangement, the supplier bears all risks of loss, including loss from fire, theft, perils of the sea, and inability to clear customs, until title passes.

Insistence on such an arrangement does not constitute a refusal to do business, because this requirement is imposed on all suppliers whether they are blacklisted or not. (But see section 369.4 on "Evasion.")

(xiii) A, a U.S. engineering and construction company, contracts with a government agency in boycotting country Y to perform a variety of services in connection with the construction of a large industrial facility in Y. Pursuant to this contract, A analyzes the market of prospective suppliers, compiles a suggested bidders list, analyzes the bids received, and makes recommendations to the client. The client independently selects and awards the contract to supplier C for boy-

cott reasons. All of A's services are performed without regard to Y's blacklist or any other boycott considerations, and are the type of services A provides clients in both boycotting and non-boycotting countries.

A's actions do not constitute a refusal to do business, because, in the provision of pre-award services, A has not excluded the other bidders and because A customarily provides such services to its clients.

(xiv) Same as (xiii), except that in compiling a list of prospective suppliers, A deletes suppliers he knows his client will refuse to select because they are blacklisted. A knows that including the names of blacklisted suppliers will neither enhance their chances of being selected nor provide his client with a useful service, the function for which he has been retained.

A's actions, which amount to furnishing a so-called "whitelist," constitute refusals to do business, because A's pre-award services have not been furnished without regard to boycott considerations.

(xv) A, a U.S. construction firm, provides its boycotting country client with a permissible list of prospective suppliers, B, C, D, and E. The client independently selects and awards the contract to C, for boycott reasons, and then requests A to advise C of his selection, negotiate the contract with C, arrange for the shipment, and inspect the goods upon arrival. A knows that C was chosen by the client for boycott reasons.

A's action in complying with his client's direction is a refusal to do business, because A's post-award actions carry out his client's boycott-based decision. (Note: Whether A's action comes within the unilateral selection exception depends upon factors discussed in section 369.3(c).)

(xvi) Same as (xv), except that A is building the project on a turnkey basis and will retain title until completion. The client instructs A to contract only with C.

A's action in contracting with C constitutes a refusal to do business, because it is action that excludes blacklisted persons from the transaction for boycott reasons. (Note: Whether A's action comes within the unilateral selection exception depends upon factors discussed in section 369.3(c).)

(xvii) A, a U.S. exporter of machine tools, receives an order for drill presses from boycotting country Y. The cover letter from Y's procurement official states that A was selected over other U.S. manufacturers in part because A is not on Y's blacklist.

A's action in filling this order is not a refusal to do business, because A has not excluded anyone from the transaction.

(xviii) A, a U.S. engineering firm under contract to construct a dam in boycotting country Y, compiles, on a non-boycott basis, a list of potential heavy equipment suppliers, including information on their qualifications and prior experience. A then solicits bids from the top three firms on its list—B, C, and D—because they are the best qualified. None of them happens to be blacklisted. A does not solicit bids from E, F, or G, the next three firms on the list, one of whom is on Y's blacklist.

A's decision to solicit bids from only B, C, and D, is not a refusal to do business with any person, because the solicited bidders were not selected for boycott reasons.

#### AGREEMENTS TO REFUSE TO DO BUSINESS

(i) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a primary school. The proposed con-

tract contains a clause stating that A "may not use goods or services in the project that are produced or provided by any person restricted from having a business relationship with country Y by reason of Y's boycott against country X".

A's action in entering into such a contract would constitute an agreement to refuse to do business, because it is an agreement to exclude blacklisted persons from the transaction. A may, however, renegotiate this clause so that it does not contain terms prohibited by this Part.

(ii) A, a U.S. manufacturer of commercial refrigerators and freezers, receives an invitation to bid from boycotting country Y. The tender states that the bidder must agree not to deal with companies on Y's blacklist. A does not know which companies are on the blacklist, and A's bid makes no commitment regarding not dealing with certain companies. A's bid in response to the tender is accepted.

At the point when A's bid is accepted, A has agreed to refuse to do business with blacklisted persons, because the terms of Y's tender are part of the contract between Y and A.

(iii) A, a U.S. construction firm, is offered a contract to perform engineering and construction services in connection with a project located in boycotting country Y. The contract contains a clause stating that, in the event of a contract dispute, the laws of Y will apply.

A may enter into the contract. Agreement that the laws of boycotting country Y will control in resolving a contract dispute is not an agreement to refuse to do business.

(iv) Same as (iii), except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y. A knows that Y has a number of boycott laws.

Such an agreement is not, in and of itself, an agreement to refuse to do business. If, however, A subsequently refuses to do business with someone because of the laws of Y, A's action would be a refusal to do business.

(v) Same as (iv) except that the contract contains a clause that A and its employees will comply with the laws of boycotting country Y, "including boycott laws".

A's agreeing, without qualification, to comply with local boycott laws constitutes an agreement to refuse to do business.

(vi) Same as (v), except that A inserts a proviso "except insofar as Y's laws conflict with U.S. laws", or words to that effect.

Such an agreement is not an agreement to refuse to do business.

(vii) A, a U.S. general contractor, is retained to construct a pipeline in boycotting country Y. A provision in the proposed contract stipulates that in purchasing equipment, supplies, and services A must give preference to companies located in host country Y.

A may agree to this contract provision. Agreeing to a "buy local" contract provision is not an agreement to refuse to do business, because A's agreement is not made for boycott reasons.

(viii) A, a U.S. exporter planning to sell retail goods to customers in boycotting country Y, enters into a contract to purchase goods wholesale from B, a U.S. appliance manufacturer. A's contract with B includes a provision stipulating that B may not use components or services of blacklisted companies in the manufacture of its appliances.

A's contract constitutes a refusal to do business, because it would require another



person, B to refuse to do business with other persons for boycott reasons. B may not agree to such a contract, because it would be agreeing to refuse to do business with other persons for boycott reasons.

(ix) Same as (viii), except that A and B reach an implicit understanding that B will not use components or services of blacklisted companies in the manufacture of goods to be exported to Y. In the manufacture of appliances to be sold to A for export to non-boycotting countries B uses components manufactured by blacklisted companies.

The actions of both A and B constitute agreement to refuse to do business. The agreement is implied by their pattern of conduct.

#### (b) Discriminatory Actions.

##### PROHIBITION AGAINST TAKING DISCRIMINATORY ACTIONS

(1) No United States person may: (i) refuse to employ or otherwise discriminate against any individual who is a United States person on the basis of race, religion, sex, or national origin;

(ii) discriminate against any corporation or other organization which is a United States person on the basis of the race, religion, sex, or national origin of any owner, officer, director, or employee of such corporation or organization;

(iii) knowingly agree to take any of the actions described in (i) and (ii) above; or

(iv) require or knowingly agree to require any other person to take any of the actions described in (i) and (ii) above.

(2) This prohibition shall apply whether the discriminatory action is taken by a United States person on its own or in response to an agreement with, request from, or requirement of a boycotting country. This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

(3) The section does not supersede or limit the operation of the civil rights laws of the United States.

##### EXAMPLES OF DISCRIMINATORY ACTIONS

The following examples are intended to give guidance in determining the circumstances in which the taking of particular discriminatory actions is prohibited. They are illustrative, not comprehensive.

(i) U.S. construction company A is awarded a contract to build an office complex in boycotting country Y. A, believing that employees of a particular religion will not be permitted to work in Y because of Y's boycott against country X, excludes U.S. persons of that religion from consideration for employment on the project.

A's refusal to consider qualified U.S. persons of a particular religion for work on the project in Y constitutes a prohibited boycott-based discriminatory action against U.S. persons on the basis of religion.

(ii) Same as (i), except that a clause in the contract provides that "no persons of country X origin are to work on this project".

A's agreement constitutes a prohibited boycott-based agreement to discriminate against U.S. persons, among others, on the basis of national origin.

(iii) Same as (i), except that a clause in the contract provides that "no persons who are citizens, residents, or nationals of country X are to work on this project".

A's agreement does not constitute a boycott-based agreement to discriminate against U.S. persons on the basis of race, religion, sex, or national origin, because the clause requires exclusion on the basis of citizenship, residency, and nationality only.

(iv) U.S. construction company A enters into a contract to build a school in boycotting country Y. Y's representative orally tells A that no persons of country X origin are to work on the project.

A may not comply, because to do so would constitute discrimination on the basis of national origin. It makes no difference that A learned of Y's requirement orally. It makes no difference how A learns about Y's discriminatory requirement.

(v) Boycotting country Y tenders an invitation to bid on a construction project in Y. The tender requires that the successful bidder's personnel will be interviewed and that persons of a particular religious faith will not be permitted to work on the project. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

Agreement to this provision in the tender document by a U.S. person would constitute a prohibited agreement to engage in boycott-based discrimination against U.S. persons of a particular religion.

(vi) Same as (v), except that the tender specifies that "women will not be allowed to work on this project".

Agreement to this provision in the tender by a U.S. person does not constitute a prohibited agreement to engage in boycott-based discrimination, because the restriction against employment of women is not boycott-based. Such an agreement may, however, constitute a violation of U.S. civil rights laws.

(vii) A is a U.S. investment banking firm. As a condition of participating in an underwriting of securities to be issued by boycotting country Y, A is required to exclude investment banks owned by persons of a particular faith from participation in the underwriting. Y's requirement is based on its boycott of country X, the majority of whose citizens are of that particular faith.

A's agreement to such a provision constitutes a prohibited agreement to engage in boycott-based discrimination against U.S. persons on the basis of religion. Further, if A requires others to agree to such a condition, A would be acting to require another person to engage in such discrimination.

(viii) U.S. company A is asked by boycotting country Y to certify that A will not use a six-pointed star on the packaging of its products to be imported into Y. The requirement is part of the enforcement effort by Y of its boycott against country X.

A may not so certify. The six-pointed star is a religious symbol, and the certification by A that it will not use such a symbol constitutes a statement that A will not ship products made or handled by persons of that religion.

(ix) Same as (viii), except that A is asked to certify that no symbol of boycotted coun-

try X will appear on the packaging of its products imported into Y.

Such a certification conveys no statement about any person's religion and, thus, does not come within this prohibition.

(c) *Furnishing Information About Race, Religion, Sex, or National Origin.*

##### PROHIBITION AGAINST FURNISHING INFORMATION ABOUT RACE, RELIGION, SEX, OR NATIONAL ORIGIN

(1) No United States person may: (i) furnish information about the race, religion, sex, or national origin of any United States person;

(ii) furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person;

(iii) knowingly agree to furnish information about the race, religion, sex, or national origin of any United States person; or

(iv) knowingly agree to furnish information about the race, religion, sex, or national origin of any owner, officer, director, or employee of any corporation or other organization which is a United States person.

(2) This prohibition shall apply whether the information is specifically requested or is offered voluntarily by the United States person. It shall also apply whether the information requested or volunteered is stated in the affirmative or the negative.

(3) Information about the place of birth of or the nationality of the parents of a United States person comes within this prohibition, as does information in the form of code words or symbols which could identify a United States person's race, religion, sex, or national origin.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

##### EXAMPLES OF THE PROHIBITION AGAINST FURNISHING DISCRIMINATORY INFORMATION

The following examples are intended to give guidance in determining the circumstances in which the furnishing of discriminatory information is prohibited. They are illustrative, not comprehensive.

(i) U.S. company A receives a boycott questionnaire from boycotting country Y asking whether it is owned or controlled by persons of a particular faith, whether it has any persons on its board of directors who are of that faith, and what the national origin of its president is. The information is sought for purposes of enforcing Y's boycott against country X, and A knows or has reason to know that the information is sought for that reason.

A may not answer the questionnaire, because A would be furnishing information

about the religion and national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(ii) U.S. company A, located in the United States, is asked by boycotting country Y to certify that A has no persons of a particular national origin on its board of directors. A knows that Y's purpose in asking for the certification is to enforce its boycott against country X.

A may not make such a certification, because A would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iii) U.S. company A believes that boycotting country Y will select A's bid over those of other bidders if A volunteers that it has no shareholders, officers, or directors of a particular national origin. A's belief is based on its knowledge that Y generally refuses, as part of its boycott against country X, to do business with companies owned, controlled, or managed by persons of this particular national origin.

A may not volunteer this information, because it would be furnishing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(iv) U.S. company A has a contract to construct an airport in boycotting country Y. Before A begins work, A is asked by Y to identify the national origin of its employees who will work on the site. A knows or has reason to know that Y is seeking this information in order to enforce its boycott against X.

A may not furnish this information, because A would be providing information about the national origin of U.S. persons for purposes of complying with or supporting Y's boycott against X.

(v) Same as (iv), except that in order to assemble its work force on site in Y, A sends visa forms to its employees and asks that the forms be returned to A for transmittal to Y's consulate or embassy. A, itself, furnishes no information about its employees, but merely transmits the visa forms back and forth.

In performing the ministerial function of transmitting visa forms, A is not furnishing information about any U.S. person's race, religion, sex, or national origin.

(vi) Same as (iv), except that A is asked by Y to certify that none of its employees in Y will be women, because Y's laws prohibit women from working.

Such a certification does not constitute a prohibited furnishing of information about any U.S. person's sex, since the reason the information is sought has nothing to do with Y's boycott of X.

(vii) U.S. company A is considering establishing an office in boycotting country Y. In order to register to do business in Y, A is asked to furnish information concerning the nationalities of its corporate officers and board of directors.

A may furnish the information about the nationalities of its officers and directors, because in so doing A would not be furnishing information about the race, religion, sex, or national origin of any U.S. person.

(d) *Furnishing Information About Business Relationships with Boycotted Countries or Blacklisted Persons.*

##### PROHIBITION AGAINST FURNISHING INFORMATION ABOUT BUSINESS RELATIONSHIPS WITH BOYCOTTED COUNTRIES OR BLACKLISTED PERSONS

(1) No United States person may furnish or knowingly agree to furnish information concerning his or any other person's past, present or proposed business relationships:

(i) with or in a boycotted country;

(ii) with any business concern organized under the laws of a boycotted country;

(iii) with any national or resident of a boycotted country; or

(iv) with any other person who is known or believed to be restricted from having any business relationship with or in a boycotting country.

(2) This prohibition shall apply: (i) whether the information pertains to a business relationship involving a sale, purchase, or supply transaction; legal or commercial representation; shipping or other transportation transaction; insurance; investment; or any other type of business transaction or relationship; and

(ii) whether the information is directly or indirectly requested or is furnished on the initiative of the United States person.

(3) This prohibition does not apply to the furnishing of normal business information in a commercial context. Normal business information may relate to factors such as financial fitness, technical competence, or professional experience, and may be found in documents normally available to the public such as annual reports, disclosure statements concerning securities, catalogues, promotional brochures, and trade and business handbooks. Such information may also appear in specifications or statements of experience and qualifications.

(4) Normal business information furnished in a commercial context does not cease to be such simply because the party soliciting the information may be such simply because the party soliciting the information may be a boycotting country or a national or resident thereof. If the information is of a type which is generally sought for a legitimate business purpose (such as determining financial fitness, technical competence, or professional experience), the information may be furnished even if the information could be used, or without the knowledge of the person supplying the information is intended to be used, for boycott purposes. However, no information about business relationships with blacklisted persons or boycotted countries, their residents or nationals, may be furnished in response to a boycott request, even if the information is publicly available. Requests for such information from a boycott office will be presumed to be boycott-based.

(5) This prohibition, like all others, applies only with respect to a United

States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

##### EXAMPLES CONCERNING FURNISHING OF INFORMATION

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information is prohibited. They are illustrative, not comprehensive.

(i) U.S. contractor A is considering bidding for a contract to build a dam in boycotting country Y. The invitation to bid, which appears in a trade journal, specifies that each bidder must state that he does not have any offices in boycotted country X. A knows or has reason to know that the requirement is boycott-based.

A may not make this statement, because it constitutes information about A's business relationships with X.

(ii) U.S. contractor A is considering bidding for a contract to construct a school in boycotting country Y. Each bidder is required to submit copies of its annual report with its bid. Since A's annual report describes A's worldwide operations, including the countries in which it does business, it necessarily discloses whether A has business relations with boycotted country X. A has no reason to know that its report is being sought for boycott purposes.

A, in furnishing its annual report, is supplying ordinary business information in a commercial context.

(iii) Same as (ii), except that accompanying the invitation to bid is a questionnaire from country Y's boycott office asking each bidder to supply a copy of its annual report.

A may not furnish the annual report despite its public availability, because it would be furnishing information in response to a questionnaire from a boycott office.

(iv) U.S. company A is on boycotting country Y's blacklist. For reasons unrelated to the boycott, A terminates its business relationships with boycotted country X. In exploring other marketing areas, A determines that boycotting country Y offers great potential. A is requested to complete a questionnaire from a central boycott office which inquires about A's business relations with X.

A may not furnish the information, because it is information about A's business relationships with a boycotted country.

(v) U.S. exporter A is seeking to sell its products to boycotting country Y. A is informed by Y that, as a condition of sale, A must certify that it has no salesmen in boycotted country X. A knows or has reason to know that the condition is boycott-based.

A may not furnish the certification, because it is information about A's business relationships in a boycotted country.

(vi) U.S. engineering company A receives an invitation to bid on the construction of a dam in boycotting country Y. As a condition of the bid, A is asked to certify that it does not have any offices in boycotted country X. A is also asked to furnish plans for other dams it has designed.

A may not certify that it has no office in X, because this is information about its business relationships in a boycotted country. A may submit plans for other dams it has designed, because this is furnishing normal business information, in a commercial context.



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cial context, relating to A's technical competence and professional experience.

(vii) U.S. company A, in seeking to expand its exports to boycotting country Y, sends a sales representative to Y for a one week trip. During a meeting in Y with trade association representatives, A's representative desires to explain that neither A nor any companies with which A deals has any business relationship with boycotted country X. The purpose of supplying such information is to ensure that A does not get blacklisted.

A's representative may not volunteer this information even though A, for reasons unrelated to the boycott, does not deal with X, because A's representative would be volunteering information about A's business relationships with X for boycott reasons.

(viii) U.S. company A is asked by boycotting country Y to furnish information concerning its business relationships with boycotted country X. A, knowing that Y is seeking the information for boycott purposes, refuses to furnish the information asked for directly, but proposes to respond by supplying a copy of its annual report which lists the countries with which A is presently doing business. A does not happen to be doing business with X.

A may not respond to Y's request by supplying its annual report, because A knows that it would be responding to a boycott-based request for information about its business relationships with X.

(ix) U.S. company A receives a letter from a central boycott office asking A to "clarify" A's operations in boycotted country X. A intends to continue its operations in X, but fears that not responding to the request will result in its being placed on boycotting country Y's blacklist. A knows or has reason to know that the information is sought for boycott reasons.

A may not respond to this request, because the information concerns its business relationships with a boycotted country.

(x) U.S. company A, in the course of negotiating a sale of its goods to a buyer in boycotting country Y, is asked to certify that its supplier is not on Y's blacklist.

A may not furnish the information about its supplier's blacklist status, because this is information about A's business relationships with another person who is believed to be restricted from having any business relationship with or in a boycotting country.

(xi) U.S. company A has a manufacturing plant in boycotted country X and is on boycotting country Y's blacklist. A is seeking to establish operations in Y, while expanding its operations in X. A applies to Y to be removed from Y's blacklist. A is asked, in response, to indicate whether it has manufacturing facilities in X.

A may not supply the requested information, because A would be furnishing information about its business relationships in a boycotted country.

(xii) U.S. bank A plans to open a branch office in boycotting country Y. In order to do so, A is required to furnish certain information about its business operations, including the location of its other branch offices. Such information is normally sought in other countries where A has opened a branch office, and A does not have reason to know that Y is seeking the information for boycott reasons.

A may furnish this information, even though in furnishing it A would disclose information about its business relationships in a boycotted country, because it is being furnished in a normal business context and A

does not have reason to know that it is sought for boycott reasons.

(xiii) U.S. architectural firm A responds to an invitation to submit designs for an office complex in boycotting country Y. The invitation states that all bidders must include information concerning similar types of buildings they have designed. A has not designed such buildings in boycotted country X. Clients frequently seek information of this type before engaging an architect.

A may furnish this information, because this is furnishing normal business information, in a commercial context, relating to A's technical competence and professional experience.

(xiv) U.S. oil company A distributes to potential customers promotional brochures and catalogues which give background information on A's past projects. A does not have business dealings with boycotted country X. The brochures, which are identical to those which A uses throughout the world, list those countries in which A does or has done business. In soliciting potential customers in boycotting country Y, A desires to distribute copies of its brochures.

A may do so, because this is furnishing normal business information, in a commercial context, relating to professional experience.

(xv) U.S. company A is interested in doing business with boycotting country Y. A wants to ask Y's Ministry of Trade whether, and is so why, A is on Y's blacklist or is otherwise restricted for boycott reasons from doing business with Y.

A may take this limited inquiry, because it does not constitute furnishing information.

(xvi) U.S. company A is asked by boycotting country Y to certify that it is not owned by subjects or nationals of boycotted country X and that it is not resident in boycotted country X.

A may not furnish the certification about its residency in X, because it is information about A's business relationships with or in a boycotted country. However, A may furnish the information about the nationality of its owners, because it is not information about A's business relationships.

(xvii) U.S. company A, a manufacturer of certain patented products, desires to register its patents in boycotting country Y. A receives a power of attorney form required to register its patents. The form contains a question regarding A's business relationships with or in boycotted country X. A has no business relationships with X and knows or has reason to know that the information is sought for boycott reasons.

A may not answer the question, because A would be furnishing information about its business relationships with or in a boycotted country.

(e) *Information Concerning Association with Charitable and Fraternal Organizations.*

#### PROHIBITION AGAINST FURNISHING INFORMATION ABOUT ASSOCIATIONS WITH CHARITABLE AND FRATERNAL ORGANIZATIONS

(1) No United States person may furnish or knowingly agree to furnish information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports a boycotted country.

(2) This prohibition shall apply whether:

(i) the information concerns association with or involvement in any charitable or fraternal organization which (a) has, as one of its stated purposes, the support of a boycotted country through financial contributions or other means, or (b) undertakes, as a major organizational activity, to offer financial or other support to a boycotted country;

(ii) the information is directly or indirectly requested or is furnished on the initiative of the United States person; or

(iii) the information requested or volunteered concerns membership in, financial contributions to, or any other type of association with or involvement in the activities of such charitable or fraternal organization.

(3) This prohibition does not prohibit the furnishing of normal business information in a commercial context as defined in section 369.2(d) of this Part.

(4) This prohibition, like all others, applies only with respect to a United States person's activities in the interstate or foreign commerce of the United States and only when such activities are undertaken with intent to comply with, further, or support an unsanctioned foreign boycott.

#### EXAMPLES OF PROHIBITION AGAINST FURNISHING INFORMATION ABOUT ASSOCIATIONS WITH CHARITABLE OR FRATERNAL ORGANIZATIONS

The following examples are intended to give guidance in determining the circumstances in which the furnishing of information concerning associations with charitable or fraternal organizations is prohibited. They are illustrative, not comprehensive.

(i) U.S. engineering firm A receives an invitation to bid from boycotting country Y. The invitation includes a request to supply information concerning any association which A's officers have with charitable organization B, an organization which is known by A to contribute financial support to boycotted country X. A knows or has reason to know that the information is sought for boycott reasons.

A may not furnish the information.

(ii) U.S. construction company A, in an effort to establish business dealings with boycotting country Y, proposes to furnish information to Y showing that no members of its board of directors are in any way associated with charitable organizations which support boycotted country X. A's purpose is to avoid any possibility of its being blacklisted by Y.

A may not furnish the information, because A's purpose in doing so is boycott-based. It makes no difference that no specific request for the information has been made by Y.

(iii) A, a citizen of the United States, is applying for a teaching position in a school in boycotting country Y. In connection with his application, A furnishes a resume which happens to disclose his affiliation with charitable organizations. A does so completely without reference to Y's boycott and without knowledge of any boycott requirement of Y that pertains to A's application for employment.

The furnishing of a resume by A is not a boycott-related furnishing of information about his association with charitable organizations which support boycotted country X.

#### (f) *Letters of Credit.*

#### PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT CONTAINING PROHIBITED CONDITIONS OR REQUIREMENTS

(1) No United States person may pay, honor, confirm, or otherwise implement a letter of credit which contains a condition or requirement compliance with which is prohibited by this Part, nor shall any United States person, as a result of the application of this section, be obligated to pay, honor or otherwise implement such a letter of credit.

(2) For purposes of this section, "implementing" a letter of credit includes:

(i) issuing or opening a letter of credit at the request of a customer;

(ii) honoring, by accepting as being a valid instrument of credit, any letter of credit;

(iii) paying, under a letter of credit, a draft or other demand for payment by the beneficiary;

(iv) confirming a letter of credit by agreeing to be responsible for payment to the beneficiary in response to a request by the issuer;

(v) negotiating a letter of credit by voluntarily purchasing a draft from a beneficiary and presenting such draft for reimbursement to the issuer or the confirmer of the letter of credit; and

(vi) taking any other action to implement a letter of credit.

(3) In the standard international letter of credit transaction facilitating payment for the export of goods from the United States, a bank in a foreign country may be requested by its customer to issue a revocable or irrevocable letter of credit in favor of the United States exporter. The customer usually requires, and the letter of credit provides, that the issuing (or a confirming) bank will make payment to the beneficiary against the bank's receipt of the documentation specified in the letter of credit. Such documentation usually includes commercial and consular invoices, a bill of lading, and evidence of insurance, but it may also include other required certifications or documentary assurances such as the origin of the goods and information relating to the carrier or insurer of the shipment. Banks usually will not accept drafts for payment unless the documents submitted therewith comply with the terms and conditions of the letter of credit.

(4) A United States person is not prohibited under this section from advising a beneficiary of the existence of a letter of credit in his favor, or from taking ministerial actions to dispose of a letter of credit which it is prohibited from implementing.

## RULES AND REGULATIONS

(5) Compliance with this section shall provide an absolute defense in any action brought to compel payment of, honoring of, or other implementation of a letter of credit, or for damages resulting from failure to pay or otherwise honor or implement the letter of credit. This section shall not otherwise relieve any person from any obligations or other liabilities he may incur under other laws or regulations, except as may be explicitly provided in this section.

#### LETTERS OF CREDIT TO WHICH THIS SECTION APPLIES

(6) This prohibition, like all others, applies only with respect to a United States person's activities taken with intent to comply with, further, or support an unsanctioned foreign boycott. In addition, it applies only when the transaction to which the letter of credit applies is in United States commerce and the beneficiary is a United States person.

#### IMPLEMENTATION OF LETTERS OF CREDIT IN THE UNITED STATES

(7) A letter of credit implemented in the United States by a United States person located in the United States, including a permanent United States establishment of a foreign bank, will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit specifies a United States address for the beneficiary. These presumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(8) Where a letter of credit implemented in the United States by a United States person located in the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. This presumption may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person despite the foreign address.

#### IMPLEMENTATION OF LETTERS OF CREDIT OUTSIDE THE UNITED STATES

(9) A letter of credit implemented outside the United States by a United States person located outside the United States will be presumed to apply to a transaction in United States commerce and to be in favor of a United States beneficiary where the letter of credit (a) specifies a United States address for the beneficiary and (b) calls for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin. These pre-

sumptions may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is not a United States person or that the underlying transaction is not in United States commerce.

(10) Where a letter of credit implemented outside the United States by a United States person located outside the United States does not specify a United States address for the beneficiary, the beneficiary will be presumed to be other than a United States person. In addition, where such a letter of credit does not call for documents indicating shipment from the United States or otherwise indicating that the goods are of United States origin, the transaction to which it applies will be presumed to be outside United States commerce. The presumption that the beneficiary is other than a United States person may be rebutted by facts which could reasonably lead the bank to conclude that the beneficiary is a United States person. The presumption that the transaction to which the letter of credit applies is outside United States commerce may be rebutted by facts which could reasonably lead the bank to conclude that the underlying transaction is in United States commerce.

#### GRACE PERIOD

(11) If the underlying transaction to which the letter of credit relates is entitled to grace period treatment under this Part, implementation of the letter of credit is also entitled to such grace period treatment. A letter of credit may be implemented at any time after the end of a grace period regarding the underlying transaction so long as all the prohibited boycott certifications have been given or other boycott-related acts carried out prior to the expiration of a grace period. Similarly, an implementing United States bank may complete implementation of a letter of credit containing prohibited boycott terms after the effective date of this Part provided the beneficiary has complied with all such boycott terms prior to the effective date.

#### EXAMPLES OF THE PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT

The following examples are intended to give guidance in determining the circumstances in which this section applies to the implementation of a letter of credit and in which such implementation is prohibited. They are illustrative not comprehensive.

#### IMPLEMENTATION OF LETTERS OF CREDIT IN UNITED STATES COMMERCE

(1) A, a U.S. bank located in the United States, opens a letter of credit in the United States in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S. person, because it does not have a U.S. address. The presumption may be re-



butted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(ii) A, a branch of a foreign bank located in the United States, opens a letter of credit in favor of B, a foreign company located outside the United States. The letter of credit specifies a non-U.S. address for the beneficiary.

The beneficiary is presumed to be other than a U.S. person, because it does not have a U.S. address. The presumption may be rebutted by facts showing that A could reasonably conclude that the beneficiary is a U.S. person despite the foreign address.

(iii) A, a U.S. bank branch located outside the United States, opens a letter of credit in favor of B, a person with a U.S. address. The letter of credit calls for documents indicating shipment of goods from the United States.

The letter of credit is presumed to apply to a transaction in U.S. commerce and to be in favor of a U.S. beneficiary because the letter of credit specifies a U.S. address for the beneficiary and calls for documents indicating that the goods will be shipped from the United States. These presumptions may be rebutted by facts showing that A could reasonably conclude that the beneficiary is not a U.S. person or that the underlying transaction is not in U.S. commerce.

(iv) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary, B, with an address outside the United States and calls for documents indicating that the goods are of U.S.-origin. A knows or has reason to know that although B has an address outside the United States, B is a U.S. person.

The letter of credit is presumed to apply to a transaction in U.S. commerce, because the letter of credit calls for shipment of U.S.-origin goods. In addition, the letter of credit is presumed to be in favor of a beneficiary who is a U.S. person, because A knows or has reason to know that the beneficiary is a U.S. person despite the foreign address.

(v) A, a U.S. bank branch located outside the United States, opens a letter of credit which specifies a beneficiary with a U.S. address. The letter of credit calls for documents indicating shipment of foreign-origin goods.

The letter of credit is presumed to be in favor of a U.S. beneficiary but to apply to a transaction outside U.S. commerce, because it calls for documents indicating shipment of foreign-origin goods. The presumption of non-U.S. commerce may be rebutted by facts showing that A could reasonably conclude that the underlying transaction involves shipment of U.S.-origin goods or goods from the U.S.

#### PROHIBITION AGAINST IMPLEMENTING LETTERS OF CREDIT

(i) Boycotting country Y orders goods from U.S. company B. Y opens a letter of credit with foreign bank C in favor of B. The letter of credit specifies as a condition of payment that B certify that it does not do business with boycotted country X. Foreign bank C forwards the letter of credit it has opened to U.S. bank A for confirmation.

A may not confirm or otherwise implement this letter of credit, because it contains a condition with which a U.S. person may not comply.

(ii) Same as (i), except U.S. bank A desires to advise the beneficiary, U.S. company B, of the letter of credit.

A may do so, because advising the beneficiary of the letter of credit (including the

term which prevents A from implementing it) is not implementation of the letter of credit.

(iii) Same as (i), except foreign bank C sends a telegram to U.S. bank A stating the major terms and conditions of the letter of credit. The telegram does not reflect the boycott provision. Subsequently, C mails to A documents setting forth the terms and conditions of the letter of credit, including the prohibited boycott condition.

A may not further implement the letter of credit after it receives the documents, because they reflect the prohibited boycott condition in the letter of credit. A may advise the beneficiary and C of the existence of the letter of credit (including the boycott term), and may perform any essentially ministerial acts necessary to dispose of the letter of credit.

(iv) Same as (iii), except that U.S. company B, based in part on information received from U.S. bank A, desires to obtain an amendment to the letter of credit which would eliminate or nullify the language in the letter of credit which prevents A from paying or otherwise implementing it.

Either company B or bank A may undertake, and the other may cooperate and assist in, this endeavor. A could then pay or otherwise implement the revised letter of credit, so long as the original prohibited language is of no force or effect.

(v) Boycotting country Y requests a foreign bank in Y to open a letter of credit to effect payment for goods to be shipped by U.S. supplier B, the beneficiary of the letter of credit. The letter of credit contains prohibited boycott clauses. The foreign bank forwards a copy of the letter of credit to its branch office, A, in the United States.

A may advise the beneficiary but may not implement the letter of credit, because it contains prohibited boycott conditions.

(vi) On November 1, 1977, boycotting country Y orders goods from U.S. company B. U.S. bank A is asked to implement, for the benefit of B, a letter of credit which contains a clause requiring documentation that the goods shipped are not of boycotted country X origin.

A may implement the letter of credit, but after June 21, 1978, may accept only a positive certificate of origin as satisfactory documentation. (See section 369.3(b) on "Import and Shipping Document Requirements.")

(vii) Same as (vi), except that U.S. company B has a contract with Y to supply a certain quantity of goods each month over a two-year period. B's contract was entered into on May 15, 1977, and thus qualifies for grace period treatment until December 31, 1978. Each month, Y causes a letter of credit to be opened in favor of B in order to effect payment. Such letters of credit call for negative certificates of origin.

A may accept negative certificates of origin in fulfillment of the terms of the letter of credit through December 31, 1978, because the underlying contract is entitled to a grace period through that date. (See section 369.5 on "Grace Period.")

(viii) B is a foreign bank located outside the United States. B maintains an account with U.S. bank A, located in the United States. A letter of credit issued by B in favor of a U.S. beneficiary provides that any negotiating bank may obtain reimbursement from A by certifying that all the terms and conditions of the letter of credit have been met and then drawing against B's account. B notifies A by cable of the issuance of a

letter of credit and the existence of reimbursement authorization; A does not receive a copy of the letter of credit.

A may reimburse any negotiating bank, even when the underlying letter of credit contains a prohibited boycott condition, because A does not know or have reason to know that the letter of credit contains a prohibited boycott condition.

(ix) Same as (viii), except that foreign bank B forwards a copy of the letter of credit to U.S. bank A, which then becomes aware of the prohibited boycott clause.

A may not thereafter reimburse a negotiating bank or in any way further implement the letter of credit, because it knows of the prohibited boycott condition.

(x) Boycotting country Y orders goods from U.S. exporter B and requests a foreign bank in Y to open a letter of credit in favor of B to cover the cost. The letter of credit contains a prohibited boycott clause. The foreign bank asks U.S. bank A to advise and confirm the letter of credit. Through inadvertence, A does not notice the prohibited clause and confirms the letter of credit. A thereafter notices the clause and then refuses to honor B's draft against the letter of credit. B sues bank A for payment.

A has an absolute defense against the obligation to make payment under this letter of credit. (NOTE: This section does not alter any other obligations or liabilities of the parties under appropriate law.)

(xi) U.S. bank A has confirmed and is in the midst of implementing a letter of credit in favor of a U.S. beneficiary when the rules and regulations of this Part are issued in final form and become effective. Upon examination of this Part, A determines that the letter of credit contains a prohibited boycott clause calling for a negative certificate of origin.

A may accept a negative certificate of origin in fulfillment of the terms of the letter of credit until June 21, 1978, one year from the date of enactment of the Export Administration Amendments of 1977, because negative certificates of origin are not prohibited through that date.

(xii) Boycotting country Y orders goods from U.S. company B. A letter of credit which contains a prohibited boycott clause is opened in favor of B by a foreign bank in Y. The foreign bank asks U.S. bank A to advise and confirm the letter of credit, which it forwards to A.

A may advise B that it has received the letter of credit (including the boycott term), but may not confirm the letter of credit with the prohibited clause.

(xiii) Same as (xii), except U.S. bank A fails to tell B that it cannot process the letter of credit. B requests payment.

A may not pay. If the prohibited language is eliminated or nullified as the result of renegotiation, A may then pay or otherwise implement the revised letter of credit.

(xiv) U.S. bank A receives a letter of credit in favor of U.S. beneficiary B. The letter of credit requires B to certify that he is not blacklisted.

A may implement such a letter of credit, but it may not insist that the certification be furnished, because by so insisting it would be refusing to do business with a blacklisted person in compliance with a boycott.

(xv) A, a U.S. bank located in the U.S., opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A knows that Y cus-

tomarily requires the seller of goods to certify that it has dealt with no blacklisted supplier. A, therefore, instructs B that it will not make payment under the letter of credit unless B makes such a certification.

A's action in requiring the certification from B constitutes action to require another person to refuse to do business with blacklisted persons.

(xvi) A, a U.S. bank located in the U.S., opens a letter of credit in favor of U.S. beneficiary B for B's sale of goods to boycotting country Y. The letter of credit contains no boycott conditions, but A has actual knowledge that B has agreed to supply a certification to Y that it has not dealt with blacklisted firms, as a condition of receiving the letter of credit in its favor.

A may not implement the letter of credit, because it knows that an implicit condition of the credit is a condition with which B may not legally comply.

#### § 369.3 Exceptions to Prohibitions.

##### (a-1) Import Requirements of a Boycotting Country.

#### COMPLIANCE WITH IMPORT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States person, in supplying goods or services to a boycotting country, or to a national or resident of a boycotting country, may comply or agree to comply with requirements of such boycotting country which prohibit the import of:

(i) goods or services from the boycotted country;

(ii) goods produced or services provided by any business concern organized under the laws of the boycotted country; or

(iii) goods produced or services provided by nationals or residents of the boycotted country.

(2) A United States person may comply or agree to comply with such import requirements whether or not he has received a specific request to comply. By its terms, this exception applies only to transactions involving imports into a boycotting country. A United States person may not, under this exception, refuse on an across-the-board basis to do business with a boycotted country or a national or resident of a boycotted country.

(3) In taking action within the scope of this exception, a United States person is limited in the types of boycott-related information he can supply. (See section 369.2(d) on "Furnishing Information About Business Relationships with Boycotted Countries or Blacklisted Persons" and section 369.3(b) on "Import and Shipping Document Requirements".)

#### EXAMPLES OF COMPLIANCE WITH IMPORT REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with the import requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, receives an order from boycotting country Y for its

products. Country X is boycotted by country Y, and the import laws of Y prohibit the importation of goods produced or manufactured in X. In filling this type of order, A would usually include some component parts produced in X.

For the purpose of filling this order, A may substitute comparable component parts in place of parts produced in X, because the import laws of Y prohibit the importation of goods manufactured in X.

(ii) Same as (i), except that A's contract with Y expressly provides that in fulfilling the contract A "may not include parts or components produced or manufactured in boycotted country X."

A may agree to and comply with this contract provision, because Y prohibits the importation of goods from X. (NOTE: After June 21, 1978, A may not furnish negative certifications regarding the origin of components in response to import and shipping document requirements.)

(iii) A, a U.S. building contractor, is awarded a contract to construct a plant in boycotting country Y. A accepts bids on goods required under the contract, and the lowest bid is made by B, a business concern organized under the laws of X, a country boycotted by Y. Y prohibits the import of goods produced by companies organized under the laws of X.

For purposes of this contract, A may reject B's bid and accept another, because B's goods would be refused entry into Y because of Y's boycott against X.

(iv) Same as (iii), except that A also rejects the low bid by B for work on a construction project in country M, a country not boycotted by Y.

This exception does not apply, because A's action is not taken in order to comply with Y's requirements prohibiting the import of products from boycotted country X.

(v) A, a U.S. management consulting firm, contracts to provide services to boycotting country Y. Y requests that A not employ residents or nationals of boycotted country X to provide those services.

A may agree, as a condition of the contract, not to have services furnished by nationals or residents of X, because importation of such services is prohibited by Y.

(vi) A, a U.S. company, is negotiating a contract to supply machine tools to boycotting country Y. Y insists that the contract contain a provision whereby A agrees that none of the machine tools will be produced by any business concern owned by nationals of boycotted country X, even if the business concern is organized under the laws of a non-boycotted country.

A may not agree to this provision, because it is a restriction on the import of goods produced by business concerns owned by nationals of a boycotted country even if the business concerns themselves are organized under the laws of a non-boycotted country.

##### (a-2) Shipment of Goods to a Boycotting Country.

#### COMPLIANCE WITH REQUIREMENTS REGARDING THE SHIPMENT OF GOODS TO A BOYCOTTING COUNTRY

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with requirements of that country which prohibit the shipment of goods:

(i) on a carrier of the boycotted country; or

(ii) by a route other than that prescribed by the boycotting country or the recipient of the shipment.

(2) A specific request that a United States person comply or agree to comply with requirements concerning the use of carriers of a boycotted country is not necessary if the United States person knows, or has reason to know, that the use of such carriers for shipping goods to the boycotting country is prohibited by requirements of the boycotting country. This exception applies whether a boycotting country or the purchaser of the shipment:

(i) explicitly states that the shipment should not pass through a port of the boycotted country; or

(ii) affirmatively describes a route of shipment that does not include a port in the boycotted country.

(3) For purposes of this exception, the term "carrier of a boycotted country" means a carrier which flies the flag of a boycotted country or which is owned, chartered, leased, or operated by a boycotted country or by nationals or residents of a boycotted country.

#### EXAMPLES OF COMPLIANCE WITH THE SHIPPING REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with requirements regarding shipment of goods to a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A is a U.S. exporter from whom boycotting country Y is importing goods. Y directs that the goods not pass through a port of boycotted country X.

A may comply with Y's shipping instructions, because they pertain to the route of shipment of goods being shipped to Y.

(ii) A, a U.S. fertilizer manufacturer, receives an order from boycotting country Y for fertilizer. Y specifies in the order that A may not ship the fertilizer on a carrier of boycotted country X.

A may comply with this request, because it pertains to the carrier of a boycotted country.

(iii) B, a resident of boycotting country Y, orders textile goods from A, a U.S. distributor, specifying that the shipment must not be made on a carrier owned or leased by nationals of boycotted country X and that the carrier must not pass through a port of country X enroute to Y.

A may comply or agree to comply with these requests, because they pertain to the shipment of goods to Y on a carrier of a boycotted country and the route such shipment will take.

(iv) Boycotting country Y orders goods from A, a U.S. retail merchant. The order specifies that the goods shipped by A "may not be shipped on a carrier registered in or owned by boycotted country X."

A may agree to this contract provision, because it pertains to the carrier of a boycotted country.

(v) Boycotting country Y orders goods from A, a U.S. pharmaceutical company, and requests that the shipment not pass through a port of country P, which is not a country boycotted by Y.

This exception does not apply in a non-boycotting situation. A may comply with



the shipping instructions of Y, because in doing so he would not violate any prohibition of this Part.

(b) *Import and Shipping Document Requirements.*

#### COMPLIANCE WITH IMPORT AND SHIPPING DOCUMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States person, in shipping goods to a boycotting country, may comply or agree to comply with import and shipping document requirements of that country, with respect to:

- (i) the country of origin of the goods;
- (ii) the name of the carrier;
- (iii) the route of the shipment;
- (iv) the name of the supplier of the shipment; and
- (v) the name of the provider of other services.

(2) After June 21, 1978, all such information must be stated in positive, non-blacklisting, non-exclusionary terms except for information with respect to the names of carriers or routes of shipment, which may continue to be stated in negative terms in conjunction with shipments to a boycotting country, in order to comply with precautionary requirements protecting against war risks or confiscation. The purpose of this delayed effective date, which is provided by Section 4A(a)(2)(B) of the Export Administration Act of 1969, as amended, is to allow time for persons to adjust their practices to the use of import and shipping documentation stated in positive rather than negative terms.

#### EXAMPLES OF COMPLIANCE WITH IMPORT AND SHIPPING DOCUMENT REQUIREMENTS

The following examples are intended to give guidance in determining the circumstances in which compliance with import and shipping document requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(1) Boycotting country Y contracts with A, a U.S. petroleum equipment manufacturer, for certain equipment. Y requires that goods being imported into Y must be accompanied by a certification that the goods

being supplied did not originate in boycotted country X.

Until June 21, 1978, A may comply with such import requirements in the terms requested. After June 21, 1978, A may not supply such a certification in negative terms but may identify instead the country of origin of the goods in positive terms only.

(ii) Same as (i), except that Y requires that the shipping documentation accompanying the goods specify the country of origin of the goods.

A may furnish the information:

(iii) On February 1, 1978, A, a U.S. distributor, enters into a two-year contract with boycotting country Y to make monthly shipments of goods to Y. A clause in the contract requires that all shipments into the country must be accompanied by a certification that the goods did not originate in X, a country boycotted by Y.

A may supply such a negative certification until June 21, 1978. After that date, A may state the origin of the goods on the shipping or import documents in positive terms only.

(iv) A, a U.S. apparel manufacturer, has contracted to sell certain of its products to B, a national of boycotted country Y. The form that must be submitted to customs officials of Y requires the shipper to certify that the goods contained in the shipment have not been supplied by "blacklisted" persons.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not furnish the information in negative terms but may certify, in positive terms only, the name of the supplier of the goods.

(v) Same as (iv), except the customs form requires certification that the insurer and freight forwarder used are not "blacklisted".

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not comply with the request but may supply a certification stating, in positive terms only, the names of the insurer and freight forwarder.

(vi) A, a U.S. petrochemical manufacturer, executes a sales contract with B, a resident of boycotted country Y. A provision of A's contract with B requires that the bill of lading and other shipping documents contain certifications that the goods have not been shipped on a "blacklisted" carrier.

Until June 21, 1978, A may furnish the information required in the terms requested. After June 21, 1978, A may not agree to supply a certification that the carrier is not "blacklisted" but may certify the name of the carrier in positive terms only.

(vii) Same as (vi), except that the contract requires certification that the goods will not be shipped on a carrier which flies the flag of, or is owned, chartered, leased, or operated by boycotted country X, or by nationals or residents of X.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(viii) Same as (vi), except that the contract requires that the shipping documents certify the name of the carrier being used.

A may, at any time, supply or agree to supply the requested documentation regarding the name of the carrier, either in negative or positive terms.

(ix) Same as (vi), except the contract requires a certification that the carrier will not call at a port in boycotted country X before making delivery in Y.

Such a certification, which is a reasonable requirement to protect against war risks or confiscation, may be furnished at any time.

(x) Same as (vi), except that the contract requires that the shipping documents indicate the name of the insurer and freight forwarder.

A may comply at any time, because the statement is not required to be made in negative or blacklisting terms.

(xi) A, a U.S. exporter, is negotiating a contract to sell bicycles to boycotting country Y. Y insists that A agree to certify that the goods will not be shipped on a vessel which has ever called at a port in boycotted country X.

As distinguished from a certification that goods will not be shipped on a vessel which will call enroute a port of boycotted country X, such a certification is not a reasonable requirement to protect against war risks or confiscation, and hence, may not be supplied.

(xii) Same as (xi), except that Y insists that A agree to certify that the goods will not be shipped on a carrier that is ineligible to enter Y's waters.

Such a certification, which is not a reasonable requirement to protect against war risks or confiscation may not be supplied.

(xiii) A, a U.S. exporter, sells some of its products to boycotting country Y. A foreign bank located in Y opens a letter of credit to pay for the goods. The letter of credit requires that A supply documentation certifying that "the goods are not manufactured in boycotted country X."

A may make the required certification until June 21, 1978, because import and shipping document requirements of a boycotting country may be reflected in letters of credit.

(2) This exception pertains to what is permissible for a United States person who is the recipient of a unilateral and specific selection of goods or services to be furnished by a third person. It does not pertain to whether the act of making such a selection is permitted; that question is covered, with respect to United States persons, in section 369.3(f) on "Compliance with Local Law". Nor does it pertain to the United States person who is the recipient of an order to supply its own goods or services. Nothing in this Part prohibits or restricts a United States person from filling an order himself, even if he is selected by the buyer on a boycott basis (e.g., because he is not blacklisted), so long as he does not himself take any action prohibited by this Part.

#### UNILATERAL AND SPECIFIC CHARACTER OF THE SELECTION

(3) In order for this exception to apply, the selection with which a United States person wishes to comply must be unilateral and specific.

(4) A "specific" selection is one which is stated in the affirmative and which specifies a particular supplier of goods or services.

(5) A "unilateral" selection is one in which the discretion in making the selection is exercised by the boycotting country buyer. If the United States person who receives a unilateral selection has provided the buyer with any boycott-based assistance (including information for purposes of helping the buyer select someone on a boycott basis), then the buyer's selection is not unilateral, and compliance with that selection by a United States person does not come within this exception.

(6) The provision of so-called "pre-selection" or "pre-award" services, such as providing lists of qualified suppliers, subcontractors, or bidders, does not, in and of itself, destroy the unilateral character of a selection, provided such services are not boycott-based. Lists of qualified suppliers, for example, must not exclude anyone because he is blacklisted. Moreover, such services must be of the type customarily provided in similar transactions by the firm (or industry of which the firm is a part) as measured by the practice in non-boycotting as well as boycotting countries. If such services are not customarily provided in similar transac-

tions or such services are provided in such a way as to exclude blacklisted persons from participating in a transaction or diminish their opportunity for such participation, then the services may not be provided without destroying the unilateral character of any subsequent selection.

#### SELECTION TO BE MADE BY BOYCOTTING COUNTRY RESIDENT

(7) In order for this exception to be available, the unilateral and specific selection must have been made by a boycotting country, or by a national or resident of a boycotting country. Such a resident may be a United States person. For purposes of this exception, a United States person will be considered a resident of a boycotting country only if he is a bona fide resident. A United States person may be a bona fide resident of a boycotting country even if such person's residency is temporary.

(8) Factors that will be considered in determining whether a United States person is a bona fide resident of a boycotting country include:

- (i) physical presence in the country;
- (ii) whether residence is needed for legitimate business reasons;
- (iii) continuity of the residency;
- (iv) intent to maintain the residency;
- (v) prior residence in the country;
- (vi) size and nature of presence in the country;
- (vii) whether the person is registered to do business or incorporated in the country;
- (viii) whether the person has a valid work visa; and
- (ix) whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

No one of these factors is dispositive. All the circumstances will be examined closely to ascertain whether there is, in fact, a bona fide residency. Residency established solely for purposes of avoidance of the application of this Part, unrelated to legitimate business needs, does not constitute bona fide residency.

(9) The boycotting country resident must be the one actually making the selection. If a selection is made by a non-resident agent, parent, subsidiary, affiliate, home office or branch office of a boycotting country resident, it is

not a selection by a resident within the meaning of this exception.

(10) A selection made solely by a bona fide resident and merely transmitted by another person to a United States person for execution is a selection by bona fide resident within the meaning of this exception.

#### DUTY OF INQUIRY

(11) If a United States person receives, from another person located in the United States, what may be a unilateral selection by a boycotting country customer, and knows or has reason to know that the selection is made for boycott reasons, he has a duty to inquire of the transmitting person to determine who actually made the selection. If he knows or has reason to know that the selection was made by other than a boycotting country, or a national or resident of boycotting country, he may not comply. A course or pattern of conduct which a United States person recognizes or should recognize as consistent with boycott restrictions will create a duty to inquire.

(12) If the United States person does not know or have reason to know that the selection it receives is boycott-based, its compliance with such a selection does not offend any prohibition and this exception is not needed.

#### SELECTION OF SERVICES

(13) This exception applies only to compliance with selections of certain types of suppliers of services—carriers, insurers, and suppliers of services to be performed "within the boycotting country". Services to be performed wholly within the United States or wholly within any country other than the boycotting country are not covered.

(14) For purposes of this Part, services are to be performed "within the boycotting country" only if they are of a type which would customarily be performed by suppliers of those services within the country of the recipient of those services, and if the part of the services performed within the boycotting country is a necessary and not insignificant part of the total services performed.

(15) What is "customary and necessary" for these purposes depends on the usual practice of the supplier of the services (or the industry of which he is a part) as measured by the practice in non-boycotting as well as boy-

#### (c) Compliance with Unilateral Selection.

#### COMPLIANCE WITH UNILATERAL AND SPECIFIC SELECTION

(1) A United States person may comply or agree to comply in the normal course of business with the unilateral and specific selection by	of	provided that:
a boycotting country, a national of a boycotting country, or a resident of a boycotting country (including a United States person who is a bona fide resident of a boycotting country)	carriers, insurers, suppliers of services to be performed within the boycotting country, or specific goods.	with respect to services, it is necessary and customary that a not insignificant part of the services be performed within the boycotting country, and with respect to goods, the items, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country by (a) uniqueness of design or appearance; or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging.



cotting countries, except where such practices are instituted to accommodate this Part.

#### SELECTION OF GOODS

(16) This exception applies only to compliance with selections of certain types of goods—goods that, in the normal course of business, are identifiable as to their source or origin at the time of their entry into the boycotting country. The definition of "specifically identifiable goods" is the same under this section as it is in section 369.3(f) on "Compliance with Local Law."

(17) Goods "specifically identifiable" in the normal course of business are those items which at the time of their entry into a boycotting country are identifiable as to source or origin by (a) uniqueness of design or appearance; or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging. Goods are "specifically identifiable" in the normal course of business if their source or origin is ascertainable by inspection of the items themselves, including their packaging, regardless of whether inspection takes place. Goods are not considered to be "specifically identifiable" in the normal course of business if a trademark, trade name, or other form of identification not normally present is added to the items themselves, including their packaging, to accommodate this Part.

#### GENERAL

(18) If a unilateral selection meets the conditions described above, the United States person receiving the unilateral selection may comply or agree to comply, even if he knows or has reason to know that the selection was boycott-based. However, no United States person may comply or agree to comply with any unilateral selection if he knows or has reason to know that the purpose of the selection is to effect discrimination against any United States person on the basis of race, religion, sex, or national origin.

#### EXAMPLES OF COMPLIANCE WITH A UNILATERAL SELECTION

The following examples are intended to give guidance in determining what constitutes a unilateral selection and the circumstances in which compliance with such a selection is permissible. They are illustrative, not comprehensive.

#### SPECIFIC AND UNILATERAL SELECTION

(i) A, a U.S. manufacturer of road-grading equipment, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y. A knows or has reason to know that Y's selection of B is boycott-based.

A may comply with Y's request, or may agree to comply as a condition of the contract, because the selection is specific and unilateral.

(ii) A, a U.S. contractor building an industrial facility in boycotting country Y is asked by B, a resident of Y, to use C as the supplier of air conditioning equipment to be used in the facility. C is not blacklisted by country Y. A knows or has reason to know that B's request is boycott-based.

A may comply with B's request, or may agree to comply as a condition of the contract, because the selection of C is specific and unilateral.

(iii) A, a U.S. manufacturer of automotive equipment, is asked by boycotting country Y not to ship its goods to Y on U.S. carriers, B, C, or D. Carriers B, C, and D are blacklisted by boycotting country Y. A knows or has reason to know that Y's request is boycott-based.

A may not comply or agree to comply with Y's request, because no specific selection of any particular carrier has been made.

(iv) A, a U.S. exporter shipping goods ordered by boycotting country Y, is provided by Y with a list of eligible U.S. insurers from which A may choose in insuring the shipment of its goods. A knows or has reason to know that the list was compiled on a boycott basis.

A may not comply or agree to comply with Y's request that A choose from among the eligible insurers, because no specific selection of any particular insurer has been made.

(v) A, a U.S. aircraft manufacturer, is negotiating to sell aircraft to boycotting country Y. During the negotiations, Y asks A to identify the company which normally manufactures the engines for the aircraft. A responds that they are normally manufactured by U.S. engine manufacturer-B. B is blacklisted by Y. In making the purchase, Y specifies that the engines for the aircraft should be supplied by U.S. engine manufacturer C.

A may comply or agree to comply with Y's selection of C, because Y's selection is unilateral and specific.

(vi) A, a U.S. construction firm, is retained by an agency of boycotting country Y to build a pipeline. Y requests A to suggest qualified engineering firms to be used on-site in the construction of the pipeline. It is customary for A, regardless of where it conducts its operations, to identify qualified engineering firms to its customers so that its customers may make their own selection of the firm to be engaged. Choice of engineering firm is customarily a prerogative of the customer. A provides a list of five engineering firms, B-F, excluding no firm because it may be blacklisted, and then confers with and gives it recommendations to Y. A recommends C, because C is the best qualified. Y then selects B, because C is blacklisted.

A may comply with Y's selection of B, because the boycott-based decision is made by Y and is unilateral and specific. Since A's pre-award services are of the kind customarily provided in these situations, and since they are provided without reference to the boycott, they do not destroy the unilateral character of Y's selection.

(vii) A, a U.S. aircraft manufacturer, has an order to supply a certain number of planes to boycotting country Y. In connection with the order, Y asks A to supply it with a list of qualified aircraft tire manufacturers so that Y can select the tires to be placed on the planes. This is a highly unusual request, since, in A's worldwide business operations, choice of tires is customarily made by the manufacturer, not the customer. Nonetheless, A supplies a list of tire

manufacturers, B, C, D, and E. Y chooses tire manufacturer B because B is not blacklisted. Had A, as is customary, selected the tires, company C would have been chosen. C happens to be blacklisted, and A knows that C's blacklist status was the reason for Y's selection of B.

A's provision of a list of tire manufacturers for Y to choose from destroys the unilateral character of Y's selection, because such a pre-selection service is not customary in A's worldwide business operations.

(viii) A, a U.S. aircraft manufacturer, receives an order from U.S. company C, which is located in the United States, for the sale of aircraft to company D, a U.S. affiliate of C. D is a bona fide resident of boycotting country Y. C instructs A that "in order to avoid boycott problems," A must use engines that are manufactured by company B, a company that is not blacklisted by Y. Engines built by B are unique in design and also bear B's trade name.

Since A has reason to know that the selection is boycott-based, he must inquire of C whether the selection was in fact made by D. If C informs A that the selection was made by D, A may comply.

(ix) Same as (viii), except that C initially states that the designation was unilaterally and specifically made by D.

A may accept C's statement without further investigation and may comply with the selection, because C merely transmitted D's unilateral and specific selection.

(x) Same as (ix), except that C informs A that it, C, has selected B on behalf of or as an agent of its affiliated company resident in the boycotting country.

A may not comply with this selection, because the decision was not made by a resident of the boycotting country.

(xi) A, a U.S. management consulting firm, is advising boycotting country Y on the selection of a contracting firm to construct a plant for the manufacture of agricultural chemicals. As is customary in its business, A compiles a list of potential contractors on the basis of its evaluation of the capabilities of the respective candidates to perform the job. A has knowledge that company B is blacklisted, but provides Y with the names of companies B, C, D, and E, listing them in order of their qualifications. Y instructs A to negotiate with C.

A may comply with Y's instruction, because Y's selection is unilateral and specific.

(xii) A, a U.S. exporter, is asked by boycotting country Y not to ship goods on carriers B, C, or D, which are owned by nationals of and are registered in country P, a country not boycotted by Y.

A may comply or agree to comply with Y's request even though the selection is not specific, because A does not know or have reason to know that the request is boycott-based. (NOTE: In example (xii), A has violated no prohibition, because it does not know or have reason to know that Y's instruction is boycott-based. Therefore, A could not act with the requisite intent to comply with the boycott.)

(xiii) A, a U.S. construction company, receives a contract to construct a hotel in boycotting country Y. As part of the contract, A is required to furnish Y with lists of qualified suppliers of various specifically identifiable items. A compiles lists of various qualified suppliers wholly without reference to the boycott, and thereafter Y instructs A to negotiate with, enter into contracts with, and arrange for delivery from each of the suppliers which Y designates. A knows that Y's choices are made on a boycott basis.

A may comply with Y's selections and carry out these post-award services for Y, because Y's selections were unilateral and specific and A's pre-award services were provided without reference to Y's boycott.

#### EXAMPLES OF BOYCOTTING COUNTRY BUYER

(The factors in determining whether a United States person is a "bona fide resident" of a boycotting country are the same as in section 369.3(f) on "Compliance with Local Law." See also the examples in that section.)

(i) A, a U.S. exporter, is asked by B, a U.S. person who is a bona fide resident of boycotting country Y, to ship goods on U.S. carrier C. C is not blacklisted by Y, and A knows that B has chosen on a boycott basis in order to comply with Y's boycott laws.

A may comply or agree to comply with B's request, because B is a bona fide resident of Y.

(ii) A is a U.S. computer company whose subsidiary, B, is a bona fide resident of boycotting country Y. A receives an order from B for specific, identifiable products manufactured by company C in connection with a computer which B is installing in Y.

A may comply or agree to comply with B's unilateral and specific selection, so long as the discretion was in fact exercised by B, not A. (NOTE: Unilateral selection transactions involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iii) A, a U.S. engineering firm, has chief engineer B as its resident engineer on a dam construction site in boycotting country Y. B's presence at the site is necessary in order to ensure proper supervision of the project. In order to comply with local law, B selects equipment supplier C rather than D, who is blacklisted, and directs A to purchase certain specific equipment from C for use in the project.

A may comply with this unilateral selection, because the decision was made by a bona fide resident of Y. (As noted above, unilateral selections involving related United States persons will be scrutinized carefully to ensure that the selection was in fact made by the bona fide resident of the boycotting country.)

(iv) B, a branch of U.S. bank A, is located in boycotting country Y. B is in need of office supplies and asks the home office in New York to make the necessary purchases.

A contacts C, a U.S. company in the office supply business, and instructs C to purchase various items from certain specific companies and ship them directly to B. In order to avoid any difficulties for B with respect to Y's boycott laws, A is careful to specify only non-blacklisted companies or suppliers. C knows that that was A's purpose.

C may not comply with A's instruction, because the selection of suppliers was not made by a resident of a boycotting country.

(v) Same as (iv), except that A has given standing instructions to B that whenever it needs office supplies, it should specify certain suppliers designated by A. To avoid running afoul of Y's boycott laws, A's designations consist exclusively of non-blacklisted firms. A receives an order from B with the suppliers designated in accordance with A's instructions.

A may not comply with B's selection, because the selection was not in fact made by a bona fide resident of the boycotting country, but by a person located in the United States.

#### EXAMPLES OF SUPPLIERS OF SERVICES

(i) A, a U.S. manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B, a carrier which is not blacklisted by Y.

A may comply or agree to comply with Y's request, because compliance with the unilateral and specific selection of carriers is expressly permitted under this exception.

(ii) A, a U.S. exporter shipping goods ordered by C, a national of boycotting country Y, is asked by C to insure the shipment through U.S. insurer B.

A may comply or agree to comply with C's request, because compliance with the unilateral and specific selection of an insurer is expressly permitted under this exception.

(iii) A, a U.S. construction company, is hired by C, an agency of the government of boycotting country Y, to build a power plant in Y. C specifies that A should subcontract the foundation work to U.S. contractor B. Part of the foundation design work will be done by B in the United States.

A may comply or agree to comply with Y's designation, because a necessary and not insignificant part of B's services are to be performed within the boycotting country, and such services are customarily performed on-site.

(iv) A, a U.S. contractor, is engaged by boycotting country Y to build a power plant. Y specifies that U.S. architectural firm B should be retained by A to design the plant. In order to design the plant, it is essential that B's personnel visit and become familiar with the site, although the bulk of the design and drawing work will be done in the United States.

A may comply or agree to comply with Y's unilateral and specific selection of architectural firm B, because a necessary and not insignificant part of B's services are to be performed within Y, and such on-site work is customarily involved in the provision of architectural services. The fact that the bulk of the actual work may be performed in the United States is irrelevant since the part to be performed within Y is necessary to B's effective performance.

(v) Same as (iv), except that Y specifies that the turbine for the power plant should be designed by U.S. engineer C. It is neither customary nor necessary for C to visit the site in order to do any of his work, but C has informed A that he would probably want to visit the site in Y if he were selected for the job.

A may not comply or agree to comply with Y's request, because, in the normal course of business, it is neither customary nor necessary for engineer C's services to be performed in Y.

(vi) A, a U.S. aircraft manufacturer, receives a contract from boycotting country Y to manufacture jet engines for Y's use. Y specifies that the engines should be designed by U.S. industrial engineering firm B.

A may not comply or agree to comply with Y's request, because, in the normal course of business, the services will not be performed in Y.

(vii) U.S. company A has a contract to supply specially designed road graders to boycotting country Y. Y has instructed A that it should engage engineering firm B in the design work rather than engineering firm C, which A normally uses, because C is blacklisted. When A contacts B, B informs A that one of B's personnel customarily visits the location in which any equipment B designs is used after it is in use, in order to determine how good a design job B has done.

Such visits are necessary from B's point of view to provide a check on the quality of its work, and they are necessary from Y's point of view because they make it possible for Y to discuss possible design changes should deficiencies be detected.

A may not comply with Y's selection of B, because the services which B would perform in Y are an insignificant part of the total services to be performed by B.

#### EXAMPLES OF SPECIFICALLY IDENTIFIABLE GOODS

(The test of what constitutes "specifically identifiable goods" under this exception also applies to the term "specifically identifiable goods" as used in section 369.3(f) on "Compliance with Local Law.")

(i) A, a U.S. contractor, is constructing an apartment complex, on a turnkey basis, for boycotting country Y. Y instructs A to use only kitchen appliances manufactured by U.S. company B in completing the project. The appliances normally bear the manufacturer's name and trademark.

A may comply with Y's selection of B, because Y's unilateral and specific selection is of goods identifiable as to source or origin in the normal course of business at the time of their entry into Y.

(ii) Same as (i), except that Y directs A to use lumber manufactured only by U.S. company C. In the normal course of business, C neither stamps its name on the lumber nor identifies itself as the manufacturer on the packaging. In addition, normal export packaging does not identify the manufacturer.

A may not comply with Y's selection, because the goods selected are not identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iii) B, a U.S. contractor who is a bona fide resident of boycotting country Y, is engaged in building roads. B retains the services of A, a U.S. engineering firm, to assist it in procuring construction equipment. B directs A to purchase road graders only from manufacturer C because other road grader manufacturers which A might use are blacklisted. C's road graders normally bear C's insignia.

A may comply with B's selection of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(iv) A, a U.S. company, manufactures computer-operated machine tools. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name imprinted on the equipment. There are five or six U.S. manufacturers of such computers which will function interchangeably to operate the machine tools manufactured by A. B, a resident of boycotting country Y, contracts to buy the machine tools manufactured by A on the condition that A incorporate, as the computer drive, a computer manufactured by U.S. company C. B's designation of C is made to avoid boycott problems which could be caused if computers manufactured by some other company were used.

A may comply with B's designation of C, because the goods selected are identifiable by source or origin in the normal course of business at the time of their entry into Y.

(v) A, a U.S. wholesaler of electronic equipment, receives an order from B, a U.S. manufacturer of radio equipment, who is a bona fide resident of boycotting country Y. B orders a variety of electrical components and specifies that all transistors must be purchased from company C, which is not blacklisted by Y. The transistors requested by B do not normally bear the name of the



manufacturer; however, they are typically shipped in cartons, and C's name and logo appear on the cartons.

A may comply with B's selection, because the goods selected by B are identifiable as to source or origin in the normal course of business at the time of their entry into Y by virtue of the containers or packaging used.

(vi) A, a U.S. computer manufacturer, receives an order for a computer from B, a university in boycotting country Y. B specifies that certain integrated circuits incorporated in the computer must be supplied by U.S. electronics company C. These circuits are incorporated into the computer and are not visible without disassembling the computer.

A may not comply or agree to comply with B's specific selection of these components, because they are not identifiable as to their source or origin in the normal course of business at the time of their entry into Y.

(vii) A, a U.S. clothing manufacturer, receives an order for shirts from B, a retailer resident in boycotting country Y. B specifies that the shirts are to be manufactured from cotton produced by U.S. farming cooperative C. Such shirts will not identify C or the source of the cotton.

A may not comply or agree to comply with B's designation, because the cotton is not identifiable as to source or origin in the normal course of business at the time of entry into Y.

(viii) A, a U.S. contractor, is retained by B, a construction firm located in and wholly-owned by boycotting country Y, to assist B in procuring construction materials. B directs A to purchase a range of materials, including hardware, tools, and trucks, all of which bear the name of the manufacturer stamped on the item. In addition, B directs A to purchase steel beams manufactured by U.S. company C. The name of manufacturer C normally does not appear on the steel itself or on its export packaging.

A may comply with B's selection of the hardware, tools, and trucks, because they are identifiable as to source or origin in the normal course of business at the time of entry into Y. A may not comply with B's selection of steel beams, because the goods are not identifiable as to source or origin by trade name, trademark, uniqueness or packaging at the time of their entry into Y.

#### EXAMPLES OF DISCRIMINATION ON BASIS OF RACE, RELIGION, SEX, OR NATIONAL ORIGIN

(i) A, a U.S. paper manufacturer, is asked by boycotting country Y to ship goods to Y on U.S. vessel B. Y states that the reason for its choice of B is that, unlike U.S. vessel C, B is not owned by persons of a particular faith.

A may not comply or agree to comply with Y's request, because A has reason to know that the purpose of the selection is to effect religious discrimination against a United States person.

(d) *Shipment and Transshipment of Exports Pursuant to a Boycotting Country's Requirements.*

#### COMPLIANCE WITH A BOYCOTTING COUNTRY'S REQUIREMENTS REGARDING SHIPMENT AND TRANSSHIPMENT OF EXPORTS

(1) A United States person may comply or agree to comply with the export requirements of a boycotting country with respect to shipments or transshipments of exports to:

- (i) a boycotted country;
- (ii) any business concern of a boycotted country;
- (iii) any business concern organized under the laws of a boycotted country; or
- (iv) any national or resident of a boycotted country.

(2) This exception permits compliance with restrictions which a boycotting country may place on direct exports to a boycotted country; on indirect exports to a boycotted country (i.e., those that pass via third parties); and on exports to residents, nationals, or business concerns of, or organized under the laws of, a boycotted country, including those located in third countries.

#### EXAMPLES OF COMPLIANCE WITH A BOYCOTTING COUNTRY'S REQUIREMENTS REGARDING SHIPMENT OR TRANSSHIPMENT OF EXPORTS

The following examples are intended to give guidance in determining the circumstances in which compliance with the export requirements of a boycotting country is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. petroleum company, exports petroleum products to 20 countries from boycotting country Y. Country Y's export regulations require that products not be exported from Y to boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to X.

(ii) Same as (i), except that Y's export regulations require that goods not be exported from boycotting country Y to any business concern organized under the laws of boycotted country X.

A may agree to and comply with Y's regulations with respect to the export of goods from Y to a business concern organized under the laws of X, even if such concern is located in a country not involved in Y's boycott of X.

(iii) B, the operator of a storage facility in country M, contracts with A, a U.S. carrier, for the shipment of certain goods manufactured in boycotting country Y. A's contract with B contains a provision stating that the goods to be transported may not be shipped or transshipped to boycotted country X. B informs A that this provision is a requirement of C, the manufacturer of the goods who is a resident of boycotting country Y. Country M is not boycotted by Y.

A may agree to and comply with this provision, because such a provision is required by the export regulations of boycotting country Y in order to prevent shipment of Y-origin goods to a country boycotted by Y.

(iv) A, a U.S. petroleum refiner located in the United States, purchases crude oil from boycotting country Y. A has a branch operation in boycotted country X. Y requires, as a condition of sale, that A agree not to ship or transship the crude oil or products refined in Y to A's branch in X.

A may agree to and comply with these requirements, because they are export requirements of Y designed to prevent Y-origin products from being shipped to a boycotted country.

(v) A, a U.S. company, has a petrochemical plant in boycotting country Y. As a condition of securing an export license from Y, A must agree that it will not ship or permit transshipment of any of its output from the

plant in Y to any companies which Y lists as being owned by nationals of boycotted country X.

A may agree to this condition, because it is a restriction designed to prevent Y-origin products from being exported to a business concern of boycotted country X or to nationals of boycotted country X.

(vi) Same as (v), except that the condition imposed on A is that Y-origin goods may not be shipped or permitted to be transshipped to any companies which Y lists as being owned by persons whose national origin is X.

A may not agree to this condition, because it is a restriction designed to prevent Y-origin goods from being exported to persons of a particular national origin rather than to residents or nationals of a particular boycotted country.

(e) *Immigration, Passport, Visa, or Employment Requirements of a Boycotting Country.*

#### COMPLIANCE WITH IMMIGRATION, PASSPORT, VISA, OR EMPLOYMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

(1) A United States individual may comply or agree to comply with the immigration, passport, visa, or employment requirements of a boycotting country, and with requests for information from a boycotting country made to ascertain whether such individual meets requirements for employment within the boycotting country, provided that he furnishes information only about himself or a member of his family, and not about any other United States individual, including his employees, employers, or co-workers.

(2) For purposes of this section, a "United States individual" means a person who is a resident or national of the United States. "Family" means immediate family members, including parents, siblings, spouse, children, and other dependents living in the individual's home.

(3) A United States person may not furnish information about its employees or executives, but may allow any individual to respond on his own to any request for information relating to immigration, passport, visa, or employment requirements. A United States person may also perform any ministerial acts to expedite processing of applications by individuals. These include informing employees of boycotting country visa requirements at an appropriate time; typing, translation, messenger and similar services; and assisting in or arranging for the expeditious processing of applications. All such actions must be undertaken on a non-discriminatory basis.

(4) A United States person may proceed with a project in a boycotting country even if certain of its employees or other prospective participants in a transaction are denied entry for boycott reasons. But no employees or other participants may be selected in advance in a manner designed to comply with a boycott.

#### EXAMPLES OF COMPLIANCE WITH IMMIGRATION, PASSPORT, VISA, OR EMPLOYMENT REQUIREMENTS OF A BOYCOTTING COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with immigration, passport, visa, or employment requirements is permissible. They are illustrative, not comprehensive.

(i) A, a U.S. individual employed by B, a U.S. manufacturer of sporting goods with a plant in boycotting country Y, wishes to obtain a work visa so that he may transfer to the plant in Y. Country Y's immigration laws specify that anyone wishing to enter the country or obtain a visa to work in the country must supply information about his religion. This information is required for boycott purposes.

A may furnish such information, because it is required by Y's immigration laws.

(ii) Same as (i), except that A is asked to supply such information about other employees of B.

A may not supply this information, because it is not information about himself or his family.

(iii) A, a U.S. building contractor, has been awarded a construction contract to be performed in boycotting country Y. Y's immigration laws require that individuals applying for visas must indicate race, religion, and place of birth. The information is sought for boycott purposes. To avoid repeated rejections of applications for work visas by A's employees, A desires to furnish to country Y a list of its prospective and current employees and required information about each so that Y can make an initial screening.

A may not furnish such a list, because A would be furnishing information about the race, religion, and national origin of its employees.

(iv) Same as (iii), except that A selects for work on the project those of its current employees whom it believes will be granted work visas from boycotting country Y.

A may not make a selection from among its employees in a manner designed to comply with the boycott-based visa requirements of Y, but must allow all eligible employees to apply for visas. A may later substitute an employee who obtains the necessary visa for one who has had his application rejected.

(v) Same as (iii), except that A selects employees for the project and then allows each employee individually to apply for his own visa. Two employees' applications are rejected, and A then substitutes two other employees who, in turn, submit their own visa applications.

A may take such action, because in so doing A is not acting in contravention of any prohibition of this Part.

(vi) Same as (v), except that A arranges for the translation, typing and processing of its employees' applications, and transmits all the applications to the consulate of boycotting country Y.

A may take such ministerial actions, because in so doing A is not itself furnishing information with respect to race, religion, sex, or national origin, but is merely transmitting information furnished by its individual employees.

(vii) A, a U.S. contractor, selects U.S. Subcontractor B to perform certain engineering services in connection with A's project in boycotting country Y. The work visa application submitted by the employee B has proposed as chief engineer of this project is

rejected by Y because his national origin is of boycotted country X. Subcontractor B thereupon withdraws.

A may continue with the project and select another subcontractor, because A is not acting in contravention of any prohibition of this Part.

(f) *Compliance with Local Law.* (1) This exception contains two parts. The first covers compliance with local law with respect to a United States person's activities exclusively within a foreign country; the second covers compliance with local import laws by United States persons resident in a foreign country. Under both parts of this exception, local laws are laws of the host country, whether derived from statutes, regulations, decrees, or other official sources having the effect of law in the host country. This exception is not available for compliance with presumed policies or understandings of policies unless those policies are reflected in official sources having the effect of law.

(2) Both parts of this exception apply only to United States persons resident in a foreign country. For purposes of this exception, a United States person will be considered to be a resident of a foreign country only if he is a bona fide resident. A United States person may be a bona fide resident of a foreign country even if such person's residency is temporary.

(3) Factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country include:

- (i) physical presence in the country;
- (ii) whether residence is needed for legitimate business reasons;
- (iii) continuity of the residency;
- (iv) intent to maintain the residency;
- (v) prior residence in the country;
- (vi) size and nature of presence in the country;
- (vii) whether the person is registered to do business or incorporated in the country;
- (viii) whether the person has a valid work visa; and
- (ix) whether the person has a similar presence in both boycotting and non-boycotting foreign countries in connection with similar business activities.

No one of these factors is dispositive. All the circumstances involved will be closely examined to ascertain whether there is, in fact, bona fide residency. Residency established solely for purposes of avoidance of the application of this Part, unrelated to legitimate business needs, does not constitute bona fide residency.

#### EXAMPLES OF BONA FIDE RESIDENCY

The following examples are intended to give guidance in determining the circumstances in which a United States person may be a bona fide resident of a foreign country. For purposes of illustration, each example discusses only one or two factors.

instead of all relevant factors. They are illustrative, not comprehensive.

(i) A, a U.S. radio manufacturer located in the United States, receives a tender to bid on a contract to supply radios for a hotel to be built in boycotting country Y. After examining the proposal, A sends a bid from its New York office to Y.

A is not a resident of Y, because it is not physically present in Y.

(ii) Same as (i), except that after receiving the tender, A sends its sales representative to Y. A does not usually have sales representatives in countries when it bids from the United States, and this particular person's presence in Y is not necessary to enable A to make the bid.

A is not a bona fide resident of Y, because it has no legitimate business reasons for having its sales representative resident in Y.

(iii) A, a U.S. bank, wishes to establish a branch office in boycotting country Y. In pursuit of that objective, A's personnel visit Y to make the necessary arrangements. A intends to establish a permanent branch office in Y after the necessary arrangements are made.

A's personnel in Y are not bona fide residents of Y, because A does not yet have a permanent business operation in Y.

(iv) Same as (iii), except A's personnel are required by Y's laws to furnish certain non-discriminatory boycott information in order to establish a branch in Y.

In these limited circumstances, A's personnel may furnish the non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this Part.

(v) A, a U.S. construction company, receives an invitation to build a power plant in boycotting country Y. After receipt of the invitation, A's personnel visit Y in order to survey the site and make necessary analyses in preparation for submitting a bid. The invitation requires that otherwise prohibited boycott information be furnished with the bid.

A's personnel in Y are not bona fide residents of Y, because A has no permanent business operation in Y. Therefore, A's personnel may not furnish the prohibited information.

(vi) Same as (v), except that A is considering establishing an office in boycotting country Y. A's personnel visit Y in order to register A to do business in that country. A intends to establish ongoing construction operations in Y. A's personnel are required by Y's laws to furnish certain non-discriminatory boycott information in order to register A to do business or incorporate a subsidiary in Y.

In these limited circumstances, A's personnel may furnish non-discriminatory boycott information necessary to establish residency to the same extent a U.S. person who is a bona fide resident in that country could. If this information could not be furnished in such limited circumstances, the exception would be available only to firms resident in a boycotting country before the effective date of this Part.

(vii) A, a subsidiary of U.S. oil company B, is located in boycotting country Y. A has been engaged in oil explorations in Y for a number of years.



A is a bona fide resident of Y, because of its pre-existing continuous presence in Y for legitimate business reasons.

(viii) Same as (vii), except that A has just been established in Y and has not yet begun operations.

A is a bona fide resident of Y, because it is present in Y for legitimate business reasons and it intends to reside continuously.

(ix) U.S. company A is a manufacturer of prefabricated homes. A builds a plant in boycotting country Y for purposes of assembling components made by A in the United States and shipped to Y.

A's personnel in Y are bona fide residents of Y, because A's plant in Y is established for legitimate business reasons, and it intends to reside continuously.

(x) U.S. company A has its principal place of business in the United States. A's sales agent visits boycotting country Y from time to time for purposes of soliciting orders.

A's sales agent is not a bona fide resident of Y, because such periodic visits to Y are insufficient to establish a bona fide residency.

(xi) A, a branch office of U.S. construction company B, is located in boycotting country Y. The branch office has been in existence for a number of years and has been performing various management services in connection with B's construction operations in Y.

A is a bona fide resident of Y, because of its longstanding presence in Y and its conduct of ongoing operations in Y.

(xii) U.S. construction company A has never done any business in boycotting country Y. It is awarded a contract to construct a hospital in Y, and preparatory to beginning construction, sends its personnel to Y to set up operations.

A's personnel are bona fide residents of Y, because they are present in Y for the purpose of carrying out A's legitimate business purposes; they intend to reside continuously; and residency is necessary to conduct their business.

(xiii) U.S. company A manufactures furniture. All its sales in foreign countries are conducted from its offices in the United States. From time to time A has considered opening sales offices abroad, but it has concluded that it is more efficient to conduct sales operations from the United States. Shortly after the effective date of this Part, A sends a sales representative to boycotting country Y to open an office in and solicit orders from Y. It is more costly to conduct operations from that office than to sell directly from the United States, but A believes that if it establishes a residence in Y, it will be in a better position to avoid conflicts with U.S. law in its sales to Y.

A's sales representative is not a bona fide resident of Y, because the residency was established to avoid the application of this Part and not for legitimate business reasons.

(xiv) Same as (xiii), except that it is in fact more efficient to have a sales office in Y. In fact, without a sales office in Y, A would find it difficult to explore business opportunities in Y. A is aware, however, that residency in Y would permit its sales representative to comply with Y's boycott laws.

A's sales representative is a bona fide resident of Y, because A has a legitimate business reason for establishing a sales office in Y.

(xv) U.S. company B is a computer manufacturer. B sells computers and related pro-

gramming services tailored to the needs of individual clients. Because of the complex nature of the product, B must have sales representatives in any country where sales are made. B has a sales representative, A, in boycotting country Y. A spends two months of the year in Y, and the rest of the year in other countries. B has a permanent sales office from which A operates while in Y, and the sales office is stocked with brochures and other sales materials.

A is a bona fide resident of Y, because his presence in Y is necessary to carry out B's legitimate business purposes; B maintains a permanent office in Y; and B intends to continue doing business in Y in the future.

(xvi) A, a U.S. construction engineering company, is engaged by B, a U.S. general contracting company, to provide services in connection with B's contract to construct a hospital complex in boycotting country Y. In order to perform those services, A's engineers set up a temporary office in a trailer on the construction site in Y. A's work is expected to be completed within six months.

A's personnel in Y are bona fide residents of Y, because A's on-site office is necessary to the performance of its services for B, and because A's personnel are continuously there.

(xvii) A, a U.S. company, sends one of its representatives to boycotting country Y to explore new sales possibilities for its line of transistor radios. After spending several weeks in Y, A's representative rents a post office box in Y, to which all persons interested in A's products are directed to make inquiry.

A is not a bona fide resident of Y, because rental of a post office box is not a sufficient presence in Y to constitute residency.

(xviii) A, a U.S. computer company, has a patent and trademark registered in the United States. In order to obtain registration of its patent and trademark in boycotting country Y, A is required to furnish certain non-discriminatory boycott information.

A may not furnish the information, because A is not a bona fide resident of Y.

(f-1) *Activities Exclusively Within a Foreign Country.* (1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may comply or agree to comply with the laws of that country with respect to his activities exclusively within that country. These activities include:

(i) entering into contracts which provide that local law applies or governs, or that the parties will comply with such laws;

(ii) employing residents of the host country;

(iii) retaining local contractors to perform work within the host country;

(iv) purchasing or selling goods or services from or to residents of the host country; and

(v) furnishing information within the host country.

(2) Activities exclusively within the country do not include importing goods or services from outside the host country, and, therefore, this part of the exception does not apply to compliance with import laws in connection with importing goods or services.

#### EXAMPLES OF PERMISSIBLE COMPLIANCE WITH LOCAL LAW WITH RESPECT TO ACTIVITIES EXCLUSIVELY WITHIN A FOREIGN COUNTRY

The following examples are intended to give guidance in determining the circumstances in which compliance with local law is permissible. They are illustrative, not comprehensive.

#### ACTIVITIES EXCLUSIVELY WITHIN A FOREIGN COUNTRY

(i) U.S. construction company A, a bona fide resident of boycotting country Y, has a contract to build a school complex in Y. Pursuant to Y's boycott laws, the contract requires A to refuse to purchase supplies from certain local merchants. While Y permits such merchants to operate within Y, their freedom of action in Y is constrained because of their relationship with boycotted country X.

A may enter into the contract, because dealings with local merchants are activities exclusively within Y.

(ii) A, a banking subsidiary of U.S. bank B, is a bona fide resident of boycotting country Y. From time to time, A purchases office supplies from the United States.

A's purchase of office supplies is not an activity exclusively within Y, because it involves the import of goods from abroad.

(iii) A, a branch of U.S. bank B, is a bona fide resident of boycotting country Y. Under Y's boycott laws, A is required to supply information about whether A has any dealings with boycotted country X. A complies and furnishes the information within Y and does so of its own knowledge.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(iv) Same as (iii), except that A is required to supply information about B's dealings with X. From its own knowledge and without making any inquiry of B, A complies and furnishes the information.

A may comply with that requirement, because in compiling and furnishing the information within Y, based on its own knowledge, A is engaging in an activity exclusively within Y.

(v) Same as (iv), except that in making its responses, A asks B to compile some of the information.

A may not comply, because the gathering of the necessary information takes place partially outside Y.

(vi) U.S. company A has applied for a license to establish a permanent manufacturing facility in boycotting country Y. Under Y's boycott law, A must agree, as a condition of the license, that it will not sell any of its output to blacklisted foreign firms.

A may not comply, because the agreement would govern activities of A which are not exclusively within Y.

#### DISCRIMINATION AGAINST UNITED STATES PERSONS

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A manufactures air conditioners in its plant in Y. Under Y's boycott laws, A must agree not to hire nationals of boycotted country X.

A may agree to the restriction and may abide by it with respect to its recruitment of individuals within Y, because the recruitment of such individuals is an activity exclusively within Y. However, A cannot abide by this restriction with respect to its recruit-

ment of individuals outside Y, because this is not an activity exclusively within Y.

(ii) Same as (i), except that pursuant to Y's boycott laws A must agree not to hire anyone who is of a designated religion.

A may not agree to this restriction, because the agreement calls for discrimination against U.S. persons on the basis of religion. It makes no difference whether the recruitment of the U.S. persons occurs within or without Y. (NOTE: The exception for compliance with local law does not apply to boycott-based refusals to employ U.S. persons on the basis of race, religion, sex, or national origin even if the activity is exclusively within the boycotting country.)

(f-2) *Compliance with Local Import Law.* (1) Any United States person who is a bona fide resident of a foreign country, including a boycotting country, may, in importing goods, materials or components into that country, comply or agree to comply with the import laws of that country, provided that:

(i) the items are for his own use or for his use in performing contractual services within that country; and

(ii) in the normal course of business, the items are identifiable as to their source or origin at the time of their entry into the foreign country by (a) uniqueness of design or appearance; or (b) trademark, trade name, or other identification normally on the items themselves, including their packaging.

(2) The factors that will be considered in determining whether a United States person is a bona fide resident of a foreign country are those set forth in section 369.3(f) above. Bona fide residence of a United States company's subsidiary, affiliate, or other permanent establishment in a foreign country does not confer such residence on such United States company. Likewise, bona fide residence of a United States company's employee in a foreign country does not confer such residence on the entire company.

(3) A United States person who is a bona fide resident of a foreign country may take action under this exception through an agent outside the country, but the agent must act at the direction of the resident and not exercise his own discretion. Therefore, if a United States person resident in a boycotting country takes action to comply with a boycotting country's import law with respect to the importation of qualified goods, he may direct his agent in the United States on the action to be taken, but the United States agent himself may not exercise any discretion.

(4) For purposes of this exception, the test that governs whether goods or components of goods are specifically identifiable is identical to the test applied in section 369.3(c) on "Compliance With Unilateral Selection" to determine whether they are identifiable as to their source or origin in the normal course of business.

(5) The availability of this exception for the import of goods depends on whether the goods are intended for the United States person's own use at the time they are imported. It does not depend upon who has title to the goods at the time of importation into a foreign country.

(6) Goods are for the United States person's own use (including the performance of contractual services within the foreign country) if:

(i) they are to be consumed by the United States person;

(ii) they are to remain in the United States person's possession and to be used by that person;

(iii) they are to be used by the United States person in performing contractual services for another;

(iv) they are to be further manufactured, incorporated into, refined into, or reprocessed into another product to be manufactured for another; or

(v) they are to be incorporated into, or permanently affixed as a functional part of, a project to be constructed for another.

(7) Goods acquired to fill an order for such goods from another are not for the United States person's own use. Goods procured for another are not for one's own use, even if the furnishing of procurement services is the business in which the United States person is customarily engaged. Nor are goods obtained for simple resale acquired for one's own use, even if the United States person is engaged in the retail business. Likewise, goods obtained for inclusion in a turnkey project are not for one's own use if they are not customarily incorporated into, or do not customarily become permanently affixed as a functional part of, the project.

(8) This part of the local law exception does not apply to the import of services, even when the United States person importing such services is a bona fide resident of a boycotting country and is importing them for his own use. In addition, this exception is available for a United States person who is a bona fide resident of a foreign country only when the individual or entity actually present within that country takes action through the exercise of his own discretion.

(9) Use of this exception will be monitored and continually reviewed to determine whether its continued availability is consistent with the national interest. Its availability may be limited or withdrawn as appropriate. In reviewing the continued availability of this exception, the effect that the inability to comply with local import laws would have on the economic and other relations of the United States with boycotting countries will be considered.

(10) A United States person who is a bona fide resident of a foreign country may comply or agree to comply with the host country's import laws even if he knows or has reason to know that particular laws are boycott-related. However, no United States person may comply or agree to comply with any host country law which would require him to discriminate against any United States person on the basis of race, religion, sex, or national origin, or to supply information about any United States person's race, religion, sex, or national origin.

#### EXAMPLES OF PERMISSIBLE COMPLIANCE WITH LOCAL IMPORT LAW

The following examples are intended to give guidance in determining the circumstances in which compliance with local import law is permissible. They are illustrative, not comprehensive.

#### COMPLIANCE BY A BONA FIDE RESIDENT

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y and is engaged in oil drilling operations in Y. In acquiring certain large, specifically identifiable products for carrying out its operations in Y, A chooses only from non-blacklisted firms because Y's import laws prohibit the importation of goods from blacklisted firms. However, with respect to smaller items, B makes the selection on behalf of A and sends them to A in Y.

A may choose from non-blacklisted firms, because it is a U.S. person who is a bona fide resident in Y. However, because B is not resident in Y, B cannot make boycott-based selections to conform with Y's import laws prohibiting the importation of goods from blacklisted firms.

(ii) Same as (i), except that after making its choices on the larger items, A directs B to carry out its instructions by entering into appropriate contracts and making necessary shipping arrangements.

B may carry out A's instructions provided that A, a bona fide resident of Y, has in fact made the choice and B is exercising no discretion, but is acting only as A's agent. (NOTE: Such transactions between related companies will be scrutinized carefully. A must in fact exercise the discretion and make the selections. If the discretion is exercised by B, B would be in violation of this Part.)

(iii) U.S. construction company A has a contract to build a school in boycotting country Y. A's employees set up operations in Y for purposes of commencing construction. A's employees in Y advise A's headquarters in the United States that Y's import laws prohibit importation of goods manufactured by blacklisted firms. A's headquarters then issues invitations to bid only to non-blacklisted firms for certain specifically identifiable goods.

A's headquarters' choice of non-blacklisted suppliers is not a choice made by a U.S. person who is a bona fide resident of Y, because the discretion in issuing the bids was exercised in the United States, not in Y.

(iv) Same as (iii), except that A's employees in Y actually make the decision regarding to whom the bids should be issued.

The choices made by A's employees are choices made by U.S. persons who are bona fide residents of Y, because the discretion in choosing was exercised solely in Y. (NOTE: Choices purportedly made by employees of U.S. companies who are resident in boycott-



ing countries will be carefully scrutinized to ensure that the discretion was exercised entirely in the boycotting country.)

#### SPECIFICALLY IDENTIFIABLE GOODS

The test and examples as to what constitutes specifically identifiable goods are identical to those applicable under section 369.3(c) on "Compliance With Unilateral Selection".

#### IMPORTS FOR U.S. PERSON'S OWN USE

(i) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. A plans to import computer operated machine tools to be installed in its automobile plant in boycotting country Y. The computers are mounted on a separate bracket on the side of the equipment and are readily identifiable by brand name. A orders the tools from U.S. supplier C and specifies that C must incorporate computers manufactured by D, a non-blacklisted company. A would have chosen computers manufactured by E, except that E is blacklisted, and Y's import laws prohibit the importation of goods manufactured by blacklisted firms.

A may refuse to purchase E's computers, because A is importing the computers for its own use in its manufacturing operations in Y.

(ii) A, a subsidiary of U.S. company B, is a bona fide resident of boycotting country Y. To meet the needs of its employees in Y, A imports certain specifically identifiable commissary items for sale, such as cosmetics, and canteen items, such as candy. In selecting such items for importation into Y, A chooses items made only by non-blacklisted firms, because Y's import laws prohibit importation of goods from blacklisted firms.

A may import these items only from non-blacklisted firms, because the importation of goods for consumption by A's employees is an importation for A's own use.

(iii) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract to build a hospital complex for the Ministry of Health in Y. Under the contract, A will be general manager of the project with discretion to choose all subcontractors and suppliers. The complex is to be built on a turnkey basis, with A retaining title to the property and bearing all financial risk until the complex is conveyed to Y. In choosing specifically identifiable goods for import, such as central air conditioning units and plate glass, A excludes blacklisted suppliers in order to comply with Y's import laws. These goods are customarily incorporated into, or permanently affixed as a functional part of, the project.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because importation of goods by a general contractor to be incorporated into a construction project in Y is an importation of goods for A's own use.

(iv) Same as (iii), except that, in addition, in choosing U.S. architects and engineers to work on the project, A excludes blacklisted firms, because Y's import laws prohibit the use of services rendered by blacklisted persons.

A may not refuse to deal with blacklisted architectural or engineering firms, because this exception does not apply to the import of services. It is irrelevant that, at some stage, the architectural or engineering drawings or plans may be brought to the site in Y. This factor is insufficient to transform such services into "goods" for purposes of this exception.

(v) Same as (iii), except that the project is to be completed on a "cost plus" basis, with Y making progress payments to A at various stages of completion.

A may refuse to deal with blacklisted suppliers of specifically identifiable goods, because the importation of goods by A to be incorporated in a project A is under contract to complete is an importation of goods for its own use. The terms of payment are irrelevant.

(vi) A, a U.S. construction company which is a bona fide resident of boycotting country Y, has a contract for the construction of an office building in Y on a turnkey basis. In choosing goods to be used or included in the office complex, A orders wallboard, office partitions, and lighting fixtures from non-blacklisted manufacturers. A likewise orders desks, office chairs, typewriters, and office supplies from non-blacklisted manufacturers.

Because they are customarily incorporated into or permanently affixed as a functional part of an office building, the wallboard, office partitions, and lighting fixtures are for A's own use, and A may select non-blacklisted suppliers of these goods in order to comply with Y's import laws. Because they are not customarily incorporated into or permanently affixed to the project, the desks, office chairs, typewriters, and office supplies are not for A's own use, and A may not make boycott-based selections of the suppliers of these goods.

(vii) A, a U.S. company engaged in the business of selling automobiles, is a bona fide resident of boycotting country Y. In ordering automobiles from time to time for purposes of stocking its inventory, A purchases from U.S. manufacturer B, but not U.S. manufacturer C, because C is blacklisted. Retail sales are subsequently made from this inventory.

A's import of automobiles from B is not an import for A's own use, because the importation of items for general inventory in a retail sales operation is not an importation for one's own use.

(viii) A, a U.S. company engaged in the manufacture of pharmaceutical products, is a bona fide resident of boycotting country Y. In importing chemicals for incorporation into the pharmaceutical products, A purchases from U.S. supplier B, but not U.S. supplier C, because C is blacklisted.

A may import chemicals from B rather than C, because the importation of specifically identifiable items for incorporation into another product is an importation for one's own use.

(ix) A, a U.S. management company which is a bona fide resident of boycotting country Y, has a contract with the Ministry of Education in Y to purchase supplies for Y's school system. From time to time, A purchases goods from abroad for delivery to various schools in Y.

A's purchase of goods for Y's school system does not constitute an importation of goods for A's own use, because A is acting as a procurement agent for another. A, therefore, cannot make boycott-based selections of suppliers of such school supplies.

(x) A, a U.S. company which is a bona fide resident of boycotting country Y, has a contract to make purchases for Y in connection with a construction project in Y. A is not engaged in the construction of, or in any other activity in connection with, the project. A's role is merely to purchase goods for Y and arrange for their delivery to Y.

A is not purchasing goods for its own use, because A is acting as a procurement agent

for Y. A, therefore, cannot make boycott selections of suppliers of such goods.

(xi) A, a U.S. company which is a bona fide resident of boycotting country Y, imports specifically identifiable goods into Y for exhibit by A at a trade fair in Y. In selecting goods for exhibit, A excludes items made by blacklisted firms.

A's import of goods for its exhibit at a trade fair constitutes an import for A's own use. However, A may not sell in Y those goods it imported for exhibit.

#### FOR USE WITHIN BOYCOTTING COUNTRY

(i) A is a bona fide resident of boycotting countries Y and Z. In compliance with Y's boycott laws, A chooses specifically identifiable goods for its oil drilling operations in Y and Z by excluding blacklisted suppliers. The goods are first imported into Y. Those purchased for A's use in Z are then transshipped to Z.

In selecting those goods for importation into Y, A is making an import selection for its own use, even though A may use some of the imported goods in Z. Further, the subsequent shipment from Y to Z of those goods purchased for use in Z is an import into Z for A's own use.

#### § 369.4 Evasion.

(a) No United States person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of this Part. Nor may any United States person assist another United States person to violate or evade the provisions of this Part.

(b) The exceptions set forth in Sections 369.3 (a) through (f) of this Part do not permit activities or agreements (express or implied by a course of conduct, including a pattern of responses) which are otherwise prohibited by this Part and which are not within the intent of such exceptions. However, activities within the coverage and intent of the exceptions set forth in this Part do not constitute evasion regardless of how often such exceptions are utilized.

(c) Use of any artifice, device or scheme which is intended to place a person at a commercial disadvantage or impose on him special burdens because he is blacklisted or otherwise restricted for boycott reasons from having a business relationship with or in a boycotting country will be regarded as evasion for purposes of this Part.

(d) Unless permitted under one of the exceptions, use of risk of loss provisions that expressly impose a financial risk on another because of the import laws of a boycotting country may constitute evasion. If they are introduced after the effective date of this Part, their use will be presumed to constitute evasion. This presumption may be rebutted by a showing that such a provision is in customary usage without distinction between boycotting and non-boycotting countries and that there is a legitimate non-boycott reason for its use. On the

other hand, use of such a provision by a United States person subsequent to the effective date of this Part is presumed not to constitute evasion if the provision had been customarily used by that person prior to the effective date of this Part.

(e) Use of dummy corporations or other devices to mask prohibited activity will also be regarded as evasion. Similarly, it is evasion under this Part to divert specific boycotting country orders from a United States parent to a foreign subsidiary for purposes of complying with prohibited boycott requirements. However, alteration of a person's structure or method of doing business will not constitute evasion so long as the alteration is based on legitimate business considerations and is not undertaken solely to avoid the application of the prohibitions of this Part. The facts and circumstances of an arrangement or transaction will be carefully scrutinized to see whether appearances conform to reality.

#### EXAMPLES

The following examples are intended to give guidance to persons in determining circumstances in which this section will apply. They are illustrative, not comprehensive.

(i) A, a U.S. insurance company, receives a request from boycotting country Y asking whether it does business in boycotted country X. Because furnishing such information is prohibited, A declines to answer and as a result is placed on Y's blacklist. The following year, A's annual report contains new information about A's worldwide operations, including a list of all countries in which A does business. A then mails a copy of its annual report, which has never before contained such information, to officials of the government of country Y.

Absent some business justification unrelated to the boycott for changing the annual report in this fashion, A's action constitutes evasion of this Part.

(ii) A, a U.S. construction firm resident in boycotting country Y, orders lumber from U.S. company B. A unilaterally selects B in part because U.S. lumber producer C is blacklisted by Y and C's products are therefore not importable. In placing its order with B, A requests that B stamp its name or logo on the lumber so that A "can be certain that it is, in fact, receiving B's products." B does not normally so stamp its lumber, and A's purpose in making the request is to appear to fit within the unilateral selection exception of this Part.

Absent additional facts justifying A's action, A's action constitutes evasion of this Part.

(iii) A, a U.S. company, has been selling sewing machines to boycotting country Y for a number of years and routinely supplying negative certificates of origin. A is aware that the furnishing of negative certificates of origin will be prohibited after June 21, 1978 and, therefore, arranges to have all future shipments run through a foreign corporation in a third country which will affix the necessary certification before forwarding the machines on to Y.

A's action constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(iv) A, a U.S. company, has been selling hand calculators to boycotting country Y

for a number of years and routinely supplies negative certificates of origin. A is aware that the furnishing of such negative certificates will be prohibited after June 21, 1978. A thereupon ceases all direct sales to Y, and instead arranges to make all future sales to distributor B in a third country. A knows B will step in and make the sales to Y which A would otherwise have made directly. B will make the necessary negative certifications. A's warranty, which it will continue to honor, runs to the purchaser in Y.

A's action constitutes evasion, because the diverting of orders to B is a device to mask prohibited activity carried out on A's behalf.

(v) A, a U.S. company, is negotiating a long-term contract with boycotting country Y to meet all Y's medical supply needs. Y informs A that before such a contract can be concluded, A must complete Y's boycott questionnaire. A knows that it is prohibited from answering the questionnaire so it arranges for a local agent in Y to supply the necessary information.

A's action constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(vi) A, a U.S. contractor which has not previously dealt with boycotting country Y, is awarded a construction contract by Y. Because it is customary in the construction industry for a contractor to establish an on-site facility for the duration of the project, A establishes such an office, which satisfies the requirements for bona fide residency. Thereafter, A's office in Y takes a number of actions permitted under the compliance with local law exception.

A's actions do not constitute evasion, because A's facility in Y was established for legitimate business reasons.

(vii) A, a controlled foreign subsidiary of U.S. company B, is located in non-boycotting country M. A and B both make machine tools for sale in their respective marketing regions. B's marketing region includes boycotting country Y. After assessing the requirements of this Part, B decides that it can no longer make machines for sale in Y. Instead, A decides to expand its facilities in M in order to service the Y market.

The actions of A and B do not constitute evasion, because there is a legitimate business reason for their actions. It is irrelevant that the effect may be to place sales which would otherwise have been subject to this Part beyond the reach of this Part.

(viii) A, a U.S. manufacturer, from time to time receives purchase orders from boycotting country Y which A fills from its plant in the United States. A knows that it is about to receive an order from Y which contains a request for a certification which A is prohibited from furnishing under this Part. In order to permit the certification to be made, A diverts the purchase order to its foreign subsidiary.

A's diversion of the purchase order constitutes evasion of this Part, because it is a device to mask prohibited activity carried out on A's behalf.

(ix) A, a U.S. company, is engaged in assembling drilling rigs for shipment to boycotting country Y. Because of potential difficulties in securing entry into Y of materials supplied by blacklisted firms, A insists that blacklisted firms take a 15 percent discount on all materials which they supply to A. As a result, no blacklisted firms are willing to transact with A.

A's insistence on the discount for materials supplied by blacklisted firms constitutes evasion of this Part, because it is a device or

scheme which is intended to place a special burden on blacklisted firms because of Y's boycott.

(x) Same as (ix), except that shortly after the effective date of this Part, A insists that its suppliers sign contracts which provide that even after title passes from the supplier to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into Y for boycott reasons.

A's action constitutes evasion of this Part, because it is a device or scheme which is intended to place a special burden on blacklisted persons because of Y's boycott.

(xi) Same as (x), except that A customarily insisted on such an arrangement with its suppliers prior to the effective date of this Part.

A's action is presumed not to constitute evasion, because use of this contractual arrangement was customary for A prior to the effective date of this Part.

(xii) A, a U.S. company, has a contract to supply automobile sub-assembly units to boycotting country Y. Shortly after the effective date of this Part, A insists that its suppliers sign contracts which provide that even after title passes to A, the supplier will bear the risk of loss and indemnify A if goods which the supplier has furnished are denied entry into boycotting country Y for whatever reason.

A's insistence on this arrangement is presumed to constitute evasion, because it is a device which is intended to place a special burden on blacklisted firms because of Y's boycott. The presumption may be rebutted by competent evidence showing that use of such an arrangement is customary without regard to the boycotting or non-boycotting character of the country to which it relates and that there is a legitimate non-boycott business reason for its use.

(xiii) Same as (xii), except that A requires that all suppliers make in-country delivery.

A's action does not constitute evasion, because it is an ordinary commercial practice to require in-country delivery of goods.

(xiv) Same as (xii), except that A requires that title remain with the supplier until delivery in Y has been made.

A's action does not constitute evasion, because it is ordinary commercial practice to require that title remain with the supplier until delivery has been made. This example is distinguishable from example (xii), because in example (xii) A had insisted on an extraordinary arrangement designed to require that the risk of loss remain with the supplier even after title had passed to A.

(xv) U.S. bank A is contacted by U.S. company B to finance B's transaction with boycotting country Y. Payment will be effected through a letter of credit in favor of B at its U.S. address. A knows that the letter of credit will contain restrictive boycott conditions which would bar its implementation by A if the beneficiary were a U.S. person. A suggests to B that the beneficiary should be changed to C, a shell corporation in non-boycotting country M. The beneficiary is changed accordingly.

A's action constitutes evasion of this Part, because the arrangement is a device to mask prohibited activity on A's part.

(xvi) Same as (xv), except that U.S. company B, the beneficiary of the letter of credit, arranges to change the beneficiary to B's foreign subsidiary so that A can implement the letter of credit. A knows that this has been done.

A's implementation of the letter of credit in the face of its knowledge of B's action



constitutes evasion of this Part, because its action is part of a device to mark prohibited activity on A's part.

(xvii) U.S. bank A, located in the United States, is contacted by foreign company B to finance B's transaction with boycotting country Y. B is a controlled subsidiary of a U.S. company. The transaction which is to be financed with a letter of credit payable to B at its foreign address, requires B to certify that none of its board members are of a particular religious faith. Since B cannot legally furnish the certificate, it asks A to convey the necessary information to Y through A's bank branch in Y. Such information would be furnished wholly outside the letter of credit transaction.

A's action constitutes evasion of this Part, because it is undertaken to assist B's violation of this Part.

(xviii) U.S. bank A is asked by foreign corporation B to implement a letter of credit in favor of B so that B might perform under its long-term contract with boycotting country Y. Under the terms of the letter of credit, B is required to certify that none of its suppliers is blacklisted. A knows that it cannot implement a letter of credit with this condition, so it tells B to negotiate the elimination of this requirement from the letter of credit and instead supply the certification to Y directly.

A's suggestion to B that it provide the negative certification to Y directly constitutes evasion of this Part, because A is taking an action through another person to mask prohibited activity on A's part.

#### § 369.5 Grace Period.

##### GRACE PERIOD MECHANISM

(a) For written contracts or other agreements entered into by any United States person on or before May 16, 1977, the application of the rules and regulations issued pursuant to this Part shall be delayed until December 31, 1978. Hence, actions otherwise prohibited by this Part may be taken in compliance with the requirements of such agreements until the expiration of the grace period.

(b) This grace period may be extended on a case-by-case basis for a period or periods totaling not longer than one year (to December 31, 1979) provided that:

(1) good faith efforts are being made to renegotiate the contract or agreement to eliminate provisions which are inconsistent with the rules and regulations of this Part; and

(2) application for any extension is made, in writing, to the Deputy Assistant Secretary for Trade Regulation, United States Department of Commerce, Washington, D.C. 20230.

Each application must contain a complete statement of all the facts and circumstances related to the application, as well as a full and precise statement of why the applicant believes his extension should be granted. Any additional evidence or documentation which the applicant believes will support his position should be submitted.

(c) The decision of the Deputy Assistant Secretary for Trade Regulation

#### RULES AND REGULATIONS

will be the final decision for the Department, and will be issued to the applicant in writing. In reaching such decision, the Deputy Assistant Secretary may consult with representatives of government agencies and members of the public as he deems appropriate.

(d) For purposes of this section, good faith efforts may include:

(1) ongoing negotiations, even if no actual agreement has been reached, if it appears that the parties are striving for such agreement;

(2) compliance in fact by the United States person with the rules and regulations of this Part, even if the language of the contract or agreement has not yet been changed; or

(3) documentation that efforts are being made to bring the contract or agreement into compliance with the rules and regulations of this Part.

(e) No extensions may be granted past December 31, 1979.

(f) The mere existence of an agreement containing provisions which are prohibited under this Part is not a violation of this Part if entered into on or before the effective date of this Part. However, actions taken pursuant to such provisions after such effective date are in violation of this Part unless the agreement is subject to the grace period. In that event, such actions are in violation of this Part if taken after the expiration of the grace period.

##### EXAMPLES OF THE GRACE PERIOD MECHANISM

The following examples are intended to give guidance in determining the applicability of the grace period mechanism. They are illustrative, not comprehensive.

(i) A, a U.S. manufacturer, entered into a contract on March 13, 1977, to supply medical equipment not later than June 20, 1978, to B, a state-owned hospital of boycotting country Y. Under the terms of the contract, A is not permitted to purchase electrical components for the equipment from supplier C, who is blacklisted by Y.

A may comply with the terms of the contract after the effective date of this Part, because the contract was entered into on or before May 16, 1977, and the otherwise prohibited action would take place during the grace period.

(ii) Same as (i), except that the contract requires annual purchases and deliveries of medical equipment on June 20, 1978, June 20, 1979, and June 20, 1980.

If A has made good faith efforts to renegotiate the contract to eliminate the provisions inconsistent with this Part, A may apply for and the Deputy Assistant Secretary for Trade Regulation may grant an appropriate extension of the grace period up to December 31, 1979. However, in no event may the grace period be extended to cover purchases and deliveries made after that date.

(iii) Same as (ii), except that A has been granted an extension of the grace period through December 31, 1979.

A may not receive any further extensions and may not take any action after December 31, 1979, which is inconsistent with this Part.

(iv) A, a U.S. management firm, entered into a services contract on May 1, 1977, with B, a retail chain in boycotting country Y. Subsequent to May 16, 1977, but before December 31, 1978, the payment schedule and other provisions of the contract unrelated to the boycott are amended by the parties.

The applicability of the grace period is not altered by amendments to the contract or agreement which are made for business reasons after May 16, 1977.

(v) Same as (iv), except that subsequent to May 16, 1977, but before December 31, 1978, the parties amend the contract so as to require A to engage in certain boycott activities prohibited by this Part.

Grace period treatment is not applicable to prohibited boycott conditions agreed to after May 16, 1977.

(vi) A, a U.S. aircraft manufacturer, entered into an agreement with boycotting country Y on September 15, 1977, after the May 16, 1977 date for qualifying for the grace period but before the effective date of this Part.

A's contract does not qualify for grace period treatment, and A may not take any action pursuant to the September 15, 1977 contract after the effective date of this Part if such action would be inconsistent with this Part.

(vii) A, a U.S. computer manufacturer, entered into a licensing agreement with boycotting country Y in 1974. Pursuant to that agreement, A agreed not to open a manufacturing plant in boycotted country X for a period of 10 years.

Absent an extension of the grace period, A may not act in compliance with this contract provision after December 31, 1978. Although A has no affirmative obligation to open a plant in X, any decision after December 31, 1978, not to open a plant in X because of A's agreement with Y would constitute a refusal to deal with X.

(viii) A, a U.S. manufacturer of bicycles, has a contract to supply bicycles to boycotting country Y. The contract was entered into on June 1, 1977, and calls for deliveries on June 1, 1978, and June 1, 1979. In the contract, A has agreed that none of the parts of the bicycles will be supplied by blacklisted firms.

The contract, which was entered into after May 16, 1977, is not entitled to grace period treatment. However, the mere existence of the contract on the effective date of this Part is not a violation of this Part, and no violation occurs unless and until A takes action to exclude blacklisted firms from purchases for shipments to Y.

(ix) A, a U.S. distributor, has been negotiating with boycotting country Y since April 1977, over terms of a proposed contract. Final agreement is not reached and a contract is not signed until May 31, 1977.

The contract does not qualify for grace period treatment, and A may not backdate the contract to May 16, 1977, to take advantage of the grace period.

(x) Same as (ix), but although the final agreement is concluded on May 10, 1977, the written instrument is not signed until May 20. The agreement was legally enforceable on May 10.

The agreement qualifies for grace period treatment.

(xi) U.S. company B has a contract with boycotting country Y to supply a certain quantity of air conditioners each month over a two-year period. B's contract was entered into on May 15, 1977, and thus qualifies for grace period treatment. The con-

#### RULES AND REGULATIONS

tract specifies that each shipment be accompanied by a certification that none of the components of the air conditioners were supplied by any company blacklisted by Y. B has asked U.S. freight forwarder A to handle the shipments and make any necessary certifications.

A may make the monthly certifications as long as B's contract with Y qualifies for grace period treatment.

[FR Doc. 78-1921 Filed 1-18-78; 4:39 pm]



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# Register Federal Paper

WEDNESDAY, JANUARY 25, 1978  
PART IV



**DEPARTMENT OF  
THE INTERIOR**  
Office of the Secretary

**DEPARTMENT OF  
ENERGY**  
Federal Energy  
Regulatory Commission

■  
**ANG COAL  
GASIFICATION CO. ET AL.**  
Final Environmental Statement



[4310-09]

## DEPARTMENT OF THE INTERIOR

Office of the Secretary

(INT FES 78-1)

## ANG COAL GASIFICATION COMPANY; NORTH DAKOTA PROJECT

## Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a coal gasification project proposed by ANG Coal Gasification Company for Mercer County, N. Dak. The statement covers impacts of construction and operation of the gasification plant and its associated facilities (i.e., coal mine, railroad spur, water intake and pipeline, and product delivery pipeline). It also addresses major cumulative impacts of construction and operation of an 880-MW coal-fired electric generating plant proposed for construction adjacent to the gasification plant.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner, Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone 202-343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225.

Office of the Regional Director, Bureau of Reclamation, P.O. Box 2553, Federal Building, Billings, Mont. 59103, Telephone 406-657-6214.

Missouri-Souris Projects Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, N. Dak. 58501, Telephone 701-255-4011.

Single copies of the final environmental statement may be obtained upon request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: January 20, 1978.

LARRY E. MEIEROTTO,  
Deputy Assistant  
Secretary of the Interior.

[FR Doc. 78-2120 Filed 1-24-78; 8:45 am]

[6740-2]

## DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP75-278, et al.]

## ANG COAL GASIFICATION CO., NORTH DAKOTA PROJECT

Intent To Partially Adopt the Department of the Interior's Final Environmental Impact Statement

JANUARY 19, 1978.

In the matter of Michigan Wisconsin Pipe Line Co., ANG Coal Gasification

Co., Great Lakes Gas Transmission Co., PGC Coal Gasification Co. and Natural Gas Pipeline Company of America.

Notice is hereby given in the above docket that on January 19, 1978, a Final Environmental Impact Statement (FEIS), "ANG Coal Gasification Company (ANGCGC), North Dakota Project," prepared by the Department of the Interior, Bureau of Reclamation (Interior), was made available. Since Interior has the responsibility for permitting ANGCGC to use the 17,000 acre-feet of water required annually from Garrison Reservoir for coal gasification needs through a 40-year water service contract, the Federal Energy Regulatory Commission (FERC) has recognized Interior as the lead agency for the preparation of this environmental impact statement (EIS).

The application by ANGCGC and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), filed originally with the Federal Power Commission (now FERC) on March 26, 1975, in Docket No. CP75-278, pursuant to section 7(c) of the Natural Gas Act, requested authorization for the sale by ANGCGC to Michigan Wisconsin of synthetic natural gas (SNG) produced from coal commingled with natural gas and for construction and operation by Michigan Wisconsin of pipeline and compressor facilities to enable it to receive and transport such gas to its existing customers. Great Lakes Gas Transmission Co. (Great Lakes) filed an application on March 31, 1975, with the Federal Power Commission (FPC) in Docket No. CP75-283 requesting authorization for transportation of SNG produced from coal commingled with natural gas for the account of ANGCGC and for construction, modification, and operation of facilities to enable it to receive and transport such gas. On August 8, 1977, Peoples Gas Co., through its subsidiaries PGC Coal Gasification Co. (PGC) and Natural Gas Pipeline Company of America (Natural), filed an application with the FPC in Docket No. CP77-556 requesting authorization for the sale by PGC to Natural of SNG commingled with natural gas, pursuant to a co-ownership arrangement between PGC and ANR Gasification Properties Company. Under that agreement, ANGCGC would become the project administrator. The three applications have been consolidated for hearing in Docket Nos. CP75-278, et al.

The overall proposal by ANGCGC, et al., would involve construction of a gasification complex with attendant water intake, railroad, and mining facilities; approximately 365 miles of new 20-inch diameter SNG pipeline to be installed in existing railroad rights-of-way (with a few minor exceptions); two new 7,600-horsepower (hp) SNG

compressor stations; an interconnection between the SNG facilities and existing interstate natural gas transportation facilities; approximately 245 miles of 36-inch and 30-inch diameter pipeline looping; and 20,000 horsepower of additional compressor facilities at existing compressor stations. Except for the interconnection, the 36-inch and 30-inch diameter pipeline looping, and the 20,000 horsepower of additional compressor facilities which will be discussed in the FERC hearings, the proposal is described and the environmental impact identified and evaluated in the Interior FEIS.

In order to fulfill the requirements of § 2.82(b) of the Commission's General Policy and Interpretations (18 CFR 2.82(b)) which complies with the National Environmental Policy Act of 1969, it is the intention of the FERC staff to adopt parts of the Interior FEIS in lieu of preparing a separate EIS. Interior's FEIS will be incorporated into the record developed in the FERC proceedings in Docket Nos. CP75-278, et al.

The following parts of Interior's FEIS will be adopted by the FERC staff:

(i) *Chapter 1.—Description of proposed project.* (Except the last paragraph of Section 1.5.2 on Pages 1-18, "Land Requirements," which discusses the 36-inch and 30-inch diameter pipeline looping and the 20,000 horsepower of additional compressor facilities.)

The last paragraph of section 1.5.2, "Land Requirements," states that the 217 miles of 36-inch and 28 miles of 30-inch diameter pipeline looping and the 20,000 horsepower of additional compression mentioned earlier (for which construction authorization has been requested to enable Great Lakes and Michigan Wisconsin to transport SNG commingled with natural gas) "may be required" and that "the impacts of these additional facilities are beyond the scope of this EIS." The analysis is therefore incomplete in that it only assesses the impact of facilities and operations up to the interconnection (gas commingling point), without regard to facilities which would be required to transport the commingled gas to the market area. For this reason, the FERC staff does not adopt this portion of the FEIS.

(ii) *Chapters 2 to 8.—Description of existing environment; environmental impacts of proposed action; mitigating measures and air and water quality aspects; unavoidable adverse effects; the relationship between local short-term uses of man's environment and the maintenance and enhancement of*

<sup>1</sup> Note that only those facilities required to receive the SNG (i.e., the interconnection) and to transport the commingled gas are presently under the jurisdiction of the FERC.

*long-term productivity; irreversible and irretrievable commitment of resources; alternatives to the proposed action.* (Except the portion of Chapter 8, section 8.2.2 Alternative Product Pipeline Routes, "Connect with Northern Border Pipeline" on Pages 8-18.)

The subsection of Chapter 8, section 8.2.2, "Connect with Northern Border Pipeline," briefly addresses the feasibility of constructing an alternative 25-mile long SNG pipeline between the gasification complex and interstate pipeline facilities proposed by Northern Border Pipeline Co. (Northern Border) in Docket No. CP78-124 (for transporting Alaskan natural gas from the Saskatchewan-Montana border to Dwight, Illinois) in lieu of the 365-mile long SNG pipeline proposed by ANGCGC. Interior dismisses this alternative because of (a) questions as to whether the Northern Border pipeline (NBP) would be built, (b) changes in design capacity which would be required to enable the NBP to transport both Alaskan gas and the SNG, and (c) problems associated with intermixing the lower Btu SNG with the higher Btu Alaskan gas. Since the Northern Border proposal (part of the Alcan Pipeline Project) has received conditional certification by the FERC and since agreements similar to those which would be enacted at the commingling point proposed by ANGCGC could provide for intermixing the SNG and Alaskan gas, the FERC staff disagrees with the conclusion that the alternative of connecting with the NBP "does not appear viable at this time" and deems the analysis of this alternative inadequate. Furthermore, the FERC staff has chosen to conduct additional analyses which will more substantially support or dismiss this alternative. For these reasons, the FERC staff does not adopt this portion of the FEIS.

(iii) *Chapter 9.—Consultation and coordination.* This section also contains comments which were received by Interior on the DEIS and Interior's responses to those comments. Because Interior's FEIS does not adequately discuss the environmental impact of and alternatives to the facilities jurisdictional under the Natural Gas Act, the FERC staff will prepare a supplemental environmental assessment of these facilities. This assessment, which will be available in the near future, will be incorporated into the record developed in the FERC proceeding in Docket Nos. CP75-278, et al. Copies of this assessment will be sent to all parties receiving Interior's FEIS, and other parties upon request. The FERC is sending copies of the Interior FEIS to all parties in the FERC proceeding and to many Federal, state, and local parties to

which Interior has sent copies of the DEIS is included in the summary sheet preceding Chapter 1 of the FEIS. Those parties to which Interior is sending copies of the FEIS are indicated on this list by an asterisk. In addition, Interior's FEIS is on file with the Commission and is available for public inspection at its Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Copies of Interior's FEIS may be obtained from the Commissioner, Bureau of Reclamation, Attention Code 150, 18th and C Street NW., Washington, D.C. 20240, and from the Regional Director, Bureau of Reclamation, Attention Code 160, Post Office Box 2553, Federal Office Building, 316 North 26th Street, Billings, Mont. 59103. Copies of Interior's FEIS are also available in limited quantities from the FERC's Office of Public Information, Washington, D.C., and at its regional office located at 230 South Dearborn Street, Chicago, Ill. 60604.

Persons who have not intervened but who wish to present testimony and to argue environmental positions in this proceeding must comply with §§ 2.80 and 2.82(d) and (e) of the Commission's General Policy and Interpretations and § 1.8 of the Commission's Rules of Practice and Procedure. A copy of these regulations is attached.

LOIS D. CASHELL,  
Acting Secretary.

FEDERAL POWER COMMISSION—ORDER  
415-C

STATEMENT OF GENERAL POLICY TO IMPLEMENT PROCEDURES FOR COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

(Issued December 18, 1972)

Sec. 2.80 Detailed environmental statement.

(a) It shall be the general policy of the Federal Power Commission to adopt and to adhere to the objectives and aims of the National Environmental Policy Act of 1969 (NEPA) in its regulations under the Federal Power Act and the Natural Gas Act. The National Environmental Policy Act of 1969 requires, among other things, all Federal agencies to include a detailed environmental statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Therefore, in compliance with the National Environmental Policy Act of 1969 the Commission staff shall make a detailed environmental statement when the regulatory action taken by us under the Federal Power Act and Natural Gas Act will have a significant environmental impact. A "detailed statement" prepared in compliance with the requirements of §§ 2.81 through 2.82 shall fully develop

the five factors listed hereinafter in the context of such considerations as the proposed activity's direct and indirect effect on the air and water environment of the project or natural gas pipeline facility; on the land, air, and water biota; on established park and recreational areas; and on sites of natural, historic, and scenic values and resources of the area. The statement shall discuss the extent of the conformity of the proposed activity with all applicable environmental standards. The statement shall also fully deal with alternative courses of action to the proposal and, to the maximum extent practicable, the environmental effects of each alternative. Further, it shall specifically discuss plans for future development related to the application under consideration. The above factors are listed to merely illustrate the kinds of values that must be considered in that statement. In no respect is this listing to be construed as covering all relevant factors. The five factors which must be specifically discussed in the detailed statement are:

(1) The environmental impact of the proposed action.

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented.

(3) Alternatives to the proposed action.

(4) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity.

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c)(1) To the maximum extent practicable no final administrative action is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment or 30 days after the final text of an environmental statement has been made available to the Council on Environmental Quality and the public.

(2) Upon a finding that it is necessary and appropriate in the public interest, the Commission may dispense with any time period specified in §§ 2.80-2.82.

Sec. 2.82 Compliance with the National Environmental Policy Act of 1969 under the Natural Gas Act.

(d) In the case of each contested application, the applicant, staff, and all interveners taking a position on environmental matters shall offer evidence for the record in support of their environmental position. The applicant and all such interveners shall specify any differences with the staff's position, and shall include, among other relevant factors, a discussion of their position in the context of the factors enumerated in § 2.80.



(e) In the case of each contested application, the initial and reply briefs filed by the applicant, the staff, and all interveners taking a position on environmental matters must specifically analyze and evaluate the evidence in the light of the environmental criteria enumerated in § 2.80. Furthermore, the initial decision of the presiding administrative law judge in such cases, and the final order of the Commission dealing with the application on the merits in all cases, shall include an evaluation of the environmental factors enumerated in § 2.80 and the views and comments expressed in conjunction therewith by the applicant and all those making formal comment pursuant to the provisions of this section.

#### FEDERAL POWER COMMISSION

#### RULES OF PRACTICE AND PROCEDURE 18 CFR 1.8 INTERVENTION

##### Sec. 1.8 Intervention.

(a) *Initiation of intervention.* Participation in a proceeding as an intervener may be initiated as follows:

(1) By the filing of a notice of intervention by a State Commission, including any regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of electric energy, or natural gas, as the case may be, to consumers within the intervening State or municipality.

(2) By order of the Commission upon petition to intervene.

(b) *Who may petition.* A petition to intervene may be filed by any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. Such right or interest may be:

(1) A right conferred by statute of the United States;

(2) An interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Commission's action in the proceeding (the following may have such an interest: Consumers served by the applicant, defendant, or respondent; holders of securities of the applicant, defendant, or respondent; and com-

petitors of the applicant, defendant, or respondent).

(3) Any other interest of such nature that petitioner's participation may be in the public interest.

(c) *Form and contents of petitions.* Petitions to intervene shall set out clearly and concisely the facts from which the nature of the petitioner's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the petitioner in the proceeding, so as fully and completely to advise the parties and the Commission as to the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the proceeding, and citing by appropriate reference the statutory provisions or other authority relied on. *Provided*, That where the purpose of the proposed intervention is to obtain an allocation of natural gas for sale and distribution by a person or municipality engaged or legally authorized to engage in the local distribution of natural or artificial gas to the public, the petition shall comply with the requirements of Part 156 of this chapter (i.e., Regulations Under the Natural Gas Act). Such petitions shall in other respects comply with the requirements of §§ 1.15 to 1.17, inclusive.

(d) *Filing and service of petitions.* Petitions to intervene and notices of intervention may be filed at any time following the filing of a notice of rate or tariff change, or of an application, petition, complaint, or other document seeking Commission action, but in no event later than the date fixed for the filing of petitions to intervene in any order or notice with respect to the proceedings issued by the Commission or its Secretary, unless, in extraordinary circumstances for good cause shown, the Commission authorizes a late filing. Service shall be made as provided in § 1.17. Where a person has been permitted to intervene notwithstanding his failure to file his petition within the time prescribed in this paragraph, the Commission or officer designated to preside may, where the circumstances warrant, permit the waiver of the requirements of

§ 1.26(c)(5) with respect to copies of exhibits for such intervener.

(e) *Answers to petitions.* Any party to the proceeding or staff counsel may file an answer to a petition to intervene, and in default thereof, may be deemed to have waived any objection to the granting of such petition. If made, answers shall be filed within 15 days after the date of service of the petition, but not later than 5 days prior to the date set for the commencement of the hearing, if any, unless for cause the Commission with or without motion shall prescribe a different time. They shall in all other respects conform to the requirements of §§ 1.15 to 1.17, inclusive.

(f) *Notice and action on petitions—*  
(1) *Notice and service.* Petitions to intervene, when tendered to the Commission for filing, shall show service thereof upon all participants to the proceeding in conformity with § 1.17(b).

(2) *Action on petitions.* As soon as practicable after the expiration of the time for filing answers to such petitions or default thereof, as provided in paragraph (e) of this section, the Commission will grant or deny such petition in whole or in part or may, if found to be appropriate, authorize limited participation. No petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission after opportunity for all parties to object thereto. Only to avoid detriment to the public interest will any presiding officer tentatively permit participation in a hearing in advance of, and then only subject to, the granting by the Commission of a petition to intervene.

(g) *Limitation in hearings.* Where there are two or more interveners having substantially like interests and positions, the Commission or presiding officer may, in order to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of such interveners.

(FR Doc. 78-2121 Filed 1-24-78; 8:45 am)



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(Revised as of October 1, 1977)

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# Register Prepared

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Monday	Tuesday	Wednesday	Thursday	Friday
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

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**ATTENTION:** For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 428; Navel Orange Reg. 426, Amendment 1]

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

## Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period January 27-February 2, 1978, and increases the quantity of such oranges that may be so shipped during the period January 20-26, 1978. Such action is needed to provide for orderly marketing of fresh navel oranges for the periods specified due to the marketing situation confronting the orange industry.

DATES: The regulation becomes effective January 27, 1978, and the amendment is effective for the period January 20-26, 1978.

## FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-5393.

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 20, 23, and 24, 1978, to consider supply and market conditions and other fac-

tors affecting the need for regulation, and recommended quantities of navel oranges deemed advisable to be handled during the specified weeks. The committee reports the demand for navel oranges continues good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.728 is added as follows:

§ 907.728 Navel Orange Regulation 428.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period January 27, 1978, through February 2, 1978, are established as follows:

- (1) District 1: 949,000 cartons;
  - (2) District 2: 351,000 cartons;
  - (3) District 3: unlimited movement.
- (b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

2. Paragraph (a) (1) (2) and (3) in § 907.726 Navel Orange Regulation 426 (43 FR 2719), is hereby amended to read:

- (1) District 1: 1,050,000 cartons;
- (2) District 2: 150,000 cartons;
- (3) District 3: unlimited movement.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: January 25, 1978.

CHARLES R. BRADER,  
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-2423 Filed 1-25-78; 11:24 am]

[4910-13]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-WE-32-AD; Amdt. 39-3129]

## PART 39—AIRWORTHINESS DIRECTIVES

British Aircraft Corp. BAC 1-11 Series Airplanes With Auxiliary Fuel Tanks Installed in Accordance With Supplemental Type Certificate SA2971WE.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to BAC 1-11 airplanes incorporating auxiliary fuel tanks per Supplemental Type Certificate SA2971WE by providing a means of ensuring the integrity of the auxiliary fuel tank system. The amendment is needed to return the auxiliary fuel tank system to eligibility for operation.

EFFECTIVE DATE: January 31, 1978.

ADDRESSES: The applicable reports may be obtained from: National Aircraft Leasing, 1888 Century Park East, Los Angeles, Calif. 90067, telephone 213-552-6311.

Also, a copy of these reports may be reviewed at, or a copy obtained from:

Rules Docket, in Room 916, FAA, Independence Avenue SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

## FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3062 (42 FR 21102), AD 77-21-08 which currently requires either removal or deactivation of the auxiliary fuel system for BAC 1-11 airplanes certifi-



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## RULES AND REGULATIONS

cated in all categories incorporating auxiliary fuel tanks per Supplemental Type Certificate SA2971WE. After issuing amendment 39-3062, The FAA has determined that modification of the auxiliary fuel system in accordance with National Aircraft Leasing Service Bulletin TA-4-8, Revision "A" dated November 22, 1977 is adequate to insure the integrity of the fuel fitting shrouds and eliminates the cause of cracking of the inner tanks. Therefore, the FAA is amending Amendment 39-3062 to allow the use of the auxiliary fuel system, conditional upon accomplishment of specified modifications.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

## DRAFTING INFORMATION

The principal authors of this document are E. W. Mason, Aircraft Engineering Division and DeWitte Lawson, Jr., Office of the Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of the Federal Aviation Regulation (14 CFR 39.13) is amended, by amending Amendment 39-3062 (42 FR 21102), AD 77-21-08 as follows:

Add a new Paragraph (d) to read as follows:

(d) The limitation required by Paragraph (a) may be removed and the deactivation or removal required by Paragraph (b) may be reactivated or reinstalled, after the auxiliary fuel system is modified in accordance with National Aircraft Leasing Service Bulletin TA-4-8 Revision "A" dated November 22, 1977 or later FAA approved revision.

This amendment becomes effective January 31, 1978.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif, on January 16, 1978.

ROBERT H. STANTON,  
Director,  
FAA Western Region.

(FR Doc. 78-2114 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 78-SO-5)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Federal Airway; Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

## ACTION: Final rule.

SUMMARY: This amendment alters a VOR Federal airway identified as V-159 between Miami, Fla., and Palm Beach, Fla. This action reduces controller workload and chart clutter and simplifies flight planning for pilots by realigning V-159 along existing airways (V-7, V-51 and V-97) between Miami, Fla., and Palm Beach, Fla.

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign a segment of VOR Federal airway identified as V-159 between Miami, Fla., and Palm Beach, Fla. This action assures that V-159 between Miami and Palm Beach overlies V-7, V-51 and V-97. Since this amendment is a minor matter on which the public would have no particular desire to comment, notice and public procedure thereon are unnecessary.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 GMT, March 23, 1978, as follows: In § 71.123 V-159 "Miami 343" is deleted and "Miami 337" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.69).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2191 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-SW-62)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Federal Airways; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

## ACTION: Final rule.

SUMMARY: This amendment alters VOR Federal airways identified as V-76 and V-306 in the vicinity of Austin, Tex. This amendment improves air traffic efficiency by simplifying air traffic control instructions being issued to aircraft arriving into the Austin, Tex., terminal area.

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On December 1, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter two Federal airways identified as V-76 and V-306 in the vicinity of Austin, Tex. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received four responses to the NPRM in which the commenters posed no objection to the proposal. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

## THE RULE

This amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) adopts the airspace action proposed in the NPRM (42 FR 61049).

## DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traf-

fic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

In § 71.123 V-76 "Industry 305" is deleted and "Industry 310" is substituted therefor. In V-306 between "Navasota, Tex.," and "INT Navasota" "including a south alternate from Austin via INT Austin 109" and College Station, Tex., 240° radials; INT College, Tex., 240° and Industry, Tex., 310° radials;" is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 18, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2192 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-RM-11)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

## ACTION: Final rule.

SUMMARY: This amendment extends VOR federal airway V-208 from Myton, Utah, to Page, Ariz. This action provides a route east of the Wasatch Mountain Range to accommodate an increasing amount of north/south traffic.

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On November 25, 1977, the FAA proposed to amend Subpart C of Part 71

## RULES AND REGULATIONS

## [4910-13]

(Airspace Docket No. 77-SO-62)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Federal Airways, Reporting Points, Area High Routes and Jet Routes—Name Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

## ACTION: Final rule.

SUMMARY: These amendments change six names to be identical to the new names of VORTACs located near Birmingham, Ala.; Dothan, Ala.; Mobile, Ala.; Columbus, Miss.; and Hattiesburg, Miss. These actions will eliminate the possible confusion of using two names for the same location. These amendments contain no changes in the designation of airspace or its use.

EFFECTIVE DATE: March 23, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of these amendments to Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) is to: (1) Change the name of Birmingham, Ala., to Vulcan, Ala.; (2) change the name of Dothan, Ala., to Wiregrass, Ala.; (3) change the name of Huntsville, Ala., to Rocket, Ala.; (4) change the name of Mobile, Ala., to Semmes, Ala.; (5) change the name of Columbus, Miss., to Bigbee, Miss.; and (6) change the name of Hattiesburg, Miss., to Eaton, Miss.; where they appear in the description of airways, reporting points, jet routes and area high routes. Because these actions merely rename existing navids without changing the designation of any airspace or its use, these amendments are a minor matter on which the public would have no particular desire to comment; therefore, notice and public procedure thereon are unnecessary.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administra-

tion of the Federal Aviation Regulations (14 CFR Part 71) to extend VOR federal airway V-208 from Myton, Utah, to Page, Ariz., via Carbon, Utah, Hanksville, Utah, to Page (42 FR 60162). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The comment received expressed no objection. This amendment is that proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

## THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FAR's) (14 CFR Part 71) extends VOR Federal airway V-208 from Myton, Utah, to Page, Ariz., via Carbon, Utah, Hanksville, Utah, to Page. This action is necessary to provide a route east of the Wasatch Mountain Range, where the weather is significantly different than that on the western slope. This airway extension will accommodate an increasing amount of north/south traffic.

## DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

In V-208 "From Myton, Utah, 79 MSL, via" is deleted and "From Page, Ariz., via Hanksville, Utah; Carbon, Utah; Myton, Utah; 79 MSL" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2190 Filed 1-25-78; 8:45 am)



tor, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (43 FR 307, 631, 638, 714 and 730) and amended (42 FR 60123 and 63167) are amended, effective 0901 GMT, March 23, 1978, as follows:

#### § 71.123 [Amended]

1. Section 71.123 (43 FR 307) is amended as follows:

a. "Birmingham" is deleted and "Vulcan" is substituted therefor wherever it appears in the description of V-7, V-18, V-49, V-115, V-159, V-168 and V-241.

b. "Dothan" is deleted and "Wiregrass" is substituted therefor wherever it appears in the description of V-7 and V-241.

c. "Huntsville" is deleted and "Rocket" is substituted therefor wherever it appears in the description of V-54 and V-321.

d. "Mobile" is deleted and "Semmes" is substituted therefor wherever it appears in the description of V-11, V-20, V-209, V-240 and V-241.

e. "Columbus" is deleted and "Bigbee" is substituted therefor wherever it appears in the description of V-245 and V-278.

f. "Hattiesburg" is deleted and "Eaton" is substituted therefor wherever it appears in the description of V-222 and V-455.

#### § 71.203 [Amended]

2. Section 71.203 (43 FR 631) is amended as follows:

a. "Birmingham, Ala." is deleted and "Vulcan, Ala." is substituted therefor.

b. "Columbus, Miss." is deleted and "Bigbee, Miss." is substituted therefor.

c. "Dothan, Ala." is deleted and "Wiregrass, Ala." is substituted therefor.

d. "Hattiesburg, Miss." is deleted and "Eaton, Miss." is substituted therefor.

e. "Huntsville, Ala." is deleted and "Rocket, Ala." is substituted therefor.

f. "Mobile, Ala." is deleted and "Semmes, Ala." is substituted therefor.

#### § 71.207 [Amended]

3. Section 71.207 (43 FR 638) is amended as follows:

a. "Birmingham, Ala." is deleted and "Vulcan, Ala." is substituted therefor.

b. "Mobile, Ala." is deleted and "Semmes, Ala." is substituted therefor.

c. "Columbus, Ala." is deleted and "Bigbee" is substituted therefor wherever it appears in J-52.

#### § 75.100 [Amended]

4. Section 75.100 (43 FR 714) is amended as follows:

a. "Birmingham" is deleted and "Vulcan" is substituted therefor wherever it appears in J-14, J-22, J-31, J-39, J-41, J-52, J-69 and J-151.

b. "Columbus" is deleted and "Bigbee" is substituted therefor wherever it appears in J-52.

c. "Mobile" is deleted and "Semmes" is substituted therefor wherever it appears in J-2, J-37 and J-69.

#### § 75.400 [Amended]

5. Section 75.400 (43 FR 730) is amended as follows:

a. "Birmingham" is deleted and "Vulcan" is substituted therefor wherever it appears in J-811R, J-874R, J-875R, J-934R and J-952R.

b. "Columbus" is deleted and "Bigbee" is substituted therefor wherever it appears in J-934R.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 20, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc. 78-2193 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-SW-60]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone: Corpus Christi NAS, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This alters the control zone at Corpus Christi (Naval Air Station) NAS, Tex., to provide controlled airspace for aircraft executing revised instrument approach procedures to NAS Corpus Christi. The change in procedures was necessitated by the recent relocation of the Navy Corpus Christi (very high frequency omnidirectional range technical air navigation) (VORTAC).

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On November 10, 1977, a notice of proposed rulemaking was published in

the FEDERAL REGISTER (42 FR 58540) stating that the Federal Aviation Administration proposed to alter the Corpus Christi NAS, Tex., control zone.

Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

##### THE RULE

This amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Corpus Christi NAS, Tex., control zone. This action provides controlled airspace for revised instrument approach procedures necessitated by the recent relocation of the Navy Corpus Christi VORTAC.

##### DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

##### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

In Subpart F, 71.171 (42 FR 355), the Corpus Christi NAS, Tex., control zone is amended as follows:

That airspace within a 5-mile radius of NAS Corpus Christi (Latitude 27°41'30" N., Longitude 97°17'15" W.) including the following extensions based on the Navy Corpus Christi VORTAC (Latitude 27°41'09" N., Longitude 97°17'40" W.): 3 miles each side of the 331 radial, extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; 1.5 miles each side of the 016 radial, extending from the 5-mile radius zone to 7 miles northwest of the VORTAC; 1.5 miles each side of the 016 radial, extending from the 5-mile radius zone to 5.5 miles north of the VORTAC; 3 miles each side of the 118 radial, extending from the 5-mile radius zone to 7 miles southeast of the VORTAC; and 1.5 miles each side of the 160 radial, extending from the 5-mile radius zone to 6.5 miles south of the VORTAC.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on January 9, 1978.

PAUL J. BAKER,  
Acting Director,  
Southwest Region.

[FR Doc. 78-2172 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-SW-57]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Vernon, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This alters the transition area at Vernon, Tex., to provide controlled airspace for aircraft executing instrument approach procedures to the Wilbarger County Airport, using the newly established nondirectional beacon (NDB) located on the airport. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR) for public use.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On November 10, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 58541) stating that the Federal Aviation Administration proposed to alter the Vernon, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

##### THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Vernon, Tex., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Wilbarger County Airport.

##### DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace

and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

##### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 GMT, March 23, 1978, as follows:

In Subpart G, 71.181 (42 FR 440), the Vernon, Tex., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Wilbarger County Airport (latitude 34°14'00" N., longitude 99°17'30" W.) within 2 miles west of the Altus VOR 182° radial extending from the 6-mile radius to 7 miles north of the airport; within 3 miles each side of the 016° bearing from the Vernon NDB (latitude 34°13'48" N., longitude 99°16'44" W.) extending from the 6-mile radius area to 11.5 miles north of the NDB, excluding the portion within the Hobart, Okla., transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on January 10, 1978.

PAUL J. BAKER,  
Acting Director,  
Southwest Region.

[FR Doc. 78-2173 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-AL-3]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a 700 foot transition area at Dutch Harbor, Alaska. This action provides controlled airspace for the protection of aircraft executing instrument approaches to the Dutch Harbor Airport.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation

Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On October 17, 1977, the FAA published for comment a proposal to designate a 700 foot transition area at Dutch Harbor, Alaska (42 FR 55477). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection. Section 71.181 of Part 71 was published in the FEDERAL REGISTER on January 3, 1978 (43 FR 440). Since this action involved in part the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

##### THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates as a 700 foot transition area the airspace within 5 miles each side of the Dutch Harbor NDB 360° bearing extending from the NDB to 17.5 miles north of the NDB and that airspace within 4.5 miles east and 9.5 miles west of the 360° bearing extending from 11.5 miles to 36 miles north of the NDB. This action provides controlled airspace to accommodate aircraft executing Standard Instrument Approach Procedures (SIAP) to the Dutch Harbor Airport.

##### DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

##### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 G.m.t., March 23, 1978, by adding the Dutch Harbor, Alaska, transition area as follows:

##### DUTCH HARBOR, ALASKA

That airspace extending upward from 700 feet above the surface within 5 miles each side of the Dutch Harbor NDB 360° bearing extending from the NDB to 17.5 miles north of the NDB and within 4.5 miles east and 9.5 miles west of the NDB 360° bearing extending from 11.5 miles to 36 miles north of the NDB.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)



## RULES AND REGULATIONS

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2174 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-SO-50)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters VOR Federal airway identified as V-159 in the southeastern United States. This amendment revokes a segment of V-159. An airspace utilization study indicated insufficient IFR traffic on this segment of V-159 to warrant retention.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On November 14, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter Federal Airway V-159 in the State of Florida (42 FR 58956). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received three responses to the NPRM in which the commenters posed no objection to the proposal. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

## THE RULE

This amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) adopts the airspace action proposed in the NPRM (42 FR 58956).

## DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traf-

fic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

In § 71.123 V-159 "Fla., including an E alternate via INT Vero Beach 341" and Orlando 123" radials;" is deleted and "Fla." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2175 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-NE-14)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters VOR federal airways identified as V-2, V-14, V-141, V-229, V-447, V-475 and V-490 in the northeastern United States. This amendment improves air traffic efficiency by providing continuous preferential routing with charted radials, distance and minimum en route altitudes.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

## SUPPLEMENTARY INFORMATION:

## HISTORY

On October 27, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter seven federal airways identi-

fied as V-2, V-14, V-141, V-229, V-447, V-475 and V-490 in the northeastern United States (42 FR 56619). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. We received three responses to the NPRM in which the commenters posed no objection to the proposal. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307) and amended (42 FR 58930).

## THE RULE

This amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) adopts the airspace action proposed in the NPRM (42 FR 56619).

## DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (42 FR 58930) is amended, effective 0901 GMT, March 23, 1978, as follows:

1. In § 71.123 V-2 "Gardner, Boston, Mass." is deleted and "Gardner" is substituted therefor.
2. In V-14 "128" and Boston, Mass., 251" radials; Boston," is deleted and "195" and Norwich, Conn., 351" radials; Norwich," is substituted therefor.
3. In V-141 "Boston, Mass.: INT Boston 015" and Manchester, N. H. 117" radials; Manchester;" is deleted and "to Boston, Mass. From Manchester, N. H.," is substituted therefor.
4. In V-229 after "Gardner, Vt.," Keene, N. H.; INT Keene 338" and Burlington, Vt., 160" radials; Burlington," is substituted therefor.
5. In V-447 "Montpelier, Vt.," is deleted and "Cambridge, N. Y., Montpelier, Vt.," is substituted therefor.
6. In V-475 between "Providence, R.I.," and "INT Providence" "including an east alternate from Madison to Providence via INT Madison 082" and Providence 212" radials;" is added.
7. In V-490 "INT Manchester 117" and Boston, Mass., 015" radials;" is deleted.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 16, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2178 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-SW-45)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Federal Airways; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the FEDERAL REGISTER of December 15, 1977, Vol. 42, page 63167, the Llano, Tex., 026" radial was incorrectly stated as 025" in the amendatory paragraphs numbered 3 and 4. This correction reflects the correct radial of Llano, Tex., to be 026".

EFFECTIVE DATE: January 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

## SUPPLEMENTARY INFORMATION:

FEDERAL REGISTER Document 77-35555 was published on December 15, 1977 (42 FR 63167) with an effective date of January 26, 1978, and designated segments of V-161 and V-163 via the Llano, Tex., 025" radial. This 025" radial was inadvertently published incorrectly and should have been published as 026". Action is taken herein to correct this error.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FEDERAL REGISTER Document 77-35555 as published on December 15, 1977, page 63167, is amended in the description of a segment of V-161 and a segment of V-163 by deleting the third line of the amendatory paragraph numbered 3 and the eleventh line of the amendatory paragraph numbered 4 and substituting therefor "026" and Millsap, Tex., 193" radials; Millsap;" and "Tex., Llano, Tex., and Int. Llano 026" and" respectively.

## RULES AND REGULATIONS

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Issued in Washington, D.C., on January 16, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2179 Filed 1-25-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-SO-43)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 73—SPECIAL USE AIRSPACE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter several restricted areas near Avon Park, Fla. The alterations were requested by the United States Air Force (USAF) to contain the flight profiles of high performance military aircraft engaged in ordnance delivery. These alterations will provide sufficient restricted area airspace to permit the USAF to perform its mission in this area.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

## SUPPLEMENTARY INFORMATION:

## HISTORY

The restricted area complex at Avon Park has been used for years by the USAF for expenditure of ordnance. Only the inner portion of the area is used for actual delivery of ordnance, and the outer portions are used for high speed, head in the cockpit operation preparing for ordnance delivery. Introduction of higher performance military aircraft resulted in the USAF request for additional restricted area airspace. Accordingly, on November 14, 1977 (42 FR 58957), the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to enlarge the restricted areas at Avon Park as necessary. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. Two comments were received and due

consideration has been given to all matters presented. Except for editorial changes, and except as specifically discussed below, these amendments are the same as proposed in the notice. Sections 71.151 and 73.29 were republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 344 and 672 respectively).

## THE RULE

The amendment to Part 73 of the Federal Aviation Regulations (FAR's) enlarges the Avon Park, Fla., restricted area complex to provide more restricted area airspace for higher performance military aircraft engaged in ordnance delivery. The amendment to Part 71 of the FAR's makes an administrative change to remove R-2901A from § 71.151 (Subpart D). By definition, the continental control area excludes airspace within restricted areas; however, airspace within restricted areas above 14,500 feet MSL can be designated as continental control area by including those restricted areas in Subpart D of Part 71. R-2901A is presently included in Subpart D; however, since it will no longer extend into the continental control area, it will no longer be necessary to list that restricted area in Subpart D, and it is removed.

In the notice the description of R-2901C inadvertently specified a geographical coordinate as "Lat. 27°44'50" N., Long. 81°25'20" W.", and highway descriptions as "Florida State routes 60 and 80." These descriptions should have been "Lat. 27°46'00" N., Long. 81°25'20" W." and "Florida State routes 60 and 630" respectively. These corrections are reflected herein. Since the correction to the geographical coordinate is minor and the correction to the highway number is administrative, notice and public procedure are deemed unnecessary.

## DISCUSSION OF COMMENTS

Comments were received from the Air Line Pilots Association (ALPA) and the Florida State Department of Transportation. ALPA commented that the proposed enlargement of Avon Park complex would cause substantial increase in distance flown by air carrier aircraft in circumnavigating the area. This was discussed with ALPA and when it was shown that the small increase in area extended up to only 5,000 feet MSL, and that air carrier aircraft would nearly always be above that altitude in the vicinity of Avon Park, ALPA withdrew its objection. The State of Florida Department of Transportation (DOT) suggested that the restricted area boundaries be defined by more prominent landmarks so that nonparticipating aircraft could avoid the area more easily. The boundaries suggested by the Florida DOT would result in a decrease in existing



special use airspace. This was discussed with the United States Air Force (USAF) which advised that they could not accept any decrease in restricted airspace without serious derogation to their training mission. The Florida DOT was advised that the FAA reviewed the USAF position and concurs with the USAF statement on mission derogation.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, effective 0901 G.m.t., March 23, 1978, as follows:

1. By amending § 71.151 (42 FR 345) by deleting "R-2901A Avon Park, Fla." Part 73, § 73.29.

1. By revoking R-2901A, R-2901B, R-2901C, R-2901D, R-2901E, R-2901F and R-2901G, and substituting therefor the following:

a. R-2901A Avon Park, Fla. Boundaries. Beginning at Lat. 27°44'45" N., Long. 81°25'20" W.; via Lat. 27°44'45" N., Long. 81°11'40" W.; Lat. 27°35'00" N., Long. 81°09'00" W.; Lat. 27°32'30" N., Long. 81°07'30" W.; Lat. 27°29'00" N., Long. 81°13'30" W.; Lat. 27°32'40" N., Long. 81°16'50" W.; Lat. 27°32'32" N., Long. 81°21'40" W.; Lat. 27°42'00" N., Long. 81°25'20" W.; to point of beginning.

Designated altitudes. Surface to and including 14,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

b. R-2901B Avon Park, Fla. Boundaries. Beginning at Lat. 27°44'45" N., Long. 81°25'20" W.; via Lat. 27°44'45" N., Long. 81°11'40" W.; Lat. 27°35'00" N., Long. 81°09'00" W.; Lat. 27°32'40" N., Long. 81°12'20" W.; Lat. 27°32'32" N., Long. 81°21'40" W.; Lat. 27°42'00" N., Long. 81°25'20" W.; to point of beginning.

Designated altitudes. 14,000 feet MSL to and including FL 180.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

c. R-2901C Avon Park, Fla. Boundaries. Beginning at Lat. 27°44'45" N., Long. 81°25'20" W.; via Lat. 27°46'00" N., Long. 81°25'20" W.; thence east along Florida State routes 60 and 630 to Lat. 27°48'30" N., Long. 81°14'00" W.; Lat. 27°44'50" N., Long. 81°14'00" W.; to point of beginning.

Designated altitudes. Surface to 14,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

d. R-2901D Avon Park, Fla. Boundaries. Beginning at Lat. 27°44'50" N., Long.

81°25'20" W.; via Lat. 27°50'00" N., Long. 81°25'20" W.; Lat. 27°50'00" N., Long. 81°14'00" W.; Lat. 27°48'30" N., Long. 81°14'00" W.; thence west along Florida State routes 80 and 630 to point of beginning.

Designated altitudes. 500 feet MSL to 4,000 feet MSL east of Long. 81°21'00" W.; 1,000 feet AGL to 4,000 feet MSL west of Long. 81°21'00" W.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

e. R-2901E Avon Park, Fla. Boundaries. Beginning at Lat. 27°50'00" N., Long. 81°25'20" W.; via Lat. 27°55'00" N., Long. 81°25'20" W.; Lat. 28°00'00" N., Long. 81°21'00" W.; Lat. 28°00'00" N., Long. 81°14'00" W.; Lat. 27°50'00" N., Long. 81°14'00" W.; to point of beginning.

Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

f. R-2901F Avon Park, Fla. Boundaries. Beginning at Lat. 27°32'32" N., Long. 81°21'40" W.; via Lat. 27°32'40" N., Long. 81°16'50" W.; Lat. 27°29'00" N., Long. 81°13'30" W.; Lat. 27°24'45" N., Long. 81°11'00" W.; Lat. 27°30'45" N., Long. 81°17'50" W.; to point of beginning.

Designated altitudes. 4,000 feet MSL to 5,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

g. R-2901G Avon Park, Fla. Boundaries. Beginning at Lat. 27°29'00" N., Long. 81°13'30" W.; via Lat. 27°32'30" N., Long. 81°07'30" W.; Lat. 27°29'30" N., Long. 81°05'30" W.; Lat. 27°24'45" N., Long. 81°11'00" W.; to point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

h. R-2901H Avon Park, Fla. Boundaries. Beginning at Lat. 27°24'45" N., Long. 81°11'00" W.; via Lat. 27°29'30" N., Long. 81°05'30" W.; Lat. 27°21'00" N., Long. 81°00'00" W.; to point of beginning.

Designated altitudes. 1,000 feet MSL to 4,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

i. R-2901I Avon Park, Fla. Boundaries. Beginning at Lat. 27°24'45" N., Long. 81°11'00" W.; via Lat. 27°21'00" N., Long. 81°00'00" W.; Lat. 27°16'45" N., Long. 81°06'00" W.; to point of beginning.

Designated altitudes. 1,500 feet MSL to 4,000 feet MSL.

Time of designation. Continuous. Controlling agency. Federal Aviation Administration, Miami ARTCC. Using/scheduling agency. 56th TFW, MacDill AFB, Fla.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 1.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 16, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2177 Filed 1-25-78; 8:45 am)

#### [4910-13]

(Airspace Docket No. 77-CE-23)

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Designation of Transition Area—West Union, Iowa

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to designate a transition area at West Union, Iowa, to provide controlled airspace for aircraft executing a new instrument approach procedure to the George L. Scott Municipal Airport, West Union, Iowa, which is based on the Waukon, Iowa, VHF omnidirectional range (VOR), a navigational aid.

EFFECTIVE DATE: March 23, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the George L. Scott Municipal Airport, West Union, Iowa, has been established based on the Waukon, Iowa, VOR, a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing said airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) at West Union, Iowa, within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace protection for aircraft executing the new instrument approach procedure to George L. Scott Municipal Airport.

#### DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Oper-

ations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

#### DISCUSSION OF COMMENTS

On pages 59758 and 59759 of the FEDERAL REGISTER dated November 21, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at West Union, Iowa. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

Accordingly, subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. March 23, 1978, by adding the following transition area:

##### WEST UNION, IOWA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the George L. Scott Municipal Airport (latitude 42°59'00" N., longitude 91°48'00" W.); and within 2½ miles each side of the 010° bearing from the George L. Scott Municipal Airport, extending from the 5-mile radius to 6 miles northeast of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on January 16, 1978.

JOHN E. SHAW,  
Acting Director,  
Central Region.

(FR Doc. 78-2115 Filed 1-25-78; 8:45 am)

#### [4910-13]

(Airspace Docket No. 77-CE-17)

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Transition Area—Grandview, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this Federal action is to alter the existing transition area at Grandview, Mo., to provide additional controlled airspace for aircraft executing a new instrument

approach procedure to the Johnson County, Kansas Industrial Airport which is based on the Johnson County TVORW, a navigational aid.

EFFECTIVE DATE: March 23, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: A new instrument approach procedure to the Johnson County, Kansas Industrial Airport has been developed based on the Johnson County, Kans., TVORW, a navigational aid. This navigation aid will provide additional guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on the navigation aid entails alteration of the Grandview, Mo., transition area at and above 700 feet above the ground (AGL) within which aircraft will be provided additional air traffic control service. The intended effect of this action is to insure adequate controlled airspace for aircraft executing the new instrument approach procedure.

#### DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

#### DISCUSSION OF COMMENTS

On page 59389 of the FEDERAL REGISTER dated November 17, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Grandview, Mo. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rule making. The NPRM did not clearly state the location of the TVORW as being located on the Johnson County, Kans., Executive Airport. Since the transition area alteration is not affected by this clarification an amended NPRM is not necessary.

Accordingly, subpart G, section 71.181, of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1978 (43 FR 440), is amended, effective 0901 G.m.t. March 23, 1978, by altering the following transition area:

##### GRANDVIEW, MO.

That airspace extending upward from 700 feet above the surface within an 8 mile

radius of Richards-Gebaur AFB (latitude 38°50'50" N., longitude 94°33'20" W.); within a 6 mile radius of Johnson County Executive Airport (latitude 38°51'00" N., longitude 94°44'15" W.), excluding that portion which coincides with Richards-Gebaur AFB's 700 feet transition area; within 3 miles each side of the 182° bearing from Johnson County Executive Airport, extending from the 6-mile radius area to 8 miles south of the airport; and within an 8.5 mile radius of the Johnson County Industrial Airport (latitude 38°49'47" N., longitude 94°53'29" W.), excluding that portion which coincides with the Johnson County Executive Airport's 700 feet transition area.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on January 16, 1978.

JOHN E. SHAW,  
Acting Director,  
Central Region.

(FR Doc. 78-2116 Filed 1-25-78; 8:45 am)

#### [4910-13]

(Airspace Docket No. 77-AL-8)

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

##### Alteration of Control Zone and Transition Area at Iliamna, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Iliamna, Alaska, control zone and transition area in order to provide protected airspace for aircraft executing approach and departure procedures at Iliamna, Alaska.

EFFECTIVE DATE: 0901 G.m.t., March 23, 1978.

#### FOR FURTHER INFORMATION CONTACT:

John G. Costello, Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501, telephone 907-265-4271.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subparts F and G of Part 71 of the



Federal Aviation Regulations (14 CFR Part 71) is to alter the Iliamna, Alaska, control zone and transition area. The NPRM was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56340) and a corrected NPRM was published in the FEDERAL REGISTER on November 25, 1977 (42 FR 60164). The proposal resulted from a revision to the instrument approach procedure which was necessary due to the relocation of the Iliamna NDB. Interested persons were given the opportunity to comment on the proposal. The two comments received concurred with the proposal.

#### DRAFTING INFORMATION

The principal authors of this document are John Costello, Air Traffic Division, and Donald H. Boberick, Esq., Regional Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355 and 440) are amended, effective 0901 G.m.t., March 23, 1978, as follows:

1. In § 71.171 (42 FR 355) the Iliamna, Alaska, control zone is amended to read as follows:

#### ILIAMNA, ALASKA

Within a 5-mile radius of the Iliamna airport (latitude 59°45'12" N., longitude 154°54'54" W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius zone to 9.5 miles south of the NDB. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the U.S. Government Flight Information Publication, Supplement Alaska.

2. In § 71.181 (42 FR the Iliamna, Alaska, transition area is amended to read as follows:

#### ILIAMNA, ALASKA

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Iliamna Airport (latitude 59°45'12" N., longitude 154°54'54" W.); and within 2.5 miles each side of the 189° bearing from the Iliamna NDB, extending from the 5-mile radius area to 9.5 miles south of the NDB; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles west and 9.5 miles east of the Iliamna NDB 189° bearing from the Iliamna NDB, extending from the NDB to 18.5 miles south of the NDB.

This amendment is made under the authority of § 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.

NOTE.—The Federal Aviation Administration has determined that this document

## RULES AND REGULATIONS

does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Anchorage, Alaska, on January 13, 1978.

LYLE K. BROWN,  
Director, Alaskan Region.  
[FR Doc. 78-1958 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-SW-61]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area: Dumas, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This designates a transition area at Dumas, Tex., to provide controlled airspace for aircraft executing newly established instrument approach procedures to the Dumas Municipal Airport utilizing the Dalhart VORTAC. Coincident with this action, the airport is changed from VFR to IFR.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On November 21, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 59759) stating that the Federal Aviation Administration proposed to designate the Dumas, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

##### THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Dumas, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Dumas Municipal Airport.

#### DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch and Robert C. Nelson, Office of the Regional Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended effective 0901 G.m.t., March 23, 1978, as follows.

In Subpart G, 71.181 (43 FR 440), the following transition area is added:

#### DUMAS, TEX.

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius of the Dumas Municipal Airport (latitude 35°51'30" N., longitude 102°00'30" W.).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)), and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on January 13, 1978.

PAUL J. BAKER,  
Acting Director,  
Southwest Region.  
[FR Doc. 78-1962 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-SW-64]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area: Lampasas, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This alters the transition area at Lampasas, Tex., to provide additional controlled airspace for aircraft executing instrument approach procedures to the Lampasas Airport utilizing the newly established Lampasas VORTAC.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

#### HISTORY

On November 25, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 60163) stating that the Federal Aviation Administration proposed to alter the Lampasas, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

#### THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Lampasas, Tex., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Lampasas Airport utilizing the newly established Lampasas VORTAC.

#### DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 440) is amended, effective 0901 GMT, March 23, 1978, as follows:

In Subpart G, 71.181 (43 FR 440), the Lampasas, Tex., transition area is amended by adding the following:

"and within 1.5 miles either side of the 197°R from the Lampasas VORTAC (latitude 31°11'04" N., longitude 98°08'28" W.), extending from the five-mile radius to six miles north of the Lampasas Airport."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on January 13, 1978.

PAUL J. BAKER,  
Acting Director,  
Southwest Region.  
[FR Doc. 78-1961 Filed 1-25-78; 8:45 am]

## RULES AND REGULATIONS

#### [4910-13]

[Airspace Docket No. 77-SO-54]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters V-5E by changing the Nashville, Tenn., 117° radial one degree to 116° and alters V-16N by changing the Hinch Mountain, Tenn., 301° radial three degrees to 304°. This action reduces two three-airway intersections to single intersections at both GRILL and MCMIN, improves traffic handling at these locations, and reduces chart clutter.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to realign V-5E to overlie the present MCMIN intersection and to realign V-16N to overlie the present GRILL intersection. The slight realignment of these alternate airways will improve traffic handling at GRILL and MCMIN intersections.

As a result of this action, the radials from four different navids will overlie GRILL and radials from five different navids will overlie MCMIN. Chart clutter will be reduced and flight planning made easier. Because this action merely realigns one radial three degrees and another radial one degree, it is a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure are unnecessary.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

1. In V-5 "including an east alternate via INT Chattanooga 332° and Nashville 117°

radials;" is deleted and "including an east alternate via INT Chattanooga 332° and Nashville 116° radials;" is substituted therefor.

2. In V-16 "Hinch Mountain; including a north alternate via INT Nashville 085° and Hinch Mountain 301° radials;" is deleted and "Hinch Mountain; including a north alternate via INT Nashville 085° and Hinch Mountain 304° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 18, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.  
[FR Doc. 78-1960 Filed 1-25-78; 8:45 am]

#### [4910-13]

[Airspace Docket No. 77-NE-15]

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Federal Airways and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter VOR Federal airways and a jet route identified as V-130, V-451 and J-79 in the northeastern United States. These actions improve air traffic efficiency by providing continuous preferential routing with charted radials, distance and minimum en route altitudes.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

#### SUPPLEMENTARY INFORMATION:

##### HISTORY

On December 8, 1977, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter two Federal airways, one jet route and one area high route identified as V-130, V-451, J-79, and J-833R in the northeastern United States (42 FR 62017). Interest-



ed persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. We received four responses to the NPRM in which the commenters posed no objections to the proposal. Sections 71.123 and 75.100 were republished in the *FEDERAL REGISTER* on January 3, 1978 (43 FR 307 and 714) and amended (42 FR 60123).

#### THE RULE

These amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) realign V-130 from over Norwich, Conn., VOR to Martha's Vineyard VOR; realign and extend V-451 from over Whitman, Mass., VOR to Brunswick, Maine VOR; and extend J-79 from over Kennedy, N.Y., VOR to Bangor, Maine VOR. These amendments, with the exception of J-833R, are those proposed in the notice (42 FR 62017). A review of the area navigation route structure in the United States is presently being conducted which includes J-833R. Therefore, no action, if any, pertaining to J-833R will be taken until the study is completed.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (43 FR 307 and 714) and amended (42 FR 60123) are amended, effective 0901 G.m.t., March 23, 1978, as follows:

In § 71.123 V-130 "Martha's Vineyard, Mass.," is deleted and "INT Norwich 120° and Martha's Vineyard, Mass., 273° radials; Martha's Vineyard;" is substituted therefor.

In V-451 "Boston, Mass." is deleted and "INT Whitman 041° and Kennebunk, Maine, 181° radials; INT Kennebunk 181° and Brunswick, Maine, 211° radials; Brunswick;" is substituted therefor.

In § 75.100 Jet Route No. 79 "to Kennedy, N.Y." is deleted and "Kennedy, N.Y.; INT Kennedy 080° and Nantucket, Mass., 255° radials; INT Nantucket 255° and Hyannis, Mass., 205° radials; Hyannis; INT Hyannis 003° and Bangor, Maine, 206° radials; Bangor;" is substituted therefor.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

#### RULES AND REGULATIONS

Issued in Washington, D.C., on January 17, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2180 Filed 1-25-78; 8:45 am)

[1505-01]

(Airspace Docket no. 77-SO-35)

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

#### Alteration of Federal Airways and Jet Routes

#### Correction

In FR Doc. 77-33915 appearing on page 60123 in the issue of Friday, November 25, 1977, in the middle column, under the paragraph entitled, "Adoption of the Amendment", paragraphs 4 and 6 should read as follows:

4. In V-51 all before "Ormond Beach, Fla.," is deleted and "From Biscayne Bay, Fla.; Miami, Fla.; INT Miami 337° and Pahokee, Fla., 174° radials; Pahokee, including an east alternate from Biscayne Bay, Ft. Lauderdale, Fla., INT Ft. Lauderdale 339° and Pahokee 124° radials, INT Pahokee 009° and Vero Beach, Fla., 193° radials, Vero Beach;" is substituted therefor.

6. In V-267 all before "INT Palm Beach" is deleted and "From Biscayne Bay, Fla., INT Biscayne Bay 340° and Pahokee, Fla., 150° radials; Pahokee; Orlando, Fla., including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, Fla., 201° radials; Palm Beach;" is substituted therefor.

[4910-13]

(Airspace Docket No. 78-SO-3)

#### PART 73—SPECIAL USE AIRSPACE

#### Revocation of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes restricted area R-2903C, Putnam, Fla. This action restores airspace for public use on the basis that Jacksonville terminal radar approach control facility (TRACON) can provide adequate air traffic control service within this area.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

**SUPPLEMENTARY INFORMATION:** The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to revoke restricted area R-2903C, Putnam, Fla. The Navy has lost the land lease required for the utilization of R-2903C Putnam target area. R-2903C is of no value to the Navy without the use of underlying lands. Therefore, the Navy has agreed to the revocation of restricted area R-2903C and such action is taken herein.

#### DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 674) is amended, effective 0901 G.m.t., March 23, 1978, as follows:

In § 73.29, "R-2903C, Putnam, Fla.," is revoked.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.

(FR Doc. 78-2176 Filed 1-25-78; 8:45 am)

[4910-13]

(Docket No. 17555; Amdt. No. 1103)

#### SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

#### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

#### Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at cer-

tain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination.*—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

*For Purchase.*—Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription.*—Copies of all SIAP's, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135. **FOR FURTHER INFORMATION CONTACT:**

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAP's). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FAR's). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a

special format make their verbatim publication in the *FEDERAL REGISTER* expensive and impractical. Further, airmen do not use the regulatory text of the SIAP's but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAP's. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAP's which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDIC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAP's, an effective date at least 30 days after publication is provided.

Further, the SIAP's contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERP's). In developing these SIAP's, the TERP's criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAP's is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAP's effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

#### ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAP's identified as follows:

... effective March 23, 1978.

Dothan, AL—Dothan, VOR Rwy 13, Amdt. 1  
Dothan, AL—Dothan, VOR Rwy 18, Amdt. 1  
Dothan, AL—Dothan, VOR-A, Amdt. 8  
Wetumpka, AL—Wetumpka - Municipal, VOR-A, Original  
Olathe, KS—Johnson County Industrial, VOR-A, Original  
Alpena, MI—Phelps-Collins, VOR Rwy 36 (TAC), Amdt. 9  
Marlette, MI—Marlette, VOR/DME-A, Amdt. 1

... effective March 9, 1978.

Vernon, AL—Lamar County, VOR/DME-A, Amdt. 2  
Miami, FL—Opa Locka, VOR Rwy 9L, Amdt. 12  
Hopdale, MA—Hopdale-Draper, VOR-A, Amdt. 3  
Manistee, MI—Manistee County-Blacker, VOR Rwy 9, Amdt. 4  
Manistee, MI—Manistee County-Blacker, VOR Rwy 27, Amdt. 4  
Plymouth, MI—Mettrall, VOR-A, Amdt. 3  
Reed City, MI—Miller Field, VOR Rwy 17, Amdt. 4  
Minneapolis, MN—Minneapolis-St. Paul Intl Wold-Chamberlain, RNAV Rwy 29R, Amdt. 3  
St. Louis, MO—Spirit of St. Louis, VOR Rwy 7, Amdt. 1  
Sidney, NE—Sidney Muni, VOR Rwy 12, Amdt. 3  
Socorro, NM—Socorro Municipal, VOR/DME-A, Original  
Alliance, OH—Miller, VOR-A, Amdt. 4  
Fremont, OH—Progress Field, VOR Rwy 9, Amdt. 4  
Meadville, PA—Port Meadville, VOR Rwy 7, Amdt. 3  
San Juan, PR—Puerto Rico International, VOR Rwy 7 and 10, Amdt. 6  
San Juan, PR—Puerto Rico International, VOR Rwy 25, Amdt. 15  
North Kingstown, RI—Quonset State, VOR Rwy 34, Amdt. 1  
Kenmore, WA—Kenmore Air Harbor Seaplane Base, VOR-A, Amdt. 1  
Rock Springs, WY—Rock Springs-Sweetwater County, VOR/DME Rwy 7, Original

... effective February 9, 1978.

Youngstown, OH—Youngstown Municipal, VOR Rwy 18, Amdt. 13  
Newport (Middletown), RI—Newport State, VOR/DME Rwy 16, Amdt. 1  
Newport (Middletown), RI—Newport State, VOR Rwy 16, Amdt. 1  
Pawtucket, RI—North Central State, VOR-A, Amdt. 2  
Providence, RI—Theodore Francis Green State, VOR/DME Rwy 16, Amdt. 1  
Providence, RI—Theodore Francis Green State, VOR/DME Rwy 23L, Amdt. 3  
Providence, RI—Theodore Francis Green State, VOR Rwy 5L and 5R, Amdt. 9

... effective January 26, 1978.

Sault Ste. Marie, MI—Chippewa County International, VOR-A, Original

2. By amending § 97.25 SDF-LOC-LDA SIAP's identified as follows:

... effective March 23, 1978.

Dothan, AL—Dothan, LOC (BC) Rwy 13, Amdt. 2

... effective March 9, 1978

St. Paul, MN—St. Paul Downtown Holman Field, LOC Rwy 30, Amdt. 7



St. Louis, MO—Spirit of St. Louis, LOC BC Rwy 25, Amdt. 2  
 Binghamton, NY—Broome County, LOC Rwy 16, Amdt. 1  
 San Juan, PR—Puerto Rico International, LOC (BC) Rwy 25, Amdt. 6  
 Pierre, SD—Pierre Municipal, LOC BC Rwy 13, Amdt. 3

\*\*\* effective February 9, 1978.

Youngstown, OH—Youngstown Municipal, LOC Rwy 14, Amdt. 1

\*\*\* effective January 26, 1978.

Hoquiam, WA—Bowerman Field, LOC Rwy 24, Original

3. By amending §97.27 NDB/ADF SIAP's identified as follows:

\*\*\* effective March 23, 1978.

Independence, KS—Independence Muni, NDB Rwy 35, Amdt. 6

Alpena, MI—Phelps-Collins, NDB Rwy 36, Amdt. 2

Kaiser/Lake Ozark, MO—Lee C. Fine Memorial, NDB Rwy 21, Amdt. 2

Lebanon, MO—Floyd W. Jones Lebanon, NDB Rwy 36, Amdt. 2

\*\*\* effective March 9, 1978.

Wilmington, DE—Greater Wilmington, NDB Rwy 1, Amdt. 12

Casey, IL—Casey Municipal, NDB Rwy 4, Amdt. 1

Freeport, IL—The Alvertus, NDB Rwy 24, Amdt. 6

Pittsfield, ME—Pittsfield Municipal, NDB Rwy 1, Amdt. 2

Worcester, MA—Worcester Municipal, NDB Rwy 11, Amdt. 9

Cadillac, MI—Wexford County, NDB Rwy 7, Amdt. 5

Grand Rapids, MI—Kent County, NDB Rwy 26L, Amdt. 11

St. Paul, MN—St. Paul Downtown Holman Field, NDB Rwy 30, Amdt. 2

St. Louis, MO—Spirit of St. Louis, NDB Rwy 7, Amdt. 4

Lexington, NE—Lexington Municipal, NDB Rwy 14, Amdt. 2

San Juan, PR—Puerto Rico International, NDB Rwy 7, Amdt. 4

San Juan, PR—Puerto Rico International, NDB Rwy 10, Amdt. 3

Hemingway, SC—Hemingway-Stuckey, NDB Rwy 11, Original

Morrisville, VT—Morrisville-Stowe State, NDB-A, Amdt. 3

\*\*\* effective February 9, 1978.

Youngstown, OH—Youngstown Municipal, NDB Rwy 32, Amdt. 14

Providence, RI—Theodore Francis Green State, NDB Rwy 5R, Amdt. 10

\*\*\* effective January 26, 1978.

Sault Ste Marie, MI—Chippewa County International, NDB Rwy 15, Original

4. By amending §97.29 ILS-MLS SIAP's identified as follows:

\*\*\* effective March 23, 1978.

Dothan, AL—Dothan, ILS Rwy 31, Amdt. 3

Alpena, MI—Phelps-Collins, ILS Rwy 36, Amdt. 2

\*\*\* effective March 9, 1978.

Wilmington, DE—Greater Wilmington, ILS Rwy 1, Amdt. 13

Worcester, MA—Worcester Municipal, ILS Rwy 11, Amdt. 9

Grand Rapids, MI—Kent County, ILS Rwy 26L, Amdt. 12

St. Paul, MN—St. Paul Downtown Holman Field, MLS Rwy 30 (Interim), Amdt. 3

St. Louis, MO—Spirit of St. Louis, ILS Rwy 7, Amdt. 4

San Juan, PR—Puerto Rico International, ILS Rwy 7, Amdt. 10

San Juan, PR—Puerto Rico International, ILS Rwy 10, Amdt. 2

Pierre, SD—Pierre Municipal, ILS Rwy 31, Amdt. 3

\*\*\* effective February 9, 1978.

Youngstown, OH—Youngstown Municipal, ILS Rwy 32, Amdt. 19

Providence, RI—Theodore Francis Green State, ILS Rwy 5R, Amdt. 8

Providence, RI—Theodore Francis Green State, ILS Rwy 23L, Original

\*\*\* effective January 26, 1978.

Sault Ste. Marie, MI—Chippewa County International, ILS Rwy 15, Original

5. By amending §97.31 RADAR SIAP's identified as follows:

\*\*\* effective March 9, 1978.

Minneapolis, MN—Minneapolis-St. Paul Int'l (Wold-Chamberlain), RADAR-1, Amdt. 27

Wilkes-Barre-Scranton, PA—Wilkes-Barre-Scranton, RADAR 1, Amdt. 8

\*\*\* effective February 9, 1978.

Youngstown, OH—Youngstown Municipal, RADAR-1, Amdt. 5

6. By amending §97.33 RNAV SIAP's identified as follows:

\*\*\* effective March 9, 1978.

Albany, GA—Albany-Dougherty County, RNAV Rwy 34, Original

Celina, OH—Lakefield, RNAV Rwy 26, Original

San Juan, PR—Puerto Rico International, RNAV Rwy 10, Amdt. 5

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 8489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 20, 1978.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

JAMES M. VINES,

Chief,

Aircraft Programs Division.

[FR Doc. 78-2189 Filed 1-25-78; 8:45 am]

## [8010-01]

## Title 17—Commodity and Securities Exchanges

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-10098]

## PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

## Delegation of Authority to Director of Division of Investment Management

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: This rule amendment delegates authority to the Director of the Division of Investment Management to notify registered management investment companies that the Commission intends to disclose, in response to requests therefor under the Freedom of Information Act, certain information contained in Part II of their annual report form classified as non-public.

EFFECTIVE DATE: January 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard W. Grant, Esq., Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-0242.

SUPPLEMENTARY INFORMATION: Instruction F of the general instructions for completing Form N-1R (17 CFR 274.101) the annual report for registered management investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) states in part:

F. Non-public classification of Part II of Report. If the registrant desires to have Part II of this report, including the Part II EDP Attachment, classified by the Commission as a nonpublic filing, it shall bind Part II separately from Part I and shall sign Part II separately in the form prescribed therefor. Such nonpublic classification by the Commission shall not preclude the Commission, if it should deem public disclosure necessary or appropriate in the public interest or for the protection of investors, from making public all or any portion of the information contained in Part II. . . . To provide an affected registrant an opportunity to state to the Commission any objections it might have to the public disclosure of any information contained in Part II, unless such information is then a requirement of an existing rule or form requiring public disclosure or unless a proceeding has been commenced before the Commission or a court, the Commission shall notify such registrant in writing of its intention to make or require public disclosure thereof not less than five business days prior to the date of such public disclosure.

The Commission has received requests under the Freedom of Information Act (15 U.S.C. 552) for disclosure of the information in Part II of the re-

ports on Form N-1R of a number of investment companies and has issued notifications to such investment companies as called for by general instruction F above declaring an intention to disclose the information in Part II, except for Item 2.28 thereof. The Commission believes that other similar requests may be filed in the future and that it is not necessary for the Commission to authorize the sending of notifications in each individual instance. Accordingly, the Commission believes it is appropriate to delegate authority to issue such notifications to the Director.

To accomplish this delegation of authority, the Commission hereby amends 17 CFR 200.30-5 by revising paragraph (a)(6) as follows:

§ 200.30-5 Delegation of authority to Director of Division of Investment Management.

(a) . . . .

(6) (i) To authorize the issuance of orders granting confidential treatment pursuant to section 45(a) of the Act (15 U.S.C. 80a-44(a)) where applications for confidential treatment are made regarding matters of disclosure in registration statements filed pursuant to section 8 of the Act (15 U.S.C. 80a-8), or in reports filed pursuant to section 30 of the Act (15 U.S.C. 80a-29), but only when the Commission has previously by order granted confidential treatment to the same information.

(ii) To notify an investment company of an intention to make or require public disclosure of Part II of any annual report on Form N-1R filed by such investment company (except for responses required by Item 2.28 thereof) if the Commission has received a request for disclosure thereof pursuant to the Freedom of Information Act (5 U.S.C. 552).

((15 U.S.C. 80a-44); (15 U.S.C. 78d-1, 78d-2).)

. . . .

The Commission finds that the foregoing action relates solely to agency management and personnel and, accordingly, that notice and prior publication for comment under the Administrative Procedure Act (5 U.S.C. 552 et seq.) are unnecessary.

Rule 45a-1 under the Investment Company Act of 1940 (17 CFR 270.45a-1) provides that the information contained in Item 2.28 of Part II cannot be disclosed without a hearing first being held. That item requires registrants to "(s)et forth, in order of size, for the fiscal year, the 10 dealers, by name, who sold the largest dollar amount of shares of the registrant."

By the Commission.

GEORGE A. FITZSIMMONS,  
 Secretary.

JANUARY 19, 1978.

[FR Doc. 78-2256 Filed 1-25-78; 8:45 am]

## [6740-02]

## Title 18—Conservation of Power and Water Resources

## CHAPTER I—FEDERAL ENERGY REGULATORY COMMISSION, DEPARTMENT OF ENERGY

## SUBCHAPTER C—REGULATIONS UNDER THE FEDERAL POWER ACT

[Docket No. RM75-27; Order Nos. 561, 561-A]

## PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS A AND CLASS B)

## PART 104—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT (CLASS C AND CLASS D)

## PART 141—STATEMENTS AND REPORTS (SCHEDULES)

## SUBCHAPTER F—REGULATIONS UNDER THE NATURAL GAS ACT

## PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT (CLASS A AND CLASS B)

## PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES (CLASS C AND CLASS D)

## PART 260—STATEMENTS AND REPORTS (SCHEDULES)

## Clarifying Order

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Clarifying Order Nos. 561 and 561-A.

SUMMARY: The Commission is clarifying only those parts of Order Nos. 561 and 561-A which require the relocation of the allowance for borrowed funds used during construction ("ABFUDC") from its prior location as a credit of the "other income" section of public utilities' income statement to a new location as a credit to the "interest charges" section of the income statement. Several parties to this proceeding petitioned for clarification of whether the Commission intended that the location as described previously would preclude petitioners and other utilities from including ABFUDC in determining earnings available for fixed charges and preferred stock dividend requirements for charter and indenture test purposes. The Commission held that Orders 561 and 561-A do not prevent a public utility from continuing to include

ABFUDC in determining its earnings available for fixed charges and preferred stock dividend requirements for charter and indenture coverage test purposes.

EFFECTIVE DATE: January 20, 1978.  
 FOR FURTHER INFORMATION CONTACT:

L. H. Drennan, Jr., Chief Accountant, Office of Chief Accountant, 202-275-4031.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a) (1) and (2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —: Provided, That this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On September 19, 1977, Jersey Central Power and Light Co., Metropolitan Edison Co., New England Power Co., Pacific Power and Light Co. and Pennsylvania Electric Co. (collectively referred to as "petitioners") filed with the Commission a petition for clarification of certain parts of Order Nos. 561 and 561-A. The Petitioners state

"The 'Commission' when used in the context of an action taken prior to October 1, 1977, refers to the Federal Power Commission when used otherwise, the reference is to the Federal Energy Regulatory Commission."

"Order Adopting Amendment to Uniform System of Accounts for Public Utilities and Licensees and for Natural Gas Companies, Order No. 561, Docket No. RM75-27, issued February 2, 1977."

"Order Denying Applications for Rehearing and Clarifying Prior Order No. 561-A, Docket No. RM75-27, issued August 1, 1977."



that they seek clarification of only those parts of Order Nos. 561 and 561-A which require the relocation of the allowance for borrowed funds used during construction ("ABFUDC") from its prior location as a credit of the "other income" section of petitioners' income statements to a new location as a credit to the "interest charges" section of the income statement. Specifically, petitioners urge clarification of whether the Commission intended that the relocation of ABFUDC as described above would preclude petitioners and other utilities from including ABFUDC in determining earnings for fixed charges and preferred dividend requirements for charter and indenture test purposes.

In support of their position that ABFUDC is properly includable in earnings available for fixed charges for corporate charter coverage test purposes, petitioners put forth several arguments, the most important of which are:

(1) That ABFUDC, like AOFUDC (Allowance of Other Funds Used During Construction), is compensation earned during the construction period (in the form of additions of Construction Work in Progress) but is not realized in cash (by way of a return on and return of such capital) until after the completed plant is placed in service;

(2) That including ABFUDC in earnings for coverage and indenture test purposes is consistent with the basic objective of the ratemaking process (i.e., to match costs and revenues); and,

(3) That certain language found in Order No. 561-A indicates that the Commission did not intend for ABFUDC to be precluded as a component in earnings available for fixed charges for corporate charter coverage test purposes.

The petitioners are correct in their belief that it was not the intent of the Commission in its Order No. 561 to prevent a public utility from continuing to include ABFUDC in determining its earnings available for fixed charges and preferred stock dividend requirements for charter and indenture coverage test purposes. The purpose of repositioning ABFUDC was, as stated in Order No. 561, "to better inform readers of financial statements of utilities as to the nature and level of the capitalized allowance for funds". In making this change it was not this Commission's intention to influence or interpret the rights of par-

\*Furthermore, the change in the location for the income statement for allowance for interest capitalized does not in itself change either the nature of the item of the degrees of protection afforded security holders by earnings of a utility", Order No. 561-A, *supra*, page six.

ties under existing indenture agreements and corporate charters.

The Commission finds: Good cause exists to grant the petition for clarification and for clarifying Order Nos. 561 and 561-A as hereinafter discussed.

The Commission orders: (A) The petition for clarification filed by Jersey Central Power Company, Metropolitan Edison Co., New England Power Co., Pacific Power & Light Co. and Pennsylvania Electric Co., is hereby granted and the Order Nos. 561 and 561-A issued February 2, 1977 and August 1, 1977, respectively, are clarified as set forth above.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

(FR Doc. 78-2238 Filed 1-25-78; 8:45 am)

#### [4910-22]

##### Title 23—Highways

#### CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

##### SUBCHAPTER D—NATIONAL HIGHWAY INSTITUTE

#### PART 260—EDUCATION AND TRAINING PROGRAMS

##### Fellowship and Scholarship Grants; Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document revises the fellowship and scholarship programs in order to provide greater program flexibility. Specific details for individual programs will continue to be described by annual FHWA Notices.

EFFECTIVE DATE: January 25, 1978.

FOR FURTHER INFORMATION CONTACT:

Roger L. Dean, University and Industry Programs Officer, National Highway Institute, 202-426-9143; or Roberta D. Gabel, Attorney, Office of Chief Counsel, 202-426-0790; Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are 7:45 a.m. to 4:15 p.m. ET, Monday-Friday.

SUPPLEMENTARY INFORMATION: On October 6, 1976, regulations establishing policy and eligibility requirements and selection criteria for certain FHWA programs administered by the National Highway Institute were published at 41 FR 44034. These regulations provided for an annual FHWA Notice announcing the programs scheduled for each year. The revised regulations published herein continue to describe the eligibility requirements and selection process for these programs, but in order to establish maximum program flexibility, provide only criteria relative to all scholarship and fellowship programs. Specific guidance relative to individual programs will continue to be issued in the annual Notices.

This revision codifies the policies and procedures contained in the Federal-aid Highway Program Manual, Volume 3, Chapter 2, Section 1. Inasmuch as the matters affected relate to benefits or contracts within the purview of 5 U.S.C. 553(a)(2), general notice of proposed rulemaking is not required.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and 11949 and OMB Circular A-107.

Issued: January 12, 1978.

L. P. LAMM,  
Executive Director.

In consideration of the foregoing, Subpart A of Part 260, Chapter I of Title 23 of the Code of Federal Regulations is revised to read as follows:

##### Subpart A—Fellowship and Scholarship Grants

Sec.  
260.101 Purpose.  
260.103 Definitions.  
260.105 Policy.  
260.107 Eligibility.  
260.109 Selection.  
260.111 Responsibilities of Educational Institutions.  
260.113 Responsibilities of Employing Agencies.  
260.115 Equal Opportunity.  
260.117 Application procedures.

AUTHORITY: 23 U.S.C. 307(a), 315, 321 and 403; and 49 CFR 1.48(b).

##### Subpart A—Fellowship and Scholarship Grants

##### § 260.101 Purpose.

To establish policy for the Federal Highway Administration (FHWA) Fellowship and Scholarship Programs as administered by the National Highway Institute (NHI).

##### § 260.103 Definitions.

As used in this regulation, the following definitions apply:

(a) *Candidate*. One who meets the eligibility criteria set forth in § 260.107, and who has completed and submitted the necessary forms and documents in order to be considered for selection for a fellowship or scholarship.

(b) *Direct Educational Expenses*. Those expenses directly related to at-

tending school including tuition, student fees, books, and expendable supplies but excluding travel expenses to and from the school.

(c) *Employing Agency*. The agency for which the candidate works. This may be either a State or local highway/transportation agency or the FHWA.

(d) *Fellowship*. The grant presented to the recipient's school and administered by the school to assist the candidate financially during the period of graduate study.

(e) *Living stipend*. The portion of the fellowship or scholarship grant remaining after the direct educational expenses have been deducted.

(f) *Local highway/transportation agency*. The agency or metropolitan planning organization with the responsibility for initiating and carrying forward a highway program or public transportation program utilizing highways at the local level, usually the city or county level.

(g) *National Highway Institute (NHI)*. The organization located within the FHWA responsible for the administration of the FHWA fellowship and scholarship grant programs.

(h) *Recipient*. The successful candidate receiving a fellowship or scholarship.

(i) *Scholarship*. The grant presented to the recipient's school and administered by the school to assist the candidate financially during the period of post-secondary study.

(j) *State highway/transportation agency*. The agency with the responsibility for initiating and carrying forward a highway program or public transportation program utilizing highways at the State level.

##### § 260.105 Policy.

It is the policy of the FHWA to administer, through the NHI, fellowship and scholarship grant programs to assist State and local agencies and the FHWA in developing the expertise needed for the implementation of their highway programs and to assist in the development of more effective transportation programs at all levels of government. These programs shall provide financial support for up to 12 months of full time or up to 24 months of part-time study in the field of highway transportation. The programs for each year shall be announced by FHWA notices. These notices shall contain an application form and shall announce the number of grants to be awarded and their value.

##### § 260.107 Eligibility.

(a) Prior recipients of FHWA scholarships or fellowships are eligible if

\*The Federal Highway Administration notices are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

they will have completed all specific work commitments before beginning study under the programs for which applications are made.

(b) Candidates for the fellowship program shall have earned bachelor's or comparable college-level degrees prior to beginning advanced studies under the program.

(c) Candidates shall submit evidence of acceptance, or probable acceptance, for study in programs that will enhance their contributions to their employers. Evidence of probable acceptance may be a letter from the department chairman or other school official.

(d) Candidates shall agree to pursue certain minimum study loads as determined by the FHWA and designated in the FHWA notices announcing the programs each year.

(e) FHWA employees who receive awards will be required to execute continued service agreements, consistent with the Government Employees Training Act requirements, which obligate the employees to continue to work for the agency for three times the duration of the training received.

(f) Candidates who are students or employees of State or local highway/transportation agencies shall agree in writing to work on a full-time basis in public service with State or local highway/transportation agencies for a specified period of time after completing study under the program. The FHWA notices announcing the programs each year shall specify the time period of the work commitment.

(g) Candidates shall agree to respond to brief questionnaires designed to assist the NHI in program evaluation both during and following the study period.

(h) Recipients of awards for full-time study shall agree to limit their part-time employment as stipulated in the FHWA notice announcing the programs.

(i) Candidates shall not profit financially from FHWA grants. Where acceptance of the living stipend portion of the grant would result in a profit to the candidate, as determined by comparing the candidate's regular full-time salary with the candidate's part-time salary and employer salary support plus living stipend, the grant amount will be reduced accordingly. In cases where a candidate must relocate and maintain two households, exceptions to this condition will be considered.

(j) Candidates shall be citizens, or shall declare their intent to become citizens of the United States.

##### § 260.109 Selection.

(a) Candidates shall be rated by a selection panel appointed by the Director of the NHI. Members of the panel shall represent the highway transpor-

tation interests of government, industry, and the academic community. The factors considered by the selection panel are weighed in accordance with specific program objectives.

(b) The major factors to be considered by the panel are:

(1) Candidate's potential to contribute to a public agency's highway transportation program.

(2) Relevance of a candidate's study program to the objectives of the fellowship or scholarship program.

(3) Relevant experience, and

(4) Academic and professional achievements.

(c) Using ratings given by the selection panel, the Director of the NHI shall select candidates for awards and designate alternates.

(d) The FHWA may designate in the FHWA notices announcing the programs the maximum number of awards that will be made to employees of any one agency.

##### § 260.111 Responsibilities of educational institutions.

(a) The college or university chosen by the grant recipient shall enter into an appropriate agreement with the FHWA providing for the administration of the grant by the college or university.

(b) The college or university chosen by the recipient shall designate a faculty advisor prior to the commitment of funds by the FHWA. The faculty advisor will be requested to submit reports of the recipient's study progress following completion of each study period. These reports are oriented toward total program evaluation. To assure the recipient's rights to privacy, the FHWA will obtain appropriate advance concurrence from the recipient.

##### § 260.113 Responsibilities of employing agencies.

(a) A candidate's employing agency is responsible for furnishing a statement of endorsement and information concerning the relevancy of the candidate's study to agency requirements. The agency is encouraged to identify educational and training priorities and to provide backup to support its priority candidates for these programs.

(b) Employing agencies are encouraged to give favorable consideration to the requests of candidates for educational leave and salary support for the study period to facilitate the candidates' applications. Agency decisions involving salary support and educational leave that will affect the acceptance of awards by recipients should be made at the earliest possible date to provide adequate time for the FHWA to select alternates to replace candidates that decline their awards.

(c) Agencies are responsible for negotiations with their candidates concerning conditions of reinstatement



and the candidates' commitments to return to work.

(d) Employing agencies are encouraged to publicize the availability of these grants throughout the agencies, to implement procedures for internal evaluation of applications, and to forward the applications to the FHWA division office in their State.

(e) Employing agencies that choose to process their employees' applications are responsible for observing the cutoff date for the FHWA to receive applications. This date will be stipulated in the Notices announcing the program for each academic year.

#### § 260.115 Equal opportunity.

(a) Consistent with the provisions of the Civil Rights Act of 1964 and Title VI, assurances executed by each State, 23 U.S.C. 324, and 29 U.S.C. 794, no applicant, including otherwise qualified handicapped individuals, shall on the grounds of race, color, religion, sex, national origin, or handicap, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under this program.

(b) In accordance with executive Order 11141, no individual shall be denied benefits of this program because of age.

(c) Agencies should make information on this program available to all eligible employees, including otherwise qualified handicapped individuals, so as to assure nondiscrimination on the grounds of race, color, religion, sex, national origin, age, or handicap.

#### § 260.117 Application procedures.

(a) The FHWA notices announcing each year's programs and containing the application form may be obtained from FHWA regional and division offices, State highway agencies, metropolitan planning organizations, Governors' highway safety representatives, Urban Mass Transportation Administration regional directors, major transit authorities and from colleges and universities. Forms may also be obtained from the NHI, HHI-3, FHWA, Washington, D.C. 20590.

(b) In order to become a candidate, the applicant shall complete and forward the application form according to the instructions in the FHWA notice announcing the programs. The cutoff date for submitting the application stipulated in the notices should be observed.

[FR Doc. 78-2259 Filed 1-25-78; 8:45 am]

#### [3810-70]

##### Title 32—National Defense

#### CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

##### SUBCHAPTER M—MISCELLANEOUS (DOD Directive 3224.1)

#### PART 192—ENGINEERING FOR TRANSPORTABILITY

AGENCY: Office of the Secretary of Defense, DOD.

ACTION: Final rule.

SUMMARY: This rule revises and updates Department of Defense policy and responsibilities for assuring that items of materiel, equipment, and transportation systems are so designed, engineered, modified, and constructed that the required quantities can be efficiently moved by available means of transportation.

EFFECTIVE DATE: November 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Lt. Col. Terry E. Harris, Containerization Systems Standardization Coordination Group, Office of the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), the Pentagon, Washington, D.C. 20301, telephone 202-697-0595.

SUPPLEMENTARY INFORMATION: In FR Doc. 68-11157 published in the FEDERAL REGISTER on September 14, 1968 (33 FR 13015), the Office of the Secretary of Defense published this rule to ensure uniform policies and procedures regarding transportability systems within the Department of Defense. This Part revises and elaborates certain aspects, that is design; impact of international standardization of intermodal containerization; shelters and special purpose vans.

Accordingly, Part 192 reads as follows:

- Sec.  
192.1 Reissuance and purpose.  
192.2 Applicability.  
192.3 Explanation of terms.  
192.4 Policy.  
192.5 Responsibilities.

AUTHORITY: 5 U.S.C. 301.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

JANUARY 23, 1978.

#### § 192.1 Reissuance and purpose.

This Part reissues 32 CFR 192 to provide policy guidance and assign responsibilities for assuring that items of materiel, equipment and transportation systems are so designed, engineered, modified, and constructed that

the required quantities can be efficiently moved by available means of transportation.

#### § 192.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, and the Defense Logistics Agency (DLA) (hereafter referred to as "DOD Components"). The term "Military Services" as used herein refers to the Army, Navy, Air Force and the Marine Corps.

#### § 192.3 Explanation of terms.

As used herein, the following definitions apply:

(a) *Engineering for Transportability* is the performance of those functions required in identifying and measuring the limiting criteria and characteristics of transportation systems; and the integration of these data into the design of materiel to utilize operational and planned transportation capability effectively. Limiting criteria and characteristics will include those created by standard unitizing method (pallets, containers). Transportability engineering criteria will thus consider modularity to improve cube utilization and dimensional standardization for military cargo as well as maximum dimensions and total weight.

(b) *Transportability* means the inherent capability of materiel to be moved by towing, by self-propulsion, or by carrier via railways, highways, waterways, pipelines, oceans and airways.

#### § 192.4 Policy.

(a) Transportability shall be a major consideration in:

(1) Formulating the priority of characteristics to be considered in the design of any new or modified item of materiel, or adoption of a commercial nondevelopmental item.

(2) Modifying existing transportation systems, and

(3) Developing integrated logistics support for systems and equipment in accordance with DOD Directive 4100.35<sup>1</sup>

(b) When planning and designing new or modified materiel, transportability criteria for all possible modes of transportation to be employed shall be considered in order to assure that items are so designed and constructed that they can be efficiently moved by available means of transportation.

(c) Equipment to be developed or procured will be designed so that its outside dimensions and gross weight (axle loads for vehicles) will permit handling, movement, and transfer

<sup>1</sup> Filed as part of original. Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120 Attention: Code 301.

among the various transportation systems that are expected to be available during its operating life.

(d) Only in exceptional cases may equipment be designed which will require special or unique arrangement of schedules, right-of-ways, clearances, or other operating conditions. In addition, equipment may be designed to the capabilities of a specific mode of transportation only when it has been determined that more restrictive modes will not be used or that such design is necessary to meet required capabilities.

(e) During the design, development, or modification of equipment which is large, bulky, heavy, or sensitive to shock and vibration, full consideration will be given to transportation, handling, tiedown, and slinging points, to disassembly capability for transportation purposes, ease of onsite reassembly for use, and safety during transportation. Self-propulsion will also be considered in the design where applicable and necessary.

(f) Transportability design will specifically consider the impact of international standardization of intermodal containerization in standardizing and facilitating worldwide distribution.

(1) *Intermodal Containerization*. International container systems are designed to International Standards Organization (ISO) dimensional, strength and lift specifications as prescribed by DOD Instruction 4500.37. Accordingly, cargo and equipment packaging considerations must take mode of transportation into account. Design considerations should include standardizing small containers, inserts or other unit loads, which are modular to the interior dimensions of the containers to optimize cube utilization.

(2) *Shelters and Special Purpose Vans*. Specific emphasis will be placed on the design or modification of shelters and special purpose vans to ensure that they conform to International Standards Organization (ISO) dimensional, and strength specifications as directed in DOD Instruction 4500.37, as well as emphasis on the packaging and design/redesign of equipment for use within such shelters/special purpose vans.

#### § 192.5 Responsibilities.

(a) The Secretaries of the Army, Navy, and Air Force shall designate, within existing manpower ceilings, an operating agency at an appropriate level within their respective Departments which will be responsible for:

(1) Issuing, under the sponsorship of the Secretary of the Army, Joint Army, Navy, Air Force and Marine Corps, regulations implementing this Part for uniform use by all DOD Components.

(2) Issuing, under the sponsorship of the appropriate Military Department (see DOD Directives 5160.2, 5160.10, and 5160.53), joint transportability criteria covering (i) modes of transportation and terminals, and (ii) pertinent characteristics of transportation equipment.

(3) Ensuring that the transportability of new materiel is determined by analysis or testing during the Research, Development, Test and Evaluation (RDT&E) programs or prior to procurement for commercial nondevelopment materiel and documenting test results for transportability guidance.

(4) Issuing, under the sponsorship of the appropriate Military Department, joint transportability guidance for materiel for which each Military Department has prime responsibility.

(5) Ensuring that joint Military Service coordination is effected prior to modification of a transportation system which may affect the transportability requirements of another Military Service.

(b) The Secretary of the Navy shall be responsible for (1) coordinating DOD transportability interests in common-user ship construction and modification programs with appropriate Federal agencies, and (2) integrating the foreseen needs of the DOD Components into these programs.

(c) The Secretary of the Air Force shall be responsible for (1) coordinating DOD transportability interests in common-user aircraft construction and modification programs with appropriate Federal agencies, and (2) integrating the foreseen needs of the DOD Components into these programs.

(d) The Secretary of the Army shall be responsible for (1) coordinating DOD transportability interests in common-user land transportation programs with Federal and State agencies in the United States and with appropriate agencies overseas, and (2) integrating the foreseen needs of the DOD Components into these programs. (See 32 CFR 193 concerning coordination of highways for National Defense matters with Federal and State agencies.)

[FR Doc. 78-2269 Filed 1-25-78; 8:45 am]

#### [4910-14]

##### Title 33—Navigation and Navigable Waters

#### CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 77-051]

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bayou Teche, La.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations for the S-96 highway drawbridge across Bayou Teche at St. Martinville and the S-350 highway drawbridge across Bayou Teche at Parks to require at least 24 hours notice at all times. These changes are being made because of infrequent requests for openings of the draws of these bridges. This amendment also places all of the drawbridges over Bayou Teche, where constant attendance of draw tenders is not required, in one section for clarity. The first paragraph lists the bridges requiring 24 hours' advance notice and the second paragraph lists those requiring 48 hours' advance notice. The regulations requiring 48 hours' notice are the same as existing regulations and apply to the following bridges: S-31 bridge at Ruth; S-31 bridge at Breaux Bridge and the Southern Pacific bridge at Breaux Bridge.

EFFECTIVE DATE: This amendment is effective on February 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On August 1, 1977, the Coast Guard published a proposed rule (42 FR 38919) concerning this amendment. The Commander (obr), Eighth Coast Guard District, also published these proposals as a Public Notice dated August 2, 1977. Interested persons were given until August 31, 1977 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Edward J. Gill, Project Attorney, Office of the Chief Counsel.

#### DISCUSSION OF COMMENTS

One comment was received which requested that consideration be given to the fact that pleasure boats occasionally visit the state park above the bridges and enjoy the scenery along Bayou Teche. This was considered, however, the openings for these bridges were too infrequent to warrant other than the proposed change. The St. Martinville Bridge had five openings in 1975, 15 in 1976, and seven through July 1977. The Parks bridge had three in 1975, nine in 1976, and five through July 1977.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended as follows:



# **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

## **§ 117.540 [Amended]**

1. In § 117.540(b)(2), by deleting "Bayou Teche, mile 75.2, S-96 highway drawbridge at St. Martinville," and "Bayou Teche, mile 82.0, S-305 highway drawbridge at Parks," from the listing.

2. By revising § 117.245(j)(10) and deleting § 117.245(j)(11) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

(j) . . . .

(10) Bayou Teche, La.

(i) S-96 highway drawbridge, mile 75.2, at St. Martinville, and S-350 highway drawbridge, mile 82.0, at Parks. The draws shall open on signal if at least 24 hours notice is given.

(ii) S-31 highway drawbridge, mile 87.5, at Ruth, S-31 highway drawbridge, mile 90.5, at Breaux Bridge, and Southern Pacific Railroad drawbridge (removable span), mile 91.0, at Breaux Bridge. The draws shall open on signal if at least 48 hours notice is given.

(11) [Deleted.]

(Sec. 5, 28 Stat. 362, as amended; sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: January 17, 1978.

O. W. SILER,  
Admiral, U.S. Coast Guard  
Commandant.

[FR Doc. 78-2277 Filed 1-25-78; 8:45 am]

## **[4910-14]**

### **Title 46—Shipping**

# **CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION**

[CGD 77-163]

## **PART 7—BOUNDARY LINES**

### **General Rule**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard recently published boundary lines that are

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used to ascertain the applicability of certain statutes. This document establishes a general rule for determining the boundary line when it is not specifically listed. The general rule was inadvertently omitted from the previous document.

EFFECTIVE DATE: This amendment is effective on January 28, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Since this amendment consists of an interpretive rule, it is excepted from the rulemaking requirements in 5 U.S.C. 553, and may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

### **DRAFTING INFORMATION**

The principal person involved in drafting this rule is: Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

### **DISCUSSION OF REGULATIONS**

When the Coast Guard published the boundary lines (42 FR 35793), a general rule for those areas without a boundary line was inadvertently not included. The general rule published in this document establishes a method of drawing a boundary line for those waters where there is no specific boundary line drawn. This method is the same method that was used prior to the publication of the boundary lines in July 1977. The general rule is clarified to indicate that the line may be drawn through more than one aid to navigation.

Accordingly Part 7 of Title 46 of the Code of Federal Regulations is amended by adding a new § 7.3 to read as follows:

§ 7.3 General rule for establishing boundary lines.

At all buoyed entrances from seaward to bays, sounds, rivers, or other estuaries for which specific lines are not described in this part, the waters inshore of a line approximately parallel with the general trend of the shore, drawn through the outermost buoy or buoys or other aid to navigation of any system of aids, are inland waters.

(Sec. 2, 28 Stat. 672, as amended (33 U.S.C. 151); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).)

Dated: January 17, 1978.

O. W. SILER,  
Admiral, U.S. Coast Guard  
Commandant.

[FR Doc. 78-2276 Filed 1-25-78; 8:45 am]

## **[6730-01]**

# **CHAPTER IV—FEDERAL MARITIME COMMISSION**

[General Order 39, Amdt. No. 1—Docket 77-22]

## **PART 507—ACTIONS TO ADJUST OR MEET CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES**

### **Summary Reports**

AGENCY: Federal Maritime Commission.

ACTION: Amendment to Final Rule.

SUMMARY: The Commission amends its regulations for summary reports of cargo carryings, to provide that the Equalization Fee imposed upon cargo transported by a favored carrier will be refunded if it is shown to the satisfaction of the Commission that the Government of Guatemala is waiving the imposition of the Decree 41-71 penalties on either all cargo carried by non-favored carriers or on the same class of cargo for which the refund is requested (commodity, container, etc.), carried by non-favored carriers.

EFFECTIVE DATE: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, room 1101, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTAL INFORMATION: Subsequent to the publication of Part 507, but prior to the effective date of its implementation, the Government of Guatemala indicated that it may be willing to suspend the imposition of Decree 41-71 on selected classes of cargo pending repeal of that Decree on February 21, 1977. To the extent that any such waivers are granted, there is no need for the imposition of a countervailing or equalizing fee on such cargo, and the Commission has determined that § 507.4(d) of its regulations should be amended to permit refund of any such fee imposed on the same classes of cargo which are given waivers by the Government of Guatemala during the period in question.

The Commission finds that it would be contrary to the public interest to delay implementation of the foregoing amendment, since such delay would be detrimental to resolution of the conflict between the Government of the United States and the Government of Guatemala. Accordingly, this amendment will be effective on January 13, 1978.

Therefore, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920 (46 U.S.C. 876(1)(b)) and sections

## **RULES AND REGULATIONS**

21, 29, 32, and 43 of the Shipping Act, 1916 (46 U.S.C. 820, 828, 831, and 841a), the Commission hereby amends 46 CFR 507.4(d) as follows:

§ 507.4 Summary reports of cargo carryings.

(d) If the reporting carrier wishes a refund of the Equalization Fee on any particular shipment, it must show, to the satisfaction of the Commission, that (1) the particular shipment is not receiving benefits under the Guatemalan industrial development laws of the Central American Agreement on Tax Incentives for Industrial Development, (2) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on all cargo carried by non-favored carriers, or (3) the Government of Guatemala is waiving the imposition of Decree 41-71 penalties on the same class of cargo for which the refund is requested (commodity, container, etc.), carried by nonfavored carriers.

By the Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2205 Filed 1-25-78; 8:45 am]

## **[6712-01]**

### **Title 47—Telecommunication**

# **CHAPTER 1—FEDERAL COMMUNICATIONS COMMISSION**

[FCC 78-5]

## **PART 63—EXTENSION OF LINES AND DISCONTINUANCE OF SERVICE BY CARRIERS**

## **PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

### **Correction of Inadvertent Drafting Errors**

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to correct inadvertent drafting errors in the rules regarding applications of telephone common carrier for construction and/or operation of CATV channel facilities, and the furnishing of these facilities for CATV service to the viewing public. These amendments clarify interpretive notes to §§ 63.54 and 64.601.

EFFECTIVE DATE: February 27, 1978.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Roger J. Hertz, Tariff Division, Common Carrier Bureau, 202-632-7164.

In the Matter of amendment of §§ 63.54 and 64.601 of the rules and regulations.

Adopted: January 11, 1978.

Released: January 23, 1978.

By the Commission.

1. The Commission has under consideration §§ 63.54 and 64.601 of our rules. Section 63.54 deals with applications of telephone common carriers for authority to construct and/or operate CATV facilities in their service areas, and § 64.601 concerns the furnishing of facilities by telephone common carriers for CATV service to the viewing public. The purpose of the amendments we are adopting herein for these sections is to correct certain inadvertent drafting errors. Since our action herein merely clarifies interpretive notes to our rules, the prior notice provisions of 5 U.S.C. § 553 are inapplicable—See 5 U.S.C. § 553(b)(3)(A).

2. Note 2 of § 64.601 provides a definition of ownership for administrative purposes. However, it refers only to "paragraph (a) of this section." The language of Note 2 is patterned after similar language in Notes 4, 5, and 6 of § 73.35 of our rules concerning multiple ownership of broadcast stations. The language of these notes in effect when § 64.601 was adopted did not limit their applicability to any particular paragraph in § 73.35. Further, paragraph (c) of Note 2 to § 64.601 speaks in terms of "for purposes of this section" without any limitation to paragraph (a) of § 64.601. Finally, neither the Commission's report and order adopting the section, nor its order on reconsideration, provide any reason for not applying Note 2 to paragraph (b) of the section. We believe it evident that it was the Commission's intention that Note 2 apply to paragraph (b), since its application to only paragraph (a) would leave paragraph (b) without any definition of stockholder control despite an obvious need for some kind of definition for purposes of administration. We will therefore amend it to reflect accordingly.

3. Additionally, Note 2 to § 63.54 of the rules, adopted in the same order adopting § 64.601, is made applicable to the "above paragraphs of this section." Section 63.54 contains only one paragraph. Therefore, we will amend Note 2 to state its applicability "to this section."

4. Accordingly, it is ordered, Effective February 27, 1978, That §§ 63.54 and 64.601 of the Commission's rules and regulations are amended as set

<sup>1</sup>See below for current text of §§ 63.54 and 64.601.

<sup>2</sup>See 21 FCC 2d 307, at 329, 22 FCC 2d 746, at 751.

forth below. Authority for these amendments is contained in Sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 154 (i) and (j).

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

Parts 63 and 64 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

1. In § 63.54, Note 2 is revised to read as follows:

§ 63.54 Applications of telephone common carrier for construction and/or operation of CATV channel facilities in their service areas.

Note 2: In applying the provisions of this section to the stockholders of a corporation which has more than 50 stockholders:

2. In § 64.601, Note 2, introductory paragraph, is revised to read as follows:

§ 64.601 Furnishing of facilities for CATV service to the viewing public.

(b) . . . .

Note 2: In applying the provision of this section to the stockholders of a corporation which has more than 50 stockholders:

[FR Doc. 78-2183 Filed 1-25-78; 8:45 am]

## **[1505-01]**

[Docket No. 20728; FCC77-857]

## **PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES**

Implementing Changes in Frequencies and Operating Procedures Relating to the Use of Radiotelephony in the Maritime Services, Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974, in the Bands 1605-4000 kHz and, as are Applicable to Limited Coast and Ship Stations, 4 to 23 MHz, and Certain Consequential Changes

### **Correction**

In FR Doc. 78-518 appearing at page 1623 in the issue for Wednesday, January 11, 1978, in § 83.351(a), in the table, the carrier frequency now read-



V  
4  
3  
1  
8  
  
J  
A  
2  
6  
  
7  
8  
UMI

ing "12432.2" (appearing in the second column of page 1624) should have read "12432.3".

## [7035-1]

Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-100 (Sub-No. 2)]

## REVISION OF PROCEDURES REQUIRING SERVICE OF APPLICATIONS ON STATE OFFICIALS

AGENCY: Interstate Commerce Commission.

ACTION: Final regulations.

**SUMMARY:** These rules eliminate the requirements for serving on State officials copies of applications for permanent motor carrier certificates and permits, applications to consolidate, merge, purchase, lease or control operating rights or properties of motor carriers, and applications for temporary authority to operate motor-carrier properties sought to be acquired under separately filed application under section 5 of the Interstate Commerce Act. They provide that simple FEDERAL REGISTER publication will serve as notice to State Public Utilities Commissions and that those States which need more detailed information in a given proceeding may obtain from the applicant, upon request, a copy of the application as filed with the Commission. This new procedure would expedite the application process (with attendant savings of expense), and also eliminate maintenance of needless records by State functionaries.

EFFECTIVE DATE: April 1, 1978

## FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7292.

**SUPPLEMENTARY INFORMATION:** Upon petition by the National Association of Regulatory Utilities Commissioners (NARUC) and pursuant to Recommendation No. 29 of the Commission's Staff Task Force report (issued July 6, 1977), this proceeding was instituted on September 28, 1977, by notice of proposed rulemaking published in the FEDERAL REGISTER on October 4, 1977 (42 FR 53982-84) to revise the procedures for serving copies of applications on State officials.

## DISCUSSION AND CONCLUSIONS

Notice to the State is required in part by section 205(e) of the Interstate Commerce Act (49 U.S.C. 305(e)).

In accordance with rules prescribed by the Commission, reasonable notice shall be afforded, in connection with any proceeding under this part, to interested parties and to the board of any State, or to the Governor if there be no board, in which the motor-carrier operations involved in the proceeding are or are proposed to be conducted . . .

Additionally, section 5(2)(b) of the Act (49 U.S.C. 5(2)(b)) with regard to various consolidations and mergers:

... the Commission shall notify the Governor of each State in which any part of the properties of the carriers involved in the proposed transaction is situated . . . (and, in case carriers by motor vehicle are involved the persons specified in section 305(e)), and shall afford reasonable opportunity for interested parties to be heard.

The language of these provisions places with the Commission the discretion to determine what type of notice should be provided.

The Commission regulations have long provided that notice of applications will be published in the FEDERAL REGISTER and such publication is the only notice given to "interested parties". This procedure has been held to be sufficient to fulfill the requirements of the Act, *Buckner Trucking, Inc. v ICC*, 354 F. Supp. 1210, 1219 (S.D. Tex. 1973). Section 1508 of the Federal Register Act (44 U.S.C., ch. 15) also provides that FEDERAL REGISTER publication will be deemed notice to all "persons" residing in the States or the District of Columbia. Although State regulatory bodies are not included specifically within the purview of the Federal Register Act, notice which is deemed sufficient to parties which often have large pecuniary interests in these application proceedings, must also be deemed sufficient to the States which do not have comparable interest to protect. We generally agree with those parties which believe that adequate notice of the involved proceedings can be provided to the States through FEDERAL REGISTER publication alone.

Having determined that FEDERAL REGISTER publication is acceptable notice within the meaning of the Interstate Commerce Act, we must decide whether the States have any interest in these proceedings which requires greater protection than that afforded by such notice. The States' apparent lack of concern with this matter is demonstrated by their failure to participate. The bulk of the evidence we have of the States' opinions indicates that they have no substantial stake in maintenance of the existing rules or adoption of the proposed rules. Even those States which desired to continue to receive copies of the involved applications (Connecticut, for example) did not show any substantial or important use to which they are

put.\* On the other hand, the record indicates that many States have no desire to receive this material and either discard it immediately or must spend time and money to keep it on file. The record is replete with examples of the effort, time, and expense required of applicants in preparing copies of their applications. On balance, this cost to applicants has not been shown to be justified by concomitant benefits derived by the States from receipt of such material. However, we agree with the Public Utilities Commissioner of Oregon that some sort of mailed notice should be provided to the State of applicant's domicile or the State where its headquarters are located. This can be achieved with minimal cost and effort on the part of applicant by mailing to such State (1) for motor carrier operating rights, application a copy of the caption summary (49 CFR 1100.247(c)) which already is required to be submitted with such application, and (2) for finance applications, a copy of the FEDERAL REGISTER publication Notice [49 CFR 1100.240(b)].

Finally, if some States do have some substantial interest in obtaining copies of Commission applications which did not come to light here, such interest is protected adequately by the provision in the adopted rules for mailing by applicant of a copy of the application upon request by the States.\*

## CONCLUSION

We are convinced, on the basis of the comments received, that the revisions adopted in this proceeding will be of substantial benefit to applicants and State Public Utilities Commissions alike. Such rules are reasonable and necessary to effectuate the public interest and to promote effective administration of the Act.

Accordingly, 49 CFR 1130.1(b), 1134.1(b), 1134.6(b), and 1134.50(b) are amended to read as follows:

## SUBCHAPTER B—PRACTICE AND PROCEDURE

## PART 1130—APPLICATIONS FOR MOTOR CARRIER CERTIFICATES AND PERMITS

## § 1130.1 Applications.

(b) *Filing and service.* The verified original of each application shall be filed with this Commission, one true copy with the Regional Operations Director of the Bureau of Operations located in the region where applicant is domiciled and one copy shall be delivered,

\*States like Florida which use the applications can continue to receive them upon request.

\*With respect to this provision and to the mailing of notice to domiciliary States, we have given effect to the near unanimous opinion that first-class mail is adequate.

ered, upon written request, by first-class mail, to the Board, Commission, or official (or Governor if there is no Board, Commission, or official) having authority to regulate the business of transportation by motor vehicles, of each State in or through which applicant operates or proposes to operate. A caption summary of the application (as provided in § 1100.247(c) of this chapter) shall be delivered in the same manner to the appropriate Board or official of applicant's State of domicile.

## PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

## § 1134.1 Applications for authority to merge properties or franchises.

(b) The original of each application and five copies shall be filed with this Commission, one copy with each of the Regional Operations Directors of the Bureau of Operations in which the headquarters of the carriers are located and one copy shall be delivered, upon written request, by first-class mail, to the Board, Commission, or official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which the carriers operate. A summary of the application (as provided in § 1100.240(b) of this chapter) shall be delivered in the same manner to the appropriate Board or official of the State in which the headquarters of the carriers are located.

## § 1134.6 Applications for approval of temporary operation.

(b) The original of each application and five copies shall be filed with this Commission, one copy with each of the Regional Operations Directors of the Bureau of Operations in which the headquarters of applicants are located, and one copy shall be delivered, upon written request, by first-class mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in each State in which the applicants operate. A summary of the application (as provided in § 1100.240(b) of this chapter) shall be delivered in the same manner to the appropriate Board or official of the State in which the headquarters of applicants are located.

## § 1134.50 Application for authority to acquire control.

resource, and will provide additional recreation opportunity to the public.

DATES: See below.

## FOR FURTHER INFORMATION CONTACT:

Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, Route 1, Box V, Puxico, Mo. 63960, 314-222-3589.

**SUPPLEMENTARY INFORMATION:** Hunting is permitted on the Mingo National Wildlife Refuge, Missouri, only on the areas designated by signs as being open to hunting. These areas comprising 6,500 acres are delineated on maps. Sport fishing is permitted on the Mingo National Wildlife Refuge, Missouri, only on the areas designated by signs as being open to fishing. These areas comprising 4,300 acres are delineated on maps. Maps for the above areas are available at the refuge headquarters and from the office of the Area Manager, United States Department of the Interior, Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116.

§ 32.22 Special Regulations; Upland Game; for individual wildlife refuges. Squirrel hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. The open season for hunting squirrels on the refuge extends from opening date of Statewide season, August 1, 1978 through September 30, 1978.

2. Hunters must register when entering the refuge and record kill when leaving.

§ 32.32 Special Regulations; Big Game; for individual wildlife refuges.

Deer hunting shall be in accordance with all applicable State regulations subject to the following conditions:

1. Hunting with bows and arrows only is permitted.

2. Hunters must register when entering and leaving the area.

3. Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.

§ 33.5 Special Regulations; Sport Fishing; for individual wildlife refuge areas.

Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Open Season: January 1, 1978 through March 14, 1978 in designated waters.

2. Open Season: March 15, 1978 through September 30, 1978 in all waters.

3. Open Season: October 1, 1978 through December 31, 1978 in designated waters.

## SUBCHAPTER A—GENERAL RULES AND REGULATIONS

## PART 1003 LIST OF FORMS

The application forms are modified as follows: The Certificate of Service, (found on page 5 of Form OP-OR-9, page 12 of Form OP-F-44, of Page 10 of Form OP-F-45 and page 3 of Form OP-F-46), is deleted to the extent it requires certification of delivery of a copy of such applications to appropriate State Boards. Instruction number 6 (found on page 13 of Form OP-F-44, page 11 of OP-F-45, and page 3 of OP-F-46) is modified by deleting from sentence 1 thereof the instructions following the words, "... the carriers involved in the application."

(49 U.S.C. 5, 304, 305; 5 U.S.C. 552, 553, 559.)

Dated: January 9, 1978.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2212 Filed 1-25-78; 8:45 am]

## [4310-55]

## Title 50—Wildlife and Fisheries

## CHAPTER 1—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

## PART 33—SPORT FISHING

## Opening of Mingo National Wildlife Refuge, Missouri To Hunting and Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

**SUMMARY:** The Director has determined that the opening to squirrel hunting and deer hunting and sport fishing of Mingo National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural



4. Use of all motors is prohibited. The provisions of these special regulations supplement the regulations which govern hunting and fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Parts 32 and 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 18, 1978.

GERALD L. CLAWSON,  
Refuge Manager, Mingo National  
Wildlife Refuge, Purico, Mo.  
[FR Doc. 78-2229 Filed 1-25-78; 8:45 am]

## [3510-22]

**CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS**

**Taking of Marine Mammals Incidental to Commercial Fishing Operations**

AGENCY: National Marine Fisheries Service.

ACTION: Final rule.

SUMMARY: The Assistant Administrator for Fisheries, National Marine Fisheries Service (NMFS), in consultation with the Department of State, finds that Bermuda is in substantial conformance with U.S. regulations governing the taking of marine mammals (i.e., porpoise) incidental to commercial fishing operations. In finding that this nation is not fishing in a manner proscribed for persons subject to the jurisdiction of the United States, the Assistant Administrator for Fisheries exempts this nation from the importation prohibition provisions affecting yellowfin tuna and tuna products.

EFFECTIVE DATE: January 20, 1977.  
FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: The NMFS published regulations in the FEDERAL REGISTER on December 23, 1977, 42 FR 64551-64560 governing the taking of marine mammals incidental

to commercial fishing operations. (50 CFR 216.24.) These regulations include provisions concerning the importation of yellowfin tuna and tuna products from nations known to be involved in the tuna purse seine fishery in the eastern tropical Pacific Ocean (ETP). Importation of certain yellowfin tuna and tuna products from these countries is contingent upon certain findings by the Assistant Administrator for Fisheries in accordance with § 216.24(e)(5).

Canada, Ecuador, Mexico, the Netherlands Antilles, Nicaragua and Panama previously supplied the NMFS with adequate information to indicate that their tuna purse seine operations in the ETP are in substantial conformance with U.S. regulations. Subsequently, the Assistant Administrator for Fisheries published in the FEDERAL REGISTER (42 FR 56617, October 21, 1977; 42 FR 64121, December 22, 1977; and 43 FR 1093, January 6, 1978) notice that yellowfin tuna and tuna products from those six nations are exempted from the importation prohibition provisions which would have affected them after December 31, 1977. Bermuda is hereby given a similar exemption.

This finding by the Assistant Administrator for Fisheries, made in accordance with § 216.24(e)(5)(i), exempts Bermuda from the import provisions concerning yellowfin tuna and tuna products listed in § 216.24(e)(2)(ii). However, the requirements listed in § 216.24(c)(4) will continue to apply. The Assistant Administrator considered all available information in making this finding. Information submitted by Bermuda is available to the public at the information contact address set out above, and is summarized in the following:

**BERMUDA**

(a) *Fleet.* Five Bermudian tuna purse seine vessels will operate in the ETP in 1978. Two of these vessels are small seiners not capable of intentionally setting on porpoise to catch tuna. Their annual tuna catch is largely comprised of skipjack tuna with yellowfin only represented incidentally. The three remaining vessels are capable of intentionally setting on porpoise and are equipped with porpoise release gear similar to that required on U.S. vessels.

The Bermudian operators are familiar with and regularly follow the porpoise release procedures required for U.S. vessel operators. The Bermudian government will allow observers (Bermudian or international) aboard the vessels upon request.

(b) *Porpoise mortality.* The Bermudian government estimated the 1977 total porpoise mortality among their three purse seiners to be 200 animals. This estimate was based on vessel log-

books and interviews with skippers. The government stated that this mortality level indicated a kill rate similar to that observed in the U.S. fleet in 1977.

The government further stated that this mortality would undoubtedly not be exceeded in 1978. This statement is based on the fact that 1977 was a poor year for schoolfish and Bermudian vessels did not have to compete with U.S. seiners for tuna associated with porpoise in the first part of the year. These facts indicate that 1977 may represent an abnormally high year for porpoise mortality by Bermudian vessels.

(c) *Miscellaneous.* The Bermudian government has secured agreements from the vessel owners that more detailed porpoise mortality logbooks will be maintained in 1978 and that observers may be placed aboard the vessels as mentioned above.

This finding will be subject to an annual review. NMFS will require an update of the items listed in § 216.24(e)(5)(ii) to ensure that the conditions which supported the original finding continue to exist.

NMFS will continue monitoring the status of the international tuna purse seine fleet operating in the ETP. Changes to the list of nations affected by the importation prohibitions of yellowfin tuna and tuna products under § 216.24(e)(5) will be published in the FEDERAL REGISTER.

Dated: January 20, 1978.

WINFRED H. MEIBOHM,  
Associate Director,  
National Marine Fisheries Service.  
[FR Doc. 78-2237 Filed 1-25-78; 8:45 am]

## [3510-22]

**CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 611—FOREIGN FISHING**

**Gear Conflict**

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final amendment.

SUMMARY: This amendment to the foreign fishing regulations provides U.S. fishermen with an additional method for seeking redress when fixed gear has been damaged as a result of activities by foreign fishermen.

EFFECTIVE DATE: January 19, 1978.  
FOR FURTHER INFORMATION CONTACT:

Mr. Richard H. Schaefer, Chief, Fishery Management Operations Division, National Marine Fisheries

Service, Washington, D.C. 20235, telephone 202-634-7545.

SUPPLEMENTARY INFORMATION: On December 5, 1977, NOAA published an interim amendment to its regulations in order to provide a mechanism through compulsory arbitration by which U.S. fishermen can obtain fair and speedy reimbursement for documented gear losses caused by foreign fishing vessels operating inside the fishery conservation zone under permits issued by the United States. The amendment was effective immediately on an interim basis and comments were solicited prior to the publication of a final amendment.

On December 14, 1977, NOAA published a clarification of the interim final amendment but left the dates for implementation (December 9, 1977) and comment (December 29, 1977) set forth in the original publication the same. No comment which would require revision of the interim final amendment published on December 14, 1977, has been received. Accordingly, that amendment is adopted as a final amendment to the foreign fishing regulations.

Signed at Washington, D.C., this 19th day of January 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

Amend 50 CFR 611.11 by adding a new paragraph (d) as follows:

§ 611.11 Gear conflict.

(d) Claims concerning the loss of or damage to the fishing vessel, fishing gear or catch of a U.S. citizen which may have been caused by a foreign fishing vessel fishing pursuant to the Act may be resolved as follows:

(1) Claims involving loss or damage of property amounting to \$25,000 or less must be submitted to binding arbitration whenever demanded by the U.S. claimant or the owner or operator of the foreign fishing vessel which may have caused the loss or damage. If arbitration is demanded, both the U.S. claimant and the owner or opera-

tor of the foreign vessel, or their agent, must appear at the arbitration proceedings and be bound by the decision of the arbitrator.

(2) Claims involving loss or damage of property amounting to over \$25,000 must be submitted to binding arbitration whenever demanded by the U.S. claimant. If arbitration is demanded by the U.S. claimant, the owner or operator of the foreign vessel, or their agent, must appear at the arbitration proceedings and the parties will be bound by the decision of the arbitrator.

(3) A demand for arbitration must be made in writing to the other party. Any arbitration proceeding under this paragraph shall be conducted according to the Commercial Arbitration rules of the American Arbitration Association, and shall be conducted in the United States. The list from which arbitrators are selected will, whenever possible, include individuals with knowledge in fishery matters or admiralty law.

[FR Doc. 78-2285 Filed 1-25-78; 8:45 am]



## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

### DEPARTMENT OF AGRICULTURE

#### Agricultural Marketing Service

[7 CFR Parts 1071, 1073, 1097, 1102, 1104, 1106, 1108, 1120, 1126, 1132, 1138]

[Docket Nos. AO-231-A45, etc.]

#### MILK IN THE TEXAS AND CERTAIN OTHER MARKETING AREAS

Extension of Time for Filing Exceptions to the Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

7 CFR Parts	Marketing area	Docket Nos.
1071	Neosho Valley .....	AO-227-A34
1073	Wichita, Kans. ....	AO-173-A35
1097	Memphis, Tenn. ....	AO-219-A34-RO1
1102	Fort Smith, Ark. ....	AO-237-A28-RO1
1104	Red River Valley..	AO-298-A28
1106	Oklahoma	
	Metropolitan. ....	AO-210-A41
1108	Central Arkansas. ....	AO-243-A32-RO1
1120	Lubbock	
	Plainview, Tex..	AO-328-A21
1126	Texas. ....	AO-231-A45
1132	Texas Panhandle. ....	AO-262-A30
1138	Rio Grande Valley.	AO-335-A26

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions.

SUMMARY: This notice extends the time for filing exceptions to the December 20, 1977, decision recommending a base-excess plan in 11 Southwest markets. Interested parties requested the additional time to complete their analysis of the decision.

DATE: Exceptions now are due on or before March 1, 1978.

ADDRESS: Exceptions (six copies) should be filed with the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4824.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notices of Hearing: Issued February 11, 1977, published February 14, 1977 (42 FR 9674); issued March 3, 1977,

published March 8, 1977 (42 FR 13024); and issued March 25, 1977, published March 31, 1977 (42 FR 17130).

Extension of time for filing briefs: Issued May 18, 1977, published May 23, 1977 (42 FR 26217).

Recommended Decision: Issued December 20, 1977, published December 29, 1977 (42 FR 65088).

Notice is hereby given that the time for filing exceptions to the recommended decision, with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Texas and certain other marketing areas which was issued December 20, 1977 (42 FR 65088) is hereby extended to March 1, 1978.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 USC 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on January 20, 1978.

WILLIAM T. MANLEY,  
Deputy Administrator,  
Marketing Program Operations.

[FR Doc. 78-2222 Filed 1-25-78; 8:45 am]

[3128-01]

### FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205 and 303]

#### ADMINISTRATIVE PROCEDURES AND SANCTIONS

##### Appeal From Interpretations

NOTE: A partial version of this document originally appeared in the FEDERAL REGISTER of Thursday, January 19, 1978. The complete document is printed below.

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rule-making; correction.

SUMMARY: The Department of Energy ("DOE") hereby gives notice of a proposal to amend its petroleum

EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

price and allocation procedural regulations to eliminate administrative appeal of formal interpretations issued by the Office of the General Counsel or Regional Counsels pursuant to 10 CFR Part 205, Subpart F, while preserving the right to seek modification or rescission of an interpretation at any time under Subpart F of Part 205. The DOE also proposes to revise the procedural regulations to permit applications for reconsideration of an interpretation to be submitted to the General Counsel of the DOE within thirty days of the issuance of the interpretation. A parallel change in the procedural regulations applicable to the coal program at 10 CFR Part 303, Subpart G, is also proposed.

DATE: Written comments by February 22, 1978, 4:30 p.m. e.s.t.

ADDRESS: Written comments to: Department of Energy, Office of Regulations Management, Room 2214, Box RG, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Charles Cope (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 1119, Washington, D.C. 20461, 202-566-9070.

SUPPLEMENTARY INFORMATION:

#### A. BACKGROUND

The procedures which govern the issuance of formal interpretations by the DOE General Counsel or Regional Counsels, relating to the petroleum price and allocation regulations, are found in 10 CFR Part 205, Subpart F. These procedures include a provision, § 205.86, permitting administrative appeals to be taken from such interpretations in accordance with the general administrative appeals provisions found in 10 CFR Part 205, Subpart H. In addition, modification or rescission of such an interpretation may be sought under Subpart F (§ 205.85(d)) or, based on changed circumstances, pursuant to the general administrative modification or rescission provisions in Subpart J or Part 205.

Parallel procedures applicable to formal interpretations issued by the General Counsel under the Coal Program are found in 10 CFR Part 303, Subpart G of Part 303 establishes the

procedures for issuance of such interpretations; Subpart H sets forth the procedures for administrative appeals generally, including appeals of interpretations issued under Subpart G; and Subpart K establishes the procedures for the filing of an application for modification or rescission of certain administrative actions including interpretations issued under Subpart G of Part 303.

Appeals of formal interpretations are heard at present by the Office of Administrative Review, Economic Regulatory Administration, DOE, the successor to the Office of Exceptions and Appeals, Federal Energy Administrative (FEA).

#### B. DISCUSSION

The DOE regards administrative appeal of formal interpretations unnecessary and inappropriate for the reasons outlined below. Therefore, it is proposed that such appeals be eliminated from DOE procedural regulations.

It appears inappropriate to permit internal appeal to an administrative appeals office concerning a matter which in most cases relates solely to a legal judgment rendered by the DOE's Office of the General Counsel concerning the meaning of DOE regulations. Allegations of error or omission in the factual basis of an interpretation, as well as allegations of error in law, may be reviewed by the General Counsel under existing interpretations procedures at any time §§ 205.85(d) and 303.95(d)). Administrative appeal as presently authorized under 10 CFR Part 205, Subpart H, and 10 CFR Part 303, Subpart G, is therefore inappropriate or unnecessary, or both.

It should be noted in this connection that no such administrative appeal of rulings (also issued by the General Counsel) is permitted under existing regulations. See §§ 205.154 and 303.154. DOE interpretations and rulings are both "interpretive rules" under the Administrative Procedures Act, 5 U.S.C. 551, et seq. A DOE ruling is an interpretation of general applicability whereas an interpretation under 10 CFR Part 205, Subpart F, or 10 CFR Part 303, Subpart G, is an interpretive rule of particular applicability. A ruling may affect the rights and interests of a particular firm as much as, or more than, a specific interpretation issued to that firm. The fundamental nature of a ruling—to provide a legal interpretation of what one or more DOE regulations mean in various contexts—is also the essence of DOE interpretations.

#### C. PROPOSED AMENDMENTS

The amendments proposed today would essentially delete various references to interpretations in DOE's appeals regulations (Subpart H of Part

205 and Subpart H of Part 303) and provide, as in the case of rulings, that no administrative appeal of an interpretation may be taken.

In addition, in order to provide appropriate flexibility with respect to the issuance of interpretations in the first instance and reconsideration of an interpretation in certain instances by the Office of General Counsel within the framework of interpretations procedures, it is proposed to amend the definition of "Interpretation" in §§ 205.2 and 303.2 to provide that an interpretation may be issued by the DOE General Counsel or his delegate. It is presently contemplated that the Assistant General Counsel for Interpretations will exercise this delegated authority in most cases. Confirming changes to §§ 205.80(a), 205.85(a), 303.90(a), and 303.95(a) are also proposed.

The proposed amendments also delete references to modification or rescission of interpretations in 10 CFR Part 205, Subpart J, and 10 CFR Part 303, Subpart K (i.e., applications for modification or rescission of an interpretation, based on significantly changed circumstances, filed with the Office of Administrative Review). DOE does not intend by this proposed change to bar such applications. Rather, it is intended that petitions for modification or rescission will be submitted to and reviewed by the Office of the General Counsel pursuant to the procedures set forth in §§ 205.85(d) and 303.95. In addition, DOE also proposes to add a new § 205.85(f) and § 303.95(f) to provide for the filing of a petition for reconsideration of an interpretation with the General Counsel of the DOE within 30 days of the date of service of that interpretation. Any petition for reconsideration of such an interpretation will be reviewed by the General Counsel and will only be considered if it is determined that a prima facie showing has been made that the interpretation was erroneous or was issued in an arbitrary or capricious manner. It should be emphasized that the reconsideration procedure is not the equivalent of an administrative appeal, but merely provides a mechanism to insure that no inadvertent errors are made which affect the validity of the interpretation.

#### D. WRITTEN COMMENT PROCEDURES

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to the Office of Regulations Management, Department of Energy. Comments should be identified on the outside envelope and on documents submitted to DOE Office of Regulations Management with the designation "Appeal of Interpretations," Box

RG. Fifteen copies should be submitted. All comments received by DOE will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

#### E. OTHER MATTERS

Since the proposed regulation is not a regulation affecting the quality of the environment, the provisions of section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, have been determined to be inapplicable to this proposal.

NOTE—It has also been determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Pursuant to section 404 of the DOE Organization Act, Pub. L. 95-91, these proposed regulations were referred to the Federal Energy Regulatory Commission.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing it is proposed to amend Parts 205 and 303 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., January 20, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

1. The definition of "Interpretation" in § 205.2 is amended to read as follows:

§ 205.2 Definitions.

"Interpretation" means a written statement issued by the General Counsel or his delegate or Regional Counsel, in response to a written request, that applies the regulations, rulings, and other precedents previously issued, to the particular facts of a prospective or completed act or transaction.

2. Section 205.80(a) is revised to read as follows:



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PROPOSED RULES

§ 205.80 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request. Responses, which may include verbal or written responses to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or his delegate or a Regional Counsel, are not interpretations and merely provide general information.

§ 205.82 [Amended]

3. In § 205.82 the words "or his delegate" are added after the words "General Counsel."

4. Section 205.85 is amended by revising paragraph (a) and by adding a new paragraph (f) to read as follows:

§ 205.85 Decision and effect.

(a) An interpretation may be issued after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(f) (1) Any person aggrieved by an interpretation issued by the General Counsel or his delegate or by a Regional Counsel may submit a petition for reconsideration to the General Counsel within 30 days of service of the interpretation from which the reconsideration is sought. There has not been an exhaustion of administrative remedies until a period of 30 days from the date of service of the interpretation has elapsed without receipt by the General Counsel of a petition for reconsideration or, if a petition for reconsideration of the interpretation has been filed in a timely manner, until that petition has been acted on by the General Counsel.

(2) A petition for reconsideration may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

(3) The General Counsel may deny any petition for reconsideration if the petitioner does not establish that—

(i) The petition was filed by a person aggrieved by an interpretation;

(ii) The interpretation was erroneous in fact or in law; or

(iii) The interpretation was arbitrary or capricious.

The denial of a petition shall be a final order of which the petitioner may seek judicial review.

5. Section 205.86 is revised to read as follows:

§ 205.86 Appeal.

There is no administrative appeal of an interpretation.

§§ 205.100 and 205.101 [Amended]

6. The words "or interpretation" and references to subpart F, are deleted wherever they appear in §§ 205.100 and 205.101.

§ 205.102 [Amended]

7. In § 205.102(a) the words "or an 'Appeal of Interpretation,'" are deleted.

§ 205.103 [Amended]

8. Section 205.103(c) is deleted in its entirety.

§ 205.105 [Amended]

9. The words "or interpretation" are deleted wherever they appear in § 205.105.

§ 205.107 [Amended]

10. In § 205.107(a) the words "or interpretation" are deleted.

§§ 205.130, 205.132, and 205.134 [Amended]

11. In §§ 205.130, 205.132(a), 205.132(b), and 205.134(a) the words "or interpretation" are deleted.

§ 205.135 [Amended]

12. In § 205.135(b) the words "or interpretation" are deleted wherever they appear.

13. The definition of "Interpretation" in § 303.2 is amended to read as follows:

§ 303.2 Definitions.

"Interpretation" means a written statement issued by the General Counsel or his delegate, in response to a written request, that applies the regulations, rulings, and other precedents previously issued, to the particular facts of a prospective or completed act or transaction.

14. Section 303.90(a) is revised to read as follows:

§ 303.90 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request. Responses, which may include verbal or written responses, to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or his delegate, are not interpretations and merely provide general information.

§ 303.92 [Amended]

15. In § 303.92, the words "or his delegate" are added after the words "General Counsel."

16. Section 303.95 is amended by revising paragraph (a) and by adding a new paragraph (f) to read as follows:

§ 303.95 Decision and effect.

(a) An interpretation may be issued after consideration of the request for interpretation and other relevant information received or obtained during the proceeding.

(f) (1) Any person aggrieved by an interpretation issued by the General Counsel or his delegate or by a Regional Counsel may submit a petition for reconsideration to the General Counsel within 30 days of service of the interpretation from which the reconsideration is sought. There has not been an exhaustion of administrative remedies until a period of 30 days from the date of service of the interpretation has elapsed without receipt by the General Counsel of a petition for reconsideration or, if a petition for reconsideration of the interpretation has been filed in a timely manner, until that petition has been acted on by the General Counsel.

(2) A petition for reconsideration may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the interpretation was erroneous in fact or in law, or that it was arbitrary or capricious.

(3) The General Counsel may deny any petition for reconsideration if the petitioner does not establish that—

(i) The petition was filed by a person aggrieved by an interpretation;

(ii) The interpretation was erroneous in fact or in law; or

(iii) The interpretation was arbitrary or capricious.

The denial of a petition shall be a final order of which the petitioner may seek judicial review.

17. Section 303.96 is revised to read as follows:

§ 303.96 Appeal.

There is no administrative appeal of an interpretation.

§§ 303.100 and 303.101 [Amended]

18. The words "or interpretation" and references to Subpart G, are deleted wherever they appear in §§ 303.100 and 303.101.

§§ 303.102 [Amended]

19. In § 303.102(a) the words "or an Appeal of Interpretation (ESECA)" are deleted.

§ 303.103 [Amended]

20. In § 303.103 the words "or interpretation" are deleted.

§ 303.106 [Amended]

21. The words "or interpretation" are deleted wherever they appear in § 303.106.

§ 303.108 [Amended]

22. In § 303.108(a) the words "or interpretation" are deleted.

23. The heading for Subpart K of Part 303 is amended to read as follows:

Subpart K—Modification or Rescission of Orders Other Than Prohibition Orders or Construction Orders

§§ 303.140 and 303.143 [Amended]

24. In §§ 303.140(a), and 303.140(b), and 303.143(c)(2) the words "or an interpretation" are deleted.

§ 303.144 [Amended]

25. In § 303.144(a) the words "or interpretation" are deleted.

§ 303.145 [Amended]

26. In § 303.145(b)(1) the words "or an interpretation" are deleted.

§ 303.145 [Amended]

27. The words "or interpretation" are deleted wherever they appear in § 303.145(b)(2)(iii).

28. In § 303.145(c) the words "or interpretation" are deleted.

[FR Doc. 78-2235 Filed 1-23-78; 2:37 pm]

[3128-01]

DEPARTMENT OF ENERGY

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR CONSUMER APPLIANCES

Extension of Written Comment Period

AGENCY: Department of Energy.

ACTION: Notice of extension of written comment period.

SUMMARY: The Department of Energy (DOE) gives notice of an extension of the period for submitting written comments pertaining to the proposed test procedures for furnaces; the proposed test procedures for vented home heating equipment (not including furnaces) and the proposed test procedures for unvented home heating equipment. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

DATE: Comments by February 15, 1978.

ADDRESS: Comments to Room 3317, Department of Energy, Box NX, Box OQ or Box MJ, respectively, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

PROPOSED RULES

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Consumer Products), Room 307, Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-4635.

Laurence J. Hyman (Office of the General Counsel), Room 7146, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9750.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163) requires that test procedures be prescribed for each of thirteen enumerated consumer products, including furnaces, and home heating equipment (not including furnaces).

(Vented and unvented home heating equipment are the two classes which comprise the type home heating equipment not including furnaces.) Test procedures for furnaces were proposed by notice issued July 28, 1977 (42 FR 40826, August 11, 1977). Test procedures for vented home heating equipment (not including furnaces) were proposed by notice issued August 22, 1977 (42 FR 43930, August 31, 1977), and for unvented home heating equipment by notice issued May 4, 1977 (42 FR 23860, May 11, 1977). The FEDERAL REGISTER notice for each product provided for the submission of written and oral comments. The time for written comment for each of the proposed test procedures has expired and a public hearing on each has been held.

At the public hearing on the proposed test procedures for furnaces on October 4, 1977, a number of issues were raised regarding the success with which the proposed procedures would measure energy consumption and the degree of burden the proposed test procedures would place upon the industry. Due to the complex technical nature of the proposal, however, the respondents testified they had been unable to conduct sufficient testing under the proposed procedures to formulate possible alternative test methods. The respondents urged that DOE allow time for tests to be run on a variety of furnace configurations.

The National Bureau of Standards and DOE consider it likely that useful information will result from an appropriate extension of the comment period for furnaces. Because the test methods and calculations proposed for vented home heating equipment (not including furnaces) and unvented home heating equipment are similar to those employed in the proposed furnace procedures, DOE believes that further time for comments on these proposals should be allowed to insure they, too, will provide accurate measures of energy consumption. DOE

has, therefore, extended the written comment period for the proposed test procedures for furnaces, unvented home heating equipment, and vented home heating equipment (not including furnaces) until February 15, 1978. Comments should be submitted to the addresses specified in the FEDERAL REGISTER notice proposing the test procedure for the particular appliance.

Issued in Washington, D.C., January 20, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-2236 Filed 1-25-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Parts 2, 3, 4]

PROTECTION OF CONFIDENTIAL BUSINESS INFORMATION

AGENCY: Federal Trade Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Trade Commission is proposing to revise its adjudicative and miscellaneous rules to provide procedures whereby a person may request protection for information in the custody of the Commission believed by the person to be a trade secret or otherwise confidential commercial or financial information, and to correlate such protection with the requirements of the Freedom of Information Act.

DATES: Written comments must be received on or before March 27, 1978.

ADDRESSES: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C., 20580. Comments will be entered on the public records of the Commission and will be available for public inspection in room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of General Counsel, Federal Trade Commission, Washington, D.C., 20580, 202-523-3865.

SUPPLEMENTARY INFORMATION: The Commission proposes to establish a new § 4.10a, which would describe the procedures for requesting confidential treatment for information submitted to the Commission, except for information submitted for purposes of an adjudicative proceeding. The section would require a specific prima facie justification for such requests by reference to the criteria of exemption 4 of the Freedom of Information Act. It would delegate to Directors and Deputy Directors of the Commission's



Bureaus the authority to grant confidential treatment, but only after the documents in question had been submitted to the Commission. See *FTC v. Texaco*, 555 F.2d 862 (D.C. Cir. 1977), cert. denied, 431 U.S. 974, *FCC v. Schreiber*, 381 U.S. 279 (1965). New § 4.10b would specify the effects of a grant of confidential treatment, namely notice of FOIA requests and appeals for the protected information, initial denial of such requests unless the grant is waived, the opportunity to supplement one's justification at the time of an FOIA appeal, and ten days' notice of any decision to release protected information with the exception of disclosure to consultants and, in some circumstances, disclosure upon the request of a Congressional Committee or Subcommittee or a Federal agency where the Committee or Subcommittee or the agency requests that no notice be given. The Commission specifically invites comments on the question of whether such a policy, of not providing notice in the above case is required and if not, whether it appropriately reconciles the constitutional and statutory prerogative of the Congress with the due process rights of persons, and is otherwise advisable.

These rules also delegate to the Bureau Directors and Deputy Directors the authority to grant confidential treatment for material submitted in connection with a compliance report. The Commission wishes to receive comment on whether this change is appropriate or whether, because of the fact that compliance reports are generally made public except for material for which confidentiality has been granted, the power to grant such treatment should remain with the Commission itself.

Under this proposal, it should be noted, all documents in the custody of the Commission determined to be confidential—whether by grant of confidential treatment, protective order, or order for in camera treatment—would be afforded like treatment in the event of an FOIA request or appeal. All such agency records are equally subject to the authority of the Commission to disclose documents, in accordance with applicable law and § 4.11.

A new § 3.32 would be added to incorporate in the rules of practice the authority of Administrative Law Judges to grant protective orders in adjudications. The standard for issuing such orders would be the same as for granting confidential treatment. The effect of such orders would be limited to the provision of 4.10b, which applies equally to documents under protective order, in camera order, or grant of confidential treatment. An ALJ could then no longer order documents in the custody of the Commission removed from its custody without the express

authority of the Commission. Nor could such order prevent any Commission employee from having access to the documents, subject to the usual restrictions on dissemination of the information outside the Commission. This change would not affect the power of an ALJ to order restrictions on documents that never come into the custody of the Commission, such as ordering that complaint counsel can view documents only on respondents' premises with limited copying rights. Nor would this change preclude arrangements whereby it is agreed that documents will be submitted to a third party who will then aggregate them for Commission use. Similar conforming changes have been made in rule 3.45 dealing with in camera orders. The Administrative Law Judges would also retain the power to control the course of the hearings, and the conduct of the parties (Commission rule 3.42(c), 16 CFR § 3.42(c)).

These proposed rules would not apply to special grants of confidentiality by the Commission, such as the Commission's Confidentiality Rules and Procedures for Line of Business Reports. Nor would they apply to statutory restrictions on disclosure such as those provided in the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

In consideration of the foregoing, the Commission proposes to amend its rules of practice as follows:

#### PART 2—NONADJUDICATIVE PROCEDURES

1. By amending § 2.33 to read as follows:

##### § 2.33 Compliance procedure.

The Commission may in its discretion require that a proposed agreement containing an order to cease and desist be accompanied by an initial report signed by the respondent setting forth in precise detail the manner in which the respondent will comply with the order when and if entered. Such report will not become part of the public record unless and until the accompanying agreement and order are accepted by the Commission. At the time any such report is submitted a respondent may request confidential treatment for any portion thereof in accordance with § 4.10a of this chapter.

#### PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

2. By adding § 3.32 to read as follows:

##### § 3.32 Protective orders.

The Administrative Law Judge may, upon motion or *sua sponte*, order restrictions on access to documents in the custody of the Commission submitted in the course of the proceeding, whether voluntarily or under compul-

sory process, when necessary to the fair and orderly conduct of the proceeding. The effect of such an order shall be as prescribed in § 4.10b. Such an order shall issue only on a *prima facie* showing that information contained in the documents is a trade secret or otherwise confidential commercial or financial information within the meaning of 5 U.S.C. § 552(b)(4). Documents as to which such an order is made shall be non-public records of the Commission, and such records shall not be removed from the custody of the Commission without its express authorization. Access thereto shall be had only in accordance with the terms of the order, subject, however, to the provisions of § 4.11 of this chapter.

3. By amending § 3.45 to read as follows:

##### § 3.45 In camera orders.

(a) *In camera treatment of evidence and testimony.*—The Administrative Law Judge may, upon motion or *sua sponte*, order documents, other physical evidence, or oral testimony offered in evidence (including an offer of proof), whether admitted or rejected, to be placed *in camera*, but only upon a showing that clearly defined, serious injury would result from public disclosure thereof. The order shall include a description of the evidence or testimony, and a statement of the reasons for granting *in camera* treatment. Each such order shall expire at the end of the three-year period commencing with its issuance unless the Administrative Law Judge shall specify therein a lesser period or unless renewed by the Commission upon request. Any party desiring, for the preparation and presentation of the case, or otherwise, to disclose *in camera* evidence or testimony to experts, consultants, prospective witnesses, or witnesses, shall make application to the Administrative Law Judge, at the time the order is sought or thereafter, setting forth the justification therefor. The Administrative Law Judge may grant such application for good cause found, in which event he shall enter an appropriate order protecting the rights of the affected parties and preventing unnecessary disclosure of information. *In camera* evidence and the transcripts of testimony subject to an *in camera* order shall be segregated from the public record and filed in a sealed envelope or container, bearing the title and docket number of the proceeding, and the notation "*In Camera* Record under § 3.45."

(b) *Disclosure of in camera information.*—Documents and testimony made subject to *in camera* orders shall not be made a part of the public record, and only respondents, their counsel, authorized Commission personnel, and court personnel concerned with judicial

review shall have access thereto, except that upon receipt by the Commission of a request for disclosure under the provisions of § 4.11 of this chapter, the effect of the order shall be as prescribed in § 4.10b. The right of the Administrative Law Judge, the Commission, and reviewing courts to disclose *in camera* data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(c) *Reference to in camera information.*—In the submittal of proposed findings, briefs, or other papers, and during oral argument, counsel for all parties shall not disclose the specific details of *in camera* evidence or testimony. This shall not preclude references in such proposed findings, briefs, or other papers to such evidence or testimony including generalized statements based on their contents. To the extent that counsel consider it necessary to include specific information contained in *in camera* material in their presentations, such information shall be incorporated in separate proposed findings, briefs, or other papers marked "*In Camera Information*," which shall be placed *in camera* and become a part of the *in camera* record.

(d) Nothing contained herein or in this chapter shall be deemed to preclude the Administrative Law Judge from approving, where appropriate, arrangements in connection with discovery by which a party or its counsel is afforded access to records without obtaining custody thereof, or is afforded some form of use of the information therein, through intermediary analysis by a neutral person, without direct access thereto.

4. By amending § 3.61(f) to read as follows:

##### § 3.61 Reports of Compliance.

(f) All applications for approval of proposed divestitures, acquisitions, or similar transactions subject to Commission review under outstanding orders, together with supporting materials, will be placed on the public record as soon after they are received as circumstances permit, except for information for which confidential treatment has been requested in accordance with § 4.10a of this chapter. Within thirty (30) days after such requests and materials are placed on the public record, any person may file formal written objections or comments with the Secretary of the Commission. Such objections or comments shall be placed on the public record except for information for which confidential treatment has been requested in accordance with § 4.10a of this chapter. Additionally, any communications, written or oral, concerning such proposed transactions, received by any individual member of the Commission or by

any employee involved in the decisional process, from any person not involved in that process, will be placed on the public record immediately after their receipt. In the case of an oral communication, the member or employee shall immediately furnish the Commission with a memorandum setting forth the full contents of such communication and the circumstances thereof, and such memorandum will immediately be placed on the public record. All response to applications for approval of proposed divestitures, acquisitions, or similar transactions subject to Commission review under outstanding orders, together with a statement of supporting reasons, will be published when made.

#### PART 4—MISCELLANEOUS RULES

5. By amending rule 4.9(b) (12) and (13) to read as follows:

##### § 4.9 Public records.

(12) Reports of compliance and supplemental materials in connection therewith filed pursuant to the rules in this chapter or to a provision in an order of the Commission, and reports of compliance filed pursuant to assurances of voluntary compliance which are accepted under § 2.21 of this chapter (excluding matters disposed of under § 1.34 of this chapter), except as provided in §§ 2.33 and 4.9(b)(13), shall be available at the principal offices of the Commission for inspection and copying by the public when received, except for information for which confidential treatment has been requested in accordance with § 4.10a of this chapter.

(13) Reports of compliance and supplemental materials filed in connection with Commission orders requiring divestitures or establishment of business enterprises or facilities, save those otherwise specifically dealt with in §§ 3.61(f) and 4.9(b)(11), are confidential until the last divestiture or establishment of a business enterprise or facility, as required by a particular order, has been finally approved by the Commission. At the time each such report is submitted, the filing party may request continuing confidentiality in whole or in part in accordance with § 4.10a of this chapter.

6. By amending § 4.10 to read as follows:

##### § 4.10 Nonpublic records.

(a) Except as provided in paragraph (b) of this section, the following records of the Commission are exempt from availability for public inspection and copying pursuant to 5 U.S.C. § 552; however, records exempt from disclosure by the provisions of this section

may be made available to a requester for inspection and copying upon request for records under the procedures set forth in § 4.11, or by the Commission on its own motion subject to the provisions of § 4.10b.

7. By adding § 4.10a to read as follows:

##### § 4.10a Requests for confidential treatment of trade secrets and commercial or financial information.

(a) *Scope.*—Any person requested or required to submit any information believed by the person to be a trade secret, or otherwise confidential commercial or financial information, may request confidential treatment for such information in accordance with this section, except that requests for confidential treatment of information submitted for purposes of an adjudicative proceeding shall be made in accordance with § 3.32 or § 3.45, as applicable.

(b) *Form of request.*—A request for confidential treatment shall be addressed to the employee to whom the information is submitted. The envelope shall be marked "Confidentiality Request." The request shall be preceded or accompanied by the documents for which confidentiality is requested. The request shall specify:

(1) The documents or portions thereof that are alleged to merit confidential treatment, including whether any information constitutes a trade secret within the meaning of Section 6(f) of the Federal Trade Commission Act.

(2) The extent to which deletion of specific identifying information prior to public disclosure would protect the person's asserted interests;

(3) The period of time for which confidential treatment is requested;

(4) The extent to which the information is customarily disclosed to others, and the measures taken by the person to prevent unauthorized disclosure;

(5) The manner in which and the degree to which competitive or other harm would result from public disclosure of the specified information.

(c) *Grant of request.*—The Directors and Deputy Directors of the Bureaus of Competition, Consumer Protection, and Economics, pursuant to delegation of authority by the Commission, without power of redelegation, may grant confidential treatment upon a *prima facie* showing that the information is a trade secret or otherwise confidential commercial or financial information within the meaning of those terms in 5 U.S.C. § 552(b)(4), for a period not to exceed 3 years from the date on which the request is granted. The Bureau Director or Deputy Director may grant an additional term of not more than 3 years upon a request made at least 60 days but not more than 120 days prior to the expiration of the original term and providing spe-



cific justification for continued confidential treatment. In the event a request for access to records, which are the subject of a confidentiality request, is received before the Bureau Director or Deputy Director has acted under this section, the person submitting the information shall be promptly notified of the receipt of the request, except as to requests of which § 4.10b hereof provides that no notice shall be given.

8. By adding § 4.10b to read as follows:

§ 4.10b Effects of grant of confidentiality, protective order, or order for *in camera* treatment.

(a) The effects of a grant of confidentiality pursuant to § 4.10a, or of a grant of confidentiality treatment for information submitted for purposes of a compliance report, or of a protective order or order for *in camera* treatment, are as follows:

(1) The Office of the Secretary shall expeditiously notify the person to whom the grant was made of any initial request, pursuant to § 4.11(a)(1) of this chapter, for records containing the information. The Office of the General Counsel or the appropriate liaison officer under § 4.11(b)(2) shall provide such notice for requests pursuant to § 4.11(b) of this chapter, except as otherwise provided in subsection 6(ii) hereof.

(2) The Office of the Secretary shall ascertain whether the person continues to assert the confidentiality of such records.

(3) The Office of the Secretary, during the effective term of a grant of confidentiality treatment or of a protective or *in camera* order, shall deny initial Freedom of Information Act requests for access to records within the scope of the grant or order pursuant to 5 U.S.C. § 552(b)(4) unless the confidentiality of such material is waived by the person to whom it has been granted.

(4) The Office of the General Counsel or the appropriate liaison officer under § 4.11(b)(2) shall expeditiously notify the person to whom the grant or order was given of any appeal, pursuant to § 4.11(a)(2) or request pursuant to § 4.11(b) of this chapter, for release of such records, except as otherwise provided in subsection 6(ii) hereof.

(5) The General Counsel, the Commission, or the appropriate liaison officer under § 4.11(b)(2) shall take into account, in reaching a determination of such an appeal pursuant to § 4.11(a)(2)(iii) of this chapter, or a request pursuant to § 4.11(b), all facts bearing on the issue of the exempt status of the requested records, including any submission by the person received by the Commission within seven (7) working days of notification of the appeal.

(6) If the General Counsel or the Commission or the appropriate liaison officer under § 4.11(b)(2) determines to disclose records or information covered by a grant of confidentiality treatment, protective order, or order for *in camera* treatment, ten (10) days' notice prior to release thereof shall be provided to the person who supplied the records or information; *Provided* that:

(i) As to release in response to an official request from a committee or subcommittee of Congress, or to a court in response to compulsory process or court order, ten days' notice shall be given where possible, and otherwise such notice shall be given as is reasonable under the circumstances. In the event of such release, the congressional committee or subcommittee or the court shall be advised that the person who submitted the records or information considers such records or information to be confidential.

(ii) As to release in response to an official request of a committee or subcommittee of Congress or of a federal agency which includes a request that no notice of either the request or the release be provided, such notice shall not be provided, unless, with respect to requests from another federal agency, the Commission in its discretion so orders.

(b) The protection afforded by this section shall not extend to information which:

(1) Was in the public domain at the time confidential treatment, protective order or *in camera* treatment was granted;

(2) Enters the public domain thereafter from a source other than the Commission or its employees;

(3) Was in the Commission's unrestricted possession prior to disclosure to the Commission by the person;

(4) Is supplied to the Commission without restriction on its use by a third party lawfully in possession thereof.

(c) This section shall not apply to grants of confidentiality made by the Commission under its Line of Business, Corporate Patterns Report, and Quarterly Financial Report programs, which shall be effective according to their terms.

(d) Disclosure of records or information to a consultant retained by the Commission shall not constitute disclosure thereof within the meaning of this section and § 4.11, *provided*, however, that such disclosure shall be made only to a consultant who has agreed not to disclose such records or information to others, except as authorized by the Commission.

(5 U.S.C. 522 and 551(2); 15 U.S.C. 46(g).)

By direction of the Commission dated January 12, 1978.

CAROL M. THOMAS,  
Secretary.

(FR Doc. 78-2184 Filed 1-25-78; 8:45 am)

## [8010-01]

## SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

(Release Nos. 33-5900; 34-14395; IC-10099; File No. S7-729)

## GOING PRIVATE TRANSACTIONS BY PUBLIC COMPANIES OR THEIR AFFILIATES

Proposed Rule and Schedule; Extension of Comment Period

AGENCY: Securities and Exchange Commission.

ACTION: Extension of public comment period for proposed rule and schedule.

SUMMARY: The Commission extends the public comment period with respect to a proposed rule and schedule relating to going private transactions by public companies or their affiliates until February 28, 1978.

DATE: Comments must be received on or before February 28, 1978.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7-729. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

## FOR FURTHER INFORMATION CONTACT:

John Huber, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1750.

SUPPLEMENTARY INFORMATION: In Release Nos. 33-5894, 34-14185 and IC-1 0015 (November 23, 1977) (42 FR 60090), the Commission published for comment proposed Rule 13e-3 and proposed Schedule 13E-3 relating to going private transactions by public companies or their affiliates. If adopted, these proposals would provide definitions, specific disclosure and dissemination requirements, substantive regulatory protections and particular anti-fraud provisions with respect to going private transactions. The Commission stated that the public comment period would expire on January 31, 1978.

It has come to the Commission's attention that certain interested members of the public may require more time to complete their consideration of the proposals in order to respond to the Commission's solicitation of comments. The Commission has determined that it is appropriate in the

public interest to allow additional time for the consideration of these proposals. Accordingly, the Commission hereby extends the period for public comment of proposed Rule 13e-3 and Schedule 13E-3 from January 31, 1978 to February 28, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 20, 1978.

(FR Doc. 78-2257 Filed 1-25-78; 8:45 am)

## [4210-01]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

(Docket No. FI-3841)

## CITY OF FARIBAULT, RICE COUNTY, MINN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Faribault, Rice County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Faribault, Minn. Send comments to: Mr. Eugene Wieneke, City Administrator, City of Faribault, City Hall, 208 First Avenue, Faribault, Minn. 55021.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872; Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mound, Hennepin County, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

nations of base (100-year) flood elevations for the city of Faribault, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rate for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Straight River	14th St.	969
	Division St.	980
	Chicago, Rock Island & Pacific RR.	982
Crocker's Creek	7th St NW	975
	Division St.	985
	Jenson Dr.	997

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1757 Filed 1-25-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]

(Docket No. FI-3841)

## CITY OF MOUND, HENNEPIN COUNTY, MINN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed

posed base (100-year) flood elevations listed below for selected locations in the city of Mound, Hennepin County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 5341 Maywood Road, Mound, Minn. Send comments to: Mayor Tim La Vaasen, City Hall, 5341 Maywood Road, Mound, Minn. 55364.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mound, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:



## PROPOSED RULES

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Minnetonka..	Shoreline.....	931
Dutch Lake.....	do .....	940
Langdon Lake.....	do .....	935

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1758 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3842]

## CITY OF ORONO, HENNEPIN COUNTY, MINN.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Orono, Hennepin County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Orono, Minn. Send comments to: Mayor Brad Van Nest, P.O. Box 66, Crystal Bay, Minn. 55323.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Orono, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed tributary to Lake Minnetonka.	Tonka Ave.....	936
	Crestview Ave.....	940
	Leaf St. crossing... at approximately 2,300 ft above the mouth.	959
Pond E.....	Shoreline.....	970
Pond F.....	do .....	964
Pond B.....	do .....	961
Pond A.....	do .....	931
Pond C.....	do .....	931
Pond D.....	do .....	931
Pond G.....	do .....	936
Pond H.....	do .....	935
	Casco Point Rd., approximately 500 ft southwest along the road from its intersection with Frederick St.	
Carman Bay, Lake Minnetonka.	Shoreline.....	931
West Arm, Lake Minnetonka.	Fagerness Point Rd., approximately 550 ft southwesterly along the road from its intersection with Concordia St.	931
North Arm, Lake Minnetonka.	Shoreline.....	931
Crystal Bay, Lake Minnetonka.	do .....	931

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1759 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3843]

## CITY OF ROSEAU, ROSEAU COUNTY, MINN.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Roseau, Roseau County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Roseau, Minn. Send comments to: Mayor N. L. Erikson, City Hall, Box 307, 100 Second Avenue, Roseau, Minn. 56751.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Roseau, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title

XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roseau River .....	3d St.....	1,049
	Center St.....	1,049
	Corporate limit (southernmost crossing).	1,051

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1760 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3844]

## CITY OF WATERTOWN, CARVER COUNTY, MINN.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Watertown, Carver County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the com-

munity is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Watertown, Minn. Send comments to: Mayor Dorsey Kozel, City Hall, P.O. Box 606, Watertown, Minn. 55388.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Watertown, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Fork Crow River.	County State Aid Highway 10 Bridge.	937
	Chicago & Northwestern RR.	939
Mapes Creek .....	Carver County Rd., No. 10 Bridge.	935
	Pedestrian bridge.	935

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1761 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3847]

## CITY OF BUCKNER, JACKSON COUNTY, MO.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Buckner, Jackson County, Mo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Buckner, Mo. Send comments to: Mayor Richard Brown, P.O. Box 187, Buckner, Mo. 64016.

FOR FURTHER INFORMATION CONTACT:



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PROPOSED RULES

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Buckner, Jackson County, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fire Prairie Creek.	Eastern corporate limits.	725
	Approximately 140 ft upstream of Buckner-Tarney Rd.	730

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.  
PATRICIA ROBERTS HARRIS,  
Secretary.  
[FR Doc. 78-1765 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3848]

CITY OF MOSBY, CLAY COUNTY, MO.

Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Mosby, Clay County, Mo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Main Street, Mosby, Mo. Send comments to: Mayor Neil McCrary, P.O. Box 53, Mosby, Mo. 64073.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Mosby, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal,

State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing River.....	Main St.....	765
	Rock Island RR ...	767
	U.S. Route 69.....	770

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.  
PATRICIA ROBERTS HARRIS,  
Secretary.  
[FR Doc. 78-1766 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3849]

VILLAGE OF PRATHERSVILLE, CLAY COUNTY, MO.

Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Prathersville, Clay County, Mo.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Prathersville Volunteer Fire Department,

Prathersville, Mo. Send comments to: Ms. Gloria Allen, Councilwoman, Prathersville Village Council, P.O. Box 355, Missouri City, Mo. 64072.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Prathersville, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fishing River.....	State Highway 10	755
	County road (upstream side).	757
Williams Creek.....	County road (downstream side).	756
	Rock Island RR ...	757

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

PROPOSED RULES

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1767 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3850]

VILLAGE OF CEDAR CREEK, CASS COUNTY, NEBR.

Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Cedar Creek, Cass County, Nebr.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Village Hall, Cedar Creek, Nebr. Send comments to: Mr. Bob Fuxa, Chairman of the Village Board, village of Cedar Creek, Cedar Creek, Nebr. 68016.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Cedar Creek, Nebr., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures re-

quired by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cedar Creek.....	Burlington Northern RR.	1,012
	do .....	1,012
Tributary to Turkey Creek.	do .....	B St
	do .....	1,019
Turkey Creek.....	Main St.....	1,022
	Burlington Northern RR.	1,010
Platte River .....	County road.....	1,020
	Corporate limits (downstream).	1,006
	Corporate limits (upstream).	1,014

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.  
PATRICIA ROBERTS HARRIS,  
Secretary.  
[FR Doc. 78-1768 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3851]

CITY OF WOOD RIVER, HALL COUNTY, NEBR.

Proposed Flood Elevation Determinations

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Wood River, Hall County, Nebr.

These base (100-year) flood elevations are the basis for the flood plain management measures that the com-



## PROPOSED RULES

munity is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Clerk's Office, 906 Main Street, Wood River, Nebr. 68883. Send comments to: The Honorable Donald Graper, mayor, city of Wood River, P.O. Box 253, Wood River, Nebr. 68883.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Wood River, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wood River .....	At the Town Road 36 Bridge.	1,959
	At the State Highway 11 Bridge.	1,967
	At the District 83 Road Bridge.	1,969
	1.5 mi upstream from the District 83 Road Bridge.	1,972

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1769 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3852]

**TOWN OF LITCHFIELD, HILLSBOROUGH COUNTY, N.H.**

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Litchfield, Hillsborough County, N.H.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Litchfield, N.H. Send comments to: Chairman John T. A. Mango, Route 3A, Litchfield, RFD 3, Manchester, N.H. 03103.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Litchfield, Hillsborough County, N.H., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	Corporate limits (1.46 miles south of confluence of Chase Brook).	115
	Confluence of Chase Brook.	116
	Confluence of Colby Brook.	122
Nesenkeag Brook ..	Approximately 100 ft upstream of State Route 3A.	130
	Western corporate limits.	173
Chase Brook .....	Approximately 100 ft upstream of State Route 3A.	136
	Approximately 100 ft downstream of North-South Rd.	168
Tributary B.....	Just upstream of Cranberry Lane.	171
	Just upstream of Page Rd.	176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

## PROPOSED RULES

FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1770 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3853]

**TOWN OF PERINTON, MONROE COUNTY, N.Y.**

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Perinton, Monroe County, New York.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Perinton Town Hall, Building Inspector's Department, 31 South Main Street, Fairport, N.Y.

Send comments to: Supervisor Lake B. Edwards, Perinton Town Hall, 31 South Main Street, Fairport, N.Y. 14450.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Perinton, Monroe County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section

1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by Section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Irondequoit Creek	Just downstream of Pittsford Palmyra Rd. (N.Y. 31).	393
	Just downstream of Fairport Rd. (N.Y. 31F).	361
	Just upstream of Linden Ave.	361
Thomas Creek .....	Just upstream of Turk Hill Rd. Approximately 100 ft. downstream of O'Connor Rd.	462
	Just upstream of Baird Rd.	424
		402

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1771 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3854]

**TOWN OF WAPPINGER, DUTCHESS COUNTY, N.Y.**

**Proposed Flood Elevation Determinations**

**AGENCY:** Federal Insurance Administration, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Wappinger, Dutchess County, N.Y.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Wappinger Town Hall, Mill Street, Wappingers Falls, N.Y. Send comments to: Mr. Lou Diehl, supervisor of the town of Wappinger, Mill Street, Wappingers Falls, N.Y. 12590.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Wappinger, Dutchess County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (1-year) flood elevations for selected locations are:



PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River.....	Corporate limits (downstream).	8
	Confluence of branch 1A Hudson River.	8
	Confluence of Wappinger Creek.	8
Branch 1A—Hudson River.	Confluence with the Hudson River.	8
	ConRail bridge.....	12
	Chelsea River Rd. Dam (200 ft upstream from Chelsea River Rd.).	12
	Easter Rd.....	15
	Chelsea Rd.....	45
Wappinger Creek..	Confluence with Hudson River.	46
	ConRail Bridge.....	8
	New Hamburg Rd	10
	Confluence of Branch 1—Wappinger Creek.	11
	Town of Wappinger—village of Wappinger Falls corporate boundary (downstream).	12
	Town of Wappinger—village of Wappinger Falls corporate boundary (upstream).	99
	U.S. 9.....	99
	Little Falls Dam...	108
	Confluence of Branch 2—Wappinger Creek.	112
	Jackson Rd.....	115
	Corporate limits (upstream).	126
Branch 1—Wappinger Creek.	Confluence with Wappinger Creek.	11
	Creek Rd.....	11
	Footbridge (1,860 ft upstream from Wappinger Creek).	66
	Driveway (280 ft downstream from Route 9D).	121
	Dam (125 ft downstream from Route 9D).	124
	Route 9D.....	126
	Footbridge (1,200 ft downstream from Route 9).	140
	Old State Rd.....	147
	Old Route 9.....	148
	U.S. Route 9.....	150
Branch 2—Wappinger Creek.	Confluence with Wappinger Creek.	112
	Route 110.....	112
	Route 104.....	114
	Footbridge (275 ft upstream from Route 104).	130
	Driveway (at upstream end of Greens Pond).	136
	Widmer Rd.....	153

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended;

42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.  
[FR Doc. 78-1772 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3855]

CITY OF REIDSVILLE, ROCKINGHAM COUNTY, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Reidsville, Rockingham County, N.C..

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Reidsville, N.C. Send comments to: Mr. Robert Cox, city manager, City of Reidsville, P.O. Box 509, Reidsville, N.C. 27320.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Reidsville, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)),

42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Troublesome Creek.	South Scales St. ....	724
	South Park Dr. ....	735
	Richardson Dr. ....	742
	Turner Rd. ....	744
Tributary "A" to Little Troublesome Creek.	East Richardson Dr. ....	753
	Jaycees Park Rd. ....	726
Tributary "B" to Little Troublesome Creek.	Cypress Dr. ....	734
	Coach Rd. ....	746
Tributary "C" to Little Troublesome Creek.	Morgan St. ....	752
	Courtland Ave. ....	754
	U.S. Route 29 bypass. ....	665
North Fork of Jones Creek.	At the confluence with North Fork of Jones Creek.	673
Tributary to North Fork of Jones Creek.	North Carolina Route 14.	634
Wolf Island Creek.	Wentworth Rd. ....	668
	Wentworth Rd. ....	666
Tributary "A" to Wolf Island Creek.	U.S. Route 29 alternate.	692

\*Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1773 Filed 1-25-78; 8:45 am]

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3856]

CITY OF BURLINGTON, WARD COUNTY, N. DAK.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Burlington, Ward County, N. Dak.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Auditor's Office, Burlington, N. Dak. Send comments to: Mayor Jack Bender, P.O. Box 159, Burlington, N. Dak. 58722.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Burlington, N. Dak., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community

may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Souris River .....	County road (downstream side).	1,574
	County road (upstream side).	1,575
Des Lacs River.....	Along bank near end of Davis St.	1,578

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1774 Filed 1-25-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3857]

CITY OF LOVELAND, CLERMONT COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Loveland, Clermont County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.



ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at 120 West Loveland Ave., Loveland, Ohio 45140. Send comments to: Hon. Viola Phillips, Mayor of Loveland, 120 West Loveland Ave., Loveland, Ohio 45140.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Loveland, Clermont County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Miami River	Chessie System Bridge.	587
	Loveland Road Bridge.	588
	Upstream corporate limit.	590
O'Bannon Creek ...	ConRail RR Bridge.	588
	Second Street Bridge.	588
	Upstream corporate limit.	590

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1775 Filed 1-25-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3858)

CITY OF WESTERVILLE, FRANKLIN COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Westerville, Franklin County, Ohio.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Westerville, Ohio. Send comments to: Mr. Maynard Dils, City Manager, city of Westerville, City Hall, 21 South State Street, Westerville, Ohio 43081.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Westerville, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33

FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Alum Creek .....	Park Rd. ....	804
	Schrock Road Bridge.	797
	Interstate 270 .....	793

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1776 Filed 1-25-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3859)

TOWNSHIP OF HARMONY, BEAVER COUNTY, PA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Harmony, Beaver County, Pa.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in

effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Harmony Municipal Building, Woodland Road, Ambridge, Pa. 15003. Send comments to: Mr. Edward F. Drake, President of the Board of Commissioners of Harmony, Woodland Road, Ambridge, Pa. 15003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Harmony, Beaver County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River .....	Upstream corporate limits.	709
	Downstream corporate limits.	708

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Sewickley Creek.	Upstream corporate limits.	726
	Downstream corporate limits.	711
Legionville Run.....	Legionville Rd.....	745
	Duss Ave.....	740
	State Route 65 .....	708
	Confluence with Ohio River.	708

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1777 Filed 1-25-78; 8:45 am)

[4210-01]

[24 CFR Part 1917]  
(Docket No. FI-3860)

Proposed Flood Elevation Determinations

TOWN OF SIMPSONVILLE, GREENVILLE COUNTY, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Simpsonville, Greenville County, S.C.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESS:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Simpsonville, S.C.

Send comments to: Mayor Ralph Hendricks, P.O. Box 668, Simpsonville, S.C. 29681.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Simpsonville, Greenville County, S.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rock Creek .....	Approximately 300 ft upstream of Alder Dr.	747
	Just upstream of Capewood Rd.	764
Rock Creek Tributary.	Approximately 160 ft downstream of U.S. Highway 276.	774
	Just upstream of Jonesville Rd.	781
Horsepen Creek .....	Just upstream of Forrest Park Dr.	802
	Approximately 140 ft downstream of Stokes Rd.	820
Big Durbin Creek..	Just upstream of Hillpine Dr.	796
	Powderhorn Rd (extended).	800

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)



## PROPOSED RULES

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1778 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-38611]

## CITY OF SPRINGVILLE, UTAH COUNTY, UTAH

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Springville, Utah County, Utah.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Springville, Utah. Send comments to: Mr. Don Ormsby, City Planner, city of Springville, City Hall, Springville, Utah 84663.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Springville, Utah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program reg-

ulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hobble Creek	900 South	4,650

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1779 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-38621]

## TOWN OF BROOKFIELD, ORANGE COUNTY, VT.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Brookfield, Orange County, Vt.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at office of the Town Clerk, Brookfield, Vt. Send comments to: Thomas E. Lyons, Chairman of the Board of Selectmen, or Planning Commission Chairman, Helen Wakefield, Brookfield, Vt. 05036.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Brookfield, Orange County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Second Branch White River	Just downstream of town highway 32.	683
	Just downstream of town highway 33.	693
	Approximately 150 ft downstream of town highway 15.	722
Sunset Brook	Just upstream of Brookfield State highway.	1,253

## PROPOSED RULES

Depot Street, Ludlow, Vt. Send comments to: Mr. Dean Brown, Manager, village of Ludlow, Town Office, drawer B, Ludlow, Vt. 05149.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Ludlow, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black River	At village of Ludlow eastern corporate limits.	976
	100 ft downstream of Mill St.	987
	100 ft upstream of Mill St.	989
	100 ft upstream of Route 103 (Main St.).	997
	100 ft upstream of Depot St.	1,001
	At village of Ludlow northern corporate limits.	1,009

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance

Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1781 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-38641]

## TOWN OF LUDLOW, WINDSOR COUNTY, VT.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Ludlow, Windsor County, Vt.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Depot Street, Ludlow, Vt. Send comments to: Mr. Dean Brown, manager, town of Ludlow, Town Office, Drawer B, Ludlow, Vt. 05149.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Ludlow, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).



## PROPOSED RULES

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing building and their contents.

The proposed base (100-year) flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black River .....	Eastern corporate limits.	954
	300 ft. downstream of East Hill Rd.	956
	300 ft upstream of East Hill Rd.	961
	100 ft downstream of Pleasant St.	972
	100 ft upstream of Pleasant St.	975
	At village of Ludlow, eastern corporate limits.	976
	At village of Ludlow, northern corporate limits.	1,009
	100 ft upstream of Fox Run Rd.	1,015
	At confluence with Branch Brook.	1,015
	2,200 ft downstream of Lake Pauline Rd.	1,021
	100 ft downstream of Lake Pauline Rd.	1,040
	100 ft upstream of Lake Pauline Rd.	1,046
	100 ft downstream of Lake Rescue Dam.	1,048
Branch Brook .....	Lake Rescue .....	1,050
	At the confluence with Black River.	1,015
	50 ft upstream of Route 100.	1,031
	100 ft downstream of private road.	1,039
	1,090 ft upstream of Route 100.	1,047
	100 ft upstream of private road.	1,047
	1,090 ft upstream of Route 100.	1,047
	50 ft downstream of Rod and Gun Club Rd.	1,085

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1782 Filed 1-25-78; 8:45 a.m.)

## [4210-01]

[24 CFR Part 1917]

(Docket No. FI-3865)

## INDEPENDENT CITY OF LYNCHBURG, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the independent city of Lynchburg, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Lynchburg City Hall, Lynchburg, Va. Send comments to: Hon. Joseph Freeman, mayor of Lynchburg, Department of Political Science, Lynchburg College, Lynchburg, Va. 24501.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

enth Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the independent city of Lynchburg, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
James River .....	Downstream corporate limits.	508
	Norfolk & Western RR.	522
	U.S. Route 29 .....	526
	Norfolk & Western RR.	527
	U.S. Route 29 (alternate).	528
	Lynchburg Dam ..	532
	Southern RR .....	536
	Reusens Dam .....	542
	(downstream).	567
	Reusens Dam (upstream).	567
	Upstream corporate limits.	567
Blackwater Creek.	Old Forest Rd. ....	610
	250 ft. downstream.	615
	Lakeside Dr. ....	642
	Westchester Dr. ....	642
	(extended).	644
	Ferrell Dr. ....	644
	(extended).	647
	Fleetwood Dr. ....	647
	(extended).	656
	Burton Creek Pl. ....	657
	(extended).	660
	Chickasaw Rd. ....	660
	(extended).	660
	Confluence with Burton Creek and Tomahawk Creek.	660
Burton Creek .....	Confluence with Blackwater Creek.	660

## PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Confluence with Dreaming Creek.	670
	2,000 ft upstream confluence with Dreaming Creek.	681
	3,000 ft upstream confluence with Dreaming Creek.	690
	Farm Rd. (downstream).	704
	Norfolk & Western RR.	712
	Virginia Route 126 (Fort Ave.).	720
	U.S. Highway 460 (downtown).	722
	U.S. Highway 460 (upstream).	739
	Virginia Route 766 (downstream).	740
	Virginia Route 766 (upstream).	748
Dreaming Creek .....	Confluence with Burton Creek.	670
	Virginia Route 126 (downstream).	685
	Virginia Route 126 (upstream).	690
	Virginia Route 291 (downstream).	691
	Virginia Route 291 (upstream).	701
	Norfolk & Western RR. (downstream).	719
	Norfolk & Western RR. (upstream).	726
	2,000 ft downstream U.S. Route 460.	738
	U.S. Route 460 (downstream).	754
	U.S. Route 460 (upstream).	763
	Virginia Route 1413 (Windsor Hill Dr.) (downstream).	778
	Virginia Route 1413 (Windsor Hill Dr.) (upstream).	783
	Virginia Route 1447 (Buckingham Rd.) (downstream).	786
	Virginia Route 1447 (Buckingham Rd.) (upstream).	802
	Virginia Route 739 (downstream).	826
	Virginia Route 739 (upstream).	832
Rock Castle Creek.	Confluence with Burton Creek.	722
	2,000 ft upstream confluence with Burton Creek.	731
	W.B.L. U.S. Highway 460 (downstream).	744
	W.B.L. U.S. Highway 460 (upstream).	749
	E.B.L. U.S. Highway 460.	750

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	U.S. Highway 29 (bypass) (upstream).	757
	U.S. Highway 29 (bypass).	758
	Virginia Route 368 (downstream).	768
	Virginia Route 368 (upstream).	782
	Virginia Route 1411 (upstream).	785
	Virginia Route 766.	806
Tomahawk Creek ..	Confluence with Blackwater Creek.	660
	Virginia Route 674 (downstream).	682
	Virginia Route 674 (upstream).	684
	Virginia Route 291 (downstream).	685
	Virginia Route 291 (upstream).	692
	Norfolk & Western RR. (downstream).	702
	Norfolk & Western RR. (upstream).	722
	Robin Drive (upstream).	728
	Corporate limits...	736
Ivy Creek .....	Evergreen Rd. (upstream).	776
	Dandridge Dr. extended.	627
	Virginia Route 620 (downstream).	638
	Virginia Route 620 (upstream).	647
	Corporate limits...	650
Cheese Creek .....	Confluence with Ivy Creek.	674
	Private Dr. (upstream).	638
	7,400 ft upstream from confluence.	660
	9,000 ft upstream from confluence.	680
	10,000 ft upstream from confluence.	692
	11,000 ft upstream from confluence.	718
	13,000 ft upstream from confluence.	734
	18,000 ft upstream from confluence.	760
	Virginia Route 644.	791
Judith Creek .....	Chesapeake & Ohio RR.	827
	5,000 ft upstream from mouth.	568
	8,000 ft upstream from mouth.	597
	Trents Ferry Rd. ...	622
	16,000 ft upstream from mouth.	638
	Corporate limits...	661
		685
		290

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended;

42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1783 Filed 1-25-78; 8:45 am)

## [4210-01]

[24 CFR Part 1917]

(Docket No. FI-3866)

## MONTGOMERY COUNTY, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Montgomery County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Montgomery County Administrator's Office, 4 South Franklin Street, Christianburg, Va. Send comments to: Mr. Allan Williams, County Administrator of Montgomery County, P.O. Box 806, Christianburg, Va. 24073.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Montgomery County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended;



## PROPOSED RULES

opment Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Roanoke River.....	County boundary.	1,178
North Fork, Roanoke River.	Confluence with South Fork, Roanoke River.	1,197
	Confluence of Bradshaw Creek.	1,238
	Virginia Route 837 (upstream).	1,333
	Virginia Route 803 (upstream).	1,452
	Virginia Route 712.	1,468
	Confluence of Indian Run.	1,510
	Virginia Route 747 (upstream).	1,687
Bradshaw Creek....	County boundary.	1,790
	Norfolk & Western Ry. (upstream).	1,246
Indian Run.....	County boundary.	1,381
	Virginia Route 785 (upstream).	1,537
South Fork, Roanoke River.	U.S. Highway 11 and 460 (N.B.L.).	1,213
	Virginia Route 636 (upstream).	1,279
	U.S. Highway 11 and 460 (N.B.L.) (upstream).	1,317
	Confluence with Spring Branch.	1,327
	Virginia Route 637 (upstream).	1,379
	Confluence with Elliott Creek.	1,401
	Confluence of Bottom and Goose Creeks.	1,528
Spring Creek.....	Virginia Route 609.	1,323
	Virginia Route 637 (upstream).	1,413
	Virginia Route 753.	1,476
Elliott Creek .....	Virginia Route 639 (upstream).	1,425
	Virginia Route 722.	1,465
Bottom Creek .....	Virginia Route 637.	1,536

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Goose Creek.....	Virginia Route 837.	1,532
	Floyd County line	1,554
New River.....	County boundary.	1,666
	Confluence of Stroubles Creek.	1,714
	Confluence of Plum Creek.	1,738
	Confluence with Little River.	1,758
Toms Creek.....	Confluence with New River.	1,702
	Virginia Route 852 (upstream).	1,707
	Virginia Route 725 (upstream).	1,793
	Virginia Route 684 (upstream).	1,855
	Virginia Route 654 (upstream).	1,869
Stroubles Creek....	Norfolk and Western Ry.	1,714
	Confluence of Slate Branch.	1,798
	Virginia Route 659 (upstream).	1,822
	Virginia Route 657 (upstream).	1,962
	Corporate limits....	1,984
Slate Branch.....	Virginia Route 659 (upstream).	1,816
	Virginia Route 643 (upstream).	1,977
Plum Creek.....	Virginia Route 600 (upstream).	1,816
	Virginia Route 738 (upstream).	1,830
Little River .....	Virginia Route 605.	1,758
	Radford Hydroelectric Dam (upstream).	1,766
	Virginia Route 613 (upstream).	1,618
	Virginia Route 693 (upstream).	1,832
	Virginia Route 613 (upstream).	1,846
	Virginia Route 787 (upstream).	1,911
	Old State Route 695.	2,015
	Virginia Route 8 (upstream).	2,076
	County boundary.	2,094
Craig Creek.....	County boundary.	1,620
	Virginia Route 621.	1,821
	Virginia Route 621 (upstream).	1,883

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1784 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3867]

## TOWN OF OCCOQUAN, PRINCE WILLIAM COUNTY, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Occoquan, Prince William County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Occoquan Town Hall, 400 Mill St. Occoquan, Va. Sent comments to: Hon. Charles Pugh, mayor of Occoquan, 303 Union St. Occoquan, Va. 22125.

FOR FUTURE INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Occoquan, Prince William County, Va. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood

plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Occoquan River.....	Downstream corporate limits.	11
	Upstream corporate limits.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1785 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3868]

## PRINCE EDWARD COUNTY, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Prince Edward County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations

## PROPOSED RULES

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1786 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]  
[Docket No. FI-3869]

## TOWN OF STUART, PATRICK COUNTY, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Stuart, Patrick County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Stuart Town Office, Blue Ridge Street, Stuart, Va. Send comments to: Hon. J. Clayton Boaz, mayor of Stuart, P.O. Box 422, Stuart, Va. 24171.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Stuart, Patrick County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program reg-

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Appomattox River	Farmville corporate limits.	314
	Cumberland County.	333
	U.S. 15.....	339

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)



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ulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Mayo River	Campbell Branch confluence.	1,180
	J. P. Stevens	1,189
	Plant entrance.	1,195
	Virginia Route 8...	1,196
North Fork.....	Upstream corporate limits.	1,225
	Virginia Route 681.	1,225
	Upstream corporate limits.	1,246

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1787 Filed 1-25-78; 8:45 am]

## [4210-01]

[24 CFR Part 1917]

[Docket No. FI-3870]

WYTHE COUNTY, VA.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Wythe County, Va.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the Na-

tional Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Wythe County Courthouse, 275 South Fourth Street, Wytheville, Va. 24382. Send comments to: Mr. Billy R. Branson, County Administrator, Wythe County, 275 South Fourth Street, Wytheville, Va. 24382.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Wythe County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaverdam Creek..	Confluence with Miller Creek.	2,017
	Norfolk and Western RR.	2,016
	Upstream limit of detailed study.	2,028

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cripple Creek (at Cripple Creek).	State Route 619 ...	2,174
	State Route 602 ...	2,180
	3,775 ft upstream of State Route 619.	2,185
Cripple Creek (at Speedwell).	32,000 ft upstream of State Route 619.	2,277
	Confluence of Dry Run.	2,287
	Upstream of Route 21.	2,292
	36,675 ft upstream of State Route 619.	2,293
	Confluence with Cripple Creek.	2,287
Dry Run.....	Upstream of State Route 619.	2,302
	Upstream of U.S. Route 21.	2,316
	3,170 ft above confluence with Cripple Creek.	2,320
	Francis Mill Creek	2,183
Francis Mill Creek	State Route 779 ...	2,209
	State Route 602.	2,240
	4,700 ft upstream of confluence with Cripple Creek.	2,275
	7,110 ft upstream of confluence with Cripple Creek.	2,275
	Confluence with New River.	1,969
Ivanhoe Creek .....	State Route 639 ...	1,973
	Upstream of State Route 94.	1,977
	Upstream of State Route 742 at 3,130 ft above confluence with New River.	1,991
	Upstream of State Route 742 at 4,280 ft above confluence with New River.	2,001
	Upstream of State Route 732.	2,011
	Confluence with Reed Creek.	2,018
	Downstream of Norfolk & Western RR.	2,019
	Upstream of Norfolk & Western RR.	2,023
	Downstream of State Route 1010.	2,025
	Upstream of State Route 1010.	2,027
McGavock Run.....	Downstream of State Route 610.	2,046
	Upstream of State Route 610.	2,051
	Road 716.....	2,065
	Confluence with Reed Creek.	2,017
	3,100 ft upstream of confluence with Reed Creek.	2,017
Miller Creek.....	4,500 ft upstream of confluence with Reed Creek.	2,024
	41,500 ft upstream of county corporate limits.	1,912

## PROPOSED RULES

show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, Westport, Wash. Send comments to: Mayor Bill Wade, P.O. Box 505, Westport, Wash. 98595.

## FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Westport, Grays Harbor County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pacific Ocean.....	Intersection of Newell Ave. and Surf St.	20
	Harbor St. at Westhaven State Park entrance.	20

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grays Harbor .....	Intersection of Coast St. and Second Ave.	19
	Intersection of First St. and Patterson St.	19
	Intersection of Tacoma Ave. and Fourth St. East end of Park Ave.	13
Tidal Slough, backwater from Pacific Ocean.	Intersection of Montesano St. and Sprague Ave.	13
	Intersection of Ocean Ave. and Broadway St.	11
	Approximately 400 ft east of the intersection of highway 105 and Newell Ave.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

[FR Doc. 78-1789 Filed 1-25-78; 8:45 am]

## [4210-01]

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3845]

YELLOW MEDICINE COUNTY, MINN.

## Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Yellow Medicine County, Minn.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines



of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Yellow Medicine County Courthouse, Granite Falls, Minn. Send comments to: Mr. Luverne Grinager, Chairman, Yellow Medicine County Board of Commissioners, Yellow Medicine County Courthouse, 415 9th Avenue, Granite Falls, Minn. 56241.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Yellow Medicine County, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Minnesota River....	County and State Aid Highway 21.	878
	County and State Aid Highway 7.	925
	U.S. Highway 212.	927
	U.S. Highway 212 and 59.	930
Minnesota River overflows through Granite Falls.	County and State Aid Highway 87.	895
	U.S. Highway 212.	912
	11th Ave.	914
	Township Rd. 101 (downstream side).	919

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Canby Creek .....	Township Rd. 1....	1,136
	County and State Aid Highway 4.	1,142
	Township Rd. 6....	1,146
	County and State Aid Highway 33.	1,151
Lazarus Creek.....	Township Rd. 11..	1,160
	U.S. Highway 75....	1,170
	County and State Aid Highway 3.	1,188
	Township Rd. 56..	1,201
	County and State Aid Highway 33.	1,154
	Township Rd. 11..	1,168
	County and State Aid Highway 13.	1,184
	Township Rd. 154	1,208
	County Rd. E2.....	1,235
	Chicago, Northwestern RR. (downstream side).	1,257

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1762 Filed 1-25-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]

(Docket No. FI-3527)

CITY OF OXFORD, LAFAYETTE COUNTY, MISS.

#### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

**SUMMARY:** This document corrects a proposed rule on base (100-year) flood elevations that appeared on page 55716 of the FEDERAL REGISTER of October 18, 1977.

EFFECTIVE DATE: October 18, 1977.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

The following corrections are made:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Burney Branch.....	Hospital entrance Rd. (upstream side).	353
	Jackson Ave. ....	419
Bailey Branch.....	Park Rd. ....	448
	(upstream side).	
East Goose Valley Creek.	Lamar Blvd. exit ..	376
	State Highway 6 ..	382
Davidson Creek tributary 2.	(upstream side).	397
	Stone Rd. ....	
	(upstream side).	403
	Washington Ave. (downstream side).	

The street and parking lot location at East Goose Valley Creek Tributary at elevation 378 should be deleted.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1763 Filed 1-25-78; 8:45 am)

#### [4210-01]

[24 CFR Part 1917]

(Docket No. FI-3846)

CITY OF RIDGELAND, MADISON COUNTY, MISS.

#### Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

**SUMMARY:** Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Ridgeland, Madison County, Miss. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

**ADDRESSES:** Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Ridgeland, Miss. Send comments to:

Mayor C. F. McCormack, P.O. Box 217, Ridgeland, Miss. 39157.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

**SUPPLEMENTARY INFORMATION:** The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Ridgeland, Miss., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a). These elevations, together with the flood plain management measures required by section 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purple Creek .....	County Line Rd....	309
	U.S. Highway 51....	323
	Illinois Central Gulf RR.	324
Tributary to Purple Creek.	Ridgewood Rd. ....	318
	U.S. Highway 51....	326
	Illinois Central Gulf RR.	329
	Holmes St. ....	330
Tributary 3 to Purple Creek.	Grave St. ....	334
	South Wheatley St.	321
Tributary 4 to Purple Creek.	Wolcott Circle (west crossing).	323
	Wolcott Circle (east crossing).	324
	South Wheatley St.	335
	Lakeland Dr. ....	324
Tributary 5 to Purple Creek.	Ford Ave. ....	336
	Pear Orchard Rd.	327
School Creek.....	Unnamed road.....	328
	School St. ....	343
Brashear Creek .....	Ridgeland Ave. ....	322

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development

#### PROPOSED RULES

Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,  
Secretary.

(FR Doc. 78-1764 Filed 1-25-78; 8:45 am)

#### [4910-14]

#### DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

(CGD 77-212)

#### ANCHORAGE GROUNDS, DELAWARE BAY AND RIVER

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** The Coast Guard is proposing to enlarge Anchorage A (tanker lightering) off the entrance of the Mispillion River in Delaware Bay, southwest of the Brandywine Channel. The enlargement is needed to accommodate the increase in the size and number of vessels using the anchorage.

**DATE:** Comments must be received on or before February 27, 1978.

**ADDRESS:** Comments should be submitted to and will be available for examination at the Office of Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004.

#### FOR FURTHER INFORMATION CONTACT:

Captain George K. Greiner, Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1477.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the writer's name and address, identify the notice (CGD 77-212) and the specific section to which the comment applies, and give the reason for the comments. All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

**DRAFTING INFORMATION:** The principal persons involved in drafting

this proposal are: Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems, and Mr. S. D. Jackson, Project Attorney, Office of Chief Counsel.

#### DISCUSSION OF THE PROPOSED REGULATION

Anchorage A (tanker lightering) off the entrance to Mispillion River in the Delaware Bay, also known as Big Stone Anchorage, provides anchorage space for deep draft tank vessels to anchor and lighter their cargo before proceeding up the Delaware River.

During 1976, approximately 500 large vessels used this anchorage, for an average of two to three days at a time. The large number of vessels, combined with the barges they use for lightering, have created over-crowded conditions in this anchorage.

Enlarging the anchorage would enhance the safety of barge movements in the anchorage by increasing the maneuvering space between the vessels.

In consideration of the foregoing, it is proposed to amend § 110.157(a)(1) of Title 33 of the Code of Federal Regulations to read as follows:

§ 110.157 Delaware Bay and River.

(a) *The anchorage grounds.*—(1) *Anchorage A (tanker lightering) off the entrance to Mispillion River.* In Delaware Bay southwest of Brandywine Channel beginning at latitude 38°53'57" N., longitude 75°08'00" W.; thence northwesterly to latitude 39°01'22" N., longitude 75°13'25" W.; thence southwesterly to latitude 39°00'49" N., longitude 75°14'57" W.; thence southeasterly to latitude 38°53'22" N., longitude 75°09'26" W.; thence northeasterly to the point of beginning. This anchorage is for the specific purpose of allowing deep draft tankers to anchor and lighter their cargo before proceeding up the Delaware River. Supervision over the anchoring of vessels and over cargo transfer operations in Anchorage A is exercised by the Captain of the Port Philadelphia. The regulations in paragraphs (b)(1) and (b)(2) of this section do not apply to this anchorage.

(Sec. 7, 38 Stat. 1053 as amended (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940 (49 U.S.C. 1655(g)(1)); 49 CFR 1.46(c)(1).)

**NOTE.**—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

Dated: January 19, 1978.

O. W. SILER,  
Admiral, U.S. Coast Guard  
Commandant.

(FR Doc. 78-2275 Filed 1-25-78; 8:45 am)



[6712-01]

FEDERAL COMMUNICATIONS  
COMMISSION

[47 CFR Part 61]

[CC Docket No. 78-10; FCC 78-4]

REQUIREMENTS FOR POSTING OF CERTAIN  
TARIFFS

## Proposed Modification

AGENCY: Federal Communications  
Commission.ACTION: Proposed notice and com-  
ment rulemaking.

SUMMARY: The Commission pro-  
poses to amend 47 CFR 61.72 to delete  
the requirement that common carriers  
subject to its jurisdiction post their  
tariffs at toll centers. In a Petition for  
rule making filed on April 13, 1976,  
the American Telephone and Tele-  
graph Company stated that very few  
people went to toll centers to ask  
about tariffs, that the space currently  
devoted to tariff postings is needed for  
other purposes and that security con-  
siderations militate against public  
access to toll centers. This rule making  
is being instituted to determine whether  
it would be in the public interest to  
delete the requirement of posting tar-  
iffs in toll centers.

DATES: Comments must be received  
on or before March 27, 1978 and Reply  
Comments must be received on or  
before April 26, 1978.

ADDRESSES: Send Comments to:  
Federal Communications Commission,  
Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:

Kent Nakamura, Common Carrier  
Bureau, 202-632-5550.

Adopted: January 11, 1978.

Released January 23, 1978.

In the matter of Amendment of  
§ 61.72 of the Commission's rules to  
modify the requirements for the post-  
ing of certain tariffs. CC Docket No.  
78.10, RM-2688.

By the Commission:

1. Notice is hereby given of proposed  
rulemaking in the above entitled  
matter.

2. Section 61.72 of the Commission's  
rules and regulations<sup>1</sup> now requires  
the posting of tariffs by common car-  
riers subject to the Commission's jur-  
isdiction. The rule basically requires the  
posting of such tariffs at the carrier's  
main office in every community  
served. Alternatively, the rule states  
that the tariffs may be posted in the  
main office of the filing carrier in  
every city with a population of 100,000

<sup>1</sup>47 CFR 61.72.

## PROPOSED RULES

or more and in the state capital. If the  
filing carrier does not operate in a city  
with a population of 100,000 or more,  
then the tariffs must be posted and  
kept open for public inspection in the  
largest city in the state in which the  
filing carrier does operate and in the  
state capital.

3. If a carrier elects to use this alter-  
native method, section 61.72 also re-  
quires the carrier to state that the  
schedule for interstate and foreign  
message telephone toll rates in use at  
each toll center is available for public  
inspection during regular business  
hours at the toll center. The carrier  
also is required to state, in connection  
with every notice in each toll center,  
the exact location in the toll center  
where the tariffs can be found.

4. In a Petition for Rulemaking  
(RM-2688) filed by the American Tele-  
phone and Telegraph Co. (A.T. & T.)  
on April 13, 1976, it requested that sec-  
tion 61.72 of the rules be amended to  
delete the requirement that tariffs be  
posted and made available to the  
public at the toll centers. A.T. & T.,  
which uses the alternative method of  
posting tariffs described above, states  
that virtually no requests are received  
to examine tariffs at toll centers. A.T.  
& T. further states that the space de-  
voted to posting of tariff schedules is  
needed for equipment and that securi-  
ty considerations militate against  
public access to the toll centers.

5. Public notice of A.T. & T.'s Peti-  
tion for rulemaking was given by the  
Commission pursuant to § 1.403 of the  
Commission's Rules in Report No. 981  
of the Commission, dated May 14,  
1976. On June 14, 1976, GTE Service  
Corp. filed comments in support of  
A.T. & T.'s proposal.

6. Inasmuch as schedules for foreign  
and interstate message toll telephone  
rates are available in many other loca-  
tions that are more accessible to the  
public than are toll centers, it might  
be, based on A.T. & T.'s statements,  
that the deletion of the toll center  
posting requirement would not incon-  
venience the public. It is also possible  
that the telephone companies may be  
able to operate more efficiently by  
eliminating what may be unnecessary  
requirements; this may prove to be in  
the public interest by reducing the  
operational costs of the carriers.

7. Accordingly, we are instituting  
this rulemaking to determine whether  
deletion of the requirement that tar-  
iffs be posted in toll centers would be  
in the public interest. We are particu-  
larly interested in knowing how often  
members of the public go to toll cen-  
ters to inquire about charges or regu-  
lations for foreign and interstate ser-  
vice. It is also proposed to amend  
§ 61.72 to make it clear that the tariff

<sup>1</sup>A.T. & T. Petition for Rulemaking at  
pp.2-3.

material to be posted includes pro-  
posed revisions as well as effective  
tariff material. Further, the language  
of § 61.72 has been changed to make  
the rule more comprehensible.

8. Authority for the proposed rule  
making instituted here is contained in  
sections 4(i) and 203(a) of the Commu-  
nications Act of 1934, as amended.<sup>2</sup>

9. Interested persons may file com-  
ments on the proposed rule and issues  
discussed herein on or before March  
27, 1978, and reply comments on or  
before April 26, 1978. In reaching its  
decision on this matter, the Commis-  
sion may take into account any other  
relevant information before it in addi-  
tion to the comments invited by the  
notice.

10. All comments, replies, pleadings,  
briefs and other documents shall be  
furnished to the Commission in accor-  
dance with § 1.419 of the Commission's  
rules.

11. Responses filed in this proceed-  
ing will be available for public inspec-  
tion during regular business hours in  
the Commission's Public Reference  
Room at its headquarters in Washing-  
ton, D.C. (1919 M Street, NW).

For the Federal Communications  
Commission.

WILLIAM J. TRICARICO,  
Secretary.

## APPENDIX

In Part 61 of Chapter I of Title 47 of  
the Code of Federal Regulations,  
§ 61.72 is proposed to be revised to  
read as follows:

## § 61.72 Posting.

Filing carriers are required to post a  
schedule of charges and regulations to  
be available for public inspection  
during regular business hours. This  
tariff material shall cover all effective  
and proposed rates and regulations  
pertaining to the services offered to  
and from the community or communi-  
ties served and shall be the same as  
that on file with the Commission. This  
posting requirement may be satisfied  
by either of the following methods:

(a) *First method.* The tariff material  
shall be posted in every community  
within the United States in which the  
filing carrier has an office open to the  
public (the main office in the case of a  
filing carrier with more than one  
office in a single community).

(b) *Second method.* The tariff mate-  
rial to be posted shall include charges  
and regulations applicable to or from  
every point in each state in which the  
carrier operates as follows:

(1) In the main office of the filing  
carrier open to the public in every city  
in that state with a population of  
100,000 or more (or in the largest com-

<sup>2</sup>47 U.S.C. 154(i), 203(a).

## PROPOSED RULES

munity served if none has a popula-  
tion of 100,000); and

(2) In the main office of the carrier  
in the state capital.

If a carrier chooses this second  
method, a notice must be posted in  
each and every business office of the  
carrier open to the public in that state  
indicating the street address of the  
nearest location in which a tariff post-  
ing can be found.

[FR Doc. 78-2181 Filed 1-25-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-19; RM-2953]

TELEVISION BROADCAST STATION IN  
SAVANNAH, GA.

## Proposed Changes in Table of Assignments

AGENCY: Federal Communications  
Commission.ACTION: Notice of Proposed Rule-  
making.

SUMMARY: Action taken herein pro-  
poses the assignment of a fourth com-  
mercial television channel to Savan-  
nah, Ga. Petitioner, WALH, Inc.,  
states the proposed assignment would  
provide for a station which could  
render a first independent (non-net-  
work) television programming service  
to Savannah.

DATES: Comments must be received  
on or before March 14, 1978, reply  
comments on or before April 3, 1978.

ADDRESS: Federal Communications  
Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION  
CONTACT:

Mildred B. Nesterak, Broadcast  
Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:  
Adopted: January 13, 1978.

Released: January 23, 1978.

In the matter of amendment of  
§ 73.606(b), Table of Assignments,  
Television Broadcast Stations, (Savan-  
nah, Ga.), BC Docket No. 78-19; RM-  
2953.

By the Chief, Broadcast Bureau:

1. The Commission has before it for  
consideration a petition for rule  
making<sup>1</sup> filed by WALH, Inc. ("peti-  
tioner"), seeking amendment of Sec-  
tion 73.606(b) of the Commission's  
Rules. It proposes that UHF television  
Channel 28 be assigned to Savannah,  
Ga., for commercial use. Channel 28  
may be assigned to Savannah, Ga., in

<sup>1</sup>Public notice of the petition was given on  
September 13, 1977, Report No. 1074.

compliance with the minimum dis-  
tance separation requirements and  
other technical criteria. Supplemental  
comments were filed by petitioner. No  
other responses to the petition have  
been received.

2. Savannah (pop. 118,349), in Chat-  
ham County (pop. 187,816),<sup>2</sup> is located  
in eastern Georgia where the Savan-  
nah River, the boundary between  
Georgia and South Carolina, flows  
into the Atlantic Ocean. Savannah has  
three commercial TV stations (WSAV-  
TV, Channel 3; WTOG-TV, Channel  
11; and WJCL, Channel 22). It also has  
assigned to it Channel \*9, which is  
used by Station WVAN-TV, an educa-  
tional station. Thus, all of the chan-  
nels assigned to Savannah are occu-  
pied by operating stations.

3. Petitioner states that Savannah  
has experienced strong economic  
growth since 1970. We are told that  
the most important factor in the Sav-  
annah area's economy is the city's  
port which is among the largest on the  
eastern coast of the United States. It  
notes that a second factor is manufac-  
turing, which includes paper products,  
chemicals, truck trailers, roofing prod-  
ucts, etc. Petitioner has submitted sta-  
tistics collected by the Savannah area  
Chamber of Commerce indicating that  
the volume of trade at the port has in-  
creased substantially in recent years  
and that port facilities are presently  
being expanded. It adds that in the  
first quarter of 1977, Chatham  
County, in which Savannah is located,  
showed the largest increase in retail  
sales (13.8%) among all metropolitan  
counties in the State of Georgia. Peti-  
tioner contends that its study of the  
area, its economy, and the television  
viewing patterns in the market indi-  
cate that an independent television  
station could become a viable econom-  
ic entity within a short time after  
commencement of operation. It states  
that the proposed station would pro-  
vide the Savannah area with its first  
such independent television program  
service in competition with the pro-  
gramming now provided by the three  
network affiliated stations in the  
market.

4. In view of the foregoing, and the  
fact that the proposed assignment  
could provide the Savannah area with  
a first non-network commercial televi-  
sion service, the Commission finds  
that it would serve the public interest  
to seek comments in rulemaking.

5. Therefore, notice is hereby given  
that the Commission proposes to  
amend the Television Table of Assign-  
ments, § 73.606(b) of the Commission's  
Rules, with respect to Savannah, Ga.,  
as follows:

## City and Channel No.

Savannah, Ga.: Present: 3, \*9-, 11, 22; Pro-  
posed: 3, \*9-, 11, 22, 28-.

<sup>2</sup>Population figures were taken from the  
1970 U.S. Census.

6. The Commission's authority to in-  
stitute rulemaking proceedings; show-  
ings required; cut-off procedures; and  
filing requirements are contained in  
the attached Appendix and are incor-  
porated by reference herein.

7. Interested parties may file com-  
ments on or before March 14, 1978,  
and reply comments on or before April  
3, 1978.

For the Federal Communications  
Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

## APPENDIX

1. Pursuant to authority found in sections  
4(i), 5(d)(1), 303(g), and (r), and 307(b) of  
the Communications Act of 1934, as amend-  
ed, and section 0.281(b)(6) of the Commis-  
sion's Rules, it is proposed to amend the TV  
Table of Assignments, section 73.606(b) of  
the Commission's Rules and Regulations, as  
set forth in the Notice of Proposed Rule  
Making to which this Appendix is attached.

2. *Showings required.* Comments are in-  
vited on the proposal(s) discussed in the Notice  
of Proposed Rule Making to which this Ap-  
pendix is attached. Proponent(s) will be ex-  
pected to answer whatever questions are  
presented in initial comments. The propo-  
nent of a proposed assignment is also ex-  
pected to file comments even if it only re-  
submits or incorporates by reference its  
former pleadings. It should also restate its  
present intention to apply for the channel if  
it is assigned, and, if authorized, to build the  
station promptly. Failure to file may lead to  
denial of the request.

3. *Cut-off procedures.* The following proce-  
dures will govern the consideration of fil-  
ings in this proceeding.

(a) Counterproposals advanced in this pro-  
ceeding itself will be considered, if advanced  
in initial comments, so that parties may  
comment on them in reply comments. They  
will not be considered if advanced in reply  
comments. (See § 1.420(d) of Commission  
Rules.)

(b) With respect to petitions for rule  
making which conflict with the proposal(s),  
in this Notice, they will be considered as  
comments in the proceeding, and Public  
Notice to this effect will be given as long as  
they are filed before the date for filing ini-  
tial comments herein. If they are filed later  
than that, they will not be considered in  
connection with the decision in this docket.

4. *Comments and reply comments; service.*  
Pursuant to applicable procedures set out in  
sections 1.415 and 1.420 of the Commission's  
Rules and Regulations, interested parties  
may file comments and reply comments on  
or before the dates set forth in the Notice of  
Proposed Rule Making to which this Appen-  
dix is attached. All submissions by parties to  
this proceeding or persons acting on behalf  
of such parties must be made in written  
comments, reply comments, or other appro-  
priate pleadings. Comments shall be served  
on the petitioner by the person filing the  
comments. Reply comments shall be served  
on the person(s) who filed comments to  
which the reply is directed. Such comments  
and reply comments shall be accompanied  
by a certificate of service. (See § 1.420 (a),  
(b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with  
the provisions of section 1.420 of the Com-  
mission's Rules and Regulations, an original



and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2262 Filed 1-25-78; 8:45 am]

[6712-01]

[47 CFR Part 76]

[Docket No. 21472]

# "SATURATED" CABLE TELEVISION SYSTEMS

Order Extending Time for Filing Comments and Replies

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: In response to requests by the Community Antenna Television Association and Viacom International, and for good cause shown, a one month extension of time is granted to submit comments in response to the notice of proposed rulemaking in Docket 21472. This proceeding is concerned with problems associated with cable television systems that are required to carry more broadcast signals than they have capacity to carry.

DATES: Comments must now be received on or before February 23, 1978, and reply comments on or before March 27, 1978.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

## FOR FURTHER INFORMATION:

Contact James Hudgens, Cable Television Bureau, 202-632-6468.

SUPPLEMENTARY INFORMATION: Adopted: January 18, 1978.

Released: January 20, 1978.

In the matter of amendment of Part 76 of the Commission's rules and regulations (§§ 76.59-76.63) with respect to "saturated" cable television systems, Docket No. 21472.

1. Separate requests for a 30-day extension of time for submitting comments in the above entitled matter have been submitted by the Community Antenna Television Association (CATA) and Viacom International, Inc. (Viacom).

2. In support of its request, CATA explains that many of the independent cable operators which it represents are experiencing difficulty in accumulating the information which they wish to submit in this proceeding. Moreover, CATA continues, the Association recently has experienced both personnel and office changes and will be unable to meet the filing deadline of January 23, 1978. Such an extension, CATA urges, will allow the Association time to gather the needed data "to give the Commission a better perspective on the true ramifications of the problems encountered by the so-called 'saturated' systems."

3. Viacom, in support of its request, states that it owns many systems in the states of California and New York which are directly affected by the "saturated" problem and that it has commenced certain studies, many of them economic in nature, to submit to the Commission in this proceeding and needs the additional time to complete these studies.

4. In view of these considerations, good cause has been shown for granting the requested extension. Accordingly, it is ordered, That the dates for filing comments and replies in Docket 21472 are extended to February 23 and March 27, 1978, respectively.

This action is taken by the Chief, Cable Television Bureau, pursuant to the authority delegated by § 0.288 of the Commission's rules.

For the Federal Communications Commission.

JAMES R. HOBSON,  
Chief, Cable Television Bureau.

[FR Doc. 78-2260 Filed 1-25-78; 8:45 am]

[4910-60]

## DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 173, 179]

[Docket No. HM-125; Notice No. 75-4]

### PROHIBITION OF NEW CONSTRUCTION OF SPECIFICATION DOT-112A AND 114A UNINSULATED PRESSURE TANK CAR TANKS

Withdrawal of Notice

AGENCY: Materials Transportation Bureau (the Bureau), DOT.

ACTION: Withdrawal of Notice No. 75-4.

SUMMARY: Notice 75-4 in Docket No. HM-125, published in the FEDERAL REGISTER on April 23, 1975 (40 FR 17853), which proposed amendments to §§ 173.314 and 179.101 of the Hazardous Materials Regulations to prohibit new construction of DOT specification 112A and 114A uninsulated tank car tanks for use in the transportation of hazardous materials, is being withdrawn as no longer necessary in light of amendments published by the Bureau on September 15, 1977 under Docket HM-144 (42 FR 46306).

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

William F. Black, Office of Safety, Federal Railroad Administration, Washington, D.C. 202-426-2748.

SUPPLEMENTARY INFORMATION: Notice 75-4 in Docket HM-125 was published by the Hazardous Materials Regulations Board and developed in response to several rail accidents involving DOT specification 112A and 114A tank car tanks, which had resulted in loss of life and substantial property damage. However, subsequent to issuance of Notice 75-4, the Bureau proposed more extensive amendments concerning modification of construction standards and criteria for the use of such tank car tanks (Docket HM-144; Notice 76-12; 41 FR 52324).

Notice 76-12 was the basis for the amendments published by the Bureau on September 15, 1977. These amendments addressed the concerns expressed in Notice 75-4 by requiring for all 112A and 114A tank car tanks: (1) bottom and top shelf couplers; (2) headshields or protective headjackets on those tank car tanks used to transport anhydrous ammonia and flammable gases; and (3) thermal protection on those tank car tanks used to transport flammable gases. In light of this action, the preamble to the final rule stated:

As was indicated in the notice, with the promulgation of standards and specifications upgrading existing specification 112 and 114 so as to improve design and construction, the Bureau will withdraw Notice 75-4, under Docket HM-125.

Accordingly, the Bureau hereby withdraws Notice 75-4 under Docket No. 125.

(49 U.S.C. 1804; 49 CFR 1.53(e))

Issued in Washington, D.C. on January 18, 1978.

ALAN I. ROBERTS,  
Director, Office of  
Hazardous Materials Operations.  
[FR Doc. 78-1998 Filed 1-25-78; 8:45 am]

[4910-22]

Federal Highway Administration

[49 CFR Part 393]

[Docket No. MC-75-3; Notice 78-11]

### PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Proposed Fire Resistance Test for Nonmetallic Fuel Tanks; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws a proposed fire resistance test for non-metallic fuel tanks on vehicles en-

gaged in interstate or foreign commerce. It has been determined that the proposed test does not assure a level of safety equivalent to that provided by present requirements.

## FOR FURTHER INFORMATION CONTACT:

Donnell W. Morrison, Chief, Vehicle Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, 202-426-1700; Mrs. Kathleen S. Markman, Office of the Chief Counsel, 202-426-0790, Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.s.t. Monday-Friday.

SUPPLEMENTARY INFORMATION: On November 30, 1976, a notice of proposed rulemaking (NPRM) was published (41 FR 52500) proposing a new fire resistance test for nonmetallic fuel tanks as an alternative to the safety venting system test presently contained in the Federal Motor Carrier Safety Regulations (FMCSR). The NPRM was issued in response to a petition from Barry Plastic Industries, Inc., and the original closing date for comments was February 1, 1977. In response to several requests, a Notice published on March 24, 1977 (42 FR 15935) extended the comment closing date until May 1, 1977.

All comments and data received relative to this docket are available for public inspection in Room 3402 of the Department of Transportation Headquarters Building, located at 400 Seventh Street, SW., Washington, D.C.

A total of 16 organizations commented on the NPRM. Several companies made more than one submission. Two of the commenters supported the new test essentially as proposed—Barry Plastic Industries, Inc., (BPI), and Ford Motor Company.

BPI indicated it had conducted a number of fire and drop tests on its prototype plastic fuel tanks developed for heavy duty commercial vehicles but data from these tests were not submitted. Personnel of the Federal Highway Administration (FHWA) did observe a drop test demonstration of an empty tank at Fargo, North Dakota, on April 23, 1977.

BPI submitted technical data concerning the raw material (high density, cross-linked polyethylene (HDPE)) from which the fuel tanks are made. The data was from Phillips Petroleum Co. (Phillips), the HDPE supporter.

The data from Phillips on HDPE is oriented toward the use of this material for relatively small capacity fuel tanks for applications such as lawn mowers and marine outboard motors. The data does not deal adequately with the issue of fire resistance for fuel tanks with a capacity of 25 gallons or more, and on a commercial motor vehicle. The HDPE data also

raise questions concerning its suitability for large fuel tank applications in the following areas: age hardening, stress cracking, permeability, reduced strength at high temperatures, elongation, swell, and interaction with fuel. By contrast, the corresponding properties of the metals (i.e., steel and aluminum) used to make fuel tanks are well established and no detailed specification of these properties is necessary.

BPI cites the three principal advantages of nonmetallic fuel tanks (i.e., lightweight, low cost, and design shape flexibility) and urges that the proposed test "be viewed in the larger context of its application to the national and international urgent need for all concepts of potential fuel conservation."

Six other commenters supported the concept of allowing use of nonmetallic fuel tanks on commercial motor vehicles, but felt that modification should be made to the proposed test. Four of the commenters indicated the need for including requirements to ensure against degradation of nonmetallic fuel tanks due to weathering and aging (i.e., age hardening, permeability, and stress corrosion or cracking). Only one company, BASF Aktiengesellschaft of Germany, provided an example of what form such requirements might take by enclosing a copy of Regulation 34 from the Agreement concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval for Motor Vehicle Equipment and Parts promulgated under the auspices of the United Nations for the regulation of international commerce.

Regulation No. 34 applies only to passenger cars, and contains detailed test requirements for plastic fuel tanks in Annex 5. The tests specified in Annex 5 include the following: impact resistance, mechanical strength, fuel permeability, resistance to fuel, resistance to fire, and resistance to high temperatures.

Regulation No. 34 goes well beyond the scope of the NPRM toward assuring a high level of continued safety for nonmetallic fuel tanks in automotive service. However, it is our considered opinion that even Regulation 34 does not go far enough in the area of fire resistance to assure a level of safety equivalent to that not afforded by commercial vehicle fuel tanks which meet the present requirements contained in § 393.67(d) of the FMCSR (49 CFR 393.67(d)).

The capacities of passenger car fuel tanks average 20 gallons or less, and seldom exceed 30 gallons. Heavy duty commercial motor vehicles, on the other hand, are typically equipped with fuel tanks having a combined capacity of 100 gallons, and frequently can carry as much as 300 gallons. In view of the wide disparity between the

fuel capacities of passenger cars and commercial motor vehicles, the imposing of stringent safety requirements on the latter with respect to the primary fuel hazard, fire, is considered amply justified.

The National Transportation Safety Board and the American Trucking Associations, Inc., expressed serious reservations about finalizing the proposed rule. Both stated that thorough analysis and testing should be conducted before proceeding with any final rulemaking action.

The final six comments, consisting of five metal fuel tank manufacturers and the International Brotherhood of Teamsters, were opposed to the proposed rule.

One of the metal tank manufacturers, Michigan Fleet Equipment of Grand Rapids, Michigan, sponsored a series of test comparing the safety performance of 50-gallon nonmetallic fuel tanks with that of similar metallic fuel tanks in a variety of circumstances. The test were conducted on April 14 and 15, 1977, and personnel from FHWA were invited and attended.

Some of the tests were conducted using Michigan Fleet's own facilities, and the remainder were conducted by the Industrial Testing Laboratory (ITL) of Grand Rapids, Mich., an independent testing firm. As indicated at the beginning of this Notice, the details of these tests, including movies and slides, are available for public inspection in the Bureau of Motor Carrier Safety Docket Room.

The most convincing phase of the testing was a series conducted by ITL on April 14, 1977. Four 50-gallon tanks were tested, one made of steel, one of aluminum, and two of polyethylene.

One of the polyethylene tanks was manufactured by the petitioner, BPI. It was noted by the FHWA personnel who witnessed the fire tests that the manufacturer's label on this tank bore the phrase "Meets all FHWA requirements."

The four tests were conducted in an identical fashion. The tank being tested was supported in an upright position by a steel cradle. The cradle in turn was placed in a fire pan which measured 3 feet by 5½ feet. The pan was filled partially with water, then 10 gallons of diesel fuel were added—enough to support a fire for 6 to 7 minutes, and typical of the amount of fuel present in an accident involving a passenger car fuel tank rupture. At the start of each test, the bottom of the tank was 10 inches above the fuel level in the fire pan, typical of a saddle tank's position relative to the roadway on a truck tractor. All tanks were filled to ¾ capacity with diesel fuel.

The results of each test are summarized in the order conducted: 1. *Steel tank*.—Manufactured by Snyder Tank



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## PROPOSED RULES

Corp. About 1 minute after the fire was ignited, the spring-loaded vent in the fill cap was opened, causing a blow torch effect. After about 7 minutes, the fire in the pan burned out, leaving only a small flame at the vent opening. This flame would probably have burned for some time, but was easily extinguished after a total elapsed time of about 10 minutes.

After the test, the tank was intact. No liquid contents had been released, and the only opening was above the liquid level in the fill cap.

2. *Aluminum tank.* Manufactured by Snyder Tank Corp. As in case of the steel tank, the spring-loaded vent in the fill cap opened after about 1 minute. After about 3 minutes, an opening in the tank was observed above the liquid level. As the fire continued, this opening enlarged, but only above the liquid level in the tank.

At the end of about 7 minutes, the fire in the pan burned out leaving a moderate, but contained fire burning through the opening in the tank. This fire was allowed to burn until it was obvious it had reached a steady state.

At the end of the test, an opening of about 2 square feet existed above the liquid level in the tank. The fire burning through this opening could be easily extinguished, and a total of no more than 1 or 2 gallons of the tank's contents had been consumed.

3. *Plastic tank.* Manufactured by Barry Plastic Industries, Inc. Less than 2 minutes after the fire was ignited, the tank began to sag noticeably on the cradle, and drops of molten plastic were running off the tank into the fire pan. The molten plastic added to the intensity of the fire. Total release of tank contents into the fire pan occurred at less than 2½ minutes resulting in a very intense fire which burned for 20 to 30 minutes. It would not have been feasible to control the fire with an extinguisher once release of the contents had occurred.

After the fire, several pieces of plastic remained in the water at the bottom of the fire pan.

4. *Plastic tank.* Manufactured by Muncie. The results of this test were very similar to those of test No. 3 above, with the possible exception that sagging, dripping, and release occurred slightly earlier with this tank.

The principal hazard with a metallic fuel tank has long been recognized as high pressure buildup when exposed to fire with a possible resultant violent explosion. The safety venting system test specified in 49 CFR 393.67(d) was developed to preclude the possibility of pressure buildup—even in the worst case of an inverted tank. The tests performed by ITL demonstrated convincingly that the potential danger of explosion with fuel tanks meeting the present requirements is minimized. Further, the tests showed that steel

and aluminum tanks are capable of withstanding exposure to a severe fire, one which could easily occur in an accident situation, without release of contents.

In the case of a nonmetallic fuel tank, the principal hazard is that, when exposed to fire, the tank will melt or burn resulting in a total release of contents. The petitioner contends that this "nonviolent release of contents" is actually a safety mechanism in that the tank does not explode. The FHWA disagrees that adding a large quantity of fuel to a fire could be considered as a "nonviolent release." Also, as stated above, we believe the likelihood of metallic tanks exploding is minimized by the present venting requirements. None of the comments submitted to the docket identified safety advantages of nonmetallic over metallic fuel tanks which counteract the inherent inability of the former to withstand exposure to fire for more than a few minutes.

The fire tests conducted by ITL were more severe with respect to temperature than the test proposed by the petitioner. In a subsequent temperature gradient test, ITL determined that a temperature of 1000° F. at the tank surface could be maintained only if the fuel tanks were suspended 100 inches above the fire pan. The ITL method of locating the tank 10 inches above the fire, while being more severe, is more representative of a realistic accident situation.

The inability of the petitioner's fuel tank to withstand the fire exposure for even 2½ minutes does not, in FHWA's opinion, afford occupants of the vehicle, who may be temporarily stunned or trapped after a collision, adequate time for escape. Further, if the accident involves other vehicles or occurs in a populated area, the ultimate release of contents could easily transform a relatively minor accident into a major catastrophe.

In view of the foregoing, the November 30, 1976 NPRM is withdrawn and the petition from Barry Plastic Industries, Inc. is hereby denied.

AUTHORITY: 49 U.S.C. 304, 322; 18 U.S.C. 831-35; Pub. L. 93-633, 88 Stat., 8156 (49 U.S.C. 1801, et. seq.); 49 CFR 1.48, 301.60.

Issued on January 5, 1978.

H. L. ANDERSON,  
Associate Administrator for  
Safety.

(FR Doc. 78-2233 Filed 1-25-78; 8:45 am)

[4910-59]

National Highway Traffic Safety  
Administration

[49 CFR Parts 523 and 533]

[Docket No. FE77-05; Notice 3]

NONPASSENGER AUTOMOBILE AVERAGE  
FUEL ECONOMY STANDARDS

Limited Extension of Deadline for Public  
Comments

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Limited extension of deadline for submission of public comments.

SUMMARY: On Thursday, December 15, 1977, a notice of proposed rulemaking and public hearing was published (42 FR 61834) by this agency, proposing the establishment of fuel economy standards for pickup trucks, vans, and other "nonpassenger automobiles" manufactured in model years 1980-81. That notice specified a deadline of January 30, 1978, for the submission of written comments on the proposal. Subsequently, several participants in this proceeding requested that this deadline be extended by 10 to 45 days. Due to statutory constraints regarding the time for issuance of these standards, it was necessary to deny those requests except in one limited respect. The agency will consider data or other additional material which is supplemental to submissions made by January 30, if that supplemental material is received by February 9, 1978.

DATE: The deadline for submission of written comments on this rulemaking is January 30, 1978. Material supplementing submissions made by January 30 must be received by February 9, 1978. Material submitted after that date will be considered to the extent possible.

ADDRESSES: Comments must be submitted (preferably in ten copies) in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street, SW, Washington, D.C. 20590. Submissions containing information for which confidential treatment is requested should be submitted (preferably in three copies) to: Chief Counsel, National Highway Traffic Safety Administration, Room 5219, 400 Seventh Street SW., Washington, D.C. 20590, and seven additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION  
CONTACT:

Mr. George L. Parker, Office of Automotive Fuel Economy, room 4102, National Highway Traffic

Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-472-6902.

(Sec. 9, Pub. L. 89-670, 80 Stat. 931 (49 U.S.C. 1657); sec. 502, Pub. L. 94-163, 89 Stat. 902 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.)

Issued on January 19, 1978.

JOAN CLAYBROOK,  
Administrator, National Highway  
Traffic Safety Administration.

(FR Doc. 78-2135 Filed 1-20-78; 4:00 pm)

[3510-22]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[50 CFR Part 611]

NEW ENGLAND FISHERY MANAGEMENT  
COUNCIL AND MID-ATLANTIC FISHERY  
MANAGEMENT COUNCIL

Amendment to Public Hearing on Proposed  
Regulation of Cod, Haddock and Yellowtail  
Flounder

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Public hearing announcement.

SUMMARY: This notice announces public hearings of the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council to receive comments on the proposed regulation of Cod, Haddock and Yellowtail Flounder.

## PROPOSED RULES

DATES: The hearings will be held on January 26, January 27, and January 30, 1978. See Supplementary Information below.

ADDRESSES: The hearings will be held at Atlantic City, N.J., Chincoteague, Va., and Centereach, N.Y. See Supplementary Information below.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, Mass. 01960, 617-535-5450.

Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Del. 19901, 302-674-2331.

## SUPPLEMENTARY INFORMATION:

Notice is hereby given that the announcement pertaining to the New England Fishery Management Council's meetings published in the FEDERAL REGISTER, Vol. 43, No. 784, Wednesday, January 4, 1978, is amended to reflect additional public hearings to be held by the Mid-Atlantic Fishery Management Council on the 1978 Groundfish (cod, haddock, yellowtail flounder) management plan. The hearings will be held to receive public comment on the proposed regulation of the fisheries of cod, haddock, and yellowtail flounder in the Fishery Conservation Zone established under the Fishery Conservation Management Act of 1976.

The proposed plan would include the same regulations as in 1977 for li-

censing, mesh sizes, closed areas and minimum sizes for cod, haddock and yellowtail flounder, and quarterly quotas and landings restrictions for yellowtail flounder. It would amend the requirements for vessel identification, and set quarterly quotas for cod and haddock. Other modifications to the 1977 plan which may be considered by the Councils will be presented for consideration of the public at the Public Hearings.

The hearings will be held from 7 p.m. to 10 p.m. at the following locations and dates: January 26, 1978, Holiday Inn, on the Boardwalk at Missouri Avenue, Atlantic City, N.J. 08404; January 27, 1978, Flag Ship Restaurant, Maddox Boulevard, Chincoteague, Va. 23336; January 30, 1978, Holiday Inn, 4089 Nesconset Highway, Centereach, N.Y. 11720.

For further information, contact Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, Mass. 01960, 617-535-5450, or Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, North and New Streets, Dover, Del. 19901, 302-674-2331.

Dated: January 23, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

(FR Doc. 78-2307 Filed 1-25-78; 9:31 am)



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[4110-12]

### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

#### NATIONAL ADVISORY COMMITTEE ON AN ACCESSIBLE ENVIRONMENT

##### Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) that the first 1978 meeting of the National Advisory Committee on an Accessible Environment will be held on February 12 and 13, 1978, at 9 a.m. to 5:30 p.m. The February 12 meeting, from 9 a.m. to 11:30 a.m., will be held at the Century Center Hotel, 2000 Century Boulevard NE., Atlanta, Ga. The afternoon meeting, from 1 p.m. to 5:30 p.m., will be held at the Atlanta Veterans Administration Hospital, 1670 Clairmont Road, Decatur, Ga. The February 13 meeting will be held at the Century Center Hotel from 9 a.m. to 5 p.m.

The National Advisory Committee on an Accessible Environment is established under the 1974 amendments to the Rehabilitation Act, Pub. L. 93-516, 29 U.S.C. 792, et seq. The Committee is established to provide advice, guidance, and recommendations to the Architectural and Transportation Barriers Compliance Board in carrying out its functions.

The meeting of the Committee shall be open to the public. On the first morning, the Committee will discuss the status of activities since the previous meeting and orient themselves for the afternoon Public Awareness Session. During the afternoon of the first day, the National Advisory Committee will host a Public Awareness Session concerning the activities and enabling legislation of the Architectural and Transportation Barriers Compliance Board and its Advisory Committee. The specific subject areas of the Public Awareness Session concern communications barriers and transportation accessibility. On the second day, the National Advisory Committee will discuss the status of previous recommendations to the Architectural and Transportation Barriers Compliance Board, and establish its objectives for the 1978 year.

Persons interested in attending the meeting should contact Ms. Laurinda

Steele, Coordinator, Architectural and Transportation Barriers Compliance Board, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, Telephone 202-245-1801.

ROBERT JOHNSON,  
Executive Director, Architectural and Transportation Barriers Compliance Board.  
[FR Doc. 78-2343 Filed 1-25-78; 8:45 am]

[6320-01]

### CIVIL AERONAUTICS BOARD

(Docket No. 30254)

#### THE FLYING TIGER LINE, INC., ET AL.

##### Notice of Hearing

Wayne M. Hoffman, individually, Robert W. Prescott, individually, Joseph J. Healy, individually, Charles I. Hopkins, individually, Rudolph J. Valenta, individually, Anna C. Chennault, individually, respondents, enforcement proceeding.

Notice is hereby given that a hearing in the above-entitled matter shall take place on February 28, 1978, at 9:30 a.m., in Hearing room 1003 C, Universal North Building, 1875 Connecticut Avenue, Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 19, 1978.

BURTON S. KOLKO,  
Administrative Law Judge.  
[FR Doc. 78-2263 Filed 1-25-78; 8:45 am]

[1505-01]

(Docket 30777, Agreement CAB 27063, R-1 through R-12; Order 78-1-6)

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

#### Order

#### Correction

In FR Doc. 78-875 appearing at page 1973 in the issue for Friday, January 13, 1978, the Order No. was omitted from the bracketed material in the heading and should be inserted as set forth above.

[3510-25]

### DEPARTMENT OF COMMERCE

#### Industry and Trade Administration

### TECHNOLOGY TRANSFER SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

#### Partially Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, February 15, 1978, at 1 p.m., in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974 and January 13, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Technology Transfer Subcommittee of the Computer Systems Technical Advisory Committee was initially established on April 10, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Technology Transfer Subcommittee was formed to examine the impact of transferring Automatic Data Processing technology to Communist destinations.

The Subcommittee meeting agenda has four parts:

#### GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Review the reports prepared on the two critical technologies selected as being of high importance to the Department of Defense and which are applicable to the Computer Systems Technical Advisory Committee's scope of interest.

#### EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4) the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Industry and Trade Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of

## NOTICES

the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on February 2, 1977 (42 FR 8374).

Dated: January 23, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-2266 Filed 1-25-78; 8:45 am]

[3510-17]

#### Office of the Secretary

(Dept. Organization Order 10-8, Amdt. 2)

### ASSISTANT SECRETARY FOR MARITIME AFFAIRS

#### Statement of Organization, Functions, and Delegation of Authority

This order effective December 21, 1977 further amends the material appearing at 38 FR 19707 of July 23, 1973, 41 FR 41128 of September 21, 1976, and 41 FR 43753 of October 4, 1976.

Department Organization Order 10-8, dated July 5, 1973, is hereby further amended as shown below. The purpose of this amendment is to authorize the General Counsel and his Deputy to act, in lieu of the Secretary, to waive or modify procedural requirements in cases involving appeals to the Secretary from Maritime Subsidy Board actions (paragraph 7.06).

In Section 7, "Review and finality of actions by Maritime Subsidy Board," paragraph .06 is revised to read as follows:

"06 The General Counsel or Deputy General Counsel of the Department by written order may, for good cause and/or in order to prevent undue hardship in any particular case, waive or modify the procedural provisions of this section regarding filing dates and numbers of copies."

Effective date: December 21, 1977.

ELSA A. PORTER,  
Assistant Secretary for Administration.

[FR Doc. 78-2280 Filed 1-25-78; 8:45 am]

[2510-17]

(Dept. Organization Order 10-9)

### CHIEF ECONOMIST OF THE DEPARTMENT

#### Statement of Organization, Functions, and Delegation of Authority

This order effective December 29, 1977 supersedes the material appearing at 41 FR 8520 of February 27, 1976.

SECTION 1.—Purpose. 01 This order prescribes the scope of authority and

the functions of the Chief Economist of the Department of Commerce (the "Chief Economist").

02 This revision reflects the establishment of the Office of Economic Affairs (paragraph 5.b.), the establishment of offices resulting from the transfer of the statistical policy function from OMB (paragraph 5.c.), and industrial economic analysis functions from ITA (paragraph 5.d.).

Sec. 2.—Administrative designation. The position of Chief Economist is hereby continued, as designated by the Secretary of Commerce on February 2, 1976. The Chief Economist shall report and be responsible to the Secretary.

Sec. 3.—Delegation of authority. Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Chief Economist:

a. Is delegated the authorities of the Secretary contained in Executive Order 12013 of October 7, 1977, which provides for the performance of certain functions related to statistical policy and standards. The authorities previously delegated by the Secretary under Executive Orders 10033, dated February 8, 1949, and 11961, dated January 19, 1977, to the Bureau of Economic Analysis and the ITA shall remain in effect.

b. Is authorized to exercise the functions contained in 15 U.S.C. 1516 which relate to statistical information.

c. Is authorized to exercise the functions contained in 15 U.S.C. 171 et seq. relating to the collection and dissemination of statistical information.

d. May exercise other authorities of the Secretary as applicable to performing the functions assigned in this order.

e. May redelegate authority and prescribe conditions on its exercise.

Sec. 4.—Functions. 01 The Chief Economist shall advise the Secretary on economic and statistical affairs; shall serve as adviser to other Commerce officials with respect to economic and statistical matters; and shall serve as the Department's liaison with the Council of Economic Advisers, the Council on Wage and Price Stability and other government agencies concerned with economic and statistical affairs.

02 The Chief Economist shall exercise policy direction and general supervision over the Bureau of the Census and the Bureau of Economic Analysis.

Sec. 5.—Office of the Chief Economist. The Chief Economist shall be assisted by the following officials who shall have responsibilities described in this section.

a. The "Deputy Chief Economist" shall be the principal assistant to the Chief Economist and shall assume full responsibility for carrying out the



functions and duties of the Chief Economist during the latter's absence.

b. The "Director of the Office of Economic Affairs" shall be responsible for the following functions:

1. Monitor and interpret current economic developments, prepare projections of the economic outlook, and draft speeches, articles and reports on economic issues.

2. Review and evaluate the economic impact of proposed legislation and assist the Office of the General Counsel in preparing Departmental positions on such legislation.

3. Review and evaluate analyses by agencies within and outside of Commerce on the economic impact of government regulations and legislation pursuant to Executive Orders 11821 and 11949 and Department Administrative Order 218-6.

4. Represent the Chief Economist in interagency working groups involved in the preparation of economic forecasts and similar material.

5. Assist the Chief Economist in advising the Secretary, the Council of Economic Advisers, the Council on Wage and Price Stability and related agencies on economic policy matters.

6. In conjunction with the Office of Communications, coordinate contacts with the communications media concerning press releases, public statements and news conferences by the Chief Economist.

7. Review material prepared for use by other Departmental officials to assure that the information contained therein regarding the current economic situation is accurate and timely.

c. The "Director of the Office of Federal Statistical Policy and Standards" shall be responsible for the following functions:

1. Plan and promote the development of an improved organizational structure for the performance of statistical services by the Federal Government;

2. Foster the development of coordinated programs so that information collected and analyzed by Federal agencies meets the needs of policymakers in operational and research programs;

3. Reduce burdens imposed on respondents to statistical surveys by eliminating duplication in existing statistical programs and research services and by promoting joint agency programs to plan, conduct, and use statistical and research methods and materials;

4. Initiate actions, when appropriate, to designate single collecting agencies to serve the needs of all agencies in a particular field and assure the availability and interchange of statistical and analytical information among Federal agencies;

5. Investigate and determine whether proposals to collect information for

statistical purposes meet the needs of Federal agencies and the public;

6. Coordinate the activities of Federal, State, and local cooperative programs in statistics, with particular emphasis on those areas where Federal and State programs overlap;

7. Identify and resolve common Federal statistical problems and policies through the establishment of, and reliance on, interagency advisory committees;

8. Act as liaison in the coordination of statistical reporting between the Federal Government and representatives of business and industry as appropriate;

9. Serve as lead agency for the U.S. Government in its relationship and activities with international statistical organizations;

10. Development and promulgate Government-wide standards with respect to classification systems, statistical procedures, and data dissemination;

11. In conjunction with the Office of the General Counsel, provide advice to the Office of Management and Budget with respect to proposed legislation on statistical matters; the review and preparation of that portion of the annual Budget of the U.S. Government dealing with gathering, interpreting, and disseminating statistics and statistical information; and on clearance of proposed statistical reports; and

12. Provide assistance to the Cabinet-level Statistical Policy Coordination Committee in its efforts to improve Federal statistical services.

d. The "Director of the Office of Industrial Economics" shall be responsible for the following functions:

1. Coordinate the development and maintenance of a data system to aid in the analysis of issues relating to specific industries or sectors of the economy;

2. Perform research and analysis on industrial and sectoral problems, including matters such as long-run growth and stabilization, cost-price relationships, short-run forecasts of industrial activity on a detailed basis and the impact of economic conditions on businesses of varying sizes;

3. Evaluate the impact of proposed government rules, regulations and legislation on specific industries or sectors;

4. Assess the outlook for capacity utilization, by industry, and the prospects of supply and material shortages;

5. Determine the impact on specific industries of major developments and events, such as natural disasters, strikes or major price increases;

6. Review and comment on industrial analysis studies performed by other Commerce units; and

7. Assist the Chief Economist in advising the Secretary, the Council of Economic Advisers, the Council on Wage and Price Stability and other economic policy agencies on matters affecting specific industries and sectors.

Effective date: December 29, 1977.

ELSA A. PORTER,  
Assistant Secretary for  
Administration.

[FR Doc. 78-2281 Filed 1-25-78; 8:45 am]

### [3510-17]

[Dept. Organization Order 45-1]

### ECONOMIC DEVELOPMENT ADMINISTRATION

Statement of Organization, Functions, and  
Delegation of Authority

This order effective October 1, 1977, supersedes the materials appearing at 40 FR 5549 of February 6, 1975, 40 FR 7111 of February 19, 1975, 41 FR 5858 of February 10, 1976, 42 FR 35672 of July 11, 1977, and 42 FR 37433 of July 21, 1977.

SECTION 1. Purpose. .01 This order prescribes the organization and assignment of functions within the Economic Development Administration (EDA). Department Organization Order 10-4, "Assistant Secretary for Economic Development," prescribes the scope of authority of the Assistant Secretary for Economic Development and the functions of EDA.

.02 This revision changes the title of the Deputy Assistant Secretary for Economic Development Planning to the Deputy Assistant Secretary for Economic Development Policy and Planning (section 4.); transfers responsibility for the formulation, development, and definition of policy issues from the Deputy Assistant Secretary (section 3.) to the Deputy Assistant Secretary for Economic Development Policy and Planning; and establishes the Office of Policy Development and Coordination (subparagraph 4.01d.) to execute these responsibilities. In addition, this revision incorporates all outstanding amendments.

SEC. 2. Organization structure. The principal organization structure and line of authority of the Economic Development Administration shall be as depicted in the attached organization chart (exhibit 1). A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

SEC. 3. Office of the Assistant Secretary for Economic Development. .01 The Assistant Secretary directs the programs and is responsible for the conduct of all activities, including overall direction and coordination of the regional offices, of EDA subject to the policies and directives prescribed by the Secretary of Commerce.

.02 The Office of Special Projects shall serve as a principal staff office of the Assistant Secretary. The Office shall provide advice, direction, and coordination for the development and implementation of selected innovative economic development programs and projects to assist selected urban areas, special areas such as the Mexican-American border and Puerto Rico, and special groups identified by the Assistant Secretary. In accomplishing these functions the Office shall develop necessary implementation plans, strategies, and procedures and coordinate, as appropriate, with other Federal, State, and local organizations. The Office shall be headed by a director who shall report and be responsible to the Assistant Secretary.

.03 The Deputy Assistant Secretary shall serve as Executive Secretary and provide or arrange for staff support, as required, for the National Public Advisory Committee on Regional Economic Development; represent the Administration on international organizations when so designated; establish uniform overview standards and procedures to be followed by the regional offices' environmental specialists in their review of projects under sections 101 and 201 of the Public Works and Economic Development Act of 1965, as amended (the "Act"); supervise the activities of the investigations and inspections staff and the Indian program staff; assist the Assistant Secretary in all matters affecting EDA; and perform the duties of the Assistant Secretary during the latter's absence.

.04 The Investigations and Inspections Staff shall investigate alleged violations of law or other impropriety on the part of applicants or recipients; conduct inspections relating to the conduct and performance of field personnel and review the suitability of applicants for financial assistance. The staff shall also conduct special investigations requested by the Assistant Secretary, as well as inspections to assure the physical security of all EDA offices.

.05 The Indian Program Staff shall administer the Indian economic development program and advise the Deputy Assistant Secretary concerning its general effectiveness. It shall recommend approval or denial of projects proposed for Indian areas except all projects under sections 101 and 201 of the Act which do not require special action; and negotiate and monitor interagency agreements relating to Indian economic development. (Projects requiring special action are those which are called to Washington for purposes of monitoring, involve controversial aspects, or—for example—require an environmental impact statement which must be approved by the Special Assistant for Environmental Affairs.)

SEC. 4. Deputy Assistant Secretary for Economic Development Policy and Planning. .01 The Deputy Assistant Secretary for Economic Development Policy and Planning is the principal adviser to the Assistant Secretary on matters of overall EDA policy and development planning; including the development, recommendation, and formulation of EDA policy strategy and initiatives, and policies for improving Federal, State, and local government economic programming. Through the offices reporting to him, the Deputy Assistant Secretary shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial needs;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by regional offices;

c. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development for districts and areas;

d. Recommend designation of economic development districts, economic development centers, redevelopment areas, and Title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Act, and recommend such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses, and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Assistant Secretary for Economic Development Policy and Planning shall direct and supervise the following organization elements:

a. The Office of Planning and Program Support which shall:

1. Have prime responsibility for coordinating the preparation, review, and approval of EDA-developed planning documents;

2. Develop analyses and recommended strategies of economic development, including a system of priorities of EDA's financial assistance, for areas and districts;

3. Develop economic development planning systems that reflect EDA objectives and respond to local and regional problems and potentials;

4. Develop the methods and techniques needed to evaluate established planning systems including the ability of local representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

5. Participate in the development of budgetary requirements and coordinate with the Office of Administration and Program Analysis in the allocation of resources among regional offices as well as among EDA programs;

6. Provide information and special services on domestic and international regional development planning;

7. Provide guidance to regional offices on the application of economic development planning techniques and systems to the specific problems of the regions;

8. Advise and assist regional offices in implementing economic planning activities after the formal designation of economic development districts and areas;

9. Guide regional offices in assisting development organizations to prepare overall economic development programs (OEDPs);

10. In coordination with regional offices, provide guidance to economic development district and area organizations on the techniques and methods of economic analysis;

11. Formulate planning and development policies and procedures for guiding the preparation and submission of district and area OEDPs, including the establishment of policies and standards for their review by regional offices;

12. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which fail to submit acceptable OEDP progress reports;

13. Evaluate services, efficient existing capacity, and competitive producers for use in making determinations on excess capacity, pursuant to section 702 of the Act;

14. Identify industries which have demonstrated growth trends for the purpose of relating those industries to agency plans; and

15. Certify and decertify firms and communities as eligible to apply for adjustment assistance under the Trade Act of 1974 and perform those functions of the Secretary in section 264 of the Trade Act except subsection (b) which is reserved to the Secretary.

b. The Office of Economic Research which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA-sponsored research conducted by other elements of the Department, other Government agencies, or private organizations;

3. Encourage and stimulate research and data collection on economic devel-



opment, both in and out of Government;

4. Review, evaluate, integrate, and disseminate: (a) The results of research sponsored by EDA, and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government policies on subnational economic development.

c. The Office of Development Organizations which shall:

1. Design and direct a program to establish multi-county development districts in consultation with and with the assistance and cooperation of EDA regional offices, and with the concurrence of the States affected;

2. Initiate policy guidelines and criteria concerning the development district and area organizations for use by other elements of EDA, and by appropriate State and local agencies;

3. Evaluate and approve proposed area and district economic development organizations;

4. Assist regional office efforts to organize economic development districts, including the recruitment of staff;

5. Develop and recommend model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

6. Establish policies and standards for the review of progress reports by regional offices in cooperation with the Office of Planning and Program Support;

7. Design a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act and assist regional offices in implementing the system;

8. Provide guidelines to regional offices in order to administer planning grants made under the Act to State, district, and area agencies;

9. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts in cooperation with the regional offices;

10. Review regional office recommendations for the designation and/or termination of economic development districts and economic development centers;

11. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

12. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

13. Determine whether an area meets the statistical criteria to qualify

as a redevelopment area or a Title I area;

14. Recommend changes in the qualification status of redevelopment areas and Title I areas;

15. Recommend designation or change in the designation status of redevelopment or Title I areas;

16. Conduct an annual review of area eligibility and recommend termination of areas no longer eligible for designation; and

17. Recommend minor adjustments to boundaries of redevelopment areas.

d. The Office of Policy Development and Coordination which shall:

1. Serve as the principal advisor to the Deputy Assistant Secretary/Planning on all policy matters affecting the mission, objectives, and goals of EDA;

2. Develop, recommend, and coordinate the formulation of overall EDA policy strategy;

3. Exercise responsibility for EDA's interagency and intergovernmental relations and its relations with those quasi-public and private agencies interested in economic development;

4. Develop policies for improving Federal, State, and local government economic development programming;

5. Provide staff assistance in defining policy issues, coordinate the development and formulation of policy for consideration by the Assistant Secretary; and exercise principal staff responsibility for policy review and evaluation;

6. Coordinate and manage EDA's representation on interagency committees;

7. Review and evaluate legislative and administrative proposals related to economic development and intergovernmental relations for substantive policy implications;

8. Maintain liaison and interagency coordination, on policy matters, with the Office of Management and Budget; and

9. Coordinate and assist in the formulation of policy development efforts undertaken by the various program units of EDA.

Sec. 5. *Deputy Assistant Secretary for Economic Development Operations.* .01 The Deputy Assistant Secretary for Economic Development Operations, through the offices reporting to him, shall:

a. Provide coordinated direction of all EDA activities related to financial assistance for or to physical projects which will improve local economies and supervise the execution of this aspect of EDA's program;

b. Recommend standards, policies, and criteria for the technical evaluation and processing of project applications for financial assistance, including public works grants and loans, business loans, and technical assistance;

c. Direct, conduct, coordinate, monitor and, where appropriate, originate

technical assistance projects (including management assistance and feasibility studies) subject to coordination with the Deputy Assistant Secretary for Economic Development Planning on proposed technical assistance projects related to area, district or center planning;

d. Review and recommend approval or denial of project applications except all projects under sections 101 and 201 of the Act, which do not require special action. (Projects requiring special action are those which are called to Washington for purposes of monitoring, involve controversial aspects, or—for example—require an environmental impact statement which must be approved by the Special Assistant for Environmental Affairs.)

e. Evaluate activities of the regional offices in applying policies, standards, and procedures for processing project applications to assure efficient, effective, and economical accomplishment of approved projects;

f. Execute agreements with other Federal departments and agencies for the conduct of specialized technical assistance; and

g. Study and evaluate the manpower development and training needs of redevelopment areas and of economic development districts, and recommend appropriate joint action with the Departments of Labor and Health, Education and Welfare.

.02 The Deputy Assistant Secretary for Economic Development Operations shall direct and supervise the following organization elements:

a. The Office of Public Works which shall:

1. Direct and oversee all phases of the public work program;

2. Recommend policies, standards and procedures for accepting, processing, reviewing, and approving requests for public works grants and loans, consistent with the procedures contained in the Act;

3. Maintain surveillance, evaluate progress, and submit reports on the application by regional offices of standards, policies, and procedures to assure efficient, effective, and economical accomplishment of the approved projects;

4. Arrange for services from other Federal agencies for the administration of approved public works grants and loans;

5. Maintain operating liaison with Federal agencies having grant-in-aid programs which may supplement EDA programs, and with those Federal agencies delegated responsibility for administering or servicing EDA projects;

6. Make program and policy reviews and initiate action for the reservation of funds for all public works grants and loans, overruns, amendments, and revisions, and concur in all major

amendments and major revisions to approved projects which require no additional funding; and

7. For projects which require special action at the Washington level, review the project file and recommend approval or disapproval to the Assistant Secretary.

b. The Office of Business Development which shall:

1. Recommend policies, standards, and procedures for processing and approving applications for financial assistance for industrial or commercial usage, consistent with the criteria contained in the Act;

2. Review applications for commercial or industrial loans and working capital guarantees, and recommend approval or denial;

3. Maintain surveillance over the implementation by regional offices and policies, standards, and procedures related to the processing of loan applications for business development to assure efficient, effective, and economical accomplishment of the business development programs;

4. Develop and implement EDA approved agreements with the Small Business Administration and other Federal agencies to secure support of the business development programs;

5. Monitor operations of industrial and commercial projects approved by EDA, including outstanding loans for projects approved under provisions of the Area Redevelopment Act, and prepare reports of accomplishments;

6. Arrange for or provide needed specialized assistance to recipients of EDA industrial and commercial loans and guarantees and Area Redevelopment Act loans;

7. Develop policies, plans, and procedures to improve or terminate projects in default of loan conditions;

8. Provide assistance in the liquidation of the affairs and functions conducted under the Area Redevelopment Act;

9. Establish contact and promote large scale involvement of the private sector in EDA's economic development activities; and

10. Maintain operating liaison with other agencies concerned with the activities of this Office.

c. The Office of Technical Assistance which shall:

1. Propose policies, standards, and procedures pertaining to the acceptance, review, and approval of requests for technical assistance, consistent with the criteria of the Act;

2. Plan and develop technical assistance projects in cooperation with other offices, where appropriate;

3. Direct or monitor the performance and implementation of approved technical assistance projects;

4. Recommend policies, standards, and procedures for evaluating and utilizing the results of technical assistance projects;

5. Execute agreements with other Federal departments and agencies for the conduct of specialized technical assistance;

6. Recommend policies and practices to facilitate effective relationships with other Government agencies which have complementary programs for technical assistance;

7. Maintain surveillance over the application of policies, standards, and procedures by the regional offices in processing project applications;

8. Review and recommend project applications for approval or denial; and

9. Coordinate the efforts of EDA in the manpower training program.

Sec. 6. *Office of Administration and Program Analysis.* The Office of Administration and Program Analysis shall be responsible for providing the full range of administration management services and for program analysis and evaluation functions with respect to EDA's substantive programs. These functions shall be carried out through the principal organizational elements of the Office, as prescribed below, except that personnel management services, accounting for administrative funds, and inhouse equal opportunity staff services shall be obtained from the appropriate departmental offices.

.01 The Program Analysis Division shall develop and implement measures of resource utilization for programing and budgeting purposes; develop and conduct a systematic program evaluation effort for EDA; prepare the annual Program Memorandum and analytical studies required by the Office of Management and Budget; and develop cost benefits studies to aid the Assistant Secretary in making choices and decisions between alternative programs for economic development projects, activities, and programs in achieving the objectives of the Act and EDA.

.02 The Management Analysis Division shall conduct organization and management studies and surveys; plan and conduct a program for achieving maximum economy, effectiveness, and efficiency, and for obtaining optimum personnel utilization; develop and conduct a program for the efficient management of all official records, including an issuance system for administrative and program orders, and the design and control of official forms; and develop and administer a report control system for all administrative and operational reports.

.03 The Budget Division shall develop and manage an integrated financial management and budgeting system for EDA. It shall develop and prepare the annual budget for EDA; be responsible for the total financial program of EDA, and for the fiscal aspects of EDA programs entrusted to

other Federal agencies; and operate a fiscal control system for both program and administrative expenses consistent with the requirements of the Anti-Deficiency Act, which shall include but not be restricted to, allotment of funds; operating budgets, employment limitations, and analyses of reports and proposed actions relating thereto.

.04 The Accounting Division shall develop and maintain accounting systems and prepare financial reports for internal and external use, according to the needs of management, the requirements of laws or regulations, and established policies, analyze financial and operating data to assure that financial and management policies are being followed; and serve as the liaison with the Office of the Secretary and other Federal agencies in all accounting matters.

.05 The Information Systems and Services Division shall plan, develop, acquire, and coordinate the use of automatic data processing systems and equipment for EDA; provide data processing services, including the conduct of feasibility studies and the development of systems and programs for the applications of automatic data processing techniques; develop and maintain a comprehensive information and data base system to meet specified requirements for administrative, planning, operational, program management, and program evaluation purposes; and provide periodic and special summary reports on current optional trends and performance comparisons to planned goals.

.06 The Office Services Division shall provide or arrange for office services for EDA's headquarters and, as required, for the regional offices, including the procurement of administrative supplies, vehicle hire, furniture, equipment, and the distribution of printed and bound materials; evaluate, report on, and make recommendations on the utilization of space, supplies, equipment, communications, and related services within EDA; and serve as liaison with the Office of the Secretary on office services matters.

.07 The Executive Secretariat shall receive all correspondence addressed to the Office of the Assistant Secretary, and assign it to the appropriate office for action; record controlled and noncontrolled correspondence, maintain prompt followup of replies to insure that deadlines are met; and provide a selective reference service to files as requested by EDA officials.

Sec. 7. *Office of the Chief Counsel.* The Office of the Chief Counsel shall:

a. Render all necessary legal services, subject to the provisions of Department Organization Order 10-6;



b. Have primary responsibility for the preparation, coordination, and clearance of all legislation, regulations, and external orders subject to the provisions of applicable Department orders; and

c. Establish uniform overview standards and procedures to be followed by the regional offices' legal staffs in their review of projects under sections 101 and 201 of the Act.

SEC. 8. *Office of Public Affairs.* The Office of Public Affairs shall:

a. Advise on all public information matters;

b. Conduct a public information program under the policy guidance of the Assistant Secretary; and

c. Provide assistance in the editing, printing, or reproduction, and distribution of technical materials and publications.

SEC. 9. *Office of Congressional Relations.* The Office of Congressional Relations shall:

a. Advise on all congressional matters pertinent to the activities under the direction of the Assistant Secretary; and

b. Serve as the primary point of coordination for continuing liaison with the Congress in collaboration with the counsellor to the Secretary for Congressional Affairs.

SEC. 10. *Office of Civil Rights.* The Office of Civil Rights shall:

a. Advise the Assistant Secretary in the development and implementation of policy and guidance affecting equality of opportunity connected with economic development programs;

b. Maintain liaison with Federal, State, and local governmental organizations and with nongovernmental organizations to coordinate and assist in planning operations aimed at achieving

ing nondiscrimination and equality of opportunity;

c. Provide leadership, staff services, and advice in matters affecting nondiscrimination to economic development program units, to organizations obligated as participants in an economic development program to achieve nondiscrimination, and to ultimate beneficiaries of economic development program activities;

d. Conduct, sponsor, or coordinate meetings, conferences, and training courses for equal employment specialists, program managers, and executives to achieve nondiscrimination in economic development programs;

e. Establish effective systems throughout EDA to obtain and monitor reports concerning the program of equality of opportunity and assure conformance thereto;

f. Establish report requirements to insure equality of opportunity by participants in economic development programs, conduct onsite inspections, and receive, investigate, and adjust complaints;

g. Receive, investigate, review, adjust complaints, and evaluate EDA experience relating to the equal employment opportunity program and make recommendations to the Assistant Secretary for improvement of employment practices within EDA; and

h. Establish uniform overview standards and procedures to be followed by the regional offices' civil rights staffs in their reviews of projects under sections 101 and 201 of the Act.

SEC. 11. *Economic Development Regional Offices.* .01 The Economic Development regional offices, headed by regional directors, are as follows:

Name	Located at	Serves
Atlantic	Philadelphia, Pa.	Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, and West Virginia.
Southeastern	Atlanta, Ga.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Midwestern	Chicago, Ill.	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.
Rocky Mountain	Denver, Colo.	Colorado, Kansas, Iowa, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.
Southwestern	Austin, Tex.	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Western	Seattle, Wash.	Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, and Washington.

.02 Each Regional Director, for the EDA programs in his region, shall:

a. Assist designated areas and districts in organizing, staffing, and funding

for economic planning through the development of OEDPs;

b. Assist local communities in the development of applications for financial

assistance to meet the needs of areas and districts serviced by the Regional Office;

c. Process applications for economic development assistance, monitor and service approved projects, including appropriate public works construction projects and, when appropriate, liquidate projects.

d. Forward appropriate processed public works projects documents to EDA headquarters with recommendations to the Assistant Secretary for approval or denial. On projects which require special action, Washington, staff offices will review the project file and recommend approval or disapproval to the Assistant Secretary.

.03 The geographic areas of the EDA Regional Offices are depicted in Exhibit 2. A copy of the geographic area map is on file with the original of this document with the Office of the Federal Register.

Effective date: October 1, 1977.

ELSA A. PORTER,  
Assistant Secretary  
for Administration.

(FR Doc. 78-2283 Filed 1-25-78; 8:45 am)

[3510-17]

(Dept. Organization Order 20-10)

OFFICE OF CIVIL RIGHTS

Statement of Organization, Functions, and  
Delegation of Authority

This order effective December 28, 1977 supersedes the material appearing at 37 FR 6416 of March 29, 1972.

SECTION 1.—*Purpose.* .01 This order prescribes the functions and organization of the Office of Civil Rights.

.02 The Office of Civil Rights is hereby established as a Departmental Office under the Assistant Secretary for Administration. The functions and responsibilities of the Special Assistant for Civil Rights, and certain functions and responsibilities of the Office of Personnel as specified below, are transferred to the Office of Civil Rights.

SEC. 2.—*Status and line of authority.*

.01 The Office of Civil Rights shall be headed by a Director, who shall report and be responsible to the Assistant Secretary for Administration.

The Director shall be the Assistant Secretary's principal assistant with respect to that official's responsibilities for fulfilling the objectives of, and effecting compliance throughout the Department with, the requirements of Title VI of the Civil Rights Act of 1964, the Age discrimination in Em-

ployment Act of 1967, the Equal Employment Opportunity Act of 1972, Title IX of the Education Amendments of 1972, the Rehabilitation Act of 1973, Executive Orders 11246, 11247, 11478, 11764, 11758, 11914, and all other statutes, Executive Orders, and regulatory provisions relating to equal opportunity, non-discrimination and civil rights.

.02 The Office of Civil Rights will work in close cooperation with the Office of Personnel with respect to Equal Employment Opportunity (EEO) and affirmative action within the Department. The Office of Civil Rights will provide policy direction and guidance to the Office of Personnel in EEO and affirmative action matters, so that personnel operations will fully reflect the policy of the Department and the Executive Branch. In addition, since EEO policy and personnel management policy are often interrelated, the two Offices will jointly develop policy recommendations in such areas.

.03 The Office of Civil Rights will maintain liaison with the Office of the General Counsel on all civil rights and EEO matters for which the Assistant Secretary and the General Counsel have mutual or overlapping responsibility.

SEC. 3.—*Functions.* .01 The functions of the Office of Civil Rights relate generally to two major areas of responsibility. These are:

a. Insuring equal employment opportunity, including affirmative action, for employees and job applicants within the Department of Commerce.

b. Insuring nondiscrimination in activities and projects supported by Department of commerce programs, including Title VI, nondiscrimination for the handicapped, equal employment opportunity by Federal contractors and contractors involved in Federally assisted construction contracts, and other civil rights mandates.

.02 In carrying out these responsibilities the Director and the Office of Civil Rights shall:

a. Develop, direct, and coordinate throughout the Department programs, policies and activities to insure the effective fulfillment by the Department and all its elements of its responsibilities in these areas.

b. Develop program policy recommendations for the Assistant Secretary. Monitor and evaluate the implementation of approved recommendations.

c. Advise and assist the operating units in the performance of their EEO and civil rights responsibilities.

d. Develop and administer evaluation programs to determine the effectiveness of all Department operating units in the area of EEO and civil rights. Report the results of such evaluations to the Assistant Secretary and

the head of the operating unit, and make recommendations for improvement including recommendations for corrective action by the Assistant Secretary as necessary.

e. Work closely with the Office of personnel, including, as necessary, establishing coordinating procedures and policy development, to insure unified implementation of Federal and Department requirements and programs.

f. Recommend to the Assistant Secretary final decisions on EEO complaints within the Department.

g. Advise the Assistant Secretary of any violations of civil rights or EEO Statutes, Executive Orders, or regulations over which the Department has jurisdiction and for which legally sufficient corrective action has not been initiated, and recommend such corrective action by the Assistant Secretary. The Director shall consult with the Office of General Counsel prior to such advice and recommendation.

h. Represent the Department and the Assistant Secretary with other Federal agencies, including the Civil Service Commission, Department of Justice, Department of Health, Education, and Welfare, and Department of Labor, and with States, municipalities, labor unions, and other public and private groups on matters concerning equal employment opportunity, nondiscrimination, and civil rights.

i. Maintain liaison with, and solicit the views of, minority group and women's organizations within and outside of the Department on matters relating to civil rights and equal opportunity.

j. Develop for the Assistant Secretary statements of goals, and periodic reports of achievement against the goals, for the responsibilities of the Office of Civil Rights.

SEC. 4.—*Organization.* Under the supervision and direction of the Director, the functions of the Office will be organized and carried out as follows:

.01 *Equal Employment Opportunity (EEO) Division.* The EEO Division is responsible for developing, directing, coordinating and evaluating the EEO programs and activities of the Department except for the processing of complaints. The Division's area of responsibility includes, among other things, Affirmative Action Plans, the special emphasis programs for women, Spanish-speaking, the handicapped, and policy direction and monitoring of the Upward Mobility program. The Division shall:

a. Provide policy direction, advice, and guidance to the Office of Personnel and the operating units in establishing and maintaining effective affirmative action employment programs.

b. Review and assess policies and practices throughout the Department relating to affirmative action and

equal employment opportunity and, on the basis of such study, develop and recommend the adoption of new or revised programs and policies to insure that the Department's activities in this area are consistent with the spirit and requirements of law, Executive Orders, and Federal regulations.

c. Develop policy and provide technical assistance in the Special Emphasis programs such as the Federal Women's Program, Spanish-speaking Program, and Program for the Handicapped.

d. Develop orders, policy statements, regulations and other directives relating to affirmative action and monitor the effectiveness of their implementation.

e. Develop and operate a program to evaluate the EEO programs and activities of the operating units. Provide the results of evaluation to the Assistant Secretary and the head of the operating unit concerned, and recommend measures for improvement, including recommendations for corrective action by the Assistant Secretary, as necessary.

f. Provide leadership and guidance to operating units in the development of Affirmative Action Plans; take appropriate measures to assure their adequacy; and arrange for the submission of plans requiring Civil Service Commission approval.

g. Gather and synthesize materials for reports, review proposed and existing legislation and make recommendations for implementation, and undertake similar assignments, in the area of EEO. Data in this area will normally be developed by the Office of Personnel, in line with requirements specified by the Office of Civil Rights.

h. Work closely with the Office of Personnel to insure effective and coordinated implementation of EEO programs, requirements, and regulations.

i. As designated, represent the Department and the Assistant Secretary in meetings and conferences with other government agencies and private groups with respect to EEO and affirmative action policies and programs of the Department.

j. Provide staff assistance to the Department EEO Committee (see Section 5.).

k. Perform such other functions as the Director may assign.

1. The EEO Division shall include Program Coordinators assigned responsibility for the following programs:

Federal Women's Program, Spanish-speaking Program, Program for the Handicapped, and Upward Mobility Program.

The Coordinators shall have primary responsibility for the effective development and coordination of their programs within the Office of Civil Rights and by the operating units. As



part of their responsibilities the Coordinators shall:

1. Determine program emphasis areas and plan activities in support of those areas.

2. Provide staff assistance to operating units and their special program coordinators.

3. Analyze statistical data relating to the special emphasis programs.

4. Publicize the programs within the Department, and assure that supervisors and employees are informed and educated on the goals and objectives of the program.

.02 *Compliance Division.* The Compliance Division is responsible for: Nondiscrimination in Federal programs administered by the Department; equal employment opportunity by Federal contractors and contractors involved in Federally assisted construction contracts; and the Department's internal discrimination complaint program.

The Division shall: a. Provide policy direction, advice and assistance to the operating units with respect to their implementation of external civil rights and equal opportunity programs, including Title VI, Title IX, handicapped, and contract compliance.

b. Maintain technical review of, and provide guidance to, the operating units in the implementation of the Department's external civil rights responsibilities, policies and regulations with respect to the conduct of compliance reviews, complaint investigations, and other matters related to negotiation, conciliation, and enforcement. Develop recommendations to improve the processing, investigation, and adjudication of such complaints.

c. Assist operating units in establishing a uniform internal EEO complaint processing system, including arranging for the training of EEO Officers and counselors.

d. Review and assess policies and practices throughout the Department related to internal EEO complaints, and evaluate their effectiveness. Develop and recommend new or revised policies and programs, including recommendations to the Assistant Secretary for corrective action, as necessary.

e. Provide staff assistance to the Director and the Assistant Secretary with respect to the investigation, adjustment, and adjudication of EEO complaints, and the preparation of reports on the status of complaints. Develop recommended final determinations on EEO complaints within the Department.

f. Advise the Director of any apparent violations of civil rights or EEO statutes, Executive Orders, or regulations over which the Department has jurisdiction. As directed, prepare recommendations for corrective action of such violations. The Office of General

Counsel shall be consulted in the development of the recommendations.

g. Work closely with the Office of Investigations and Security in matters relating to that Office's responsibility for investigating internal EEO complaints. Provide training and information to the EEO investigators in the area of EEO policy, procedures and requirements.

h. Respond to requests for data and information, gather and synthesize materials for reports, review proposed and existing legislation and make recommendations concerning implementation, in its area of responsibility.

i. As designated, represent the Department and the Assistant Secretary in meetings and conferences involving its area of responsibility.

j. Perform such other functions as the Director may assign.

Sec. 5.—*Department EEO Committee.* .01 The Assistant Secretary, with the advice of the Director, Office of Civil Rights, will establish a Department EEO Committee. The purpose of the Committee is to provide advice to the Assistant Secretary and, as appropriate, other top officials of the Department, the Director of the Office of Civil Rights, and the Director of Personnel; to keep those officials informed on EEO and civil rights developments and problems in the Department; to constitute an informal channel of information from the operating units to the Departmental level; and to recommend changes in policies and practices to improve the effectiveness of the EEO and civil rights program in the Department.

.02 Committee members will be selected in a manner to be prescribed by the Assistant Secretary, which will provide for a representative cross-section of Department organizations, minority groups, and others concerned with civil rights and EEO. The Committee will elect its own Chairperson.

.03 The establishment of this Committee does not affect in any way the EEO Committees established within the various operating units.

Sec. 6.—*Implementation.* The Assistant Secretary for Administration shall determine the schedule and quantity for the transfer of funds, positions, and employees, as required by this order.

ELSA A. PORTER,  
Assistant Secretary for  
Administration.

[FR Doc. 78-2282 Filed 1-25-78; 8:45 am]

[3810-70]

## DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

## DEFENSE INTELLIGENCE AGENCY SCIENTIFIC ADVISORY COMMITTEE

## Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Scientific Advisory Committee will be held as follows: Wednesday, 22 February 1978, Pomponio Plaza, Rosslyn, Va.

The entire meeting commencing at 0900 hours is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a study on the functional use of phased array radars.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Office of the Assistant  
Secretary of Defense  
(Comptroller).

JANUARY 23, 1978.

[FR Doc. 78-2268 Filed 1-25-78; 8:45 am]

[3128-01]

## DEPARTMENT OF ENERGY

## AMOCO OIL CO.

## Request for Interpretation

Notice is hereby given that, pursuant to 10 CFR Part 205, Subpart F, the Office of General Counsel of the Department of Energy (DOE) is considering a request for Interpretation submitted by the Amoco Oil Co. (Amoco). The request for Interpretation concerns the computation of depreciation cost increases in the context of the refiner price rule, 10 CFR 212.83. Because the treatment of depreciation costs for refiners using the refinery fuel conservation incentive (as described below) may have a substantial impact on nonproduct cost increases computed under the refiner price rule, the DOE wishes to solicit comments from any party who believes it may be affected by a DOE decision in this request for Interpretation.

Under the present provisions of 10 CFR 212.83(c)(2)(iii)(E), which set forth the formulae for computing increased nonproduct costs which are attributable to specific covered products, a refiner may elect to compute its depreciation cost increase in one of two ways. The method which the refiner may use, however, depends upon the manner in which the refiner calculates its refinery fuel cost increase.

If the refiner chooses to calculate its refinery fuel cost increase under the general formula for "E<sub>1</sub>," then it may include in its E<sub>1</sub> calculation for depreciation cost increase all depreciation costs associated with capital investments, including those which effect fuel conservation. See 10 CFR 212.83(c)(2)(iii)(E)(I)(aa) and (IX)(aa). However, if the refiner elects to calculate its refinery fuel cost increase using the refinery fuel conservation incentive, it then uses a formula based upon the "base refinery fuel usage" per barrel of refinery throughput in May 1973. This method permits the refiner to retain any savings it has realized, through fuel conservation efforts since May 1973, in the amount of refinery fuel used per barrel of throughput. In order to use the refinery fuel conservation incentive, however, the refiner must exclude from its E<sub>1</sub> calculation of depreciation cost increase "the depreciation costs associated with capital investments which effect fuel conservation." See 10 CFR 212.83(c)(2)(iii)(E)(I)(bb) and (IX)(bb).

In its request for Interpretation, Amoco notes that it is a refiner using the refinery fuel conservation incentive. Amoco recognizes that where it makes a capital investment for the purpose of conserving refinery fuel, it is clear that it may not include the depreciation cost associated with that investment in its E<sub>1</sub> calculation of depreciation cost increase. However, Amoco also points out that most capital investments in refinery machinery or equipment will have some effect on fuel conservation. Thus, even where new machinery or equipment is not primarily intended to conserve fuel, the mere fact that it is new may mean that it is more fuel-efficient and, therefore, conserves some fuel. Amoco argues that in this instance the refiner price rule was not intended to require that it omit all depreciation costs associated with that capital investment from its E<sub>1</sub> calculation of depreciation cost increase.

Amoco, therefore, seeks an interpretation of the phrase "capital investments which effect fuel conservation." Amoco requests the DOE Office of General Counsel to define the manner in which depreciation costs may be computed by a refiner that uses the refinery fuel conservation incentive formula, and that invests in machinery or equipment which, although not primarily intended to conserve refinery fuel, results in some fuel savings.

The interpretation which Amoco has suggested to the DOE Office of General Counsel would permit the firm to include a portion of the depreciation cost associated with such a capital investment in its E<sub>1</sub> calculation of depreciation cost increase. That portion would be determined by separating out the amount of the capital investment

which results in refinery fuel conservation. Amoco contends that analysis of either investment records or the fuel conservation benefits actually obtained from an investment project will, in most cases, yield sufficient information to permit it to identify the portion of the capital investment which is related to fuel conservation. Amoco would then exclude that portion of the depreciation cost associated with the investment from its E<sub>1</sub> calculation, but would include the remainder.

In its argument in support of this proposed interpretation, Amoco states that the Mandatory Petroleum Price Regulations should provide refiners with incentives to invest in refinery improvements. Thus, if a refiner uses the refinery fuel conservation incentive formula, Amoco contends that the exclusion from the depreciation cost increase E<sub>1</sub> calculation of all depreciation costs associated with an investment that has an incidental or minimal effect on fuel conservation will deprive the refiner of nonproduct cost increases to which it is entitled. These increases, in Amoco's view, provide an incentive to invest in refinery improvements.

Copies of the documents submitted by Amoco in this matter are available for public review in the DOE Freedom of Information Reading Room, Room 2107, 12th & Pennsylvania Avenue NW., Washington, D.C.

Interested parties are invited to submit their views and comments on this matter. In the case of refiners employing the refinery fuel conservation incentive, it would be helpful if the comments include a description of the method by which the refiner is presently computing depreciation costs on capital improvements which have an incidental effect on fuel conservation. Comments should be directed to:

Office of Regulations Management, Box RJ,  
Room 2214, 2000 M Street NW., Washington, D.C. 20461.

All submissions should be made in five copies, and should be received no later than February 17, 1978. Comments should be identified both on the outside envelope and on the material submitted with the designation "Comments on Amoco Request for Interpretation."

Any information or data considered by the party furnishing it to be confidential must be so identified, and submitted in writing in accordance with the procedures set forth in 10 CFR 205.9(f). The DOE Office of General Counsel reserves the right to determine the confidential status of the information or data, and to treat such information according to its determination, subject to the procedures set forth in § 205.9(f)(2).

Any person desiring additional information may contact Ted P. Gerarden,

Interpretations Division, Office of General Counsel, Room 1119, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461, telephone 202-566-9070.

Issued in Washington, D.C. January 20, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration,  
Department of Energy.

[FR Doc. 78-2255 Filed 1-25-78; 8:45 am]

[3128-01]

## Bonneville Power Administration

## ALLOCATION OF ELECTRIC ENERGY

## Intent To Develop Formula for Allocation of Electric Energy

On December 14, 1977, the Department of Energy published in the FEDERAL REGISTER (42 FR 62950) the adopted "Procedure for Public Participation in Marketing Policy Formulation" for the Bonneville Power Administration (BPA). The procedure provides interested members of the public an opportunity to participate in the formulation of certain BPA power marketing policies, including the development of an allocation formula for electric energy available from the Federal Columbia River Power System (FCRPS).

BPA has contracts for the sale of firm power with 115 preference customers (public bodies and cooperative utilities), 6 Federal agencies, and 17 direct-service industrial (DSI) customers in the Pacific Northwest. These contracts will expire between 1981 and 1994.

BPA anticipates that under existing law the preference rights of public bodies and cooperative utilities to BPA's power will preclude execution of new power sales contracts with DSI customers with provisions similar to those in existing contracts. As the contracts with DSI customers expire in the period between 1981 and 1991, current preference customers and other public bodies and cooperative utilities are expected to make application for all or a portion of the electric power now being sold to DSI customers.

BPA has given notice to current preference customers that it has insufficient firm energy to supply their load growth after July 1, 1983. After that date BPA will be obligated to make available to each current preference customer during the term of its present power sales contract, an allocation of firm energy determined by a formula specified in the current sales contracts. This allocation formula does not include a method for allocating the energy which will be available when current power sales contracts expire.

In addition, new public bodies and cooperatives that may also be entitled



to a statutory preference and priority to power from the Federal System have applied for energy, and additional public bodies and cooperative utilities may be formed. These applications must be considered when BPA allocates the Federal System energy.

BPA intends to develop a formula that will allocate the energy available to BPA and which BPA is not obligated under contract to supply. The allocation formula that BPA will develop may be substantially different than the allocation formula in current preference customers' present power sales contracts.

BPA will consider many variables and alternatives before selecting a proposed formula. Issues BPA expects to consider include, but are not limited to, the following: (1) Class of customer served—current preference customers, new preference customers, preference customers that have net-billing agreements, investor-owned utilities, Federal agencies, and DSI; (2) customer-owned generation committed to load; (3) types of load served—residential, commercial, industrial, agricultural, and other; (4) load determination—based on historical data or a forecast; (5) grades of energy; (6) allocation duration; (7) rates charged for power; (8) conservation; and (9) amount of energy available for allocation—reevaluation of quantity and quality of energy, including any which may become available to BPA. In addition, BPA will consider the capacity requirements necessary to deliver Federal System energy to its loads in developing the allocation formula.

BPA is seeking recommendations from the public concerning the allocation formula BPA intends to develop. These recommendations will be used to assist BPA in developing the proposed allocation formula. BPA will invite further comment from the public (1) in the spring of 1979 when the proposed allocation formula is developed, (2) in the summer of 1979 during public comment forums on the proposed allocation formula, and (3) in the winter of 1979-80 when the Administrator will announce BPA's allocation formula. The comments received at the public comment forums and through the mail will be used to assist in developing BPA's allocation formula. BPA will also schedule public information forums during the summer of 1979, before the public comment forums, to explain the purpose and basis of the proposed allocation formula and to answer questions regarding the proposal and alternative formulas considered.

For further information, contact Donna Lou Geiger, Public Involvement Coordinator, Bonneville Power Administration, P.O. Box 12999, Portland, Ore. 97212, 503-234-3361. Submit written recommendations con-

cerning the development of BPA's allocation formula to the preceding address no later than May 1, 1978.

Dated: January 23, 1977.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

(FR Doc. 78-2278 Filed 1-25-78; 8:45 am)

[3128-01]

Economic Regulatory Administration

DOMESTIC CRUDE OIL ALLOCATION PROGRAM

Entitlement Notice for November 1977

In accordance with the provisions of 10 CFR § 211.67 relating to the domestic crude oil allocation program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA) of the DOE, the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for November 1977 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlement adjustment for residual fuel oil production for sale in the East Coast market provided in § 211.67(d) (4); December 1977 deliveries of crude oil for storage in the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for November 1977 is calculated to be .238733.

In accordance with § 211.67(b) (2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of November 1977, each barrel of old oil is equal to one barrel of deemed old oil and each barrel of upper tier crude oil is equal to .257276 of a barrel of deemed old oil.

The issuance of entitlements for the month of November 1977 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR § 211.67(i) (4), the price at which entitlements shall be sold and purchased for the month of November 1977 is hereby fixed at \$8.61, which is the exact differential as reported for the month of November between the weighted average per barrel costs to refiners of old oil and

of imported and exempt domestic crude oil, less the sum of 21 cents.

In accordance with 10 CFR § 211.67(b), each refiner that has been issued fewer entitlements for the month of November 1977 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of November 1977 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of November 1977 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for that month and other firms issued entitlements shall sell such entitlements to refiners required to purchase entitlements. In addition, certain refiners are required to purchase or sell entitlements to effect corrections for reporting errors for the months September 1975 through October 1977 pursuant to 10 CFR § 211.67(j) (1).

The listing of refiners' old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

The listing contained in the Appendix identifies in a separate column additional entitlements issued to refiners pursuant to relief granted by ERA's Office of Administrative Review (prior to October 1, 1977, the Office of Exceptions and Appeals of the Federal Energy Administration). Also set forth in this column are adjustments for relief granted by the Office of Administrative Review for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see Beacon Oil Company, et al. 4 FEA par. 87,024 (November 5, 1978).

The listing contained in the Appendix continues the "Consolidated Sales" entry initiated in the October 1977 entitlement notice. The "Consolidated Sales" entry is equal to the November 1977 entitlement purchase requirement of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its November 1977 entitlement purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see Entitlement Notice for October 1977. (42 FR 64401, December 23, 1977).

The listing contained in the Appendix rescinds the October 1977 entitlement sale requirements of several firms to the extent such firms were

unable to sell their October 1977 entitlements because of stays issued by the ERA's Office of Administrative Review to Young Refining Co. and Lundy Thagard Oil Co. The listing contained in the Appendix reflects these October 1977 entitlement sale requirements in such firms' November 1977 entitlement purchase or sale requirements. The total adjustment in deemed old oil receipts reflected by the "carry-forward" of October 1977 entitlement sale requirements equals 622,837 barrels.

For purposes of § 211.67(d) (6) and (7), which provide for entitlement issuances to refiners or other firms for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve, the number of barrels sold to the Gov-

ernment totaled 1,198,790 barrels.

For purposes of the adjustments to refiners' crude run volumes under § 211.67(d)(4), total production of residual fuel oil for sale in the East Coast market (in excess of the first 5,000 barrels per day thereof for each refiner reporting such production) was 11,221,424 barrels for November 1977. For that month, imports of residual fuel oil eligible for entitlement issuances totaled 24,524,186 barrels.

The total number of entitlements required to be purchased and sold under this notice is 21,947,985.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for November 1977, the pricing composition and weighted average costs thereof are as follows:

Category	Volumes	Weighted average cost	Percent of total volumes <sup>1</sup>
Lower tier .....	103,940,937	\$5.70	22.1
Upper tier .....	88,980,593	12.09	18.9
Exempt domestic:			
Stripper .....	33,645,441	14.53	7.1
Naval petroleum reserve ..	3,040,951	12.82	.6
Total domestic .....	229,557,922	9.56	48.7
Total imported <sup>2</sup> .....	241,619,232	14.54	51.3
Total reported crude oil receipts .....	471,177,154	12.12	100.0

<sup>1</sup> Numbers may not add due rounding.

<sup>2</sup> Under current reporting procedures includes Alaska North Slope crude oil.

Payment for entitlements required to be purchased under 10 CFR § 211.67(b) for November 1977 must be made by January 31, 1978.

On or prior to February 10, 1978, each firm which is required to purchase or sell entitlements for the month of November 1977 shall file with the DOE the monthly transaction report specified in 10 CFR § 211.66(i) certifying its purchases and sales of entitlements for the month of November. The monthly transaction report forms for the month of November have been mailed to reporting firms. Firms that have been unable to locate other firms for required entitlement transactions by January 31, 1978 are requested to contact the ERA at 202-254-3336 to expedite consumma-

tion of these transactions. For firms that have failed to consummate required entitlement transactions on or prior to January 31, 1978, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR § 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with ERA's Office of Administrative Review in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before February 27, 1978.

Issued in Washington, D.C. on January 19, 1978.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.



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APPENDIX  
ENTITLEMENTS FOR DOMESTIC CRUDE OIL  
NOVEMBER 1977

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	POSITION REQUIRED TO BUY	POSITION REQUIRED TO SELL
-CONSOLID-SALES	-15,487	0	0	0	0	0	15,487*
A-JOHNSON	0	181,101	0	0	0	0	181,101
ALLIED	38,849	80,435	0	0	0	0	41,586
AMER-PETROFINA	907,272	878,926	0	0	0	28,346	0
AMERADA-HESS	2,049,500	3,966,179	0	55,463	0	0	1,916,679
AMOCO	10,296,838	7,595,423	0	0	0	2,701,415	0
APCO	242,539	395,469	0	0	0	0	102,930
ARCO	4,593,284	4,821,554	0	0	0	0	228,270
ARIZONA	74,327	58,840	7,559	0	0	15,487	0
ASAMERA	41,861**	139,313	0	0	0	0	97,452
ASHLAND	1,478,897	2,633,858	0	0	0	0	1,154,961
ASIATIC	0	255,825	85,121**	170,704	0	0	255,825
AUGSBURY	0	4,059	4,059**	0	0	0	4,059
BASIN	24,310	115,174	0	0	0	0	90,864
BAYOU	43,247	54,387	0	0	0	0	11,140
BEACON	250,070	231,810	0	0	0	18,260	0
BELCHER	0	88,927	0	88,927	0	0	88,927
BI-PETRO	9,439	86,468	0	0	0	0	77,029
BRUN	71,290	138,460	0	0	0	0	67,170
CBM	0	622	0	0	0	0	622
CALCASIEU	25,591	68,015	0	0	0	0	42,424
CALUMET	27,503	30,176	0	0	0	0	2,673
CANAL	78,587	61,115	0	0	0	17,472	0
CARIBOU	87,101	87,221	0	0	0	0	120
CHAMPLIN	1,898,872	1,380,090	0	0	0	518,774	0
CHARTER	893,516	893,516	400,069	0	0	0	0
CHEVRON	6,579,627	8,081,546	0	10,915	0	0	1,501,919
CITILLO	0	43,926	0	43,926	0	0	43,926
CITGO	2,368,522	1,878,663	0	0	0	489,859	0
CLAIBORNE	-41,913	-5,952	0	0	0	0	35,961
CLARK	340,155	880,788	0	0	0	0	540,633
COASTAL	318,804	1,447,620	0***	16,039	0	0	1,128,816
CONOCO	3,344,638	2,587,456	0	37,690	0	757,182	0
CORCO	0	1,020,674	26,228	236,970	0	0	1,020,674
CRA-FARMLAND	422,754	508,306	0	0	0	0	85,552
CROSS	47,676	101,223	0	0	0	0	53,547
CROWN	366,550	703,419	0	0	0	0	336,869
CRYSTAL-OIL	212,191	178,775	0	0	0	33,416	0
CRYSTAL-REF	409	32,904	0	0	0	0	31,955
DELTA	293,468	245,167	-40,128	0	0	46,301	0
DEMENDO	29,240	41,961	0	0	0	0	12,717
DERBY	-507,906**	149,952***	0	0	0	0	657,948
DIAMOND	576,200	432,545	0	0	0	143,655	0
DILLMAN	0	1,491	0	0	0	0	1,491
DORCHESTER	258,790	195,822	0	0	0	62,968	0
DOW	64,239	178,966	0	0	0	0	114,727
E-SEABOARD	0	42,799	0	42,799	0	0	42,799
ECO	10,121	55,189	0	0	0	0	45,068
EDDY	40,803	42,652	0	0	0	0	1,849
ENERGY-COOP	11,963	735,611	0	0	0	0	723,648
ERICKSON	31,108	132,857	0	0	0	0	101,749
EVANGELINE	47,816	36,919	0	0	0	897	0
EXXON	10,616,629	10,077,220	0	319,954	0	539,409	0
EZ-SERVE	25,455	46,891	0	0	0	0	21,436
FARMERS-UN	259,143	330,916	0	0	0	0	71,773
FLETCHER	2,350	161,199	0	0	0	0	158,849
FLINT	7,950**	10,401	0	0	0	0	2,451
GARY	5,355	4,282	0	0	0	1,073	0
GETTY	1,360,776	1,176,933	0	0	0	183,843	0
GIANT	65,015	70,165	0	0	0	0	5,150
GLACIER-PARK	98,553	50,049	0	0	0	48,504	0
GLADIEUX	62,781	126,046	0	0	0	0	63,265
GLENROCK	1,987	2,488	0	0	0	0	501
GOLDEN-EAGLE	0	165,473	0	0	0	0	165,473
GOLDEN-EAGLE-NY	0	15,017	0	15,017	0	0	15,017
GOLDKING	14,324	26,773	0	0	0	0	12,449
GOOD-HOPE	41,953	281,332	0	0	0	0	239,379
GUAM	0	325,214	0	0	0	0	325,214

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APPENDIX  
ENTITLEMENTS FOR DOMESTIC CRUDE OIL  
NOVEMBER 1977

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	TOTAL ISSUED	EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	10 MONTH CLEAN-UP	POSITION REQUIRED TO BUY	POSITION REQUIRED TO SELL
GULF	6,532,359	6,204,242	0	21,169	0	2,328,117	0
GULF-STG	59,706	136,869	0	0	0	0	77,163
HIRI	0	502,894	0	0	0	0	502,894
HOWARD	0	24,688	0	24,688	0	0	24,688
HOWELL	588,860	308,239	0	0	0	280,621	0
HUDSON-OIL	26,304	181,315	0	0	0	0	155,011
HUNT	293,301	309,578	0	0	0	0	16,277
HUSKY	629,364	359,334	0	0	0	270,030	0
INDEPENDENT-REF	-56,025**	94,031	0	0	0	0	150,056
INDIANA-FARM	57,069	198,641	0	0	0	0	141,572
IRVING	0	11,237	11,237**	0	0	0	11,237
J&W	109,149	68,631	0	0	0	42,518	0
KENCO	18,082	35,511	0	0	0	0	17,429
KENTUCKY	17,134	23,581	0	0	0	0	6,447
KERN	336,868	350,932	158,603	0	0	0	14,064
KERR-MCGEE	1,323,318	960,891	0	0	0	362,427	0
KOCH	244,478	870,765	0	0	0	0	626,287
LAGLORIA	483,131	399,300	0	0	0	83,831	0
LAKEVIEW	19,462	45,653	0	0	0	0	26,191
LAKEVIEW	127,749	127,749	25,891	0	0	0	0
LITTLE-AMER	1,133,851	1,420,650	852,856	0	0	0	286,799
LOUISIANA-LAND	220,579	565,163	0	0	0	0	344,584
MACMILLAN	49,455	143,246	0	0	0	0	93,791
MARATHON	3,881,179	2,761,034	0	0	0	920,145	0
MARION	125,135	218,557	0	0	0	0	93,422
METROPOLITAN	0	49,844	0	49,844	0	0	49,844
MID-AMER	11,383	92,183	0	0	0	0	80,800
MID-TEX	15,721	10,463	0	0	0	5,258	0
MOBIL	6,379,260	5,344,662	0	38,668	0	1,034,598	0
MOBILE-BAY	0	147,819	0	0	0	0	147,819
MOHAWK	427,969	379,570	94,023	0	0	48,399	0
MONOCO	0	17,042	0	17,042	0	0	17,042
MONSANTO	400,880	291,642	0	0	0	109,238	0
MORRISON	20,938	15,151	0	0	0	5,787	0
MOUNTAINEER	8,390	8,709	0	0	0	0	319
MT-AIRY	51,161	134,465	0	0	0	0	83,304
MURPHY	811,708	665,496	0	0	0	146,212	0
N-AMER-PETRO	260,713	21,071	0	0	0	239,642	0
NATL-COOP	287,376	426,366	0	0	0	0	138,990
NAVAJO	360,609	372,868	71,315	0	0	0	12,259
NEVADA	0	15,072	0	0	0	0	15,072
NEW-EDGINGTON	492,588	452,284	202,340	0	0	40,304	0
NEW-ENGL-PETRO	0	380,515	0	380,515	0	0	380,515
NEWHALL	210,652	210,652	83,120	0	0	0	0
NORTHEAST-PETRO	0	10,821	0	10,821	0	0	10,821
NORTHLAND	48,429	110,144	0	0	0	0	61,715
OKC	147,549	254,946	0	0	0	0	107,397
OXNARD	3,995	16,469	0	0	0	0	12,474
PENNZOIL	691,008	383,909	0	0	0	307,099	0
PESTER	160,627	224,722	0	0	0	0	64,095
PHILLIPS	1,982,955	2,244,695	0	0	0	0	261,740
PHILLIPS-PR	0	346,031	0	346,031	0	0	346,031
PIONEER	19,045	55,453	0	0	0	0	36,408
PLACIO	216,102	337,247	0	0	0	0	121,145
PLATEAU	143,083	151,361	0	0	0	0	8,278
POWERLINE	143,381	315,044	0	0	0	0	171,663
PRIDE	169,529	200,605	0	0	0	0	31,076
PRINCETON	26,929	93,275	0	0	0	0	66,346
QUAKER-ST	30,078	199,997	0	0	0	0	169,919
RANCHO-REF	3,594	65,093	0	0	0	0	61,499
RICHARDS	505	59,411	0	0	0	0	58,906
RICO	0	54,129	0	54,129	0	0	54,129
ROAD-OIL	0	606	0	0	0	0	606
ROCK-ISLAND	315,598	332,704	-16,806	0	0	0	17,106
SABER-TEX	-112,605	311,567	0	0	0	0	424,172
SABRE-CAL	111,297	51,063	-35	0	0	60,234	0
SAGE-CREEK	1,596**	3,736	0	0	0	0	2,140
SAN-JOQUIN	196,564	264,763	80,937	0	0	0	68,199



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NOTICES

APPENDIX  
ENTITLEMENTS FOR DOMESTIC CRUDE OIL  
NOVEMBER 1977

REPORTING FIRM SHORT NAME	DEEMED OLD OIL ADJUSTED RECEIPTS	***** TOTAL ISSUED	ENTITLEMENT EXCEPTIONS AND APPEALS	PRODUCT ENTITLEMENTS	POSITION 10 MONTH CLEAN-UP	REQUIRED TO BUY	***** REQUIRED TO SELL
SEMINOLE	12,257	68,761	0	0	0	0	56,504
SHELL	10,910,025	7,129,918	0	0	0	3,789,107	0
SIGMOR	27,696	128,867	0	0	0	0	101,171
SO-HAMPTON	37,213	164,643	0	0	0	0	127,430
SOMIN	1,363,166	3,218,675	0	0	0	0	1,855,509
SOMERSET	21,014	55,824	0	0	0	0	34,810
SOUND	-768	97,491	0	0	0	0	98,259
SOUTHERN-UNION	234,103	307,400	0	0	0	0	73,297
SOUTHLAND	443,290	298,505	75,155	0	0	144,785	0
SOUTHWESTERN	6,445	5,194	0	0	0	1,251	0
SPRAGUE	0	26,411	0	26,411	0	0	26,411
STEUART	0	11,879	0	11,879	0	0	11,879
SUNLAND	5,039	137,766	0	0	0	0	132,727
SUNOCO	5,159,707	3,908,661	0	0	0	1,251,046	0
SWANN	0	31,102	0	31,102	0	0	31,102
TENNECO	1,018,768	848,271	0	0	0	178,497	0
TESORO	520,675	522,498	0	0	0	0	1,823
TEXACO	9,924,017	7,747,192	0	254,849	0	2,176,825	0
TEXAS-AMERICAN	30,508	100,497	0	0	0	0	69,989
TEXAS-ASPH	232	37,753	0	0	0	0	37,521****
TEXAS-CITY	450,869	592,738	0	0	0	0	141,869
THAGARD	812,820	812,820	553,436	0	0	0	0
THRIFTWAY	30,867**	39,105	0	0	0	0	8,238
THUNDERBIRD	124,453**	131,040	0	0	0	0	6,627
TIPPERARY	99,829	67,627	0	0	0	32,202	0
TONKAWA	40,774	66,970	0	0	0	0	26,196
YOSCO	2,431,617	1,610,144	324,936	0	0	821,473	0
TOTAL-PETROLEUM	311,037	323,055	0	0	0	0	12,018
UCC-CARIBE	0	116,837	0	116,837	0	0	116,837
UNION-OIL	4,681,745	3,007,991	0	0	0	1,673,754	0
UNION-PETRO	0	14,409	0	14,409	0	0	14,409
UNTO-IND	8,324	5,600	0	0	0	2,724	0
UNTO-REF	101,443	375,052	0	0	0	0	273,609
US-OIL	18,898	172,652	0	0	0	0	153,754
USA-PETROCHEM	32,726	191,072	0	0	0	0	158,346
VICKERS	229,167	506,996	0	0	0	0	277,829
VULCAN	27,912	102,711	0	0	0	0	74,799
WALLACE	0	12,155	0	12,155	0	0	12,155
WALLER	0	7,303	0	7,303	0	0	7,303
WARRIOR	29,065**	37,136	10,203	0	0	0	8,071
WEST-COAST	71,321	130,040	0	0	0	0	58,719
WESTERN	83,000	94,892	0	0	0	0	11,892
WINSTON	92,859	190,083	0	0	0	0	97,224
WIREBACK	0	569	0	0	0	0	569
WITCO	56,883	178,818	0	0	0	0	121,935
WYOMING	51,198	145,780	0	0	0	0	94,582
YETTER	0	1,107	0	0	0	0	1,107
YOUNG	353,860	353,860	246,354	0	0	0	0
TOTAL	122,448,555	122,448,555	3,299,056	2,456,260	0	21,947,985	21,947,985

- \* Equals November 1977 entitlement purchase requirement of Arizona Fuels. See discussion in Notice.
- \*\* Includes entitlement sale requirement rescinded for October 1977 (see discussion in Notice).
- \*\*\* Includes entitlements issued for sales of imported crude oil to the United States Government for storage in the Strategic Petroleum Reserve.
- \*\*\*\* This does not include the purchase obligation stayed by court order in Texas Asphalt & Refinery Co. v. FEA Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).
- [FR Doc. 78-2067 Filed 1-20-78; 11:52 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

(Docket Nos. ER77-551 and ER-77-485)

CAROLINA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Schedule, Consolidating for Hearing, Providing for Hearing, and Establishing Procedures

JANUARY 19, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

On August 3, 1977, Carolina Power & Light Co. (CP&L) tendered for filing an amendment to its rate schedule FPC No. 102 and at the same time filed a notice of cancellation of its rate schedule FPC No. 93.<sup>1</sup> Each rate schedule covers firm electric service to the city of Fayetteville, N.C. (city). The rate changes are proposed in order to accommodate the operation of the city's five new combustion turbines located at its Fayetteville east substation. CP&L requested that the

<sup>1</sup>The filing is designated as supplement No. 10 to rate schedule FPC No. 102 (supersedes FPC No. 93 as supplemented.)

effective date of the amended rate schedule be June 20, 1977. Consequently, waiver of the Commission's notice requirements is implied.

Rate schedule FPC Nos. 102 and 93 provide firm service to the city of Fayetteville where the energy is received by the city at a separate delivery point for each rate schedule service. Under the new agreement entered into by the city and CP&L, as reflected in the instant filing for amendment of rate schedule No. 102, partial requirements service will be provided in lieu of full service and totalized metering of the two points will be initiated. This action necessitates the cancellation of rate schedule FPC No. 93.

The amended rate schedule provides that the city will receive partial requirements service for the load not served by its five gas turbines; back-up service by CP&L for emergency contingencies; and the purchase by CP&L of capacity from the city when it becomes available.

The city now has installed and operating five 20 MW gas turbine generators. The city and CP&L estimate that during the first 12 months of operation under the new amendment, the city's peak shaving service will range from zero to approximately 60 MW. The amended rate schedule further provides that three of the five gas turbines will be used for peak shaving while the last two units will be held in reserve totaling approximately 67 percent of reserve capacity for the city's peak shaving operation. The city is contemplating installation of three additional gas turbine units by June, 1983.

With respect to the proposed rates charged for the amended service, demand and energy charges for the partial requirements service to the city are the same as those now specified for total requirements service. The agreement provides for the adjustment of metered demand and energy quantities for billing purposes to recognize the back-up service provided by CP&L to the city and the purchase of capacity by CP&L from the city.

The emergency backup service will be supplied at a capacity charge of 7.4 cents/kW/day in addition to an energy charge of CP&L's out-of-pocket costs, plus 10 percent. If the backup service is not available in CP&L's system and, therefore it must be purchased by CP&L for delivery to the city, the charge will be the cost of such capacity and energy plus the greater of 10 percent of the cost of the purchase, or 2 mills/kWh.

When CP&L purchases surplus capacity and energy from the city, the proposed rate will be at 5.5 cents/kW plus out-of-pocket costs plus 10 percent. The city of Fayetteville agrees to the terms of the CP&L filing.

Public notice of CP&L's filing was

issued on August 17, 1977. The notice provided that all protests or petitions for intervention must be filed on or before August 31, 1977. None have been filed.

The proposed amendment including the reserve obligation has not been shown to be just and reasonable and may be unjust, unreasonable, or otherwise unlawful. Accordingly, the proposals should be accepted for filing on June 19, 1977, and suspended for one day to become effective, subject to refund, on June 20, 1977.

Since there is an existing proceeding in Docket No. ER77-485 concerning a previous rate filing by CP&L which was set for hearing in the order of July 19, 1977, and contains common questions of law and facts as are contained in the instant filing, it is appropriate to consolidate the instant docket with the proceeding in Docket No. ER77-485 for purposes of hearing and determination.

The Commission finds: (1) Good cause exists to accept for filing and suspend the proposed change in rates and cancellation of service tendered by the Carolina Power & Light Co. on August 3, 1977.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed rate changes tendered by CP&L on August 3, 1977, to consolidate that hearing with the hearing set in Docket No. ER77-485, establish procedures for that hearing, and that the proposed rate changes be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(3) Good cause exists to waive the notice requirements of section 35.11 of the Commission's regulations under the Federal Power Act for the amendment to rate schedule FPC No. 102.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction set out in the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, and pursuant to the Commission's rules of practice and procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the proposed rates proposed by CP&L in this proceeding.

(B) Pending such hearing and decision thereon, the proposed changes in rates filed by CP&L on August 3, 1977, and identified above, are hereby accepted for filing as of June 19, 1977, suspended and the use thereof deferred until June 20, 1977, when they shall become effective, subject to refund.

(C) Carolina Power & Light's implied request for waiver of section



35.11 notice requirements is hereby granted.

(D) The instant proceeding shall be consolidated for purposes of hearing and determination with the proceeding in Docket No. ER77-485 now set for hearing by the order of July 19, 1977, and the procedures set forth in the July 19th order are to be retained for this consolidated proceeding.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2240 Filed 1-25-78; 8:45 am]

#### [6740-02]

[Docket No. E-7740 et al]

#### INDIANA AND MICHIGAN ELECTRIC CO.

##### Notice of Proposed Settlement

JANUARY 19, 1978.

Take notice that by joint motion filed December 30, 1977, Indiana and Michigan Electric Co., (I&ME) and Richmond Power and Light of the City of Richmond, Ind., (Richmond), Docket Nos. E-7740, E-9239 and ER76-716, tendered for filing in the above-entitled docket an Agreement of Settlement and Compromise.

Attached to the joint motion and Agreement of Settlement and Compromise as an exhibit is an interconnection agreement negotiated between I&ME and Richmond providing for a variety of services to be rendered including, firm service, short-term service, limited-term service, emergency service, and transmission service. Copies of the tendered filing and attachments thereto are available for inspection in the offices of the Commission.

Any party desiring to file comments with respect to the Offer of Settlement and Compromise may do so, and all such comments, if any, should be filed on or before February 10, 1978, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20246. Comments so filed, if any, will be considered by the Commission in determining what action should be taken with regard to the Offer of Settlement and Compromise, but will not serve to make the party filing such comments an intervenor herein. Copies of this filing are on file with the Commission and available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2241 Filed 1-25-78; 8:45 am]

#### [6740-02]

[Docket No. ER76-5321]

#### PACIFIC GAS AND ELECTRIC CO.

##### Order Denying Motion for Approval of Settlement, Conditionally Accepting Settlement Rates, and Providing for Hearing

JANUARY 20, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402 of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On March 1, 1976, Pacific Gas and Electric Co (PG&E) filed with the Federal Power Commission its notice, pursuant to section 205(d) of the Federal Power Act, and Part 35 of the Commission's Regulations, of a proposed increase in rates for electric wheeling services pursuant to a schedule on file with the Commission providing service for the United States Bureau of Reclamation (USBR) from the Central Valley Power Project (CVP) in California. Under the provisions of its contract with USBR dated July 31, 1967, the rates for this service are subject to review between the two parties commencing April 1, 1971, and every five years thereafter and, if the parties are unable to agree, the issue is submitted to the Federal Power Commission. Prior to this filing PG&E and USBR reviewed the charge for the wheeling service and were unable to

agree on a change in rate. The matter was submitted to the Federal Power Commission which accepted the rates for filing, suspended them for one day to April 1, 1976, and set the matter for hearing by order issued March 29, 1976.<sup>1</sup>

The Staff of the Federal Power Commission submitted its "top sheet" computations on August 23, 1976, and October 8, 1976. The hearing was scheduled for May 3, 1977. Prior to the hearing, various pre-hearing conferences and formal settlement conferences were held. On December 22, 1976, PG&E and USBR entered into a settlement agreement resolving all issues in this proceeding. On January 31, 1977, PG&E submitted the Settlement Agreement reached between itself and USBR. The settlement was noticed on February 11, 1977, setting February 25, 1977, and March 14, 1977, as the dates for comments and reply comments, respectively.

The settlement provides for a rate of 0.133 cents per kilowatt hour for delivery at 44,000 volts or higher.<sup>2</sup> In contrast, the March 1, 1976, filing by PG&E requested rates of 0.17 cents per kilowatt hour. The settlement rates are to apply to the wheeling service here involved for the period April 1, 1976 through March 31, 1981.

PG&E's proposed annual increase in tariff charges was in the amount of \$2,735,000 for the test year 1976. Staff's studies indicated that an increase of \$2,321,000 was cost justified and the settlement provides for an increase of \$1,172,000. The settlement also provides that inasmuch as PG&E has not actually collected or received payments in excess of the settlement rates from USBR for this wheeling service, no refunds are required.

Comments on the proposed settlement were filed by the Staff of the Federal Power Commission, USBR, the Northern California Power Agency (NCPA), the Arvan-Edison Water Storage District (ARVAN), the Federal Agencies, represented by the Department of the Navy. The Federal Power Commission Staff and USBR support the settlement while the other parties filed objections.

<sup>1</sup> Rehearing was denied on May 28, 1976. The Northern California Power Agency petitioned for review contending the contract did not permit PG&E unilaterally to file a rate increase. *Northern California Power Agency v. F.P.C.*, No. 76-1671 (D.C. Cir., appeal docketed July 26, 1976).

<sup>2</sup> For delivery of less than 44,000 volts, the settlement sets a rate of 0.226 cents per kilowatt hour from April 1, 1976, through March 31, 1978, and no more than 0.300 cents per kilowatt hour through March 31, 1981, subject to review of the parties and submittal to the Commission for final decision if the parties are unable to agree on a rate adjustment for the lower voltage.

NCPA in its comments filed February 11, 1977, contends both the prior and proposed rates are excessive and that its studies attached to its comments show the rates should be within the range of 0.4 to 0.7 mills/kWh depending upon the method adopted by the Commission. It criticizes the USBR settlement rate for including too many facilities in PG&E's rate base and for failing to credit against the rolled-in PG&E transmission cost, PG&E's use of the government's transmission system [the Central Valley Project (CVP) facilities]. It offers, instead, two alternative methods designed to meet these deficiencies. NCPA also suggests the settlement rate is discriminatory, citing nine allegedly similar transmission services rendered by PG&E at a lower rate. It also says the settlement fails to resolve the appropriate rate for service below 44 kV. Therefore, because facts are in dispute, it requests a hearing.

Replies to the comments of the various parties were filed, almost all indicating that some hearing procedure will be necessary in this proceeding. The Staff of the Federal Power Commission suggests that the settlement be approved and the settlement rates be put into effect subject to refund in the event the hearing indicates they are too high. USBR supports Staff's position but suggests that because the USBR is paying PG&E for service in accordance with the Settlement Agreement retroactive to April 1, 1976, with the understanding that higher or lower retroactive adjustment may be required upon final Commission decision, Staff's suggestion that the Settlement Agreement be approved subject to refund seems to be moot. NCPA's reply stated that it opposes acceptance of the Settlement but that it would not object to Staff's suggestion for a conditional settlement approval. ARVAN states any Commission approval action should be conditioned upon ultimate resolution of the factual disputes through the hearing process. Navy states, along with the other "Federal Agencies," that there is disagreement whether the contract provisions permit a cost of service approach, or require some other rate determining method. They contend that acceptance of the settlement as proposed by staff is inappropriate absent a hearing on contract interpretation and cost allocation issues. PG&E suggests that any hearings should be strictly limited and that the objectors should have the burden of proof as to why the settlement is not justified.

We shall accept the settlement rates subject to the condition that the settlement rates will be collected subject to refund or upward adjustment up to the level of the currently suspended rate and order a hearing as proposed

by the Federal Power Commission Staff and as modified by the USBR. Pending the outcome of such hearing it will be necessary to deny the motion of PG&E for approval of its settlement as a just and reasonable rate in resolution of all the issues in this case.

PG&E has already submitted its computations for the record in this proceeding. However, the Commission staff has to date served only its "top sheets." USBR has filed a motion to provide for the scheduling of the hearing. Although no objections to the motion were raised, we deem it a more desirable policy in the administration of the Federal Power Act that such matters be referred to the presiding Judge for disposition as he finds appropriate in the conduct of the remanded proceedings.

The Commission finds: (1) The motion for approval of the Settlement Agreement to resolve all outstanding matters in this proceeding should be denied without prejudice to its resubmittal at the conclusion of the hearing in this proceeding.

(2) The rates as proposed in the Settlement Agreement to be denominated as 2d Revised Sheet No. 60 to PG&E's FPC Electric Tariff, Original Volume No. 4, superseding 1st Revised Sheet No. 60 of said tariff should, upon filing, within 30 days of the date of this order, be accepted, effective April 1, 1976, on the condition that they are subject to refund or upward adjustment up to the level of the currently suspended rate upon conclusion of the proceeding.

(3) Good cause exists to waive Section 35.0 of the Commission's Regulations as to filing fees and Section 35.3 and 35.13 of the Commission's Regulations with respect to notice requirements and rate change filing requirements.

The Commission orders: (A) This proceeding is hereby remanded for hearing before an Administrative Law Judge and for ruling upon the procedural matters raised by the motion of the Secretary of the Interior filed August 11, 1977.

(B) The motion of PG&E for approval of Settlement Agreement is hereby denied without prejudice.

(C) The rates proposed in the Settlement Agreement between PG&E and USBR shall become effective April 1, 1976, upon PG&E's filing and Commission acceptance of tariff sheets referred to in finding paragraph (2) above, subject to refund or reimbursement with 9 percent interest pending the outcome of the hearing as ordered in this proceeding.

(D) The Commission's Regulations, Section 35.0, 35.3, and 35.13, are

hereby waived with respect to the settlement rates.

By the Commission:

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2243 Filed 1-25-78; 8:45 am]

#### [6740-02]

[Docket No. RP77-138]

#### UNITED GAS PIPE LINE CO.

##### Notice of Supplement To Petition for Advance Approval for Accounting and Rate Treatment of Research, Development and Demonstration Expenditures

JANUARY 20, 1978.

Take notice that on December 5, 1977, United Gas Pipe Line Co. (United) submitted a supplement to its original filing in the above referenced docket made on September 23, 1977. The supplement was filed pursuant to the written request of the Commission's Secretary dated October 28, 1977.

United states that because of curtailments and the continuing decline of natural gas reserves available to its customers, it is apparent that supplemental gas supplies must be developed. In this connection, United states that it recognizes that to meet the fundamental objective of enhancing gas supplies would require, among other things, its commitment to and participation in current research, development and demonstration (RD&D) projects as well as the initiation of new projects. As a result of this realization, it is stated, United conducted an investigation and the results were incorporated into a plan for a biomass conversion RD&D project which would involve the research, design, construction and operation of an experimental anaerobic digestion pilot plant for the conversion to synthetic gas of a unique and heretofore untested combination of selected biomass and waste feedstock.

The proposed project, subsequently known as Project SNG-Biomass, was structured to ensure an adequate review of and coordination with Federal RD&D programs and with other related private efforts of national scope, it is stated.

United states that it is anticipated that Project SNG-Biomass will further its RD&D objectives. It is indicated that as the project proceeds it will yield valuable knowledge of a new and potentially significant supplemental source of gas supply, which may be used to benefit United's customers within a reasonable period of time. Based upon present and projected technical and economic information, commercial scale gasification as contemplated in Project SNG-Biomass is likely to prove technically feasible

\*Chairman Curtis voted present.



while the economic feasibility of such an undertaking is unproven. The feasibility and desirability of establishing a commercial scale facility will be undergoing continual analysis in the various phases of the project and the project would be terminated at an early date should such an analysis demonstrate that commercial application of the process is economically unfeasible. If United's project goals and timetables are achieved it is anticipated that United will possess the technical know-how and expertise to enhance its gas supply at a reasonable cost to United's customers.

United indicates that it will seek to patent significant inventions arising from the RD&D activities of Project SNG-Biomass, with the jurisdictional portion of revenues from the use and licensing of these patents to flow through to its ratepayers. It is the intent of United to provide, whenever feasible, for the protection of United's proprietary rights in any inventions, applications or patents resulting from research funded by United. United further states that the jurisdictional portion of any revenues realized as a result of the possible uses of the pilot plant gas will be credited to United's jurisdictional customers.

Any person desiring to be heard or to make any protest with reference to said supplement should, on or before February 6, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of United's filings in this docket are on file with the Commission and available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2244 Filed 1-25-78; 8:45 am]

## [6740-02]

[Project No. 2402]

UPPER PENINSULA POWER CO.

Order Providing for Hearing

JANUARY 19, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4,

1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the Federal Power Commission on the date the DOE Act takes effect shall not be affected, and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued, and further actions shall be taken by the appropriate component of DOE now responsible for the functions under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary of Energy and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By order dated January 25, 1968, the FPC issued a major license to the Upper Peninsula Power Co. (Licensee) for the Prickett Project, FERC No. 2402, located on the Sturgeon River, in Baraga and Houghton Counties, Mich. Article 33 of the license requires the Licensee to discharge at all times a minimum flow of six cubic feet per second (cfs) from the project powerhouse to the Sturgeon River. The FPC also reserved by Articles 13<sup>a</sup> and 16<sup>a</sup> of

<sup>a</sup>Order Issuing License, Upper Peninsula Power Company, Project No. 2402, 39 F.P.C. 86 (January 25, 1968).

<sup>a</sup>Article 13 provides, in part, that: "... the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations ..." as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power and other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second ... as the Commission may prescribe for the other purposes hereinbefore mentioned.

<sup>a</sup>Article 16 reads as follows: The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance and operation of such facilities and comply with such reason-

the license for Project No. 2402, the right to require the Licensee to modify the operation of the project, including increasing the minimum flow release, for the conservation and development of fish and wildlife resources, and other beneficial public uses, including recreational purposes.

By letter dated November 3, 1975, the Michigan Department of Natural Resources (DNR) forwarded to the Licensee a proposal that the current minimum flow discharge from the project be increased to 70 cfs, or an amount equal to the inflow into the reservoir, whichever is the lesser amount, for the protection of fish, other aquatic life, and wildlife resources. The Licensee by letter dated December 3, 1975, rejected DNR's proposal, stating that any increase in the minimum discharge would not be in the interest of the rate payer and would not be in keeping with the "National policy" on fossil fuel conservation.

DNR by letter dated February 9, 1976, requested the FPC to order the Licensee to release at all times a minimum flow of 70 cfs or the inflow into the reservoir, whichever is the lesser amount, from the Prickett project for the protection of fish, other aquatic life, and wildlife resources. DNR stated that the Licensee's on-off operational policy of the project was having a disastrous effect on the newly established coho and chinook salmon runs, as well as the native populations of trout, sturgeon, and walleye. DNR also stated that a 70-cfs minimum flow would provide 80 percent of the downstream wetted perimeter to become available for the production of fish food organisms, and permit approximately 65 percent of downstream spawning gravel to be utilized for fish production. It appears that the increase in flow is requested to enhance the current downstream fishery resources as well as to promote the introduction of anadromous fish that are not indigenous to the Sturgeon River.

By letter dated April 8, 1976, the United States Department of the Interior, Fish and Wildlife Service (Department), stated that flows below 70 cfs have adverse impacts on the downstream aquatic ecosystem, particularly during periods when the Prickett project is not generating electricity. The Department claims that the Sturgeon

able modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act.

River below the project has the potential to support a high quality and productive fishery for trout, salmon, walleye, sturgeon, and various forage species, provided an adequate minimum flow is established and maintained. The Department recommended and requested that the Licensee be required to provide a minimum flow from the Prickett dam in conformance with the aforementioned DNR proposal.

On August 20, 1976, notice of the request for a change in the minimum flows was given in the FEDERAL REGISTER and local newspapers in the vicinity of the project.

By letter dated September 27, 1976, the Licensee stated that it believed that the current minimum flow requirement of 6 cfs is best adapted to a comprehensive plan for the development of the Sturgeon River. The Licensee also stated that an increase in the existing minimum flow requirement as requested by DNR would result in greater reliance on fossil-fuel generation and higher costs for the rate payer. The Licensee further stated that should the Commission determine that modification of Article 33 of the license is appropriate, a hearing should be held in accordance with the Commission's Rules of Practice and Procedure.

Upon investigating the matter, the Commission staff determined that the Licensee and DNR may not have exhausted all of the possibilities of reaching an accommodation on the question of minimum flow releases. At an informal technical conference conducted by staff on March 24, 1977, all parties agreed that further cooperative studies would be useful as an aid to assessing their own priorities and concerns as well as determining the basis for a possible agreement on operation of the Prickett Project. Licensee and DNR agreed to enter into negotiations following the cooperative studies, and DNR stated that it would renew its request for a hearing only at such time as an impasse was reached in the negotiations. The information compiled during the studies was to be made available to all parties as well as the Commission staff.

The cooperative studies were carried out as agreed in June, 1977, and negotiations ensued later in the summer. The discussions did not prove fruitful, and DNR renewed its request for a hearing by letter of October 20, 1977. The information compiled during the field investigation of June, 1977, has not been made available to the Commission staff.

In light of the above, we believe that it is appropriate and in the public interest that a hearing be held to determine whether the operation of the Prickett project, including the minimum flow releases, should be modified

for the conservation and development of fish and wildlife resources, and other beneficial public uses, including recreational purposes. In so doing, we recognize that there is an inadequate record before us which would permit an informed decision on this matter at this time. By the same token, we are also unable at this time to determine whether any modification requirement to the minimum flow releases would be a major Federal action significantly affecting the quality of the human environment, and thus require the preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. § 4332(2)(C), and our implementing Order No. 415-C. It shall therefore be the objective of the Presiding Administrative Law Judge to develop a complete record in order that an informed decision can be made. The Presiding Administrative Law Judge shall also determine whether a staff environmental impact statement (EIS) is required. The Presiding Judge shall, however, hear the parties' direct case and afford the parties an opportunity to submit written statements on the need for an EIS before arriving at his decision.

The Commission finds: It is appropriate for the purposes of the Federal Power Act and in the public interest to hold a hearing, as hereinafter provided, to determine whether the operation of the Prickett project, including the minimum flow releases, should be modified for the conservation and development of fish and wildlife resources, and other beneficial public uses, including recreational purposes. In addition, the Presiding Administrative Law Judge assigned to this proceeding shall determine whether an environmental impact statement is required as discussed above.

The Commission orders: (A) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by the Federal Power Act, particularly sections 10(a), 10(g), 308, and 309 thereof, the license for Project No. 2402, and the Commission's Rules of Practice and Procedure, an initial conference shall be held at 9:30 a.m. on February 8, 1978, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C., respecting the matters involved and the issues presented in the finding above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to section 3.5 of the Commission's regulations, 18 C.F.R. § 3.5 (1977), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exception of petitions to intervene,

motions to consolidate and sever, and motions to dismiss, as provided in the Commission's Rules of Practice and Procedure.

(C) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent that they are modified and supplemented herein.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission, Commissioner Holden voted present.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2244 Filed 1-25-78; 8:45 am]

## [6712-01]

## FEDERAL COMMUNICATIONS COMMISSION

[SS Docket Nos. 78-22, 78-23; File Nos. 31-A-RL-107, 16-A-L-117]

DU PAGE AVIATION CORP. AND  
PLANEMASTER SERVICES, INC.

Designating Applications for Consolidated  
Hearing on Stated Issues, Order

Adopted: January 19, 1978.

Released: January 23, 1978.

In re application of DuPage Aviation Corp., West Chicago, Ill., SS Docket No. 78-22, File No. 31-A-RL-107; Planemaster Services, Inc., West Chicago, Ill., SS Docket No. 78-23, File No. 16-A-L-117; for an aeronautical advisory station to serve DuPage County Airport, West Chicago, Ill.

1. DuPage Aviation Corp. (hereinafter called DuPage), and Planemaster Services, Inc. (hereinafter called Planemaster), have each filed an application for authority to operate an aeronautical advisory station at the same airport. DuPage seeks renewal of its current station license while Planemaster filed for a new station authorization. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing: It is ordered, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, and § 3.31 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following comparative issues:

(a) To determine which applicant would provide the public with better



aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the aviation services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which DuPage has operated aeronautical advisory station WBU6 at DuPage County Airport; and

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on DuPage and issue (c) which is conclusory.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, DuPage and Planemaster, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,  
Chief, Safety and Special  
Radio Services Bureau.

(FR Doc. 78-2249 Filed 1-25-78; 8:45 am)

[6730-01]

FEDERAL MARITIME COMMISSION

(Independent Ocean Freight Forwarder  
License No. 466)

B. H. SOBELMAN & CO., INC.

Order of Revocation

The bond issued in favor of B. H. Sobelman & Co., Inc., 248 Bourse Building, Philadelphia, Pa., 19106, FMC No. 466, was canceled effective January 11, 1978.

By letter dated December 14, 1977, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License

No. 466 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before January 11, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The licensee has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01(d) dated August 8, 1977:

*It is ordered*, That Independent Ocean Freight Forwarder License No. 466 issued to B. H. Sobelman & Co., Inc. be returned to the Commission for cancellation.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 466 be and is hereby revoked effective January 11, 1978.

*It is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and served upon B. H. Sobelman & Co., Inc.

LEROY F. FULLER,  
Director, Bureau of  
Certification and Licensing.

(FR Doc. 78-2207 Filed 1-25-78; 8:45 am)

[6730-01]

(Independent Ocean Freight Forwarder  
License No. 1569)

WEICKER TRANSFER & STORAGE CO., D.B.A.  
WEICKER INTERNATIONAL

Order of Revocation

The bond issued in favor of Weicker Transfer & Storage Co., d.b.a. Weicker International, P.O. Box 5207 T. A., Denver, Colo. 80217, FMC No. 1569, was canceled effective January 14, 1978.

By letter dated December 19, 1977, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1569 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before January 14, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The licensee has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission

as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(d), dated August 8, 1977:

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1569 issued to Weicker Transfer & Storage Co. d.b.a. Weicker International, be returned to the Commission for cancellation.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 1569 be and is hereby revoked effective January 14, 1978.

*It is further ordered*, That a copy of this order be published in the FEDERAL REGISTER and served upon Weicker Transfer & Storage Co., d.b.a. Weicker International.

LEROY F. FULLER,  
Director, Bureau of  
Certification and Licensing.

(FR Doc. 78-2206 Filed 1-25-78; 8:45 am)

[6730-01]

(Independent Ocean Freight Forwarder  
License No. 1607)

NORMA E. SANCHEZ

Order of Revocation

The bond issued in favor of Norma E. Sanchez, P.O. Box S-2350, Old San Juan, P.R. 00903, FMC No. 1607, was canceled effective December 24, 1977.

By letter dated November 28, 1977, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1607 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before December 24, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The licensee has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), Section 5.01(d), dated August 8, 1977:

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1607, issued to Norma E. Sanchez, be returned to the Commission for cancellation.

*It is further ordered*, That Independent Ocean Freight Forwarder License No. 1607 be and is hereby revoked effective December 24, 1977.

*It is further ordered*, That a copy of this order be published in the FEDERAL

REGISTER and served upon Norma E. Sanchez.

LEROY F. FULLER,  
Director, Bureau of  
Certification and Licensing.

(FR Doc. 78-2208 Filed 1-25-78; 8:45 am)

[6730-01]

(Docket No. 78-11)

SAIPAN SHIPPING CO., INC. v. ISLAND  
NAVIGATION CO., LTD. AND OCEANIA LINE,  
INC.

Filing of Complaint

Notice is hereby given that a complaint filed by Saipan Shipping Co., Inc., against Island Navigation Co., Ltd., and Oceania Line, Inc., was served January 19, 1978. The complaint alleges violations by respondents of sections 15, 17, and 18(b) of the Shipping Act, 1916, in connection with carriage of cargo by respondents in the Guam/Northern Marianas trade.

Hearing in this matter, if any is held, shall commence on or before June 18, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

JOSEPH C. POLKING,  
Assistant Secretary.

(FR Doc. 78-2209 Filed 1-25-78; 8:45 am)

[6210-01]

FEDERAL RESERVE SYSTEM

VALLEY BANK SHARES, INC.

Formation of Bank Holding Company

Valley Bank Shares, Inc., Valley, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Bank of Valley, Valley, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve

Bank, to be received not later than February 9, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

(FR Doc. 78-2211 Filed 1-25-78; 8:45 am)

[6210-01]

FEDERAL OPEN MARKET COMMITTEE

Domestic Open Market Operations;  
Authorization

In accordance with the Committee's rules regarding availability of information, notice is given that at its meeting on January 17, 1978, a new paragraph 4 was added to the Committee's authorization for domestic open market operations. The new paragraph reads as follows:

4. In order to ensure the effective conduct of open market operations, while assisting in the provision of short-term investments for foreign and international accounts maintained at the Federal Reserve Bank of New York, the Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York: (a) For System Open Market Account, to sell U.S. Government securities to such foreign and international accounts on the bases set forth in paragraph 1(a) under agreements providing for the resale by such accounts of those securities within 15 calendar days on terms comparable to those available on such transactions in the market; and (b) for New York Bank account, when appropriate, to undertake with dealers, subject to the conditions imposed on purchases and sales of securities in paragraph 1(c), repurchase agreements in U.S. Government and agency securities, and to arrange corresponding sale and repurchase agreements between its own account and foreign and international accounts maintained at the Bank. Transactions undertaken with such accounts under the provisions of this paragraph may provide for a service fee when appropriate.

By order of the Federal Open Market Committee, January 20, 1978.

ARTHUR L. BROIDA,  
Secretary.

(FR Doc. 78-1082 Filed 1-25-78; 8:45 am)

[6210-01]

BEDFORD BANCORP

Formation of Bank Holding Company

Bedford Bancorp, Bedford, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.52 percent or more of the voting shares of State Savings Bank, Bedford, Iowa. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than February 8, 1978.

Board of Governors of the Federal Reserve System, January 19, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

(FR Doc. 78-2210 Filed 1-25-78; 8:45 am)

[4110-39]

DEPARTMENT OF HEALTH,  
EDUCATION, & WELFARE

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY  
AND CENTER OPERATIONS

Meeting

Notice is hereby given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on February 11-12, 1978, at the Dupont Plaza Hotel, Connecticut and Massachusetts Avenues NW., Washington, D.C., in the Dupont Room. The Panel will meet from 9 a.m. until 5 p.m. on February 11 and from 9 a.m. until approximately 4 p.m. on February 12.

The Panel for the Review of Laboratory and Center Operations is established under section 405 of the General Education Provisions Act as amended by section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include:

(a) Preparing recommendations on initial long-range funding and program plans submitted by the 17 educational laboratories and research and development centers;

(b) Reviewing and assessing the operations of the laboratories and centers and making recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers.

The entire meeting will be open to the public. The agenda below will revolve around the follow-up of issues raised in the Panel's interim report on the long-range plans submitted by the laboratories and centers and the planning of site visits by the Panel.

SATURDAY, FEBRUARY 11, 1978

9 a.m.—Convene.  
9-9:15—Approve January 7-9 minutes.  
9:15-9:45—General business.  
9:45-10:30—Discussion of follow-up communications with labs and centers.



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10:30-10:45—Break.  
10:45-12—Discussion of issues raised in interim report.  
12-1:15—Lunch.  
1:15-2:45—Discussion of lab and center site visits.  
2:45-3—Break.  
3-5—Discussion with NIE officials on lab and center relationships and policies.

SUNDAY, FEBRUARY 12, 1978

9:00-10:30—Discussion of lab and center site visits.  
10:30-10:45—Break.  
10:45-12—Discussion of lab and center site visits.  
12-1:15—Lunch.  
1:15-2:30—Discussion of future work and meetings.  
2:30-2:45—Break.  
2:45-4—General business.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the address shown below.

In accordance with the announcement previously made, 42 FR 43131, August 26, 1977, copies of the records of all Panel proceedings can be obtained by contacting the Panel office. Minutes require approval by the Panel at a subsequent meeting and are available to the public two weeks following their approval.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact the Panel office at the address or telephone number listed below:

Panel for the Review of Laboratory & Center Operations, National Institute of Education, Washington, D.C. 20208, 202-254-5680.

Dated: January 23, 1977.

CAROLYN BREEDLOVE,  
Staff Director, Panel for the  
Review of Laboratory and  
Center Operations.

[FR Doc. 78-2254 Filed 1-25-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON BLACK  
HIGHER EDUCATION AND BLACK COLLEGES  
AND UNIVERSITIES

Meeting

AGENCY: National Advisory Committee on Black Higher Education and Black Colleges and Universities.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of the third meeting of the National Advisory Committee on Black Higher Education and Black Colleges and Universities. Notice of this meeting is required

# NOTICES

under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1). This document is intended to notify the general public of their opportunity to attend.

DATES: February 13 and 14, 1978, 9 a.m. to 5 p.m.

ADDRESS: Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008.

FOR FURTHER INFORMATION CONTACT:

Ms. Carol J. Smith, Program Delegate, National Advisory Committee on Black Higher Education and Black Colleges and Universities, Room 4913, ROB-3, 400 Maryland Avenue SW., Washington, D.C. 20202, AC 202-245-2825 or 245-2352.

The National Advisory Committee on Black Higher Education and Black Colleges and Universities is governed by the provisions of Part D of the General Education Provisions Act (Pub. L. 90-247 as amended; 20 U.S.C. 1233 et seq.) and the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. Appendix 1) which set forth standards for the formation and use of advisory committees.

The Committee is directed to advise the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, and the Commissioner of Education. The Committee shall examine all approaches to higher education of Black Americans as well as the needs of historically Black colleges and universities.

The meeting on February 13 and 14, 1978, will be open to the public beginning at 9:00 a.m. and ending 5 p.m. each day. The meeting will be held at the Shoreham Americana Hotel, 2500 Calvert Street NW., 20008.

The proposed agenda includes continuation of the drafting of policy recommendations on access, diversity and productivity of Blacks in higher education and Black colleges and universities.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Committee on Black Higher Education and Black Colleges and Universities located at 7th and D Streets SW., Room 4913, ROB-3, Washington, D.C.

Signed at Washington, D.C., on January 19, 1978.

CAROL J. SMITH,  
Program Delegate, National  
Advisory Committee on Black  
Higher Education and Black  
Colleges and Universities.

[FR Doc. 78-2285 Filed 1-25-78; 8:45 am]

[4110-12]

Office of Human Development Services  
(Program Announcement No. 13628-781)

## SPECIAL PROJECTS FOR SERVICES AND FACILITIES

Announcement of Grants for Fiscal Year 1978

The Rehabilitation Services Administration, Office of Human Development Services, announces that applications will be accepted until March 31, 1978, from State vocational rehabilitation agencies, rehabilitation facilities and other public or nonprofit agencies and organizations wishing to compete for grants in fiscal year 1978 under the rehabilitation special projects for services and facilities program authorized by sections 302(b), 302(c), 304(b)(1), and 304(c) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 762).

All applications received by the closing date which are complete and conform to the requirements of this program announcement will be accepted for review and considered for an award.

Regulations applicable to this program were published in the FEDERAL REGISTER in Subparts, A, B, and C of Chapter XIII of Title 45 of the Code of Federal Regulations (45 CFR, Part 1362) on November 25, 1975.

Scope of this program announcement. This program announcement identifies the general program objectives and funding priorities, evaluation criteria and application procedures for the specified sections of the Rehabilitation Special Projects for Services and Facilities Program for Fiscal year 1978.

### A. PROGRAM PURPOSE

The purpose of the Rehabilitation Special Projects for Services and Facilities Program is to expand or improve vocational rehabilitation services for the physically and mentally handicapped.

### B. PROGRAM OBJECTIVES AND ELIGIBLE APPLICANTS

Section 302(b).—Training services. Under this section grants may be made for projects which are designed to provide vocational training in occupational skills, leading to maximum employability of handicapped individuals. Emphasis is on training services directed to the most severely disabled.

Priority will be given to those applications which have the following specific objectives:

1. Preparation of handicapped persons, particularly those who are severely disabled, for employment.
2. Encouragement of handicapped persons to undertake and complete skill training.
3. Improvement and expansion of occupational skill training opportunities

and related training services for the handicapped.

4. Encouragement of rehabilitation facilities to be more responsive to changing employment opportunities and changing training needs of State Rehabilitation Agencies.

5. Encouragement of experimentation in training methods relating to the teaching of occupational skills.

Application may be made by States and public or private nonprofit organizations and agencies. The rehabilitation facility to be involved in the provision of vocational training services shall:

1. Be a public or private nonprofit rehabilitation facility;
2. Have been in operation at least one year;
3. Provide training courses in occupational skills (with the major portion of each course being provided within the rehabilitation facility) and provide related services including work evaluation, work testing and job tryouts (with the major portion of each of these items with the exception of job tryouts being provided within the rehabilitation facility);
4. Meet occupational health and safety standards prescribed by regulations of the Secretary of Labor;
5. Substantially meet any standards for rehabilitation facilities established by the Secretary; and
6. Prepare trainees for gainful employment.

Section 302(c).—Facility improvement. Facility improvement grants may be made to analyze, improve and increase professional services, management effectiveness or other operational aspects of rehabilitation facilities affecting the facility's capability to provide employment and services for the handicapped.

Application may be made by any public or private nonprofit rehabilitation facility, or an organization or combination of such facilities, which has been in operation for at least twelve months.

Section 304(b)(1).—Special projects for severely disabled. Under this section, grants may be made to support projects and demonstrations to establish programs which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals. Specific target disability groups are older blind individuals, deaf persons whose maximum vocational potential has not been achieved and those individuals with epilepsy, cerebral palsy, multiple sclerosis or mental illness. Applications under this section must address one of these target groups.

Any State or other public or nonprofit agency or organization is eligible to apply.

For projects directed toward the mentally ill, priority will be given to

those applications which have the following specific objectives:

1. Cooperative programming involving a State rehabilitation agency and a community mental health center, department of mental health, institution or other treatment resource designed to expand and improve vocational rehabilitation services for people with severe mental illness.
2. Prevention of institutionalization through the development of alternative vocationally-oriented rehabilitation programs in the community.
3. Demonstration of the role and function of a State rehabilitation agency within a system of community support services aimed at assisting individuals currently in institutions to achieve a satisfactory vocational adjustment in a less-restrictive environment.

4. Determination of the special needs in job development, placement, and follow-up services for persons severely handicapped by mental illness.

For projects directed toward individuals with epilepsy, cerebral palsy, or multiple sclerosis, priority will be given to those applications which have project objectives as follows:

1. Development of cooperative arrangements between a State rehabilitation agency and the State or local affiliate of a national organization concerned with the target population (e.g., United Cerebral Palsy, Epilepsy Foundation of America, National Multiple Sclerosis Society) to foster early referral and a coordinated approach to the provision of vocational rehabilitation services.
2. Identification of the constellation of services essential to the optimal vocational adjustment of the target population.
3. Exploration of rehabilitation needs unique to the target disability group in such areas as job development and post-employment services, psycho-social and recreational activities, services to families, and effective measures for dealing with intermittent exacerbation-remission of symptomatology in the vocational rehabilitation process.

4. Establishment of a coordinated relationship between a State rehabilitation agency and a specialized medical resources (e.g., a seizure clinic) in the interest of joint programming aimed at the integration of treatment and vocational rehabilitation services.

Section 304(c).—Handicapped migratory agricultural and seasonal farmworkers. Under this authority grants may be made for projects or demonstrations which will provide vocational rehabilitation services to physically or mentally disabled migratory agricultural workers or seasonal farmworkers or to members of their families who are with them where such services are necessary to the vo-

cational rehabilitation of the handicapped migratory agricultural worker or seasonal farmworker.

Only State or local vocational rehabilitation agencies are eligible to apply.

### C. AVAILABLE FUNDS

An estimate of total monies available for new or competing extension projects in fiscal year 1978 is as follows: (1) Training Services and Facility Improvement, \$4,052,000; (2) Severely Disabled, \$1,200,000; and (3) Migratory Workers, \$600,000. Normally, projects under the Special Projects for the Severely Disabled program (Section 304(b)(1)) are funded at a level of approximately \$75,000-\$120,000. During fiscal year 1978 from the monies available, it is expected that at least two projects will be funded in each of the priority areas of deafness and blindness and at least one project in each of the remaining priority areas. Size of individual grants and number of awards to be made under the other programs is variable. Applicants are advised to consult with the Regional Office in the Region where the applicant is located before making application to ascertain whether funds will be available in that specific Region for funding new or competing extension application in fiscal year 1978.

### D. GRANTEE SHARE OF PROJECT

It is generally expected that grantees will provide at least some of the total project costs. Applicants for Training Service and Migratory Worker projects will be expected to provide at least 10 percent of total project costs. Applicants for Facility Improvement projects must provide a minimum of 20 percent. Grantee contributions must be project-related and allowable under the Department's applicable cost principles in 45 CFR Part 74, Subpart Q.

### E. THE APPLICATION PROCESS

A-95 Clearinghouse notice. In compliance with the Department of Health, Education and Welfare's implementation of Office of Management and Budget Circular No. A-95 Revised (interim procedures at 41 FR 3160, July 29, 1976), applicants who request grant support must, prior to submission of an application, notify both the State and Area-wide A-95 Clearinghouses of the intent to apply for Federal Assistance. If the application is for a statewide project which does not affect area-wide or local planning and programs, the notification need be sent only to the State Clearinghouse. Some State and Area Clearinghouses provide their own forms on which such information is to be submitted. Applicants should contact the appropriate State Clearinghouse (listed at

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42 FR 2210, Jan. 10, 1977) for information on how they can meet the A-95 requirements.

**State VR agency approval.** Applicants are advised to consult with their State Vocational Rehabilitation Agency in the initial stages of application development to ensure State Agency requirements are met and approval is obtained. All applications submitted under this program must have State Agency approval before submission to the Rehabilitation Services Administration.

**Application submission.** In order to be considered for a grant, all applications must be submitted on standard forms provided for this purpose by the Commissioner in accordance with guidelines established by the Commissioner. The application shall be executed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award, including the regulations for the Rehabilitation Special Projects for Services and Facilities Program.

One signed original and two copies of the grant application, including all attachments, are required. The original and the two copies of all completed applications, except for applications pursuant to section 304(b)(1) should be submitted to the Regional Office from which the application was obtained or as otherwise specifically instructed in the application material. Applications for projects pursuant to section 304(b)(1) should be submitted to the Division of Grants and Contract Management, Office of Human Development Services, Room 1427, Mary E. Switzer Bldg., 330 "C" Street SW., Washington, D.C. 20201.

**Application consideration.** The Director, Office of Rehabilitation Service in the Regional Office or, in the case of projects pursuant to section 304(b)(1), the Commissioner of Rehabilitation Services determine the final action to be taken with respect to each grant application.

All grant applications are subjected to a competitive review and evaluation conducted by qualified persons outside the cognizant Program Office. The results of the competitive review assist the Director, Office of Rehabilitation Services or the Commissioner's consideration of the competing applications. This consideration also takes into account the comments of the A-95 Clearinghouses, State VR Agencies, the HEW Regional Offices or the headquarters program office. Comments on the applications may also be requested from appropriate specialists and consultants inside and outside the Government.

After the Director, Office of Rehabilitation Services or the Commissioner have reached a decision either to disapprove or not to fund a competing

grant application, the unsuccessful applicant is notified of that decision.

**Grant awards.** The Director, Office of Rehabilitation Services or the Commissioner make grant awards consistent with the purposes of the Act, the regulations, and program announcements within the limits of Federal funds available. The official grant award document is the Notice of Grant Awarded. The Notice of Grant Awarded sets forth in writing to the grantee the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period for which support is given and the total grantee participation, if any. The initial award also specifies the total project period for which support is contemplated.

#### F. CRITERIA FOR REVIEW AND EVALUATION OF APPLICATIONS

All new and competing extension applications received in response to this announcement will receive a technical review by qualified experts. Applications are evaluated against the following criteria:

1. Project objectives are identical with or are capable of achieving program objectives as defined in this announcement.
2. Project activities or tasks are capable of achieving project objectives.
3. Estimated cost to the Government is reasonable in relation to anticipated project results.
4. Budget items are appropriate in relation to project activities.
5. Adequate facilities are available to the applicant to carry out the project.
6. Project personnel, actual or proposed, are, or will be, well trained and qualified.
7. Staffing levels are adequate to carry out the project.
8. Project contains an adequate evaluation component.
9. Project provides for adequate liaison with the State Agency and community groups to ensure client referrals, outreach and utilization of project results.
10. Applicant employs sound financial management practices and controls to ensure the proper management of Federal funds.
11. Project demonstrates the potential for the project to be continued after termination of Federal support.
12. Project demonstrates the potential for project results to be effectively utilized after termination of support.

#### G. CLOSING DATE FOR RECEIPT OF APPLICATIONS

Applications are due by close of business (COB) on March 31, 1978. Applications will be judged on time if:

1. The application was sent by registered or certified mail not later than March 31, as evidenced by the U.S.

Postal Service postmark or the original receipt from the U.S. Postal Service;

2. The application is sent by mail and received on or before the closing date in the Department of Health, Education, and Welfare, the Office of Human Development Services or the Rehabilitation Services Administration mailrooms as evidenced by the time date stamp or other documentary evidence of receipt maintained by such mailroom, or

3. The application is hand delivered to the office designated to receive the application in the application instructions. Hand delivered applications will be accepted no later than COB March 31 in any case.

#### H. LATE APPLICATIONS

Late applications are not accepted and applicants are notified accordingly.

#### AVAILABILITY OF APPLICATION FORMS

Application kits which contain the prescribed application forms and information for the applicant may be obtained by writing to the Director, Office of Rehabilitation Services for the Region in which the applicant is located. Addresses are listed below. When requesting application kits, applicants must specify the program (e.g., Section 302(b), 304(b)(1), etc.) under which they are applying in order to ensure they are applying in order to ensure they receive the relevant application material. Applicants should request kits for only those programs for which they are eligible (see Section B above).

#### J. REGIONAL OFFICE ADDRESSES

**Region I.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, John F. Kennedy Federal Building, Room 2011, Government Center, Boston, Mass. 02203.

**Region II.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Federal Building, Room 4106, 26 Federal Plaza, New York, N.Y. 10007.

**Region III.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Office of Human Development Services, P.O. Box 13716, Philadelphia, Pa. 19101.

**Region IV.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 50-7th Street, N.E., Room 362, Atlanta, Ga. 30323.

**Region V.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 300 South Wacker Drive, 31st Floor, Chicago, Ill. 60606.

**Region VI.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, Fidelity Union Life Building, Room 340, 1511 Bryan Street, Dallas, Tex. 75201.

**Region VII.** Director, Office of Rehabilitation Services, Department of Health, Education, and Welfare, 601 East 12th Street, Room 384, Kansas City, Mo. 64106.

Signed at Washington, D.C., on January 19, 1978.

ERNEST BARTELL,  
Director, Fund for the Improvement of Postsecondary Education.

(FR Doc. 78-2261 Filed 1-25-78; 8:45 am)

#### [4110-12]

##### PUBLIC MEETING ON INFLUENZA

The Secretary, DHEW, announces his intent to hold a public meeting to discuss the new strain of influenza, A/USSR/1977. Issues relating to an appropriate national influenza immunization policy for 1978-79, such as formulation, supply, usage, and other such relevant matters will be examined. An expert group with competence to address these issues has been convened by the Secretary.

The meeting will be open to the public, attendance limited only by the space available.

Date: January 30, 1978.  
Time: 8 a.m. (Registration: 7:45 a.m.)  
Place: Conference Room 800, H. H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Contact: H. Bruce Dull, M.D., Assistant Director for Program, Center for Disease Control, Atlanta, Ga. 30333, Phone: 404-633-3311, extension 3701 or FTS: 236-3701.

Other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: January 23, 1978.

JOHANNES STUART,  
Acting Director,  
Center for Disease Control.

(FR Doc. 78-2297 Filed 1-25-78; 8:45 am)

#### [4210-01]

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

##### Office of the Secretary

(Docket No. D-78-497)

##### ADMINISTRATOR OF THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION

##### Amendment to Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This Notice amends the Delegation of Authority to the Administrator of the Federal Disaster Assistance Administration, to include authority to issue rules and regulations to implement the Legal Services provisions of the Disaster Relief Act of 1974. The amendment excludes the au-

thority to redelegate authority to issue rules and regulations.

FOR FURTHER INFORMATION CONTACT:

Michael Hirsch, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7055.

Accordingly, the Delegation of Authority to the Administrator, published at 41 FR 19365, May 12, 1976, is amended as follows:

1. Section A is amended by adding the following phrase to the end of the first sentence: "... including the authority to issue rules and regulations." Section A will now read:

Section A. *Authority delegated.* The Administrator of the Federal Disaster Assistance Administration is authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to Section 412 of the Disaster Relief Act of 1974 (42 U.S.C. 5182) relating to disaster legal services, including the authority to issue rules and regulations. Said power and authority is conferred upon the Secretary pursuant to Executive Order 11910, entitled "Delegating Legal Services Functions Pursuant to the Disaster Relief Act of 1974." (April 14, 1976, 41 FR 15681).

2. Section B is amended by adding this phrase at the end of the sentence: "... except the authority to issue rules and regulations." Section B will now read:

Section B. *Authority to redelegate.* The Administrator may redelegate to employees of the Department of Housing and Urban Development any of the authority delegated in Section A, except the authority to issue rules and regulations.

(Disaster Relief Act of 1974, 88 Stat. 143 (42 U.S.C. 5121n.); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Executive Order 11910, signed April 14, 1976, 41 FR 15681.)

PATRICIA ROBERTS HARRIS,  
Secretary of Housing and Urban Development.

(FR Doc. 78-2203 Filed 1-25-78; 8:45 am)

#### [4210-01]

(Docket No. D-78-498)

##### ADMINISTRATOR OF THE FEDERAL DISASTER ASSISTANCE ADMINISTRATION

##### Amendment to Delegation of Authority

AGENCY: Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: This Notice amends the Delegation of Authority to the Administrator of the Federal Disaster Assistance Administration, under the Disaster Relief Act of 1974, to exclude authority to redelegate authority to issue rules and regulations.

FOR FURTHER INFORMATION CONTACT:



Michael Hirsch, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7055.

Accordingly the Delegation of Authority to the Administrator, published at 39 FR 28227, August 5, 1974, is amended by adding the following phrase to the end of Section C: "... except the authority to issue rules and regulations." Section C of the Delegation of Authority will now read as follows:

Sec. C. *Authority to redelegate.* The Administrator may redelegate to employees of the Department of Housing and Urban Development any of the authority delegated in Section A except the authority to issue rules and regulations.

(Disaster Relief Act of 1974, 88 Stat. 143 (42 U.S.C. 5121n.); Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Executive Order 11795, signed July 11, 1974, 39 FR 25939.)

PATRICIA ROBERTS HARRIS,  
Secretary of Housing and  
Urban Development.

[FR Doc. 78-2204 Filed 1-25-78; 8:45 am]

#### [4310-84]

##### DEPARTMENT OF THE INTERIOR

Bureau of Land Management  
[Colorado 26176]

##### COLORADO

##### Notice of Pipeline Application (Addition)

JANUARY 18, 1978.

In FR Doc. 77-36924, appearing on Page 64743 in the issue for Wednesday, December 28, 1977, Sec. 6: Lot 1 was omitted from T. 9 N., R. 93 W. and by this publication is added thereto.

Dated: January 13, 1978.

ANDREW W. HEARD, Jr.,  
Leader, Craig Team,  
Branch of Adjudication.

[FR Doc. 78-2186 Filed 1-25-78; 8:45 am]

#### [4310-84]

[Wyoming 61842]

##### WYOMING

##### Application

JANUARY 18, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co., has filed an application for a right-of-way to construct a 4 1/4 inch O.D. pipe-

#### NOTICES

line for the purpose of transporting natural gas across the following described public lands:

##### SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 93 W.,  
Sec. 12, W 1/2 NW 1/4, SE 1/4 NW 1/4, SW 1/4.

The pipeline will transport natural gas produced from the Echo Springs Federal No. 1 well at a location in the SW 1/4 of Section 12, T. 19 N., R. 93 W., into existing pipeline facilities in the SW 1/4 of Section 1, T. 19 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 83201.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-2228 Filed 1-25-78; 8:45 am]

#### [4310-84]

[Wyoming 61828]

##### WYOMING

##### Application

JANUARY 17, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colo. filed an application for a right-of-way to construct a 4 1/4 inch pipeline for the purpose of transporting natural gas across the following described public lands:

##### SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 20 N., R. 98 W.,  
Sec. 10, SW 1/4 NW 1/4.

The purpose of the pipeline is to transport natural gas produced from the Desert Springs No. 25-A well in the NW 1/4 of section 10, T. 20 N., R. 98 W., to connect with Colorado Interstate Gas Company's existing pipeline in the SE 1/4 of section 9, T. 20 N., R. 98 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82901.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

[FR Doc. 78-2227 Filed 1-25-78; 8:45 am]

#### [4310-70]

##### National Park Service GLACIER NATIONAL PARK Boundary Revision

Pursuant to the act of April 11, 1972, Pub. L. 92-272 (86 Stat. 121) sections 301 and 302, the Secretary of the Interior is authorized to revise the boundaries of Glacier National Park to add approximately 267.90 acres and to exclude approximately 68.47 acres, and to publish these revisions by map or other boundary description in the FEDERAL REGISTER.

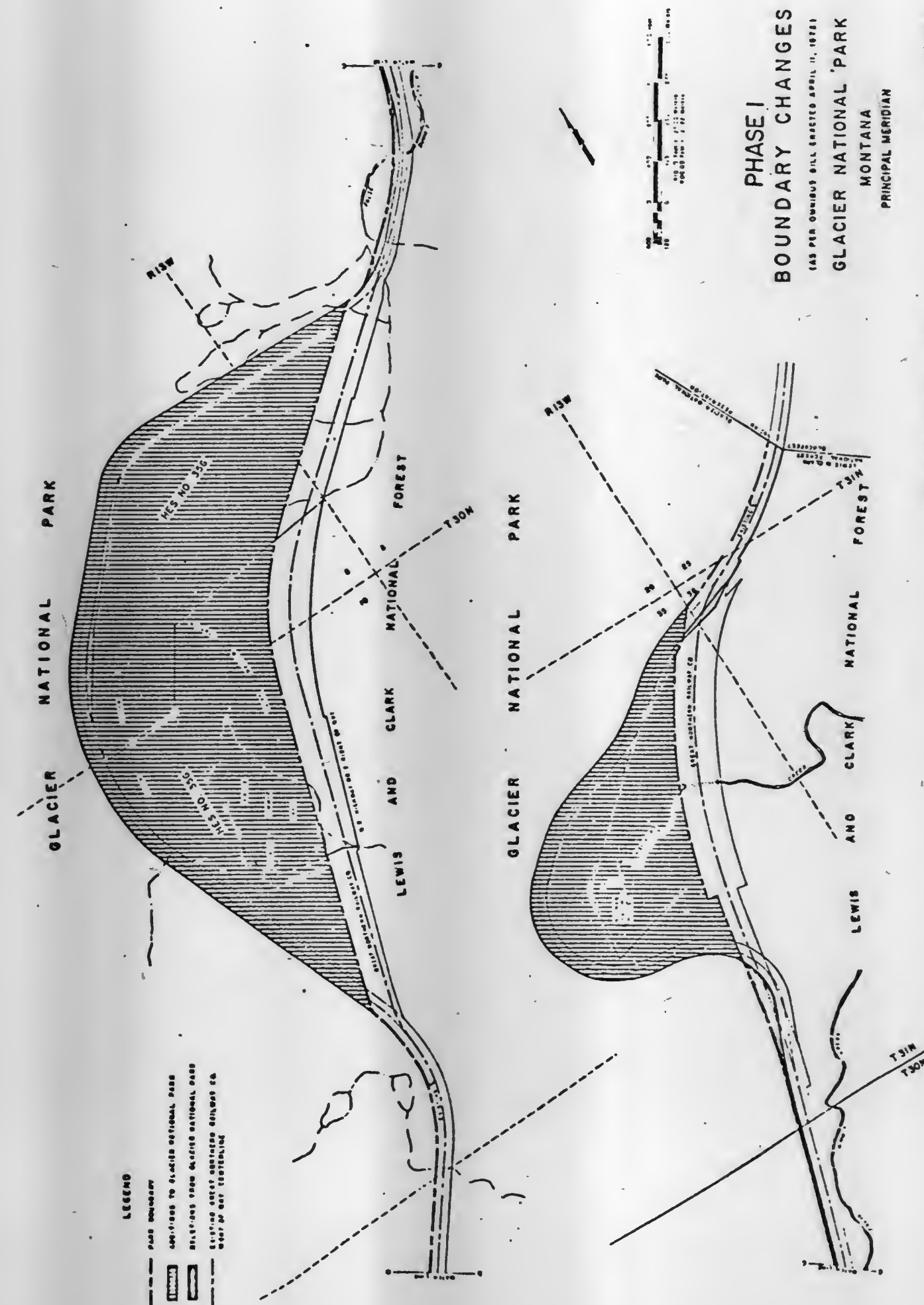
In accordance with the above act, notice is hereby given that the boundaries of Glacier National Park, Mont., have been partially revised to add approximately 316.76 acres and to exclude approximately 22.24 acres as depicted on boundary map numbered 80,011B, dated August 1977, prepared by the Denver Service Center of the National Park Service. This map is on file and available for inspection in the administrative office of Glacier National Park, West Glacier, Mont. 59936, The Rocky Mountain Regional Office of the National Park Service, 655 Parfet Street, Lakewood, Colo. 80225, and the Department of Interior, Washington, D.C. 20240.

All federally owned lands lying within the revised boundary as delineated on the referenced map are therefore included in Glacier National Park and are subject to the laws and regulations applicable to the park.

Dated: January 13, 1978.

CECIL D. ANDRUS,  
Secretary of the Interior.

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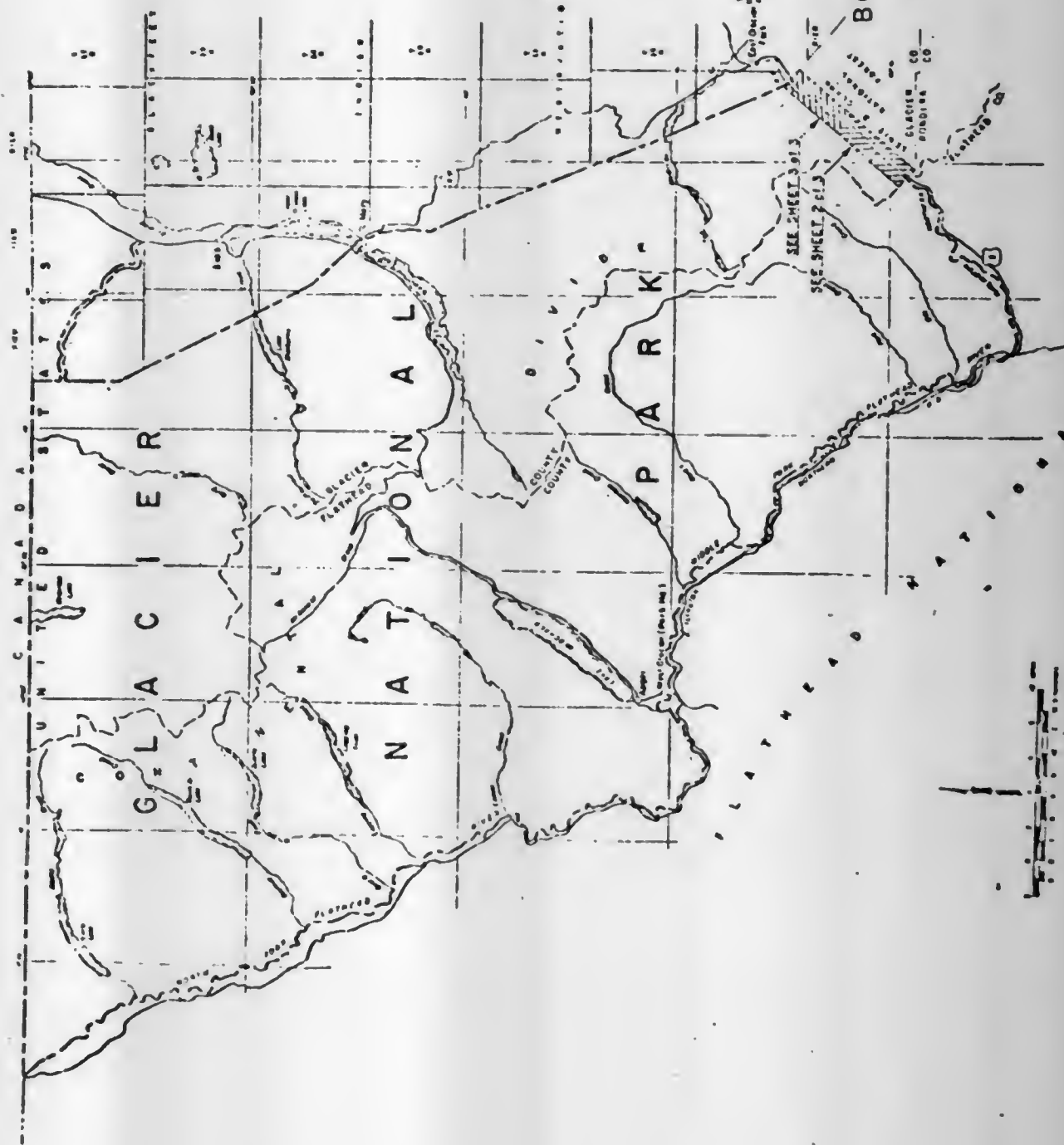
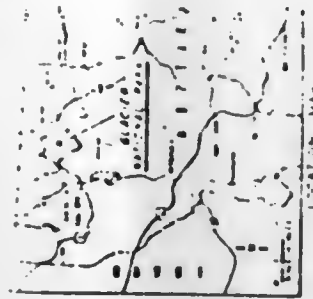


REDUCED SIZE REPRODUCTION



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NOTICES



PHASE I  
BOUNDARY CHANGES AS PER  
OMNIBUS BILL  
ENACTED APRIL 11, 1972

GLACIER NATIONAL PARK  
Flathead and Glacier Counties  
MONTANA

Principal Meridian

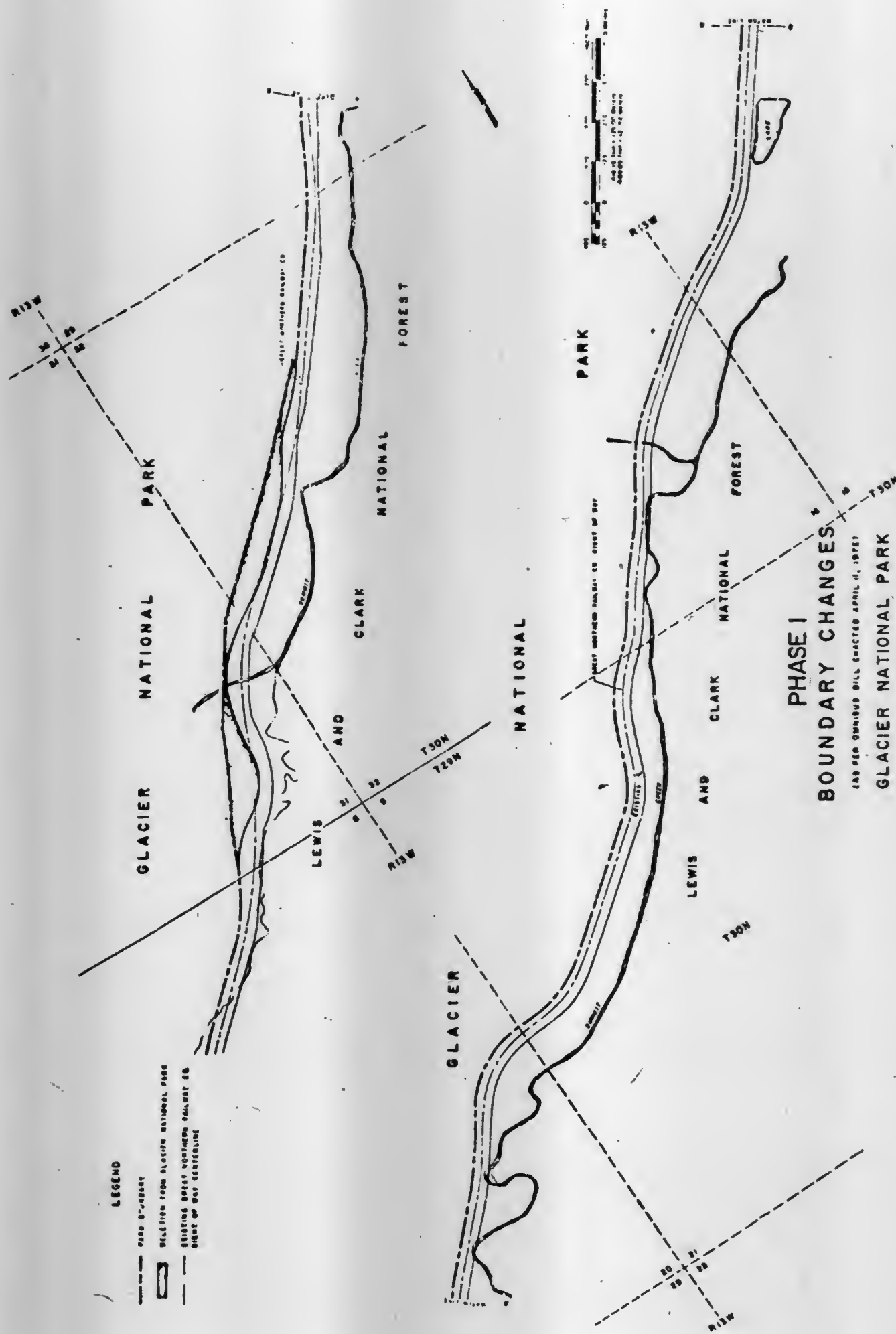
UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
NATIONAL PARK SERVICE

REDUCED SIZE REPRODUCTION

FEDERAL REGISTER, VOL. 43, NO. 18—THURSDAY, JANUARY 26, 1978

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NOTICES



PHASE I  
BOUNDARY CHANGES  
AS PER OMNIBUS BILL ENACTED APRIL 11, 1972

GLACIER NATIONAL PARK  
Flathead and Glacier Counties  
MONTANA

Principal Meridian

REDUCED SIZE REPRODUCTION  
[FR Doc. 78-2058 Filed 1-25-78; 8:45 am]  
FEDERAL REGISTER, VOL. 43, NO. 18—THURSDAY, JANUARY 26, 1978



[7020-02]

# INTERNATIONAL TRADE COMMISSION

(AA1921-Inq.-8 and 9)

## CARBON STEEL BARS AND CARBON STEEL STRIP FROM THE UNITED KINGDOM

### Inquiries and Hearing

The U.S. International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on January 17, 1978, that during the course of determining whether to initiate an investigation with respect to carbon steel bars and carbon steel strip from the United Kingdom in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)), Treasury concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of this merchandise into the United States. Therefore, the Commission on January 23, 1978, instituted inquiries AA1921-Inq.-8 and 9, under section 201(c)(2) of that act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

The Treasury advised the Commission as follows:

DEAR MR. CHAIRMAN: In accordance with section 201(c) of the Antidumping Act of 1921, as amended, antidumping investigations are being initiated with respect to imports of carbon steel bars and carbon steel strip from the United Kingdom. Pursuant to section 201(c)(2) of the Act, you are hereby advised that the information developed during our preliminary investigations has led to the conclusion that there is substantial doubt that an industry in the United States is being, or is likely to be, injured, or is prevented from being established, by reason of the importation of this merchandise into the United States.

Based upon discussions with the U.S. Customs Service and your staff, it was decided that carbon steel bars and carbon steel strip each constitute a separate "class or kind of merchandise" for the purposes of an antidumping investigation.

For purposes of these investigations, the term "carbon steel bars" means bars of steel, other than alloy, provided for in item numbers 608.45 and 608.46 of the Tariff Schedules of the United States (TSUS) and the term "carbon steel strip" means strip of steel, other than alloy, provided for in item numbers 609.02, 609.03, and 609.04 of the TSUS.

The information available to Treasury with respect to imports of carbon steel bars from the United Kingdom indicates that

## NOTICES

those imports increased substantially during the period January-September 1977—the most recent period for which data are available—over the same period in 1976. However, imports of carbon steel bars from the United Kingdom accounted for only 1.4 percent of domestic consumption during the period January-September 1977. With respect to imports of carbon steel strip, the information available to Treasury indicates those imports also increased during the first nine months of 1977 over the comparable period in 1976. However, imports of carbon steel strip from the United Kingdom accounted for only 0.2 percent of domestic consumption during the first nine months of 1977.

Furthermore, although in recent years profitability and employment declined appreciably throughout the domestic industry producing the classes or kinds of merchandise described above, there is no evidence before Treasury that those declines were caused by imports of the alleged sales at less than fair value from the United Kingdom.

Accordingly, from the available information the Department has concluded that there is substantial doubt that an industry is being, or is likely to be, injured, or is prevented from being established, by reason of the alleged sales at less than fair value from the United Kingdom.

Based upon the data submitted by petitioner, the margins of sales at less than fair value range from 2.6 to 12 percent on bars and from 24 to 26 percent on strip.

Some of the enclosed data is regarded by Treasury to be of a confidential nature. It is therefore requested that the U.S. International Trade Commission consider all the enclosed information to be for the official use of the ITC only, and not to be disclosed to others without prior clearance from the Treasury Department.

Sincerely yours,

(s) ROBERT H. MUNDHEIM,  
General Counsel.

**Hearing.** A public hearing in connection with the inquiries will be held in Washington, D.C., beginning at 9:30 a.m., e.s.t., on Wednesday, February 1, 1978, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW. All persons have the right to appear by counsel or in person, to present evidence, and to be heard. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than noon, Friday, January 27, 1978.

**Written statements.** Interested parties may submit statements in writing in lieu of, and in addition to, appearance at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Monday, February 6, 1978.

By order of the Commission:

Issued: January 24, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2298 Filed 1-25-78; 8:45 am]

[7537-01]

# NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

## MEDIA ARTS ADVISORY PANEL

### Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Production Aid/Radio) to the National Council on the Arts will be held on February 14, 1978, from 9:30 a.m. to 7 p.m., in Room 1219, Columbia Plaza, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of section 552 of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,  
Administrative Officer, National  
Endowment for the Arts,  
National Foundation on the Arts  
and the Humanities.

JANUARY 23, 1978.

[FR Doc. 78-2279 Filed 1-25-78; 8:45 am]

[7537-01]

# NATIONAL COUNCIL ON THE ARTS

## Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Council on the Arts will be held on February 10, 1978, from 9 a.m. to 5:30 p.m., on February 11, 1978, from 9:30 a.m. to 5:30 p.m., and on February 12, 1978, from 9 a.m. to 1 p.m., in the Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, D.C.

A portion of this meeting will be open to the public on February 10, 1978, from 9 a.m. to 5:30 p.m., and on February 11, 1978, from 9:30 a.m. to 3 p.m. The agenda for these meetings will include discussions of guidelines for Literature, Artists-in-Schools, Dance Touring Program, Orchestra and Opera Programs, Folk Arts, and Special Projects, assistance for previ-

ously ineligible groups, and general policy.

The remaining sessions of this meeting on February 11, 1978, from 3 p.m. to 5:30 p.m., and February 12, 1978, from 9 a.m. to 1 p.m., are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determinations of the Chairman published in the FEDERAL REGISTER of March 17, 1977, these sessions may be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,  
Administrative Officer, National  
Endowment for the Arts,  
National Foundation on the Arts  
and the Humanities.

JANUARY 20, 1978.

[FR Doc. 78-2234 Filed 1-25-78; 8:45 am]

[4910-58]

# NATIONAL TRANSPORTATION SAFETY BOARD

(N-AR 78-41)

## ACCIDENT REPORT; SAFETY RECOMMENDATIONS

### Availability

**Highway Accident Report.**—The National Transportation Safety Board has completed its investigation into the August 20, 1976, collision of a tractor-semitrailer with 10 automobiles on State Route 17 in Valley View, Ohio. The tractor, leased to the Long Transportation Co. of Detroit, Mich., went out of control while descending a steep 10-percent grade; the automobiles were stopped at a traffic signal at the bottom of the grade. Eight of the 27 occupants died and 15 were injured.

The Safety Board determined that the probable cause of the accident was the inability of the improperly adjusted and partially inoperative service brake system on the tractor-semitrailer to adequately slow the vehicle as it descended the grade. Inadequate pretrip inspections by the driver and the lack of required maintenance and inspection by the carrier failed to identify and to correct the unsafe condition of the brake system.

Further, the Board found that the failure of the road signs to provide ad-

vance warning information concerning the length and steepness of the grade and the presence of the signalized intersection, prevented the driver from taking early evasive action.

On January 12, as a result of its investigation of this accident, the Safety Board issued the following recommendations:

### To the State of Ohio:

Conduct, in cooperation with the city of Garfield Heights and the Village of Valley View, a traffic survey and analysis of that part of State Route 17 (Granger Road), extending from the approach to the hill crest in Garfield Heights to Canal Road in Valley View, to determine and install needed advance warning signs which will provide drivers of all types of vehicles information relating to the length and steepness of the grade and the presence of the signalized intersection. (H-77-38)

Consider amending State laws to allow the Director of Transportation to place and maintain traffic control devices that conform to its manual and specifications upon all extensions of State highways through local jurisdictions. (H-77-39)

### To the Federal Highway Administration:

Require the State of Ohio to renew its emphasis toward the implementation at the local level of established procedures for the accurate identification of accident locations on all roads and streets, as outlined in Highway Safety Program Standard No. 9, Chapter 7, Section 3A, B, and C. (H-77-40)

Require local jurisdictions to obtain State approval before installing traffic control devices on State routes through their jurisdictions. (H-77-41)

### To the U.S. Department of Transportation:

Seek the necessary funding from the Congress to increase the resources of the Federal Bureau of Motor Carrier Safety to enable it to increase its activities devoted to the roadside inspection of commercial motor vehicles and the safety compliance survey of carrier operations. (H-77-42)

### To the Bureau of Motor Carrier Safety:

Request added resources to give greater priority to increased roadside inspections of commercial motor vehicles and safety compliance surveys of carrier operations to insure greater compliance of vehicle maintenance operations and records. (H-77-43)

Each of these six recommendations is designated "Class II, Priority Action. Copies of the accident investigation report will be made available to the public in the near future.

**Intermodal Transportation Safety Recommendation.**—The Safety Board has recommended that the Secretary of Transportation develop, publish, and maintain an official list of regulated hazardous materials that cross-references all United States, United Nations, Intergovernmental Maritime Consultative Organization, and International Air Transport Association commodity descriptions and reference

numbers. The list should be arranged for convenient use by all persons engaged in the export or import of hazardous materials. (I-78-1)

The Board's recommendation letter, issued January 17, notes that international trade in hazardous materials by the United States is a multi-billion dollar activity affecting all transportation modes. In shipping these materials U.S. manufacturers and carriers must comply with U.S. Department of Transportation regulations as well as rules of other countries in which the goods move. For example, DOT regulations govern domestic transportation and U.S. flag carriers. Intergovernmental Maritime Consultative Organization regulations apply to ocean transportation. International Air Transport Association restricted articles regulations have been adopted by over 50 other countries but not by the United States. Many European countries base their surface transportation regulations on the recommendations of a United Nations Committee of Experts.

The Board also notes that the name and reference number used for a commodity frequently differs among these regulations. Whenever a shipper exports or imports hazardous materials, such differences must be identified and reconciled to insure compliance with all governing regulations. This complex task requires access to the latest revisions of all applicable regulations, by every party involved in this trade. This case-by-case approach increases the likelihood of misinterpretation and violations. These violations, even unintentional, could have catastrophic results.

The Board believes that a cross-reference list of regulated hazardous materials commodity descriptions and reference numbers must be published and maintained by DOT to achieve official status and widespread use. Once established, this list could serve as a bridge code to information systems developed for other official purposes, such as environmental protection, worker safety, and customs.

**NOTE.**—The above notice summarizes Safety Board documents made available during the preceding week.

Single copies of the Board's safety recommendation letters in their entirety are available to the public without charge. Requests for copies must be in writing, identified by the recommendation number (shown in parentheses) and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,  
Federal Register  
Liaison Officer.

JANUARY 23, 1978.

[FR Doc. 78-2258 Filed 1-25-78; 8:45 am]

## NOTICES



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[7590-01]

**NUCLEAR REGULATORY COMMISSION****ATLANTIC RESEARCH CORP.****Order Convening Hearing**

The parties to the proceeding have conferred on January 31, 1978, as a convenient date for hearing on a stipulation to be presented in aid of concluding this proceeding (Byproduct Material License No. 45-02808-04).

Wherefore, it is ordered, In accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, that an evidentiary hearing will convene at 10 a.m. on Tuesday, January 31, 1978, in the South Courtroom (Room 358) of the United States Tax Court, 400 Second Street NW., Washington, D.C.

Issued: January 19, 1978.

For the Nuclear Regulatory Commission.

SAMUEL W. JENSCH,  
Administrative Law Judge.  
[FR Doc. 78-2250 Filed 1-25-78; 8:45 am]

[7590-01]

[Docket Nos. 50-346A, 50-440A, and 50-441A]

**CLEVELAND ELECTRIC ILLUMINATING CO.,  
DAVIS-BESSE UNIT NO. 1 AND PERRY UNITS  
NO. 1 AND NO. 2**

**Request for Order To Show Cause**

Notice is hereby given that by petition dated January 4, 1978, the City of Cleveland, Ohio, filed a request that the Nuclear Regulatory Commission commence proceedings pursuant to 10 CFR § 2.202 to require the Cleveland Electric Illuminating Co. to comply with the antitrust license conditions attached to the operating license for Davis-Besse Nuclear Power Station Unit No. 1 and the construction permits for Perry Plant Units No. 1 and No. 2. In accordance with the procedures specified in 10 CFR § 2.206 appropriate action will be taken on this request within a reasonable time.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Local Public Document Rooms, the Perry Public Library, 3753 Main Street, Perry, Ohio 44081, and Ida Rupp Public Library, 310 Madison Street, Port Clinton, Ohio 43452.

Dated at Bethesda, Md., this 19th day of January 1978.

**NOTICES**

For the Nuclear Regulatory Commission.

EDSON G. CASE,  
Acting Director, Office of  
Nuclear Reactor Regulation.  
[FR Doc. 78-2253 Filed 1-25-78; 8:45 am]

[7590-01]

[Docket No. 50-141]

**STANFORD UNIVERSITY****Proposed Issuance of Order Authorizing  
Termination of Facility License**

The Nuclear Regulatory Commission (the Commission) is considering issuance of an order authorizing the termination of Facility License No. R-60 issued to Stanford University (the licensee), for the Stanford Pool Reactor located on the University's campus near Palo Alto, Calif., in accordance with the licensee's application dated August 9, 1976, as supplemented December 9, 1977.

Prior to issuance of any order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By February 27, 1978, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the order in connection with the licensee's application. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to

matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application dated August 9, 1976, as supplemented December 9, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland, this 18th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Op-  
erating Reactors.

[FR Doc. 78-2251 Filed 1-25-78; 8:45 am]

[7590-01]

[Docket No. 50-271]

**VERMONT YANKEE NUCLEAR POWER CORP.**  
Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee), which revised the license and Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility) located near Vernon, Vermont. The amendment becomes effective 30 days after the date of issuance.

This amendment adds a license condition relating to the completion of facility modifications for fire protection. It also revises Technical Specifications to incorporate limiting conditions for operation and surveillance requirements for existing fire protection systems and administrative controls. Additional operating and surveillance requirements for the modifications being performed will be added to the Technical Specifications after the modifications are completed.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the

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Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's submittals dated January 31, March 18, July 14, August 18, September 13, and November 30, 1977, (2) Amendment No. 43 to License No. DPR-28, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Brooks Memorial Library, 244 Main Street, Brattleboro, Vermont. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 13th day of January 1978.

For the Nuclear Regulatory Commission.

ROBERT W. REID,  
Chief, Operating Reactors  
Branch No. 4, Division of Op-  
erating Reactors.

[FR Doc. 78-2252 Filed 1-25-78; 8:45 am]

[3190-01]

**OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS**

[Doc. No. 301-14]

**AMERICAN INSTITUTE OF MARINE UNDERWRITERS****Complaint; Petition and Hearing**

On November 10, 1977, the Chairman of the section 301 Committee received from the American Institute of Marine Underwriters a petition alleging discriminatory and unfair trade practices and policies by the Union of Soviet Socialist Republics. The complaint alleges that the Soviet Union discriminates against the American marine insurance market, restricts the freedom of American exporters and importers, and burdens and restricts

U.S. commerce by requiring that insurance on exports or imports be placed with a Soviet state insurance operation. By agreement with the petitioner, institution of the complaint was deferred until after a formal meeting was held between the government of the U.S. and the Government of the USSR in early January. That meeting did not result in a resolution of the problem. Therefore, the Marine Underwriters complaint is now being instituted pursuant to section 301 of the Trade Act of 1974 (Pub. L. 93-618; 88 Stat. 1978). The text of the complaint is as follows:

NOVEMBER 4, 1977.

CHAIRMAN,  
Section 301 Committee, Office of the Special Representative for Trade Negotiations,  
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 301 of the Trade Act of 1974 (Pub. L. 93-618, 88 Stat. 1978; 19 U.S.C. § 2411 (Supp. 1977)) and Section 2006.0 et seq. of Title 15 of the Code of Federal Regulations, the American Institute of Marine Underwriters hereby submits this complaint against the discriminatory and unfair trade practices and policies of the Union of Soviet Socialist Republics, such practices and policies being unjustifiable, unreasonable, and burdensome to United States commerce.

The complainant, the American Institute of Marine Underwriters, whose office is at 14 Wall Street, New York City, is a non-profit trade association of 126 insurance companies, each of which is authorized to engage in the business of marine insurance in one or more States of the United States. Collectively, they underwrite more than 90 percent of the marine insurance written in the United States. Over the years the Institute and its members have contributed significantly to the growth and development of the American maritime industry and, at present, represent a significant share of what has come to be recognized as one of the world's leading insurance markets.

Marine insurance is a service vital to the proper functioning of international trade. The American marine insurance industry is interrelated with and makes significant contributions to the development of a strong international commerce for the United States. This industry provides the lubricant necessary to permit the safe and inexpensive ocean transport of goods and raw materials, a service essential to the American economy. The American marine insurance industry also plays a significant role in the implementation of United States foreign policy and in our country's increasingly difficult attempt to maintain a favorable balance of payments position.

Traditionally, exporters and importers have been free to choose their own insurers from the highly competitive international insurance marketplace. This system has effectively and economically served world trade for many years. Given freedom of competition, it will continue to do so for years to come. The Union of Soviet Socialist Republics, however, denies that freedom to compete by requiring that virtually all insurance on exports or imports be placed with Ingosstrakh, a Soviet state insurance operation. This practice of the Soviet Union discriminates against the American marine insurance market, restricts the freedom of

the American exporter or importer, thereby burdening and restricting United States commerce, and adversely affects the United States balance of payments.

Since the beginning of renewed trade between the United States and the Soviet Union in 1972, American companies have had to negotiate sales contracts with the Soviet Foreign Trade Organizations. These state-controlled organizations, as buyers, have refused from the very beginning to countenance contract terms on any basis other than F.O.B.-U.S.A. port of export or F.A.S.-U.S.A. port of export, so that American exporters would have no control over the placement of insurance. Regardless of the terms of delivery, the Soviet Foreign Trade Organizations always insist on a provision like the following, which provides that they, as buyers, "are to take care of and to bear expenses for insurance with Upravleniye Inostrannogo Strakhovaniya SSSR (Ingosstrakh) of the equipment to be delivered under the contract from the moment of its despatch from the Sellers' and/or their subcontractors' works up to the moment of its arrival at the Buyer's works."

These provisions on insurance in the Soviet form contracts also provide that the American seller shall bear some of the costs of such insurance. Again quoting from a Soviet form contract for the purchase of equipment from an American seller:

"The expenses for insurance from the Sellers' and/or their subcontractors' works up to the moment of loading the goods on board the ship at the port of shipment (or franco-railway carborder) at the rate of 0.075% of the insurance amount are to be charged to the Sellers' account and deducted by the Buyers from the Sellers' invoices when effecting payment for the equipment."

If a U.S. exporter wishes to make a sizable sale to the U.S.S.R., he is under pressure to sell on these Soviet-dictated terms and he naturally will be most reluctant to take issue with any item of the terms because it might delay or cause the loss of the sale. Because of this Soviet practice an American exporter is not free to negotiate whether it is more favorable for him to insure the exports under his customary open cargo insurance policy. The American Institute of Marine Underwriters has been informed by many American exporters that they would prefer American marine insurance coverage due to low cost, familiarity with conditions insured, confidence in its security, speedy claims services available, availability of open cargo policies covering and exporter's worldwide business, and a desire to assist in the U.S. balance of payments situation. The Soviet practices complained of prevent the American exporter from selling his goods on a C.I.F. basis and thereby prevent him from exercising choice and preference in insurance matters. This is a restriction and burden placed on U.S. commerce.

Soviet insurance practices restrict and burden U.S. commerce in another, more harmful way. The American Marine Insurance Market is completely shut out by these Soviet practices from participating in the trade between the United States and the Union of Soviet Socialist Republics. This results in great losses of premium to this Market. According to figures provided by the U.S. Department of Commerce, Domestic and International Business Administration, in 1976 U.S. exports to the U.S.S.R. amounted to \$2,306 millions, and U.S. imports from the U.S.S.R. totalled \$221 mil-



lions. By applying to these 1976 figures (U.S. Sources) for U.S.-U.S.S.R. trade, a premium rate of 3/10 of 1% of insured value, the cargo insurance premium for U.S. exports to the U.S.S.R. can be seen as having

amounted to \$8,918,000, and for U.S. imports from the U.S.S.R. to \$663,000.

Comparable figures for earlier years are as follows (U.S. sources):

	U.S. exports	U.S. imports	Potential premium
Year:			
1975	1,833,000,000	254,000,000	6,261,000
1974	1,607,000,000	350,000,000	2,871,000
1973	1,195,000,000	220,000,000	4,245,000

While it is true that the Russian Government, responding to pressures from this Institute and from other American sources both public and private, has permitted a trickle of cargo insurance to be placed with American underwriters during these years, when compared with the potential premiums set forth above the amount of cargo insurance placed in the American Marine Insurance Market is almost infinitesimal.

Since 1973 the American Institute of Marine Underwriters has worked closely with the United States Government, through the Departments of State and Commerce, in attempting to negotiate with representatives of the Soviet Insurance operation, Ingosstrakh, some workable formula or understanding whereby the services of American marine insurers could be made available to U.S.-U.S.S.R. traders. The Institute has over the last five years participated in a variety of attempts to persuade the Soviet Government to share some of the insurance business from U.S.-U.S.S.R. trade. All of these efforts were undertaken with the approval and cooperation of the United States Government, and all were unsuccessful. We, therefore, feel that there is no other means of redress of these unfair trade practices by the Soviet Union than section 301 of the Trade Act of 1974, which we hereby invoke.

It is the firm opinion of the American Institute of Marine Underwriters that the restrictions placed on insurance by the Union of Soviet Socialist Republics are inconsistent with the reciprocal obligations of trading partners and violative of the spirit of détente as embodied in the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics of May 29, 1972, especially the Seventh provision (Signed at Moscow on May 29, 1972, Department of State Bulletin, June 26, 1972, p. 898). The American Institute of Marine Underwriters further alleges that the Soviet restrictions on U.S. commerce which are the basis of this complaint also violate the Long Term Agreement Between The United States Of America and The Union Of Soviet Socialist Republics To Facilitate Economic, Industrial, and Technical Cooperation, especially Articles I and II(b), 25 UST 1782; TIAS 7910 (Signed at Moscow June 29, 1974; entered into force June 29, 1974; Department of State Bulletin, July 29, 1974, p. 219); the Final Act of the Conference on Security and Cooperation in Europe, adopted at Helsinki on August 1, 1975, in particular those provisions dealing with "Commercial Exchanges" under the Section entitled "Co-operation In The Field Of Economics, Of Science And Technology And Of The Environment" (Department of State Bulletin, September 1, 1975, pp. 323-350, at pp. 329-331); and the United Nations Resolution on Development and International Economic Cooperation

(Resolution of UN General Assembly, Seventh Special Session, September 16, 1975 (A/RES/3362 (S-VIII))), in particular Article I (10).

The American Institute of Marine Underwriters hereby certifies that it has not filed for other forms of relief under the Trade Act of 1974 or any other Act.

Pursuant to section 301 of the Trade Act of 1974, we respectfully request a public hearing on the foregoing complaint. It is our hope that your office will conduct a review of the complained-of restrictions by the Union of Soviet Socialist Republics and will urge the President to respond to such unjustifiable and unreasonable restrictions in the manner authorized by Section 301 of the Trade Act of 1974.

Respectfully submitted,

THOMAS A. FAIR,  
President, American Institute of  
Marine Underwriters.

#### HEARINGS

1. The Complainant has requested that hearings be held on this matter. Such hearing will be held on Tuesday, February 28, 1978 and if necessary will continue on Wednesday, March 1. The Hearing is to be held at the Office of the Special Representative for Trade Negotiations, 1800 G Street NW., Washington, D.C., Room 730, beginning at 10 a.m.

2. Requests to present oral testimony and accompanying briefs must be received on or before February 23, 1978. Written briefs from those persons not wishing to present oral testimony should be received in the Office of the Special Representative for Trade Negotiations on or before the date of the hearing, February 28, 1977, in order to be considered by the section 301 Committee.

Interested persons are advised to refer to the regulations promulgated by the Office of the Special Representative for Trade Negotiations covering procedures to be followed in all section 301 proceedings (15 CFR 2006 as amended by FEDERAL REGISTER notice of Tuesday, October 18, 1977, page 55611). Please note that all communications to the Chairman of the Section 301 Committee should be addressed to the Office of the Special Representative for Trade Negotiations, Room 715, 1800 G Street NW., Washington, D.C. 20506.

(a) *Submission of briefs and requests to present oral testimony.* Requests for

oral testimony and submission of written briefs should conform to the procedures set forth in 15 CFR 2006.6 and 2006.7 (found in the FEDERAL REGISTER of August 28, 1975, page 39497).

(b) *Rebuttal briefs.* In order to assure parties an opportunity to contest information provided by other interested parties in the written briefs and the oral testimony, rebuttal briefs may be filed by any party within 15 days after the transcript of the hearing becomes available.

(c) *Attendance at hearings.* The hearings will be open to the public.

SHIRLEY A. COFFIELD,  
Chairman, 301 Committee,  
Office of the Special Representative  
for Trade Negotiations.

(FR Doc 78-2274 Filed 1-25-78; 8:45 am)

[6820-27]

#### OFFICE OF THE FEDERAL REGISTER

##### LEGAL DRAFTING WORKSHOPS SCHEDULED

February and March 1978

The Legal Drafting Workshop covers the following material:

1. Drafting conventions, preferred usage, the rule of consistency.
2. Drafting exercises-proposed and final rules and preambles.
3. Review techniques that improve your work.

4. What you can do to make regulations easier to read and easier to use. The aim of this workshop is to improve the quality of Federal regulations by teaching you how to design and draft clear documents.

Who: Any Federal employee who drafts documents or who reviews documents for substance that are published in the FEDERAL REGISTER.

When: February 13, 14, 15, and 16, 1978, for people who are new to the Federal Government or to the rule-making process and want a basic course. March 27, 28, 29, and 30, 1978, the same course will be given for people who are familiar with the rule-making process and want to examine course material in depth.

Where: Office of the Federal Register, Washington, D.C.

Cost: \$150 for each person. Send a form 170 or the training authorization form used by your office to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

How: Each participant must call the Office of the Federal Register, 202-523-4534 to make a reservation in addition to completing the training form.

For more information: Write: Special Projects Unit, Office of the Federal

Register, National Archives and Records Service, Washington, D.C. 20408, or phone 202-523-4534.

FRED J. EMERY,  
Director of the Federal Register.

JANUARY 24, 1978.

(FR Doc. 78-2299 Filed 1-25-78; 8:45 am)

[8010-01]

#### SECURITIES AND EXCHANGE COMMISSION

(Release No. 14393; SR-DTC-77-8)

##### DEPOSITORY TRUST CO.

Order Approving Rule Change To Permit  
Inclusion of Municipal Bonds in DTC

JANUARY 19, 1978.

On August 25, 1977, the Depository Trust Co., 55 Water Street, New York, N.Y. 10041, ("DTC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to include interchangeable municipal bonds in DTC. As a result, participants in DTC will be able to deposit interchangeable municipal bonds deemed eligible for the program and thereafter effect receipt and delivery of such securities with other participants upon instructions made to, and book entry effected at, DTC. The proposal also enables a participant to withdraw a municipal security from DTC in either bearer or registered form. In connection with the proposed rule change, DTC requested that the Commission continue its finding pursuant to paragraph (g) of Rules 8c-1 and 15c2-1 under the Act, 17 CFR 240.8c-1(g) and 15c2-1(g), that the agreements, provisions and safeguards established by DTC are adequate for the protection of investors.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, notice of the proposed rule change was published in the FEDERAL REGISTER (42 FR 45399 (September 9, 1977)), and the public was invited to comment thereon. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 13929, (September 2, 1977). The only letter of comment received was from the Public Securities Association and expressed support for the proposed rule change.

In a letter dated January 6, 1978, DTC further described the safeguards that will apply to the operation of the proposed service.

The Commission has reviewed the submission and finds, pursuant to paragraph (g) of Rules 8c-1 and 15c2-1 under the Act, that the agreements, provisions and safeguards established by DTC are adequate for the protection of investors.

The Commission has, pursuant to section 17A under the Act, considered

the anti-competitive impact which this proposal may have on other clearing agencies and on brokers and dealers and transfer agents. Under the proposed rule change, the largest securities depository would extend its service for the first time to interchangeable municipal bonds. Currently, no other depository offers a book entry movement capability for municipal securities. No comments were received from any clearing agency on the DTC proposal. Nevertheless, the Commission has closely examined the DTC proposal with respect to possible anti-competitive effects on other clearing agencies and depositories. The Commission has found that the proposal does not contain anti-competitive features, such as provisions tying the availability of DTC's present services to the offering of the proposed services in municipal securities. Other depositories may develop a similar program if they choose to do so. Moreover, the proposal does represent a step in the immobilization of certain municipal securities and the extension to DTC participants of the ability to effect receipts and deliveries of these securities through book entry. As such, the proposal promotes efficiency in the clearance and settlement process and contributes to a national system for the prompt and accurate clearance and settlement of transactions in securities. Furthermore, to the extent securities in bearer form are converted to registered form and immobilized in depositories, thefts and losses of these securities will be reduced.

The proposal does not on its face have an anti-competitive impact upon transfer agents and the Commission did not receive any comment from any transfer agent. Any transfer agent desiring to participate may execute the necessary agreements with DTC, but the proposal does have certain performance time and other requirements which make physical presence in or near DTC a virtual necessity. These requirements, however, reflect the safeguards DTC has devised to handle deposits and withdrawals of municipal bonds in bearer form and the needs of participants who wish to achieve overnight withdrawal from DTC of a municipal bond in bearer form.

The Commission does not believe the program would impose any anti-competitive impacts upon brokers and dealers that would be not necessary or appropriate in furtherance of the purposes of the Act. No comments from any broker-dealers, writing in an individual capacity, were received. As noted above, the Long Range Planning Subcommittee of the Public Securities Association commented in support of the proposal.

The Commission's approval of the proposal comports with the Congress-

sional mandate contained in section 17A(e) of the Act that "the Commission use its authority under . . . (the Act) to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities . . ."

The Commission finds, therefore, that the proposed rule change is consistent with the maintenance of fair competition among brokers and dealers, clearing agencies and transfer agents and does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission finds also that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and, in particular, with the requirements of section 17A and the rules and regulations thereunder. The Commission will, of course, examine this proposal and all of DTC's rules for compliance with the Act at the time it makes its determination whether to grant permanent registration to DTC.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-DTC-77-8 be, and hereby is, approved.

For the Commission.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2246 Filed 1-25-78; 8:45 am)

[8010-01]

(Release No. 14394; SR-NYSE-77-26)

#### NEW YORK STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 19, 1978.

On October 7, 1977, the New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and rule 19b-4 thereunder, copies of a proposed rule change to amend margin requirement rules 431 and 432 to ensure that member organizations understand that regulation T supersedes any Exchange margin requirement, permit member organizations who carry options accounts to utilize the uniform net capital rule, and eliminate Form MF-1, the margin requirements met by liquidation form.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 34-14183 (November 17, 1977)) and by publication in the Fed-



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ERAL REGISTER (42 FR 60824 (November 29, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2247 Filed 1-25-78; 8:45 am)

#### [8010-01]

(Release No. 34-14387; File No. SR-NYSE-77-38)

#### NEW YORK STOCK EXCHANGE, INC.

##### Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on January 6, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

##### NYSE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

On January 1, 1978, the following charges went into effect for specific services provided by the NYSE Exchange regulation and surveillance group. These charges will be included in the Exchange's quarterly statements beginning March, 1978.

The new charges are:  
Regulation T and 15c3-3 extensions: \$2 per request;

FOCUS feedback service: \$150 per request;

Annual file maintenance fee: \$10 per registered person;

NYSE directory and guide: \$25 annual subscription per volume;

Interpretation handbook service: \$75 per annum;

Weekly bulletin service: \$60 per annum.

The complete information memorandum detailing the new charges is attached to this filing as exhibit IA.

##### STATEMENT OF BASIS AND PURPOSE

##### NYSE'S STATED PURPOSE OF PROPOSED RULE CHANGE

The purpose of this fee schedule is to offset the increased costs of supply-

#### NOTICES

ing specific services provided by the Exchange's regulation and surveillance group.

##### NYSE'S STATED BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The basis under the Act for the proposed rule change is section 6(b)(4).

(a) (i) Not applicable.

(ii) Not applicable.

(iii) Not applicable.

(iv) The fees will apply equally to all members, nonmembers and others who utilize the specific services described herein.

(v) (A) Not applicable.

(B) Not applicable.

(C) Not applicable.

(D) Not applicable.

(E) Not applicable.

(vi) Not applicable.

(vii) Not applicable.

(viii) Not applicable.

(b) Not applicable.

(c) Not applicable.

##### COMMENTS RECEIVED FROM MEMBERS, PARTICIPANT, OR OTHERS ON PROPOSED RULE CHANGE

The Exchange has not formally solicited comments regarding this proposed change, nor has the Exchange received any unsolicited written or verbal comments from members or other interested parties.

##### NYSE'S STATEMENT ON BURDEN ON COMPETITION

None.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before February 16, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS  
Secretary.

JANUARY 17, 1978.

(FR Doc. 78-2122 Filed 1-25-78; 8:45 am)

#### [8010-01]

(Rel. No. 20391; 70-6110)

#### OHIO POWER CO.

##### Proposed Issuance and Sale at Competitive Bidding of First Mortgage Bonds and Cumulative Preferred Stock

JANUARY 20, 1978.

Notice is hereby given that Ohio Power Co. ("Ohio"), 301 Cleveland Avenue SW., Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Co., Inc. ("AEP"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio proposes to issue and sell, subject to the competitive bidding requirements of rule 50 under the Act, up to \$38,000 aggregate principal amount of its first mortgage bonds of a new series ("bonds"), having a maturity date of March 1, 2008. The interest rate (which will be expressed in a multiple of one-eighth of 1 percent and the price to be paid to Ohio for the bonds (which shall not be less than 100 percent, unless Ohio shall authorize a lower percentage, not less than 99 percent, and shall not exceed 102 1/2 percent will be determined by competitive bidding. None of the bonds may be redeemed prior to March 1, 1983, if such redemption is for the purpose of refunding such bond through the use, directly or indirectly, of borrowed funds at an effective interest cost less than the effective interest cost of the bonds.

Ohio also proposes to issue and sell at competitive bidding up to 1,600,000 shares of a new series of its cumulative preferred stock ("preferred stock"), par value \$25 per share. The price to be paid to Ohio shall be \$25 per share, which shall also be the price at which the preferred stock shall be initially offered to the public. The dividend rate (which will be expressed in a multiple of \$0.01) and the amount per share to be paid by Ohio as compensation to the purchasers will be determined by competitive bidding. None of the shares of the preferred stock may

#### NOTICES

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#### [4710-01]

(Public Notice CM-8/5)

#### U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

##### Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Monday, February 27, in Room 1410 of the State Department. The meeting will run from 9:30 a.m. until 1 p.m.

There will be two items on the agenda, in addition to any old or new business which any Commission member wishes to raise.

1. Final approval of the Commission's 14th Annual report.
2. Final approval of Commission recommendation on coordination of U.S. Government exchange/training programs.

Members of the general public may attend and participate in the discussion subject to the instructions of the Chairman. They will be accommodated up to the seating capacity of the room.

For purposes of fulfilling building security requirements, anyone wishing to attend the meeting must advise the Staff Director of the Commission by close of business Tuesday, February 21, of his intention to attend. He may be reached by telephone at 202-632-2764.

Dated: January 13, 1978.

W. E. WELD, Jr.,  
Staff Director, U.S. Advisory  
Commission on International  
Educational and Cultural Affairs.

(FR Doc. 78-2232 Filed 1-25-78; 8:45 am)

#### [4910-14]

#### DEPARTMENT OF TRANSPORTATION

##### Cost Guard

(CGD 78-002)

#### CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

##### Meeting of Officers

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Industry Advisory Committee's Officers to be held on Tuesday, February 28, 1978, beginning at 9:30 a.m., in Room 8332, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

The agenda for this meeting is as follows:

1. To discuss the program and plan for the annual meeting tentatively scheduled for April 5 and 6, 1978.

be redeemed prior to March 1, 1983, if such redemption is for the purpose of refunding such stock, directly or indirectly, through the incurring of debt or the issuance of stock ranking equally with or prior to the preferred stock at an effective interest cost or effective dividend cost less than the effective dividend cost of the preferred stock.

It is stated that no condition is to be contained in the bond purchase contract requiring the issuance and sale of the preferred stock, nor is any condition to be contained in the preferred stock purchase contract requiring the issuance and sale of the bonds. Neither the bonds nor the preferred stock will, however, be issued and sold unless Ohio shall have received, prior to such sale, one or more cash capital contributions in an aggregate amount of \$20,000,000 from AEP. The making of such cash capital contributions was authorized by order of this Commission dated January 5, 1978 (HCAR No. 20365).

The proceeds from the sale of the bonds, together with other funds available to Ohio, will be used to pay at maturity the \$38,232,000 principal amount of Ohio's first mortgage bonds, 3 percent series, due April 1, 1978. The proceeds from the sale of the preferred stock will be used to repay unsecured short-term indebtedness and to reimburse Ohio's treasury for expenditures incurred in connection with its construction program. As of December 30, 1977, Ohio had approximately \$108,107,000 principal amount of unsecured short-term debt outstanding, and it is anticipated that at the time of the issuance and delivery of the bonds and preferred stock approximately \$125,000,000 principal amount of such unsecured short-term debt will be outstanding. Ohio estimates its 1978 construction costs will be approximately \$203,000,000 (exclusive of construction costs of its generating subsidiary).

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Public Utilities Commission of Ohio has jurisdiction over the proposed transactions. No other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than February 21, 1978, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securi-

ties and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2248 Filed 1-25-78; 8:45 am)

#### [4710-01]

#### DEPARTMENT OF STATE

(Public Notice CM-8/4)

#### STUDY GROUP 7 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

##### Meeting

The Department of State announces that Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on February 22, 1978, at the Systematics General Corp., National Scientific Laboratories Division, Room 300, 2290 Telestar Court, Falls Church, Va. The meeting will begin at 9 a.m.

Study Group 7 deals with time-signal services by means of radiocommunications. The main purpose of the meeting will be to discuss the results of the international meeting of Study Group 7 and preparations for the Special Preparatory Meeting which will be held in Geneva starting in October 1978, as a preliminary to the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Dated: January 16, 1978.

GORDON L. HUFFCUTT,  
Chairman, U.S. CCIR,  
National Committee.

(FR Doc. 78-2230 Filed 1-25-78; 8:45 am)



2. To review the status of subcommittee reports to be presented at the annual meeting.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the committee at any time. For additional information contact: Capt. C. E. Mathieu, Commandant (G-MHM/83), U.S. Coast Guard, Washington, D.C. 20590, 202-426-2306. Persons wishing to attend and persons wishing to present oral statements should notify this office not later than the day before the scheduled meeting.

Issued in Washington, D.C., on January 16, 1978.

H. G. LYONS,  
Acting Chief, Office of  
Merchant Marine Safety.

[IFR Doc. 78-2267 Filed 1-25-78; 8:45 am]

[4910-14]

[CGD 78-008]

**PROPOSED AMENDMENT OF A PERMIT TO CONVERT A DRAWBRIDGE ACROSS THE BUSH RIVER, MILE 6.8, AT PERRYMAN, MD. TO A FIXED BRIDGE STRUCTURE**

Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Fifth Coast Guard District, at Edgewood Senior High School, Edgewood, Md., on March 29, 1978, at 8 p.m. The purpose of the hearing is to consider the permit application from Amtrak to convert a railroad drawbridge across the Bush River, mile 6.8, Perryman, Md., to a fixed bridge structure.

The plans provide for the same as the existing published vertical clearance of 12 feet above mean high water in the closed position. The horizontal clearance normal to the axis of the channel is 35 feet.

The determination of whether a Coast Guard bridge permit will be issued must rest primarily on the project's impact on navigation and the environment.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Va. 23705 by March 24, 1978. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing. Speakers are

encouraged to provide written copies of their oral statements to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan), Fifth Coast Guard District. Comments must be received by April 14, 1978. Written comments will be available for public inspection in the office of the Commander (oan), Fifth Coast Guard District. A transcript of the hearing will also be available for inspection approximately 30 days after the hearing.

All comments, oral and written, will be considered before a final determination is made of the subject application by the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Section 502, 60 Stat. 847, as amended (33 U.S.C. 525, 49 U.S.C. 1655(g) (6) (C)); 49 CFR 1.46(c) (10).)

Dated: January 19, 1978.

A. F. FUGARO,  
Rear Admiral, U.S. Coast Guard  
Chief, Office of Marine Environment and Systems.

[IFR Doc 78-2266 Filed 1-25-78; 8:45 am]

[7035-01]

**INTERSTATE COMMERCE COMMISSION**

(Notice No. 574)

**ASSIGNMENT OF HEARINGS**

JANUARY 23, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 120981 (Sub 22), Bestway Express, Inc., now assigned February 27, 1978 at Nashville, Tennessee, will be held at the Ramada Inn-Airport, 709 Spence Lane.

MC 139495 (Sub 266), National Carriers, Inc. now being assigned February 1, 1978 (1 day) at New York N.Y., and will be held in Room No. E-2222, Federal Building, 26 Federal Plaza.

MC-F 13164 Overnite Transportation Co.—Purchase—Bonifield Bros. Truck Lines, Inc. and MC 109533 Sub No. 85 Overnite Transportation Co., now assigned February 22, 1978 at Washington, D.C. is postponed to February 23, 1978 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 71459 (Sub 65), O.N.C. Freight Systems, now assigned February 13, 1978 at Phoe-

nix, Ariz., will be held at the Granada Royale Motel, 3210 Northwest Grand Avenue.

MC 142809, Don Penick and Harvey Keenan, d.b.a. Double Eagle Trucking, now assigned February 28, 1978 at Olympia, Wash., will be held in Room 340, Federal Building, 915 Second Avenue.

MC 107515 (Sub 1075), Refrigerated Transport Co., Inc., now assigned February 28, 1978 at Madison, Wis., will be held at the Park Motor Hotel, 22 South Carroll Street.

MC 74321 (Sub 130), B. F. Walker, Inc. now assigned January 30, 1978 at Denver, Colo., is cancelled.

MC 19447 (Sub-No. 235), Leonard Bros. Trucking Co., Inc., now assigned February 7, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 116004 (Sub-No. 430), Texas Oklahoma Express, Inc., now assigned February 8, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 24784 (Sub-No. 8), Barry, Inc., now assigned February 9, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 118535 (Sub-No. 100), Tiona Truck Line, Inc., now assigned February 10, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC 135797 (Sub-No. 73), J. B. Hunt Transport, Inc., now assigned February 13, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 143448 (Sub-No. 1), Doonan Truck & Equipment, Inc., and MC 143449 (Sub-No. 1), Red Ball Wrecker Service, Inc., now assigned February 14, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 134755 (Sub-No. 114), Charter Express, Inc., MC 115841 (Sub-No. 564), Colonial Refrigerated Transportation, MC 136786 (Sub-No. 119), Robco Transportation Inc., MC 134755 (Sub-No. 99), Charter Express, Inc., and MC 114569 (Sub-No. 175), Shaffer Trucking, Inc., now assigned February 16, 1978 at Kansas City, Mo., will be held in Room 609, Federal Office Bldg., 911 Walnut Street.

MC 124896 (Sub-No. 30), Williamson Truck Lines, Inc., now being assigned February 16, 1978 (2 days) for hearing in Kansas City, Mo., will be held in Room 609, Federal Office Building, 911 Walnut Street.

MC-F 13314, Consolidated Freightways Corporation—Delaware—Purchase (Portion)—M & M Transportation Co. now being assigned March 6, 1978 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC-F 13333, Smith's Transfer Corp.—Purchase (Portion)—Nelson Freightways, Inc. now being assigned March 6, 1978 for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134922 (Sub 181), B. J. McAdams, Inc., Extension-Kosciusko, Miss., and MC-C 9847 B. J. McAdams, Inc., Freeman Truck Line, Inc., Transcon Lines, Eugene D. Anderson, John Paul Jones, and Wentworth E. Griffin—Investigation—Shipper Supporter Misrepresentation and Correction now being assigned March 6, 1978 for prehearing conference at the Offices of the

Interstate Commerce Commission in Washington, D.C.

MC 141804 (Sub 63), Western Express, Div. of Interstate Rental, Inc., now assigned January 18, 1978, at Little Rock, Ark., is cancelled.

I & S M 29710, General Increase, December, 1977, C.S.M.P.T.A., now assigned March 7, 1978, at Washington, D.C., is cancelled. The Schedules have been cancelled.

No. 36103, *Louis Dreyfus Corporation v. The Atchison, Topeka & Santa Fe Railway Co.*, et al., now assigned February 1, 1978 for pre-hearing conference, at Washington, D.C., has been postponed to March 1, 1978, pre-hearing conference at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 139269 (Sub 12), C. P. Craska, Inc., now assigned February 8, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 142766 (Sub 7), White Tiger Transportation, Inc., now assigned February 7, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MCC 9853, Consolidated Van Lines, Inc.—Investigation and Revocation of Certificate, now assigned February 6, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 135082 (Sub 45), Bureh Trucking, Inc., d.b.a. Roadrunner Trucking, Inc., now assigned February 7, 1978 at Albuquerque, N. Mex., will be held in the Sheraton-Old Town Inn, 800 Rio Grande Boulevard Northwest; and February 28, 1978 at Phoenix, Ariz., will be held in the Tax Court, Room 235, Federal Building and Post Office, 1000 Liberty Avenue. Location of hearing assigned March 7, 1978 at Portland, Ore., will be announced by subsequent notice.

MC 60014 (Sub 46), Aero Trucking, Inc., MC 118959 (Sub 149), Jerry Lipps, Inc., MC 106398 (Sub 775), National Trailer Convoy, Inc., MC 73165 (Sub 405), Eagle Motor Lines, Inc. and MC 11207 (Sub 393), Deaton, Inc., now assigned February 9, 1978 at Jacksonville, Fla., will be held in Room 100, Voyager Building, 2255 Phyllis Street.

MC 13250 (Sub 138), J. H. Rose Truck Line, Inc., now assigned February 8, 1978 at Jacksonville, Fla., will be held in Room 100, Voyager Building, 2255 Phyllis Street.

MC 125978 (Sub 9), Dependable Car Travel Service, Inc., now assigned February 13, 1978 at Miami, Fla., will be held in Room 100, Voyager Building, 2255 Phyllis Street.

MC 52464 (Sub 8), Evans Trucking Co. Extension-New York now being assigned February 21, 1978 for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 63792 (Sub 29), Tom Hicks Transfer Co., Inc. now being assigned February 24, 1978 (1 day) at Dallas, Tex., and will be held in Tax Court Room No. 330, US Post Office & Courthouse, Bryan and Ervay Streets.

MC 124211 (Sub 295), Hilt Truck Line, Inc. now assigned March 1, 1978 at Washington, D.C. is cancelled, application dismissed.

FD 21215 (Sub 2), Seaboard Coast Line Railroad Co., et al.—Investigation of Control and Modification of Traffic Conditions, FD 25309 (Sub 1), Louisville & Nashville Railroad Co., et al.—Investigation of Control and Modification of Traffic Conditions, FD 28417, *Florida East Coast Railway Co. v. Seaboard Coast Line R.R. Co.*,

et al. and FD 28480, *Southern Railway Co. v. Seaboard Coast Line Railroad Co.*, et al. now being assigned for Prehearing Conference at the Offices of the Interstate Commerce Commission on February 6, 1978.

MC 109689 (Sub 317), W. S. Hatch Co., now being assigned March 9, 1978 (2 days) at Salt Lake City, Utah in a hearing room to be later designated.

MC 130410, Corporate Travel Service, Inc. now assigned February 21, 1978 at Dearborn, Mich., is closed effective January 23, 1978.

MC 121509 (Sub 3), Daufeldt Transport, Inc., now assigned February 14, 1978 at Des Moines, Iowa, will be held in Room 453, Federal Building, 210 Walnut Street.

No. 36775, Increased commutation fares, Hudson Transit Lines, Inc., now assigned February 13, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 126118 (Sub 38), Crete Carrier Corp. now assigned March 16, 1978 at Lincoln, Nebr., is advanced to March 15, 1978 (3 days) in a hearing room to be later designated.

MC 139482 (Sub 12), New ULM Freight Lines, Inc. now assigned January 31, 1978 at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

et al. and FD 28480, *Southern Railway Co. v. Seaboard Coast Line Railroad Co.*, et al. now being assigned for Prehearing Conference at the Offices of the Interstate Commerce Commission on February 6, 1978.

MC 109689 (Sub 317), W. S. Hatch Co., now being assigned March 9, 1978 (2 days) at Salt Lake City, Utah in a hearing room to be later designated.

MC 130410, Corporate Travel Service, Inc. now assigned February 21, 1978 at Dearborn, Mich., is closed effective January 23, 1978.

MC 121509 (Sub 3), Daufeldt Transport, Inc., now assigned February 14, 1978 at Des Moines, Iowa, will be held in Room 453, Federal Building, 210 Walnut Street.

No. 36775, Increased commutation fares, Hudson Transit Lines, Inc., now assigned February 13, 1978 at New York, N.Y., will be held in Room F-2220, Federal Building, 26 Federal Plaza.

MC 126118 (Sub 38), Crete Carrier Corp. now assigned March 16, 1978 at Lincoln, Nebr., is advanced to March 15, 1978 (3 days) in a hearing room to be later designated.

MC 139482 (Sub 12), New ULM Freight Lines, Inc. now assigned January 31, 1978 at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

H. G. HOMME, Jr.,  
Acting Secretary.

[IFR Doc. 78-2272 Filed 1-25-78; 8:45 am]

[7035-01]

(Exemption No. 142)

**CAR SERVICE ORDERS**

**Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241**

To: *The Baltimore and Ohio Railroad Company and Consolidated Rail Corporation*: There has been a substantial increase in the demand for plain boxcars for railroad shipments of insulating material from Newark, Ohio, because of a shortage of motor trucks caused by heavy snow and blocked highways. This shortage of trucks is threatening to force a major manufacturer of insulating materials to curtail production, with resulting loss of employment, unless sufficient railroad cars can be utilized to offset the reduction in the supply of motor trucks. Although the railroads named above are unable to furnish currently sufficient boxcars of suitable ownership that can be loaded in compliance with Car Service Rules 1 and 2, the flow of the traffic is such that the majority of the cars will move in the direction of the owners in compliance with those rules.

It is ordered, That pursuant to the authority vested in me by Car Service

Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 405, issued by W. J. Trezise, or successive issues thereof as having mechanical designation "XM" may be loaded with insulating material by shippers served by The Baltimore and Ohio Railroad Company (BO) and by the Consolidated Rail Corporation (CR) at Newark, Ohio, without regard to the requirements of Car Service Rules 1 and 2 subject to exceptions 1 to 3 inclusive, shown below.

**EXCEPTIONS**

1. Cars of Canadian or Mexican ownership.
2. Cars subject to a car relocation or car assistance directive issued by the Car Service Division, Association of American Railroads.
3. Cars with inside length of 59-ft. 8-in. or greater.

Effective January 18, 1978.

Expires January 31, 1978.

Issued at Washington, D.C., January 18, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

[IFR Doc. 78-2271 Filed 1-25-78; 8:45 am]

**MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS**

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be



filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 113855 (Sub-No. 399), filed January 11, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) Construction equipment from Honeoye, N.Y. and Brunswick, Ga., to points in the United States (including Alaska but excluding Hawaii), and (2) equipment, materials and supplies used or useful in the manufacture and distribution of the commodities in (1) above, from points in the United States (including Alaska but excluding Hawaii), to Honeoye, N.Y. and Brunswick, Ga. Restricted to traffic originating at or destined to the plantsites and warehouse facilities of Stone Construction Equipment, Inc., located at or near Honeoye, N.Y. and Brunswick, Ga.

NOTE.—Common control may be involved.

Hearing: February 2, 1978 at the Office of the Interstate Commerce Commission, Washington, D.C.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2270 Filed 1-25-78; 8:45 am]

## NOTICES

[7035-01]

[Volume No. 54]

## MOTOR CARRIER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

JANUARY 18, 1978.

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR §1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 30237 (Sub-No. 35), filed November 29, 1977. Applicant: YEATTS TRANSFER CO., a corporation, P.O. Box 666, Altavista, Va., 24517. Applicant's representative: Eston H. Alt, P.O. Box 666, Altavista, Va., 24517. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New furniture, from Worcester County, Mass., and points in Vermont, to points in Arkansas, Delaware, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Boston, Mass., or Washington, D.C.

No. MC 42261 (Sub-No. 131), filed November 4, 1977. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting Liquid wax, in bulk, in tank vehicles, from Catlettsburg, Ky., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and the District of Columbia.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at New York, N.Y.

No. MC 52709 (Sub-No. 344), filed November 22, 1977. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 7240, 3980 Quebec Street, Denver, Colo. 80207. Applicant's representative: Robert P. Tyler, P.O. Box 7240, 3980 Quebec Street, Denver, Colo. 80207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting Insulating material, from Fruita, Colo. to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at San Francisco, Calif. or Denver, Colo. Common control may be involved.

No. MC 52781 (Sub-No. 5), filed November 28, 1977. Applicant: OVERCASH TRANSFER, INC., P.O. Box 3117, C.R.S., 21 By-Pass, Rock Hill, S.C. 29730. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate in interstate or foreign commerce, over irregular routes, as a contract carrier, in the transportation of (a) Fabricated pipe, tubing, fittings, and (b) materials equipment and supplies used in the

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manufacture, erection and maintenance of the above named commodities, between the plantsite and facilities of I.T.T. Grinnell Industrial Piping, Inc., at or near Kernersville, N.C. on the one hand, and, on the other, points in the United States, (except Alaska and Hawaii, under a continuing contract with I.T.T. Grinnell Industrial Piping, Inc.

NOTE.—If a hearing is deemed necessary the applicant does not specify a location.

No. MC 57622 (Sub-No. 3), filed November 28, 1977. Applicant: LEE-LANAU MOTOR FREIGHT, INC., 3868 Rennie School Road, Traverse City, Mich. 49684. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Traverse City, Mich., and Grawn, Mich., from Traverse City via U.S. 31 to Grawn and from Grawn to Traverse City via County Road 633, serving all intermediate points; (2) between Traverse City, Mich., and Leland, Mich., from Traverse City over Michigan Highway 22 north to Northport, Mich., thence over County Road 629 to Northport Point, Mich., and return to Michigan Highway 22, thence south over Michigan Highway 22 to Leland; and from Leland south over Michigan Highway 22 to junction Michigan Highway 204, thence east over Michigan Highway 204 to Michigan Highway 22, thence south over Michigan Highway 22 to Traverse City, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Lansing or Grand Rapids, Mich.

No. MC 61592 (Sub-No. 409), filed November 22, 1977. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Yard tractors, between Lyons, Ill., on the one hand, and on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill., and be consolidated with other similar applications.

No. MC 74321 (Sub-No. 139), filed December 23, 1977. Applicant: B. F. WALKER, INC., P.O. Box 17-B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Authority is sought to operate as a common carrier by motor vehicle over irregular routes in the transportation of: Iron and steel articles, (1) between El Paso, Tex., on the one hand, and, on the other, points in Arizona, California, Colorado, New Mexico, Nevada, Oregon, Idaho, Montana, Washington, Wyoming, Utah, Nebraska, and Texas; and (2) between Fort Worth and Dallas, Tex., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, Illinois and Texas.

NOTE.—Common control may be involved. Hearing: February 15, 1978 (3 days), at 9:30 a.m. local time, in Room 5A15-17, Federal Building, 1100 Commerce Street, Dallas, Tex., before Administrative Law Judge Wallace H. Nations.

No. MC 95876 (Sub-No. 220), filed November 7, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue, North, St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, over irregular routes, transporting: Fiberboard, pulpboard and strawboard, from Coldwater, Mich., to points in the United States (except Alaska and Hawaii); and equipment, materials and supplies used in the manufacture of fiberboard, pulpboard and strawboard, from points in the United States (except Alaska and Hawaii) to Coldwater, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 106398 (Sub-No. 790), filed November 28, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, Okla. 74103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Composition board from Otsego, Mich., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 106603 (Sub-No. 165), filed November 28, 1977. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain St., SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Composition board from Coldwater, Mich. to points

in Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin. (2) Equipment, materials, and supplies from points in Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin to Coldwater, Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Washington, D.C. Common control may be involved. Applicant holds motor contract carrier permit in MC 46240, and other subs, therefore dual operations may be involved.

No. MC 107002 (Sub-No. 522), filed November 8, 1977. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Vegetable oil and products thereof, in bulk, in tank vehicles, (1) from the facilities of Cargill, Inc. at or near Gainesville, Ga., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas, and (2) from points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia to the facilities of Cargill, Inc. at or near Gainesville, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 107295 (Sub-No. 868), filed November 28, 1977. Applicant: PREFAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, Ill. 62707. Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: (1) Lumber and lumber products, from the plantsite and warehouses facilities of Southwest Forest Industries (or its subsidiaries), located at or near Flagstaff, McNary and Eagar, Arizona, and South Fork, Colo., to points in New Mexico, Oklahoma, Missouri and Arkansas; (2) treated and nontreated poles, posts and pilings, from the plantsite and warehouse facilities of Southwest Forest Industries at Prescott, Ariz., to points in New Mexico, Texas, Oklahoma, Missouri and Arkansas; and (3) molding, from the plantsite and warehouse facilities of Southwest Forest Industries, at McNary, Ariz., to points in Arkansas,



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Illinois, Indiana, Missouri, New Mexico, Oklahoma, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Phoenix, Ariz.

No. MC 112304 (Sub-No. 123), filed November 28, 1977. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Vehicle lifts, and accessories, attachments and parts thereof*, from the plantsite of Dover Corp./Rotary Lift Division, Madison, Ind., to points in the United States including Alaska, but excluding Hawaii; and (2) *Equipment, materials and supplies* used in the manufacture of the commodities in (1) above, from points in the United States including Alaska, but excluding Hawaii, to the plantsite named above.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Washington, D.C. or Cincinnati, Ohio. Common control may be involved.

No. MC 113651 (Sub-No. 240), filed November 7, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, Ind. 47305. Applicant's representative: George E. Batty, P.O. Box 552, Muncie, Ind. 47305. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *fresh and frozen inedible meats* (except commodities in bulk) from Frankfort and Shelbyville, Ind. to points in Illinois, Iowa, Kansas, Missouri, Nebraska, Ohio, Pennsylvania, and Wisconsin. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Bausback Fertilizer Co. located at or near the named origins.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 114045 (Sub-No. 483), filed November 7, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas-Fort Worth Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Confectionery*, in vehicles equipped with mechanical refrigeration, from Reno, Nev., to points in Arizona, restricted to the transportation of shipments having prior movement from the facilities of E. J. Brach & Sons, at Chicago and Carol Stream, Ill.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Chicago, Ill., or Dallas, Tex.

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No. MC 114045 (Sub-No. 489), filed November 28, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas-Fort Worth Airport, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Merchandise dealt in by wholesale, retail, chain grocery, and food business houses*, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles) from the plant and warehouse facilities of Kraft, Inc., at Springfield, Mo., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. Restricted to traffic originating at the above-named origin and destined to the above named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Dallas, Tex. Common control may be involved.

No. MC 114211 (Sub-No. 340), filed January 11, 1978. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle, Chicago, Ill. 60604. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead and articles or products thereof, building materials, construction materials, supplies and equipment*, and (2) *materials, supplies and equipment* used in the manufacture and distribution of commodities named in (1) above, from (a) the plant sites and warehouse facilities of Penn Dixie Steel Corp. and Penn-Dixie Steel Industries, Inc. and Stephen Springs Co., located at or near Kokomo, Ind., Elkhart, Ind., Toledo, Ohio, Columbus, Ohio, Lansing, Mich., Grand Rapids, Mich., Denver, Colo., Albuquerque, N. Mex., Centerville, Iowa, Blue Island, Ill., Joliet, Ill., Jackson, Miss., Nazareth, Pa., Cabot, Pa., Petoskey, Mich., Holland, Mich., Detroit, Mich., Chicago, Ill., Milwaukee, Wis., West Des Moines, Iowa, Kingsport, Tenn., Richard City, Tenn., Atlanta, Ga., Salisbury, N.C., North Arlington, N.J., North Judson, Ind., Cicero, Ind., and Newton, Kans., to points in the United States (except Alaska and Hawaii); (b) from points in the United States (except Alaska and Hawaii), to the plantsites and warehouse facilities of Penn Dixie Steel Corp. and Penn-Dixie Steel Industries, Inc. and Stephen Springs Co., located at or near Kokomo, Ind., Elkhart, Ind., Toledo, Ohio, Columbus, Ohio, Lansing, Mich., Grand Rapids, Mich., Denver, Colo., Albuquerque, N. Mex., Centerville, Iowa, Blue Island, Ill., Joliet, Ill., Jack-

son, Miss., Nazareth, Pa., Cabot, Pa., Petoskey, Mich., Holland, Mich., Detroit, Mich., Chicago, Ill., Milwaukee, Wis., West Des Moines, Iowa, Kingsport, Tenn., Richard City, Tenn., Atlanta, Ga., Salisbury, N.C., North Arlington, N.J., North Judson, Ind., Cicero, Ind., and Newton, Kans.

NOTE.—Prehearing conference: January 31, 1978, 9:30 a.m. Local Time at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 114273 (Sub-No. 309), filed November 22, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52408. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wines and malt beverages* (except in bulk in tank vehicles), from Allen Park, Mich.; Baltimore, Md.; Bardonia, Ky.; Boston, Mass.; Cincinnati, Ohio; Clermont, Ky.; Detroit, Mich.; Dundalk, Md.; Frankfort, Ky.; Lawrenceburg, Ind.; Linden, N.J.; Louisville, Ky.; New York, N.Y.; Owensboro, Ky.; Pekin, Ill.; Peoria, Ill.; Philadelphia, Pa.; Plainfield, Ill.; Relay, Md.; and Schenley, Pa., to points in Minnesota.

NOTE.—Applicant states it is presently providing service from Allen Park, Mich.; Boston, Mass.; Cincinnati, Ohio; Detroit, Mich.; Lawrenceburg, Ind.; Louisville, Ky.; and Schenley, Pa. on a joint-line basis. The purpose of this application is to substitute single-line service for existing joint-line service. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 115311 (Sub-No. 258), filed December 13, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and construction materials* (except in bulk), from the facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies, at or near Lansing, Mich.; Grand Rapids, Mich.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Milwaukee, Wis.; Chicago, Ill.; Blue Island, Ill.; Joliet, Ill.; Kokomo, Ind.; Fort Wayne, Ind.; North Judson, Ind.; Elkhart, Ind.; Cicero, Ind.; Centerville, Iowa; West Des Moines, Iowa; Denver, Colo.; Albuquerque, N. Mex.; Jackson, Miss.; Columbus, Ohio; Toledo, Ohio; Kingsport, Tenn.; Knoxville, Tenn.; South Pittsburgh, (Richard City), Tenn.; Atlanta, Ga.; Salisbury, N.C.; Cabot, Pa.; Nazareth, Pa.; North Arlington, N.J.; and Newton, Kans.; to points in the United States in and east of North Dakota, South

Dakota, Nebraska, Colorado, and New Mexico (except Maine, New Hampshire, and Vermont); and (2) *Materials, equipment and supplies*, (except in bulk), used in the manufacture and distribution of commodities named in (1) above, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico (except Maine, New Hampshire, and Vermont), to facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies, at or near Lansing, Mich.; Grand Rapids, Mich.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Milwaukee, Wis.; Chicago, Ill.; Blue Island, Ill.; Joliet, Ill.; Kokomo, Ind.; Fort Wayne, Ind.; North Judson, Ind.; Elkhart, Ind.; Cicero, Ind.; Centerville, Iowa; West Des Moines, Iowa; Denver, Colo.; Albuquerque, N. Mex.; Jackson, Miss.; Columbus, Ohio; Toledo, Ohio; Kingsport, Tenn.; Knoxville, Tenn.; South Pittsburgh, (Richard City), Tenn.; Atlanta, Ga.; Salisbury, N.C.; Cabot, Pa.; Nazareth, Pa.; North Arlington, N.J.; and Newton, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Chicago, Ill. Prehearing conference, January 31, 1978, at 9:30 a.m. at the offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 115841 (Sub-No. 582), filed November 30, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, transporting: *Prepared flour mixed and frosting mixes*, from the plantsite and storage facilities of Chelsea Milling Co., at or near Chelsea, Mich., to points in Georgia, North Carolina, South Carolina, and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Detroit, Mich., or Washington, D.C.

No. MC 115904 (Sub-No. 89), filed November 28, 1977. Applicant: GROVER TRUCKING CO., a corporation, 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Masonry articles and supplies*, between points in the United States located on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi

River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international Boundary Line between the United States and Canada, restricted to the account of Rocky Mountain Supply, and further restricted against the transportation of commodities which be reason of their size and weight require the use of special equipment, commodities in bulk and those commodities falling within the category described in Mercer Extension—Oil Field Commodities, 74 MCC 459.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Salt Lake City, Utah.

No. MC 117940 (Sub-No. 242), filed November 17, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Alan L. Timmerman, 5300 Highway 12, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dairy products* (except commodities in bulk), from points in Wisconsin to points in Louisiana, restricted to traffic originating at the facilities of Milkhouse Cheese Corp. at named origins and destined to named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex. Applicant holds contract carrier authority in MC 114789 (Sub-No. 16) and other subs, therefore dual operations may be involved.

MC 118202 (Sub-No. 81), filed November 28, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, Minn. 55987. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles* distributed by meat packinghouses, as described in sections A and C of Appendix I to the *Report and Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities utilized by King Foods, Inc., at South St. Paul, Minn. to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 118318 (Sub-No. 32), filed November 21, 1977. Applicant: IDA-CAL FREIGHT LINES, INC., P.O. Drawer M, Nampa, Idaho 83651. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses*, from the facilities of Lever Brothers Co. at or near City of Commerce and Richmond, Calif.; and the facilities of White King, Inc., at or near Los Angeles, Calif., to points in Box Elder, Cache, Davis, Morgan, Salt Lake, Tooele, Utah and Weber Counties, Utah.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif. Common control may be involved.

No. MC 118959 (Sub-No. 158), filed November 1, 1977. Applicant: JERRY LIPPS, INC., 130 South Frederick St., Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Tanks, accessories for tanks, parts for tanks*, from Dexter, Mo., and Hialeah, Fla., to points in the United States (except Alaska and Hawaii); (2) *machinery, equipment, materials and supplies* used in connection with the commodities described in (1) above from points in the United States (except Alaska and Hawaii), to Dexter, Mo., and Hialeah, Fla.

NOTE.—Applicant holds motor contract carrier authority in No. MC 125664 and therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Nashville, Tenn., or Memphis, Tenn. Common control may be involved.

No. MC 119349 (Sub-No. 6), filed November 22, 1977. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, Fla. 33450. Applicant's representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer and/or sound deadener compound* (except in bulk), and *filters*, from points in Marion County, Tenn., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas, restricted to traffic originating at points in Marion County, Tenn.; (2) *materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities named in (1) above (except in bulk) from points in Alabama, Geor-

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gia, Kentucky, Ohio, Pennsylvania, Virginia, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn., and (3) *petroleum and petroleum products, vehicle body sealer and/or sound deadening compound* (except in bulk) and *fillers*, from points in New York, Ohio, Pennsylvania, Rhode Island, and West Virginia to points in Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C., or Atlanta, Ga.

No. MC 123387 (Sub-No. 11), filed November 17, 1977. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (except in bulk), from Texas-Mexico border points, to points in North Carolina, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, the District of Columbia, New Hampshire, Vermont, Maine, Ohio, and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Norfolk, Va. Common control may be involved.

No. MC 123407 (Sub-No. 420), filed December 1, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut log homes* from Englewood, Colo., to points in Illinois, Indiana, Michigan, Ohio, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 123522 (Sub-No. 3), filed November 25, 1977. Applicant: SEYLLER TRANSPORT, INC., 262 Mill St., Hampshire, Ill. 60140. Applicant's representative: R. D. Higgins, 7222 Cunningham Road, Rockford, Ill. 61102. Authority sought by applicant to operate in interstate or foreign commerce as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Illinois and Indiana, to points in Illinois, Wisconsin, Ohio, Indiana, Iowa, and Michigan, under continuing contract or contracts with BTU Contracts, Inc.

NOTE.—Applicant states that common control may be involved. If a hearing is deemed

necessary applicant requests that hearing be held in Chicago, Ill.

No. MC 124679 (Sub-No. 86), filed November 22, 1977. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South, Salt Lake City, Utah 84119. Applicant's representative: Daniel E. England, 975 West 2100 South, Salt Lake City, Utah 84119. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery* from the plantsite and/or storage facilities of Mrs. J. G. McDonald's Chocolate Co. at or near Salt Lake City, Utah, to points in California, Florida, Georgia, Kansas, Minnesota, Missouri, North Carolina, Oregon, South Carolina, Texas and Washington.

NOTE.—Applicant holds motor contract carrier authority in number MC 128813 and subnumbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Salt Lake City, Utah.

No. MC 124692 (Sub-No. 185), filed November 28, 1977. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles, construction equipment, tools, materials, and supplies*, from the plantsite and fabricating facilities of Brown Minneapolis Tank Co., at St. Paul, Minn., to points in Texas, New Mexico, Oklahoma, and Arizona; and (2) *construction equipment, tools, materials and supplies* in shipper owned trailers, from points in Texas, Oklahoma, Arizona, and New Mexico, to St. Paul, Minn., restricted to traffic for the account of Brown Minneapolis Tank Fabricating Co. in (1) and (2) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 125745 (Sub-No. 4), filed September 30, 1977. Applicant: RAY D. SIMMONS d.b.a. SIMMONS TRUCKING CO., Route 6, Box 316, Carthage, Mo. 64836. Applicant's representative: Turner White, 910 Plaza Towers, Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* (except those of such size and weight as to require special equipment), (1) from Jasper County, Mo. to points in Kansas, Oklahoma, Arkansas, and Texas, and (2) from points in Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, Ohio, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Nebraska, Oklahoma, Texas, Kansas, Michigan,

Pennsylvania, Colorado, Alabama, and Utah to points in Jasper County, Mo.

NOTE.—If an oral hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Tulsa, Okla.

No. MC 126305 (Sub-No. 87), filed November 22, 1977. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, P.O. Box 357, Glayton, Ala. 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Moulded rubber parts, pipe, gaskets and fittings, parts and accessories thereof*, (except commodities in bulk), from the warehouse and plant facilities of Murray Rubber Co., Harris County, Tex. to points in New Jersey, Ohio, Virginia, Alabama, Georgia, Pennsylvania, North Carolina, New York, Michigan, Louisiana, Arkansas, and Florida; (2) *materials, equipment, machinery and supplies* used in the manufacturing, processing and distribution of the above named commodities (except commodities in bulk), from the above named States to the facilities of the Murray Rubber Co., Harris County, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Birmingham or Montgomery, Ala.

No. MC 127579 (Sub-No. 5), filed November 30, 1977. Applicant: HAUL-MARK TRANSFER, INC., P.O. Box 343, Cockeysville, Md. 21030. Applicant's representative: Glenn M. Heagerty, P.O. Box 343, Cockeysville, Md. 21030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Equipment, materials, and supplies used in the manufacture, sale and distribution of shampoo, toilet preparations, cosmetics and hair care products* from points in Delaware, Maryland, Pennsylvania, Virginia and West Virginia to facilities utilized by Clairol, Inc. at or near Baltimore, Md.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129026 (Sub-No. 4), filed November 29, 1977. Applicant: J.C.D. TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, N.Y. 13057. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), (1) Between East Hartford, Conn.; Springfield and Westwood,

Mass.; Baltimore and Landover, Md.; and Columbus and Salem, Ohio; (2) between the above specified points on the one hand, and, on the other, points in New York (except those in Nassau, Suffolk, Westchester, Putnam, Orange, and Rockland Counties) and Berks, Bradford, Carbon, Clinton, Columbia, Dauphin, Erie, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, McKean, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Warren, Wayne, Wyoming, and York Counties, Pa., under continuing contract or contracts with The Great Atlantic & Pacific Tea Co., Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 134477 (Sub-No. 199), filed November 28, 1977. Applicant: SCHANNO TRANSPORTATION INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies and equipment* used in the manufacture and sale of clothing and finished goods (except commodities in bulk), from Los Angeles, Calif.; Seattle, Wash.; and points in North Carolina (except Albemarle, Altamahaw, Belmont, Charlotte, Gastonia, Landis, Ranlo, and Salisbury, N.C.), to the facilities of Munsingwear, Inc., located at or near Ashland, Wis. and Little Falls and Minneapolis-St. Paul, Minn. Restricted to traffic originating at the above named origins and destined to the above named destinations.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 134477 (Sub-No. 200), filed November 28, 1977. Applicant: SCHANNO TRANSPORTATION INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Independence, Mo. to points in Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. Restricted to the transportation of traffic originating at the facilities of Commercial Distribution Center, Inc., at or near Independence, Mo. and destined to the above described destination points.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

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No. MC 134922 (Sub-No. 246), filed November 28, 1977. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rugs, carpet and yarn*, between Fresno, Calif., on the one hand, and, on the other, points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, it is requested that it be held in San Francisco, Calif. or Little Rock, Ark.

No. MC 136008 (Sub-No. 89), filed November 28, 1977. Applicant: JOE BROWN CO., INC., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry rendered tankage, meal and bone meal*, between points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Oklahoma City, Okla. or Kansas City, Mo.

No. MC 138627 (Sub-No. 24) (correction), filed October 18, 1977, published in the FEDERAL REGISTER issue of December 8, 1977, and republished as corrected this issue. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, Iowa 50501. Applicant's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard joint system, joint compound, tape, texturing compounds, and articles* used in the installation thereof, from Matteson, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

NOTE.—The purpose of this republication is to delete the word "manufacture" from the commodity description as published in the FEDERAL REGISTER issue of December 8, 1977, and substitute the word "installation" in lieu thereof. If a hearing is deemed necessary, applicant requests that it be held in Chicago, Ill., or Omaha, Nebr.

No. MC 138941 (Sub-No. 24), filed November 22, 1977. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir Street, Pomona, Calif. 91766. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, trans-

porting: *Plastic articles* (except in bulk), (1) from points in Wayne, Ontario, and Monroe Counties, N.Y., to points in Montana, Nevada, Idaho, Utah, Wyoming, and Colorado; (2) from Jacksonville, Ill., and Springfield, Ill., to points in Montana, Nevada, Idaho, Utah, Wyoming, and Colorado; (3) from Covington and Conyers, Ga., to points in Montana, Nevada, Idaho, Utah, Wyoming, Colorado, Texas, Arizona, and New Mexico; (4) from Washington, N.J., to points in Montana, Nevada, Idaho, Utah, Arizona, Wyoming, Colorado, and New Mexico; (5) from Shawnee, Okla., to points in Montana, Idaho, and Wyoming; (6) from Lowell, Mass., to points in Montana, Nevada, Idaho, California, Utah, Oregon, Arizona, Wyoming, Washington, Colorado, New Mexico, and Texas; (8) from Temple, Tex., to points in Montana, Nevada, Idaho, Utah, Wyoming, and Colorado; (9) from Dallas, Tex., to points in Oregon, Washington, Montana, Nevada, Idaho, Utah, Arizona, Wyoming, Colorado, and New Mexico, under a continuing contract, or contracts, with Mobil Chemical Co., Plastics Division.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Buffalo, N.Y., or Los Angeles, Calif.

No. MC 140665 (Sub-No. 19), filed November 7, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric lamps, Christmas tree lamp outfits, electric cord sets, dry cell batteries, portable battery chargers, and materials and supplies* used in the manufacture and distribution of the above commodities, from Winchester, Va., St. Louis, Mo., Mattoon, Ill., and Lexington, Ky. to points in the states of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Cleveland, Ohio or Washington, D.C. Common control may be involved.

No. MC 140768 (Sub-No. 9), (correction), filed October 16, 1977, published in the FEDERAL REGISTER issue of December 1, 1977, and republished, as corrected, this issue. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregu-



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lar routes, transporting: *Heating equipment, stoves, fireplaces, furnaces and incinerators*, from Athens and Huntsville, Ala., to points in the United States, except Alaska and Hawaii.

NOTE.—The purpose of this republication is to delete the restriction from the authority sought by applicant as published in the FEDERAL REGISTER issue of December 1, 1977. Applicant holds motor contract authority in MC 134404 and Subs thereunder and, therefore, dual operations may be involved. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

No. MC 140768 (Sub-No. 13), filed November 29, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796 Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrolyte battery acid, brake fluid, lacquer, gas line antifreeze, and windshield washer solution* (except in bulk) (a) from the plantsite and warehouse facilities of Scholle Corp. at or near Ridgefield, N.J. to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, (b) from the plantsite and warehouse facilities of Scholle Corp. at or near Northlake, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Pennsylvania, West Virginia, and Wisconsin, (c) from the plantsite and warehouse facilities of Scholle Corp. at or near College Park, Ga., to points in Alabama, Florida, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, (2) *materials, and supplies* used in the manufacture, packaging and distribution of the commodities named in (1) above from the destinations named in (1) (a) (b) and (c) to their respective origins.

NOTE.—Applicant holds contract carrier authority in No. MC 134404 and subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either New York, N.Y. or Washington, D.C.

No. MC 142065 (Sub-No. 9), filed November 3, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed meats* from Allen Township, at or near Quincy, Mich., to points in Alabama, Arizona, Georgia, Kansas, Missouri, Oklahoma, Tennessee, and Texas, under a continuing contract or con-

tract with Peter Eckrich and Sons, Inc., of Fort Wayne, Ind., restricted to the transportation of traffic originating at the plantsite and facilities of Peter Eckrich and Sons, Inc., of Allen Township, at or near Quincy, Mich.

NOTE.—If oral hearing is deemed necessary, applicant requests it be held at Fort Wayne, Ind. or Tulsa, Okla. Applicant holds pending common carrier authority in MC 142672 and subs thereunder, therefore dual operation may be involved.

No. MC 142368 (Sub-No. 9), filed November 28, 1977. Applicant: DANNY HERMAN TRUCKING, INC., 15252 Valley Boulevard, City of Industry, Calif. 91744. Applicant's representative: William J. Monheim, 13710 East Whittier Boulevard, Suite 203, P.O. Box 1756, Whittier, Calif. 90609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shower-bath stall doors, tub enclosures, glass, and materials, equipment, and supplies* used in the manufacture and distribution of shower-bath stall doors, tub enclosures, and glass between Seattle, Wash., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii) restricted against the transportation of commodities in bulk and those which because of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Seattle, Wash.

No. MC 142672 (Sub-No. 9), filed November 4, 1977. Applicant: DAVID BENEUX PRODUCE AND TRUCKING, INC., P.O. Drawer F, Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared frozen foods*, from Carrollton, Macon, Marshall, and Moberly, Mo., to points in Alabama, Delaware, Georgia, Maryland, New York, New Jersey, North Carolina, Pennsylvania, South Carolina, Virginia, and the District of Columbia.

NOTE.—If oral hearing is deemed necessary, applicant requests same be held at St. Louis, Mo. or Little Rock, Ark. Applicant holds contract carrier authority in MC 142065 Subs 1 and 3, therefore dual operations may be involved.

No. MC 142715 (Sub-No. 7), filed November 4, 1977. Applicant: LENERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, Minn. 55101. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles distributed by meat packing plants* (except hides and commodities in bulk), from the plantsites and

storage facilities of Geo. A. Hormel & Co., located at or near Austin, Minn.; Fort Dodge and Algona, Iowa; Fremont and Scottsbluff, Nebr., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, restricted to product originating at the named origins and destined to the named points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 143071 (Sub-No. 7), filed November 28, 1977. Applicant: UNIVERSAL DEVELOPMENT, INC., Box 568, York, Nebr. 68467. Applicant's representative: William B. Barker, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Preformed plastic and fiberglass tubs, drums and tanks*, from the plantsite and facilities of Snyder Industries at Lincoln, Nebr., to points in the United States (except Connecticut, Delaware, Hawaii, the District of Columbia, Maine, Massachusetts, Alaska, Nevada, Rhode Island, Utah, and Vermont.)

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Omaha, Nebr. or Kansas City, Mo.

No. MC 143177 (Sub-No. 1), filed November 4, 1977. Applicant: MICHAEL C. STRICKLAND d.b.a. STRICKLAND FEED SERVICE, P.O. Box 30, Luverne, Ala. 36049. Applicant's representative: Michael C. Strickland (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Dry animal and poultry feeds and feedstuff* only in bulk, in tank trailers with auger self-unloading devices from the plantsite and storage facilities of Cargill, Inc., Nutrena Feed Division, in the Montgomery Industrial terminal in Montgomery, Ala., to all points in Georgia and Florida.

NOTE.—If a hearing is deemed necessary, applicant requests it be held either in Montgomery or Birmingham, Ala.

No. MC 143236 (Sub-No. 11), filed January 12, 1978. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, N.J. 07032. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities the transportation of which because of size or weight require the use of special equipment), between points in New Jersey on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C. Applicant holds motor contract permit in MC 142786 and other subs, therefore dual operations may be involved.

No. MC 143462 (Sub-No. 1), filed November 30, 1977. Applicant: ERWIN TRUCKING, INC., 7176 North 50th Street, Omaha, Nebr. 68152. Applicant's representative: Donald L. Stern, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel nails and staples, pneumatic hand tools, and parts and accessories for pneumatic hand tools*, from Cincinnati, Ohio, to Des Moines, Iowa, Denver, Colo., Omaha, Nebr., Wichita, Kans. and Eden Prairie, Minn., and (2) *coils steel strapping and mechanics hand tools other than power*, from New York City, N.Y., to Des Moines, Iowa, Denver, Colo., Omaha, Nebr., Wichita, Kans. and Eden Prairie, Minn. All service limited to that performed under contract with Carlson Stapler & Shippers Supply, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Nebr.

No. MC 143563 (Sub-No. 1), filed November 7, 1977. Applicant: R. C. MOORE, INC., Box 346, Waldoboro, Maine 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 15th Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products*, from Skowhegan, Maine to points in the United States (except Alaska, Hawaii, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey and points in New York east of Interstate 81).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Portland, Maine. Applicant holds motor contract carrier authority in No. MC 140572 (Sub-No. 1), therefore, dual operations may be involved.

No. MC 143592 (Sub-No. 4), filed November 28, 1977. Applicant: EDWARDS TRUCKING CO., INC., P.O. Box 123, Clinton, Md. 20735. Applicant's representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Magnetic tapes, office furniture, and microfilm equipment and supplies*, between the National Headquarters of the Social Security Administration location in Baltimore, Md., and the National Records Center at or near Boyers, Pa., under a continuing contract, or contracts, with Social Security Administration.

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NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Washington, D.C. or Baltimore, Md.

No. MC 143786 (Sub-No. 2), filed November 22, 1977. Applicant: HAL MAST TRUCKING CO. INC., Route 1, Sugar Grove, N.C. 28679. Applicant's representative: William P. Parthing, Jr., 1100 Cameron-Brown Building, Charlotte, N.C. 28204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Baskets, wicker*, from Boone, N.C., to Buffalo, N.Y., and its commercial zones and to Greencastle, Pa., under continuing contract with American Wicker, Inc., located at Boone, N.C.

NOTE.—Applicant believes that its application is susceptible of handling without oral hearing and hereby requests such handling. If a hearing is deemed necessary, however, Applicant requests that it be held at Charlotte, N.C. or Boone, N.C.

No. MC 143822 (Sub-No. 1), filed October 31, 1977. Applicant: Y's TRUCKING CO., INC., 2378 Caladium Drive NE., Atlanta, Ga. 30345. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of: *Plastic articles*, from the plantsite of Rehrig Pacific Co., located at or near Doraville (Gwinnett County), Ga., to points in Alabama, Georgia, North Carolina, south Carolina, Florida, Mississippi, Louisiana, Arkansas, Oklahoma, Texas, Tennessee, Kentucky, Illinois, Indiana, Ohio, and St. Louis, Mo., under a continuing contract or contracts, with Rehrig Pacific Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143949 (Sub-No. 1), filed November 7, 1977. Applicant: JOHN GALT LINE, INC., 9600 Lucas Ranch Road, Cucamonga, Calif. 91730. Applicant's representative: Lucy Kennard Bell, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Applicant seeks authority as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Mini motor homes and recreational vehicles*, in truckaway and driveaway service, from the plantsites and facilities of Dolphin Camper Co. and Roust-a-bout of California, Inc., located in Los Angeles and San Bernardino Counties, Calif., to points in Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Texas, Utah and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 143983 filed November 4, 1977. Applicant: MEL-KRIS TRUCKING CORP., 803 East 27th Street, Paterson, N.J. 07513. Applicant's repre-

sentative: Meyer Stein, 400 Madison Avenue, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, between Paterson, N.J. on the one hand, and on the other hand, Glens Falls, N.Y., under a continuing contract or contracts with Native Textiles, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either New York City or Albany, N.Y.

No. 143414 (Sub-No. 1), filed November 25, 1977. Applicant: SAVICK TRUCKING SERVICE, INC., 9116 Pawnee Road, Homerville, Ohio 44235. Applicant's representative: Edwin F. Savick, 9116 Pawnee Road, Homerville, Ohio 44235. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, and animal health aid and sanitation products and dry feed ingredients* between Port Wayne, Ind., plantsite of Allied Mills, Inc. and points in Ohio under a continuing contract with Allied Mills, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Cleveland or Columbus, Ohio.

No. MC 143453 (Sub-No. 1), filed November 28, 1977. Applicant: HORSELESS CARRIAGE CARRIERS, INC., 150 Fayette Avenue, Wayne, N.J. 07470. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antique automobiles and classic cars*, in secondary movements, in truckaway service between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Wayne, N.J.

No. MC 144039, filed November 28, 1977. Applicant: PELLA CANNING AND PROCESSING, INC., 300 South Street, P.O. Box 83, Pella, Iowa 50219. Applicant's representative: Tom Talbott, 300 South Street, P.O. Box 83, Pella, Iowa 50219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned fruit-flavored drinks and dry powdered fruit flavored beverage preparations*, between Pella, Iowa, on the one hand, and, on the other, points in Illinois, Kansas, Indiana, Missouri, Nebraska, and South Dakota, under a continuing contract, or contracts, with the Coca-Cola Co., Foods Division.

NOTE.—Should a hearing be deemed necessary, applicant requests it be held at Des Moines, Iowa.

No. MC 144043, filed November 25, 1977. Applicant: MILLER DELIVERY



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SERVICE, INC., 227 North Main Street, Findlay, Ohio 45840. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks authority as a *contract carrier* by motor vehicle over irregular routes in the transportation of: *Electronic components and electronic devices*, from the plantsite of RCA Corp. at or near Findlay, Ohio, to Detroit Metropolitan Airport and Willow Run Airport, Mich., under contract with RCA Corp. of Findlay, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 228 (Sub-No. 76), filed November 9, 1977. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, N.J. 07430. Applicant's representative: Michael J. Marzano, 99 Kinderkamack Road, Westwood, N.J. 07675. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations, beginning and ending at points in Dutchess, Putnam, Orange, Sullivan, Ulster, Delaware, and Broome Counties, N.Y., and points in Rockland County, N.Y., located west of a line which begins at the point on the southerly boundary line of Rockland County where it is intersected by Saddle River Road, thence along Saddle River Road to its junction with South Monsey Road, thence along South Monsey Road to its junction with College Road, thence along College Road to its junction with Forshay Road, thence along Forshay Road to its junction with Wilder Road, thence along Wilder Road to its junction with U.S. Highway 202, thence along U.S. Highway 202 to its junction with New York Highway 306, thence along New York Highway 306 to its junction with Willow Grove Road, thence along Willow Grove Road to its junction with Palisades Interstate Parkway thence along Palisades Interstate Parkway to the Rockland-Orange County boundary line, and extending to Atlantic City, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Newburgh, N.Y.

No. MC 115337 (Sub-No. 1), filed November 7, 1977. Applicant: OLIN L. CHAMBERLAIN, d.b.a. CHAMBERLAIN'S BUS SERVICE, Box 54, R.D. No. 1, Covington, Pa. 16917. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, and in special operations in round-trip sightseeing and

pleasure tours, beginning and ending at Mansfield and Wellsboro, Pa., and points in their commercial zones, and extending to points in Delaware, Maryland, New Jersey, New York, Ohio, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg Pa.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2148 Filed 1-25-78; 8:45 am]

## [7035-01]

## OPERATING AUTHORITY APPLICATIONS; ORAL HEARINGS

## Special Orders

JANUARY 18, 1978.

All interested persons are advised that commencing February 1, 1978, special orders will be promptly issued in all operating authority applications referred to the Office of Hearings for oral hearing. These orders will call upon all parties to confer promptly to determine whether any issues can be reduced or eliminated by amendment or otherwise. Applicants will have 30 days from the service date of the order to request approval of any proposed amendments. Protestants will have 45 days from the service date of the order to notify the Commission of their intent to participate in the hearing or to withdraw. Failure of a protestant to notify the Commission will be construed as a waiver of its right to further participation.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2273 Filed 1-25-78; 8:45 am]

[Volume No. 55]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Railroad Abandonments, Alternate Route Deviations, and Intrastate Applications

JANUARY 20, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket," "sub," and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested au-

thority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 3581 (Sub-No. 1) (M1) (notice of filing of petition to modify certificate and remove restriction), filed December 9, 1977. Petitioner: THE MOTOR CONVOY, INC., P.O. Box 82432, Hapeville, Ga. 30054. Petitioner's representative: Edward Wolcott, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Petitioner holds a motor *common carrier* certificate in No. MC 3531 (Sub-No. 1), issued April 24, 1951, authorizing as pertinent transportation over irregular routes (A) *automobiles and trucks, finished or unfinished, tractors and chassis in driveway and truckaway service in secondary movements, between points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, restricted against the transportation (1) of shipments moving from Guntersville, Ala., and Memphis, Tenn., which have previously moved to such points by barge, and (2) of shipments which have originated at Detroit, Mich., or Toledo, Ohio and are destined to any point in North Carolina or South Carolina; and (B) automobiles and truck bodies and cabs, automobile show equipment, paraphernalia, and display material, between points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, subject to the restriction that neither parts nor accessories shall be transported at the same time as, and in the same vehicle in which the transportation of the commodities authorized herein is being performed.*

By the instant petition, petitioner seeks to modify part (a) so as to authorize the transportation of tractor attachments, parts and accessories when moving at the same time and in the same vehicle with tractors. Petitioner further seeks to remove the restriction in part (b) prohibiting the transportation of parts and accessories in the same vehicle and at the same time in which the transportation of other authorized commodities is being performed.

No. MC 6516 (Sub-No. 2)(M1) (notice of filing of petition to add an origin

\*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

and destination point), filed December 8, 1977. Petitioner: TRIBORO TRUCKING INC., 439 Orchard Street, Carlstadt, N.J. 07072. Petitioner's representative: Robert Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor *common carrier* permit in No. MC 6516 (Sub-No. 2), issued June 18, 1969, authorizing transportation over irregular routes of *grease, soap, oil, paint, varnish, disinfectant, and water proofing material* from Belleville, N.J., to points in Hudson, Essex, Union, and Passaic Counties, N.J., that part of Connecticut west of the Connecticut River, those in that part of New York on and south of a line beginning at the Connecticut-New York State Line and extending along U.S. Highway 6 to junction New York Highway 17M, near Central Valley, N.Y., thence along New York Highway 17M to junction U.S. Highway 6 near Goshen, N.Y., thence along U.S. Highway 6 to the New York-Pennsylvania State Line, and those in that part of Pennsylvania east of a line beginning at Lewisville, Pa., and extending northerly through Parkersburg, Reading, Hazleton, Tunkhannock, and Montrose, Pa., to the Pennsylvania-New York State Line, including the points specified; and such above specified commodities as are damaged or refused and empty containers therefor, from points in the above specified destination territory, to Belleville, N.J. By the instant petition, petitioner seeks to add Philadelphia, Pa., as an origin and destination point.

No. MC 114552 (Sub-Nos. 3, 12, 13, 18, 98G, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, E13, E50, and E51)(M1) (notice of filing of petition to broaden commodity), filed October 14, 1977. Petitioner: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Petitioner's representative: William P. Jackson, Jr., P.O. Box 1267, Arlington, Va. 22210. Petitioner holds motor *common carrier* certificates in Nos. MC 114552 (Sub-No. 3) issued July 17, 1961; MC 114552 (Sub-No. 12) issued July 13, 1961; MC 114552 (Sub-No. 13) issued September 26, 1961; MC 114552 (Sub-No. 18) issued June 22, 1964; and MC 114552 (Sub-No. 98G) issued Sept. 19, 1975; petitioner also holds letter-notices in MC 114552 (Sub-No. E3), published in the FEDERAL REGISTER issue of August 19, 1974, and republished, as corrected, in the FEDERAL REGISTER issues of July 28, 1976 and January 12, 1977; MC 114552 (Sub-No. E4), published in the FEDERAL REGISTER issue of September 10, 1974, and republished, as corrected, in the FEDERAL REGISTER issue of October 8, 1974; MC 114552 (Sub-No. E5), published in the FEDERAL REGISTER issue of September 24, 1974; MC 114552 (Sub-No. E6), published in the FEDERAL REGISTER issue of October 3,

1974; MC 114552 (Sub-No. E7), published in the FEDERAL REGISTER issue of October 10, 1974, and republished, as corrected, in the FEDERAL REGISTER issue of November 7, 1974; MC 114552 (Sub-No. E8) published in the FEDERAL REGISTER issue of May 28, 1975, and republished, as corrected, in the FEDERAL REGISTER issue of July 1, 1975; MC 114552 (Sub-No. E9) published in the FEDERAL REGISTER issue of June 3, 1975, and republished, as corrected, July 1, 1975; MC 114552 (Sub-No. E10) published in the FEDERAL REGISTER issue of May 28, 1975; MC 114552 (Sub-No. E11) published in the FEDERAL REGISTER issue of August 11, 1975; MC 114552 (Sub-No. E12) published in the FEDERAL REGISTER issue of June 17, 1975, and republished, as corrected in the FEDERAL REGISTER issue of March 23, 1977; MC 114552 (Sub-No. E13) published in the FEDERAL REGISTER issue of July 28, 1975; MC 114552 (Sub-No. E50) published in the FEDERAL REGISTER issue of July 18, 1975; and MC 114552 (Sub-No. E51) published in the FEDERAL REGISTER issue of June 13, 1975, authorizing transportation, over irregular routes, of *lumber* (except plywood and veneer), generally between points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. By the instant petition, petitioner seeks to broaden the commodity description by deleting the exceptions.

No. MC 123993 (Sub-No. 17) (M1) (notice of filing of petition to change origin point), filed December 22, 1977. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, La. 70526. Applicant's representative: Austin L. Hatchell, 1102 Perry Brooks Building, Austin, Tex. 78701. Petitioner holds a motor *common carrier* certificate in MC 123993 (Sub-No. 17), issued September 20, 1971, authorizing the transportation of: *Sugar, in bags*, from the plantsite of Southdown Sugars, Inc. at Houma, La. to points in Alabama and Mississippi. By the instant petition, petitioner seeks to change the origin of such authority so that it will read: "Sugar, in bags, from Supreme, La. to points in Alabama and Mississippi.

No. MC 138899 (Sub-No. 2) (M1) (notice of filing of petition to substitute contracting shipper), filed December 5, 1977. Petitioner: GREEN RIVER TRANSPORTATION CO. INC., Central City, Ky. 42330. Petitioner's representative: Kenneth Kusch, 107 North Railroad Street, P.O. Box 655, Central City, Ky. 42330. Petitioner holds a motor *contract carrier* permit in MC 138899 (Sub-No. 2) issued August 19, 1977, authorizing transportation over irregular routes of *Wooden pallets, boxes, crates and bases* from points in Muhlenberg

County, Ky., to points in Indiana and Illinois; and *lumber*, from the destination points above to the facilities of Expendable Pallet Manufacturing Co. Inc., in Muhlenberg County, Ky., under continuing contract or contracts with Expendable Pallet Manufacturing Co. Inc., of Muhlenberg, Ky. By the instant petition, petitioner seeks to substitute Geibel Lumber Co. Inc., as the contracting shipper in lieu of Expendable Pallet Manufacturing Co.

No. MC 139495 (Sub-No. 13) (M1) (notice of filing of petition to add commodity description), filed December 5, 1977. Petitioner: NATIONAL CARRIERS INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, Kans. 67901. Petitioner's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, Md. 20910. Petitioner holds a motor *common carrier* certificate in No. MC 139495 (Sub-No. 13), issued November 2, 1977 authorizing transportation over irregular routes of *Sodium bicarbonate and sodium carbonate* (except in bulk and except soda ash) from the facilities of Church & Dwight Co., Inc., located in Sweetwater County, Wyo., to points in Alabama, Mississippi, Louisiana, Arkansas, Iowa, Indiana, Ohio, Kentucky, Michigan, Tennessee, Missouri, Nebraska, Kansas, Oklahoma, and Texas. By the instant petition, petitioner seeks to add *cleaning, scouring, and washing compounds* to the commodity description.

No. MC 140484 (Sub-No. 17) (M1) (notice of filing of petition to add origin point), filed December 27, 1977. Petitioner: LESTER COGGINS TRUCKING INC., 2671 East Edison Avenue, P.O. Box 69, Fort Myers, Fla. 33901. Petitioner's representative: Chester A. Zyblut, 1030 15th Street NW., Washington, D.C. 20007. Petitioner holds a motor *common carrier* certificate in No. MC 140484 (Sub-No. 17), issued October 31, 1977, authorizing transportation over irregular routes, *Glassware, chinaware, earthenware, porcelain, stoneware, plastic bowls, cups, dishes, and plates*, between Lake City and Jeannette, Pa., and Sebring, Ohio, on the one hand, and, on the other, points in Alabama, Arkansas, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, Oklahoma, Tennessee, and Texas. By the instant petition, petitioner seeks to add the plantsite and storage facilities of Walker China Co., located in Bedford Heights, Ohio as an origin point.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATION

The following applications are governed by special rule 247 of the Commission's General Rules of Practice (49 CFR §1100.247). These rules pro-



## NOTICES

vide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the *FEDERAL REGISTER*. Failure to seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority, which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the *FEDERAL REGISTER* of a notice that the proceeding has been assigned for oral hearing. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 21684 (Sub-No. 25), filed December 1, 1977. Applicant: CHARLES E. DANBURY CO., a corporation, 292 South Fifth Street, Cincinnati, Ohio 45176. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, trailer chassis, semitrailers, semitrailer chas-*

*sis, container trailers, trailer converter dollies, and parts and accessories for the foregoing commodities*, from Denton County, Tex., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Pullman, Inc. (Trailer mobile Division) located at Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Cincinnati, Ohio, or Chicago, Ill.

No. MC 37896 (Sub-No. 26), filed December 2, 1977. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 778, Fletcher, N.C. 28732. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stoves and stove parts*, from points in Buncombe County, N.C., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Asheville, N.C.

No. MC 47171 (Sub-No. 101), filed December 2, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals; coal tar dyes (except indigo); softeners, fabric or textile; cleaning compounds; and dye intermediates (except commodities in bulk)*, from Toms River, N.J., to Charlotte, N.C. and Lobero, S.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Washington, D.C., or Columbia, S.C.

No. MC 50069 (Sub-No. 528), filed December 5, 1977. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum lubricating oil*, in bulk, in tank vehicles, from Detroit, Mich., and Cleveland, Ohio, to points in Minnesota.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 59150 (Sub-No. 108), filed November 2, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville,

Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hardwood flooring*, from Memphis, Tenn., and Grenada, Miss., to points in Georgia, Florida, and Alabama; and (2) *lumber*, from New Orleans, La., to points in Alabama, Georgia, Mississippi, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn.

No. MC 60014 (Sub-No. 63), filed November 30, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Copper articles* from Pulaski, Tenn., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Oklahoma, and Texas; and (2) *scrap copper* from points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, Oklahoma, and Texas to Pulaski, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn., or Washington, D.C.

No. MC 60014 (Sub-No. 64), filed November 30, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, lumber and lumber products, plywood and machinery*, from Savannah, Ga., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga., or Washington, D.C.

No. MC 64932 (Sub-No. 580), filed December 12, 1977. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur Trioxide*, in bulk, in tank vehicles, from the plantsite of E. I. duPont de Nemours & Co. at Fort Hill, Ohio, to Millsdale, Ill., Midland and St. Louis, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 67156 (Sub-No. 1), filed December 5, 1977. Applicant: CONTAINER TRANSPORT CO., a corporation, 55 Francisco Street, San Francisco, Calif. 94133. Applicant's representative: Patrick Pollock (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles* from the plantsite of Pacific Paperboard Products, Inc., at Stockton, Calif., to Oakland and San Francisco, Calif. Restriction: The operations authorized herein are limited to shipments in containers via piggyback service or ocean carriage, under a continuing contract or contracts with Pacific Paperboard Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco or Stockton, Calif.

No. MC 68860 (Sub-No. 28), filed November 21, 1977. Applicant: RUSSELL TRANSFER, INC., 444 Glenmore Drive, Salem, Va. 24153. Applicant's representative: Linell G. Gregory, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, N.C., to points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, South Carolina, Virginia, West Virginia, Ohio, and the District of Columbia; and (2) *materials, supplies and equipment* used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers (except commodities in bulk), from points in Alabama, Delaware, Florida, Georgia, Kentucky, Maryland, South Carolina, Ohio, Virginia, West Virginia, and the District of Columbia, to Eden, N.C., restricted against the transportation of commodities in bulk, in tank vehicles, or commodities requiring the use of special equipment.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Roanoke, Va.; Washington, D.C., or Charlotte, N.C.

MC 71452 (Sub-No. 15), filed November 28, 1977. Applicant: INDIANA TRANSIT, INC., 4300 West Morris Street, Indianapolis, Ind. 46241. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority is sought to operate as a motor *common carrier* in interstate or foreign commerce, over irregular routes, transporting: *General commodities (except classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and articles which, because of size or weight, require special equipment)*, between points in Adams, Allen, Bartholomew, Blackford, Boone, Brown, Carroll, Cass, Clay, Clinton, Daviess, Decatur,

Delaware, Fayette, Fulton, Gibson, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Howard, Huntington, Jackson, Jay, Jennings, Johnson, Knox, Kosciusko, Lawrence, Madison, Marion, Martin, Miami, Monroe, Montgomery, Morgan, Owen, Parke, Posey, Putnam, Randolph, Rush, Shelby, Sullivan, Tippecanoe, Tipton, Vanderburgh, Vigo, Wabash, Wayne, Wells, White, Whitley, Ripley, Jefferson, Scott, Orange, and Dubois Counties, Ind.; Hamilton County, Ohio; McCracken and Graves Counties, Ky.; Fayette and Macon Counties, Ill.; and Louisville, Ky. Restricted against the transportation of single articles or pieces which exceed 100 pounds in weight.

NOTE.—If a hearing is deemed necessary applicant requests that it be held at Indianapolis, Ind.

No. MC 74321 (Sub-No. 138), filed December 9, 1977. Applicant: B. F. Walker, Inc., P.O. Box 17-B, Denver, Colo. 80217. Applicant's representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, Colo. 80209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles and construction materials (except in bulk)*, from facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies, at or near Lansing, Mich.; Grand Rapids, Mich.; Petoskey, Mich.; Holland, Mich.; Detroit, Mich.; Milwaukee, Wis.; Chicago, Ill.; Blue Island, Ill.; Joliet, Ill.; Kokomo, Ind.; Fort Wayne, Ind.; North Judson, Ind.; Elkhart, Ind.; Cicero, Ind.; Centerville, Iowa; West Des Moines, Iowa; Denver, Colo.; Albuquerque, N. Mex.; Jackson, Miss.; Columbus, Ohio; Toledo, Ohio; Kingsport, Tenn.; Knoxville, Tenn.; South Pittsburgh (Richard City), Tenn.; Atlanta, Ga.; Salisbury, N.C.; Cabot, Pa.; Nazareth, Pa.; North Arlington, N.J.; and Newton, Kans., to points in the United States, except Alaska, Connecticut, Hawaii, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont; and (2) *materials, equipment and supplies (except in bulk)* used in the manufacture and distribution of commodities named in (1) above, from points in the United States, except Alaska, Connecticut, Hawaii, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, to facilities of or utilized by Penn-Dixie Industries, Inc., Penn-Dixie Steel Corp., and subsidiaries of the foregoing companies, at or near points named in (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held in Indianapolis, Ind., Chicago, Ill., or Washington, D.C. Prehear-

ing conference, January 31, 1978, at 9:30 a.m., local time, at the offices of the Interstate Commerce Commission in Washington, D.C.

No. MC 75281 (Sub-No. 12), filed December 1, 1977. Applicant: RIGHTER TRUCKING CO., INC., 1238 Meadowbrook Drive, Cape Girardeau, Mo. 63701. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ground silica*, from Alexander County, Ill., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cairo, Ill.

No. MC 78400 (Sub-No. 57), filed November 28, 1977. Applicant: BEAUFORT TRANSFER CO., a corporation, P.O. Box 151, Gerald, Mo. 63037. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glasshouse pots and accessories*, requiring protection from freezing service; and, (2) *refractory and refractory products*, from the plantsite and facilities of Laclede-Christy Clay Products Co. at Owensville, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis or Jefferson City, Mo.

No. MC 82079 (Sub-No. 56), filed December 2, 1977. Applicant: KELLER TRANSFER LINE, INC., 5635 Clay Avenue SW., Grand Rapids, Mich. 49508. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products (except in bulk)*, in mechanically refrigerated vehicles, from the plantsites and warehouse facilities of E. J. Brach & Sons, Inc., in Chicago and Carol Stream, Ill., to points in Michigan on, east and south of a line beginning at the intersection of U.S. Highway 23 and the Michigan-Ohio State line, and extending along U.S. Highway 23 north to its junction with Michigan Highway 21, then east along Michigan Highway 21 to its junction with Michigan Highway 15, then along Michigan Highway 15 to Bay City, Mich., restricted to traffic



## NOTICES

originating at the named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich. or Chicago, Ill.

No. MC 84739 (Sub-No. 27), filed: November 28, 1977. Applicant: SEVERSON TRANSPORT, INC., 621 Albion Road, Edgerton, Wis. 53534. Applicant's representative: Michael S. Varda, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned goods*, from the facilities of Krier Preserving Co. located at or near Belgium and Random Lake, Wis. to points in Pennsylvania on and west of U.S. Highway 15.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 97699 (Sub-No. 47), filed November 28, 1977. Applicant: BARBER TRANSPORTATION CO., a corporation, P.O. Drawer 1970, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 1660 Lincoln Center, 1600 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Campbell, Sheridan, Johnson, Weston and Crook Counties, Wyo., as off-route points in connection with the carrier's authorized regular-route operations between Spearfish, S. Dak. and Billings, Mont.,*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Rapid City, S. Dak.

No. MC 103993 (Sub-No. 911), filed December 5, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani, (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings*, from Tulsa, Okla., to points in Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, Alabama, Pennsylvania, Maryland, New Jersey, West Virginia, Virginia and Delaware.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla.

No. MC 106674 (Sub-No. 273), filed December 2, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123,

Remington, Ind. 47977. Applicant's representative: Linda J. Sundry, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solution* from the storage facilities of CF Industries, Inc., at or near Burns Harbor, Ind. to points in Michigan and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill., or Indianapolis, Ind.

No. MC 108676 (Sub-No. 114), filed November 28, 1977. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, Tenn. 37917. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Aluminum products and aluminum extrusions, and parts, materials and attachments* used in the assembly thereof, from the plantsite of Jarl Extrusions, Inc. located at Elizabethton, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Nashville, Tenn. or Atlanta, Ga.

No. MC 110525 (Sub-No. 1216), filed November 2, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chicken fat*, in bulk, in tank vehicles, from Linville and Winchester, Va. to Maspeth, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in New York, N.Y.

No. MC 110817 (Sub-No. 23), filed November 18, 1977. Applicant: E. L. FARMER & CO., a corporation, P.O. Box 3512, Odessa, Tex. 79760. Applicant's representative: J. Michael Alexander, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bentonite* (except those commodities described in the Mercer description) from points in Big Horn County, Wyo. to points in Texas, New Mexico, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at (1) Houston, Tex. or (2) Dallas, Tex.

No. MC 111231 (Sub-No. 223), filed November 14, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: James B. Blair, 111 Holcomb Street, P.O. Box 869,

Springdale, Ark. 72764. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), (1) between New Orleans, La., and Hattiesburg, Miss., serving all intermediate points: From New Orleans over U.S. Highway 90 to junction U.S. Highway 11, thence over U.S. Highway 11 via Slidell, La., to Hattiesburg, and return over the same route; (2) between Mobile, Ala., and Poplarville, Miss., serving the intermediate point of Wiggins, Miss.: From Mobile over U.S. Highway 98 to junction Mississippi Highway 26 near Lucedale, Miss., thence over Mississippi Highway 26 to Poplarville, and return over the same route; (3) between Livingston, Ala., and Hattiesburg, Miss., serving all intermediate points: From Livingston over U.S. Highway 11 (also over Interstate Highway 59) to Hattiesburg, and return over the same route; (4) between Vicksburg, Miss., and Meridian, Miss., serving all intermediate points: From Vicksburg over U.S. Highway 80 (also 20) to Meridian, and return over the same route; (5) Between Jackson, Miss., and New Orleans, La., serving all intermediate points: From Jackson over U.S. Highway 51 to its junction with Interstate Highway 10, thence over Interstate Highway 10 to New Orleans (also Interstate Highway 55 and Interstate Highway 10), and return over the same route; (6) between Brookhaven, Miss., and Laurel, Miss., serving all intermediate points: From Brookhaven over U.S. Highway 84 to Laurel, and return over the same route; (7) between Jackson, Miss., and Gulfport, Miss., serving all intermediate points: From Jackson over U.S. Highway 49 to Gulfport, and return over the same route; (8) between Hattiesburg, Miss., and Lucedale, Miss., serving all intermediate points: from Hattiesburg over U.S. Highway 98 to Lucedale, and return over the same route; (9) between Mobile, Ala., and the junction of U.S. Highway 11 and Interstate Highway 10 near Slidell, La., serving all intermediate points in Louisiana: from Mobile over Interstate Highway 10 (also U.S. Highway 90) to its junction with U.S. Highway 11 near Slidell, and return over the same route; (10) Between Slidell, La., and Lafayette, La., serving all intermediate points: from Slidell over U.S. Highway 190 (also over Interstate Highway 12 and Interstate Highway 10), and return over the same route; (11) between Baton Rouge, La., and New Orleans, La., serving all intermediate points: from Baton Rouge over U.S. Highway 61 to New Orleans, and return over the same route; (12) be-

tween Hattiesburg, Miss., and McComb, Miss., serving all intermediate points: from Hattiesburg over U.S. Highway 98 to McComb, and return over the same route; (13) between Leland, Miss., and Vicksburg, Miss., serving no intermediate points: from Leland over U.S. Highway 61 to its junction with Interstate Highway 20, thence over Interstate Highway 20 to Vicksburg, and return over the same route; (14) Serving as off-route points in connection with the regular routes described above, points in Louisiana and Mississippi within 200 miles of Poplarville, Miss.; alternate routes for operating convenience only: (15) between junction U.S. Highway 61 and 80 and Interstate Highway 20 bypass north and east of Vicksburg, Miss., and Baton Rouge, La., in connection with carrier's regular-route operations serving no intermediate points but serving Vicksburg, Miss., for purpose of joinder and local service. From junction U.S. Highways 61 and 80 and Interstate Highway 20 bypass north and east of Vicksburg, Miss., over U.S. Highway 61 to junction U.S. Highway 80 and Interstate Highway 20, thence over combined U.S. Highway 80 and Interstate Highway 20 to junction U.S. Highway 61, thence over U.S. Highway 61 to Baton Rouge, and return over the same route.

NOTE.—Any duplication of authority requested herein shall not be construed as conferring more than one operating right.

It is further requested that the certificate requested herein supersede certificate number MC 11231, Sub-No. 192 dated January 23, 1976. Said application intends to convert irregular-route authority to regular-route authority. If a hearing is deemed necessary, the applicant requests it be held in Jackson, Gulfport and Biloxi, Miss., Baton Rouge and New Orleans, La.

No. MC 111310 (Sub-No. 27), filed December 1, 1977. Applicant: BEER TRANSIT, INC., P.O. Box 352, Black River Falls, Wis. 54615. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when shipped therewith from Milwaukee, Wis. to St. Cloud, Minn.; (2) *rejected shipments and empty malt beverage containers* from St. Cloud, Minn., to Milwaukee, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Black River Falls, Wis.

No. MC 112520 (Sub-No. 246), filed November 28, 1977. Applicant: MCKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Ap-

plicant's representative: Thomas F. Panebianco (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between points in Monroe County, Ala., on the one hand, and, on the other, points in Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Mobile, Ala., or Atlanta, Ga.

No. MC 113855 (Sub-No. 394), filed December 1, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Agricultural implements and agricultural implement parts*, between Big Stone County, Minn., and Ward County, N. Dak., on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 114045 (Sub-No. 488), filed November 28, 1977. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, Dallas-Fort Worth Airport, Tex. 75261. Applicant's representative: Arnold L. Burke, 180 N. LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Citrus products*, frozen and nonfrozen, from Weslaco, Tex., to points in California, Colorado, Oklahoma, Oregon, and Washington,

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex., or Brownsville, Tex. Common control may be involved.

No. MC 114552 (Sub-No. 143), filed November 30, 1977. Applicant: SENN TRUCKING CO., a corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plywood, core stock, panelling, and composition board*, from Savannah, Ga., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

NOTE.—If an oral hearing is deemed necessary, applicant requests that it be held in Savannah, Ga.

No. MC 114569 (Sub-No. 202), filed December 5, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), between the facilities of Premier Bone-less Meats, Inc., at or near Lyons, Nebr., and points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Washington, D.C.

No. MC 114890 (Sub-No. 76), filed December 1, 1977. Applicant: C. E. REYNOLDS TRANSPORT, INC., P.O. Box A, Joplin, Mo. 64801. Applicant's representative: T. M. Brown, 223 Ciudad Building, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Nitrogen fertilizer solutions*, in bulk, in tank vehicles, from Trenton, Mo., to points in Kansas, Nebraska, Iowa, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Memphis, Tenn., or St. Louis, Mo.

No. MC 115841 (Sub-No. 579), filed November 8, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *New furniture, crated, and new furniture, uncrated*, as described in appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from points in Alamance, Beaufort, Chatham, Davie, Davidson, Forsyth, Guilford, Lee, Moore, Nash, Orange, Randolph, Rowan, Stanly, Surry, and Wayne Counties, N.C., to points in Arkansas, Louisiana, Mississippi, Texas, and Oklahoma. Restriction: New furniture, uncrated, moving to points in Oklahoma and Texas, shall be transported only in mixed loads with new furniture, crated; (2) *new furniture, crated and uncrated*, as described in appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Toccoa, Ga., to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, Okla-



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ma, South Carolina, Tennessee, and Texas; (3) *new furniture*, from points in that part of North Carolina on, east, and south of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 29 to Reidsville, N.C., thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to Statesville, N.C., thence along U.S. Highway 21, to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line to points in Georgia, South Carolina, Florida, and Alabama; and (4) *new furniture*, from points in North Carolina east of Transylvania, Haywood, Madison, Yancey, Mitchell, Avery, Watauga, Ashe, and Alleghany Counties to points in Georgia, Florida, Alabama, Arkansas, Louisiana, Oklahoma, Texas, and Mississippi.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Raleigh, N.C.

No. MC 115904 (Sub-No. 88), filed November 30, 1977. Applicant: GROVER TRUCKING CO., 1710 West Broadway, Idaho Falls, Idaho 83401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic, plastic articles, plastic pipe, tubing, fittings, connections and materials, supplies and accessories used in the manufacture and installation, thereof* (except in bulk in tank vehicles), between the facilities of Robintech, Inc., located at or near Grinnell, Iowa, Rolla, Mo., and Hillsboro, Tex., on the one hand and on the other points in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or Washington, D.C. Common control may be involved.

No. MC 116880 (Sub-No. 8), filed December 5, 1977. Applicant: WALTER D. DAVIS, INC., Bangor Street, Houlton, Maine 04730. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Citrus juices*, in bottles, in mixed loads with exempt commodities, from Boston, Mass., to ports of entry on the international boundary line between the United States and Canada located at or near Houlton and Calais, Maine, under a continuing contract or contracts with Atlantic Wholesalers.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Maine or Boston, Mass.

No. MC 117613 (Sub-No. 23), filed November 25, 1977. Applicant: D. M.

BOWMAN, INC., Route 9, Box 26, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste oils*, from points in New Jersey, Pennsylvania, and Delaware, to Baltimore, Md., under a continuing contract, or contracts, with Maryland Liquid Disposal, Inc.

NOTE.—Applicant holds motor common authority in No. MC-138438 (Sub-No. 7) and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 118159 (Sub-No. 234) filed November 25, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials* from Eden, N.C. to points in and east of Wisconsin, Illinois, Missouri, Louisiana, and Arkansas; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of malt beverages, and *returned empty malt beverage containers* (except commodities in bulk), from points in and east of Wisconsin, Illinois, Missouri, Louisiana, and Arkansas to Eden, N.C.; and (3) *malt beverages and related advertising materials* between Fulton, N.Y.; Eden, N.C.; Milwaukee, Wis.; and Fort Worth, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 118202 (Sub-No. 82), filed November 30, 1977. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Thomas J. Beener, Waterloo Savings Bank Building, Suite 340, West Part at Cedar, P.O. Box 5,000, Waterloo, Iowa 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products*, and articles distributed by *meat packinghouses* as described in section A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk, from the facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Iowa, Kentucky, Minnesota, and Wisconsin).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 119531 (Sub-No. 164), filed November 30, 1977. Applicant: SUN

EXPRESS, INC., P.O. Box 1031, Warren, Ohio 44482. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio, 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and covers*, from Leetsdale, Pa. to points in Illinois.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Columbus, Ohio.

No. MC 119917 (Sub-No. 47), filed December 1, 1977. Applicant: DUDLEY TRUCKING CO., INC., 724 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: William F. Dudley, 724 Memorial Drive SE., Atlanta, Ga. 30316. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from the facilities of Midland Glass Co. located at or near Warner Robbins, Ga., to points in Williamsburg, Va. and points within its commercial zone.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J. or Atlanta, Ga.

No. MC 123069 (Sub-No. 21), filed December 5, 1977. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, Ohio 43212. Applicant's representative: Paul R. Bergant, 10 South La Salle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products, in packages* from Rittman, Fairport, and Lodi, Ohio to points in Indiana and the Chicago, Ill. Commercial Zone.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123069 (Sub-No. 22), filed December 5, 1977. Applicant: ALLER & SHARP, INC., 817 West Fifth Avenue, Columbus, Ohio 43212. Applicant's representative: Paul R. Bergant, 10 South La Salle Street, Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products, in packages*, from Akron, Ohio, to points in Indiana and the Chicago, Ill. Commercial Zone.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 417), filed November 28, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hy-*

*drants, castings, and materials and supplies* used in the installation thereof from Birmingham, Ala., to points in Utah and points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 418), filed December 1, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Chicago Heights, Ill., to points in Indiana, Wisconsin, Ohio, Michigan, Kentucky, and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 123407 (Sub-No. 419), filed December 1, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, fittings, valves, hydrants, castings, and materials and supplies used in the installation thereof* (except commodities in bulk) from the plantsite and storage facilities of Clow Corp., near Lincoln, Talladega County, Ala., to points in the United States (except Alaska, Hawaii, Iowa, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 123579 (Sub-No. 4), filed November 28, 1977. Applicant: HARBOUT AIR FREIGHT SERVICE, INC., 3570 Quakerbridge Road, P.O. Box 3215, Trenton, N.J. 08619. Applicant's representative: Russell S. Bernhard, 1625 K Street NW, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, John F. Kennedy International Airport, New York, N.Y., restricted to transportation of traffic having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. Common control may be involved.

No. MC 124078 (Sub-No. 758), filed November 2, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils and products thereof*, in bulk, in tank vehicles, (1) from the plantsite and/or warehouse facilities of Cargill, Inc., located at or near Gainesville, Ga., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas; and (2) from points in Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas and Virginia, to the plantsite and/or warehouse facilities of Cargill, Inc. located at or near Gainesville, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga. Common control may be involved.

No. MC 124078 (Sub-No. 765), filed December 1, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials, dry*, in bulk, in tank vehicles, from Illinois, Ill., to points in Iowa, Missouri, Minnesota, Wisconsin, Michigan, Indiana, Ohio, Kentucky, Virginia, Tennessee, Mississippi, Georgia, and Massachusetts.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio or Chicago, Ill. Common control may be involved.

No. MC 124692, (Sub-No. 188), filed December 20, 1977. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, Ind. 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel, zinc, lead, and articles or products thereof, building materials, construction materials, supplies and equipment*, and (2) *materials, supplies and equipment used in the manufacture and distribution of commodities named in (1) above* (except in bulk), from (A) the plantsites and warehouse facilities of Penn-Dixie Steel Corp. and Penn-Dixie Steel Industries, Inc., and Stephens Spring Co. located at or near Kokomo and Elkhart, Ind.;

Toledo and Columbus, Ohio; Lansing and Grand Rapids, Mich.; Denver, Colo.; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island and Joliet, Ill.; Nazareth and Cabot, Pa.; Petoskey, Holland and Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Richard City, Tex.; North Judson, Ind.; Cicero, Ind. and Newton, Kans., to points in the U.S. (except Alaska, Hawaii, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, District of Columbia, New Jersey, New York, Delaware, Maryland, West Virginia, Virginia, North Carolina, Georgia, Alabama, Mississippi and Florida); and (B) from points in the United States (except Alaska, Hawaii, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, District of Columbia, New Jersey, New York, Delaware, Maryland, West Virginia, Virginia, North Carolina, Tennessee, South Carolina, Georgia, Alabama, Mississippi and Florida), to the plantsites and warehouse facilities of Penn-Dixie Steel Corp., Penn-Dixie Steel Industries, Inc., and Stephens Spring Co. located at or near Kokomo, Ft. Wayne, and Elkhart, Ind.; Toledo and Columbus, Ohio; Albuquerque, N. Mex.; Centerville, Iowa; Blue Island, Ill.; Joliet, Ill.; Petoskey, Holland and Detroit, Mich.; Chicago, Ill.; Milwaukee, Wis.; West Des Moines, Iowa; Richard City, Tex.; Atlanta, Ga.; Salisbury, N.C.; North Arlington, N.J.; North Judson, and Cicero, Ind. and Newton, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Prehearing conference, January 31, 1978 at 9:30 a.m. at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 124774 (Sub-No. 101), filed December 1, 1977. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Drive, P.O. Box 7344, Omaha, Nebr. 68107. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, Iowa 51104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in descriptions in motor carrier certificates 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsites and storage facilities of Premier Boneless Meats at or near Lyons, Nebr. to points in Connecticut, Delaware, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: Restricted to the transportation of shipments originating at the above-de-



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scribed shipper plantsites and storage facilities at or near the named origins and destined to the named destination points (except when moving in foreign commerce).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Omaha, Neb.

No. MC 126305 (Sub-No. 88), filed November 30, 1977. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a common carrier, over irregular routes, transporting: (1) *Iron and steel, iron and steel articles, pipe and pipe fittings, valves, hydrants, parts thereof and accessories therefor*, from Birmingham, Ala., to points in the United States east of and including the States of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, and (2) *materials, equipment, machinery, and supplies* used in the manufacturing, processing, and distribution of the commodities named in (1) above, from points in the States named in (1) above to Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montgomery or Birmingham, Ala.

No. MC 127739 (Sub-No. 5), filed November 28, 1977. Applicant: BOYCE BRUCE, 417 North Metts Street, Louisville, Miss. 39339. Applicant's representative: John A. Crawford, 1700 Deposit Guaranty Plaza, P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Brick and Structural tile*, (1) between the plant and facilities of Delta-Shuqualak Brick & Tile Co., Inc., at or near Shuqualak, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas; (2) from points in Indiana, to the plant and facilities of Delta-Shuqualak Brick & Tile Co., Inc., at or near Shuqualak, Miss.; (3) between the plant and facilities of Delta Brick & Tile Co., Inc., at or near Indianola, Miss., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Oklahoma, Tennessee, and Texas; and (4) from points in Indiana to the plant and facilities of Delta Brick & Tile Co., Inc., at or near Indianola, Miss. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Delta Brick & Tile Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jackson, Miss.

No. MC 129226 (Sub-No. 5), filed November 28, 1977. Applicant: TO-JON

TRUCKING, INC., 6 Verly Court, Bethpage, N.Y. 11714. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by persons who operate retail drug stores and materials, supplies, and equipment used in the conduct of such business (except in bulk)*, between Melville, N.Y., on the one hand, and, on the other, points in New Jersey and those in Rockland and Orange Counties, N.Y., under a continuing contract or contracts with Genovese Drug Stores, Inc., located at Melville, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134064 (Sub-No. 8), filed November 23, 1977. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, Ga. 30501. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: I. *petroleum and petroleum products, vehicle body sealer, and/or sound de-dener compound (except in bulk), and filters*, from points in Marion County, Tenn., to the District of Columbia and in the States in and east of Wisconsin, Iowa, Missouri, Oklahoma, and Texas, restricted to traffic originating at points in Marion County, Tenn.; II. *materials, supplies, and equipment used in the manufacture, sale, and distribution of the commodities named in part I above (except in bulk)*, from points in Ohio, West Virginia, Pennsylvania, Alabama, Georgia, Virginia, and Kentucky, to Marion County, Tenn., restricted to traffic destined to points in Marion County, Tenn.; and III. *petroleum and petroleum products, vehicle body sealer, and/or sound de-dener compound (except in bulk), and filters*, from points in Ohio, New York, Rhode Island, Pennsylvania, and West Virginia, to points in Marion County, Tenn., restricted to traffic destined to Marion County, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held in Washington, D.C., or Atlanta, Ga.

No. MC 134262 (Sub-No. 13), filed November 28, 1977. Applicant's name: FARMERS FEED & SUPPLY TRANSPORTATION, INC., Boyden, Iowa 51234. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebra. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Calcium chloride*, (a) from Ludington, Mich., and

Boyden, Iowa, to points in North Dakota, Nebraska, Oklahoma, Missouri, Illinois, Indiana, and Wisconsin; (b) from Midland, Mich., to points in Iowa, Kansas, Minnesota, South Dakota, North Dakota, Nebraska, Oklahoma, Missouri, Illinois, Indiana, and Wisconsin; (2) *salt*, from points in Utah in and north of Tooele, Utah, Wasatch and Summit Counties, Utah, to points in Iowa, Nebraska, Minnesota, South Dakota, Kansas, Missouri, and Wisconsin; and (3) *lignin pitch*, from Green Bay and Rothschild, Wis., to points in Texas, Oklahoma, and Louisiana. Restricted against the transportation of liquids in bulk, and further restricted to a transportation service to be performed under a continuing contract, or contracts, with Farmers Feed & Supply, Inc., of Boyden, Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Neb.

No. MC 134286 (Sub-No. 37), filed November 30, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by products, and articles distributed by meat packinghouses as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsites and storage facilities utilized by John Morrell & Co. at or near Sioux Falls, S. Dak., and Sioux City, Estherville, and Humboldt, Iowa, to points in Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, restricted to traffic originating at the above-named origins, and destined to points in named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Sioux City, Iowa, or Omaha, Neb.

No. MC 134286 (Sub-No. 38), filed November 30, 1977. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, Iowa 51102. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by products, and articles distributed by meat packinghouses as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and com-

modities in bulk), in vehicles equipped with mechanical refrigeration, from the plantsites and storage facilities utilized by John Morrell & Co. at or near Sioux Falls, S. Dak., and Sioux City, Estherville, and Humboldt, Iowa, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Delaware, New Jersey, Maryland, West Virginia, and the District of Columbia, restricted to traffic originating at the above-named origins, and destined to points in named destination States.

NOTE.—Common control may be involved. If a hearing is deemed necessary, Applicant requests that it be held at Sioux City, Iowa, or Omaha, Neb.

No. MC 134755 (Sub-No. 122), filed November 21, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum, petroleum products, vehicle body sealers, deadner compounds (except in bulk), oil filters, and air filters*, (1) from Bradford and Petrolia, Pa., to points in Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (2) from Emlenton, Farmers Valley, and New Kensington, Pa.; Congo and St. Marys, W. Va.; and Buffalo, N.Y., to points in Arizona, California, Colorado, Idaho, Kansas, Missouri, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming; and (3) from Portland, Oreg., to points in Washington, Montana, Idaho, Utah, North Dakota, South Dakota, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 138398 (Sub-No. 2) and sub numbers thereunder, therefore, dual operation may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Pittsburgh, Pa.

No. MC 136818 (Sub-No. 21), filed December 1, 1977. Applicant: SWIFT TRANSPORTATION CO., INC., 335 West Elwood, P.O. Box 3902, Phoenix, Ariz. 85030. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, Ariz. 85008. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Merchandise dealt in by wholesale, retail, chain grocery, and food business houses*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles) from the plant and warehouse facilities of Kraft, Inc., at Springfield, Miss., to points in Alabama, Arizona,

Arkansas, California, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. Restricted to traffic originating at the above-named origin and destined to the above destination States.

NOTE.—Applicant holds motor contract carrier authority in No. MC 136897 and sub numbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Phoenix, Ariz.

No. MC 138875 (Sub-No. 65), filed November 30, 1977. Applicant: SHOE-MAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, 11900 Franklin Road, Boise, Idaho 83705. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such products as are dealt in by wholesale and retail distributors of floor, wall, ceiling, and counter coverings (except products in bulk) from Pensacola, Fla.; Newark and Salem, N.J.; Owensboro, Ky.; Beaver Falls and Marietta, Pa.; Dyersburg, Tenn.; and Houston, Miss.*, to the facilities of Construction Specialties Co., Inc., located in Ada and Canyon Counties, Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boise, Idaho, or Salt Lake City, Utah.

No. MC 139495 (Sub-No. 289), filed November 30, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Intravenous solutions, related drugs, medicines, and related medical supplies* from the plantsite and storage facilities of Travenol Laboratories, Inc., located at or near Memphis, Tenn., to Mansfield, Mass.; Lockland, Ohio; Cleveland, Ohio; Melvindale, Mich.; Buffalo, N.Y.; Indianapolis, Ind.; Morton Grove, Ill.; Minneapolis, Minn.; and McKees Rocks, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139923 (Sub-No. 38), filed December 2, 1977. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products and synthetic cheese*, (except commodities in bulk), from the plant-

sites and storage facilities of or utilized by L. D. Schreiber Cheese Co., Inc., located in Barry, Jasper, Lawrence and Newton Counties, Mo., to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Utah, and Washington, restricted to the transportation of traffic originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC-139926 (Sub-No. 2), therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Milwaukee, Wis.

No. MC 140543 (Sub-No. 3), filed December 5, 1977. Applicant: Frank Garretson, R.R. No. 2, Morrison, Tenn. 35357. Applicant's representative: Boyd B. Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Lumber, rough*, from Jackson County, Ala., to points in Tennessee, North Carolina, Alabama, Virginia, Mississippi, Georgia, and Florida. Restricted to the transportation of shipments originating at or destined to the facilities of Word-Mead in Jackson County, Ala., under a continuing contract, or contracts, with the Mead Corporation, of Dayton, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Huntsville, Ala.

No. MC 140587 (Sub-No. 5), filed November 30, 1977. Applicant: Cecil Claxton, Box 7, Route 3, Wrightsville, Ga. Applicants' representative: Ronald K. Kolins, 1055 Thomas Jefferson Street NW, Washington, D.C. 20007. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials*, from Eden, N.C., to points in Alabama, Florida, Georgia, and South Carolina, and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers, (except commodities in bulk), from points in Alabama, Florida, Georgia, and South Carolina to Eden, N.C.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Washington, D.C. Applicant also holds contract carrier authority MC 133492 (Sub. 1) and subs thereunder. Therefore dual operations may be involved.

No. MC-140829 (Sub-No. 65) filed December 1, 1977. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative, William J. Hanlon, 55 Madison Ave., Morristown, N.J. 07960. Authority sought to operate as a common carrier, by motor vehicle, over irregular

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routes, transporting: *Meat, meat products, meat by-products* and articles distributed by meat packinghouses, as described in Section A of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the plant site and storage facilities utilized by John Morrell & Co. at or near Sioux Falls, S. Dak.; Estherville, Humboldt and Sioux City, Iowa to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of traffic originating at the named origins and destined to points in the above named destination states.

NOTE.—Applicant holds contract carrier authority in MC-136408 Sub. & and other subs thereunder; therefore dual operations may be involved. If a hearing is deemed necessary the applicant requests it to be held in Washington, D.C.

No. MC 141312 (Sub-No. 3), filed November 28, 1977. Applicant: DOKTER TRUCKING CORP., P.O. Box 408, Weeping Water, Nebr. 68463. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler*, from Weeping Water, Nebraska to the facilities of Certain-Teed Corp. at Kansas City, Mo., under a continuing contract, or contracts, with CertainTeed Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr. or Kansas City, Mo.

No. MC 141635 (Sub-No. 2), filed December 5, 1977. Applicant: LAVERN GIBSON d.b.a. GIBSON SERVICE CO., P.O. Box 1123, Henderson, Tex. 75652. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed, and replacement vehicles and trailers* (except mobile homes) by wrecker equipment, between points in Texas, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, it is requested that such hearing be held at Dallas or Fort Worth, Tex.

No. MC 141914 (Sub-No. 27) (Correction), filed October 31, 1977, published in the FEDERAL REGISTER issue of December 15, 1977, and republished as corrected, this issue. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Kathrena J.

Franks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candies and confectionaries*, in temperature controlled vehicles, from Salt Lake City, Utah, to points in Alabama, Arkansas, California, Oregon, South Carolina, Tennessee, Texas, Oklahoma, and Washington.

NOTE.—Commission records reveal that dual operations are not involved. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah. The purpose of this correction is to show correct dual operations statement.

No. MC 141914 (Sub-No. 28) (Correction), filed October 31, 1977, published in the FEDERAL REGISTER issue of December 15, 1977, and republished, as corrected, this issue. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, Okla. 74332. Applicant's representative: Kathrena J. Franks (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint and paint materials, stains, varnishes, protective coating materials, athletic field surfacing materials and the component materials* contained therein, and *advertising material* related thereto, between the plantsite of California Products Corp., Cambridge, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Commission records reveal that dual operations are not involved. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla. or St. Louis, Mo. The purpose of this correction is to show correct dual operations statement.

No. MC 142062 (Sub-No. 8), filed November 28, 1977. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box 62, Sellersburg, Ind. 47172. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) *Aluminum and aluminum products*, and such other commodities as are manufactured or distributed by a manufacturer of aluminum products, from facilities of Reynolds Metals Company at or near Louisville, Ky., to points in California, Oregon, and Washington; and (2) returned, refused or rejected shipments of the foregoing commodities, from points in California, Oregon, and Washington, to facilities of Reynolds Metals Co. at or near Louisville, Ky. Restriction: Restricted to the transportation of shipments under a continuing contract or contracts with Reynolds Metal Co.

NOTE.—If a oral hearing is deemed necessary, applicant requests that it be held in Louisville, Ky.

No. MC 142335 (Sub-No. 2), filed November 23, 1977. Applicant: C & E TRUCKING CO., INC., 8434 Tepic Drive, Paramount, Calif. 90723. Applicant's representative: Richard Celio, 1415 West Garvey Avenue, Suite 102, West Covina, Calif. 91790. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste and scrap paper for recycling*, from points in Arizona, to plant facilities utilized by Crown Zellerbach, Corp., located at or near Antioch, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, Calif.

No. MC 142351 (Sub-No. 5), filed November 28, 1977. Applicant: CHEYENNE TRUCK LEASING, INC., 6500 Jerico Turnpike, Commack, N.Y. 11725. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hibachis, barbecues, accessories and components, lawn chairs, charcoal, folding cots, zorries*, from Hicksville, Long Island, N.Y., to Illinois, Indiana, Florida, Pennsylvania, North Carolina, Ohio, Maine, Michigan, New Jersey, Virginia, Georgia, South Carolina, Connecticut, West Virginia, Maryland, and Delaware, under a continuing contract, or contracts, with Ivy Mar Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Washington, D.C. Applicant has pending common carrier authority in No. MC 142351 Sub-No. 7 therefore, dual operations may be involved.

No. MC 142608 (Sub-No. 4), filed November 28, 1977. Applicant: ASCENZO BROTHERS, INC., 535 Brush Avenue, Bronx, N.Y. 10465. Applicant's representative: John L. Alfano, 550 Maroneck Avenue, Harrison, N.Y. 10528. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from Wallingford, Conn. to points in New York, New Jersey, and Pennsylvania, under a continuing contract or contracts with Cosid, Inc., located at New York, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 142959 (Sub-No. 2), filed November 28, 1977. Applicant: DONALD L. AMENT and ROBERT ROBBERNOLT, a co-partnership d.b.a. A & R TRANSPORT, No. 5 King Henry Place, Billings, Mont. 59101. Applicant's representative: Jerome Anderson, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to

operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick, building block, tile, sewer pipe, and allied clay products*, from the plantsite of The Lovell Clay Products Co. at Lewistown, Mont., to points in Wyoming and points in Colorado lying on the north of U.S. Highway 50; and (2) *Clay*, from points in Big Horn County, Wyo., to the plantsite of The Lovell Clay Products Co. at Lewistown, Mont. under continuing contract or contracts with The Lovell Clay Products Co.

NOTE.—If hearing is deemed necessary applicant requests it be held at Billings or Helena, Mont.

No. MC 143117 (Sub-No. 2), filed November 28, 1977. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03103. Applicant's representative: Harry C. Pappas (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products*, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Description in Motor Carriers Certificates, 61 M.C.C. 209,766 (except hides and pieces thereof and commodities in bulk), from the plantsite and storage facilities of the Great Plains Beef Co. at or near Council Bluffs, Iowa, to points in Alabama, Florida, Georgia, North Carolina, and South Carolina, under a continuing contract or contracts with Great Plains Beef Packers, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Concord, N.H., or Boston, Mass. Applicant seeks common carrier authority in No. MC 141921 (Sub-No. 8); therefore dual operations may be involved.

No. MC 143228 (Sub-No. 1), filed December 1, 1977. Applicant: EDWARD C. BRAUN AND WILLIAM R. BRAUN, d.b.a. BRAUN-TRUCKING SERVICE, P.O. Box 33, Hecker, Ill. 62248. Applicant's representative: Ernest A. Brooks, II, 1301 Ambassador Bldg. St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from St. Louis, Mo. and Belleville, Ill., to St. Paul, Minn., and, *Empty malt beverage containers and pallets* on return, under a continuing contract or contracts with Capitol City Distributing Co., Inc. and; (2) *Malt beverages*, from St. Paul, Minn., to Belleville, Ill., and empty malt beverage containers and pallets on return, under a continuing contract or contracts with The Universal Beverage Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Louis, Mo. or Springfield, Ill.

No. MC 143254 (Sub-No. 2), filed November 30, 1977. Applicant: BOSTON CONTRACT CARRIER, INC., P.O. Box 68, Brookline, Mass. 02167. Applicant's representative: Henry U. Snaveley, 410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives*; (2) *Fabrics*; (3) *Fabrics laminated to urethane foam*; and (4) *equipment, materials, and supplies* used in the manufacture and distribution of the above commodities, between the facilities of R. H. Wyner Associates, Inc., in Stoughton, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted (a) against the transportation of commodities in bulk, and (b) to the performance of a transportation service under a continuing contract or contracts with R. H. Wyner Associates, Inc., of Stoughton, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., or Washington, D.C.

No. MC 143472 (Sub-No. 2), filed December 1, 1977. Applicant: GMG ENTERPRISES, INC., 1479 Urbandale, Florissant, Mo. 63031. Applicant's representative: Gregory M. Rebman, Suite 1230, Marquette Building, 314 North Broadway, St. Louis, Mo. 63102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Non-alcoholic beverages* from St. Louis, Mo., and its commercial zone to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Ohio, Oklahoma, Tennessee (except Shelby County), and Wisconsin; (2) *glass bottles, non-alcoholic beverage cases and containers and pallets*, from points in Illinois, Indiana, Iowa, Kansas, Kentucky, Ohio, Oklahoma, Tennessee (except Shelby County), and Wisconsin to St. Louis, Mo., and its commercial zone, under a continuing contract or contracts with Taylor Beverages, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 143661 (Sub-No. 1), filed December 5, 1977. Applicant: SOLAR TRANSPORT, INC., P.O. Box 296, Palestine, Tex. 75801. Applicant's representative: Kenneth R. Hoffman, 1100 Milam Building, Suite 3300, Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Solar panels and parts and accessories for solar panels*, from the facilities of Solar Manufacturing, Inc. located at or near Palestine, Tex., to all points in the United States (except Alaska and Hawaii) and (2) *Materials, equipment and supplies utilized in the manufacture, distribution, sales and installation of the com-*

*modities referred to in Part (1) above* (except commodities in bulk), from all points in the United States (except Alaska and Hawaii) to Palestine, Tex., under a continuing contract, or contracts, with Solar Manufacturing, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas or Houston, Tex. Common control may be involved.

No. MC 143677 (Sub-No. 1), filed December 2, 1977. Applicant: JIMMIE W. LEE d.b.a. LEE'S LOWBOY SERVICE, 13506 Giles Road, Omaha, Nebr. 68138. Applicant's representative: Joseph Winter, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete and concrete products* (except commodities in bulk), from points in Nebraska to points in Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 143813 (Sub-No. 1), filed December 5, 1977. Applicant: P/C TRANSPORTATION LINES, INC., 830 West Fifth Avenue, Columbus, Ohio 43215. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Applicant seeks authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Show or display cases and parts thereof*, and materials used in the manufacture, distribution or sale thereof, between Bellevue and Columbus, Ohio, on the one hand, and, on the other, points in the United States, including Alaska, and (except Hawaii), under a continuing contract or contracts, with the Columbus Show Case Co., of Columbus, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Columbus, Ohio.

No. MC 143922, filed October 31, 1977. Applicant: HOLTZMAN DELIVERY SERVICE, INC., 1340 Schulte Road, St. Louis, Mo. 63141. Applicant's representative: David C. Drury, 111 South Meramec, Suite 506, Clayton, Mo. 63105. Authority is sought to operate as a *contract carrier*, over irregular routes, in the transportation of *new and used furniture, appliances and parts thereof*, between the warehouse facilities of Wickes Corp., located in Maryland Heights, Mo., and points in Bond, Calhoun, Fayette, Greene, Jefferson, Jersey, Madison, Macoupin, Marion, Montgomery, Perry, Randolph, St. Clair, and Washington Counties, Ill., under a continuing contract or contracts with Wickes Furniture Division of the Wickes Corp.



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NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Clayton or St. Louis, Mo.

No. MC 144003, filed November 3, 1977. Applicant: TIEDT TRUCKING CO., a corporation, R.R. 5, Lemont and Bluff Roads, Lemont, Ill. 60439. Applicant's representative: Donald S. Mullins, 4704 West Irving Park Road, Chicago, Ill. 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cast concrete products*, (1) from the facilities of Chicago Pre-cast Products, Division of Condux International, Inc., located at or near Naperville, Ill., to points in Indiana, Iowa, Michigan, and Wisconsin, (2) from the facilities of Janesville Concrete Products, Division of Condux International, Inc., located at or near Janesville, Wis., to points in Illinois, Indiana, Iowa, and Michigan, under a continuing contract or contracts in (1) and (2) above with Chicago Pre-cast Products, Division of Condux International, Inc., and (3) from the facilities of Material Service Corp., located at or near Lockport, Ill., to points in Indiana, Iowa, Michigan, and Wisconsin, under a continuing contract or contracts with Material Service Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 144011 (Clarification), filed November 14, 1977, published in the FEDERAL REGISTER issue of January 12, 1978, and republished, this issue. Applicant: HALL SYSTEMS, INC., 212 South 10th Street, Birmingham, Ala. 35233. Applicant's representative: Robert D. Hunter, 1700 First Alabama Bank Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Birmingham, Ala., and New Orleans, La., from Birmingham over Interstate Highway 65 to junction Interstate Highway 10 thence over Interstate Highway 10 to New Orleans and return over the same route, (2) between Birmingham, Ala., and New Orleans, La., from Birmingham over U.S. Highway 31 to junction U.S. Highway 90 thence over U.S. Highway 90 to New Orleans and return over the same route. In connection with route 1 and route 2 above serving all intermediate points on route 2 from the Mississippi-Alabama state line to New Orleans and serving those same points as off-route points on route 1. In connection with route 1 above, serving Gainesville, Miss., as an off-route point. (3) Between Birmingham, Ala., and New Orleans, La., from

Birmingham over Interstate Highway 59 to New Orleans and return over the same route, (4) between Birmingham, Ala., and New Orleans, La., from Birmingham over U.S. Highway 11 to New Orleans and return over the same route. In connection with route 3 and route 4 above, serving Meridian, Miss., Laurel, Miss., Hattiesburg, Miss., and Slidell, La., as intermediate points and serving Gainesville, Miss., as an off-route point. Also serving all intermediate points on route 4 from the Mississippi-Alabama state line to New Orleans and serving the same points as off-route points on route 3. (5) Between Birmingham, Ala., and Jackson, Miss., from Birmingham over Interstate Highway 20 to Jackson and return over the same route, (6) between Birmingham, Ala., and Jackson, Miss., from Birmingham over U.S. Highway 11 to junction U.S. Highway 80 thence over U.S. Highway 80 to Jackson and return over the same route. In connection with route 5 and route 6 above, serving Meridian, Miss., as an intermediate point on both routes. Also serving all intermediate points on route 6 from the Mississippi-Alabama state line to Jackson, Miss., and serving those same points as off-route points on route 5. (7) between Jackson, Miss., and Gulfport, Miss., from Jackson over U.S. Highway 49 to Gulfport and return over the same route. In connection with route 7 above, serving all intermediate points between Jackson and Gulfport. Restrictions: No service from New Orleans, La., to points in Mississippi. No service to any Alabama points not in the commercial zone of Birmingham, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., New Orleans, La. or Meridian, Miss. The purpose of this republication is to clarify number assigned to this applicant.

No. MC 144020 (Sub-No. 1), filed December 5, 1977. Applicant: LANE TRUCKING INC., 12642 O Street, Omaha, Nebr. 68137. Applicant's representative: Marshall D. Becker, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* (except hides and commodities in bulk) as described in Appendix I, Sections A and C of Descriptions in Motor Carrier Certificates, 61 MCC at 273: From Davenport, Dubuque, Cedar Rapids, Ottumwa, Marshalltown, Iowa Falls, Waterloo, Estherville, Des Moines, Fort Dodge, Sioux City, Cherokee, Denison, Glenwood, Perry, Storm Lake, and Columbus Junction, Iowa, Omaha, Fremont, Crete, Madison, Lyons, Schuyler, and Dakota City, Nebr., Minneapolis, St. Paul, Austin, Albert Lea, and Worthington, Minn.,

Huron, Mitchell, and Sioux Falls, S. Dak., Kansas City, Arkansas City, Great Bend, and Garden City, Kans., St. Louis and Marshall, Mo., to Merced, Stanislaus, San Joaquin, Alameda, San Francisco, Santa Clara, Yolo, Los Angeles, San Mateo, Sacramento, and Fresno Counties, Calif., under a continuing contract, or contracts, with Pacific Provisions, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Omaha, Nebr. or San Francisco, Calif.

## PASSENGERS

No. MC 143851, filed October 14, 1977. Applicant: JAMES SULESKI, 11 Harwood Road, Marlton, N.J. 08053. Applicant's representative: James Suleski (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers*, having a prior or subsequent movement by air and such individuals associated in the movement of such passengers in specialized equipment, in special operations between John F. Kennedy Airport, Jamaica, N.Y., LaGuardia Airport, Queens, N.Y., Teterboro Airport, Teterboro, N.J., Newark International Airport, Newark, N.J., Philadelphia International Airport, Philadelphia, Pa., Bader Field, Atlantic City, N.J., Pomona Airport, Pomona, N.J., and Atlantic and Cape May Counties, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Atlantic City, N.J. or Philadelphia, Pa.

No. MC 143998 (Correction), filed November 8, 1977, published in the FEDERAL REGISTER issue of December 30, 1977 as MC 144011, and republished, as corrected, this issue. Applicant: CLIFFORD T. GLENN, d.b.a. TALLY-HO CHARTER SERVICE, 1501 North Stanton, No. 6, El Paso, Tex. 79902. Applicant's representative: Clifford T. Glenn (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *passengers, and their baggage* in same vehicle with passengers, in special and charter party operations, beginning and ending in El Paso, Tex., and extending to points in New Mexico, Arizona, and points on and east of U.S. Highway 15 in Utah, and points on and west of U.S. Highways 25 and 90 in Wyoming, and points on and west of U.S. Highway 25 in Colorado. Limited to twelve passengers including chauffeur in limousines.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either El Paso, Tex., or Albuquerque, N. Mex. The purpose of this correction is to show correct number assigned as MC 143998.

## FINANCE APPLICATIONS

The following applications seek approval to consolidate, purchase, merge,

lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-12720. Authority sought to reopen the proceeding for amendment of the original application to seek authority for the merger of H. M. WITMYER, INC., 15 South Wolf Street, Manheim, Pa., into CENTRAL TRANSFER CO., 1080 Springfield Road, Union, N.J., for ownership, management, and operation, and for control by P. A. Albanese, of Union, N.J., of the operating rights and properties of H. M. Witmyer, Inc., through the merger. Applicant's attorney: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Operating rights sought to be controlled: *General commodities*, with exceptions, as a *common carrier* over regular routes between Manheim, Pa., and Philadelphia, Pa., serving the intermediate points of Lititz and Lancaster, Pa., and *truck casters, machinery and parts, leather belting and leather*, as a *common carrier* over irregular routes between Manheim and Lancaster, Pa., on the one hand, and, on the other, Camden, N.J. Central Transfer Co., is authorized to operate as a *common carrier* in New York, New Jersey, and Pennsylvania. By order entered November 5, 1976, the Commission granted the original application by which Central Transfer Co. sought control of H. M. Witmyer, Inc. By order entered September 16, 1977, the Commission granted the requested reopening, permitted amendment of the application, and granted authority for the merger of H. M. Witmyer, Inc., into Central Transfer Co., for ownership, management, and operation, and for control by P. A. Albanese of the operating rights and properties of H. M. Witmyer, Inc., through the merger, subject to publication in the FEDERAL REGISTER of notice of filing of the amendment seeking merger.

No. MC-F-13443. Authority sought for purchase by DUFF TRUCK LINE, INC., Broadway and Vine Streets, Lima, Ohio, 45802, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre

Haute, Ind., 47808, and for acquisition by L. Eugene Duff, also of Broadway and Vine Streets, Lima, Ohio, of control of such rights through the purchase. Applicants' attorneys: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J., 07006, and Roland Rice, 501 Perpetual Building, 1111 E Street N.W., Washington, D.C. 20004. Operating rights sought to be transferred: (1) That portion of Certificate No. MC-106943, authorizing the transportation of: *general commodities*, with the usual exceptions, as a *common carrier* over regular routes, (a) serving to and from points in Marion County, Ind., as intermediate or off-route points in connection with carrier's regular route operations to or from Indianapolis, Ind., (b) between Huntington, Ind., and Fort Wayne, Ind., serving no points, but serving the off-route point of Marion, Ind.: From Huntington over U.S. Highway 24 to Fort Wayne, and return over the same route, with restrictions; (c) between Indianapolis, Ind., and Huntington, Ind., serving the intermediate point of Marion, Ind.: From Indianapolis over Indiana Highway 37 to Huntington, and return over the same route, with restrictions; (d) between Indianapolis, Ind., and Cincinnati, Ohio, serving no intermediate points: From Indianapolis over U.S. Highway 52 to Cincinnati, and return over the same route. (2) That portion of Certificate No. 106943 (Sub-No. 51) authorizing the transportation of general commodities, except those of unusual value, Class A and B explosives other than small-arms ammunition, livestock, household goods as defined by the Commission, and liquids in bulk in tank trucks, between Indianapolis, Ind., and Cincinnati, Ohio, serving no intermediate points. From Indianapolis over U.S. Highway 52 to Cincinnati, and return over the same route. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Kentucky, Michigan, Missouri, and Ohio. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-14314 (Sub-No. 26) is a directly related matter.

No. MC-F-13463. Authority sought for purchase by THE LAKE SHORE MOTOR FREIGHT CO., 1200 South State Street, Girard, Ohio, 44420 of the operating rights of Olson Express, Inc., Ronald H. Gordon, Receiver, 309 Broadway Building, Lorain, Ohio, 44052, and for acquisition by Howard J. O'Malley, Jr., of 1200 South State Street, Girard, Ohio, 44420, John J. O'Malley of 2620 Thorntree Drive, Pittsburgh, Pa., and Lucille A. O'Linn of 30301 Windsor Drive, Bay Village, Ohio, of control of such rights through the purchase. Attorneys for transferor: Michael Spurlock and Paul Berry, Esquire, 275 East State Street, Columbus, Ohio, 43215. Transferee's

attorneys: John P. Tynan and A. David Millner, Esquire, c/o Bowes, Millner, Rodgers, Liberstein, & Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J., 07006. Operating rights sought to be transferred: Under a Certificate of Registration in Docket No. MC-99038, authorizing the transportation of property from and to Lorain County, Ohio, also household goods, office furniture and fixtures to and from any point in Lorain County, Ohio, or within the State of Ohio. Vendee is authorized to operate as a *motor common carrier* in Connecticut, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-13569 (Sub-Nos. 34 and 35) is a directly related matter.

No. MC-F-13473. Authority sought for purchase by CENTRAL TRANSPORT, INC., P.O. Box 7007, Uwharrie Road, High Point, N.C., 27264, of a portion of the operating rights of Spector Freight System, Inc., 1050 Kingery Highway, Bensenville, Ill., 60106, and for acquisition by A. L. Honbarrier, P.O. Box 7007, Uwharrie Road, High Point, N.C., 27264, of control of such rights through the transaction. Applicants' representatives: Earle O. Jones, director, traffic and sales, P.O. Box 7007, High Point, N.C., 27264; E. Stephen Heisley, 666 Eleventh Street N.W., Washington, D.C., 20001; and Jack Goodman, Axelrod, Goodman, Steiner, & Bazelon, 39 South LaSalle Street, Chicago, Ill., 60603. Operating rights sought to be acquired: *Chemicals*, in bulk, over irregular routes, from Jersey City, N.J. to Charlotte, N.C. (portion of MC-69116). Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, and West Virginia. Application has not been filed for temporary authority under Section 210a(b).

NOTE.—MC-118831 (Sub-No. 155) is a directly related matter.

No. MC-F-13476. Authority sought for purchase by COLONIAL TRANSPORTATION, INC., 38 May Avenue, Brockton, Mass., 02401 of the operating rights of Superior Motor Transportation Co., Inc., 69 Proctor Street, Boston, Mass., 02119, and for acquisition by Richard Bodel, 38 Hillcrest Drive, Pembroke, Mass., 02359 and John A. Buckley, 38 May Avenue,



Brockton, Mass., 02401 of control of such rights through the purchase. Transferee's attorney: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Transferors attorney: Kenneth B. Williams, 84 State Street, Boston, Mass., 02109. Operating rights sought to be purchased: (I) *General commodities* (with exceptions), as a *common carrier*, over (A) regular routes, between (1) Boston, Mass. and Providence, R.I.; (2) Boston, Mass. and Worcester, Mass.; and (3) Boston, Mass. and Lynn, Mass.; (B) irregular routes between (1) Boston, Mass. and points in Massachusetts within 10 miles of Lowell, on the one hand, and, on the other, Boston, Mass. and points and places in Massachusetts within 12 miles of Boston; and, (II) *specific commodities*, over irregular routes, as more fully described in Certificates of Public Convenience and Necessity Nos. MC-2123 and MC-2123 (Sub-No. 3). Vendee is authorized to operate as a common carrier in Massachusetts pursuant to Certificate of Registration No. MC-120799 (Sub-No. 1). Application has been filed for temporary authority under Section 210a(b). A directly related application seeking conversion of vendee's certificate of registration to a certificate of public convenience and necessity is being simultaneously filed. Application has been filed for temporary authority under Section 210a(b).

NOTE.—MC-120799 (Sub-No. 2) is a directly related matter.

No. MC-F-13477. Authority sought for purchase by ARLEDGE TRANSFER, INC., 1100 Arnold Drive, West Burlington, Iowa, 52632, of the operating rights and property of Eugene C. Warren, d.b.a. Warren Trucking Co., Box 1144, Keokuk, Iowa 52632, and for acquisition by James G. Arledge, 2330 Mason Road, Burlington, Iowa 52601, and Arnold G. Arledge, 1426 Pine Street, Burlington, Iowa 52601, of control of such rights through the purchase. Applicants' representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa, 50309. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over irregular routes between Elvaston, Ill., on the one hand, and, on the other, points in Illinois, Iowa, and Missouri within 85 miles of Elvaston, Ill., as set forth in Certificate MC-141139. Vendee is authorized to operate as a *common carrier* in Iowa, Illinois, and Missouri. Application has been filed for temporary authority under section 210a(b).

NOTE.—If a hearing is required, applicant requests assignment at Chicago, Ill. Application states Transferee intends to join Transferor's irregular route authority with Transferee's present regular route authority.

No. MC-F-13481. Authority sought for purchase by MORGAN TRUCK-

ING CO., 1201 E. 5th Street, P.O. Box 714, Muscatine, Iowa, 52761, of the operating rights and property of Glen R. Dusenberry, an individual, 1414 Grandview Ave., Muscatine, Iowa 52761, and for acquisition by Donald L. Morgan, 1201 E. Fifth Street, Muscatine, Iowa 52761, of control of such rights through the purchase. Applicants' attorney: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Operating rights sought to be transferred: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), as a *common carrier* over irregular routes from Columbus Junction and Waterloo, Iowa, to points in Illinois, with restrictions; from the facilities of Wilson & Co., Inc., at Cedar Rapids, Iowa, to Chicago, Ill., with restrictions; from Columbus Junction and Waterloo, Iowa, to points in Missouri. Vendee is authorized to operate as a *common carrier* in all the States in the United States (except Alaska and Hawaii) including the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13486. Authority sought for purchase by WITTE TRANSPORTATION CO., P.O. Box 43564, St. Paul, Minn., 55164, of a portion of the operating rights of Scott's Transportation Service, Inc., P.O. Box 1136, Cedar Rapids, Iowa 52406, and for acquisition by Space Center, Inc., 444 Lafayette Road, St. Paul, Minn. 55101, of control of such rights through the transaction. Transferee's attorney: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102; Transferor's attorney: James R. Madler, 120 West Madison, Chicago, Ill. 60602. Operating rights sought to be purchased: *General commodities*, with exceptions as a *common carrier*, over irregular routes, between points in Iowa and Illinois within 25 miles of Rock Island, Ill., including Rock Island, Ill.; *General commodities*, with exceptions as a *common carrier* over irregular routes, from Iowa City, Iowa, to points within 25 miles of Iowa City, except those located on or north of U.S. Highway 30; *General commodities*, with exceptions as a *common carrier*, over irregular and regular routes, from Chicago, Illinois to Iowa City, Iowa, serving intermediate and off route points in Cook County, Ill.; From Chicago over irregular routes to Bristol, Ill., thence over U.S. Highway 34 to junction Illinois Highway 92, thence over Illinois Highway 92 to junction U.S. Highway 6, and thence over U.S. Highway 6 to Iowa City, and return over the same route; as more fully described in Certificate No. MC-115554. Vendee is au-

thorized to operate as a common carrier in the states of Minnesota, Wisconsin, Iowa, and Missouri under authority contained in Certificate No. MC-8964 and subs thereunder. Approval of the transaction will not result in dual operations, splitting of operating authority, or duplicating authority. Application has been filed for temporary authority under section 210a(b).

#### OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

The following operating rights application(s) are filed in connection with pending finance applications under section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1647 (Sub-No. 7), filed December 28, 1977. Applicant: READING VAN AND STORAGE CO., a corporation, 1846 N.W. Boulevard, Vineland, N.J. 08360. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Household Goods* as defined by the Commission, Between points in New Jersey, Delaware, and New York City, N.Y., and Philadelphia, Pa., on the one hand, and, on the other, points in New York, New Jersey, Delaware, Maryland, Virginia, Pennsylvania, Massachusetts, Rhode Island, Connecticut, Georgia, North Carolina, South Carolina, Ohio, West Virginia, Florida, and the District of Columbia.

NOTE.—This is a gateway elimination application and is a matter directly related to FC-76849, published in the FEDERAL REGISTER issue of February 22, 1977. If a hearing is deemed necessary, applicant requests it be held at Vineland, N.J.

No. MC 13569 (Sub-No. 34), filed December 15, 1977. Applicant: THE

LAKE SHORE MOTOR FREIGHT CO., a corporation, 1200 South State Street, Girard, Ohio 44420. Applicant's attorneys: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, (except those of unusual value, Classes A & B explosives, and household goods), between Lorain, Ohio, on the one hand, and, on the other, points in Ohio, household goods, office furniture and fixtures, between points in Lorain County, Ohio, on the one hand, and, on the other, points in Ohio.

NOTE.—This application is directly related to MC-F-13463, The Lake Shore Motor Freight Co.—Purchase—Olson Express, Inc., published in a previous section of this FEDERAL REGISTER issue, and is for the purpose of converting the Certificates of Registration of Olson to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 13569 (Sub-No. 35), filed December 15, 1977. Applicant: THE LAKE SHORE MOTOR FREIGHT CO., a corporation, 1200 South State Street, Girard, Ohio 44420. Applicant's attorneys: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, (except those of unusual value, Classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Ohio, on the one hand, and, on the other, points and places in Ohio, that part of New York, south of U.S. Highway 104 and west of U.S. Highway 11, that part of Pennsylvania west of a line beginning at the Pennsylvania-New York State Line and extending along U.S. Highway 11 to Pittston, Pa., thence along U.S. Highway 309 to Hazleton, Pa., thence along Pennsylvania Highway 29 to Tamaqua, Pa., thence along U.S. Highway 209 to Pottsville, Pa., thence along U.S. Highway 122 to Oxford, Pa., and thence along U.S. Highway 1 to the Pennsylvania-Maryland State Line, and those in that part of West Virginia west of U.S. Highway 19 and north of U.S. Highway 60, including points and places on the indicated portions of the highways specified; and points in Essex, Union, Bergen, Passaic, Hudson and Middlesex Counties, N.J.

NOTE.—This application is directly related to MC-F-13463, The Lake Shore Motor Freight Co.—Purchase—Olson Express, Inc., published in a previous section of this FEDERAL REGISTER issue. The Lake Shore Motor Freight Co., holds authority to transport general commodities, with the usual exceptions, over irregular routes in Certificate MC-13569 and Sub 11 thereto. The purpose

of this GATEWAY ELIMINATION application is to provide for tacking of the authority sought to be acquired in MC-F-13463 with that presently held under Certificate MC-13569 and Subs. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 14314 (Sub-No. 26), filed November 29, 1977. Applicant: DUFF TRUCKLINE, INC., Broadway and Vine Street, Lima, Ohio 45802. Applicant's representative: A. David Millner, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *General commodities*, (except Class A and B explosives, livestock, grain, petroleum products, in bulk, household goods as defined by the Commission, and commodities requiring special equipment), serving to and from points in Marion County, Ind., as intermediate or off-route points in connection with carrier's regular route operations to or from Indianapolis, Ind. between Huntington, Ind., and Fort Wayne, Ind., serving no points, but serving the off-route point of Marion, Ind.: from Huntington over U.S. Highway 24 to Fort Wayne, and return over the same route. Between Indianapolis, Ind., and Huntington, Ind., serving the intermediate point of Marion, Ind.: from Indianapolis over Indiana Highway 37 to Huntington, and return over the same route. Alternate routes for operating convenience only: between Indianapolis, Ind., and Cincinnati, Ohio, serving no intermediate points; from Indianapolis over U.S. Highway 52 to Cincinnati, and return over the same route. (2) *General commodities*, (except those of unusual value, Class A and B explosives other than small-arms ammunition, livestock, household goods as defined by the Commission, and liquids in bulk in tank trucks), between Indianapolis, Ind., and Cincinnati, Ohio, serving no intermediate points, from Indianapolis over U.S. Highway 52 to Cincinnati, and return over the same route.

NOTE.—This application is directly related to MC-F-13443 Duff Truck Line, Inc.—Purchase portion—Eastern Express, Inc., published in a previous section of this FEDERAL REGISTER issue. The purpose of this filing is to eliminate certain restrictions contained in the authority of Eastern Express, Inc., sought to be purchased by applicant. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio or Washington, D.C.

No. MC 63837 (Sub-No. 6), filed September 9, 1977. Applicant: DIGGINS & ROSE, INC. 3 Sagamore Park Road, Hudson, N.H. 03051. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* (1) between points in

Massachusetts, New Hampshire, Maine, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, and the District of Columbia; and (2) between Auburn and Lewiston, Me. on the one hand, and, on the other, points in Maine, New Hampshire, and Massachusetts and ports of entry on the United State-Canada boundary line at or near Caanan, Norton, Derby Line and Troy, Vt.

NOTE.—This application is directly related to transfer application simultaneously filed in Docket No. MC-FC-77457. The purpose of this application is to tack transferor's and Transferee's certificates and eliminate the gateway of 25 miles of Boston, Mass.

No. MC 118831 (Sub-No. 155), filed December 29, 1977. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point, N.C. 27264. Applicant's representative: Earlie O. Jones (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chemicals*, in bulk, over irregular routes, from Jersey City, N.J., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia (except Kanawha County), and Wisconsin; and (2) *dry chemicals*, in bulk, over irregular routes from Jersey City, N.J., to points in Iowa, Kansas, Louisiana, Minnesota, Oklahoma, and Texas.

NOTE.—This application is directly related to the application filed by Central Transport, Incorporated in MC-F-13473 to purchase a portion of the operating rights to Spector Freight System, Inc. Applicant seeks to eliminate the gateways at Charlotte, N.C.; Lorette, Ala., and Robertson County, Tenn. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Chicago, Ill.

No. MC 120799 (Sub-No. 2), filed December 28, 1977. Applicant: COLO-NIAL TRANSPORTATION, INC., 38 May Avenue, Brockton, Mass. 02401. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, commodities in bulk and those commodities requiring special equipment), between points in Massachusetts.

NOTE.—The purpose of this filing is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity. This matter is directly related to a Section 5(2) finance proceeding in Docket No. MC-F-13476 published in a previous section of this FEDERAL REGISTER issue. If a hearing is



deemed necessary, applicant requests that it be held at Boston, Mass.

#### MOTOR CARRIER ALTERNATE ROUTE DEVIATIONS

The following letter-notices, to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

#### MOTOR CARRIERS OF PROPERTY

No. MC 1074 (Deviation No. 11), ALLEGHENY FREIGHT LINES, INC., P.O. Box 2080, Winchester, Va. 22601, filed January 13, 1978. Carrier proposes to operate as a common carrier, by motor vehicle, of: General commodities, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio, over Interstate Highway 71 North to junction Interstate Highway 270 East, thence over Interstate Highway 270 to junction Interstate Highway 70, thence over Interstate Highway 70 to junction Interstate Highway 79, thence over Interstate Highway 79 to Morgantown, W. Va., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, Ohio, over U.S. Highway 50 to junction Interstate Highway 79, thence over Interstate Highway 79 to Morgantown, W. Va., and return over the same route.

No. MC 2202 (Deviation No. 165), ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, Ohio 44309, filed January 11, 1978. Carrier proposes to operate as a common carrier, by motor vehicle, of: General commodities, with certain exceptions, over a deviation route as follows: From Pryor, Okla., over Oklahoma Highway 20 to Claremore, Okla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Pryor, Okla., over U.S. Highway 69 to junction U.S. Highway 86, thence over U.S. Highway 86 to Claremore, Okla., and return over the same route.

#### NOTICES

No. MC 109533 (Deviation No. 15), OVERNITE TRANSPORTATION CO., P.O. Box 1216, Richmond, Va. 23209, filed January 11, 1978. Carrier proposes to operate as a common carrier, by motor vehicle, of: General commodities, with certain exceptions, over a deviation route as follows: From Hagerstown, Md., over Interstate Highway 81 to junction Interstate Highway 64, thence over Interstate Highway 64 to Lexington, Va., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Hagerstown, Md., over Interstate Highway 70 to junction Interstate Highway 270, thence over Interstate Highway 270 to junction Interstate Highway 495, thence over Interstate Highway 495 to junction Interstate Highway 66, thence over Interstate Highway 66 to junction U.S. Highway 29 thence over U.S. Highway 29 to junction Interstate Highway 64, thence over Interstate Highway 64 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 11, thence over U.S. Highway 11 to Lexington, Va., and return over the same route.

#### MOTOR CARRIER INTRASTATE APPLICATION(S)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the Intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by special rule 245 of the Commission's general rules of practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A. 57752, filed December 20, 1977. Applicant: ARVO LYL & SONS, a copartnership, end of Old Hollow Tree Road, P.O. Box 483, Ukiah, Calif. 95482. Applicant's representative: Alvin A. Lyly (same address as applicant). Certificate of public convenience and necessity sought to operate freight service, as follows: Transportation of: Iron and steel products and lumber and forest products, (1) between the San Francisco territory as described in note A of appendix hereto, on the one hand, and all points in the counties of Del Norte,

Humboldt, Mendocino, Shasta, Sonoma, and Tehama, on the other hand; (2) between the Los Angeles territory as described in note B of appendix hereto on the one hand, and all points in the counties of Del Norte, Humboldt, Mendocino, Shasta, Sonoma, and Tehama, on the other hand; (3) between all points in the counties of Humboldt and Del Norte, on the one hand, and all points in the counties of Shasta and Tehama, on the other hand. Such authority does not include the right to render service from, to or between intermediate points. Forest products, whether or not creosoted or otherwise chemically treated, viz.: Atmospheric water cooling towers, knocked down; and iron or steel fixtures for same, consisting of castings, tie rods, not exceeding 30 feet in length, and turnbuckles, weight of such fixtures not to exceed 10 percent of the total weight of shipments, bark, bee hives, knocked down, blocks, wooden paving, creosoted or uncreosoted, boards, particles, bolts, wooden brackets, insulator (wooden), cants, wheel, wooden, in the rough, covers, guy wire, cross arms, wooden, with or without riveted ends, and with or without wooden pins attached, heading, honey box lumber, lath, lumber, pencil slats, pickets, piles, pins, insulator, pipe material, wooden, pipe, wooden, poles, plant, plain, creosoted or stained, poles, telegraph and telephone, posts, sawdust, shakes, shavings, shingles, shin knees, shook, box and crate, silo material, wooden, and fixtures, stakes, plain creosoted or stained, staves, steps, pole (wooden), stock, battery separator, machined, viz.: grooved, farrowed, or corrugated, not treated with caustic soda, asphaltum, or other solution, tank material, wooden, and fixtures, ties, railroad, timbers, rough, timbers, mining, wedges, mine, woodpulp. San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County line meets the Pacific Ocean; thence easterly along said county line to a point 1 mile west of State Highway 82; southerly along an imaginary line 1 mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to Division Street; easterly along Division Street to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to

#### NOTICES

the Campbell-Los Gatos City limits; easterly along said limits and the prolongation thereof to South Bascom Avenue (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Avenue to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northerly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Boulevard) via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard and MacArthur Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard to Warren Boulevard (State Highway 13); northerly along Warren Boulevard to Broadway Terrace; westerly along Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; westerly,

northerly, and easterly along the campus boundary to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to San Pablo Avenue (State Highway 123); northerly along San Pablo Avenue to and including the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning.

NOTE B.—The Los Angeles territory includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and State Highway 1; thence northeasterly on Sunset Boulevard to Interstate Highway 405; thence northerly along Interstate Highway 405 to State Highway 118 at San Fernando (including the city of San Fernando); thence southeasterly along State Highway 118 to and including the city of Pasadena; thence easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michilinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northerly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue and the prolongation thereof to the west side of Sawpit Wash; southerly on Sawpit Wash to the intersection of Mountain Avenue and Royal

Oaks Drive; easterly along Royal Oaks Drive to Buena Vista Street; south on Buena Vista Street and due south on a prolongation thereof to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the city of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway (State Highway 90); westerly on Imperial Highway to Lakewood Boulevard (State Highway 19); southerly along Lakewood Boulevard to its intersection with State Highway 1 at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shoreline of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and State Highway 1; thence northerly along an imaginary line to point of beginning. Intrastate, interstate, and foreign commerce authority sought.

Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2149 Filed 1-25-78; 8:45 am]



## sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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#### [6351-01]

#### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., January 27, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

(S-191-78 Filed 1-24-78; 3:24 pm)

#### [6355-01]

#### CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: February 1, 1978, 9:30 a.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

NOTICE OF PROCEEDING TO DEVELOP STANDARDS FOR CELLULOSE HOME INSULATION

At its November 10, 1977 Meeting, the Commission directed the staff to

prepare a notice to initiate a proceeding to develop a mandatory safety standard for cellulose home insulation, in response to a petition from the Metropolitan Denver District Attorney's Office. In this briefing, the staff and Commission will discuss issues related to this possible proceeding.

#### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

(S-179-78 Filed 1-24-78; 9:07 am)

#### [6355-01]

#### CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

TIME AND DATE: 10 a.m., February 2, 1978.

STATUS: Partly Open, Partly Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public

1. Recommendation to Accept Corrective Action Plan: Deere & Co. lawn tractors, ID 77-71. The staff has recommended that the Commission accept the corrective action plan which Deere has implemented to deal with a possible brake hazard in certain lawn tractors it manufactures.

2. Recommendation to Accept Corrective Action Plan: Caloric Corp. waist-high gas ranges, ID 77-83. The staff has recommended that the Commission accept the corrective action plan which Caloric has implemented to deal with a possible gas leak hazard in certain gas ranges.

3. Petition Seeking Labeling for Coal- and Wood-burning Stoves, AP 77-2. The Commission will consider a petition in which Adam Paul Banner, Midland, Mich., has asked for a mandatory rule requiring manufacturers of coal- and wood-burning stoves to label these products with warnings on chimney clearance and chimney types.

4. Unvented Gas-Fired Space Heaters. In September 1977, the Commission published a finding that a standard for unvented gas-fired space heaters was not feasible, and that only

a ban could sufficiently protect the public from the hazards of carbon monoxide poisoning or asphyxiation which these products present. At this meeting, the Commission will consider whether or not to issue such a ban.

#### B. Closed to the Public

5. Requests for Authorization to Seek Consent Agreements: Cases No. 770210, No. 770069, and No. 770040. The staff has recommended that the Commission authorize it to seek consent agreements in these three carpet cases under the Flammable Fabrics Act.

Agenda Approved January 19, 1978.

#### CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, telephone 202-634-7700.

(S-178-78 Filed 1-24-78; 9:07 am)

#### [6714-01]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation met in closed session at 9:20 p.m. on January 19, 1978, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the deposit liabilities of The Drovers National Bank of Chicago, Chicago, Ill., which was closed by the Comptroller of the Currency as of the close of business on January 19, 1978; (2) approve a resulting application from Drovers Bank of Chicago, Chicago, Ill., for insurance and for consent to purchase assets of and assume the deposit liabilities of the closed bank; and (3) provide such financial assistance, pursuant to section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board of Directors determined, on motion of Chairman George A. LeMastre, seconded by Director John G. Heilmann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than 7 days' notice to the public; that no ear-

lier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the meeting was exempt from the open meeting requirements of the "Government in the Sunshine Act" by subsections (c)(8) and (c)(9)(A)(ii) thereof (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Dated: January 20, 1978.

For the Federal Deposit Insurance Corporation.

ALAN R. MILLER,  
Executive Secretary.

(S-180-78 Filed 1-24-78; 9:07 am)

#### [6714-01]

#### FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that on January 20, 1978, Chairman George A. LeMastre and Director John G. Heilmann (Comptroller of the Currency) voted to add the following item to the agenda for the previously announced open meeting of the Corporation's Board of Directors scheduled for 3 p.m. on Wednesday, January 25, 1978:

Memorandum and resolution establishing procedures for the initiation of enforcement actions against certain insured banks which have not yet submitted, or were delinquent in submitting, reports required by the recent survey on bank stock loans, insider loans, and overdrafts.

In voting to add the item to the agenda, the Board determined that Corporation business required its consideration of the item on less than seven days' notice to the public and that no earlier notice of a change in the subject matter of the meeting was practicable.

Dated: January 23, 1978.

For the Federal Deposit Insurance Corporation.

ALAN R. MILLER,  
Executive Secretary.

(S-181-78 Filed 1-24-78; 9:07 am)

#### [6740-02]

#### FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (Published January 20, 1978, 43 FR 3009).

### SUNSHINE ACT MEETINGS

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 25, 1978, 10 a.m.

CHANGE IN MEETING: The following item has been added:

Item No., Docket No., and Company.

CP-8.-CP78-403, Texas Gas Transmission Corp., CP78-76, Transcontinental Gas Pipe Line Corp., CP78-86, Texas Eastern Transmission Corp.

LOIS D. CASHELL,  
Acting Secretary.

(S-183-78 Filed 1-24-78 11:15 am)

#### [6740-02]

#### FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: January 31, 1978, 11:30 a.m.

PLACE: 825 North Capitol Street, Hearing Room A.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Docket No. C175-45, Tenneco Oil Co. Docket No. EA78-1, Motor Gasoline. Decontrol and Transition Regulation.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Casshell, Acting Secretary, telephone 202-275-4166.

(S-189-78; Filed 1-24-78; 2:02 p.m.)

#### [6730-01]

#### FEDERAL MARITIME COMMISSION.

TIME AND DATE: February 1, 1978, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public;

1. Agreement No. 7680-36: Modification of the American West African Freight Conference to establish intermodal authority.

2. Agreement No. 10285: Establishment of rate agreement between the Straits/New York Conference and four mini-landbridge carriers.

3. Agreement No. 10064-2: Application for extension for two years of a cooperative working arrangement in the United States Gulf-Colombia trade between Lykes Bros. Steamship Co. and Flota Mercante Grancolombiana S.A.

4. Special Docket No. 530: EME Norlett AB v. Sea-Land Service, Inc.—Consideration of initial decision.

5. Docket No. 74-8: European Trade Specialists, Inc. v. Prudential-Grace Lines, Inc. and The Hipage Co., Inc.—Determination on hearing of oral argument.

Portion closed to the public:

1. Docket No. 74-8: European Trade Specialists, Inc. and Kunzle & Tazin v. Prudential-Grace Lines, Inc. and The Hipage Company, Inc.—Consideration of Complainant's motion to set aside the initial decision on remand.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

(S-182-78 Filed 1-24-78; 9:07 am)

#### [6750-01]

#### FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, January 31, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10:00 a.m., on Tuesday, January 31, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information 202-523-3830, recorded message: 202-523-3806.

(S-192-78 Filed 1-24-78; 3:53 pm)

#### [6750-01]

#### FEDERAL TRADE COMMISSION.

TIME AND DATES: 10 a.m., Tuesday, January 31, and Wednesday, February 1, 1978.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:



## SUNSHINE ACT MEETINGS

Consideration of proposed trade regulation rule concerning proprietary vocational and home study schools and proposed May 15, 1975, 40 FR 21048, Proposed 16 CFR, Part 438.

(It is possible that this item will be deleted from Wednesday's open meeting agenda if the Commission completes discussion of the item at Tuesday's open meeting.)

## CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830, recorded message, 202-523-3806.

[S-193-78 Filed 1-24-78; 3:53 pm]

[6770-01]

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[F.C.S.C. Meeting Notice No. 17-77]

## FOREIGN CLAIMS SETTLEMENT COMMISSION.

## ANNOUNCEMENT IN REGARD TO COMMISSION MEETINGS AND HEARINGS

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of routine Commission business and other matters specified, as follows:

## Date, time, and subject matter

Wednesday, February 1, 1978, at 10:30 a.m., routine business.

Wednesday, February 8, 1978, at 10:30 a.m., routine business.

Wednesday, February 15, 1978, at 10:30 a.m., routine business.

Wednesday, February 22, 1978, at 10:30 a.m., routine business.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Executive Director, Foreign Claims Settlement Commission, 1111 20th Street NW., Washington, D.C. 20579, telephone 202-653-6156.

Dated at Washington, D.C., on January 19, 1978.

FRANCIS T. MASTERSON,  
Executive Director.

[S-186-78 Filed 1-24-78; 11:15 am]

[7030-01]

12

## INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., February 1, 1978.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

PORTION OF THE MEETING OPEN TO THE PUBLIC: Docket 229, Navajo, second quarter fiscal year 1978 financial plan.

PORTION OF THE MEETING CLOSED TO THE PUBLIC: Personnel.

NOTE.—Commission business required consideration of a status report to Congress at its meeting of January 18, 1978, as an additional agenda item, by vote of the three commissioners present. No earlier notice was possible.

## FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-187-78 Filed 1-24-78; 11:26 am]

[4910-58]

13

## NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, February 2, 1978 (NM-78-6).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first five items will be open to the public; the sixth item will be closed (exemption 10 of the Government in the Sunshine Act.)

## MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*.—Johnson & Johnson, Inc., Grumman Gulfstream II (N500J), Hot Springs, Va., September 26, 1976.

2. *Marine Accident Report*.—Tank Barge B-924, Fire and Explosion With Loss of Life, Greenville, Miss., November 13, 1975.

3. *Discussion*.—Proposed En Banc Hearing on Derailments and Carriage of Hazardous Materials.

4. *Discussion*.—Railroad Recommendation Closeouts (Recommendations R-76-42 and R-76-43 to Massachusetts Bay Transportation Authority and to Port Authority Trans-Hudson Corp.).

5. *Discussion*.—Communications with Accident Investigation Parties.

6. *Opinion and Order*.—Administrator v. Frankel, Docket SE-3573; Disposition of Respondent's Appeal.

## CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-190-78 Filed 1-24-78 3:24 p.m.]

[7590-01]

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## NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, January 23 and Tuesday, January 24, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Closed.

## MATTERS TO BE CONSIDERED:

Tuesday, January 24: 1:30 p.m.: Discussion of notification of Congress with regard to international safeguards matters. Approximately 1 hour. Closed—Exemption 1.

Rescheduled from January 23, 1978. Replaces "Briefing by Department of State Representatives on Export Matters" which is cancelled.

## CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: January 23, 1978.

WALTER MAGEE,  
Office of the Secretary.

[S-184-78 Filed 1-24-78; 11:15 am]

[3210-01]

15

## OVERSEAS PRIVATE INVESTMENT CORPORATION.

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday, January 31, 1978, at 9 a.m. (closed portion) and 10:30 a.m. (open portion).

PLACE: Offices of the Corporation, 7th floor board room, 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 10:30 a.m., will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

## MATTERS TO BE CONSIDERED:

(Closed to the Public: 9 a.m. to 10:30 a.m.)

1. Personnel matters.
2. Joint venture (Central America).
3. Claims report.
4. Information reports.
5. Reinsurance proposal.

## FURTHER MATTERS TO BE CONSIDERED:

(Open to the Public: 10:30 a.m.)

1. Approval of minutes of previous meeting.
2. Confirmation of scheduled board meetings.
3. Country eligibility: OPIC programs.
4. Environmental policy.
5. Financial statement.
6. Information reports.

## CONTACT PERSON FOR INFORMATION:

Information with regard to this meeting may be obtained from the Secretary of the Corporation at 202-632-1839.

ELIZABETH A. BURTON,  
Corporate Secretary.

[S-188-78 Filed 1-24-78; 2:02 p.m.]

## SUNSHINE ACT MEETINGS

[4410-01]

16

## PAROLE COMMISSION.

TIME AND DATE: Wednesday, January 25, 1978, 2:30 p.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C.

STATUS: Closed.

CHANGES IN THE MEETING: By majority vote on January 23, 1978, the Commission determined pursuant to 5 U.S.C. § 552b(e)(2) (A) and (B) and § 16.204(c) (1) and (2) that the following item be added to the agenda of the above meeting.

Ratification of the Chairman's action in preparing and forwarding the Commission's fiscal year 1979 Authorization Request pursuant to section 204 of Pub. L. 94-503.

The Commission further determined that Commission business requires that this agenda item be held on less than one week's notice and that no earlier announcement of the change is possible.

## CONTACT PERSON FOR MORE INFORMATION:

M. E. Malin Foehrkoib, 202-724-3117.

[S-185-78; Filed 1-24-78 11:15 am]



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UMI

# Federal Register

THURSDAY, JANUARY 26, 1978  
PART II



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THE PRESIDENT

UNITED STATES  
INTELLIGENCE ACTIVITIES

Executive Order 12036



# presidential documents

[3195-01]

## Title 3—The President

Executive Order 12036

January 24, 1978

### United States Intelligence Activities

By virtue of the authority vested in me by the Constitution and statutes of the United States of America including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the organization and control of United States foreign intelligence activities, it is hereby ordered as follows:

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## SECTION 1

### DIRECTION, DUTIES AND RESPONSIBILITIES WITH RESPECT TO THE NATIONAL INTELLIGENCE EFFORT\*

#### 1-1. National Security Council.

1-101. *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for, and direction to the conduct of all national foreign intelligence and counterintelligence activities.

1-102. *Committees.* The NSC Policy Review Committee and Special Coordination Committee, in accordance with procedures established by the Assistant to the President for National Security Affairs, shall assist in carrying out the NSC's responsibilities in the foreign intelligence field.

#### 1-2. NSC Policy Review Committee.

1-201. *Membership.* The NSC Policy Review Committee (PRC), when carrying out responsibilities assigned in this Order, shall be chaired by the Director of Central Intelligence and composed of the Vice President, the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Assistant to the President for National Security Affairs, and the Chairman of the Joint Chiefs of Staff, or their designees, and other senior officials, as appropriate.

#### 1-202. Duties. The PRC shall:

- (a) Establish requirements and priorities for national foreign intelligence;
- (b) Review the National Foreign Intelligence Program and budget proposals and report to the President as to whether the resource allocations for intelligence capabilities are responsive to the intelligence requirements of the members of the NSC.
- (c) Conduct periodic reviews of national foreign intelligence products, evaluate the quality of the intelligence product, develop policy guidance to ensure quality intelligence and to meet changing intelligence requirements; and
- (d) Submit an annual report on its activities to the NSC.

1-203. *Appeals.* Recommendations of the PRC on intelligence matters may be appealed to the President or the NSC by any member of PRC.

#### 1-3. NSC Special Coordination Committee.

1-301. *Membership.* The NSC Special Coordination Committee (SCC) is chaired by the Assistant to the President for National Security Affairs and its membership includes the statutory members of the NSC and other senior officials, as appropriate.

1-302. *Special Activities.* The SCC shall consider and submit to the President a policy recommendation, including all dissents, on each special activity. When meeting for this purpose, the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence.

1-303. *Sensitive Foreign Intelligence Collection Operations.* Under standards established by the President, proposals for sensitive foreign intelligence collection operations shall be reported to the Chairman by the Director of Central Intelligence for appropriate review and approval. When meeting for the purpose of reviewing proposals for sensitive foreign intelligence collection operations,

\* Certain technical terms are defined in Section 4-2.



the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Assistant to the President for National Security Affairs, the Director of Central Intelligence, and such other members designated by the Chairman to ensure proper consideration of these operations.

1-304. *Counterintelligence.* The SCC shall develop policy with respect to the conduct of counterintelligence activities. When meeting for this purpose the members of the SCC shall include the Secretary of State, the Secretary of Defense, the Attorney General, the Director of the Office of Management and Budget, the Assistant to the President for National Security Affairs, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence, and the Director of the FBI. The SCC's counterintelligence functions shall include:

(a) Developing standards and doctrine for the counterintelligence activities of the United States;

(b) Resolving interagency differences concerning implementation of counterintelligence policy;

(c) Developing and monitoring guidelines consistent with this Order for the maintenance of central records of counterintelligence information;

(d) Submitting to the President an overall annual assessment of the relative threat to United States interests from intelligence and security services of foreign powers and from international terrorist activities, including an assessment of the effectiveness of the United States counterintelligence activities; and

(e) Approving counterintelligence activities which, under such standards as may be established by the President, require SCC approval.

1-305. *Required Membership.* The SCC shall discharge the responsibilities assigned by sections 1-302 through 1-304 only after consideration in a meeting at which all designated members are present or, in unusual circumstances when any such member is unavailable, when a designated representative of the member attends.

1-306. *Additional Duties.* The SCC shall also:

(a) Conduct an annual review of ongoing special activities and sensitive national foreign intelligence collection operations and report thereon to the NSC; and

(b) Carry out such other coordination and review activities as the President may direct.

1-307. *Appeals.* Any member of the SCC may appeal any decision to the President or the NSC.

#### 1-4. *National Foreign Intelligence Board.*

1-401. *Establishment and Duties.* There is established a National Foreign Intelligence Board (NFIB) to advise the Director of Central Intelligence concerning:

(a) Production, review, and coordination of national foreign intelligence;

(b) The National Foreign Intelligence Program budget;

(c) Interagency exchanges of foreign intelligence information;

(d) Arrangements with foreign governments on intelligence matters;

(e) The protection of intelligence sources and methods;

(f) Activities of common concern; and

(g) Other matters referred to it by the Director of Central Intelligence.

1-402. *Membership.* The NFIB shall be chaired by the Director of Central Intelligence and shall include other appropriate officers of the CIA, the Office of the Director of Central Intelligence, the Department of State, the Department of Defense, the Department of Justice, the Department of the Treasury, the Department of Energy, the Defense Intelligence Agency, the offices within the Department of Defense for reconnaissance programs, the National Security Agency and the FBI. A representative of the Assistant to the President for National Security Affairs may attend meetings of the NFIB as an observer.

1-403. *Restricted Membership and Observers.* When the NFIB meets for the purpose of section 1-401(a), it shall be composed solely of the senior intelligence officers of the designated agencies. The senior intelligence officers of the Army, Navy and Air Force may attend all meetings of the NFIB as observers.

#### 1-5. *National Intelligence Tasking Center.*

1-501. *Establishment.* There is established a National Intelligence Tasking Center (NITC) under the direction, control and management of the Director of Central Intelligence for coordinating and tasking national foreign intelligence collection activities. The NITC shall be staffed jointly by civilian and military personnel including designated representatives of the chiefs of each of the Department of Defense intelligence organizations engaged in national foreign intelligence activities. Other agencies within the Intelligence Community may also designate representatives.

1-502. *Responsibilities.* The NITC shall be the central mechanism by which the Director of Central Intelligence:

(a) Translates national foreign intelligence requirements and priorities developed by the PRC into specific collection objectives and targets for the Intelligence Community;

(b) Assigns targets and objectives to national foreign intelligence collection organizations and systems;

(c) Ensures the timely dissemination and exploitation of data for national foreign intelligence purposes gathered by national foreign intelligence collection means, and ensures the resulting intelligence flow is routed immediately to relevant components and commands;

(d) Provides advisory tasking concerning collection of national foreign intelligence to departments and agencies having information collection capabilities or intelligence assets that are not a part of the National Foreign Intelligence Program. Particular emphasis shall be placed on increasing the contribution of departments or agencies to the collection of information through overt means.

1-503. *Resolution of Conflicts.* The NITC shall have the authority to resolve conflicts of priority. Any PRC member may appeal such a resolution to the PRC; pending the PRC's decision, the tasking remains in effect.

1-504. *Transfer of Authority.* All responsibilities and authorities of the Director of Central Intelligence concerning the NITC shall be transferred to the Secretary of Defense upon the express direction of the President. To maintain readiness for such transfer, the Secretary of Defense shall, with advance agreement of the Director of Central Intelligence, assume temporarily during regular practice exercises all responsibilities and authorities of the Director of Central Intelligence concerning the NITC.

#### 1-6. *The Director of Central Intelligence.*

1-601. *Duties.* The Director of Central Intelligence shall be responsible directly to the NSC and, in addition to the duties specified elsewhere in this Order, shall:

(a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;

(b) Be the head of the CIA and of such staff elements as may be required for discharge of the Director's Intelligence Community responsibilities;

(c) Act, in appropriate consultation with the departments and agencies, as the Intelligence Community's principal spokesperson to the Congress, the news media and the public, and facilitate the use of national foreign intelligence products by the Congress in a secure manner;

(d) Develop, consistent with the requirements and priorities established by the PRC, such objectives and guidance for the Intelligence Community as will



enhance capabilities for responding to expected future needs for national foreign intelligence;

(e) Promote the development and maintenance of services of common concern by designated foreign intelligence organizations on behalf of the Intelligence Community;

(f) Ensure implementation of special activities;

(g) Formulate policies concerning intelligence arrangements with foreign governments, and coordinate intelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments;

(h) Conduct a program to protect against overclassification of foreign intelligence information;

(i) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information and products;

(j) Participate in the development of procedures required to be approved by the Attorney General governing the conduct of intelligence activities;

(k) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;

(l) Provide appropriate intelligence to departments and agencies not within the Intelligence Community; and

(m) Establish appropriate committees or other advisory groups to assist in the execution of the foregoing responsibilities.

1-602. *National Foreign Intelligence Program Budget.* The Director of Central Intelligence shall, to the extent consistent with applicable law, have full and exclusive authority for approval of the National Foreign Intelligence Program budget submitted to the President. Pursuant to this authority:

(a) The Director of Central Intelligence shall provide guidance for program and budget development to program managers and heads of component activities and to department and agency heads;

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence of proposed national programs and budgets in the format designated by the Director of Central Intelligence, by the program managers and heads of component activities, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities;

(c) The Director of Central Intelligence shall review and evaluate the national program and budget submissions and, with the advice of the NFIB and the departments and agencies concerned, develop the consolidated National Foreign Intelligence Program budget and present it to the President through the Office of Management and Budget;

(d) The Director of Central Intelligence shall present and justify the National Foreign Intelligence Program budget to the Congress;

(e) The heads of the departments and agencies shall, in consultation with the Director of Central Intelligence, establish rates of obligation for appropriated funds;

(f) The Director of Central Intelligence shall have full and exclusive authority for reprogramming National Foreign Intelligence Program funds, in accord with guidelines established by the Office of Management and Budget, but shall do so only after consultation with the head of the department affected and appropriate consultation with the Congress;

(g) The departments and agencies may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

(h) The Director of Central Intelligence shall monitor National Foreign Intelligence Program implementation and may conduct program and performance audits and evaluations.

1-603. *Responsibility For National Foreign Intelligence.* The Director of Central Intelligence shall have full responsibility for production and dissemination of national foreign intelligence and have authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations. In doing so, the Director of Central Intelligence shall ensure that diverse points of view are considered fully and that differences of judgment within the Intelligence Community are brought to the attention of national policymakers.

1-604. *Protection of Sources, Methods and Procedures.* The Director of Central Intelligence shall ensure that programs are developed which protect intelligence sources, methods and analytical procedures, provided that this responsibility shall be limited within the United States to:

(a) Using lawful means to protect against disclosure by present or former employees of the CIA or the Office of the Director of Central Intelligence, or by persons or organizations presently or formerly under contract with such entities; and

(b) Providing policy, guidance and technical assistance to departments and agencies regarding protection of intelligence information, including information that may reveal intelligence sources and methods.

1-605. *Responsibility of Executive Branch Agencies.* The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant Attorney General procedures, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States and shall give due consideration to requests from the Director of Central Intelligence for appropriate support for CIA activities.

1-606. *Access to CIA Intelligence.* The Director of Central Intelligence, shall, in accordance with law and relevant Attorney General procedures, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Office of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies.

1-7. *Senior Officials of the Intelligence Community.* The senior officials of each of the agencies within the Intelligence Community shall:

1-701. Ensure that all activities of their agencies are carried out in accordance with applicable law;

1-702. Make use of the capabilities of other agencies within the Intelligence Community in order to achieve efficiency and mutual assistance;

1-703. Contribute in their areas of responsibility to the national foreign intelligence products;

1-704. Establish internal policies and guidelines governing employee conduct and ensure that such are made known to each employee;

1-705. Provide for strong, independent, internal means to identify, inspect, and report on unlawful or improper activity;

1-706. Report to the Attorney General evidence of possible violations of federal criminal law by an employee of their department or agency, and report to the Attorney General evidence of possible violations by any other person of those federal criminal laws specified in guidelines adopted by the Attorney General;



1-707. In any case involving serious or continuing breaches of security, recommend to the Attorney General that the case be referred to the FBI for further investigation;

1-708. Furnish the Director of Central Intelligence, the PRC and the SCC, in accordance with applicable law and Attorney General procedures, the information required for the performance of their respective duties;

1-709. Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations which raise questions of legality or propriety;

1-710. Protect intelligence and intelligence sources and methods consistent with guidance from the Director of Central Intelligence and the NSC;

1-711. Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

1-712. Execute programs to protect against overclassification of foreign intelligence;

1-713. Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

1-714. Ensure that the Inspectors General and General Counsel of their agencies have access to any information necessary to perform their duties assigned by this Order.

1-8. *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations and directives, the CIA, under the direction of the NSC, shall:

1-801. Collect foreign intelligence, including information not otherwise obtainable, and develop, conduct, or provide support for technical and other programs which collect national foreign intelligence. The collection of information within the United States shall be coordinated with the FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

1-802. Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, geographic and sociological intelligence to meet the needs of the President, the NSC, and other elements of the United States Government;

1-803. Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

1-804. Conduct counterintelligence activities outside the United States and coordinate counterintelligence activities conducted outside the United States by other agencies within the Intelligence Community;

1-805. Without assuming or performing any internal security functions, conduct counterintelligence activities within the United States, but only in coordination with the FBI and subject to the approval of the Attorney General;

1-806. Produce and disseminate counterintelligence studies and reports;

1-807. Coordinate the collection outside the United States of intelligence information not otherwise obtainable;

1-808. Conduct special activities approved by the President and carry out such activities consistent with applicable law;

1-809. Conduct services of common concern for the Intelligence Community as directed by the NSC;

1-810. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

1-811. Protect the security of its installations, activities, information and personnel by appropriate means, including such investigations of applicants,

employees, contractors, and other persons with similar associations with the CIA as are necessary;

1-812. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-801 through 1-811 above, including procurement and essential cover and proprietary arrangements.

1-813. Provide legal and legislative services and other administrative support to the Office of the Director of Central Intelligence.

1-9. *The Department of State.* The Secretary of State shall:

1-901. Overtly collect foreign political, sociological, economic, scientific, technical, political-military and associated biographic information;

1-902. Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

1-903. Disseminate, as appropriate, reports received from United States diplomatic and consular posts abroad;

1-904. Coordinate with the Director of Central Intelligence to ensure that national foreign intelligence activities are useful to and consistent with United States foreign policy;

1-905. Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

1-906. Support Chiefs of Mission in discharging their statutory responsibilities for direction and coordination of mission activities.

1-10. *The Department of the Treasury.* The Secretary of the Treasury shall:

1-1001. Overtly collect foreign financial and monetary information;

1-1002. Participate with the Department of State in the overt collection of general foreign economic information;

1-1003. Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

1-1004. Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1-11. *The Department of Defense.* The Secretary of Defense shall:

1-1101. Collect national foreign intelligence and be responsive to collection tasking by the NITC;

1-1102. Collect, produce and disseminate foreign military and military-related intelligence information, including scientific, technical, political, geographic and economic information as required for execution of the Secretary's responsibilities;

1-1103. Conduct programs and missions necessary to fulfill national and tactical foreign intelligence requirements;

1-1104. Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General, and produce and disseminate counterintelligence studies and reports;



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1-1105. Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities;

1-1106. Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;

1-1107. Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;

1-1108. Review budget data and information on Department of Defense programs within the National Foreign Intelligence Program and review budgets submitted by program managers to the Director of Central Intelligence to ensure the appropriate relationship of the National Foreign Intelligence Program elements to the other elements of the Defense program;

1-1109. Monitor, evaluate and conduct performance audits of Department of Defense intelligence programs;

1-1110. Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;

1-1111. Together with the Director of Central Intelligence, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs and provide the Director of Central Intelligence all information necessary for this purpose;

1-1112. Protect the security of Department of Defense installations, activities, information and personnel by appropriate means including such investigations of applicants, employees, contractors and other persons with similar associations with the Department of Defense as are necessary; and

1-1113. Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections 1-1101 through 1-1112 above.

1-12. *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in sections 1-1101 through 1-1113, the Secretary of Defense is authorized to utilize the following:

1-1201. *Defense Intelligence Agency*, whose responsibilities shall include:

(a) Production or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(b) Provision of military intelligence for national foreign intelligence products;

(c) Coordination of all Department of Defense intelligence collection requirements for departmental needs;

(d) Management of the Defense Attache system; and

(e) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

1-1202. *National Security Agency (NSA)*, whose responsibilities shall include:

(a) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

(b) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;

(c) Collection of signals intelligence information for national foreign intelligence purposes in accordance with tasking by the NITC;

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(d) Processing of signals intelligence data for national foreign intelligence purposes consistent with standards for timeliness established by the Director of Central Intelligence;

(e) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the NITC;

(f) Collection, processing, and dissemination of signals intelligence information for counterintelligence purposes;

(g) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;

(h) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;

(i) Conduct of research and development to meet needs of the United States for signals intelligence and communications security;

(j) Protection of the security of its installations, activities, information and personnel by appropriate means including such investigations of applicants, employees, contractors and other persons with similar associations with the NSA as are necessary; and

(k) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations.

1-1203. *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(a) Carrying out consolidated reconnaissance programs for specialized intelligence;

(b) Responding to tasking through the NITC; and

(c) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

1-1204. *The foreign intelligence and counterintelligence elements of the military services*, whose responsibilities shall include:

(a) Collection, production and dissemination of military and military-related foreign intelligence, including information on indications and warnings, foreign capabilities, plans and weapons systems, scientific and technical developments and narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be tasked by the NITC. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(b) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI, and production and dissemination of counterintelligence studies or reports; and

(c) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

1-1205. *Other offices within the Department of Defense* appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense. If such other offices are used for intelligence purposes, the provisions of Sections 2-101 through 2-309 of this Order shall apply to those offices when used for those purposes.



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1-13. *The Department of Energy.* The Secretary of Energy shall:

1-1301. Participate with the Department of State in overtly collecting political, economic and technical information with respect to foreign energy matters;

1-1302. Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;

1-1303. Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and

1-1304. Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1-14. *The Federal Bureau of Investigation.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

1-1401. Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;

1-1402. Conduct counterintelligence activities outside the United States in coordination with the CIA, subject to the approval of the Director of Central Intelligence;

1-1403. Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, lawful activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community;

1-1404. Produce and disseminate foreign intelligence, counterintelligence and counterintelligence studies and reports; and

1-1405. Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

1-15. *The Drug Enforcement Administration.* Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Administrator of DEA shall:

1-1501. Collect, produce and disseminate intelligence on the foreign and domestic aspects of narcotics production and trafficking in coordination with other agencies with responsibilities in these areas;

1-1502. Participate with the Department of State in the overt collection of general foreign political, economic and agricultural information relating to narcotics production and trafficking; and

1-1503. Coordinate with the Director of Central Intelligence to ensure that the foreign narcotics intelligence activities of DEA are consistent with other foreign intelligence programs.

## SECTION 2

## RESTRICTIONS ON INTELLIGENCE ACTIVITIES

2-1. *Adherence to Law.*

2-101. *Purpose.* Information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decision-making in the areas of national defense and foreign relations. The measures employed to acquire such information should be responsive to legitimate governmental needs and must be conducted in a manner that preserves and respects established concepts of privacy and civil liberties.

2-102. *Principles of Interpretation.* Sections 2-201 through 2-309 set forth limitations which, in addition to other applicable laws, are intended to achieve

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the proper balance between protection of individual rights and acquisition of essential information. Those sections do not authorize any activity not authorized by sections 1-101 through 1-1503 and do not provide any exemption from any other law.

2-2. *Restrictions on Certain Collection Techniques.*

2-201. *General Provisions.*

(a) The activities described in Sections 2-202 through 2-208 shall be undertaken only as permitted by this Order and by procedures established by the head of the agency concerned and approved by the Attorney General. Those procedures shall protect constitutional rights and privacy, ensure that information is gathered by the least intrusive means possible, and limit use of such information to lawful governmental purposes.

(b) Activities described in sections 2-202 through 2-205 for which a warrant would be required if undertaken for law enforcement rather than intelligence purposes shall not be undertaken against a United States person without a judicial warrant, unless the President has authorized the type of activity involved and the Attorney General has both approved the particular activity and determined that there is probable cause to believe that the United States person is an agent of a foreign power.

2-202. *Electronic Surveillance.* The CIA may not engage in any electronic surveillance within the United States. No agency within the Intelligence Community shall engage in any electronic surveillance directed against a United States person abroad or designed to intercept a communication sent from, or intended for receipt within, the United States except as permitted by the procedures established pursuant to section 2-201. Training of personnel by agencies in the Intelligence Community in the use of electronic communications equipment, testing by such agencies of such equipment, and the use of measures to determine the existence and capability of electronic surveillance equipment being used unlawfully shall not be prohibited and shall also be governed by such procedures. Such activities shall be limited in scope and duration to those necessary to carry out the training, testing or countermeasures purpose. No information derived from communications intercepted in the course of such training, testing or use of countermeasures may be retained or used for any other purpose.

2-203. *Television Cameras and Other Monitoring.* No agency within the Intelligence Community shall use any electronic or mechanical device surreptitiously and continuously to monitor any person within the United States, or any United States person abroad, except as permitted by the procedures established pursuant to Section 2-201.

2-204. *Physical Searches.* No agency within the Intelligence Community except the FBI may conduct any unconsented physical searches within the United States. All such searches conducted by the FBI, as well as all such searches conducted by any agency within the Intelligence Community outside the United States and directed against United States persons, shall be undertaken only as permitted by procedures established pursuant to Section 2-201.

2-205. *Mail Surveillance.* No agency within the Intelligence Community shall open mail or examine envelopes in United States postal channels, except in accordance with applicable statutes and regulations. No agency within the Intelligence Community shall open mail of a United States person abroad except as permitted by procedures established pursuant to Section 2-201.

2-206. *Physical Surveillance.* The FBI may conduct physical surveillance directed against United States persons or others only in the course of a lawful investigation. Other agencies within the Intelligence Community may not undertake any physical surveillance directed against a United States person unless:



(a) The surveillance is conducted outside the United States and the person being surveilled is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities, or engaging in narcotics production or trafficking;

(b) The surveillance is conducted solely for the purpose of identifying a person who is in contact with someone who is the subject of a foreign intelligence or counterintelligence investigation; or

(c) That person is being surveilled for the purpose of protecting foreign intelligence and counterintelligence sources and methods from unauthorized disclosure or is the subject of a lawful counterintelligence, personnel, physical or communications security investigation.

(d) No surveillance under paragraph (c) of this section may be conducted within the United States unless the person being surveilled is a present employee, intelligence agency contractor or employee of such a contractor, or is a military person employed by a non-intelligence element of a military service. Outside the United States such surveillance may also be conducted against a former employee, intelligence agency contractor or employee of a contractor or a civilian person employed by a non-intelligence element of an agency within the Intelligence Community. A person who is in contact with such a present or former employee or contractor may also be surveilled, but only to the extent necessary to identify that person.

2-207. *Undisclosed Participation in Domestic Organizations.* No employees may join, or otherwise participate in, any organization within the United States on behalf of any agency within the Intelligence Community without disclosing their intelligence affiliation to appropriate officials of the organization, except as permitted by procedures established pursuant to Section 2-201. Such procedures shall provide for disclosure of such affiliation in all cases unless the agency head or a designee approved by the Attorney General finds that non-disclosure is essential to achieving lawful purposes, and that finding is subject to review by the Attorney General. Those procedures shall further limit undisclosed participation to cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation;

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power; or

(c) The participation is strictly limited in its nature, scope and duration to that necessary for other lawful purposes relating to foreign intelligence and is a type of participation approved by the Attorney General and set forth in a public document. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members.

2-208. *Collection of Nonpublicly Available Information.* No agency within the Intelligence Community may collect, disseminate or store information concerning the activities of United States persons that is not available publicly, unless it does so with their consent or as permitted by procedures established pursuant to Section 2-201. Those procedures shall limit collection, storage or dissemination to the following types of information:

(a) Information concerning corporations or other commercial organizations or activities that constitutes foreign intelligence or counterintelligence;

(b) Information arising out of a lawful counterintelligence or personnel, physical or communications security investigation;

(c) Information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting, which is needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure;

(d) Information needed solely to identify individuals in contact with those persons described in paragraph (c) of this section or with someone who is the subject of a lawful foreign intelligence or counterintelligence investigation;

(e) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons;

(f) Information constituting foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 2-202 or from cooperating sources in the United States;

(g) Information about a person who is reasonably believed to be acting on behalf of a foreign power, engaging in international terrorist activities or narcotics production or trafficking, or endangering the safety of a person protected by the United States Secret Service or the Department of State;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Information concerning United States persons abroad that is obtained in response to requests from the Department of State for support of its consular responsibilities relating to the welfare of those persons;

(j) Information collected, received, disseminated or stored by the FBI and necessary to fulfill its lawful investigative responsibilities; or

(k) Information concerning persons or activities that pose a clear threat to any facility or personnel of an agency within the Intelligence Community. Such information may be retained only by the agency threatened and, if appropriate, by the United States Secret Service and the FBI.

### 2-3. *Additional Restrictions and Limitations.*

2-301. *Tax Information.* No agency within the Intelligence Community shall examine tax returns or tax information except as permitted by applicable law.

2-302. *Restrictions on Experimentation.* No agency within the Intelligence Community shall sponsor, contract for, or conduct research on human subjects except in accordance with guidelines issued by the Department of Health, Education and Welfare. The subject's informed consent shall be documented as required by those guidelines.

2-303. *Restrictions on Contracting.* No agency within the Intelligence Community shall enter into a contract or arrangement for the provision of goods or services with private companies or institutions in the United States unless the agency sponsorship is known to the appropriate officials of the company or institution. In the case of any company or institution other than an academic institution, intelligence agency sponsorship may be concealed where it is determined, pursuant to procedures approved by the Attorney General, that such concealment is necessary to maintain essential cover or proprietary arrangements for authorized intelligence purposes.

2-304. *Restrictions on Personnel Assigned to Other Agencies.* An employee detailed to another agency within the federal government shall be responsible to the host agency and shall not report to the parent agency on the affairs of the host agency unless so directed by the host agency. The head of the host agency, and any successor, shall be informed of the employee's relationship with the parent agency.

2-305. *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2-306. *Restrictions on Special Activities.* No component of the United States Government except an agency within the Intelligence Community may conduct any special activity. No such agency except the CIA (or the military services in wartime) may conduct any special activity unless the President determines, with



## THE PRESIDENT

the SCC's advice, that another agency is more likely to achieve a particular objective.

2-307. *Restrictions on Indirect Participation in Prohibited Activities.* No agency of the Intelligence Community shall request or otherwise encourage, directly or indirectly, any person, organization, or government agency to undertake activities forbidden by this Order or by applicable law.

2-308. *Restrictions on Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community other than the FBI shall not, except as expressly authorized by law:

(a) Provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration (or its successor agencies) or to state or local police organizations of the United States; or

(b) Participate in or fund any law enforcement activity within the United States.

2-309. *Permissible Assistance to Law Enforcement Authorities.* The restrictions in Section 2-308 shall not preclude:

(a) Cooperation with appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of any agency within the Intelligence Community;

(b) Participation in law enforcement activities, in accordance with law and this Order, to investigate or prevent clandestine intelligence activities by foreign powers, international narcotics production and trafficking, or international terrorist activities; or

(c) Provision of specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be governed by procedures approved by the Attorney General.

2-310. *Permissible Dissemination and Storage of Information.* Nothing in Sections 2-201 through 2-309 of this Order shall prohibit:

(a) Dissemination to appropriate law enforcement agencies of information which indicates involvement in activities that may violate federal, state, local or foreign laws;

(b) Storage of information required by law to be retained;

(c) Dissemination of information covered by Section 2-208 (a)-(j) to agencies within the Intelligence Community or entities of cooperating foreign governments; or

(d) Lawful storage or dissemination of information solely for administrative purposes not related to intelligence or security.

## SECTION 3

## OVERSIGHT OF INTELLIGENCE ORGANIZATIONS

3-1. *Intelligence Oversight Board.*

3-101. *Membership.* The President's Intelligence Oversight Board (IOB) shall function within the White House. The IOB shall have three members who shall be appointed by the President and who shall be from outside the government and be qualified on the basis of ability, knowledge, diversity of background and experience. No member shall have any personal interest in any contractual relationship with any agency within the Intelligence Community. One member shall be designated by the President as chairman.

3-102. *Duties.* The IOB shall:

(a) Review periodically the practices and procedures of the Inspectors General and General Counsel with responsibilities for agencies within the Intelligence Community for discovering and reporting to the IOB intelligence

## THE PRESIDENT

activities that raise questions of legality or propriety, and consider written and oral reports referred under Section 3-201;

(b) Review periodically for adequacy the internal guidelines of each agency within the Intelligence Community concerning the legality or propriety of intelligence activities;

(c) Report periodically, at least quarterly, to the President on its findings; and report in a timely manner to the President any intelligence activities that raise serious questions of legality or propriety;

(d) Forward to the Attorney General, in a timely manner, reports received concerning intelligence activities in which a question of legality has been raised or which the IOB believes to involve questions of legality; and

(e) Conduct such investigations of the intelligence activities of agencies within the Intelligence Community as the Board deems necessary to carry out its functions under this Order.

3-103. *Restriction on Staff.* No person who serves on the staff of the IOB shall have any contractual or employment relationship with any agency within the Intelligence Community.

3-2. *Inspectors General and General Counsel.* Inspectors General and General Counsel with responsibility for agencies within the Intelligence Community shall:

3-201. Transmit timely reports to the IOB concerning any intelligence activities that come to their attention and that raise questions of legality or propriety;

3-202. Promptly report to the IOB actions taken concerning the Board's findings on intelligence activities that raise questions of legality or propriety;

3-203. Provide to the IOB information requested concerning the legality or propriety of intelligence activities within their respective agencies;

3-204. Formulate practices and procedures for discovering and reporting to the IOB intelligence activities that raise questions of legality or propriety; and

3-205. Report to the IOB any occasion on which the Inspectors General or General Counsel were directed not to report any intelligence activity to the IOB which they believed raised questions of legality or propriety.

3-3. *Attorney General.* The Attorney General shall:

3-301. Receive and consider reports from agencies within the Intelligence Community forwarded by the IOB;

3-302. Report to the President in a timely fashion any intelligence activities which raise questions of legality;

3-303. Report to the IOB and to the President in a timely fashion decisions made or actions taken in response to reports from agencies within the Intelligence Community forwarded to the Attorney General by the IOB;

3-304. Inform the IOB of legal opinions affecting the operations of the Intelligence Community; and

3-305. Establish or approve procedures, as required by this Order, for the conduct of intelligence activities. Such procedures shall ensure compliance with law, protect constitutional rights and privacy, and ensure that any intelligence activity within the United States or directed against any United States person is conducted by the least intrusive means possible. The procedures shall also ensure that any use, dissemination and storage of information about United States persons acquired through intelligence activities is limited to that necessary to achieve lawful governmental purposes.

3-4. *Congressional Intelligence Committees.* Under such procedures as the President may establish and consistent with applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative



## THE PRESIDENT

Branches and by law to protect sources and methods, the Director of Central Intelligence and heads of departments and agencies of the United States involved in intelligence activities shall:

3-401. Keep the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate fully and currently informed concerning intelligence activities, including any significant anticipated activities which are the responsibility of, or engaged in, by such department or agency. This requirement does not constitute a condition precedent to the implementation of such intelligence activities;

3-402. Provide any information or document in the possession, custody, or control of the department or agency or person paid by such department or agency, within the jurisdiction of the Permanent Select Committee on Intelligence of the House of Representatives or the Select Committee on Intelligence of the Senate, upon the request of such committee; and

3-403. Report in a timely fashion to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.

## SECTION 4

## GENERAL PROVISIONS

4-1. *Implementation.*

4-101. Except as provided in section 4-105 of this section, this Order shall supersede Executive Order 11905, "United States Foreign Intelligence Activities," dated February 18, 1976; Executive Order 11985, same subject, dated May 13, 1977; and Executive Order 11994, same subject, dated June 1, 1977.

4-102. The NSC, the Secretary of Defense, the Attorney General and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order.

4-103. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order.

4-104. The Attorney General shall have sole authority to issue and revise procedures required by section 2-201 for the activities of the FBI relating to foreign intelligence and counterintelligence.

4-105. Where intelligence activities under this Order are to be conducted pursuant to procedures approved or agreed to by the Attorney General, those activities may be conducted under terms and conditions of Executive Order 11905 and any procedures promulgated thereunder until such Attorney General procedures are established. Such Attorney General procedures shall be established as expeditiously as possible after the issuance of this Order.

4-106. In some instances, the documents that implement this Order will be classified because of the sensitivity of the information and its relation to national security. All instructions contained in classified documents will be consistent with this Order. All procedures promulgated pursuant to this Order will be made available to the Congressional intelligence committees in accordance with Section 3-402.

4-107. Unless otherwise specified, the provisions of this Order shall apply to activities both within and outside the United States, and all references to law are to applicable laws of the United States, including the Constitution and this Order. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

4-2. *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

## THE PRESIDENT

4-201. *Communications security* means protective measures taken to deny unauthorized persons information derived from telecommunications of the United States Government related to national security and to ensure the authenticity of such telecommunications.

4-202. *Counterintelligence* means information gathered and activities conducted to protect against espionage and other clandestine intelligence activities, sabotage, international terrorist activities or assassinations conducted for or on behalf of foreign powers, organizations or persons, but not including personnel, physical, document, or communications security programs.

4-203. *Electronic Surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction finding equipment solely to determine the location of a transmitter.

4-204. *Employee* means a person employed by, assigned to, or acting for an agency within the Intelligence Community.

4-205. *Foreign Intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

4-206. *Intelligence* means foreign intelligence and counterintelligence.

4-207. *Intelligence Community and agency or agencies within the Intelligence Community* refer to the following organizations:

(a) The Central Intelligence Agency (CIA);

(b) The National Security Agency (NSA);

(c) The Defense Intelligence Agency;

(d) The Offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(e) The Bureau of Intelligence and Research of the Department of State;

(f) The intelligence elements of the military services, the Federal Bureau of Investigation (FBI), the Department of the Treasury, the Department of Energy, and the Drug Enforcement Administration (DEA); and

(g) The staff elements of the Office of the Director of Central Intelligence.

4-208. *Intelligence product* means the estimates, memoranda and other reports produced from the analysis of available information.

4-209. *International terrorist activities* means any activity or activities which:

(a) involves killing, causing serious bodily harm, kidnapping, or violent destruction of property, or an attempt or credible threat to commit such acts; and

(b) appears intended to endanger a protectee of the Secret Service or the Department of State or to further political, social or economic goals by intimidating or coercing a civilian population or any segment thereof, influencing the policy of a government or international organization by intimidation or coercion, or obtaining widespread publicity for a group or its cause; and

(c) transcends national boundaries in terms of the means by which it is accomplished, the civilian population, government, or international organization it appears intended to coerce or intimidate, or the locale in which its perpetrators operate or seek asylum.

4-210. *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President.

(a) The programs of the CIA;

(b) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of



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Defense for the collection of specialized national foreign intelligence through reconnaissance except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(c) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(d) Activities of the staff elements of the Office of the Director of Central Intelligence.

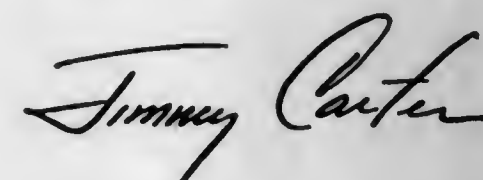
(e) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

4-211. *Physical surveillance* means an unconsented, systematic and deliberate observation of a person by any means on a continuing basis, or unconsented acquisition of a nonpublic communication by a person not a party thereto or visibly present thereat through any means not involving electronic surveillance. This definition does not include overhead reconnaissance not directed at specific United States persons.

4-212. *Special activities* means activities conducted abroad in support of national foreign policy objectives which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but not including diplomatic activity or the collection and production of intelligence or related support functions.

4-213. *United States*, when used to describe a place, includes the territories of the United States.

4-214. *United States person* means a citizen of the United States, an alien lawfully admitted for permanent residence, an unincorporated association organized in the United States or substantially composed of United States citizens or aliens admitted for permanent residence, or a corporation incorporated in the United States.



THE WHITE HOUSE,

January 24, 1978.

[FR Doc. 78-2420 Filed 1-25-78; 11:12 am]

EDITORIAL NOTE: The President's statement and remarks of Jan. 24, 1978, on signing Executive Order 12036, are printed in the Weekly Compilation of Presidential Documents (vol. 14, No. 4).



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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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PROPOSED RULES:

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# rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel  
CHAPTER I—CIVIL SERVICE COMMISSION  
PART 213—EXCEPTED SERVICE  
Department of Commerce

AGENCY: Civil Service Commission.  
ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Deputy Assistant Secretary for Domestic Economic Policy Coordination is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3314(b)(3) is added as set out below:

§ 213.3314 Department of Commerce.

(b) Office of the Assistant Secretary for Policy. . . .

(3) One Special Assistant to the Deputy Assistant Secretary for Domestic Economic Policy Coordination.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.  
[FR Doc. 78-2347 Filed 1-26-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE  
Department of Defense

AGENCY: Civil Service Commission.  
ACTION: Final rule.

SUMMARY: Section 213.3106(b)(7) of Schedule A is revoked as all positions under cryptologic intelligence activities are no longer excepted. A new authority showing the kinds of positions under cryptologic intelligence activities which are now excepted is added.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3106(b)(7) is revoked and 5 CFR 213.3106(d)(2) is added.

§ 213.3106 Department of Defense.

(b) Entire Department . . . .  
(7) [Revoked]

(d) General . . . .

(2) Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, or estimation of intelligence information or in the planning, programing, and management of intelligence resources.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.  
[FR Doc. 78-2348 Filed 1-26-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE  
Department of State

AGENCY: Civil Service Commission.  
ACTION: Final rule.

SUMMARY: One position of Staff Assistant to the Assistant Secretary for Congressional Relations is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(c)(6) is added as set out below:

§ 213.3304 Department of State.

(c) Office of the Assistant Secretary for Congressional Relations. . . .

(6) One Staff Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.  
[FR Doc. 78-2346 Filed 1-26-78; 8:45 am]

[3410-02]

Title 7—Agriculture  
CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 130]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 29-February 4, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393

SUPPLEMENTARY INFORMATION: Findings. Pursuant to the marketing



agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 24, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier on 115's and larger, steady on 140's and 165's.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER. (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.130 Lemon regulation 130.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period January 29, 1978, through February 4, 1978, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 25, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-2511 Filed 1-26-78; 8:45 am)

### [3410-07]

#### Title 7—Agriculture

#### CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER S—PERSONNEL

(FmHA Instructions 409.1 and 2045-JJ)

#### PART 1815—RURAL DEVELOPMENT—UTILIZATION OF GRATUITOUS SERVICES

##### PART 2045—GENERAL

#### Subpart JJ—Rural Development—Utilization of Gratuitous Services

##### Redesignation—Revision

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This rule redesignates FmHA regulations concerning voluntary and gratuitous services as part of a general reorganization of Farmers Home Administration (FmHA) regulations. This redesignation is intended to provide clarity and uniformity in FmHA codification.

DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Henry C. Bourne, telephone 202-447-2783.

SUPPLEMENTARY INFORMATION: The FmHA is establishing under Chapter XVIII, Title 7, a new Subchapter S, "Personnel"—Part 2045, "General," in the Code of Federal Regulations. Subchapter JJ, "Rural Development—Utilization of Gratuitous Services," (§§ 2045.1751-2045.1800) of this new Part 2045 is, transferred, and redesignated from Part 1815 of this Chapter XVIII. Overall, this rule sets forth the FmHA program's objective of full cooperation with appropriate agencies of any State, territory or political subdivision concerning voluntary and gratuitous services. Also added to the regulation in this publication, as Exhibit A, is the "Agreement For Utilization of Employees by Farmers Home Administration." The use of this document is required under this regulation. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This rule, however, is not published for proposed rulemaking since the purpose of the redesignation is administration in nature, being a part of a general reorganization of FmHA regulations and, therefore, public procedure thereon is unnecessary.

Accordingly, 7 CFR Chapter XVIII is amended as follows:

1. Part 1815—Rural Development—Utilization of Gratuitous Services (§§ 1815.1-1815.6 [Removed]).

2. FmHA hereby promulgates new Subchapter S, Part 2045, Subpart JJ, to Chapter XVIII, and adds §§ 2045.1751 through 2045.1800 under 7 CFR as set forth below:

#### Subpart JJ—Rural Development—Utilization of Gratuitous Services

Sec.

2045.1751 General

2045.1752 Policy

2045.1753 Authority to Accept Gratuitous Services

2045.1754 Scope of Gratuitous Services Performed

2045.1755 Preparation and Disposition of Agreement Forms

2045.1756 Records and Reports

2045.1757-2045.1800 [Reserved]

EXHIBIT A—Agreement—For Utilization of Employees of ( ) by the Farmers Home Administration.

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

#### PART 2045—GENERAL

#### Subpart JJ—Rural Development—Utilization of Gratuitous Services

§ 2045.1751 General.

Section 331(b) of the Consolidated Farm and Rural Development Act (Pub. L. 92-419), and section 506(a) of the Housing Act of 1949, empower the Secretary of Agriculture to accept and utilize voluntary and uncompensated services in carrying out the provisions of the above cited Acts. The Secretary has delegated those authorities to the Administrator of the Farmers Home Administration (FmHA) in 7 CFR 2.70 (a) (1) and (2).

§ 2045.1752 Policy.

Voluntary and uncompensated (gratuitous) services may be accepted with the consent of the agency concerned, from the following sources under the conditions set forth in Exhibit A, "Agreement for Utilization of Employees of (Enter Official Title of Governing Body or Other Authorized Organization) By the Farmers Home Administration" (Agreement Form).

(a) Any agency of State government or of any territory or political subdivision.

(b) Non-profit, educational, and charitable organizations, provided that no partisan, political, or profit motive is involved either explicitly or implicitly.

§ 2045.1753 Authority to accept gratuitous services.

(a) State Directors, Director, Personnel Division, and Director, Finance Office, are hereby authorized to accept and utilize gratuitous services offered by the governmental agencies listed in § 2045.1752(a).

(b) An offer received by an FmHA State or County Office from a source

listed in § 2045.1752(b) shall be transmitted to the National Office, Attention: Director, Personnel Division, for decision. The offer will be accompanied by copies of the Articles of Incorporation and By-laws (if the organization is incorporated), a statement that the organization accepts the conditions set forth in the Agreement Form, and evidence that the organization is financially able to meet the required fiscal obligations of the agreement.

§ 2045.1754 Scope of gratuitous services performed.

(a) Gratuitous services accepted in accordance with this Subpart may be utilized to perform any function performed by regular FmHA employees (excluding Committee members). Such services must not result in the displacement of employees. Most of the gratuitous services should be performed at the County Office level and conform to a standard FmHA position description. A nonstandard position description may be developed and used, depending on current agency needs in a particular office and gratuitous skills available.

(b) Orientation and other training will be provided by FmHA so that gratuitous services may be performed in accordance with current FmHA procedure.

(c) Persons performing authorized gratuitous services will be held to the same standard as regular FmHA employees performing similar duties. The issuance of, and accountability for, identification cards and clearance of employee accountability will be as prescribed in FmHA Instruction 2024-B which is available in all FmHA Offices. Such persons, except Construction Inspectors may, when under direct supervision of County Supervisors, act as Collection Officers and be allowed to use receipt books in accordance with FmHA Instructions 2024-C and 451.2 (Part 1862 of this Chapter and other applicable regulations available in all FmHA Offices).

§ 2045.1755 Preparation and disposition of agreement forms.

(a) Agreements to accept and utilize gratuitous services *MUST BE IDENTICAL* to the attached Exhibit A (Agreement Form) with such exceptions as may be authorized by the Office of the General Counsel, Department of Agriculture.

(b) Two copies of each signed Agreement Form will be forwarded to the Personnel Division. One copy will be retained in the State or Finance Office.

§ 2045.1756 Records and reports.

The FmHA official signing the Agreement Form will maintain records to show the names, duty assignments,

time worked and work locations of all persons performing gratuitous services. Copies of time reports submitted to the persons' employers should suffice. These records will be necessary to respond to occasional requests for reports on the acceptance and utilization of gratuitous services in the FmHA.

§ 2045.1757-2045.1800 [Reserved]

#### AGREEMENT

FOR UTILIZATION OF EMPLOYEES OF (OFFICIAL TITLE OF GOVERNING BODY OR OTHER AUTHORIZED ORGANIZATION, I.E., PICKENS COUNTY, ALA., BOARD OF COMMISSIONERS)

BY THE FARMERS HOME ADMINISTRATION

1. This Agreement, dated—between—, a (political subdivision), (educational), (charitable), (or non-profit) an organization of the State of—(hereinafter called the Agency) and the United States of America acting through Farmers Home Administration, U.S. Department of Agriculture (hereinafter called the Administration) is entered into for the purpose of permitting certain employees of the Agency (hereinafter called the Agency employees) to assist in the Administration's effort to provide agricultural, housing and other assistance for rural people of the State of—in accordance with Section 331(b) of the Consolidated Farm and Rural Development Act and Section 506(a), Title V of the Housing Act of 1949.

2. The Administration certifies that it is empowered by the current Federal laws cited above, and related rules and regulations, to accept personnel assistance from the Agency as provided in paragraphs 4 and 5 below; and that the work assigned to Agency employees will be useful, in the public interest, could not otherwise be provided, and will not result in the displacement of employed workers.

3. The Agency certifies that it has the authority under the laws of the State of—to enter into this Agreement and to provide the services agreed upon in the manner provided for.

4. The Administration hereby supplies the Agency with a narrative description which is made a part of this Agreement as Attachment "A," explicitly setting forth the duties, knowledge, skills, and abilities to be required of Agency employees.

5. The Administration agrees to:

(a) Provide training for and responsible supervision of qualified and acceptable Agency employees in accordance with Attachment "A."

(b) Provide work within the State of—for qualified and acceptable Agency employees for periods not to exceed eight hours per day and 40 hours per week.

(c) Provide the office space, tools, equipment, and supplies to be used by Agency employees in performing work for the Administration.

(d) Report to the Agency, as required, the time worked by and work accomplishments of Agency employees.

(e) Consult with the Agency, as necessary, on situations involving delinquency, misconduct, neglect of work, and apparent conflicts of interest of Agency employees.

(f) Reimburse Agency employees for proper and reasonable travel and per diem expenses incurred in performing official duties for the Administration, in accordance with Administration travel regulations.

(g) Consider Agency employees to be Federal employees for the purposes of the Federal Employees Compensation Act (5 U.S.C. 8101) and of the Federal Tort Claims Act (28 U.S.C. 2671-2680).

6. The Agency agrees to:

(a) Not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, marital status, physical handicap, or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, marital status, physical handicap, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Agency will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

(b) Obtain fingerprints, police records, and work qualifications checks on potential assignees, and divulge the results to the Administration or permit the Administration to obtain this information.

(c) Assign only Agency employees who are acceptable to the Administration in terms of meeting the same ability and suitability standards which are applied to Federal employment.

(d) Pay all salaries and other expenses of Agency employees and comply with Federal, State, and local minimum wage statutes. No monies will be paid by the Administration under this agreement, either to the Agency or its employees.

(e) Consider any Tort claims by third parties under applicable laws and regulations.

(f) Reassign or terminate the assignment of Agency employees upon request of the Administration.

7. The Agency and the Administration mutually understand and agree that the reasons for determining that an Agency employee is unacceptable or unsuitable for initial or continued assignment to Administration work may include but shall not be limited to the following:

(a) Practicing or appearing to practice discrimination for reasons of race, color, religion, sex, age, marital status, physical handicap, or national origin.

(b) Being or becoming involved in real or apparent conflicts of interest, such as, engaging directly or indirectly in business transactions with Administration applicants or borrowers, or using or appearing to use the Administration work assignment for private gain.

(c) Engaging in or having engaged in criminal, dishonest, or immoral conduct, or conducting himself in a manner which might embarrass or cause criticism of the Administration.

(d) Being absent from duty without authorization.

(e) Engaging in partisan political activity prohibited to Federal employees doing similar work.

(f) Lack of work.

(g) Inability of the employee to perform the duties of the assignment.

8. The term of this Agreement shall commence on the date thereof. It shall end on—, unless extended by mutual agreement, or unless terminated earlier by at least thirty (30) days advanced written notice by either party to the other.



(9) The Agency and the Administration respectively certify, each for itself, that its officer signing this Agreement is duly authorized thereto.

(Enter Official Title of Agency, i.e., City Council, Modesto, Calif.)

BY  
Chairman, City Council,  
Modesto, Calif.  
FARMERS HOME  
ADMINISTRATION

BY  
FmHA State Director for ( )

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 17, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-2356 Filed 1-26-78; 8:45 am)

#### [3410-07]

##### SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

(FmHA Instructions 444.4 and 444.8)

##### PART 1822—RURAL HOUSING LOANS AND GRANTS

Puerto Rico and Virgin Islands Included in Certain Definitions

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to include Puerto Rico and the Virgin Islands in the definitions of "Domestic farm labor", "Broad based nonprofit organization", and "Nonprofit organization of farmworkers". The change is necessary in order for the regulations to conform to the Housing and Rural Development Act of 1977. The effect of the change is to allow a greater number of people to benefit from the labor housing assistance provided.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION: §§ 1822.63 and 1822.203 of Part 1822, Title 7, Code of Federal Regulations are amended. The current definition of "Domestic farm labor" in the existing regulations excludes laborers on farms in Puerto Rico and the Virgin Islands and their families. The change will permit FmHA to make labor housing loans and grants in Puerto Rico and the Virgin Islands and to provide housing for these families. Puerto Rico and the Virgin Islands are also incorporated into the definitions of

"Broad based nonprofit organization", and "Nonprofit organization of farmworkers." The definition of "Household furnishings" was inadvertently omitted from the prior publication, and is included with this amendment.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to expand the labor housing program to comply with the Housing and Rural Development Act of 1977, and any delay would be contrary to the public interest in that assistance would be withheld from persons eligible under the law.

Accordingly §§ 1822.63 and 1822.203 are amended and read as follows: 1. As amended, § 1822.63 reads as follows:

#### § 1822.63 Definitions.

As used in this subpart: (a) "Domestic farm labor" means persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while they are in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Domestic farm labor also includes persons working in aquaculture operations as defined in Subpart C of Part 1904 of this chapter.

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include "related facilities" where appropriate.

(c) "Household furnishings" consists of such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) "Related facilities" includes community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(e) "Individual farmowner" means the "owner" of a "farm" as those terms are defined in Subpart A of this part.

(f) "Organization" means an association of farmers, a State or political subdivision, or a public or private nonprofit organization.

(g) "Association of farmers" means a group of farmers acting as a single legal entity, or whose members each is an individual devoting a substantial part of his time to personal participation in the conduct of farming operations. Though an association of farmers is not required to be a nonprofit organization, its operation of the housing must be on a nonprofit basis.

(h) "Broad-based nonprofit organization" means an organization which (1) is incorporated with in the State, Puerto Rico, or the Virgin Islands, (2) which for a project with a total development cost of \$100,000 or less, has at least 25 members who reflect a variety of interests in the community where the housing will be located, (3) is organized and operated on a nonprofit basis, (4) is legally precluded from distributing any profits or dividends to its members before dissolution, (5) is not grower oriented, and (6) pledges to administer the housing as a community service in the interest of the whole community. The minimum number of members should be increased for larger projects.

(i) "Nonprofit organization of farmworkers" means a nonprofit organization which is incorporated within the State, Puerto Rico, or the Virgin Islands, has local representation in the membership and in the board of directors, and whose members are individuals who receive a substantial portion of their income from farm work.

(j) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities, but does not include the acquisition of land.

(k) "Members" and "membership" include stockholders and stock where appropriate.

(l) "Board" and "directors" include the governing body and members of the governing body of an organization.

(m) "Note" may include bond or other form of obligation.

(n) "Mortgage" may include any appropriate form of security instrument.

(o) "County Supervisor" and "State Director" means the authorized officials of the Farmers Home Administration for the area in which the housing site is located.

2. As amended, § 1822.203 reads as follows:

#### § 1822.203 Definitions.

As used in this subpart: (a) "Domestic farm labor" means persons who re-

ceive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while they are in the unprocessed stage, provided title to the commodity is held by the producer and the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. Domestic farm laborers also includes persons working in aquaculture operations as defined in Subpart C of Part 1904 of this chapter.

(b) "Housing" means existing structures or new structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor at rentals within the payment ability of families of low income. "Housing" may also include "related facilities" where appropriate.

(c) "Household furnishings" consists of such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) "Related facilities" include community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities assembly halls, and other essential service facilities, such as central heating, sewerage, lighting systems, bathing facilities, and a safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for the domestic farm labor occupants.

(e) "Organization" means a State agency, or political subdivision, or an agency of State or local government such as a public housing authority.

(f) "Broad-based nonprofit organization" means an organization which (1) is incorporated within the State, Puerto Rico, or the Virgin Islands, (2) which for a project with a total development cost of \$100,000 or less, has at least 25 members who reflect a variety of interests in the community where the housing will be located, (3) is organized and operated on a nonprofit basis, (4) is legally precluded from distributing any profits or dividends to its members before dissolution, (5) is not grower oriented, and (6) pledges to administer the housing as a community service in the interest of the whole community. The minimum number of members should be increased for larger projects.

(g) "Nonprofit organization of farmworkers" means a nonprofit organization incorporated within the State, Puerto Rico, or the Virgin Islands

which has local representation in the membership and whose members are individuals who receive a substantial portion of their income from farm work.

(h) "Construct or repair" means to construct new structures or facilities, or to acquire, relocate, or improve existing structures or facilities.

(i) "Development cost" means the cash cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities, and purchasing and improving the necessary land, including necessary architectural, legal, and other appropriate technical and professional fees and charges.

(j) "Board" and "directors" include the governing body and members of the governing body of an organization.

(k) "Applicant" means the applicant for or the recipient of an LH grant.

AUTHORITIES: Delegation of authority by the Sec. of Agrl., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-95.

Dated: January 17, 1978.

GORDON CAVANAUGH,  
Administrator, Farmers  
Home Administration.

(FR Doc. 78-2355 Filed 1-26-78; 8:45 am)

#### [3410-07]

##### SUBCHAPTER H—GENERAL (FmHA Instruction 1901-N)

##### PART 1901—PROGRAM RELATED INSTRUCTIONS

##### Subpart N—Indian Outreach Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) establishes new regulations pertaining to making FmHA loans and grants more accessible to American Indians. The purpose of this rule is to be more responsive to the needs of the American Indian and to establish uniform procedure in carrying out the FmHA Indian Outreach Program.

DATES: Effective date: January 27, 1978. Comments must be received on or before February 27, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Depart-

ment of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. Allen T. Murray, 202-447-5597.

SUPPLEMENTARY INFORMATION: The FmHA amends its regulations by adding a new Subpart N to Part 1901, Chapter XVIII, Title 7, Code of Federal Regulations. Subpart N, "Indian Outreach Program," (§§ 1901.651-1901.700) of this Part 1901 implements the Agency's loan program to Indian Tribes and Tribal Corporation by establishing procedures and responsibilities to insure full participation in this new outreach program. The appointment of State Coordinators to work closely with local, district, State and National Office representatives to remove obstacles and to solve problems that impede the use of FmHA programs on Indian reservations will provide an increased production level of FmHA loans and grants to American Indians both on and off reservations.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of this program is to promote the availability of FmHA benefits for those Indian communities and reservations needing financial assistance, and the amendments themselves are of a procedural nature. The FmHA, however, is interested in receiving comments at the address given above. Accordingly, new Subpart N of Part 1901 is set forth below:

##### Subpart N—Indian Outreach Program

Sec.

1901.651 Purpose.  
1901.652 Goals.  
1901.653 Field action.  
1901.654 FmHA publications.  
1901.655 Reports.  
1901.656-1901.670 [Reserved]

##### Subpart N—Indian Outreach Program

##### § 1901.651 Purpose.

The purpose of this Subpart is to establish procedures and responsibilities for carrying out the Farmers Home Administration (FmHA) American Indian Outreach Program.

##### § 1901.652 Goals.

The FmHA American Indian Outreach Program is a concerted effort to: (a) Make all FmHA programs more ac-



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cessible and available to Indians living on and off reservations.

(b) Surface and attempt to correct problems and obstacles that prevent the participation by eligible Indians and Indian tribes in FmHA programs.

(c) Increase the production level of FmHA loans and grants going to American Indians both on and off reservations.

(d) Provide pamphlets, publications and information on FmHA programs to individual Indians, Indian tribes and Tribal leaders, Bureau of Indian Affairs (BIA) personnel, and other interested groups and individuals.

§ 1901.653 Field action.

State Coordinators of Indian activities appointed by State Directors will:

(a) Maintain close liaison with local FmHA supervisors and officials serving Indian populations and reservations;

(b) Work closely with local District, State, and National Office representatives to remove obstacles and solve problems that impede the use of FmHA programs on Indian reservations;

(c) Be familiar with all FmHA loan and grant programs available to Indians living on and off reservations, including the types of security and eligibility requirements;

(d) Be aware of any unique relationship that may exist between Indians and the Federal and State governments affecting Indian participation in the FmHA loan and grant programs;

(e) As necessary, attend pertinent meeting of Indian groups, government agencies, and others concerned with the economic and social development of Indians;

(f) If possible, become personally acquainted with Indian leaders and non-Indian leaders in Indian affairs in the State;

(g) Arrange for the training of members of Indian tribes, individuals, and interested groups involved in Indian affairs, in the packaging and distribution of materials for use in FmHA loan and grant programs.

§ 1901.654 FmHA publications.

FmHA publications, such as "Rural Credit for American Indians," a handbook of FmHA programs, and "FmHA Credit for American Indians," or other materials to be developed, will be used as supplementary training and informational aids for Indian communities, individuals, governmental agencies, and other groups involved in Indian affairs.

§ 1901.655 Reports.

(a) State Directors will keep the National Office advised of any problems and obstacles in FmHA's procedures relating to Indian laws or customs that

cannot be resolved locally and which prevent American Indians from participating in the FmHA programs on or off the reservations.

(b) Any changes in personnel serving as State Coordinator of Indian activities will be reported to the National Office.

(c) Each State Director will make a semi-annual memorandum report on January 1 and July 1 of each year on activities and accomplishments in his State. The report will specifically reflect what has been done to carry out the items set forth in § 1901.653. The report will be sent to the National Office, Attention, Coordinator of Indian Activities.

§ 1901.656-1901.700 [Reserved]

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 7, 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.

[FR Doc. 78-2357 Filed 1-26-78; 8:45 am]

[3410-07]

SUBCHAPTER K—PROPERTY MANAGEMENT

[FmHA Instruction 1955-C]

PART 1955—REAL ESTATE AND CHATTEL PROPERTIES

Subpart C—Disposal of Acquired Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises various sections of its regulations to initiate use of a new form for reporting the sale of inventory property; to clarify that the interest rates and terms herein apply in the sale of Consolidated Farm and Rural Development Act (CONACT) property and to assure that the proper State Official determines rates, terms and qualified bids in the sale of surplus property; to incorporate affirmative fair housing marketing plan requirements; to assure that credit sales may be made to above-moderate income Rural Housing applicants; and to set forth the use of funds in certain closing situations. These changes are intended to facilitate the proper disposal of acquired properties.

EFFECTIVE DATES: January 27, 1978. Comments must be received on or before February 27, 1978.

ADDRESS: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration; U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Mr. R. M. Yates, 202-447-3752.

SUPPLEMENTARY INFORMATION: Section 1955.116 (a) and (b); § 1955.117 (a), (b), (d), and (e); § 1955.118 (c), (e), and (f) of Subpart C of Part 1955 of Title 7, Code of Federal Regulations (41 FR 32698, as amended at 42 FR 38383) are revised. The major revision are as follows:

1. In § 1955.116, paragraph (a) (2)(v)(C) is added to initiate a new Form FmHA 465-6A, "Advice of Mortgaged Real Estate Sold," to be completed by FmHA County Supervisors; paragraphs (b)(1), (b)(3)(i)(B), (b)(4)(iii) and (b)(4)(iv) of this section reflect editorial changes.

2. In § 1955.117, paragraphs (a), (b), (d), and (e) are amended as follows:

a. Paragraph (a)(1) is revised and new paragraphs (a)(1)(i) and (a)(2)(iii) are added to reflect FmHA's Affirmative Fair Housing Marketing Plan referenced in the FEDERAL REGISTER document published at 42 FR 45894 and 45895, dated September 13, 1977. The present paragraph (a)(1)(i) (A) through (G) are revised and redesignated (a)(1)(ii) (A) through (G); paragraphs (a)(1)(ii) and (a)(1)(iii) are redesignated (a)(1) and (iii) and (a)(1)(iv), respectively.

b. Paragraphs (b)(1) and (d)(4) are revised to reflect the fact that Rural Housing applicants with above-moderate income are eligible for credit sales; paragraphs (d)(6) and (e)(4) through (e)(7) are revised to utilize new Form FmHA 465-6A in reporting sales of inventory property, and to correct reference to the promissory note.

3. In § 1955.118, paragraphs (c)(3), (e)(2), and (f) are revised to clarify the situations in which the uniform fee or commission set by the State Director in the sale of inventory property will not be due the real estate brokers and the priority in which earnest money collected by a broker will be used.

It is the policy of this Department that rules related to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the changes is to facilitate the sale of acquired property

regulations with other Agency regulations, and any delay would be contrary to public interest. The Agency is, however, interested in receiving public comments. Such comments may be sent to the address given in the "address" section of the Preamble.

Accordingly, §§ 1955.116, 1955.117, and 1955.118 as amended, read as follows:

(1) Section 1955.116 is amended as follows:

(a) By adding paragraph (a) (2)(v)(C):

(b) By revising paragraphs (b)(1), (b)(3)(i)(B); (b)(4)(iii) and (b)(4)(iv), as set forth below:

§ 1955.116 Sale of real estate that was acquired pursuant to the Consolidated Farm and Rural Development Act (CONACT).

(a) Sale of suitable property. . . .

(2) . . . .

(v) . . . .

(C) When the transaction is closed, the County Supervisor will send the original and one copy of Form FmHA 465-6A, "Advice of Mortgaged Real Estate Sold," to the Finance Office and a copy to the State Director.

(b) Sale of surplus property. . . .

(1) Rates and terms for surplus property. Such property will be offered for cash or terms of not less than a 5 percent downpayment with the remaining balance amortized over a period not to exceed 25 years. The interest rate for housing property sold under the CONACT will be the current Section 515 RRH rate plus ½ percent; for Business and Industry Property, the interest rate will be the established insured Business and Industry rate for profit corporations plus ½ percent. The interest rate for all other surplus property will be the current operating loan rate plus ½ percent. The State Director will determine the rates and terms for surplus property within these limitations and will include the determined rates and terms in all advertisements and announcements. If, after extensive sales efforts, the State Director is unable to conclude a sale of surplus property, he may request the Administrator to grant more favorable rates and terms, which rates and terms in any event must require a downpayment and may not be more favorable than those legally permissible for eligible borrowers. The policy of the Government is that surplus property shall be offered for sale for cash or terms that will provide the best net return to the Government. In no case, however, may the terms be longer than the period for which the property will serve as adequate security.

(3) Method of Sale. . . .

(i) . . . .

(B) Successful bids. If the State Director or designated State staff member determines that the highest qualified bid represents the best price obtainable, the bid will be accepted by signing Form FmHA 465-10. The State Director will give this executed form to the successful bidder or his representative. If the bidder or his representative is not present at the bid opening, the form will be sent by certified mail, return receipt requested, to the bidder. The State Director will send the deposit of the successful bidder to the Finance Office with the name and case number of the former borrower and the inventory advice number so the deposit can be processed.

(4) Processing. . . .

(iii) Farm property. Upon acceptance of the bid or offer by the State Director, the County Supervisor will provide the escrow agent, designated attorney, or title insurance company the necessary information and instructions for closing the sale. The State Director will execute and acknowledge the Quitclaim Deed. Deed execution may not be redelegated. When the transaction is closed, the County Supervisor will send the original and copy of Form FmHA 465-6A to the Finance Office and a copy to the State Director.

(iv) Organization property. Upon acceptance of the bid or offer, the State Director will forward the original Form FmHA 465-10, the names and legal description to be placed in the deed, the amount and terms of the note and mortgage, and other pertinent material to OGC requesting that they provide the appropriate legal instruments and instructions for closing the transaction. The State Director will execute and acknowledge the Quitclaim Deed. Deed execution may not be redelegated. When the transaction is closed, the County Supervisor will send the original and copy of Form FmHA 465-6A to the Finance Office and a copy to the State Director.

(2) Section 1955.117 is amended as follows:

(a) By revising paragraph (a)(1); by adding paragraph (a)(1)(i); by revising and redesignating the current paragraphs (a)(1)(i) (A) through (G) to (a)(1)(ii) (A) through (G); by redesignating without change, the current paragraphs (a)(1)(ii) and (a)(1)(iii) to (a)(1)(iii) and (a)(1)(iv), respectively; and by adding paragraph (a)(2)(iii).

(b) By revising paragraph (b)(1); by revising paragraphs (d)(4), (d)(6), and (d)(6)(i); by revising paragraph (e)(4); by adding a new paragraph (e)(5) and redesignating the current paragraph (e)(5) to (e)(6); by revising and redesignating the current paragraph (e)(6) to (e)(7); and by deleting the present paragraph (e)(7). These changes are set forth below:

§ 1955.117 Sale of real estate that secured Rural Housing (RH) loans.

(a) Method of sale. . . .

(1) Sale by FmHA employees. If a prospective purchaser eligible to buy acquired property is not available, the County Supervisor will post notices and signs to adequately inform interested parties that the property is for sale. The property also may be advertised in the newspaper or other media having general distribution in the marketing area when the State Director determines that such advertisement will assist in the sale of acquired properties. See FmHA Instruction 2024-F available in any FmHA Office.

(i) In accordance with § 1901.203(c) of this Chapter, FmHA affirmative action, the County Supervisor will make a special effort to reach those prospective buyers in the marketing area who traditionally would not be expected to apply for such housing because of existing racial or socio-economic patterns.

(ii) The advertisement or notice for printed media will be in display type but not legal notice style, can include pictures of property, and will contain sufficient information to readily identify the property including:

(A) A brief description of each property, its location, and conveniences,  
(B) Terms of the sale,  
(C) Time the property may be inspected by prospective buyers,  
(D) Place where additional information can be obtained,  
(E) A statement that the Government reserves the right to reject any or all offers,  
(F) Nondiscrimination statement, and

(G) Flood Plain statement.  
(iii) The State Director, with the advice and approval of OGC, will develop a standard form of advertisement and notice to be used in the State.

(iv) The County Supervisor, if unable to sell acquired property, may submit a detailed report to the State Director documenting his efforts to sell the property and requesting authority to offer the property for sale by real estate brokers.

(2) Sale by real estate brokers.

(iii) The broker listing acquired housing properties on a term basis or



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who agrees to list five or more acquired properties on an individual listing basis within a calendar year must submit Form HUD-935.2, "Affirmative Fair Housing Marketing Plan," or be signatory to a voluntary affirmative marketing agreement approved by FmHA. A signed copy of the approved marketing agreement will be attached to the original Form FmHA 1955-C-2, "Non-exclusive Real Property Master Listing Agreement," and retained in the County Office file.

(b) Sale of suitable property. . . .

(1) All housing properties of two units or less will be offered only to eligible applicants (including above moderate income section 502) for the first 15 days after they are offered for sale.

(d) Processing sale to eligible applicants. . . .

(4) The current interest rate for the type of loan being made will apply (low or moderate, above-moderate RH, RRH, etc.)

(6) Loan closing and title clearance for a credit sale and any subsequent additional loan closed simultaneously with the credit sale will be the same as for an initial loan except.

(i) The property will be conveyed by a Quitclaim Deed. The State Director, with the assistance of OGC, will develop a Quitclaim Deed. Deed execution by the State Director may not be redelegated. When the transaction is closed, the County Supervisor will send the original and copy of Form FmHA 465-6A to the Finance Office and a copy to the State Director.

(e) Processing sale to ineligible applicants. . . .

(4) For loans to individuals and all RH borrowers, Form FmHA 440-16 will be used. The Quitclaim Deed will be executed and acknowledged by the State Director. Deed execution may not be redelegated. The County Supervisor will provide the escrow agent, designated attorney, or the title insurance company the necessary information and instructions for closing the sale. The assistance of OGC may be requested to provide closing instructions in exceptional or complex cases.

(5) For loans to organizations, except RH, Form FmHA 440-22, will be used. Closing instructions for organization loans will be requested from OGC.

(6) Payments will be made by cash, cashier's check, certified check, postal

or bank money order, bank draft, or purchaser's check. Such payments will be handled in accordance with Part 1862 of this Chapter (FmHA Instruction 451.2).

(7) After the transaction is closed, the County Supervisor will send the original and one copy of form FmHA 465-6A to the Finance Office and a copy to the State Director.

3. Section 1955.118 is amended by revising paragraphs (c)(3), (e)(2) and (f), as set forth below:

§ 1955.118 Selection and use of real estate brokers.

(c) Listing agreements. . . .

(3) A uniform fee or commission will be established by the State Director within a given sales area and will not exceed commissions paid for similar types of services provided by the broker to other sellers of real property. In effect, FmHA provides the services of a listing broker and in most cases, the loan financing.

(e) Conditions for sale by real estate brokers. . . .

(2) The real estate broker's commission will be that established pursuant to paragraph (c)(3) of this section and will be paid from proceeds of the sale if sufficient funds are available. Otherwise, Standard Form 1034 or other approved voucher will be processed to pay such commission. The cost will be charged to the appropriate insurance fund as a nonrecoverable cost. The broker's commission will not be paid until the transaction is closed. No commission or fee will be due or payable if the property is purchased by the broker, his or her salesperson(s), relatives (spouse, brother, sister, parents, and children), or affiliates.

(f) Processing offers obtained by real estate brokers. Such offers will be accepted or rejected in the order received in the County Office. Offers will be reviewed for compliance with price, repayment ability of buyer, and terms of sale if credit is involved. The first acceptable offer received will be accepted regardless of whether a higher offer is received later. Earnest money collected from a broker will be used in the following priority: (1) To pay closing cost, (2) to pay broker's commission, and (3) to be transmitted to Finance Office.

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; dele-

gation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; delegations of authority by Director, OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 10, 1978.

GORDON CAVANAUGH,  
Administrator, Farmers  
Home Administration.

(FR Doc. 78-2353 Filed 1-26-78; 8:45 am)

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection, USDA.

ACTION: Final rule.

SUMMARY: These amendments quarantine the Commonwealth of Puerto Rico because of the existence of vectors of splenic or tick fever. This action is deemed necessary to prevent the spread of the disease.

EFFECTIVE DATE: January 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Glen O. Schubert, Chief Staff Veterinarian, Bacterial and Parasitic Diseases, Sheep, Goat, Equine, and Ectoparasites Staff, Room 737, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine the Commonwealth of Puerto Rico because of the existence of cattle fever ticks which are vectors of splenic or tick fever. This action is deemed necessary to prevent the spread of the disease. The restrictions pertaining to the interstate movement of cattle and certain materials from quarantined areas as contained in 9 CFR Part 72, as amended, will apply to the quarantined area.

Accordingly, §§ 72.2 and 72.3 of Part 72, Title 9, Code of Federal Regulations, as amended, which quarantined portions of the State of Texas, the Virgin Islands of the United States, and the Island of Guam because of splenic or tick fever in cattle, a contagious, infectious, and communicable disease, or because of the existence of

vectors of said disease, are hereby amended in the following respects:

1. In § 72.2 the section heading and the text are amended to read:

§ 72.2 Splenic or tick fever in cattle in Texas, the Virgin Islands of the United States, and vectors of said disease in the Commonwealth of Puerto Rico and the Island of Guam: Restrictions on movement of cattle.

Notice is hereby given that the contagious, infectious, and communicable disease known as splenic or tick fever exists in cattle in portions of the State of Texas and the Virgin Islands of the United States. Notice is also hereby given that ticks which are vectors of said disease exist in the Commonwealth of Puerto Rico and the Island of Guam. Therefore, portions of the State of Texas, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, and the Island of Guam are hereby quarantined as provided in §§ 72.3 and 72.5, and the movement of cattle therefrom into any other State or Territory or the District of Columbia shall be made only in accordance with the provisions of this part and Part 71 of this chapter.

2. In § 72.3, the section heading and the text are amended to read:

§ 72.3 Areas quarantined in the Virgin Islands of the United States, the Commonwealth of Puerto Rico, and the Island of Guam.

The entire territories of the Virgin Islands of the United States, the Commonwealth of Puerto Rico and the Island of Guam are quarantined.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendments impose certain further restrictions necessary to prevent the interstate spread of Texas (splenic) or tick fever in cattle, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of January 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this

document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

R. I. BROWN,  
Acting Deputy Administrator,  
Veterinary Services.  
(FR Doc. 78-2284 Filed 1-26-78; 8:45 am)

[3410-34]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 101—DEFINITIONS

Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final rule.

SUMMARY: This amendment defines two terms which are used in the testing of biological products and which are found in the regulations issued under the Virus-Serum-Toxin Act. Correct interpretation of the meaning of a regulation is difficult when terms used in the regulation are not well defined. The purpose of this amendment is to clarify the meaning of two such terms by defining them in the regulations.

EFFECTIVE DATE: This amendment becomes effective January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologics Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Some terms which apply to the evaluation of biological products are defined in Part 101 of the regulations issued under the Virus-Serum-Toxin Act. These definitions permit the individuals responsible for conducting evaluation tests to make accurate and uniform interpretations of the results.

The term "healthy" is used in the regulations to describe an animal that is suitable to be used in a test. This amendment includes a definition of this term. This amendment also includes a definition of the term "unfavorable reaction" which is used when referring to a change in the health of a test animal subsequent to initiating an evaluation test. Such change would be determined by the individual responsible for conducting the test and would occur during a time period specified in the test protocol. The cause of such change would be attributed to either the product being tested or to unrelated factors and the test results evaluated accordingly.

Section 101.5 is amended by adding two new paragraphs to read:

§ 101.5 Testing terminology.

(m) *Healthy*. Apparently normal in all vital functions and free of signs of disease.

(n) *Unfavorable reactions*. Overt adverse changes which occur in healthy test animals subsequent to initiation of a test and manifested during the observation period prescribed in the test protocol which are attributable either to the biological product being tested or to factors unrelated to such product as determined by the responsible individual conducting the test.

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

This amendment makes administrative changes to provide a definition for each of two terms used in the regulations without making substantive changes in the regulations. In order for them to be of maximum benefit, they must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning these amendments are impracticable and unnecessary, and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 20th day of January 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

R. I. BROWN,  
Acting Deputy Administrator,  
Veterinary Services.

(FR Doc. 78-2100 Filed 1-26-78; 8:45 am)

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

(Rev. 6, Amdt. 15)

PART 120—BUSINESS LOAN POLICY

Eligibility of Cable TV and Radio and Television Broadcasters for Financial Assistance

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA hereby amends its loan policy regulation that has hitherto



to barred financial assistance to radio and television broadcasters and limited assistance to cable TV operators. Financial assistance will be made available to otherwise eligible small business concerns engaged in, or seeking to enter, the fields of broadcasting or the operation of cable TV systems.

**EFFECTIVE DATE:** January 27, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Arthur E. Armstrong, Director, Office of Financing, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, phone 202-653-6574.

**SUPPLEMENTARY INFORMATION:** On November 10, 1977, SBA published in the *FEDERAL REGISTER* notice of proposed rulemaking that would allow financial assistance to facilitate the acquisition of a radio, television, or cable TV facility. See 42 FR 58538. On November 25, 1977 (42 FR 60159) this notice was clarified by publication of a supplementary notice.

By the present amendment, SBA is extending to concerns presently or prospectively engaged in these industries eligibility for financial assistance under its existing business loan program. Generally speaking, SBA financial assistance will be available to qualified applicants for the same purposes that financial assistance is available to qualified applicants in other industries "to enable small-business concerns to finance plant construction, conversion, or expansion . . . or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital . . ." Section 7(a) of the Small Business Act. That section, however, conditions extension of a business loan on a reasonable assurance of repayment. No such assurance exists unless the applicant has obtained all necessary official approvals for construction, expansion, modernization, or transfer of a broadcasting or cable TV facility. Accordingly, no financial assistance may be disbursed by SBA or by any participating lender until all necessary permits have been obtained.

Numerous comments were received in response to the Notice of Proposed Rulemaking. The following explanations should answer those comments which are not reflected in the final regulation.

#### 1. LIMITATIONS ON AMOUNT OF SBA ASSISTANCE

SBA is aware that the amount of financial assistance that it can extend to any one applicant may not be adequate in the context of the broadcasting or cable TV industries. It should be noted that two or more otherwise eligible broadcasters may apply for an

SBA "pool loan" pursuant to section 7(a)(5) of the Small Business Act, if they form a group corporation which would serve their separate individual needs with a common facility. See 13 CFR § 122.9.

#### 2. ISSUANCE OF "COMMITMENT LETTERS"

SBA recognizes that the owners of a broadcasting or cable TV operation may be unwilling to enter into serious negotiation with a prospective transferee unless it can demonstrate the necessary financial resources. So also, the Federal Communications Commission (FCC) or the cable TV franchising authority may inquire into the financial viability of a prospective operator. To meet this need for evidence of the availability of financing, SBA has been requested to issue letters of commitment.

While recognizing the problem, SBA does not believe that it requires SBA to issue letters of commitment, which it does not do at present. SBA's present form of loan authorization should meet the need for evidence of favorable action on an application for financial assistance. See 13 CFR 122.19.

#### 3. CONTROL OF PROGRAM CONTENT

As the regulation states, SBA has no intention of attempting to influence, in any way, the content of any borrower's program or program schedule; and program content will not be grounds for accelerating the maturity of any loan. SBA has no intention of operating any broadcasting station or cable TV system after default but SBA reserves its creditor right relating to collateral.

#### 4. COMPETING APPLICATIONS

SBA will process applications for financial assistance from two or more applicants competing against each other for the same license or franchise. The FCC will decide which applicant is best qualified to serve the public interest.

#### 5. FINANCIAL ASSISTANCE TO OTHER OPINION-MOLDERS

The premise underlying SBA's general policy of denying financial assistance to "opinion molders" is set forth in 13 CFR 120.2(d)(4), which is quoted hereafter. The rationale for the exception created today in favor of broadcasters and cable TV operators is that these industries are already subject to Government regulation. In the case of broadcasters, the regulation is by the FCC; in the case of cable TV operators, regulation is by local franchising authorities operating under FCC guidelines. Participants in these industries are subject to "equal time" and "fairness" rules and each participant holds its license or franchise only so long as it operates in the public inter-

est. No such restrictions apply to other opinion molders such as publishers and producers of "audio-visual materials".

#### 6. RESTRICTION OF ASSISTANCE TO "DISADVANTAGED" APPLICANTS

Although the regulation adopted today is expected to further the entrepreneurial participation in the broadcasting and cable TV industries of individuals whose participation in the free enterprise system is hampered by social or economic disadvantages, the furtherance of that policy does not require that SBA financial assistance be limited to enterprises owned by such individuals. SBA would not be obliged to deny an application solely on the ground that it has already made a certain number of loans to applicants in the same industry. Each application for financial assistance will be considered on its own merits.

Pursuant to the authority of section 5 of the Small Business Act, as amended, 15 U.S.C. 634, Part 120 of Title 13, CFR, is amended, in the manner set forth below:

1. Section 120.2(d)(4) is revised as follows:

#### § 120.2 Business loans and guarantees.

(d) Financial assistance will not be granted by SBA:

(4) If the applicant is engaged in the creation, origination, expression, dissemination, propagation, or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form, or content. Financial assistance to such applicants is barred in order to avoid Government interference, or the appearance thereof, with the constitutionally protected freedoms of speech and press: *Provided, however*, That nothing herein shall preclude financial assistance to any otherwise eligible applicant engaged in one or more of the following activities: . . .

2. Paragraph (d)(4)(v) of § 120.2 is replaced by a new paragraph (d)(4)(v) as follows:

#### § 120.2 Business loans and guarantees.

(d) . . .  
(4) . . .

(v) *Broadcasting and cable TV:* Operators of commercial broadcasting (radio and television) stations and cable TV systems under the regulatory jurisdiction of the Federal Communications Commission (FCC) or a cable TV franchise granted in conformity with FCC standards, are eligible to receive SBA financial assistance. Appli-

cations for SBA financial assistance may be filed by concerns that have not received the necessary official approvals to acquire, construct, or operate broadcasting stations or cable TV systems, but no financial assistance may be disbursed by SBA or by any participating lender until all necessary official approvals have been obtained. In determining whether financial assistance will be extended to any applicant, no consideration will be given to the applicant's present or proposed program schedule, or to the content of any particular program; but SBA reserves the right to exercise all the rights and remedies afforded a creditor under the laws of the United States and of any jurisdiction in which a debtor may operate. While SBA believes that the extension of financial assistance to enterprises described in this paragraph will be particularly helpful to enterprises owned by socially or economically disadvantaged members of minority groups, the availability of financial assistance from SBA is not limited to enterprises owned by such persons.

(Catalog of Federal Domestic Assistance Program No. 59.012)

Dated: January 19, 1978.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-2323 Filed 1-26-78; 3:45 am)

#### [6320-01]

##### Title 14—Aeronautics and Space

#### CHAPTER II—CIVIL AERONAUTICS BOARD

##### SUBCHAPTER E—ORGANIZATION REGULATIONS (Regulation OR-126, Amdt. 68)

#### PART 385—DELEGATION AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

##### Expansion of Delegation of Authority to the Director, Bureau of Operating Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

**SUMMARY:** This rule expands the authority delegated by the Board to the Director, Bureau of Operating Rights, to act, when such action is in accordance with established Board precedent, on applications by persons for relief, pursuant to section 101(3) of the Act, in order to hold out, arrange and coordinate the operation of air ambulance flights as indirect air carriers. This delegation is at the initiative of the Board, and will expedite decision on this type of application and relieve unnecessary administrative burdens.

**DATES:** Effective: January 24, 1978.  
Adopted: January 24, 1978.

#### FOR FURTHER INFORMATION CONTACT:

John V. Coleman, Chief, Supplementary Services Division, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5088.

**SUPPLEMENTARY INFORMATION:** From time to time the Board receives applications from persons requesting relief from the Act, under section 101(3), in order to engage in the operation of air ambulance flights as indirect air carriers. There are now well-established Board precedents in this area. In the vast majority of such cases, disposition of the applications involves no significant policy issues or other matters requiring the Board's consideration, and could be handled by the staff. We are, therefore, delegating to the Director, Bureau of Operating Rights, the authority to grant or deny applications for relief, filed under section 101(3) of the Act, to hold out, arrange, and coordinate the operation of air ambulance flights as indirect air carriers.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedures are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board amends Part 385 of its Organization Regulations to add a new paragraph (nn) to § 385.13, to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(nn) Grant or deny, in accordance with established Board precedent, applications for relief, filed under section 101(3) of the Act, to hold out, arrange, and coordinate the operation of air ambulance flights as indirect air carriers.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989, 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.  
(FR Doc. 78-2368 Filed 1-26-78; 8:45 am)

#### [1505-01]

##### Title 20—Employee Benefits

#### CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(Regulation No. 4)

#### PART 404—FEDERAL OLD AGE, SURVIVORS, AND DISABILITY INSURANCE (1950 —)

##### Deleting Out-of-Date Regulations

##### Correction

In FR Doc. 77-37004 appearing on page 64886 in the issue of Thursday, December 29, 1977, on page 64887, in the middle column, § 404.606(a), the 12th line, the 2nd word should read, "Secretary".

In the 3rd column, the section heading for § 404.607 should read as follows:

§ 404.607 Filing of application for monthly benefits after first month for which individual may become entitled to such benefits.

On page 64888, in § 404.1003(c) (2)(i)(c), the 2nd line, "expected" should read, "excepted".

On page 64889, in § 404.1027 [Amended], the 3rd line, the 1st word should read, "and".

#### [4110-03]

##### Title 21—Food and Drugs

#### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

##### SUBCHAPTER A—GENERAL

#### PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

##### Biometric and Epidemiological Methodology Advisory Committee; Termination

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** Pursuant to § 14.55(b) (21 CFR Part 14.55(b)) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Biometric and Epidemiological Methodology Advisory Committee by the Secretary, Department of Health, Education, and Welfare on December 23, 1977. This action is taken because the purposes for which this committee was established are to be accomplished through alternative measures.

**EFFECTIVE DATE:** January 27, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Depart-



ment of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

**SUPPLEMENTARY INFORMATION:** The committee's functions were to review and evaluate scientific studies and data with respect to, and otherwise advise the Commissioner on, epidemiological and biometrical methodology.

The purposes for which this committee was established are to be accomplished through alternative measures and on December 23, 1977, the committee was terminated.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in §14.100 *List of standing advisory committees* by deleting paragraph (c)(4) and marking it reserved.

**Effective date.** Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, January 27, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2199 Filed 1-26-78; 8:45 am)

#### [4110-03]

##### PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE—DENTAL DRUG PRODUCTS ADVISORY COMMITTEE; TERMINATION

AGENCY: Food and Drug Administration.

ACTION: Rule.

**SUMMARY:** Pursuant to §14.55(b) (21 CFR Part 14.55(b)) of the public advisory committee procedures, the Food and Drug Administration announces the termination of the Dental Drug Products Advisory Committee by the Secretary, Department of Health, Education, and Welfare on December 23, 1977. This action is taken because the purposes for which this committee was established are to be accomplished through alternative measures.

**FOR FURTHER INFORMATION CONTACT:**

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

**SUPPLEMENTARY INFORMATION:** The committee's functions were to

review and evaluate available data concerning safety and effectiveness of marketed and investigated prescription drugs for use in the practice of dentistry.

The purposes for which this committee was established are to be accomplished through alternative measures and on December 23, 1977, the committee was terminated.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in §14.100 *List of standing advisory committees* by deleting paragraph (c)(7) and marking it reserved.

**Effective date.** Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be effective immediately upon publication in the FEDERAL REGISTER, January 27, 1978.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2200 Filed 1-26-78; 8:45 am)

#### [4110-03]

##### SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

(Docket No. 76N-0140)

##### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

##### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS SAFE

Rue

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is affirming that rue is generally recognized as safe (GRAS) as a direct human food ingredient with specific limitations. The safety of this ingredient has been evaluated pursuant to the comprehensive safety review being conducted by this agency.

**EFFECTIVE DATE:** This regulation shall be effective February 27, 1978.

**ADDRESS:** Written objections may be sent to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

**FOR FURTHER INFORMATION CONTACT:**

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street

SW., Washington, D.C. 20204, 202-472-4750.

**SUPPLEMENTARY INFORMATION:** In the FEDERAL REGISTER of December 7, 1976 (41 FR 53622), a proposal was published to affirm that rue is generally recognized as safe for use as a direct human food ingredient with specific limitations. The proposal was based on safety information developed for oil of rue, the major constituent of rue, that published as part of a final order on December 7, 1976 (41 FR 53620). This action is in accord with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with §170.35 (21 CFR 170.35), relating to the affirmation of GRAS food ingredients, copies of the scientific literature review on oil of rue, a report of the teratology screening tests for the ingredient and the report of the Select Committee are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

In addition to proposing to affirm the GRAS status of rue with specific limitations, the Commissioner gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approvals granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such sanction so that the safety of the prior-sanctioned use could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of rue approved by issuance of an appropriate regulation under Part 181 (21 CFR Part 181)—Prior-Sanctioned Food Ingredients, provided the prior-sanctioned use could be affirmed as safe on the basis of information and data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert such sanction at any future time.

No reports of prior-sanctioned use for rue were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for a use of rue under conditions different from those set forth in this regulation has been waived.

No comments were received in response to the Commissioner's proposal and supporting data and information on rue. The Commissioner therefore concludes that no change in the proposal to affirm the GRAS status of rue is warranted. Accordingly, it is being promulgated without change.

#### [1505-01]

(Docket No. 77N-0285)

##### PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

##### Tetracycline Hydrochloride for Topical Solution

Correction

In FR Doc. 77-32844 appearing on page 59065 in the issue of Tuesday, November 15, 1977, on page 59066 in §446.581(c)(h)(iii), the 2nd line, the 1st word should read, "[ac]curately".

On page 59067, in §446.581(c)(b)(1)(iv), the 16th line, the last word should read, "minute".

#### [1505-01]

Title 30—Mineral Resources

##### CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

##### SURFACE MINING RECLAMATION AND ENFORCEMENT PROVISIONS

Final Rule; Correction

Correction

In FR Doc. 78-1430 on page 2721 appearing in the issue of Thursday, January 19, 1978, in the 3rd column, under Part 715—General Performance Standards, paragraph 10, should read as follows:

"10. On page 62686, §715.17(e)(6)(iii), line 3 'quotient of H+35/5' is corrected to read, 'quotient of (H+35)/5.'"

#### [3810-71]

Title 32—National Defense

##### CHAPTER VI—DEPARTMENT OF THE NAVY

##### SUBCHAPTER F—ISLANDS UNDER NAVY JURISDICTION

##### PART 763—RULES GOVERNING PUBLIC ACCESS

##### Entry Regulations for Kahoolawe Island, Hawaii

AGENCY: Department of the Navy, Department of Defense.

ACTION: Final rule.

**SUMMARY:** This rule sets forth regulations governing entry upon Kahoolawe Island, Hawaii. These regulations limit entry upon Kahoolawe Island to authorized persons because the island is used as a target area for bombing and gunnery practice in order to maintain and improve combat readiness of United States military forces.

**EFFECTIVE DATE:** January 3, 1978.

**ADDRESS:** Any written comment on these regulations should be sent to: Commandant, Fourteenth Naval District, Box 110, Pearl Harbor, Hawaii 96860.

**FOR FURTHER INFORMATION CONTACT:**

Captain Peter B. Walker, JAGC, U.S. Navy, Staff General Advocate, Commander in Chief, U.S. Pacific Fleet, FPO San Francisco 96610. Telephone number: 808-471-0624.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority conferred by 50 U.S.C. 797, as implemented by Department of Defense Directive 5200.8 of August 20, 1954, together with the authority conferred under 5 U.S.C. 301, 10 U.S.C. 6011, as delegated in 32 CFR 700.702 and 32 CFR 700.714, the Commandant, Fourteenth Naval District, on January 3, 1978, adopted the "Entry regulations for Kahoolawe Island, Hawaii" (COMFOURTEEN-INST 5510.35A). Kahoolawe Island was placed under the jurisdiction of the Secretary of the Navy by Executive Order No. 10436 of February 20, 1953, to be used for naval purposes. The island is presently being used and will continue to be used as a target area for bombing and gunnery practice in order to maintain and improve combat readiness of United States Armed Forces. Further, as a result of the large amounts of unexploded ordnance present on the island and in the adjacent waters, inherently dangerous conditions exist in this area. Accordingly, these regulations limit entry upon Kahoolawe Island to authorized personnel and to those persons who have obtained advance consent pursuant to the regulations.

On January 4, 1978, the contents of these regulations were published in the FEDERAL REGISTER (43 FR 785-786) to provide the public with advance notice prior to final publication of the regulations as they will appear in the Code of Federal Regulations. Accordingly, a new Part 763 in Subchapter F of Title 32, CFR, entitled, "Rules Governing Public Access," is established, and a new Subpart A, entitled "Entry Regulations for Kahoolawe Island, Hawaii," is added to Part 763 of Title 32, CFR. Moreover, it has been determined, in accordance with 32 CFR 296 and 701.57, that publication of these regulations for public comment prior to their adoption is impracticable and unnecessary, since the nature and national importance of the operations on Kahoolawe Island, as well as the existing dangerous conditions thereon, mandate the immediate, uninterrupted effectiveness of these regulations. Interested persons, however, are invited, on a continuing basis, to comment in writing on these regulations. All written material received will be con-

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 182 and 184 are amended as follows:

§182.10 [Amended]

1. In Part 182, §182.10 *Spices and other natural seasonings and flavorings* is amended by deleting the entry for "Rue".

2. In Part 184 by adding new §184.1698 to read as follows:

§184.1698 Rue.

(a) Rue is the perennial herb of several species of *Ruta* (*Ruta montana* L., *Ruta graveolens* L., *Ruta bracteosa* L., and *Ruta calepensis* L.). The leaves, buds, and stems from the top of the plant are gathered, dried, and then crushed in preparation for use, or left whole.

(b) The ingredient is used in all categories of food in accordance with §184.1(b)(2) of this chapter at concentrations not to exceed 2 parts per million.

(c) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

**Effective date.** This regulation is effective on February 27, 1978.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2198 Filed 1-26-78; 8:45 am)

#### [1505-01]

##### SUBCHAPTER D—DRUGS FOR HUMAN USE

(Docket No. 75N-0020)

##### PART 440—PENICILLIN ANTIBIOTIC DRUGS

##### Updating and Technical Revisions

Correction

In FR Doc. 77-33332 appearing on page 59852 in the issue of Tuesday, November 22, 1977, in §440.180a(a)(2) on page 59865, in the first line, "labeled" should read "labeled".



sidered before taking action on any revisions or amendments to Subpart A of Part 763, 32 CFR or the regulations upon which it is based, and they may be changed in light of comments received.

Therefore, Title 32, CFR, is hereby amended by adding a new Part 763, and a Subpart A to Part 763, providing as follows:

**Subpart A—Entry Regulations for Kahoolawe Island, Hawaii**

- Sec.  
763.1 Purpose.  
763.2 Definition.  
763.3 Background.  
763.4 Entry restrictions.  
763.5 Entry procedures.  
763.6 Violations.

**AUTHORITY:** 50 U.S.C. 797; DOD Dir. 5200.8 of August 20, 1954; 5 U.S.C. 301; 10 U.S.C. 6011, 32 CFR § 700.702; 32 CFR § 700.714; Exec. Order No. 10-436, 3 CFR, 1949-1953 Comp., p. 930, (1958).

**Subpart A—Entry Regulations for Kahoolawe Island, Hawaii**

**§ 763.1 Purpose.**

The purpose of this subpart is to promulgate regulations governing entry upon Kahoolawe Island, Hawaii.

**§ 763.2 Definition.**

For the purposes of this Subpart, Kahoolawe Island includes only that portion reserved for naval purposes by Executive Order No. 10436 of February 20, 1953.

**§ 763.3 Background.**

(a) Kahoolawe Island has been used and will continue to be used as a target area for the foreseeable future for bombing and gunnery practice in order to maintain and improve combat readiness of United States Armed Forces. It is vital to national defense that this use of Kahoolawe Island be continued without undue or unnecessary interruption. Because of the large amounts of unexploded ordnance present on the island and in adjacent waters, inherently dangerous conditions exist in these areas.

(b) For prevention of interruption of the stated use of Kahoolawe Island by any unauthorized person on the island, and prevention of injury to any such person as a consequence of the dangerous conditions which exist, as well as for other reasons, it is essential to restrict entry upon the island to authorized persons only.

**§ 763.4 Entry restrictions.**

Except for military personnel and civilian employees of the United States in the performance of their official duties, entry upon Kahoolawe Island or remaining upon Kahoolawe Island

by any person for any purpose whatsoever without the advance consent of the Commandant, Fourteenth Naval District, or his authorized representative, is prohibited. See 18 U.S.C. 1382; the Internal Security Act of 1950, section 21 (50 U.S.C. 797); Department of Defense Directive 5200.8 of August 20, 1954; Chief of Naval Operations Instruction 5511.9A of October 1, 1954; Secretary of the Navy Instruction 5400.14 of July 30, 1974; Chief of Naval Operations Instruction 5450.190 of February 22, 1975; and Chief of Naval Operations Instruction 5400.24B of November 25, 1977.

**§ 763.5 Entry procedures.**

(a) Any person or group of persons desiring the advance consent of the Commandant, Fourteenth Naval District or his authorized representative shall, in writing, submit a request to the Commandant, Fourteenth Naval District at the following address:

Commandant, Fourteenth Naval District, Box 110, Pearl Harbor, Hawaii 96860.

(b) Each request for entry will be considered on an individual basis weighing the operational and training commitments of Kahoolawe Island, security, and safety with the purpose, size of party, duration of visit, destination, and military resources which would be required by the granting of the request.

**§ 763.6 Violations.**

(a) Any person entering or remaining on Kahoolawe Island without the advance consent of the Commandant, Fourteenth Naval District, or his authorized representative shall be subject to the penalties prescribed by 18 U.S.C. 1382, which provides in pertinent part: "Whoever, within the jurisdiction of the United States, goes upon any military, naval . . . reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation . . . shall be fined not more than \$500 or imprisoned not more than six months, or both."

(b) Moreover, any person who willfully violates this subpart is subject to a fine not to exceed \$500 or imprisonment for not more than one (1) year, or both as provided in 50 U.S.C. 797.

Dated: January 20, 1978.

K. D. LAWRENCE,  
Captain, JAGC, U.S. Navy,  
Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 78-2350 Filed 1-26-78; 8:45 am]

**[3410-11]**

**Title 36—Parks, Forests and Public Property**

**CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE**

**PART 261—NATIONAL FOREST SYSTEM PROHIBITIONS**

**Permits for Chattooga River**

**AGENCY:** Forest Service, Department of Agriculture.

**ACTION:** Final regulations.

**SUMMARY:** This action requires private and commercial users to obtain a permit to float the Chattooga Wild and Scenic River. Permits will include conditions of use to protect river values and provide for floater safety. Safety regulations have drastically reduced the high number of fatalities occurring prior to regulations.

**EFFECTIVE DATE:** January 27, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Forest Supervisor Donald W. Eng, Francis Marion and Sumter National Forests, 1801 Assembly Street, Second Floor, Columbia, S.C. 29201. 803-765-5222.

**SUPPLEMENTARY INFORMATION:** On May 27, 1977, the Forest Service published an interim rule (42 FR 27244) with a proposed amendment to Subpart C of 36 CFR 261.70. The proposed amendment adding new § 261.77, Prohibitions in Region 8, Southern Region, would prohibit acts or omissions within the areas of the Sumter National Forest and the Chattahoochee National Forest for the purposes of public safety and establishing reasonable rules of public conduct. Interested persons were given 90 days in which to submit written data, views, or objections regarding the interim regulations.

No written objections have been received and the interim regulations are hereby adopted without change and are set forth below.

Dated: January 16, 1978.

LAWRENCE M. WHITFIELD,  
Regional Forester, Region 8,  
Southern Region, Forest Service, Department of Agriculture.

Subpart C of Chapter II of title 36 of the Code of Federal Regulations is amended by revising § 261.77 as follows:

**§ 261.77 Prohibitions in Region 8, Southern Region.**

(a) Using or occupying any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or de-

scription, unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(b) Using or occupying within the scope of any commercial operation or business any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by special use permit.

(c) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraphs (a) or (b) of this section is prohibited.

(d) Entering, going, riding, or floating upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description, unless authorized by a permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

(e) Entering, going, riding, or floating within the scope of any commercial operation or business upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind or description unless authorized by special use permit.

(f) Violating or failing to comply with any of the terms or conditions of any permit authorizing the occupancy and use specified in paragraph (d) or (e) of this section is prohibited.

[FR Doc. 78-2367 Filed 1-26-78; 8:45 am]

**[8320-01]**

**Title 38—Pensions, Bonuses, and Veterans' Relief**

**CHAPTER I—VETERANS ADMINISTRATION**

**PART 2—DELEGATIONS OF AUTHORITY**

**PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

**Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36**

**CONFLICTS OF INTEREST**

**AGENCY:** Veterans Administration.

**ACTION:** Final regulation.

**SUMMARY:** This amendment is intended to make clear that the Admin-

istrator is delegating to the Director, Education and Rehabilitation Service, the power to make determinations of conflict of interest as to employees of the Veterans Administration and of the State approving agencies, but that authority to make such determinations as to officers of such groups is not delegated. This will make less confusing the rules being used. This amendment is also intended to make clear the extent of the delegation of authority by the Administrator as to determinations involving conflict of interest and the criteria to be applied in making such determinations. The Veterans Administration also makes editorial changes which reflect the agency's policy of using precise terms for gender in its regulations.

**EFFECTIVE DATE:** January 19, 1978.

**FOR FURTHER INFORMATION CONTACT:**

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092

**SUPPLEMENTARY INFORMATION:** On page 57328 of the FEDERAL REGISTER of November 2, 1977, there was published a notice of proposed regulatory development to amend Part 21 relative to authority to make determinations involving conflicts of interest.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations. One comment was received.

The person commenting suggested delaying implementation of the proposed change to §§ 21.4001 and 21.4005 until such time as these sections have been amended so as to apply also to possible conflicts of interest involving employees and officers of the Veterans Administration or the State approving agencies who are also employees or officers of nonprofit schools.

The regulations concerning conflicts of interest are based upon 38 U.S.C. 1783. This section of the United States Code is addressed only to possible conflicts of interest involving officers and employees of schools operating for profit. It does not mention conflicts of interest involving officers and employees of nonprofit schools. While the suggestion may have merit, the Veterans Administration does not have the statutory authority to make the suggested additional change.

The proposed change to §§ 21.4001 and 21.4005 is deemed proper and is hereby adopted.

Approved: January 19, 1978.  
By direction of the Administrator.

RUFUS H. WILSON,  
Deputy Administrator.

1. In Part 2, § 2.80 is revised to read as follows:

§ 2.80 Director, Education and Rehabilitation Service is delegated authority to waive penalties for conflicting interests as provided by § 21.4005 of this chapter.

This delegation of authority is identical to § 21.4001(c)(1) of this chapter.

2. In Part 21, § 21.4001(c)(1) is revised to read as follows:

§ 21.4001 Delegations of authority.

(c) Authority is delegated to the Director, Education and Rehabilitation Service, to exercise the functions required of the Administrator for: (1) Waiver of penalties for conflicting interests as provided by § 21.4005;

3. In § 21.4005, paragraphs (a)(1) and (2), (b), (c) and (e) are revised and paragraph (f) is added so that the revised and added material reads as follows:

§ 21.4005 Conflicting interests.

(a) General. (1) Every officer or employee of the Veterans Administration who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 38 U.S.C. chs. 32, 34, 35, or 36 will be immediately dismissed from his or her office or employment.

(2) If the Administrator finds that any person who is an officer or employee of a State approving agency has, while he or she was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under chapters 32, 34, 35, or 36, payments under § 21.4153 to such State approving agency will be discontinued unless such agency takes, without delay, such steps as may be necessary to terminate the employment of such person and payments will not be resumed while such person is an officer or employee of the State approving agency, or State Department of Veterans' Affairs or State Department of Education.

(b) Waiver. (1) Where a request is made for waiver of application of paragraph (a)(1) of this section, it will be



considered that no detriment will result to the United States or to veterans or eligible persons by reason of such interest or connection of such officer or employee of the Veterans Administration, if the officer or employee:

(i) Acquired his or her interest in the school by operation of law, or before the statute became applicable to the officer or employee, and his or her interest has been disposed of and his or her connection discontinued, or

(ii) Meets all of the following conditions:

(a) His or her position involves no policy determinations, at any administrative level, having to do with matters pertaining to payment of educational assistance allowance, or special training allowance.

(b) His or her position has no relationship with the processing of any veteran's or eligible person's application for education or training.

(c) His or her position precludes him or her from taking any adjudicative action on individual applications for education or training.

(d) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 38 U.S.C. chs. 32, 34, 35, or 36.

(e) His or her position is not connected with the processing of claims by, or payments to, schools, or students enrolled therein under the provisions of 38 U.S.C. chs. 32, 34, 35, or 36.

(f) His or her work is not connected in any way with the inspection, approval, or supervision of schools desiring to train veterans or eligible persons.

(2) Where a request is made for waiver of application of paragraph (a) (2) of this section, it will be considered that no detriment will result to the United States or to veterans or eligible persons by reason of such interest or connection of such officer or employee of a State approving agency, if the officer or employee:

(i) Acquired his or her interest in the school by operation of law, or before the statute became applicable to the officer or employee, and his or her interest has been disposed of and his or her connection discontinued, or

(ii) Meets all of the following conditions:

(a) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 38 U.S.C. chs. 32, 34, 35, or 36.

(b) His or her work is not connected in any way with the inspection, approval, or supervision of schools desiring to train veterans or eligible persons.

(c) *Authority.* (1) Authority is delegated to the Director, Education and

Rehabilitation Service, and to the field station head in cases of Veterans Administration employees under his or her jurisdiction, to waive the application of paragraph (a) (1) of this section in the case of any Veterans Administration employee who meets the criteria of paragraph (b) (1) of this section and to deny requests for waiver which do not meet such criteria. If the circumstances warrant, the request may be submitted to the Administrator for decision.

(2) Authority is delegated to the Director, Education and Rehabilitation Service, in cases of State approving agency employees to waive the application of paragraph (a)(2) of this section in the case of any such person who meets the criteria of paragraph (b)(2) of this section and to deny requests for waiver which do not meet such criteria. If the circumstances warrant, the request may be submitted to the Administrator for decision.

(3) Authority is reserved to the Administrator to waive the requirement of paragraphs (a) (1) and (2) of this section in the case of an officer of the Veterans Administration or a State approving agency and in the case of any employee of either who does not meet the criteria of paragraph (b) of this section.

(e) *Notice to veterans and eligible persons.* The veteran or eligible person will be notified in writing sent to his or her latest address of record when:

(1) The course or courses are disapproved by the State approving agency, or

(2) The State approving agency fails to disapprove the course or courses within 15 days after the date of written notice to the agency, and no waiver has been requested, or

(3) Waiver has been denied.

The veteran or eligible person will be informed that he or she may apply for enrollment in an approved course in another school, but that in the absence of such transfer, educational assistance allowance payments will be discontinued effective the date of discontinuance of the course, or the 30th day following the date of such letter, whichever is earlier.

(f) *Definition of "officer."* For the purposes of this section a person will be considered to be an "officer" of the State approving agency or the Veterans Administration, when he or she has authority to exercise supervisory authority.

[FR Doc. 78-2309 Filed 1-26-78; 8:45 am]

## [6560-1]

## Title 40—Protection of Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

## SUBCHAPTER E—PESTICIDE PROGRAMS [OPP-260027A]

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Revocation of Tolerances for Decachloro-octahydro-1,3,4-metheno-2H-cyclobuta[cd]pentalen-2-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revokes the tolerance for the insecticide decachloro-octahydro-1,3,4-metheno-2H-cyclobuta[cd]pentalen-2-one (trade name: Kepone). The revocation was proposed by the EPA. The revocation will prevent the introduction of bananas containing residues of Kepone into the United States.

EFFECTIVE DATE: January 27, 1978.  
FOR FURTHER INFORMATION CONTACT:

Mr. Frederick Hageman, Office of Special Pesticide Reviews (WH-566), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C., 202-755-8026.

**SUPPLEMENTARY INFORMATION:** On August 31, 1977, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 43869) on the initiative of the Agency that 40 CFR 180 be amended by revoking the Kepone tolerance for residues of decachloro-octahydro-1,3,4-metheno-2H-cyclobuta[cd]pentalen-2-one in or on the raw agricultural commodity bananas at 0.01 part per million (ppm). No requests for referral to an advisory committee were received in response to this notice or proposed rulemaking.

One comment was received from the National Canners Association recommending that the revocation order take into consideration those bananas that might contain Kepone residues resulting from treatment prior to the issuance of the revocation.

The Agency concludes that since Kepone application is restricted to the soil and base of the banana plant only, no direct uptake into the fruit itself is likely to occur. However, mechanical contamination is a possibility if batches of bananas are placed on the ground in a harvest-type operation. Should Kepone residues occur in bananas, the Agency will determine a safe action level. It has been concluded, therefore, that the proposed revocation is necessary to protect the public health and should be adopted as previously proposed.

Any person adversely affected by this regulation may, on or before February 27, 1978, file written objections with the Hearing Clerk, EPA, Room M-3708, 401 M Street SW., Washington, D.C. 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on January 27, 1978, Part 180, Subpart C, is amended by revoking § 180.287 as set forth below.

Dated: January 24, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

STATUTORY AUTHORITY: Sec. 408 (e), (m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a (e), (m)).

§ 180.287 [Deleted]

Section 180.287 Decachloro-octahydro-1,3,4-metheno-2H-cyclobuta[cd]pentalen-2-one; tolerance for residues is deleted from Subpart C.

[FR Doc. 78-2403 Filed 1-27-78; 8:45 am]

## [6820-25]

## Title 41—Public Contracts and Property Management

## CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

## SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

## [FPMR Amendment F-29]

## PART 101-35—TELECOMMUNICATIONS

## Listening-in Devices; Corrections

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Final rule corrections.

SUMMARY: This notice corrects editorial errors appearing in the listening-in devices regulation (42 FR 58521, November 10, 1977).

FOR FURTHER INFORMATION, CONTACT:

Robert R. Johnson, Regulations Branch, Agency Services Division, Office of Agency Assistance, Planning, and Policy, Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405, 202-566-0834.

**SUPPLEMENTARY INFORMATION:** In the FEDERAL REGISTER of November 10, 1977, at page 58521 the Agency published a listening-in devices regulation. The following corrections should be made to that document.

(1) On page 58522, first column, preamble, under Supplemental Information, last sentence, "January 9, 1977" should be "January 9, 1978."

(2) On page 58522, second column, § 101-35.311(b), last sentence, "At the same time orders for the installation or removal of this equipment are placed directly with a commercial vendor, a copy of the order shall be submitted to the General Services Administration (CPSR), Washington, D.C. 20405", should read "At the same time orders for the installation or removal of this equipment are placed directly with a commercial vendor, a copy of the order with the determination shall be submitted to the General Services Administration (CPSR), Washington, D.C. 20405."

Dated: January 5, 1978.

JAY SOLOMON,  
Administrator of General  
Services.

[FR Doc. 78-2352 Filed 1-26-78; 8:45 am]

## [4310-84]

## Title 43—Public Lands: Interior

## CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

## APPENDIX-PUBLIC LAND ORDERS

[AA-9234, AA-11181; Public Land Order 5630]

## ALASKA

## Revocation of Public Land Order No. 5608

AGENCY: Bureau of Land Management.

ACTION: Final rule.

SUMMARY: This order will revoke PLO No. 5608. The Forest Management Act of October 22, 1976, requires an Act of Congress to remove such lands from the national forest.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 5608 of November 16, 1976, which excluded Homesteads No. 205 and No. 222 of the Clear Lake Group, U.S. Survey No. 4979, from the Chugach National Forest, is hereby revoked, for the

reason that section 9 of the Forest Management Act of October 22, 1976, states that an act of Congress is needed to return lands to the public domain.

GUY R. MARTIN,  
Assistant Secretary of  
the Interior.

JANUARY 18, 1978.

[FR Doc. 78-2349 Filed 1-26-78; 8:45 am]

## [7035-01]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

## SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. No. 1298]

## PART 1033—CAR SERVICE

Substitution of Maintenance of Way Ballast Cars for Gondola Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1298).

SUMMARY: There is a substantial shortage of gondola cars on the Burlington Northern Inc. for shipments of pulpwood logs. The BN has an available supply of maintenance of way ballast cars due to decrease in work on tracks during the winter months. Service Order No. 1298 authorizes BN, with consent of shipper, to substitute BN maintenance of way ballast cars for gondola cars for loading pulpwood logs from any station on the BN and destined to any other station on the BN.

DATES: Effective 12:01 a.m., January 24, 1978. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

**SUPPLEMENTARY INFORMATION:** The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23rd day of January 1978.

An acute shortage of gondola cars for transporting shipments of pulpwood logs exists on Burlington Northern Inc. (BN). The BN has an available supply of maintenance of way ballast cars that may be substituted for this traffic. Use of these maintenance of way ballast cars for the transportation of pulpwood logs is precluded by certain tariff provisions, thus curtailing shipments of pulpwood logs. There is a



## RULES AND REGULATIONS

need for the use of these maintenance of way ballast cars to supplement the supplies of gondola cars for transporting shipments of pulpwood logs. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1298 Service Order No. 1298.

(a) *Substitution of maintenance of way ballast cars for gondola cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of cars.* The Burlington Northern Inc. (BN) may substitute its maintenance of way ballast cars for gondola cars ordered for shipments of pulpwood logs from any station on the BN and destined to any other station on the BN, subject to the conditions provided in paragraphs 2 through 6 of this order.

(2) *Cars to be applied.* Cars listed in the Official Railway Equipment Register, ICC-R.E.R. No. 405, issued by W. J. Trezise, or successive issues thereof as having mechanical designations "HTS" or "MWB" and bearing reporting marks assigned to the BN.

(3) *Concurrence of shipper required.* The concurrence of the shipper must be obtained before maintenance of way ballast cars are substituted for gondola cars.

(4) *Exclusive BN movement required.* Shipments of pulpwood logs for which maintenance of way ballast cars are substituted for gondola cars must originate and terminate at stations on the BN and must not be routed over any other carrier; except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(5) *Minimum weights.* Maintenance of way ballast cars substituted for gondola cars as authorized by this order shall be loaded to full visible capacity. Freight charges shall be assessed for the actual weight of each car loaded subject to a minimum weight of 50,000 lbs. per car.

(6) *Endorsement of billing.* Bills of lading and waybills covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1298.

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they con-

flict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., January 24, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

It is further ordered, That, copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2386 Filed 1-26-78; 8:45 am)

[7035-01]

(S.O. No. 1299)

## PART 1033—CAR SERVICE

Consolidated Rail Corp. Ordered To Deliver Empty Boxcars to Boston and Maine Corp., Robert W. Meserve and Benjamin Lacy, Trustees (BM); BM Ordered To Deliver Empty Boxcars to Maine Central Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1299).

SUMMARY: An acute shortage of boxcars for transporting shipments of paper exists on the Maine Central Railroad Co. American Rail Box Car Co. (RBOX) owns a large fleet of plain 50-ft. boxcars for general service by any line participating in a so-called membership pool. In excess of 2,400 RBOX cars are located on the lines of Consolidated Rail Corporation (CR). Service Order No. 1299 orders CR to deliver to the Boston and Maine Corp. a weekly total of 50 empty plain RBOX boxcars, and BM to deliver to the Maine Central a weekly total of 50 empty plain RBOX boxcars.

DATES: Effective 12:01 a.m., January 24, 1978. Expires 11:59 p.m., February 12, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

## SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of January 1978.

An acute shortage of boxcars for transporting shipments of paper exists on the Maine Central Railroad Co. (MeC), in spite of efforts of the Car Service Division of the Association of American Railroads to expedite the return of MeC boxcars to that line. The American Rail Box Car Co. (RBOX) owns a fleet of more than 9,900 plain 50-ft. boxcars for general service by any line participating in a so-called membership pool. However, the pool agreement does not permit RBOX to direct the empty movement of these cars unless they have declared surplus by a pool member. In excess of 2,400 RBOX cars are located on the lines of the Consolidated Rail Corp. (CR) none of which have been made available by CR to RBOX for redistribution.

In the opinion of the Commission an emergency exists requiring redistribution of a portion of the RBOX cars located on CR in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure herein are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1299 Service Order No. 1299.

(a) *Consolidated Rail Corp. ordered to deliver empty boxcars to Boston and Maine Corp., Robert W. Meserve and Benjamin Lacy, trustees (BM): BM ordered to deliver empty boxcars to Maine Central Railroad Co.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) The Consolidated Rail Corp., shall deliver to the Boston and Maine Corp., Robert W. Meserve and Benjamin Lacy, Trustees (BM) a weekly total of fifty (50) empty plain boxcars owned by the American Rail Box Car Co., and bearing RBOX identification marks.

(2) The BM shall deliver to the Maine Central Railroad Co. a weekly total of fifty (50) plain boxcars bearing RBOX identifying marks.

(b) The rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the

end of each seven days the full delivery required for that period shall have been made.

(c) Cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(d) The carriers delivering the empty boxcars as described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(e) The carriers receiving the cars described above must advise Joel E. Burns, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C. 20423 each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(f) *Regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(g) *Effective date.* This direction shall become effective at 12:01 a.m., January 24, 1978.

(h) *Expiration date.* This direction shall expire at 11:59 p.m., February 12, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

It is further ordered, That a copy of this direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement; and that notice of this direction be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member Robert S. Turkington not participating.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2385 Filed 1-26-78; 8:45 am)

[7035-01]

## SUBCHAPTER B—PRACTICE AND PROCEDURE

## PART 1100—GENERAL RULES OF PRACTICE

AGENCY: Interstate Commerce Commission.

ACTION: Notice requiring immediate compliance with rule.

## RULES AND REGULATIONS

SUMMARY: By this publication the Commission gives formal notice of an intent to require an applicant in an emergency temporary authority proceeding to timely file a petition seeking reconsideration of an order of the Motor Carrier Board in which it is adversely affected. Protestants are not always informed of the filing of an emergency temporary authority application because notice of such filing is not published, and in view of the informal nature of these proceedings applicants have been allowed an unspecified time to seek reconsideration. By this action applicants will be required to expeditiously process an application on a current record, in keeping with an asserted need for emergency transportation.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

John Hedetniemi, Special Assistant to the Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7792.

SUPPLEMENTARY INFORMATION: Petitions seeking reconsideration in emergency temporary authority proceedings were previously accepted without applying the time rule set forth in 49 CFR 1100.225(f). The Commission has now determined that where emergency temporary authority is granted, the time rule will not be invoked because protestants may not have had adequate notice of the presence of an application, or of the action of the Motor Carrier Board. But, where such an application is denied, applicants should be required to seek reconsideration within 20 days of the date of service of a denial order, there being an allegation inherent in the application that the need for service is immediate and urgent. Moreover, parties representing applicants receive telephone notice in such matters as soon as the Board's decision is reached, and several days may elapse before a denial order is served, giving applicants, in most instances, more than 20 days to petition. Therefore, no reason appears to exempt applicants from the rule requiring them promptly to file their appeals.

The situation with respect to replies to petitions is unchanged and the Commission will continue to follow the guidelines set forth in 49 CFR 1131.6. Petitions, because of the urgency of the transportation need, will be accorded expeditious handling, but replies thereto will be considered if received before the petitions can be processed. Replies, received after consideration has been given to petitions, will be treated as petitions for reconsideration and given corresponding accelerated action.

The above requirement, to file petitions within 20 days of the initial deci-

sion of the Motor Carrier Board, is mandatory, and all petitions seeking reconsideration of denial orders, filed after publication of this notice in the FEDERAL REGISTER, should be in accordance with said rule. Extensions of time to file are not contemplated.

Decided December 20, 1977.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2397 Filed 1-26-78; 8:45 am)

[4310-55]

## Title 50—Wildlife and Fisheries

## CHAPTER 1—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

## Final Threatened Status and Critical Habitat for the Leopard Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service issues this rulemaking which would determine the leopard darter (*Percina pantherina*) to be a Threatened species and which would determine Critical Habitat for that species. The leopard darter occurs in southeast Oklahoma and in western Arkansas.

DATE: This final rulemaking becomes effective on February 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

The Fish and Wildlife Service published a Notice in the March 18, 1975, FEDERAL REGISTER (Vol. 40, No. 53, pp. 12297-12298) to the effect that a status review of 29 fishes was being conducted. The leopard darter was one of those species. As a result of this Notice, responses were received from the Governors of Arkansas and Oklahoma, the only States in which this species is known to occur. One comment was received from a biologist. These comments and supportive documents have been reviewed and a summary published in the FEDERAL REGISTER. The comments were published July 6, 1976 (FR Vol. 41, No. 130, pp. 27735-27738), as part of the proposal to determine the leopard darter to be Threatened and portions of the Little River system to be its Critical Habitat. Comments on the proposed rulemak-



ing are summarized below. The information received as a result of the Notice of Review and the proposed rulemaking has been considered and is incorporated into the administrative record of this rulemaking. The information presently available indicates the leopard darter is a Threatened species as provided for by the Act.

#### SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to altering the List of Endangered and Threatened Wildlife and Plants. Comments received in response to the Notice of Review of the leopard darter (March 18, 1975, FR Vol. 40, No. 53, pp. 12297-12298) were summarized in the proposed rulemaking to determine the Critical Habitat and Threatened status for the darter (July 6, 1976, FR Vol. 41, No. 130, pp. 27735-27738). A total of 25 comments were received as a result of the above proposal.

Nineteen of the 25 comments received supported the proposal. These responses were from the State of Oklahoma, U.S. Forest Service, conservation organizations, professional biologists and interested individuals. A summary of these comments are presented below.

(1) The comments received from the Governor of Oklahoma indicated that he was in general agreement with the proposed Critical Habitat and Threatened Status for the leopard darter. While he agreed that Threatened Status seemed appropriate to the existing conditions, the situation is rapidly changing in the area inhabited by the darter and a further review of its classification may be needed in the near future. His primary concern was over the rapid loss of habitat for the darter due to a variety of factors. These factors were discussed in his response as follows: "While loss of habitat through large reservoir construction poses one of the most immediate threats to the survival of the leopard darter, there are a number of other factors at work in McCurtain County which may ultimately have more impact than the several dams proposed for the Little River watershed. McCurtain County currently ranks twelfth in growth among Oklahoma's 77 counties. Much of this has been the result of a major increase in activity by the timber industry, but there has also been much growth due to other economic development. McCurtain County will be significantly affected over the next few years by such factors as sewage effluents; solid waste; urban sprawl; new industries and their effluents; sediment from construction; overgrazed pastures; logging roads and

clearcuts (many large clearcuts are already present on the banks of streams within the leopard darter's range—including Glover Creek); chemical runoff from industries as well as agricultural and forestry operations; and gravel mining. There is also a significant increase in the number of people participating in various types of outdoor recreation in this part of the state. The combined impact of all of these factors acting at once cannot be ignored." We agree that the rapid increase in the development of this area does contribute to the threats of the leopard darter and its habitat.

The Governor agreed that the streams proposed for Critical Habitat were critical to the leopard darter. He did suggest that the Service give consideration to several creeks that are tributaries of the streams which were proposed as Critical Habitat. The Governor also pointed out an error in the description of Critical Habitat segment of the East Fork of Glover Creek. The upstream end of the Critical Habitat lies four miles NNE of the town of Behtel, Okla., not NNW as indicated in the proposed rulemaking in the FEDERAL REGISTER. This correction has been made in the final rulemaking.

(2) The U.S. Forest Service's comments indicated that they had no objection to the proposal for the leopard darter. They did express concern that failure to identify key tributaries within the Critical Habitat area might be detrimental to the conservation of the species. They also provided locality data for one record of the leopard darter in the Ouachita National Forest in Arkansas.

(3) Five conservation organizations responded to the proposal. The Ozark Society agreed with the proposed Threatened status and the proposed Critical Habitat. The remaining four organizations—Monitor, Inc., Oklahoma Chapter of the Sierra Club, Environmental Defense Fund, and the Oklahoma Wildlife Federation—agreed with the Critical Habitat delineation, however, all four suggested an Endangered status rather than the Threatened status as proposed.

While the situation is serious, we do not believe the data indicate that the leopard darter is likely to become extinct in the foreseeable future. As was indicated by the Governor of Oklahoma, however, the area inhabited by the leopard darter is undergoing rapid alteration, and the Service is planning to monitor closely the habitat and populations of the species in the future.

The six professional biologists who responded to the proposal supported Threatened status for the leopard darter. They also supported the Critical Habitat delineation with one exception. It was recommended by Dr.

Clark Hubbs, University of Texas Zoology Department, that the extreme lower part of Glover Creek, below or downstream from Oklahoma Highway 7, be deleted from the Critical Habitat area. Dr. Hubbs has established, through field work and observations, that leopard darters occurring in this section of the Glover Creek are probably waifs from the upstream population. We have, therefore, not included this area in the final determination.

Six individuals responded to our proposal expressing their support, but they did not include any biological data.

Of the 25 comments received, 6 expressed concern over the proposed listing and delineation of critical habitat. These responses were from the Southwestern Division of the Army Corps of Engineers, Red River Valley Association, Little River Conservation District, Idabel Chamber of Commerce and Agriculture, Broken Bow Chamber of Commerce, and one private individual.

The Army Corps of Engineers recommended that the rulemaking be suspended pending extensive studies by the U.S. Fish and Wildlife Service and that an environmental statement in compliance with NEPA be prepared.

The Corps of Engineers recommended that the proposal be suspended for the following reasons:

(a) The information published in the FEDERAL REGISTER of July 6, 1976, does not contain enough data to support the proposed determination. To base this decision on the comments of one biologist is questionable. This is substantiated by the fact that at each time our Tulsa District personnel have sampled waters in the Little River Basin, the known range of the leopard darter has expanded.

(b) The statement that: "Recent evidence (1974 and 1975) available to us, however, indicates that at least the population of the leopard darter occurring in Glover Creek, Okla., is relatively stable and secure . . ." apparently stems from Tulsa District's extensive environmental studies of the Glover Creek basin in conjunction with the proposed Lukfata Lake project. To our knowledge only one other recent extensive survey (Ethridge, unpublished masters thesis, "A Survey of the Fishes of the Cossatot River," Northeastern Louisiana State University, Monroe, La.) has been completed in the Little River stream system. If other stream areas within the basin were sampled as intensively and thoroughly as Glover Creek, evidence of secure and stable leopard darter populations in those areas would probably be found. The enclosed unpublished data (enclosure 1), recently collected by the Corps in the Mountain Fork, Upper Little River, and Cossatot River, lend credence to that.

(c) On page 27735 of the publication in the FEDERAL REGISTER the proposal states, "Historically the Leopard Darter, *Percina pantherina*, was found throughout most of the upland large stream habitat of the Little River Drainage of Arkansas and Oklahoma." That statement is not supported by actual collections (Eley et al. 1975). Factual data would limit the known range of *Percina pantherina* to the Upper Little River, Mountain Fork, Cossatot River, and Glover Creek. Potential habitat occurs throughout the tributaries of the Little River; however, the history of the leopard darter is meager.

(d) The proposal also states: "From its once widespread range in the Little River drainage of Oklahoma and Arkansas, the alteration of its habitat through impoundment and pollution has greatly reduced its distribution and numbers." The statement is erroneous and gives an incorrect impression of the known range and abundance of the leopard darter. The entire range of the leopard darter has never been fully studied. Therefore, it may or may not have been . . . once widespread . . . To our knowledge, data have not been published (Eley et al. 1975) that provided population estimates for this fish. Impoundments, existing and under construction, in the Little River Basin could result in only a nine percent reduction in the total potential habitat of *P. pantherina* (Eley et al. 1975). Data collection records (Eley et al. 1975) indicate the *P. pantherina* is more abundant and has a greater range than was previously believed. The recent collections also support that statement.

(e) The words "invariably" and "virtually," referring to alteration of the Cossatot River by Gillham Dam and the authorized Lukfata Lake on Glover Creek, are subjective and are not supported with evidence presented in the proposed rulemaking. The copy of the draft environmental assessment that was secured from your office in response to our request to review the environmental assessment, which was stated in the proposed rules to be on file, does not contain supportive evidence.

(f) On page 27736 under "Critical Habitat Determination" the proposal reads: "Based on information received from experts on this species in Arkansas and Louisiana plus data presented in a recent publication by Eley et al., entitled 'Current Status of the leopard darter, *Percina pantherina* (Southwestern Naturalist, Oct., 1975, Vol. 20, No. 3, pages 343-354), the following areas are proposed as Critical Habitat for the leopard darter, *Percina pantherina*." The experts should be named and the data on which they based their information should be listed. In our opinion, the reference to

Eley et al. has been misrepresented in your proposal. This document has been taken out of context and gives the reader a false impression of the findings in that paper. Dr. Eley states on page 353 of the paper, "Recent field studies using improved collection techniques indicate that *P. pantherina* is more abundant and has a greater range than was previously believed. Despite all of the potentially damaging results of man's activities, the present status of the leopard darter can best be described as rare or uncommon but certainly not immediately threatened with extinction."

(g) Recently, during the three-day study of the Cossatot River by Corps personnel, six specimens of *Percina pantherina* were discovered. Five of these were taken above Gillham Reservoir in Howard County, Ark., near the crossing of State Highway 4. The other specimen was taken from the Cossatot River 2 miles below Gillham Dam which is of special significance. Another specimen was collected in the fall of 1975 near Lockesburg, Ark., which is near the mouth of the Cossatot River. It will be interesting to follow up at these locations since the water releases at Gillham were designed to prevent disruption of the natural biology downstream. Followup studies would determine any possible effect of the lake's presence.

(h) Based on current data, the range and population of the leopard darter is greater than previously known. The assumption that . . . Gillham Dam will, in all probability, result in elimination of the species in that system . . . is incorrect based on collection data which show leopard darter populations above Broken Bow, Pine Creek, and Gillham Lakes. A population exists also below Gillham Dam which will probably not be seriously disrupted since water releases from the dam are designed to maintain the biology of the stream. Likewise, the authorized Lukfata Lake would not threaten the existence of the leopard darter, but would occupy only a small portion of the habitat. Based on what is believed to be the most extensive study in existence on the occurrence of the leopard darter, the Tulsa District of the Corps of Engineers has found no evidence that either the existing dams or the proposed Lukfata Dam threaten the existence of the species.

The director has considered the above comments and the attachment submitted by the Southwestern Division of the Army Corps of Engineers. The Director has also considered other information obtained by the Fish and Wildlife Service subsequent to the proposed rulemaking. The response to the Army Corps of Engineers' comments presented below is based on information presently available.

(a) The information published in the FEDERAL REGISTER proposal represents

a summary of information available on the status of the leopard darter. While only one professional biologist responded to the notice of review, the decision to propose this species as threatened was based on information from several sources. While Corps of Engineers biologists have found additional localities for the species, the localities have with two exceptions been within the known range of the species.

(b) The comments in the proposed rulemaking referring to the status of the Glover Creek population were based in part on the Tulsa District Army Corps of Engineers environmental studies. Other biologists working in the area have indicated that the Glover Creek leopard darter population was the strongest known. Other streams with appropriate habitat (Rolling Fork and Saline River) within the Little River drainage have been well sampled over the years; however, to date the leopard darter has never been taken in these streams.

(c) The introductory statement referring to the historical range of the leopard darter is correct and is supported by Army Corps of Engineers data. The factual data indicates it occurs in four of the six upland large streams tributary to the Little River. Data presently available indicates that potential habitat does not occur throughout all tributaries of the Little River. Many of the tributaries to the Little River are low gradient streams without suitable substrate to support populations of the leopard darter.

(d) The statement in the proposed rulemaking indicating that the distribution and numbers of the leopard darter have been reduced is correct. Impoundments in the Little River system, which destroyed known localities for this species, obviously reduced its habitat and numbers. The Army Corps of Engineers' comment that impoundments, existing and under construction in the Little River basin would effect only 12 percent of the potential habitat is misleading. We feel that many areas listed as potential habitat by Eley et al. 1975 should not be considered potential habitat since numerous samples taken in these areas have failed to demonstrate the species' presence. In some cases, streams listed as potential habitat bear little or no resemblance to those streams known to be inhabited by the leopard darter.

(e) Use of the words "invariably" and "virtually," referring to impacts of impoundment projects within the range of leopard darters, are appropriate. Use of these words is based, in part, on information presented by Eley et al., 1975, page 350, which indicates that: "In the past, impoundments constructed to provide flood control and to develop water resources have been responsible for most habitat



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losses." This statement was made in reference to the leopard darter's habitat.

(f) In the process of status and critical habitat determinations, we generally do not name the individuals who contribute information relative to a particular species in the FEDERAL REGISTER publication. However, names of individuals and the type of information they contributed is available on request from the U.S. Fish and Wildlife Service/Office of Endangered Species, Washington, D.C. 20240. We do not feel that the utilization of distributional data in Dr. Eley's 1975 publication on the status of the leopard darter in our determination of critical habitat misrepresented the findings of that study.

(g) The three localities where the leopard darter was recently collected in the Cossatot River, two localities below the reservoir and one locality above the reservoir, should be monitored to evaluate long-term effects of the Gillham Reservoir. The leopard darter populations isolated in short segments of a stream above a reservoir are in a very precarious position. Evidence for this statement is found in a recent Arkansas Game and Fish Commission report of a fish kill on Mountain Fork River above Broken Bow Reservoir which killed fish along several miles of streams. Once a population above a reservoir is extirpated by pollution or other causes, there is no chance for repopulation from downstream areas because of the barrier formed by the dam and reservoir. Other threats to the isolated populations above reservoirs, which was mentioned in Dr. Eley's 1975 paper (page 351), are genetic drift and the change in the species composition and relative abundance of fishes in the streams above the reservoir.

(h) Extirpation of the leopard darter from areas above Gillham Reservoir was addressed in the above response. The conclusion reached concerning the status of the leopard darter population below Gillham dam is based on knowledge of past cases of darter populations below dams. Dr. Eley's 1975 paper discussed the fact that the multiple level outlets provide a capability for selective withdrawal which could lessen downstream impacts. However, he also points out that other operating priorities may prevent operation to maintain optimum downstream temperatures. He also discusses the possible changes in composition of fish populations below the dam which may adversely affect the leopard darter. We conclude that the area below the dams are probably not suitable habitat.

Comments from four organizations, the Red River Valley Association, Little River Conservation District, Idabel Chamber of Commerce and Agriculture and Broken Bow Chamber of

Commerce, all expressed concern over the proposal and objected to any further action on the proposal. None of the comments contained any biological data relative to the leopard darter which would support their position.

One citizen from the area responded objecting to the proposal.

CONCLUSION

After a thorough review and consideration of all the information available, the Director has determined that the leopard darter, *Percina pantherina*, is threatened due to one or more of the factors described in section 4(a) of the Act. This review amplifies and substantiates the description of those factors included in the proposed rulemaking (FEDERAL REGISTER Vol. 41, No. 130, July 6, 1976). Those factors were described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, the leopard darter, *Percina pantherina*, was found throughout most of the upland large stream habitats of the Little River drainage of Arkansas and Oklahoma. The habitat is typically clear, swift shoal areas in moderate to large streams. In these streams it is most frequently found in gravel areas with some sand intermixed. It also occurs along the borders of stream channels.

In the past, several of man's activities have resulted in the destruction or modification of habitat of the leopard darter. The single most important factor which has resulted in most habitat destruction has been the impoundments constructed in the Little River drainage. Other factors responsible for habitat alteration to a lesser extent include siltation from agricultural operations, commercial gravel operations, industrial and municipal effluents, and road construction. Both impoundment and pollution presently represent serious threats to the leopard darter.

From its once widespread range in the Little River drainage of Oklahoma and Arkansas, the alteration of its habitat through impoundment and pollution has greatly reduced its distribution and numbers. The present known distribution is Little River above Pine Creek Reservoir, Glover Creek, and Mountain Fork above Broken Bow Reservoir. Additionally, in a recent survey of the Cossatot River fishes, the leopard darter was found at two localities. These localities are below the recently completed Gillham Dam on the Cossatot River and should not be considered as supporting viable populations because upstream impoundments invariably result in the loss of populations occurring downstream.

The data presently available indicate that the leopard darter population in

Glover Creek is a relatively strong, viable population and thus the species is being proposed as threatened rather than endangered. Glover Creek in its present state has good water quality and offers good habitat for the leopard darter and numerous other stream-dwelling organisms. The proposed Lukfata Reservoir impoundment and subsequent alterations of Glover Creek, however, would drastically change the situation and virtually eliminate the leopard darter in this creek.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.* Not applicable.

3. *Disease or predation.* Not applicable.

4. *The inadequacy of existing regulatory mechanisms.* Not applicable.

5. *Other natural or manmade factors affecting its continued survival.* Not applicable.

CRITICAL HABITAT

Section 7 of the Act, entitled "Inter-agency Cooperation" states:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

An interpretation of the term critical habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765). After a review of the available information for this species, the areas delineated below were found to qualify as critical habitat. Specifically, these areas were found to have environmental elements necessary for successful reproduction and growth.

The areas delineated do not necessarily include the entire critical habitat of this fish and modifications to critical habitat descriptions may be proposed in the future. In accordance with section 7 of the Act, all Federal departments and agencies would be required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat of the leopard darter.

All Federal departments and agencies shall, in accordance with section 7 of the Act, consult with the Secretary of the Interior with respect to any action which is considered likely to

affect critical habitat. Consultation pursuant to section 7 should be carried out using the procedures contained in the "Guidelines to Assist the Federal Agencies in Complying with section 7 of the Endangered Species Act of 1973" which have been made available to the Federal agencies by the Service.

EFFECTS OF THE RULEMAKING

In addition to the effects discussed above, the effects of these determinations and this rulemaking include, but are not necessarily limited to, those discussed below.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all endangered species. These regulations are found at 50 CFR 17.21 and are summarized below.

With respect to the leopard darter in the United States, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale this species in interstate

or foreign commerce. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), codified at 50 CFR 17.22 and 17.23, provided for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened species under certain circumstances. Such permits involving endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this action. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or can be obtained by mail. The action taken in determining the leopard darter to be a threatened

species and portions of selected streams of the Little River drainage in Arkansas and Oklahoma is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, thus it does not require an environmental impact statement.

The primary author of this rulemaking is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

AUTHORITY

These amendments are prepared under sections 4 and 7 of the Endangered Species Act of 1973 (16 U.S.C. 1533, 1536).

REGULATIONS PROMULGATION

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. Section 17.11 is amended by adding, in alphabetical order, under Fishes, the following to the list of animals:

§ 17.11 Endangered and threatened wildlife.

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rules
Fishes: Darter, leopard .....	<i>Percina pantherina</i> .....	NA	U.S.A. (Arkansas, Oklahoma).	Entire.....	T	31	17.44(d)

2. Section 17.44 is amended by adding a new § (d) as follows:

§ 17.44 Special rules—fishes.

(d) Leopard darter (*Percina pantherina*).

(1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

3. Also, the Service amends § 17.95(e) Fishes by adding critical habitat of the leopard darter after that of the slackwater darter as follows:

§ 17.95 Critical habitat—fish and wildlife.

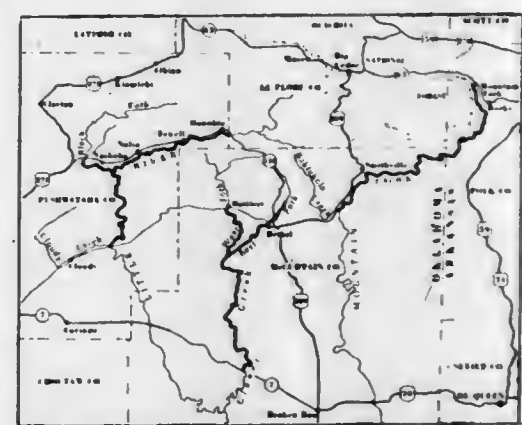
(e) Fishes.

LEOPARD DARTER  
(*Percina pantherina*)

Oklahoma. McCurtain and Pushmataha Counties. Little River, main

channel in Pushmataha County from mouth of Cloudy Creek (T. 3 S.; R. 20 E.; Section 3) upstream to the Pushmataha-Le Flore County line. Black Fork Creek in Pushmataha County from its junction with Little River (T. 1 S.; R. 20 E.; Section 22) upstream to Oklahoma Highway 144 crossing (T. 1 S.; R. 19 E.; Section 12). Glover Creek, main channel in Pushmataha County from Oklahoma Highway 7 crossing (T. 5 S.; R. 23 E.; Section 28) upstream to the junction of the East Fork and West Fork of Glover Creek. East Fork of Glover Creek, main channel in Pushmataha County from its junction with the West Fork Glover Creek (T. 3 S.; R. 23 E.; Section 7) upstream to 4 air miles north-northeast of the community of Bethel (T. 2 S.; R. 24 E.; Section 5). West Fork Glover Creek, main channel in Pushmataha County from its junction with the East Fork Glover Creek upstream to the community of Battiest (T. 2 S.; R. 23 E.; Section 7). Mountain Fork Creek, main channel in McCurtain County, from

mouth of Boktukola Creek (T. 2 S.; R. 25 E.; Section 9), 6 air miles southwest of Smithville, upstream to the Oklahoma-Arkansas State line. Arkansas. Polk County. Mountain Fork Creek, main channel from the Arkansas-Oklahoma State line upstream to the community of Mountain Fork (T. 1 S.; R. 32 W.; Section 29).





## RULES AND REGULATIONS

CRITICAL HABITAT FOR THE LEOPARD  
DARTER

NOTE.—The Department of the Interior has determined that this document does not contain a major action requiring preparation of an economic impact statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 18, 1978.

KEITH M. SCHREINER,  
Acting Director,  
Fish and Wildlife Service.

(FR Doc. 78-2182 Filed 1-26-78; 8:45 am)

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-15]

## DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

## ELECTRIC PROGRAM

Proposed Revision of REA Bulletin on Power  
Supply Surveys

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to revise REA Bulletin 111-3, Power Supply Surveys, issued August 4, 1969. This REA bulletin sets forth REA policies with regard to Power Supply Surveys and certifications thereto by the Administrator in relation to the approval of loans and loan guarantees for certain generation and/or transmission facilities. The circumstances that created the need for this action arose from Senate Report 95-296 requesting that REA streamline its Power Supply Survey procedure. The intended effect of this action is to limit REA's Power Supply Surveys only to those cases where the facilities to be constructed would displace existing contractual arrangements with a private power company.

DATE: Public comments must be received by REA on or before February 27, 1978.

ADDRESS: Interested persons may submit written data, views or comments to the Power Survey Officer, Rural Electrification Administration, Room 3863, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Power Survey Officer during regular business hours.

FOR FURTHER INFORMATION  
CONTACT:

Mr. Richard B. Bulman, Power Survey Officer, Rural Electrification Administration, Room 3863, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-5755.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA proposes to revise REA Bulletin 111-3.

A copy of the proposed revised REA Bulletin 111-3 may be secured in person or by written request from the Power Survey Officer. The text of the proposed revision is as follows:

## REA BULLETIN 111-3

## SUBJECT: POWER SUPPLY SURVEYS

I. Purpose. This bulletin sets forth REA policy with regard to Power Supply Surveys and certifications thereto by the Administrator in relation to the approval of loans and loan guarantees for certain generation and/or transmission facilities.

II. Policy—A. Requirement for Power Supply Surveys. A Power Supply Survey is required prior to acceptance by REA of applications for loans or loan guarantees for generation and/or major transmission where the facilities to be constructed would displace existing contractual arrangements with a private power company. No such application will be accepted for consideration by REA unless (a) a Power Supply Survey has been completed, or (b) it is determined by the Administrator that completion of the Survey requires full review of the application.

Where a Survey is required, the applicant shall provide a full description of existing contractual arrangements for power supply, a statement of any special problems, a general summary of power supply needs, copies of any proposals made by the existing supplier, and a summary of negotiations with the existing supplier.

B. Conduct of Survey. 1. The Survey shall be so conducted as to determine the basis upon which the existing supplier is prepared to cooperate in the development of an assured source of power financed with the proposed loan or loan guarantee.

2. If arrangements satisfactory to the Administrator under (1) above are not available and the existing supplier has made a proposal for continuing the existing supply arrangements, the Survey shall determine whether the proposal is reasonable for purposes of the Rural Electrification Act.

3. If the Administrator finds such proposal unreasonable for purposes of the Rural Electrification Act, REA will advise the existing supplier wherein the proposal is unreasonable and endeavor to have such proposal made reasonable. The REA borrower or potential borrower shall be made a party to any negotiations between REA and such power supplier. When necessary to avoid dilatory tactics or protracted delays, the Administrator shall advise the parties in such cases of a definite time limit for negotiations under the Survey, and final cutoff date for proposals which are to be considered in evaluation of the application.

C. Certifications Required When Survey Procedure Results in a Loan or Loan Guarantee by REA. No loan or loan guarantee for generation and/or transmission facilities will be approved except in compliance with all applicable bulletins and, if a Power Supply Survey is required pursuant to paragraph II-A, unless certification is made by

the Administrator to the Secretary of Agriculture that the loan or loan guarantee has been approved after completion of a Survey that shows that the loan or loan guarantee is (a) needed to provide an assured source of power which has been developed in cooperation with the existing power supplier; or (b) needed because the proposal from the existing supplier to provide the facilities or service to be financed was found to be unreasonable for the purposes of the Rural Electrification Act, the supplier was advised of the provisions that made its proposal unreasonable, REA attempted to have such proposal made reasonable, and the existing supplier had failed or refused to do so within the time set by the Administrator. A loan or loan guarantee requiring a Power Supply Survey shall also be certified to the Comptroller General, the Senate and House of Representatives of the United States, as directed by the respective bodies, if it (i) exceeds \$10,000,000 and is certified pursuant to (a) above, or (ii) is certified pursuant to (b) above. Such additional certifications shall be accompanied by the following information:

1. The name and address of the applicant borrower and the date of the application.
2. Description and estimated cost of the proposed generation facilities. Indicate if the proposed facilities are the initial or additional unit or units of a plant comprised of one or more units.
3. Description and estimated cost of proposed transmission facilities, including any immediate or future plans to interconnect with other transmission systems.
4. Description of any long-range plans the applicant may have for construction of additional generation and transmission facilities and the estimated cost of the planned facilities.
5. Comparison of the estimated costs of generation by the applicant borrower with the cost of power available from the existing supplier, including the final offer by the supplier including terms and conditions offered to meet applicant's long-term energy needs.
6. Summary of the efforts made by the applicant and by REA to obtain the applicant's power and energy requirements from existing power suppliers and the reasons why such efforts have not been successful.
7. Explanation of the applicant's reasons for seeking an REA loan or loan guarantee.
8. The amount of electric energy which the applicant will cease to purchase from the existing supplier upon construction of the generating plant for which REA financing is being sought.
9. Explanation of the extent to which the feasibility of the requested loan or loan guarantee for generation and transmission facilities depends upon the use of a portion of the facilities by others (including Federal power marketing agencies).
10. Details of the applicant's plans to sell or otherwise make available any of the power and energy from the proposed generation facilities to other (including Federal power marketing agencies).



## PROPOSED RULES

11. Names of State agencies and commissions having jurisdiction over the applicant borrower.

Dated: January 20, 1978.

DAVID A. HAMIL,  
Administrator.

(FR Doc. 78-2354 Filed 1-26-78; 8:45 am)

[3410-15]

[7 CFR Part 1701]

## PUBLIC INFORMATION

REA Specifications for Enclosures Containing Protective Equipment With Exposed Energized Parts

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Specification U-7, REA Specifications for Enclosures Containing Protective Equipment With Exposed Energized Parts. This revision is intended to bring REA specifications up to date with existing standards publications. Because of the extent of the revision, the entire specification is published below. On issuance of REA Specification U-7, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than February 27, 1978.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed revision of REA Specification U-7 is as follows:

REA SPECIFICATIONS FOR ENCLOSURES CONTAINING PROTECTIVE EQUIPMENT WITH EXPOSED ENERGIZED PARTS

Spec. No. U-7

I. Scope.—These specifications cover enclosures containing protective equipment

with exposed energized parts for use on underground distribution systems of REA borrowers.

II. General.—The enclosures furnished under these specifications shall conform in all respects to the following requirements: Enclosures shall be tamper-resistant and designed so that no wires or other objects can be inserted into vents, joints, or other openings to contact energized components.

III. Material.—Material shall be a minimum of 14 gauge sheet steel or equivalent. Corner angles and channels shall be 12 gauge steel or equivalent.

IV. Grounding.—All enclosures shall be furnished with grounding connectors equivalent to item bu of REA Bulletin 43-5.

V. Finish.—All metallic surfaces shall be hot dip galvanized in accordance with ASTM Specification A153, A525 or mill galvanized 2½ ounce. A rust-resistant primer and finish coat of paint shall be applied and shall be free of runs, sags and blisters.

VI. Locking.—In addition to the regular locking provisions, all doors shall be secured by recessed, captive, penta-head bolts. The bolt arrangement shall be in accordance with REA Drawing A-3759 which is part of these specifications.

VII. Anchoring.—All enclosures shall have provisions inside the enclosure for anchoring each corner to the mounting pad.

VIII. Dead Front.—All electrical equipment enclosures shall have no exposed energized parts when the enclosure door is open. This can be accomplished by using a separate barrier between the door and energized equipment. If other access panels are removable without first opening the door, a separate barrier shall be provided.

A copy of the proposed revision of Drawing A-3759 may be secured in person or by written request from the Director, Power Supply and Engineering Standards Division.

Dated: January 23, 1978.

RICHARD F. RICHTER,  
Assistant Administrator—  
Electric.

(FR Doc. 78-2375 Filed 1-26-78; 8:45 am)

[3410-15]

[7 CFR Part 1701]

## REA SPECIFICATIONS FOR SECONDARY PEDESTALS

Proposed Revision of REA Specification U-6

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA specification U-6, REA specifications for secondary pedestals. This revision is intended to bring REA specifications up to date with existing standards publications. Because of the extent of the revision, the entire specification is published below. On issuance of REA specification U-6, appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than February 27, 1978.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone No. 202-447-4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed revision of REA Specification U-6 is as follows:

## REA SPECIFICATION FOR SECONDARY PEDESTALS—SPEC. NO. U-6

I. Scope. These specifications cover secondary pedestals for use on REA underground distribution systems.

II. General. The pedestals furnished under these specifications shall conform in all respects to the requirements of these specifications. Pedestals shall be tamper-resistant and designed so that no wires or other objects can be inserted into vents, joints, or other openings to contact energized components.

III. Material. The pedestals may be fabricated may be fabricated of metallic or non-metallic material. Metallic pedestals shall be of 14 gage sheet steel or equivalent (minimum). Corner angles and channels shall be 12 gage steel or equivalent.

Fiber reinforced or other plastic materials shall be of a high impact type (ASTM D256); it shall be flame retardant (ASTM D635 or equivalent) and resistant to ultraviolet radiation.

IV. Grounding. All metallic pedestals shall be furnished with grounding connectors equivalent to item bu of REA Bulletin 43-5.

V. Finish. All metallic surfaces shall be hot dip galvanized in accordance with ASTM Specification A153, A525, or mill galvanized 2½ ounces. A rust-resistant primer and finish coat of paint shall be applied and shall be free of runs, sags, and blisters.

Fiber reinforced plastic shall be weather and fade resistant. All pedestals shall be made in a workmanlike manner. They shall be reasonably smooth and free from sharp projections.

VI. Locking. In addition to the regular locking provisions, all doors shall be secured by recessed, captive, penta-head bolts. The bolt arrangement shall be in accordance with REA Drawing A-3759 which is a part of these specifications.

VII. Anchoring. All pedestals shall have provisions for mounting on a power pedestal stake (item U gr) or other approved anchoring device.

## PROPOSED RULES

A copy of the proposed revision of Drawing A-3759 may be secured in person or by written request from the Director, Power Supply and Engineering Standards Division.

Dated: January 23, 1978.

RICHARD F. RICHTER,  
Assistant Administrator—  
Electric.

(FR Doc. 78-2376 Filed 1-26-78; 8:45 am)

[3410-15]

[7 CFR Part 1701]

## REA SPECIFICATIONS FOR SECTIONALIZING AND SINGLE-PHASE TRANSFORMER ENCLOSURES

Proposed Revision of REA Specification U-4

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Specification U-4, REA Specifications for Sectionalizing and Single-Phase Transformer Enclosures. This revision is intended to bring REA specifications up to date with existing standards publications. Because of the extent of the revision, the entire specification is published below. On issuance of REA Specification U-4, Appendix A to Part 1701 will be modified accordingly.

DATE: Public comments must be received by REA no later than February 27, 1978.

ADDRESS: Interested persons may submit written data, views, comments to the Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), the text of the proposed revision of REA Specification U-4 is as follows:

REA SPECIFICATIONS FOR SECTIONALIZING AND SINGLE-PHASE TRANSFORMER ENCLOSURES

Spec. No. U-4

I. Scope.—These specifications cover enclosures for modular sectionalizing equipment and single-phase transformers for use on REA underground distribution systems.

II. General.—The enclosures furnished under these specifications shall conform in all respects to the following requirements. Enclosures shall be tamper-resistant and designed so that no wires or other objects can be inserted into vents, joints, or other openings to contact energized components.

III. Material.—The enclosures may be fabricated of metallic or non-metallic material. Non-metallic enclosures may only be used in areas accessible only to qualified persons. Metallic enclosures shall be of 14 gauge sheet steel or equivalent (minimum). Corner angles and channels shall be 12 gauge steel or equivalent. Fiber reinforced or other plastic materials shall be of a high impact type (ASTM D256); it shall be flame retardant (ASTM D635 or equivalent) and resistant to ultraviolet radiation.

IV. Grounding.—All metallic enclosures shall be furnished with grounding connectors equivalent to item bu of REA Bulletin 43-5.

V. Ventilation.—Enclosures shall have adequate louvers to permit circulation of air around the equipment. Vents shall be properly shielded and guarded to prevent objects from being pushed into energized components.

VI. Finish.—All metallic surfaces shall be hot dip galvanized in accordance with ASTM Specification A153, A525 or mill galvanized 2½ ounce. A rust-resistant primer and finish coat of paint shall be applied and shall be free of runs, sags and blisters. Fiber reinforced plastic shall be weather and fade resistant. All enclosures shall be made in a workmanlike manner. They shall be reasonably smooth and free from sharp projections.

VII. Locking.—In addition to the regular locking provisions, all doors shall be secured by recessed, captive, penta-head bolts. The bolt arrangement shall be in accordance with REA Drawing A-3759 which is a part of these specifications.

VIII. Anchoring.—All enclosures shall have provisions inside the enclosure for anchoring each corner to the mounting pad.

IX. Dead Front.—All transformers and other electrical equipment enclosures shall have no exposed energized parts when the enclosure door is open. This can be accomplished by using a separate barrier between the door and energized equipment. If other access panels are removable without first opening the door, a separate barrier shall be provided. On transformer enclosures, the high voltage side shall be equipped to receive elbow terminators. The bushings may be located either on the transformer or the barrier. The low voltage side shall be equipped with provisions for mounting completely insulated secondary terminals. These may also be located on the transformer or the barrier.

A copy of the proposed revision of Drawing A-3759 may be secured in person or by written request from the Director, Power Supply and Engineering Standards Division.

Dated: January 23, 1978.

RICHARD F. RICHTER,  
Assistant Administrator—  
Electric.

(FR Doc. 78-2374 Filed 1-26-78; 8:45 am)

[3410-37]

Food Safety and Quality Service

[7 CFR Part 2853]

## MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING CERTIFICATION, AND STANDARDS)

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, January 23, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule will revise certain official U.S. standards for grades of meat and the related meat grading regulations and a companion rule proposed under 9 CFR Parts 316 and 317 will revise Federal meat inspection regulations pertaining to marking and labeling requirements. The proposed changes provide that meat will be graded only in the form of carcasses or sides and in the plant in which the animals were slaughtered. Also, certain trimming procedures and chilling conditions necessary for carcasses to be graded are clarified. The changes proposed in meat inspection regulations specify that all carcasses, parts, and meat of cattle and sheep must be identified by USDA quality grade or as ungraded. The proposed changes are designed to make grade determinations more accurate and uniform and less subject to fraud and to provide more complete grade information to consumers.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Written comments to: Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR ADDITIONAL INFORMATION ON COMMENTS, SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Jerry Goodall, Acting Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-4727.

SUPPLEMENTARY INFORMATION: The proposal under this part defines a beef carcass precisely than formerly; specifies that meat from cattle and sheep will be graded only as carcasses or sides and only in establishments in which the animals are slaughtered; specifies that a beef carcass shall be presented for grading only after it has been sufficiently chilled so that its



physical attributes (intramuscular fat or marbling; color, texture, and firmness of the lean; etc.) are developed adequately to permit an accurate grade determination; clarifies the conditions under which quality and yield grade designation marks may be removed from officially graded beef; specifies that to be eligible for grading, a beef carcass shall have the kidneys and the kidney, pelvic, and heart fat removed from it prior to presentation for grading; and lastly, specifies that a beef carcass shall have been ribbed for at least 30 minutes prior to the time it is presented for grading.

In addition, this proposal, in several of its parts, solicits specific comments and facts from all interested and affected parties on additional conditions that could be imposed upon the meat grading system but which the Department desires further information as to their beneficial and/or adverse affects upon producers, packers, and consumers.

The changes proposed in this document, as well as those for which additional information is being sought, are intended to: (a) assist producers of meat animals in receiving a price for live animals that is commensurate with the retail value of the meat that an accurate grade designation predicts; (b) assist consumers in making informed value judgments in the marketplace so as to avoid having to pay more for meat than the true value of the meat purchased; (c) assist Federal graders in making more accurate grade determinations by better controlling those factors that contribute to variation in the present system; (d) assist supervisors and managers of Federal meat grading service to operate the service more efficiently; and (e) minimize the opportunity to defeat or circumvent the grading system by providing greater specificity and delineation to the system.

The change in meat inspection regulations requires that carcasses, parts, and meat of cattle and sheep that have been USDA graded must retain the grademarks until sold to the consumer and meat that have not been USDA graded must be marked or labeled "U.S. UNGRADED." The specific changes in inspection regulations (9 CFR Parts 316 and 317) appear elsewhere in this issue of the FEDERAL REGISTER.

**Comments.** Changes proposed in meat grade standards and meat grading and labeling regulations are expected to have a significant impact on all parts of the livestock and meat industry and on the consuming public. It is anticipated that there may be widespread interest in the proposed changes. In order that all those affected have ample opportunity to comment, oral as well as written views, data, or arguments will be received on

the proposal. In this regard, a public hearing will be held on the proposed changes contained in this notice and those concerning inspection regulations appearing elsewhere in this issue of FEDERAL REGISTER. Hearing sessions will be held at locations beginning on the dates listed below:

1. March 16, 1978—Washington, D.C. 20250, Jefferson Auditorium, S. Agriculture Bldg., 14th & Independence SW.

2. March 21, 1978—San Francisco, Calif. 94111, Custom's House, 555 Battery St., Room 503.

3. March 23, 1978—Omaha, Nebr. 68102, Omaha Hilton Hotel, 1610 Dodge Street.

4. March 28, 1978—Atlanta, Ga. 30303, Federal Office Bldg., Room 556, 275 Peachtree Street NE.

Each day's session of the hearing will commence at 9:30 a.m., local time, unless the presiding official otherwise specifies during the course of the hearing. Any of the sessions may be continued beyond 1 day if necessary. Persons who wish to be heard are requested to notify the Administrator, Food Safety and Quality Service, Washington, D.C. 20250, within 20 days of the date of publication of this notice stating the session at which they wish to present a statement and how much time they will need to present the statement. However, any person who wishes to be heard at the hearing will be afforded opportunity to be heard, whether or not that person has given such advance notice.

In addition, all persons who desire to submit written date, views or arguments in connection with this proposal and/or the proposed changes in meat labeling regulations (9 CFR Parts 316 and 317) shown elsewhere in this issue of the FEDERAL REGISTER, are invited to file such material, in duplicate, with the Hearing Clerk, Room 1077 South, United States Department of Agriculture, Washington, D.C. 20250, on or before May 1, 1978. Comments must be signed and include the address of the sender and should bear a reference to the date and page number of this issue of the FEDERAL REGISTER. Also, since the comments will be considered in the resolution of these proposals, they should include definitive information which explain and support the sender's views. All written submissions and transcripts of the comments at the public hearing will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

**Background.** The USDA meat grading and inspection programs and the national meat marketing system have been plagued in recent years with bribery and corruption and with merchandising practices which may tend to mislead consumers and other purchasers of meats. The changes pro-

posed by these revisions in grade standards and grading regulations (7 CFR Part 2853) are a part of USDA's efforts to improve the integrity of the systems and to increase the dependence which the general public can place in the Federal grading and inspection programs. The changes are needed because of several instances of bribery and other corruptive practices which have occurred in recent years involving meatpackers and USDA meat graders and/or meat inspectors. In 1974-76, for example, 17 firms, 36 meatpacking officials, and 17 USDA employees (who were relieved of official duties upon indictment and subsequently discharged from employment) were convicted of bribery and related offenses in California and Arizona. Since early 1975 it has been necessary to take administrative actions against packers in South Dakota, Iowa, Kansas, Texas, and California because of the illegal removal of grade stamps from meats. In this same period, another USDA agency, the Packers and Stockyards Administration, issued four formal complaints and assisted State or local officials with 10 other complaints, many of which were related in whole or part to violations or misrepresentation of USDA meat grades.

Changes in marking and labeling requirements in meat inspection regulations (9 CFR Parts 316 and 317) appear to be necessary because of the widespread use of merchandising practices by retailers, home freezer purveyors, and others that can confuse consumers and other purchasers as to the quality or yield grade and true value of beef and other meats.

This proposed rule and the companion rule proposed in the Federal meat inspection regulations, also discussed in this section, would revise official U.S. standards for grades of meat and related meat grading regulations and would revise marking and labeling requirements for such meats so that the opportunities for actions and practices such as those outlined above would be minimized. These proposals, if adopted, could eliminate certain elements of subjectivity in meat grading and some possible causes of identifying cuts of meat with inappropriate grades; could increase the efficiency of marketing meat items; and would initiate new rules regarding identification of meat (except pork, which is not federally graded) and the retention of grade identification on all beef carcasses and cuts. In addition to the corrective measures, these changes could help make Federal grades more useful to and more easily understood by producers, processors, and particularly consumers.

The Federal grading of meat is a voluntary service which was originally designed to facilitate marketing. The

cost of the service is paid for by fees collected from those who request that meat be graded.

During the 50 years that the service has been provided by the Federal Government, the demand for Federal meat grading has steadily increased. Based on estimates of the number of fed cattle produced in 1976 by USDA's Economics, Statistics, and Cooperatives Service and the quantities of beef graded by FSQS' meat grading service, it is estimated that nearly three-fourths of the fed beef produced is federally graded. Most of the fresh beef cuts reaching consumers through retail stores are from fed beef. Consumers have come to depend upon the Federal meat grade designation as the primary tool for making comparative cost and value judgments in the purchase of meat at the retail level.

This consumer dependence upon and desire for Federal grade designations of meat at the retail level has been largely responsible for the widespread use of the Federal meat grading service by the meatpacking and processing industries. This same consumer acceptance of and desire for grade designations on retail cuts of meat has led to the widespread and common use of meat grades in the promotion and advertising of meats at the retail level. Since Federal grades are used extensively as the basis for trading between meatpackers and others, and relatively wide spreads in price frequently result between grades, it is necessary that Federal meat grading be conducted as accurately and uniformly as possible in order to achieve equity among all persons affected by grades, from the producer to the consumer.

Because of the increased demand for Federal meat grading and its general acceptance by both industry and consumers, it has been necessary to make the meat grading service as widely available as possible while at the same time attempting to meet the needs of both industry and the consumer. In the past, meat has been graded for quality (a prediction of the palatability of the lean meat in a carcass) and for yield (a prediction of the amount of retail cuts that may be expected from a carcass) in a number of forms and geographic locations other than as a carcass or at the establishment of slaughter, respectively. Under the current meat grading regulations, meat may be graded as carcasses, quarters, and wholesale cuts in the establishment of slaughter as well as in establishments that are further down the distribution and/or processing and marketing line. These practices were adopted for the reasons cited above but they have resulted in: (1) inaccuracies in grading, (2) difficulties in supervising and managing the grading service, (3) increases in the cost of grading, (4) representations which

may mislead or confuse consumers about the quality grade of meat, (5) producers of meat animals being paid a price which may not reflect the true value of their animals marketed for slaughter, and (6) bribery and fraudulent practices on the part of some Federal graders and/or operators of packing plants.

Presently, some beef is offered for grading when certain physical attributes of the carcass (grading factors) that are used for determining grade (e.g. marbling, color, texture, and firmness of the lean) are not developed to the extent necessary to permit an accurate grade determination to be made. This practice results in graders having to reevaluate many carcasses for grade with resultant increases in the cost of grading. The proposed procedures require that grade factors be developed to the extent that an accurate grade determination can be made. The development of these factors is a function of the conditions under which carcasses are chilled and the length of time between ribbing of the carcass and the presentation of the carcasses for grading. Therefore, it is proposed that a requirement of 30 minutes elapsed time between ribbing and presentation for grading be imposed as a means of assuring that grade factors are adequately developed in a carcass prior to its presentation for grading. This requirement should improve the condition of carcasses so that accurate grade designations can be made on increased numbers of carcasses when first offered for grading. The proposed requirement should: (1) make the beef quality grades more accurate and uniform, (2) make it possible for supervisors to more effectively review graders' work, (3) expedite the handling of carcasses, and (4) decrease the overall cost of grading. However, also requiring that carcasses be chilled for no more than a specified time so as to attain adequate development of time and temperature dependent grade factors in the ribeye may serve to further reduce the variables that affect an accurate grade designation and could lead to considerable savings of energy. In connection with a possible chill time and temperature requirement, which is not specified in this proposal, the Department requests comments and facts from all interested and affected parties that would assist in making a decision relative to the merits of mandatory time and temperature requirements for grading.

The proposed requirement that the kidney and all kidney, pelvic, and heart fat be removed from carcasses before they are offered for grading should simplify the determination of yield grade and increase the uniformity of application of the yield grade standards, thereby making the yield

grades a more useful means of assuring that producers of animals receive payment and consumers expend payment proportionate to the value offered or received.

Under the present regulations, carcasses can be graded with all of the kidney, pelvic, and heart fat left in place or with some or all of these fats removed. There is little difference in the accuracy of the yield grades for predicting the yield of retail cuts from carcasses in which the kidney, pelvic, and heart fat has been left in place or removed. However, removal of these fats can have a considerable effect on the yield of retail cuts from individual quarters and wholesale cuts. For example, consider two carcasses, both of Yield Grade 3.5, but with carcass No. 1 graded prior to removal of kidney, pelvic, and heart fat and carcass No. 2 graded after removal of these fats. The only reason that carcass No. 2 would qualify as a Yield Grade 3.5 would be because of the removal of kidney, pelvic, and heart fat. Otherwise, carcass No. 2 would have been at least Yield Grade 4.0. Further, because the bulk of these fats are located in the hindquarter, the forequarters of the two carcasses would be very different in fatness and yield of retail cuts. The forequarter of carcass No. 2 is much more typical of a Yield Grade 4 than of Yield Grade 3. Requiring the kidney, pelvic, and heart fat to be removed will eliminate such variations in yields of trimmed retail cuts from individual quarters and wholesale cuts. In recognition of such differences, USDA now identifies carcasses graded after removal of kidney, pelvic, and heart fat differently than carcasses graded with these fats in place. However, the significance of this difference in identification is not fully understood by purchasers of beef, especially small retailers and consumers who buy quarters or wholesale cuts. Removal of these internal fats prior to grading should eliminate this source of confusion and make it possible to uniformly grade and mark beef for yield grade.

Since the emphasis placed on kidney, pelvic, and heart fat in determining yield grade essentially reflects the effect of the weight of this fat on the predicted yields of retail cuts from a carcass, the elimination of these fats as factors in the yield grade equation does not require any change in the emphasis placed on the three remaining grade factors. Also, in order that there will be a minimum of confusion to graders, producers, packers, retailers, and others in adapting to the revised standards, each proposed yield grade would continue to include carcasses with the same general combinations of external fat thickness, area of ribeye and carcass weight as now included in each of these grades.

The yield of retail cuts from a carcass of each yield grade should be sub-



stantially increased under the proposed standards. This is because the carcass weight would be decreased by the weight of the kidney and the kidney, pelvic, and heart fat that has been removed, but the weight of the retail cuts would remain the same. Consequently, carcasses of a given yield grade would be worth more per pound than carcasses of that yield grade under the present standards. However, the total value received by a producer is not expected to change significantly because the higher carcass price per pound would be largely offset by the lighter weight of the carcass. At the same time, it is reasonable to expect that certain advantages would accrue to consumers through these changes. For example, the kidney, pelvic, and heart fat would be used more efficiently at the point of slaughter; these fats would not have to be chilled, thus saving energy; and they would not be included as part of a carcass' shipping weight, thus decreasing shipping costs which should be reflected in somewhat lower retail prices. Also, it would be possible to utilize more of these fats for edible purposes than is permitted under present industry processing practices. All of these advantages should result in more efficient marketing of beef.

A change also is being proposed in the conditions under which the yield grade designations may be removed from grade-identified steer, heifer, cow, and bullock beef. Under the proposal, the yield grademark could not be removed from a carcass or its cuts when the natural fat cover is  $\frac{1}{4}$  inch or less thick any place on the carcass or cut. If the fat cover of the carcass is reduced to  $\frac{1}{4}$  inch or less by trimming, the yield grademarks could be removed. Thickness of natural or trimmed fat cover is easily determined by use of a calibrated probe. In that the original yield grade of a carcass was determined, in part, by the thickness of the natural fat cover, trimming of fat cover will significantly affect the ratio of fat to lean in retail cuts obtained from trimmed carcasses. However, because the price paid for a carcass is most often determined by the yield grade assigned to that carcass and because yield grade is affected by fat cover, it does not appear to be in the best interests of either the producer or consumer to insist that the original yield grade of a carcass be maintained on all subsequent wholesale and retail cuts of meat from which substantial amounts of fat cover have been removed.

Concern also has been expressed to the Department that the value of meat to the consumer at retail is determined by the ratio of intermuscular fat to lean as well as by the ratio of fat on the exterior of the cut and the marbling or intramuscular fat. Be-

cause trimming of fat from carcasses and wholesale cuts may be expected to affect the price of meat at retail and may mislead consumers into believing that a trimmed retail cut was derived from a carcass of better yield grade than that from which it actually was derived, the Department is soliciting specific comments and facts on the effect of a requirement that the yield grade of meat be carried through all steps of processing and retailing and that the yield grade be that originally assigned to the carcass. The Department is particularly interested in learning of the benefits and/or adverse effects upon producers, packers, and consumers if such a requirement were imposed.

Changes in terms and definitions are offered in this proposal in order to enhance simplicity and to achieve more universal understanding of the grade standards. The term carcass has been defined in the beef carcass standards and this definition includes an explanation of the manner in which a carcass shall be dressed before it may be presented for grading. This definition also is intended to reduce subjectivity and to increase specificity of the grading process. Achievement of these ends will assure that all persons who are affected by grades are dealt with equitably. To further assure that both producers and consumers are receiving and paying fair market prices for the value delivered or received, the Department has been advised that certain additional requirements be included in the definition of a carcass. These requirements are not included in this proposed regulation, but the Department is requesting that specific comments and facts be provided on the advisability, the benefits, and the disadvantages of including a requirement that such items as the "hanging tender," the "cod" or "udder fat," and the "skirts" (diaphragm) be removed from carcasses before carcasses are eligible for presentation for grading.

Because of the importance of USDA quality grade information to consumers, the Department is also proposing changes in meat inspection marking and labeling regulations (amendments to 9 CFR Parts 316 and 317 shown elsewhere in this issue of the FEDERAL REGISTER) that will require carcasses, parts, and meat of cattle and sheep sold at retail to be marked or labeled with quality grade information. Such meats would be identified with official USDA quality grades or be marked or labeled as "U.S. UNGRADED." (Other species of livestock which are inspected under the Federal Meat Inspection Act are not included in this rulemaking procedure since USDA does not apply consumer quality grades to such products.)

Accurate information with respect to grade is considered essential to achiev-

ing equity in pricing of producers' livestock and for the protection of consumers and other purchasers of meats. USDA grades have become the basis for pricing live slaughter cattle and sheep as well as carcasses and wholesale cuts. The use of such grade terms in advertising, promotion, and labeling of meats also has grown significantly in the retail trade. Consumers have responded with the result that leading retailers in most major market areas feature USDA Choice beef and lamb extensively in their advertising and merchandising programs. Frequently, other retailers in these market areas use ungraded meat and/or a mixture of graded and ungraded meat and advertise and merchandise it in such a manner that consumers could be misled and believe that all such meats are of the same quality as graded meat. In other instances, meat is merchandised and advertised in a way that causes consumers to confuse Federal inspection marks and USDA grade-marks. These practices could misrepresent the quality of meat and permit such meats to compete unfairly with graded meats to the detriment of consumers and the public, generally. As a consequence of consumers not having accurate grade information, they often have to pay greater than the true value for meats they purchase. Therefore, because of the increased use of quality grades and because of the importance of such grades to consumers, it is proposed that carcasses, parts, and meat of cattle and sheep bear quality grade information to assure that their labeling will not be misleading.

Under the proposal to revise inspection regulations, such carcasses, parts, and meat will be required to bear, from the time they leave an official establishment and at all times thereafter, the appropriate USDA quality grade or the words "U.S. UNGRADED." Such carcasses, parts, or meat shall bear this information either thereon or on their containers, as is more specifically detailed in the proposed regulations. These requirements would also be applicable to imports. In addition, since this is a misbranding provision, such requirements would be applicable to retail establishments that are exempt from routine inspection under the Federal Meat Inspection Act.

For the reasons outlined, it is proposed that certain sections of the regulations and standards appearing in 7 CFR Part 2853 (formerly Part 53) as they relate to meats, prepared meats, and meat products be revised as set forth below.

**Subpart A—Regulations**

1. In § 2853.1, the definitions for "Quality grade" and "Yield grade" are revised to read as follows:

**§ 2853.1 Meaning of words.**

*Quality grade.* A designation based on those characteristics of meat which most appropriately predict the palatability characteristics of the lean.

*Yield grade.* A designation which best reflects the proportion of retail cuts that may be expected from a beef carcass; or which may be expected from a lamb, yearling mutton, or mutton carcass.

2. The second sentence of § 2853.4 is revised to read as follows:

**§ 2853.4 Kind of service.**

... Class, grade, and other quality may be determined under said standards for meat of cattle, sheep or swine in carcass form only. ...

3. Except for the first four sentences, all of § 2853.5 is deleted.

4. Section 2853.13, paragraph (b) is revised as follows:

**§ 2853.13 Accessibility and refrigeration of products; access to establishments.**

(b) Grading will be furnished for meat only if it is properly chilled, that is, so that the grade factors are developed to the extent that an accurate grade determination can be made. Determination of class, grade, or other quality of meat under the standards in Subpart B of this part will not be made if such meat is in a frozen state. Carcasses of all species shall be graded only in the establishments where the animals are slaughtered. Also, to be eligible for grading, beef carcasses must be ribbed for a minimum of 30 minutes prior to being offered for grading.

5. In § 2853.17, paragraph (a), the words "and wholesale cuts" are deleted.

6. In § 2853.17, paragraph (c), second sentence, the phrase "and eligible cuts from bull and bullock carcasses" is deleted.

**Subpart B—Standards**

**CARCASS BEEF**

7. Section 2853.102 is revised as follows:

**§ 2853.102 Scope.**

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides." For purposes of these standards, a carcass is defined as the two sides of a slaughtered animal which result from split-

ting it lengthwise through its approximate median plane and after removal of: (1) the head, (2) the legs, (3) all viscera—including the kidneys and the thymus gland, (4) all kidney, pelvic, and heart fat, (5) all but two tail vertebrae, and (6) the spinal cord. The head shall be removed between the occipital bone and the first cervical vertebra, and the front and hind legs not below the knee and hock joints, respectively.

8. In § 2853.103, paragraph (b)(5), the last sentence is deleted.

9. In § 2853.104, paragraph (t) is deleted, paragraphs (u), (v), (w), and (x) are designated as (t), (u), (v), and (w), respectively; and paragraphs (a), (i), and (r) are revised as follows:

**§ 2853.104 Application of standards for grades of carcass beef.**

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated percent of closely trimmed, boneless retail cuts expected to be derived from the four major wholesale cuts of a carcass (round, loin, rib, and chuck) herein referred to as the "yield grade," and (2) the characteristics of the lean which most appropriately predict its palatability, herein referred to as the "quality grade." When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designations must remain on all such grade-identified beef whose natural surface fat thickness is  $\frac{1}{2}$  inch thick or less at its thickest place on the carcass. Beef whose surface fat has been trimmed after grading to not more than  $\frac{1}{2}$  inch in thickness at any point may, as a result of such trimming, have the yield grademark removed. Retail beef cuts need not be yield graded. In those instances in which removal of the yield grade is permitted, the USDA grade shall consist of the quality grade designation only. The grade of a bull carcass consists of the yield grade only.

(i) To meet the demand of export trade, carcasses ribbed other than between the 12th and 13th ribs may be approved for grading by the Food Safety and Quality Service. In such cases, they shall be identified with the word "EXPORT" in such a manner that will clearly distinguish them from other officially graded beef.

(r) The yield grade of a beef carcass is determined by considering three characteristics: (1) The amount of external fat, (2) the area of the ribeye muscle, and (3) the hot carcass weight.

10. Section 2853.105 is revised as follows:

**§ 2853.105 Specifications for official United States standards for grades of carcass beef (Yield).**

(a) The yield grade of a beef carcass is determined on the basis of the following equation: Yield grade =  $3.40 + (2.50 \times \text{adjusted fat thickness, inches}) + (0.0038 \times \text{hot carcass weight, pounds}) - (0.32 \times \text{ribeye area, square inches})$ . In the above equation, hot carcass weight is the hot weight of the carcass as described in section 2853.102.

(b) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades.

(1) *Yield Grade 1.* (i) A carcass in Yield Grade 1 usually has only a thin layer of external fat over the ribs, loins, rumps, and clods, and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the outside of the rounds and over the tops of the shoulders and necks. Muscles are usually visible through the fat in many areas of the carcass.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have twenty-five hundredths inch of fat over the ribeye and 12.0 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 1 and 2 might have thirty-five hundredths inch of fat over the ribeye and 16.5 square inches of ribeye.

(2) *Yield Grade 2.* (i) A carcass in Yield Grade 2 usually is nearly completely covered with fat but the lean is plainly visible through the fat over the outside of the rounds, the top of shoulders, and the necks. There usually is a slightly thin layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is slightly thick. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have forty-five hundredths inch of fat over the ribeye and 10.5 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 2 and 3 might have fifty-five hundredths inch of fat over the ribeye and 15.0 square inches of ribeye.

(3) *Yield Grade 3.* (i) A carcass in Yield Grade 3 usually is completely covered with fat and the lean usually is visible through the fat only on the necks and the lower part of the outside of the rounds. There usually is a slightly thick layer of fat over the



loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is moderately thick. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have seven-tenths inch of fat over the ribeye and 9.5 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 3 and 4 might have eight-tenths inch of fat over the ribeye and 14.0 square inches of ribeye.

(4) *Yield Grade 4.* (i) A carcass in Yield Grade 4 usually is completely covered with fat. The only muscles usually visible are those on the shanks and over the outside of the plates and flanks. There usually is a moderately thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is thick. There are large deposits of fat in the flanks and cod or udder.

(ii) A 475-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one and five-hundredths inch of fat over the ribeye and 9.0 square inches of ribeye.

(iii) A 775-pound carcass of this yield grade which is near the borderline of Yield Grades 4 and 5 might have one and fifteen-hundredths inch of fat over the ribeye and 13.5 square inches of ribeye.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 usually has more fat on all of the various parts and a smaller area of ribeye than a carcass in Yield Grade 4.

#### VEAL AND CALF CARCASSES

11. Section 2853.112 is revised as follows:

#### § 2853.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass" and "carcasses" are used also to mean "side" or "sides."

12. In § 2853.115, the first sentence in paragraph (d) is deleted; in the first sentence of paragraph (e), the words "or portions of such carcasses" are deleted; and in paragraph (g) the last sentence is deleted.

#### LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

13. In § 2853.123, paragraph (c)(5) is revised as follows:

#### § 2853.123 Application of standards.

• • • • •

#### (c) *Yield Grade*

• • • • •

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides.

14. In § 2853.127, paragraph (b) is deleted and paragraph (c) is designated as paragraph (b).

A draft Impact Analysis of this proposal has been prepared in accordance with Federal Docket 77-33571 and is available from the Hearing Clerk, Room 1077 South, United States Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on this 19th day of January, 1978.

ROBERT ANGELOTTI,  
Administrator, Food Safety  
and Quality Service.

[FR Doc. 78-2065 Filed 1-20-78; 11:24 am]

#### [3410-37]

#### (9 CFR Parts 316 and 317)

#### GRADE MARKING

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, January 23, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule will amend the Federal meat inspection regulations by adding marking and labeling requirements that all carcasses, parts, and meat of cattle and sheep be identified by USDA quality grade or as ungraded. There has been an ever increasing use of quality grades by industry and a dependence on quality grades by consumers. In conjunction with related changes proposed in grade standards and grading regulations in 7 CFR 2853, this proposal is intended to assure that consumers will not be misled when shopping for meat.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Written comments to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR ADDITIONAL INFORMATION ON COMMENTS, SEE SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Mr. Irwin Fried, Acting Director, Product Labels and Standards Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6042.

**SUPPLEMENTARY INFORMATION:** Comments. Interested persons are invited to submit written comments concerning this proposal. All comments must be sent in duplicate to the Hearing Clerk. Comments should show specific parts of the proposal(s) to which reference is intended. Also, views may be presented at four public hearing sessions to be held in March. Details are shown in a related proposal to change meat grading standards and regulations (7 CFR 2853) appearing elsewhere in this issue of the FEDERAL REGISTER. Comments on this proposal and the grading proposal may be combined. All written comments submitted pursuant to this notice and the transcript of the public hearing will be made available for public inspection in the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

**Background.** A discussion of the background and reasons for these proposed amendments to the Federal meat inspection regulations is included in the supplementary information section of a proposal to amend the meat grading standards and regulations (7 CFR 2853) included elsewhere in this issue of the FEDERAL REGISTER.

Accordingly, it is proposed that Parts 316 and 317 of the Federal meat inspection regulations (9 CFR 316 and 317) be amended as set forth below.

1. A new § 316.17 (9 CFR 316.17) is added to read as follows:

#### § 316.17 Grade marking.

(a) Any carcass or part thereof of cattle or sheep required under the regulations in this Part 316 to be marked with the official inspection legend shall also be marked with the appropriate USDA quality grade, or, if ungraded, shall be marked "U.S. Ungraded." A USDA grademark shall be applied only under the supervision of Food Safety and Quality Service employees and in the manner prescribed under the regulations in 7 CFR 2853. A "U.S. Ungraded" statement shall be applied continuously and roller marked in letters not less than ¼ inch in height with the letters appearing in not less than 1 inch intervals. Any such carcass, part, or meat cut which has previously been marked with a USDA quality grade and from which said mark has been removed by trimming must either be remarked in accord with this section or labeled with the appropriate USDA quality grade in the type size required by § 317.20.

(b) The requirements of this section shall also be applicable to any such carcass, part, or meat in a retail store which is not required to be marked with the official inspection legend because it has been prepared in compliance with the retail exemptions in Part 303 of this subchapter.

2. A new section 317.20 (9 CFR 317.20) is added to read as follows:

#### § 317.20 Grade labeling.

All immediate and shipping containers of any parts of cattle or sheep shall be labeled with the appropriate USDA quality grade, or, if ungraded, shall be labeled as "U.S. Ungraded." The labeling required by this section shall appear on the principal display panel in type size not smaller than that required for the net weight declaration in § 317.2(h) of this part.

A draft impact analysis of this proposal has been prepared in accordance with Federal Docket 77-33571 and is available from the Hearing Clerk, Room 1077 South, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on this 19th day of January 1978.

ROBERT ANGELOTTI,  
Administrator,  
Food Safety and Quality Service.  
[FR Doc. 78-2066 Filed 1-20-78; 11:24 am]

#### [4110-03]

#### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Food and Drug Administration

[21 CFR Parts 172, 182, and 184]

[Docket No. 77N-0039]

#### ALGINATES

#### Affirmation of GRAS Status With Certain Limitations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to affirm the generally recognized as safe (GRAS) status of ammonium, calcium, potassium, and sodium alginates as direct human food ingredients with specific limitations, and to amend the food additive regulation for propylene glycol alginate. The safety of these ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency.

DATES: Comments by March 28, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin Miles, Bureau of Food (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

**SUPPLEMENTARY INFORMATION:** The Food and Drug Administration is

conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS), or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices, and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of ammonium, calcium, potassium, sodium, and propylene glycol alginates has been evaluated. In accordance with the provisions of §§ 170.35 and 171.1, the Commissioner proposes to affirm the GRAS status of ammonium, calcium, potassium, and sodium alginates with specific limitations, and to amend the food additive regulation for propylene glycol alginate.

Alginic acid, the acid from which the alginates are made, is a natural polyuronide constituent of several species of brown algae, red algae, and bacteria. It is a linear polymer that contains 1:4 linked  $\beta$ -D-mannuronic and  $\alpha$ -L-guluronic acid residues. The various derivatives are made by the appropriate treatment of alginic acid. The ammonium, calcium, potassium, and sodium salts of alginic acid are listed in §§ 182.7133, 182.7187, 182.7610, and 182.7724 as GRAS for use in food as stabilizers, pursuant to regulations published in the FEDERAL REGISTER of January 31, 1961 (26 FR 938), and subsequently recodified.

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which the alginates were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to these ingredients. In 1970, the use of alginates in food was about 2.4 million pounds, almost twice the 1960 total. Only the salts and the ester of alginic acid were used because the acid has limited solubility in water.

The alginates have been the subject of a search of the scientific literature from 1920 to the present. The parameters used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection and (13) processing. A total of 374 abstracts on alginates was reviewed and 41 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in

the report of the Select Committee on GRAS Substances (hereafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Results of many studies in a variety of animal species suggest that orally administered alginates are of relatively low toxicity. Nilsson and Wagner studied the effects of adding propylene glycol alginate or sodium alginate at various levels in the diet of mice for one year, chicks for 7 weeks, rats for 10 weeks, guinea pigs for 26 weeks, and cats for about 14 weeks. In general, no toxic effects were noted in diets containing 5 percent alginate, and in some species higher levels were without toxicity and did not cause a decrease in rate of gain. Dogs given sodium alginate or propylene glycol alginate at 5 or 15 percent of the diet for 1 year also showed no adverse effects.

There is some uncertainty concerning digestion and absorption of alginates in experimental animals; the question relates to the degree of "digestion" by intestinal enzymes or degradation by intestinal flora and subsequent absorption. Viola et al. concluded that sodium alginate is digested and absorbed by rats. Nilsson and Wagner indicated that bacterial enzymes were responsible for algin breakdown. Studies using  $^{14}$ C-labeled sodium or propylene glycol alginates revealed no digestion or absorption in rat or mouse feeding trials.

Sodium alginate decreases the intestinal absorption of strontium and to a lesser extent several other metal ions, including calcium, magnesium, iron, copper, zinc, barium, tin, cadmium, manganese, and mercury, but not lead or cobalt. These studies designed primarily to measure absorption of radionuclides from food, did not indicate any toxic manifestations of oral administration of the alginate.

Little is known about the digestion and absorption of alginates in man. Millis and Reed gave six human subjects 8 g of sodium alginate per day for 7 days, with no interference with the absorption of calcium or other adverse effects, and Feldman et al. gave four men 45 g of alginic acid per day for 7 days with only a mild laxative effect and a slight increase in fecal excretion of sodium and potassium.

The toxicity of parenterally administered alginates depends upon the salt. Calcium alginate given intravenously to rats has an LD<sub>50</sub> of 64 mg per kg, and sodium alginate under the same conditions has an LD<sub>50</sub> of 1000 mg per kg. Presumably, the rather insoluble calcium salt precipitates and causes emboli. Sodium alginate given intravenously in mice or rabbits is considerably more toxic than when given intraperitoneally, but the intraperitoneal injection of from 100 to 250 mg per



kg of sodium alginate produced damage to the tubular epithelium of the kidneys and liver necrosis in cats.

Mutagenic tests with propylene glycol alginate on rats and mice using three different methods gave negative results. There was no measurable mutagenic response or alternation in the recombination frequency for *Saccharomyces cerevisiae* in either the host-mediated assay or in the *in vitro* tests on *Salmonella typhimurium*, but an increased mitotic recombination frequency was observed when *S. cerevisiae* was exposed to 1 percent propylene glycol alginate. No adverse effects were observed on either metaphase chromosomes from rat bone marrow or anaphase chromosomes from *in vitro* cultures of human lung cells. No significant adverse responses were noted in the dominant lethal gene test on rats. The Select Committee has no information available as to the mutagenic effects of ammonium, calcium, potassium, or sodium alginates.

Teratologic tests with propylene glycol alginate on mice, rats, and hamsters produced negative results. Oral intubation of up to 170 mg per kg of the test compound in anhydrous corn oil (1.0 ml per kg of body weight) to pregnant mice from day 6 through day 15 of gestation exerted no clearly discernible effect on nidation or on maternal or fetal survival. The frequency of abnormalities in either the soft tissues or skeletal tissues of the fetuses in the test groups did not differ from that occurring spontaneously in the sham-treated controls. However, in a group of pregnant mice dosed at a level of 780 mg per kg daily (day 6 through day 15 of gestation), a significant number of maternal deaths occurred (7 out of 32) and there was an increased number of resorptions (early fetal deaths). Pregnant rats given up to 720 mg per kg per day for 10 days (day 6 through day 15 of gestation) showed no teratologic effects and negative results were obtained with pregnant hamsters given up to 700 mg per kg per day for 5 days (day 6 through day 10 of gestation). Propylene glycol, evaluated in an identical test procedure, was not teratogenic for mice, rats, hamsters, and rabbits, and maternal toxicity was not observed even at very high dosage. The Select Committee is not aware of any data on the teratologic effects of ammonium, calcium, potassium, or sodium alginates.

In tests with infant Swiss albino mice, Epstein et al. found no increase in tumors after several subcutaneous injections of alginic acid (total dose, 60 mg). No other carcinogenicity studies on the alginates have been found.

No allergic reactions to the alginates have been reported. Both sodium alginate and propylene glycol alginate were found to be nonirritating when applied to rabbits' eyes and skin.

All of the available safety information on alginates has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

"The available information on the alginates reveals no significant adverse toxicological effects from oral administration in nonpregnant animals or humans in daily amounts greatly exceeding those currently consumed in the diet. However, in pregnant mice, very large doses of propylene glycol alginate, while not teratogenic, cause a significant increase in maternal mortality. Such increased maternal toxicity does not occur at a dose of propylene glycol alginate which is 26-fold greater than that estimated to be the average daily adult dietary intake. No information is available concerning the behavior of other alginates in this respect but studies of propylene glycol, made by the same investigators using the same test procedure, have demonstrated that it is not teratogenic and is without maternal toxicity even at very large doses. This indicates that the adverse effects reported for propylene glycol alginate may be due to the alginate moiety."

"It is noteworthy that similar toxic effects have been observed in identical tests on a large number of other polysaccharides (gum arabic, sterculia gum, carob bean gum, guar gum, gum ghatti, gum tragacanth, carrageenan, methyl cellulose, and agar-agar) fed at very high levels. The relative sensitivity of the several animal species to these effects varies depending on the particular polysaccharide tested, but in all cases very large doses are required. Until these effects have been adequately explained, it appears to be inappropriate to conclude that unrestricted use of such substances in food would be without hazard."

It is the conclusion of the Select Committee that there is no evidence in the available information on ammonium, calcium, potassium, sodium, and propylene glycol alginates that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current and in the manner now practiced. However, it is not possible to determine, without additional data, whether a significant increase in consumption of these substances would constitute a dietary hazard. Based upon his own evaluation of available information on the alginates (including reports of mutagenic tests on ammonium, potassium and sodium alginates, which were not available when the Select Committee formed its conclusion), the Commissioner concurs with this conclusion. The Commissioner therefore concludes that continued safe use of these ingredients requires specific limitations to preserve current conditions of use.

Although propylene glycol alginate is not on the GRAS list, its safety was evaluated during the safety review of the GRAS listed alginates. The ingredient is listed in § 172.858 (21 CFR 172.858) for use in food as an emulsifier, stabilizer, and thickener. However, several additional uses of this substance were reported to the National Academy of Sciences/National Research Council (NAS/NRC) in their survey of food manufacturers. It was reported to be used as a flavoring agent, formulation aid and surfactant. As noted in the paragraph above, the Select Committee concluded, and the Commissioner concurred, that there is no evidence in the available information which indicates that propylene glycol alginate is a health hazard when used at levels that are current and in the manner now practiced. Consequently, the Commissioner is reasonably certain that the uses of this ingredient under § 172.858 Propylene glycol alginate are safe and further that § 172.858 should be amended to provide for the uses revealed in the NAS/NRC survey.

There are several other uses of the alginates regulated as food additives. In § 173.340, propylene glycol alginate can be used in food processing as a defoaming agent. In § 172.210 as a defoamer and dispensing adjuvant in coatings for fresh citrus fruit, and in §§ 176.170 and 176.180 as a component in paper and paperboard food-packaging materials. Ammonium and sodium alginates are listed in § 173.310(c) as compounds from which boiler water additives can be prepared. During the safety review of the alginates, the Commissioner considered these uses and concludes that they do not affect the decision to affirm the GRAS status of ammonium, calcium, potassium, and sodium alginates. This proposed action does not affect the uses cited in this paragraph.

Also, the Commissioner is concerned that harmful concentrations of heavy metals may be accumulated in commercial alginates, particularly if algae are harvested from coastal waters contaminated with significant levels of heavy metals. Heavy metals, such as mercury, have been found in aquatic animal life at levels exceeding those which are considered safe for human ingestion. Further, the current Food Chemicals Codex limitation of "heavy metals as lead" lacks the element specificity that modern analytical methods can provide. Therefore, the Commissioner will investigate the background levels of individual heavy metals (arsenic, cadmium, lead, mercury, selenium and zinc) in samples of these alginate salts during the comment period on this proposal. If the investigation indicates that specific heavy metal specifications need be adopted for the continued safe use of

the ingredients, those specifications will be adopted as part of the final regulations. All available data and information on the heavy metal contents of these alginate salts are solicited as comments on this proposal.

The levels of use adopted in this proposal for various categories of food are the maximum levels reported to the NAS/NRC. In their survey of food manufacturers, Use of any of these ingredients in any manner not permitted by the proposed regulations will result in its becoming a food additive for which no regulation currently exists.

Copies of the scientific literature review on alginates, reports of teratogenic and mutagenic tests for propylene glycol alginate, reports of mutagenic tests for ammonium, potassium and sodium alginates, and the report of the Select Committee are available for review at the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price
Alginates (scientific literature review).	PB-221-226...	A04	\$4.50
Propylene glycol alginate (teratology tests).	PB-221-786.	A03	4.00
Propylene glycol alginate (mutagenic tests).	PB-221-826.	A06	5.50
Propylene glycol alginate (mutagenic tests, tier I).	PB-245-497/AS.	A03	4.00
Ammonium alginate (mutagenic tests).	PB-245-515/AS.	A03	4.00
Potassium alginate (mutagenic tests).	PB-245-498/AS.	A03	4.00
Sodium alginate (mutagenic tests).	PB-245-516/AS.	A03	4.00
Alginates (Select Committee report).	PB-265-503/AS.	A02	3.50

\*Price subject to change.

This proposed action does not affect the present use of alginates for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 172, 182, and 184 be amended as follows:

#### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. In § 172.858 by revising the introductory text and paragraphs (a) and (b) to read as follows:

##### § 172.858 Propylene glycol alginate.

The food additive propylene glycol alginate (CAS Reg. No. PM9005-37-2)

may be used as an emulsifier, flavoring adjuvant, formulation aid, stabilizer, surfactant or thickener in foods in accordance with the following prescribed conditions:

(a) The additive meets the specifications of the Food Chemicals Codex, 2d ed. (1972) as amended by the first supplement,\* and shall have up to 85 percent of the carboxylic acid groups esterified with the remaining groups either free or neutralized.

(b) The additive is used or intended for use in the following foods when standards of identity established under section 401 of the act do not preclude such use:

(1) As a stabilizer in ice cream, frozen custard, ice milk, fruit sherbet, and water ices at a level not to exceed 0.5 percent by weight of the finished product.

(2) As an emulsifier, flavoring adjuvant, stabilizer, or thickener in baked goods at a level not to exceed 0.5 percent by weight of the finished product.

(3) As an emulsifier, stabilizer, or thickener in cheeses and in fats and oils at a level not to exceed 0.9 percent by weight of the finished product.

(4) As an emulsifier, stabilizer, or thickener in gelatins and puddings at a level not to exceed 0.5 percent by weight of the finished product.

(5) As a stabilizer or thickener in gravies at a level not to exceed 0.5 percent by weight of the finished product.

(6) As a stabilizer or thickener in sweet sauces at a level not to exceed 0.4 percent by weight of the finished product.

(7) As an emulsifier, flavoring adjuvant, formulation aid, stabilizer, or thickener, and surface active agent in other foods, where applicable, at a level not to exceed 0.1 percent by weight of the finished product.

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.7133, 182.7187, 182.7610 and 182.7724 [Deleted]

2. By deleting §§ 182.7133 Ammonium alginate, 182.7187 Calcium alginate, 182.7610 Potassium alginate, and 182.7724 Sodium alginate.

#### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. By adding new §§ 184.1133, 184.1187, 184.1610 and 184.1724 to read as follows:

§ 184.1133 Ammonium alginate.

(a) Ammonium alginate (CAS Reg. No. PM9005-34-9) is the ammonium salt of alginic acid, a natural polyuronide constituent of certain brown and red algae. Ammonium alginate is prepared by the neutralization of purified alginic acid with ammonium hydroxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972) as amended by the first supplement.\*

(c) The ingredient is used in food in accordance with § 184.1(b)(2) of this chapter, under the following conditions:

reacting purified alginic acid with calcium chloride.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972) as amended by the first supplement.\*

(c) The ingredient is used in food, in accordance with § 184.1(b)(2) of this chapter, under the following conditions:

#### MAXIMUM USAGE LEVELS PERMITTED

Foods (as served)	Percent	Functions
Confections, frostings, § 170.3(n)(9) of this chapter.....	0.4	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Fats and oils, § 170.3(n)(12) of this chapter.....	.5	Do.
Gelatin, puddings, § 170.3(n)(22) of this chapter.....	.5	Do.
Gravies and sauces, § 170.3(n)(24) of this chapter.....	.4	Do.
Jams and jellies, § 170.3(n)(28) of this chapter.....	.4	Do.
Sweet sauces, § 170.3(n)(43) of this chapter.....	.5	Do.
All other food categories.....	.1	Humectant, § 170.3(o)(16) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.

##### § 184.1187 Calcium alginate.

(a) Calcium alginate (CAS Reg. No. PM9005-35-0) is the calcium salt of alginic acid, a natural polyuronide constituent of certain brown and red algae. Calcium alginate is prepared by

\*Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.



## MAXIMUM USAGE LEVELS PERMITTED

Foods (as served)	Percent	Functions
Gelatins, puddings, § 170.3(n)(22) of this chapter .....	0.25	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Gravies and sauces, § 170.3(n)(24) of this chapter .....	.1	Do.
All other food categories .....	.002	Do.

## § 184.1610 Potassium alginate.

(a) Potassium alginate (CAS Reg. No. PM9005-36-1) is the potassium salt of alginic acid, a natural polyuronide constituent of certain brown and red algae. Potassium alginate is prepared by the neutralization of purified alginic acid with potassium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972) as amended by the first supplement.

(c) The ingredient is used in food, in accordance with § 184.1(b)(2) of this chapter, under the following conditions:

## MAXIMUM USAGE LEVELS PERMITTED

Foods (as served)	Percent	Functions
Confections and frostings, § 170.3(n)(9) of this chapter .....	0.1	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
All other food categories .....	.01	Do.

## § 184.1724 Sodium alginate.

(a) Sodium alginate (CAS Reg. No. PM9005-38-3) is the sodium salt of alginic acid, a natural polyuronide constituent of certain brown and red algae. Sodium alginate is prepared by the neutralization of purified alginic acid with sodium bicarbonate.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d ed. (1972) as amended by the first supplement.

(c) The ingredient is used in food, in accordance with § 184.1(b)(2) of this chapter, under the following conditions:

## MAXIMUM USAGE LEVELS PERMITTED

Food (as served)	Percent	Functions
Baked goods and baking mixes, § 170.3(n)(1) of this chapter .....	0.33	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
Gelatins and puddings, § 170.3(n)(22) of this chapter .....	4.0	Firming agent, § 170.3(o)(10) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; stabilizer, thickener, § 170.3(o)(28) of this chapter.
Hard candy, § 170.3(n)(25) of this chapter .....	10.0	Stabilizer, thickener, § 170.3(o)(28) of this chapter.
All other food categories .....	1.0	Emulsifier, § 170.3(o)(8) of this chapter; firming agent, § 170.3(o)(10) of this chapter; flavor enhancer, § 170.3(o)(11) of this chapter; flavor adjuvant, § 170.3(o)(12) of this chapter; processing aid, § 170.3(o)(24) of this chapter; stabilizer and thickener, § 170.3(o)(28) of this chapter; surface active agent, § 170.3(o)(29) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of these ingredients in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of

its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of

such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before March 28, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: January 23, 1978.

JOSEPH P. HILE,  
Associate Commissioner,  
for Compliance.

[FR Doc. 78-2302 Filed 1-26-78; 8:45 am]

## [1505-01]

[21 CFR Part 291]  
[Docket No. 77N-0252]

## METHADONE IN MAINTENANCE AND DETOXIFICATION

Joint Proposed Revision of Conditions for Use

## Correction

In FR Doc. 77-31163 appearing at page 56897 in the issue for Friday, October 28, 1977, make the following corrections:

(1) On page 56899, in the first column in the first paragraph beneath the center heading "MINIMUM URINE TESTINGS; USES AND FREQUENCY", in the seventh line, the word "any" should read "and".

(2) On page 56901, in the middle column, in § 291.505(d)(3)(i)(c), begin-

ning in the eleventh line, the sentence "Withdrawal signs may be observed during the initial period of abstinence." should be deleted.

(3) On page 56905, in the first column, in § 291.505(d)(8)(i)(c), in the first line, "resume" should read "assume".

(4) On page 56907, in the first column, in § 291.505(f)(2)(viii), in the fifth line, between the words "responsible" and "official" insert the word "hospital".

## [1505-01]

[21 CFR Parts 431 and 514]  
[Docket No. 77N-0117]

CERTIFICATION OF ANTIBIOTIC DRUGS  
Revised Requirements for Submission of Requests for Batch Certification

## Correction

In FR Doc. 77-20306, appearing at page 36492 in the issue for Friday, July 15, 1977, in the first column on page 36493, the fourteenth line of the paragraph numbered "2" should be omitted. The line reads: "cording to type of test and that the list".

In the issue for Tuesday, August 23, 1977, on page 42361, middle column, please disregard number "3" in the correction document as it refers to the correction above.

## [4510-26]

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

[29 CFR Part 1990]

## IDENTIFICATION, CLASSIFICATION AND REGULATION OF TOXIC SUBSTANCES POSING A POTENTIAL OCCUPATIONAL CARCINOGENIC RISK

## Extensions of Time for Written Submissions; Rescheduling of Hearing

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extensions of time to file notices of intention to appear, written comments, testimony and documentary evidence; and rescheduling of rulemaking hearing.

SUMMARY: This notice extends the time for written submissions concerning the rulemaking proceeding on the "cancer policy" proposed on October 4, 1977 (42 FR 54148) and provides an additional opportunity for the public to submit responses to previously submitted witness statements. The rulemaking hearing is also rescheduled.

DATES: February 28, 1978: for submitting written comments, notices of in-

## LIMITED OPPORTUNITY TO ADD TO WITNESS STATEMENTS

Parties who have timely filed their witness statements and documentary evidence may supplement these statements to respond specifically to evidence introduced in witness statements which the party shows could have not been anticipated from OSHA's proposal. These additional statements must be brief in comparison to the party's original submission. They must indicate clearly which specific data or evidence in a particular witness statement is being discussed. Absent extraordinary circumstances, no supplemental witnesses will be permitted to testify regarding these additional statements.

## RESCHEDULING OF PUBLIC HEARING

The informal public hearing on the cancer policy is rescheduled to commence at 9:30 a.m. on May 16, 1978 in the Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

In all other respects, the notice of October 4, 1978 (42 FR 54148) remains in effect.

Signed at Washington, D.C., this 24th day of January, 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.

[FR Doc. 78-2377 Filed 1-26-78; 8:45 am]

## [4110-87]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

[30 CFR Parts 70 and 71]

## COAL MINE HEALTH NOISE STANDARD

Use of Noise Dosimeters

AGENCY: National Institute for Occupational Safety and Health (NIOSH).

ACTION: Findings of fact.

SUMMARY: This notice contains findings of fact from the public hearing held on September 29, 1977, concerning proposed amendments to the coal mine health noise standard (30 CFR Parts 70 and 71). The amendments, published on June 2, 1977 (42 FR 28151), proposed to permit the use of noise dosimeters for determining noise exposure of workers in coal mines.

FOR FURTHER INFORMATION CONTACT:

B: Thomas Scheib, Chief, Coal Mine Standards Activity, Division of Criteria Documentation and Standards Development, NIOSH, 5600 Fishers Lane, Room 8A-44, Rockville, Md. 20857, phone 301-443-4614.

SUPPLEMENTARY INFORMATION: Section 101(g) of the Federal Coal

tention to appear, witness statements and documentary evidence from the public. April 4, 1978: for submitting all testimony and documentary evidence from OSHA witnesses. April 25, 1978: for the public to submit additions to testimony. May 16, 1978: for the rulemaking hearing.

## FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue NW., Room N3641, Washington, D.C. 20210, telephone 202-523-8151.

SUPPLEMENTARY INFORMATION: On October 4, 1977, a notice was published in the FEDERAL REGISTER (42 FR 54148) of a proposed new general regulation concerning the identification, classification and regulation of toxic substances that may pose a carcinogenic risk to workers.

The notice scheduled a rulemaking hearing and set deadlines for the submission of Agency and public statements and comments. A later FEDERAL REGISTER notice (42 FR 60753) extended these deadlines.

Subsequently, several interested parties requested additional extensions of time to submit their witness statements. The bases for the requests are the broad scope of the hearing and, in some cases, the desire to make unified presentations requiring time for organization. OSHA has also been asked to give interested parties an additional opportunity to present evidence in response to OSHA's witness statements.

OSHA has decided to grant these requests as set forth below. In all other respects the procedures and requirements of the October 4, 1977 FEDERAL REGISTER notice apply.

## SUBMISSION OF WRITTEN COMMENTS

Written comments from interested parties must be submitted no later than February 28, 1978. Comments must be submitted in quadruplicate to the Docket Officer, Docket No. H-090, Technical Data Center, Room S-6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210, Telephone: 202-523-7396.

## FILING OF NOTICES OF INTENTION TO APPEAR AND STATEMENTS OF WITNESSES AND DOCUMENTARY EVIDENCE FROM THE PUBLIC

Notices of intention to appear, documentary evidence and witness statements must now be submitted no later than February 28, 1978. They must be received by the OSHA Division of Consumer Affairs, Docket No. H-090, Room N3635, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-8024 by February 28, 1978.



Mine Health and Safety Act of 1969 (30 U.S.C. 811(g)), hereinafter referred to as the "Act," provides, in part, that within 60 days after completion of any public hearing on proposed mandatory health or safety standards, the Secretary who held the hearing shall make findings of fact which shall be public.

Proposed amendments to 30 CFR Parts 70 and 71 which would permit the use of personal noise dosimeters to meet the measurement requirements of the coal mine health noise standard were developed by NIOSH under section 101 of the Act and transmitted to the Secretary of the Interior for publication in accordance with the Act. The amendments were published under a notice of proposed rulemaking on June 2, 1977, at 42 FR 28151, and interested parties were afforded a period of 45 days within which to submit written comments, suggestions, and objections and to request a public hearing. On August 23, 1977, the Secretary of the Interior, in accordance with section 101(f) of the Act, published a notice (42 FR 42362) that objections to the amendments had been filed stating the specific grounds for such objections and that a public hearing had been requested. Following the notice, the Department of Health, Education, and Welfare published a notice fixing the time and place of a hearing (42 FR 43646) to be held for the purpose of receiving relevant evidence on the following issues:

(1) Whether promulgation of the proposed changes in the coal mine health noise standard should be delayed until after the draft American National Standards Institute (ANSI) Standard Specification for Personal Noise Dosimeters S1.25 is finalized and approved;

(2) Whether the requirement § 70.505, that sound level meters meet ANSI, "Specification for Sound Level Meters", S1.4-1971 (Type S2A) should be revised to require that only sound level meters certified by NIOSH be permitted to be used;

(3) Whether the noise dosimeter is a reliable and accurate instrument and whether its use in underground and surface coal mines is desirable; and

(4) Whether the cost of using noise dosimeters to determine noise exposure in coal mines would be prohibitive.

The hearing on the proposed amendments to the coal mine health noise standard was held on September 29, 1977, at the Department of Health, Education, and Welfare. Presentations were made by the following organizations; Mining Enforcement and Safety Administration, GenRad Corp., the National Institute for Occupational Safety and Health, Bituminous Coal Operator's Association, Inc., Jim Walters Resources, and Quest Electronics. The official hearing record remained

open until October 31, 1977, in order to receive supplemental information from interested parties, and to receive the results of research which was in progress at the time of the hearing. A verbatim transcript of the proceeding together with other supporting information is available for public inspection during regular business hours at the National Institute for Occupational Safety and Health, Room 8-11, Parklawn Building, 5600 Fishers Lane, Rockville, Md.

## FINDINGS

On the basis of the evidence presented at the public hearing and on other information available to the Department, the Director, National Institute for Occupational Safety and Health, under authority delegated from the Secretary of Health, Education, and Welfare and the Assistant Secretary for Health (35 FR 11150), finds:

1. With respect to delaying promulgation of the proposed amendments to the coal mine health noise standard until after approval of the American National Standards Institute Standard Specification for Personal Noise Dosimeters (S1.25), that:

(a) While there are no current national standards which specify operating tolerances and electro-acoustic tests for personal noise dosimeters, such equipment has been manufactured to operate within tolerances of Type S2A sound level meters as specified by the American National Standards Institute (ANSI S1.4(1971)).

(b) Under the present coal mine health noise standard, noise level measurements are taken only with instruments which are approved by the Bureau of Mines or the Mining Enforcement and Safety Administration and which meet the operational specifications of the American National Standards Institute for sound level meters S1.4-1971 (Type S2A).

(c) Personal noise dosimeters are currently being used to assess employee noise exposure for compliance purposes by several industries, by State agencies, and by Federal inspectors representing the Occupational Safety and Health Administration and the Metal and Nonmetal Division of the Mining Enforcement and Safety Administration.

(d) Publication of an American National Standards Institute standard specification for personal noise dosimeters will not necessarily result in conformance of all personal noise dosimeters to the specifications or requirements of the standard, or uniformity of performance in equipment produced by a given manufacturer.

(e) The testing criteria and tolerances adopted by the Mining Enforcement and Safety Administration to determine acceptability of personal noise dosimeters represent a major advance-

ment in the characterization of equipment performances necessary for accurate measurement of coal miner noise exposure. However, as a minimum, a criterion for performance at dosimeter threshold (the level at which the dosimeter begins to record noise exposure) should be added to the list of test criteria, and the model acceptance criteria by MESA, requiring that only one out of three instruments pass all test criteria, should be improved in order to guarantee uniformity of measurement devices for compliance purposes. Adoption of these provisions would necessitate a review and possible revision of the list of personal noise dosimeters currently accepted by the Mining Enforcement and Safety Administration.

(f) Under the circumstances, delaying the amendments permitting the use of personal noise dosimeters until publication of the final ANSI standard at some future time is not justified.

2. With respect to replacing the requirement in § 70.505, that sound level meters meet ANSI, "Specification for Sound Level Meters", S1.4-1971 (Type S2A) with the requirement that only sound level meters certified by NIOSH be used, that:

Notice of this proposed change was insufficient to apprise the public of the issue involved.

3. With respect to the desirability, reliability, and accuracy of the personal noise dosimeter, that:

(a) Use of personal noise dosimeters is desirable and necessary for the prevention of occupational disease in that the determination of the noise exposure for approximately 11,000 coal miners employed in high noise occupations cannot be determined by conventional hand-held sound level meter procedures because the nature of their work conditions pose a safety hazard to the person conducting the noise survey.

(b) Data and information available from one state agency and one Federal agency routinely using personal noise dosimeters to assess employee noise exposure indicate that the personal noise dosimeter is a highly reliable measurement instrument with annual failure rates of less than 4.5 percent. Most failures are attributable to microphone interferences resulting in an inability of the instrument to achieve calibration tolerances. Thus, there is a need for annual recalibration of personal noise dosimeters including, as a minimum, frequency response testing and visual inspection of the microphone for any foreign matter or defects.

(c) Equipment vibration levels, electromagnetic field, relative humidity, and temperatures found in coal mines are unlikely to affect dosimeter performance.

(d) Inadvertent and extraneous noises may be integrated by personal

noise dosimeters, thus, affecting dosimeter readings; however, this problem can be minimized by spot checking of noise levels with sound level meters, or by full-shift observation of the measurement by a "qualified" person as is required for supplemental noise surveys in § 70.509(b) of the current coal mine health noise standard.

(e) Field and laboratory comparisons of personal noise dosimeters with other noise survey instruments or systems meeting ANSI S1.4-1971 tolerances for type I or type II instruments, indicate that noise dosimeters will yield comparable results to these other noise measurement instruments.

(f) Instrument errors (including calibrator error) are less than 1 dB, and these errors combined with other possible errors associated with microphone placement and calibration drift will be within the +2 dBA tolerance permitted by the Mining Enforcement and Safety Administration for purposes of citing noise violations.

4. With regard to the cost of personal noise dosimeters, that:

The cost of personal noise dosimeters is, on the average, only slightly higher than the cost of sound level

meters meeting ANSI S1.4-1971 type S2A specifications, and in some models of personal dosimeters the cost is less than the comparable type S2A sound level meter for purchases of multiple units.

Dated: January 24, 1978.

J. DONALD MILLAR,  
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 78-2407 Filed 1-26-78; 8:45 am]

[7035-01]

## INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1241]

[No. 36557]

## ANNUAL, SPECIAL OR PERIODIC REPORTS

Reporting Railroad Track Maintenance

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of report and order.

SUMMARY: The Commission has voted to postpone the issuance of the Report and Order in the above entitled proceeding (42 FR 32819, June 28, 1977) until April 15, 1978, as provided for in section 17(9)(e) of the Interstate Commerce Act (49 U.S.C. 17). This proceeding has been extended in order to obtain additional clarification of specific issues related to reporting railroad track maintenance and, a related topic, depreciation and betterment accounting for railroad track structures. The Commission believes that clarification of the specific issues related to these topics can best be obtained through participation of interested parties in an informal conference. The Informal Conference will be held by the Commission on February 15, 1978, in Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Ronald Young, Chief, Section of Accounting, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, phone No.: 202-275-7448.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2287 Filed 1-26-78; 8:45 am]



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6050-01]

### ACTION

#### PRIVACY ACT OF 1974

##### Notice of New System of Records

#### AGENCY: ACTION.

**ACTION:** Notification of Privacy Act system of records.

**SUMMARY:** This notice is published to inform the public that ACTION proposes to establish a system of records titled Former Volunteer/Staff Resource Record (AF/FVL-1). The purpose of this system is to offer former ACTION volunteers and staff an opportunity to participate in a resource group which will take part in furthering the mission of ACTION to mobilize people for voluntary action at home and abroad. Any interested person may submit written views, comments or other data to our Office of the General Counsel.

**DATES:** Comments must be received on or before February 27, 1978.

**ADDRESS:** ACTION, 806 Connecticut Avenue NW., Office of the General Counsel, Room 607, Washington, D.C. 20525.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John F. Nolan, Administration and Finance, ACTION, Washington, D.C. 20525, 202-254-8105.

#### System name:

Former Volunteer/Staff Resource Record (AF/FVL-1).

#### System location:

ACTION, Office of Former Volunteer Liaison, 806 Connecticut Avenue NW., Washington, D.C. 20525.

#### Categories of individuals covered by the system:

All former staff and volunteers.

#### Categories of records in the system:

Individual former staff and former volunteer files containing the following information about the particular individual: name, current address; current home and business phone number, social security number; date of birth; next of kin name and address; preservice, service, and post-service education, employment and training experience; trade skills; language

skills; educational level; teaching experience; current interest in voluntary service; type of volunteer/staff duty assignments and location of assignments.

#### Authority for maintenance of the system:

The Peace Corps Act, as amended (22 U.S.C. 2501, et seq.); and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951).

#### Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Information in this file will be used by the ACTION agency to involve former staff and volunteers with policy formation, program evaluation, recruitment, foreign and domestic disaster relief, and to keep up-to-date addresses for mailing publications and public affairs releases.

#### Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

**Storage:** Files are maintained on magnetic discs and tapes which are stored in a locked room when not in immediate use in a building with a 24-hour guard.

#### Retrievability:

Records are indexed by categories such as skills, social security number, and alphabetical order.

#### Safeguards:

Records in the system are available only to appropriate officials of ACTION with the need for access to such records for the performance of their duties.

#### Retention and disposal:

Records are begun following end of staff and/or volunteer service and retained for the "life" of the volunteer/staffer. These records have no present destruction data and are now expected to be destroyed 50 years after establishment.

#### System manager and address:

Coordinator, Office of Former Volunteer Liaison, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

#### Record source categories:

Information supplied by former staff and former volunteers.

#### Notification, access and contest procedures:

Individuals wishing to see information in their records, inquire if this system of records contains information about them, or contest/correct information should provide their name, any former name, date of birth, social security number, dates of service if known, location of service and type of volunteer (peace Corps or VISTA) or staff. Individuals should address their inquiries to: Director, Administrative Services Division, Office of Administration and Finance, ACTION, 806 Connecticut Avenue NW., Washington, D.C. All inquiries should have "Privacy Act Request" noted on the envelope.

This notice is issued in Washington, D.C., on January 24, 1978.

SAM BROWN,  
Director.

[FR Doc. 78-2226 Filed 1-26-78; 8:45 am]

[3410-34]

### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### JAPANESE BEETLE QUARANTINE AND CONTROL PROGRAM

##### Notice of Meetings

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of public meetings.

**SUMMARY:** Meetings are to be held in order to provide a public forum for a discussion of the status of the Japanese beetle quarantine and control program.

#### TIME, DATE, AND PLACE OF MEETINGS:

February 28, 1978, at 1 p.m. Holiday Inn, Shannon Room (Baltimore-Washington International Airport) 6500 Elkridge Landing Road, Baltimore, Md. 21090.

March 14, 1978, at 1 p.m. Ramada Inn, East Continental Room (Sky Harbor Airport) 3801 East Van Buren Street, Phoenix, Ariz. 85008.

**SUPPLEMENTAL INFORMATION:** These meetings, which are open to all interested agencies, groups, and individuals, are designed to brief the public on the current Japanese beetle situation, and create an opportunity for an open discussion of the Department's program in this area.

## NOTICES

These meetings will be conducted by representatives of the Animal and Plant Health Inspection Service (APHIS), which is the lead Government Agency involved in the present cooperative Federal-State Japanese beetle program.

At present, Japanese beetles are found in 22 States east of the Mississippi River and in the State of Missouri. A federal quarantine program is currently being conducted to prevent the spread of this insect into areas where it is not currently located. The agenda will include presentations from APHIS on the history and biology of the Japanese beetle in the United States, a history of regulatory and control actions, and a discussion of the economic significance of the Japanese beetle. Throughout the program, the questions and views of all interested members of the public will be solicited.

#### FOR FURTHER INFORMATION CONTACT:

James O. Lee, Jr., Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 302-E, Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, 301-447-5601.

JAMES O. LEE, Jr.,  
Deputy Administrator, Plant  
Protection and Quarantine  
Programs, Animal and Plant  
Health Inspection Service.

[FR Doc. 78-2428 Filed 1-26-78; 8:45 am]

[1505-01]

#### Forest Service

#### DIRECTOR OF LANDS AND DEPUTY DIRECTOR OF LANDS

##### Delegation of Authority

##### Correction

In FR Doc. 78-739 appearing in the issue of Wednesday, January 11, 1978, the date in the 2nd paragraph, "Effective date", the last line should read, "January 11, 1978".

[3410-11]

#### Forest Service

#### RESOURCE MANAGEMENT PLAN, TIMBER MANAGEMENT PLAN—ELDORADO NATIONAL FOREST

##### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final

environmental statement for the proposed revision of the ten-year Timber Management plan for the Eldorado National Forest, USDA-FS-R5-FES(Adm)-77-03. Portions of the Forest are located in El Dorado, Amador, Placer and Alpine Counties, Calif.

The environmental statement concerns proposed changes in harvesting timber from the Eldorado National Forest and analyzes the environmental effects of the proposed new plan. The recommended alternatives is the harvest of 137.5 million board feet per year.

The draft environmental statement was transmitted to the Council on Environmental Quality (CEQ) on March 30, 1977. The final environmental statement was transmitted to the Environmental Protection Agency (EPA) on January 19, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230 12th St. and Independence Ave. SW., Washington, D.C. 20250.  
Regional Forester, U.S. Forest Service, Room 529, 630 Sansome Street, San Francisco, Calif. 94111.  
Eldorado National Forest, Supervisor's Office, 100 Forni Road, Placerville, Calif. 95667.

Placerville Ranger Station, 3491 Carson Court, Placerville, Calif. 95667.  
Georgetown Ranger Station, Georgetown, Calif. 95634.  
Pacific Ranger Station, Pollock Pines, Calif. 95726.  
Amador Ranger Station, Jackson, Calif. 95642.

A limited number of single copies are available, upon request, from Forest Supervisor Joseph H. Harn, Eldorado National Forest, 100 Forni Road, Placerville, Calif. 95667.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

ROBERT W. CERMAK,  
Deputy Regional Forester.

JANUARY 19, 1978.

[FR Doc. 78-2310 Filed 1-26-78; 8:45 am]

[3410-02]

#### Agriculture Marketing Service

#### FARMERS AND RANCHERS LIVESTOCK AUCTION, INC., CHARLOTTE, ARK., ET AL.

##### Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be

made subject to the provisions of the Act.

AR-158.—Farmers and Ranchers Livestock Auction, Inc., Charlotte, Ark.

FL-125.—Madison Stockyard, Inc., Madison, Fla.

MO-243.—Adair County Livestock Market Center, Inc., Kirksville, Mo.

MO-244.—Missouri Feeder Pig Auctions, Inc., Middletown, Mo.

VA-150.—Lynchburg Livestock Market, Inc., Lynchburg, Va.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards, Agriculture Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, by February 13, 1978. All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b).)

Done at Washington, D.C., this 23d day of January, 1978.

EDWARD L. THOMPSON,  
Chief, Registrations, Bonds, and  
Reports Branch, Livestock  
Marketing Division.

[FR Doc. 78-2324 Filed 1-26-78; 8:45 am]

[3410-15]

#### Rural Electrification Administration

#### DAIRYLAND POWER COOPERATIVE, LACROSSE, WIS.

##### Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of \$12,650,000 to this cooperative. The loan funds will be used to finance spare rotors for the Genoa Station No. 3, previously approved modifications to the LaCrosse boiling water reactor, and modifications at Cassville and Alma Stations.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaran-



teed may obtain engineering and economic information on the proposed project including the proposed schedule for loan advances to Dairyland and projected financial forecast data relating to Dairyland's operations from Mr. John P. Madgett, Manager, Dairyland Power Cooperative, P.O. Box 817, La-Crosse, Wis. 54601.

In order to be considered, proposals must be submitted on or before February 27, 1978, to Mr. Madgett. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Dairyland and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 16th day of January 1978.

JOSEPH VELLONE,  
Administrator, Rural  
Electrification Administration.  
[FR Doc. 78-2318 Filed 1-26-78; 8:45 am]

## [6320-01]

## CIVIL AERONAUTICS BOARD

[Docket 28981]

## HUGHES AIRWEST, INC.

## Rescheduled Prehearing Conference

Notice is hereby given that the prehearing conference in the above matter, now assigned to be held on February 7, 1978 (43 FR 1377, January 9, 1978), is rescheduled for February 22, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., January 23, 1978.

JANET D. SAXON,  
Administrative Law Judge.  
[FR Doc. 78-2363 Filed 1-26-78; 8:45 am]

## [6320-01]

[Docket 31645; Order 78-1-105]

## PERIMETER AVIATION LTD.

## Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics

Board at its office in Washington, D.C. on the 24th day of January 1978.

In the matter of application of Perimeter Aviation Ltd. for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958.

By application filed November 9, 1977, Perimeter Aviation Ltd. (Perimeter) requests a foreign air carrier permit to engage in charter foreign air transportation of persons and their accompanying baggage, and plane-load charter foreign air transportation of property, between any point or points in Canada and the United States, using "small aircraft" pursuant to the Nonscheduled Air Service Agreement executed on May 8, 1974, by the Governments of the United States and Canada.

## FITNESS OF APPLICANT FOR A FOREIGN AIR CARRIER PERMIT

Perimeter was incorporated under the Companies Act of the Province of Manitoba on September 13, 1960. The Air Transport Committee of the Canadian Transport Commission has issued

Perimeter license No. A.T.C. 378/67 (CF), dated March 22, 1967, a class 9-4 license which authorizes the holder to operate international charter commercial air services from a base at Winnipeg, Manitoba. The licensee is restricted in its operation to the use of Groups A, B, and C aircraft. The Canadian Department of Transport, Civil Aviation Branch, has issued Perimeter Operating Certificate No. 2002, dated February 23, 1977, which certifies that Perimeter is adequately equipped and able to conduct a safe operation.

The applicant's balance sheet as of December 31, 1976, showed current assets of \$607,251 and current liabilities of \$529,850. Total assets and liabilities were \$1,023,495. For the year ended December 31, 1976, the company realized a net profit of \$41,328. The applicant states that at no time since its inception has it been unable to meet current financial obligations nor has it defaulted on any commitment to provide transportation.

The applicant owns or leases the following aircraft:

Type of Aircraft	Number owned or leased	Passenger seating capacity	Maximum authorized takeoff weight (pounds)
Lear Jet 35A.....	1	8	17,000
Cessna Citation 500.....	1	8	12,000
Beechcraft Queenair A65.....	1	10	7,700
Beechcraft Duke A60.....	1	5	6,775
Beechcraft Baron 58P.....	1	5	6,100
Beechcraft Baron B55.....	1	5	5,100
Beechcraft Travelair E95.....	1	4	4,200

During the last five years the applicant has had no safety or tariff violations. The applicant has experienced one accident. On August 11, 1977, a Beechcraft Travelair crashed on landing. There were no deaths or serious injuries.

## "PUBLIC INTEREST" IN AWARD OF THE AUTHORITY SOUGHT

The applicant relies upon the Nonscheduled Air Service Agreement

signed by the Governments of Canada and the United States on May 8, 1974, as the basis for the grant of the requested authority. By diplomatic note No. 584, dated November 18, 1977, the Government of Canada designated the applicant under the Agreement to perform charter services with small aircraft. The aircraft the applicant plans to use in its operations between the United States and Canada are within the scope of the designation.

## OWNERSHIP AND CONTROL OF THE APPLICANT

The officers of the corporation are William Joseph Wehrle, President and Director, and Orla (Toonstra) Gillis, Secretary. Both officers are Canadian

Under Canadian Air Transport Committee regulations, aircraft are grouped according to the maximum authorized takeoff weight on wheels as follows: Group A—not greater than 4,300 pounds, Group B—over 4,300 pounds, but not greater than 7,000 pounds, and Group C—over 7,000 pounds, but not greater than 18,000 pounds.  
\*See Docket 26473.

citizens. The outstanding capital stock of Perimeter is held by William Wehrle, president of the company, (10,000 shares) and Remor Limited (10,000 shares). Remor Ltd. is a Canadian corporation. Perimeter's long-term debt is held by the Bank of Montreal (\$91,082), William J. Wehrle (\$59,517), and Remor Limited (\$206,777). Perimeter is the owner of two-thirds of the issued common shares of Perimeter (Inland) Ltd., a Canadian commercial air carrier.

In view of the foregoing and all the facts of record, the Board tentatively finds and concludes:

1. That Perimeter Aviation Ltd. is substantially owned and effectively controlled by nationals of Canada;

2. That it is in the public interest to issue a foreign air carrier permit for small aircraft operations to Perimeter Aviation Ltd. authorizing it to engage in charter foreign air transportation with small aircraft of persons and their accompanied baggage and plane-load charters of property between any point or points in Canada and the United States;

3. That the public interest requires that the exercise of the privileges granted by the permit shall be subject to the terms, conditions, and limitations contained in the specimen form of permit attached to this order, and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board;

4. That Perimeter Aviation Ltd. is fit, willing, and able properly to perform the above-described foreign air transportation and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

5. That except to the extent granted, the application of Perimeter Aviation Ltd. in Docket 31645 should be denied; and

6. That an evidentiary hearing is not required in the public interest.\*

## ACCORDINGLY, IT IS ORDERED THAT:

1. All interested persons are directed to show cause why the Board should not make final its tentative findings and conclusions, and why a foreign air carrier permit in the form of the specimen permit attached to this order should not, subject to the approval of the President pursuant to section 801 of the Act, be issued to Perimeter Aviation Ltd.;

\*We also tentatively find that our proposed action will not constitute a "major regulatory action" under the Energy Policy and Conservation Act as defined in section 313.4(a)(1) of the Board's Regulations.

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the permit shall, within 21 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data and such evidence expected to be relied upon in support of the statement of objections. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given to the matters and issues raised by the objections before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with its tentative findings and conclusions if it is determined that there are no factual issues present that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with its tentative findings and conclusions; and

5. This order shall be served upon Perimeter Aviation Ltd. and the Ambassador of Canada in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

## SPECIMEN PERMIT

## PERMIT TO FOREIGN AIR CARRIER FOR SMALL AIRCRAFT OPERATIONS

Perimeter Aviation Ltd. is hereby authorized, subject to the provisions hereinafter set forth, the provisions of the Federal Aviation Act of 1958 and the orders, rules, and regulations issued thereunder, to engage in charter foreign air transportation as follows:

Charter flights of persons and their accompanied baggage, and plane-load charter flights of property, between

\*Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

any point or points in Canada and any point or points in the United States.

The holder shall be authorized to perform those types of charters originating in Canada as are now, or may hereafter be, prescribed for carriage by small aircraft in Annex B (III)(B) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including any amendments, supplements, reservations, or supersessions to that Agreement; *Provided*, That any such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft, and the authority of the holder to perform such charters shall be subject to those Regulations. The authority of the holder to perform United States-originating charters shall, in accordance with Annex B (III)(A) of such Nonscheduled Air Service Agreement, be limited to commercial air transportation of passengers and their accompanied baggage, and property, on a time, mileage, or trip basis, where the entire plane-load capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such groups, or such small aircraft operations as may be authorized pursuant to any amendment, supplement, reservation, or supersession to that Agreement.

This permit shall be subject to the following terms, conditions, and limitations:

(1) In the performance of the charter operations authorized by this permit, the holder shall not use "large aircraft" as defined in Annex A (I)(A) of the Nonscheduled Air Service Agreement between the United States and Canada, signed May 8, 1974, including amendments, supplements, reservations, or supersessions to that Agreement.

(2) The holder shall not engage in foreign air transportation between the United States and any point or points, other than a point or points in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air (except for the move-

\*Annex B (III)(B) presently authorizes Canadian-originating small aircraft charters of the types prescribed in section (II)(B); but only to the extent applicable to small aircraft pursuant to Canadian Transport Commission Regulations. The applicable types of charters presently authorized are: Single Entity Passenger, Single Entity Property, Pro Rata Common Purpose, and Inclusive Tour. (In some instances split passenger charters are authorized.)



ment of passengers independently of any group) to or from a point not in the United States or Canada: *Provided*, That the Board may, upon application by the holder, or by regulation, authorize the performance of charters where such movements are involved.

(3) The holder shall not perform United States-originating charter flights which at the end of any calendar quarter would result in the aggregate number of all United States-originating charter flights performed by the holder on or after May 8, 1974 exceeding by more than one-third the aggregate number of all Canadian-originating charter flights performed by the holder on or after May 8, 1974: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter be one-way, round-trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (i) "small aircraft" flights of persons; and (ii) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the holder is the lessee, and shall not be included if the holder is the lessor.

(d) There shall be excluded from the computation:

(i) flights utilizing aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission regulations) not greater than 18,000 pounds; and

(ii) flights originating at a United States terminal point of a route authorized pursuant to the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder (if, pursuant to any such agreement, the holder also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over such route, and provides some scheduled service on any route pursuant to any such agreement), when such flights serve either (a) a Canadian terminal point on such route, or (b) any Canadian intermediate point authorized for service on such route by such foreign air carrier permit.

(4) The holder may grant stopover privileges at any point or points in the United States only to passengers and their accompanied baggage moving on a Canadian-originating flight operating under a contract for round-trip charter transportation to be provided solely by the holder and as to which the same aircraft stays with the passengers throughout the journey: *Provided*, That the Board may authorize the performance of charters not meeting the requirements set forth.

(5) The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the holder pursuant to the authority granted by this permit, if it finds such action to be required in the public interest.

(6) The holder shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

(7) This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and Canada shall be parties.

(8) This permit shall be subject to the condition that the holder shall keep on deposit with the Board a signed counterpart of CAB Agreement 18900, an agreement relating to liability limitations of the Warsaw Convention and the Hague Protocol approved by Board Order E-23680, May 13, 1966, and a signed counterpart of any amendment or amendments to such agreement which may be approved by the Board and to which the holder becomes a party.

(9) The holder (1) shall not provide foreign air transportation under this permit unless there is in effect third-party liability insurance in the amount of \$1,000,000 or more to meet potential liability claims which may arise in connection with its operations under this permit, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the third-party liability insurance provided, and (2) shall not provide foreign air transportation of persons unless there is in effect liability insurance sufficient to cover the obligations assumed in CAB Agreement 18900, and unless there is on file with the Docket Section of the Board a statement showing the name and address of the insurance carrier and the amounts and liability limits of the passenger liability insurance provided. Upon request, the Board may authorize the holder to supply the name and address of an insurance syndicate in lieu of the name and address of the member insurers.

(10) By accepting this permit, the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

The exercise of the privileges granted by this permit shall be subject to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

This permit shall become effective on \_\_\_\_\_. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the charter foreign air transportation here authorized from the transportation which may be operated by carriers designated by the Government of Canada (or in the event of the elimination of part of the charter foreign air transportation here authorized, the authority granted here shall be terminated to the extent of such elimination), or (2) upon the effective date of any permit granted by the Board to any other carrier designated by the Government of Canada in lieu of the holder hereof, or (3) upon the termination or expiration of the Non-scheduled Air Service Agreement, between the United States and Canada, signed May 8, 1974: *Provided, however*, That clause (3) of this paragraph shall not apply if prior to the occurrence of the event specified in clause (3), the operation of the foreign air transportation here authorized becomes the subject of any treaty, convention, or agreement to which the United States and Canada are or shall become parties.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed on the \_\_\_\_\_.  
Issuance of this permit to the holder approved by the President of the United States on \_\_\_\_\_ in Order \_\_\_\_\_.

Secretary.

[6320-01]

## TRAFFIC CONFERENCE 1 OF THE INTERNATIONAL AIR TRANSPORT ASSOCIATION

(Docket 30332; Agreement C.A.B. 27097)

Order

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to specific commodity rates.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above CAB agreement number.

The agreement would delete the rates for Item 1421 (Cut Flowers, Inc. Mimosa) from Bogota/Medellin to Baltimore / Charlotte / Jacksonville / Norfolk / Orlando / Philadelphia / Tampa / Washington / Boston / Cleveland / Detroit / Hartford / and Pittsburgh.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Resolution 100(Mail 199)590, incorporated in Agreement CAB 27097, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered that: Agreement CAB 27097 is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

JAMES L. DEEGAN,  
Chief, Passenger and Cargo  
Rates Division, Bureau of  
Fares and Rates.

PHYLLIS T. KAYLOR,  
Secretary.

(FR Doc. 78-2365 Filed 1-26-78; 8:45 am)

[3510-24]

## DEPARTMENT OF COMMERCE

Economic Development Administration

## KIRSTEIN LEATHER CO. AND CLASSY LEATHER GOODS CORP.

Determinations of Eligibility To Apply for  
Trade Adjustment Assistance

Petitions were accepted for filing on January 20, 1978, from two firms: (1) Kirstein Leather Co., 72 Main Street, Saco, Maine 04072, a tanner of hides and processor of leather; and (2) Classy Leather Goods Corp., 15 East 32nd Street, New York, N.Y. 10016, a producer of handbags. The petitions were submitted pursuant to section

251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on February 6, 1978.

JACK W. OSBURN, Jr.,  
Chief, Trade Act Certification  
Division, Office of Planning  
and Program Support.

(FR Doc. 78-2372 Filed 1-26-78; 8:45 am)

[1505-01]

## Industry and Trade Administration

## NEW-CENTER FOR DISEASE CONTROL

Decision on Application for Duty-Free Entry of  
Scientific Article

## Correction

In FR Doc. 78-1415 appearing at page 2747 in the issue for Thursday, January 19, 1978, in the third column of page 2747, first line of the second full paragraph, the words "Docket No.: 77-99339 \* \* \*" should have read "Docket No.: 77-00339 \* \* \*".

[3510-25]

## MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

## Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Management-Labor Textile Advisory Committee will be held on February 22, 1978 at 1:30 p.m. in Room 3817, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

The Committee was established by the Secretary of Commerce on October 18, 1961 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for the meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public on a first-come basis. The public may file written statements with the Committee before or after each meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the DIBA Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5078.

Dated: January 24, 1978.

EDWARD GOTTFRIED,  
Acting Director,  
Office of Textiles.

(FR Doc. 78-2370 Filed 1-26-78; 8:45 am)

[3510-22]

## National Oceanic and Atmospheric Administration

## GULF OF MEXICO FISHERY MANAGEMENT COUNCIL SUBPANELS OF THE ADVISORY PANEL

## Public Meeting

Subpanels of the Advisory Panel of the Gulf of Mexico Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet February 13-16, 1978, at Barclay Inn, 5303 West Kennedy Boulevard, Tampa, Florida. The meeting of spiny lobster and coral subpanels starts at 1 p.m. on February 13, 1978, and will adjourn at about noon on February 14, 1978. The meeting of the coastal herring and swordfish subpanels starts at 1 p.m., February 15, 1978, and will adjourn at about noon on February 16, 1978.

*Proposed Agenda:* (1) Management Plans; (2) Orientation; and (3) Other fishery management business, if any.

These meetings are open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Tampa, Florida 33607, Telephone: 813-228-2815.



Dated: January 24, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

[FR Doc. 78-2400 Filed 1-26-78; 8:45 am]

## [3510-22]

**MID-ATLANTIC FISHERY MANAGEMENT  
COUNCIL**

**Amendment to Public Meeting**

Notice is hereby given that the announcement pertaining to the Mid-Atlantic Fishery Management Council's meeting published in the FEDERAL REGISTER, Vol. 43, No. 8, Thursday, January 12, 1978, (43 FR 1815) is amended to reflect that the Advisory Panel will also meet at this time. The Advisory Panel will meet on February 7, 1978, at Hunt Valley Inn, Interstate 83 at Shawan Road, Hunt Valley, Md. The meeting will convene at 9 a.m. and adjourn about 5 p.m. on February 7.

**Proposed Agenda:** Organization of subpanels and instructions to subpanels.

Dated: January 24, 1978.

WINFRED H. MEIBOHM,  
Associate Director National  
Marine Fisheries Service.

[FR Doc. 78-2401 Filed 1-26-78; 8:45 am]

## [3510-22]

**NORTH PACIFIC FISHERY MANAGEMENT  
COUNCIL**

**Change in Location of Meeting**

Notice is hereby given of a change in the meeting location as published in the FEDERAL REGISTER, Vol. 43, No. 11, Tuesday, January 17, 1978, (43 FR 2424) for the North Pacific Fishery Management Council and its Scientific and Statistical Committee and Advisory Panel.

This joint meeting scheduled for February 23-24, 1978, will be held at the Anchorage Westward Hilton Hotel, 3rd and E Streets, Anchorage, Alaska.

Dated: January 24, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

[FR Doc. 78-2399 Filed 1-26-78; 8:45 am]

## [1505-01]

Office of the Secretary  
(Dept. Organization Order 35-2B; Amdt. 1)

**BUREAU OF THE CENSUS**

**Statement of Organization**

**Correction**

In FR Doc. 77-34286 appearing in the issue of Wednesday, November 30, 1977 on page 60946, the small type in the heading should read as it appears above.

## [3510-13]

**PROPOSAL FROM THE INTERNATIONAL CON-  
FERENCE ON RECOGNITION OF NATIONAL  
PROGRAMS FOR TESTING LABORATORIES  
FOR AN INTERNATIONAL REGISTER OF OR-  
GANIZATIONS RESPONSIBLE FOR ACCRE-  
DITING TESTING LABORATORIES**

**Invitation for Comments**

The purpose of this notice is to call public attention to a proposal from the International Conference on Recognition of National Programs for Testing Laboratories for an international register of organizations responsible for accrediting testing laboratories, and to provide an opportunity through the Department of Commerce for interested parties to comment on that proposal.

In October 1977, representatives of seventeen countries, including the United States, and three international organizations met in Copenhagen to participate in the International Conference on Recognition of National Programs for Testing Laboratories. The U.S. delegation, headed by Dr. Howard I. Forman, Deputy Assistant Secretary of Commerce for Product Standards, consisted of seventeen public and private sector representatives. (Dr. Forman's Office of Product Standards administers the Department of Commerce's National Voluntary Laboratory Accreditation Program.) The Copenhagen conferees agreed that there was a need to pursue the possibility of developing arrangements whereby national governments and/or private sector organizations which accredit testing laboratories can recognize each other on a reciprocal basis, and thereby facilitate international trade. A second conference on this subject is planned for the week of October 23, 1978, in Washington, D.C.

The Copenhagen conferees established a task force to consider the feasibility of preparing an international register of laboratory accreditation organizations, and to identify items which might have a commonality of usage or interest in the programs of those organizations. The chairman of

the task force, Mr. Stanley S. Linton of the Government of the United Kingdom, in his letter of December 19, 1977 to the members of his task force, proposes certain alternative approaches to accomplishing the mission of this task force. Persons interested in reviewing and commenting upon those proposals and/or suggesting alternate procedures may request a copy of this letter and its appendices by writing to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

To assist the Department of Commerce in its response to the above mentioned letter, all interested persons are invited to send written comments on the proposal for an international register of organizations responsible for accrediting testing laboratories, and on the need for and methods of identifying items of common usage within the accreditation programs of those organizations, to Dr. Forman at the above address by February 17, 1978.

Dated: January 23, 1978.

JORDAN J. BARUCH,  
Assistant Secretary for  
Science and Technology.

[FR Doc. 78-2345 Filed 1-26-78; 8:45 am]

## [3510-25]

**COTTON TEXTILE AGREEMENT WITH  
PAKISTAN, EFFECTIVE JANUARY 1, 1978  
IMPORT RESTRAINT LEVELS**

JANUARY 19, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products from Pakistan pursuant to a new multifiber agreement.

SUMMARY: The Governments of the United States and Pakistan exchanged notes, dated, respectively, January 4 and 9, 1978, establishing a new Bilateral Cotton Textile Agreement for the period beginning on January 1, 1978 and extending through June 30, 1982. Among the provisions of the agreement are those establishing specific levels of restraint for cotton textile products in Categories 313, 319, 363, 338 and 339, produced or manufactured in Pakistan and exported to the United States during the 12-month period beginning on January 1, 1978. Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry

for consumption or withdrawal from warehouse for consumption of cotton textile products in Categories 313, 319, 363, 338 and 339 be limited to the designated 12-month levels of restraint.

A description of the new textile categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: February 6, 1978.

**FOR FURTHER INFORMATION  
CONTACT:**

Donald R. Foote, International  
Trade Specialist, Office of Textiles,  
U.S. Department of Commerce,  
Washington, D.C. 20230, 202-377-  
5423.

ROBERT E. SHEPHERD,  
Chairman, Committee for the  
Implementation of Textile  
Agreements, and Deputy Assistant  
Secretary for Domestic  
Business Development.

JANUARY 19, 1978.

COMMISSIONER OF CUSTOMS  
Department of the Treasury  
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977, pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, between the Governments of the United States and Pakistan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 8, 1977, you are directed to prohibit, effective on February 6, 1978 and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories in excess of the indicated levels of restraint:

Category	12-month level of restraint <sup>1</sup>
313	56,419,000 yd <sup>1</sup> .
319	13,321,000 yd <sup>1</sup> .
363	4,700,000 numbers.
336	1,597,222 doz of which not more than 799,542 doz shall be in T.S.U.S.A. 380.0651 and 380.0652.
339	347,222 doz of which not more than 122,097 doz shall be in T.S.U.S.A. 382.0669 and 382.0671.

<sup>1</sup>The levels of restraint have not been adjusted to account for entries made prior to the effective date of this directive.

Entries of cotton textile products in the foregoing categories, produced or manufactured in Pakistan and exported to the United States prior to January 1, 1978, shall not be subject to this directive.

Cotton textile products in Categories 313, 319, 363, 338 and 339 which have been released from the custody of the U.S. Customs

Service under the provisions of 19 U.S.C. 1448(b) before February 6, 1978, shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of January 4 and 9, 1978 between the Governments of the United States and Pakistan which provide, in part that: (1) within the aggregate and group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

A description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textiles and cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,  
Chairman, Committee for the Imple-  
mentation of Textile Agreements,  
and Deputy Assistant Secretary for  
Domestic Business Development.

[FR Doc. 78-2371 Filed 1-26-78; 8:45 am]

## [6820-33]

**COMMITTEE FOR PURCHASE FROM  
THE BLIND AND OTHER SEVERELY  
HANDICAPPED**

**PROCUREMENT LIST 1978**

**Additions**

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: January 27, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION  
CONTACT:

C. W. Fletcher, 703-557-1145.

**SUPPLEMENTARY INFORMATION:**

On September 2, 1977, November 18, 1977, and December 2, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 44261), (42 FR 59543) and (42 FR 61297) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1978:

**CLASS 7330**

Pad, Bakery (IB), 7330-00-379-4439, (GSA Regions 3 and 6 only).

**CLASS 5826**

Circuit Card Assembly (SH), 5826-00-237-9949.

**CLASS 6630**

Micro Bleeder (IB), 6630-01-NIB-0002.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 78-2341 Filed 1-26-78; 8:45 am]

## [6820-33]

**PROCUREMENT LIST 1978**

**Proposed Addition**

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1978 a commodity to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: March 2, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION  
CONTACT:

C. W. Fletcher, 703-557-1145

**SUPPLEMENTARY INFORMATION:**

This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity to Procurement List 1978, November 14, 1977 (42 FR 59015):



## CLASS 1220

Case, Carrying 1220-00-765-5870, 1220-00-937-8286.

C. W. FLETCHER,  
Executive Director.

[FR Doc. 78-2342 Filed 1-26-78; 8:45 am]

[3128-01]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration

## SYNTHETIC NATURAL GAS

Request for Comment on the Allocation of Naphtha for Synthetic Natural Gas Feedstock and Propane for Btu Enrichment—Algonquin SNG Corp.

AGENCY: Economic Regulatory Administration.

ACTION: Notice of request for comment.

SUMMARY: On August 29, 1975, the Federal Energy Administration (FEA) issued a Decision and Order (Order) to Algonquin Gas Transmission Co. (Algonquin), establishing a base period use and assigning a supplier of naphtha to be used as synthetic natural gas (SNG) feedstock at its Freetown, Mass., SNG facility. As a result of an appeal, FEA's Office of Exceptions and Appeals issued a Decision and Order on June 28, 1976, which remanded the Order to the FEA Assistant Administrator for Regulatory Programs for further findings of fact and conclusions of law. This notice requests public comments to assist the Economic Regulatory Administration (ERA) in evaluating Algonquin's pending petition under the amendments to 10 CFR 211.29 adopted on September 30, 1977.

DATE: Written comments to be submitted by February 24, 1978.

ADDRESS: Comments should be submitted to: Finn K. Neilsen, Economic Regulatory Administration, Office of Fuels Allocation, Room 6318, 2000 M Street NW., Washington, D.C. 20461.

## FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE, Freedom of Information Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Finn K. Neilsen (Economic Regulatory Administration, Office of Fuels Allocation), 2000 M Street NW., Room 6318, Washington, D.C. 20461, 202-254-9730.

SUPPLEMENTAL INFORMATION: On September 4, 1974, Algonquin submitted its petition for establishment of a base period volume of naphtha for its Freetown, Mass., SNG plant. On October 22, 1974, the FEA issued an assignment as amended on October

31, 1974, establishing a base period volume of 2,184,000 barrels of naphtha per calendar year.

On November 20, 1974, the FEA issued a notice (39 FR 40984, November 22, 1974), that a public hearing respecting Algonquin's petition for an upward adjustment of base period volumes pursuant to 10 CFR 211.29 would be held to receive oral statements from interested persons. Written comments respecting Algonquin's petition had previously been solicited and 14 comments were received. The public hearing was held on December 4, 1974, at which seven persons presented statements. Following the hearing Algonquin submitted additional information at FEA's request. Algonquin's final submission was filed on August 15, 1975. On August 29, 1975, FEA issued a Decision and Order (Order) assigning Algonquin 4,425,571 barrels of naphtha per year as SNG feedstock with Exxon Co. U.S.A., designated as the base period supplier for this volume.

On December 30, 1975, Algonquin petitioned FEA for the assignment of 7,550,000 gallons of propane for Btu enrichment of the SNG stream during the first and fourth calendar quarters. The proposed supplier of this propane is Petrolane Northeast Gas Service, Inc.

On March 22, 1976, the Petrochemical Energy Group appealed the FEA Order of August 29, 1975. On June 28, 1976, the Order was remanded to the FEA Assistant Administrator for Regulatory Programs (3 FEA 180,661), for further findings of fact and conclusions of law regarding Algonquin's service to firms which have alternate fuel capability on a continuing basis and any incremental pricing program implemented by Algonquin and its customers.

On September 30, 1977, the FEA amended 10 CFR § 211.29 of the Mandatory Petroleum Allocation Regulations and established new criteria by which to evaluate petitions for SNG feedstock allocations. The amended regulations provide that with respect to pending applications for SNG plant capacity existing on July 1, 1977, actions taken by the ERA under the new criteria will result in allocations of SNG feedstock no less favorable to the applicant than those which have been provided under the regulations in effect on July 1, 1977. An allocation, if granted, would allow Algonquin to continue operation of its Freetown, Mass., SNG facility at the same level and in a manner consistent with the August 29, 1975, Decision and Order.

On October 1, 1977, pursuant to the Department of Energy Organization Act, Pub. L. 95-91, and Executive Order 12009 (42 FR 46267, September 15, 1977) the Department of Energy (DOE) was established and the Secre-

tary of Energy assumed the functions of the FEA. The Administrator of the Economic Regulatory Administration (ERA) was delegated by the Secretary of Energy in Delegation Order 0204-4, the authority to administer the regulations promulgated under § 4(a) of the Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.

Comment procedure: A file containing all information and data filed in conjunction with Algonquin's petitions, other than confidential information which ERA has determined to be exempt from the disclosure requirements of 5 U.S.C. 522, is available for public inspection and copying at the DOE Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Written comments regarding the Algonquin petition will be accepted and considered if filed by 4:30 p.m., February 24, 1978. Any person submitting written comments with respect to the Algonquin petition should submit ten (10) copies to ERA and should comply with the requirements of the ERA procedural regulations set forth at 10 CFR 205.33. Comments should be submitted to the Office of Fuel Allocation, Specialty Fuels Branch, ERA, Room 6318, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen. Comments should be identified on the outside of the envelope and on documents submitted to ERA with the designation "Allocation of SNG Feedstock and Btu Enrichment Product for Algonquin."

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., January 23, 1978.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

[FR Doc. 78-2404 Filed 1-25-78; 9:28 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. ER78-229, ER76-633, ER76-661]

CENTRAL LOUISIANA ELECTRIC CO.

Compliance Filing

JANUARY 20, 1978.

Take notice that Central Louisiana Electric Co. (Central), on December 15, 1977, tendered for filing, pursuant to Ordering Paragraph (D) of the Commission's Order Approving Settlement issued September 15, 1977, a compliance report showing monthly billing determinants and revenues under prior, present, and settlement rates, the monthly revenue refund, and the monthly interest computation, together with a summary of such information.

Central indicates that refund checks were mailed to Elizabeth, La., Boyce, La., Gulf States Utilities, Southwest Louisiana Electric Membership Corporation at Melville, La., and Cajun Electric Power Cooperative, Inc., on December 9, 1977.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20246, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2329 Filed 1-26-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-161, ER78-162 and ER78-175]

IOWA PUBLIC SERVICE CO.

Notice of Filing

JANUARY 20, 1978.

Take notice that Iowa Public Service Co. (Iowa) on December 27, 1977, tendered for filing a Wholesale Energy Agreement whereby Iowa will deliver wholesale power to the city of Lake View in addition to the services rendered under a 1968 agreement between the parties.

Iowa proposes an effective date of November 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions and protests should be filed on or before February 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2330 Filed 1-26-78; 8:45 am]

[6740-02]

[Docket Nos. ER78-161, ER78-162 and ER78-175]

IOWA PUBLIC SERVICE CO.

Notice of Filing

JANUARY 20, 1978.

Take notice that Iowa Public Service Company (Iowa) on December 27, 1977, tendered for filing a Wholesale Energy Agreement whereby Iowa will deliver wholesale power to the city of Breda in addition to the services rendered under a 1968 agreement between the parties.

Iowa proposes an effective date of November 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions and protests should be filed on or before February 6, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2331 Filed 1-26-78; 8:45 am]

[6740-02]

LANDS WITHDRAWN IN PROJECT NOS. 347 AND 418, COLORADO

Order Vacating Land Withdrawals Under Section 24 of the Federal Power Act

JANUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act) Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawals for Project Nos. 347 and 418 be vacated insofar as they affect National Forest lands, thereby requiring Commission consideration under section 24 of the Federal Power Act. This order pertains to all lands currently withdrawn for these projects. The lands affected by the withdrawals are described in the attached Land List.

The subject lands lie along or near North and Middle St. Vrain Creeks, tributaries of St. Vrain Creek which is tributary to the South Platte River, in northwestern Boulder County, Colo.

The applicants for Project Nos. 347 and 418 contemplated construction of an extensive diversion-conduit system to convey water from Middle and North St. Vrain Creeks to proposed powerhouse sites on North St. Vrain Creek. Proceedings for both of these projects ended over 40 years ago without the issuance of a license.

A 1967 Bureau of Reclamation reconnaissance report on St. Vrain Creek cites two potential reservoir sites in the vicinity of the subject lands. These are the Buck Gulch site on Rock Creek, a tributary of North St. Vrain Creek, and the Coffintop site on South St. Vrain Creek. A small portion (about one acre) of the NW¼NE¼ of sec. 24, T. 3 N., R. 71 W., might be inundated in the event a 321-foot-high-dam (one of several alternatives) is constructed at the Coffintop site. The remaining lands under consideration herein lie beyond the limits of the Buck Gulch and Coffintop reservoir sites. The 1967 report states that the water supply available to the St. Vrain basin did not appear to be adequate for developing hydroelectric power.



## NOTICES

In earlier studies, the Bureau of Reclamation considered development of the Buck Gulch reservoir site in conjunction with a comprehensive plan which included two proposed downstream powerhouses (Buck Gulch and Cook Mountain) on North St. Vrain Creek; however, the power features of the plan were found infeasible. Numerous diversion dams, canals and laterals were also proposed in the comprehensive plan. Some of the subject lands might be utilized for diversion dam, conduit, or powerhouse location if such development ever occurs. The potential powerhouse sites are withdrawn in Power Site Reserve No. 427. The withdrawal of full subdivisions for the potential diversion dam or conduit locations, which are flexible, is not considered appropriate in this case.

The Geological Survey has recommended that the land withdrawals for Project Nos. 347 and 418 be vacated in their entirety.

The Commission orders: That the land withdrawals for Project Nos. 347 and 418 are hereby vacated in their entirety.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

SIXTH PRINCIPAL MERIDIAN, COLORADO  
(ROOSEVELT NATIONAL FOREST)

1. Project No. 347.—(a) The following described lands were withdrawn pursuant to the filing on September 5, 1922, of an application for preliminary permit for Project No. 347 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated October 4, 1922:

- T. 3 N., R. 71 W.,  
Sec. 19, lot 2, S½NE¼, SE¼NW¼,  
NE¼SE¼;  
Sec. 20, NW¼SW¼, NE¼SE¼;  
Sec. 21, S½NW¼;  
Sec. 24, NW¼NE¼ (outside National Forest).  
T. 2 N., R. 72 W.,  
Sec. 4, NW¼SE¼.  
T. 3 N., R. 72 W.,  
Sec. 19, lots 1, 2, N½NE¼, SW¼NE¼,  
E¼NW¼;  
Sec. 23, S½NE¼, SE¼NW¼, E¼SW¼,  
N½SE¼;  
Sec. 24, NW¼NE¼, S½NE¼, S½NW¼,  
N½S¼;  
Sec. 34, SE¼NE¼;  
Sec. 35, W½NW¼.  
T. 3 N., R. 73 W.,  
Sec. 24, NE¼.

(Approximately 1,632 acres)

(b) The following described lands were withdrawn pursuant to the filing on October 19, 1928, of an application for license for Project No. 347 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letters dated November 13 and 30, 1928:

- T. 2 N., R. 72 W.,  
Sec. 5, lot 2, SW¼NE¼, SE¼NW¼,  
N½SW¼, SW¼SW¼;  
Sec. 7, E¼SE¼;

- Sec. 8, SW¼SW¼;  
Sec. 18, E¼NE¼.  
T. 3 N., R. 72 W.,  
Sec. 18, lots 8, 9, 10, 17;  
Sec. 21, lots 8, 9, 10, 11, 14, 15;  
Sec. 23, lot 13;  
Sec. 28, lots 1, 8, 9.  
T. 2 N., R. 73 W.,  
Sec. 13, NE¼SE¼, S½SE¼.  
T. 3 N., R. 73 W.,  
Sec. 12, S½SW¼, SE¼SE¼;  
Sec. 23, SW¼NW¼.

(Approximately 1,258 acres)

2. Project No. 418.—The following described lands were withdrawn pursuant to the filing on June 9, 1923, of an application for license for Project No. 418 for which the Commission (FPC) gave notice of land withdrawal to the General Land Office by letter dated September 21, 1923:

- T. 3 N., R. 72 W.,  
Sec. 17, lots 8, 15;  
Sec. 19, lot 12;  
Sec. 20, lots 1, 2, 3, 4;  
Sec. 21, lots 1, 2, 3, 4, 5, 6, 7;  
Sec. 22, lots 3, 4, 5, 6, 7;  
Sec. 23, lot 12.

(Approximately 808 acres)

Federal lands (acreage not determined) involved in Project No. 418 which were previously withdrawn in connection with Project No. 347 were not listed in the September 21, 1923, notice.

(FR Doc. 78-2336 Filed 1-26-78; 8:45 am)

## [6740-02]

LANDS WITHDRAWN IN PROJECT NO. 847—  
OREGONOrder Vacating Land Withdrawal Under  
Section 24 of the Federal Power Act

JANUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation Order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Forest Service, U.S. Department of Agriculture, has requested that the land withdrawal for Project No. 847 be vacated in its entirety, thereby requiring Commission consideration under Section 24 of the Federal Power Act. The lands affected by the withdrawal are described in the attached Land List.

The subject lands are withdrawn pursuant to the filing on November 23, 1927, of an application for preliminary

permit for Project No. 847 for which the Federal Power Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letter dated November 23, 1928, as construed to conform to survey by Bureau of Land Management letter dated April 18, 1952.

The lands lie in northwest Hood River County, Oregon. The applicant for Project No. 847 contemplated development of about 3,000 feet of head by the construction of low dams at Lost Lake (in the upper drainage area of Lake Branch of West Fork of Hood River) and Wahnum Lake (in the upper drainage area of East Fork of Eagle Creek) with about 20 miles of conduit to convey water from the lakes to a proposed powerhouse site near the town of Cascade Locks on the Columbia river. The application for the project was rejected on December 19, 1930. Current topographic maps show that the total drainage area of both lakes is only about 4 square miles. The development proposed in Project No. 847 is considered infeasible because of the small amount of water available.

The SW¼SW¼ of sec. 29, T. 2 N., R. 8 E., lies near a potential pumped storage site at Benson Plateau, in a roadless area of the Mount Hood National Forest. The Benson Plateau site is one of 530 potential pumped storage sites listed in a January 1976 Corps of Engineers report entitled "Pumped-Storage in the Pacific Northwest, an Inventory." A small portion of said SW¼SW¼ might be needed for the pumped storage project in the event of development; however, retention of this subdivision in the project withdrawal for possible protection of a minute part of the pumped storage site is considered inappropriate.

Under the circumstances, the land withdrawal for Project No. 847 no longer serves a useful purpose.

The Commission orders: That the withdrawal for Project No. 847 is hereby vacated in its entirety.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

WILLAMETTE MERIDIAN, OREG. (MOUNT HOOD  
NATIONAL FOREST)

- T. 1 S., R. 8 E.,  
Sec. 5, lots 4, 5, 6, 9, 10, 11, 12, 13;  
Sec. 8, NE¼NE¼;  
Sec. 8, NW¼NE¼, S½NE¼, NE¼NW¼,  
NE¼SE¼;  
Sec. 9, lot 3, N½SW¼, NW¼SE¼;  
Sec. 10, lots 1, 2;  
Sec. 15, lots 1, 2, 3, 4, 5;  
Sec. 16, lot 2.  
T. 2 N., R. 7 E.,  
Sec. 13, SW¼;  
Sec. 24, NW¼NE¼, S½NE¼, NE¼NW¼,  
NE¼SE¼.  
T. 1 N., R. 8 E.,  
Sec. 4, SW¼NW¼, NW¼SW¼, S½SW¼;  
Sec. 5, N½N¼, SE¼NE¼, NE¼SE¼;

- Sec. 9, W½NE¼, N½NW¼, SE¼NW¼,  
NE¼SW¼, N½SE¼, SE¼SE¼;  
Sec. 10, S½S¼, NE¼SE¼;  
Sec. 11, SW¼NE¼, S½NW¼, SW¼,  
W½SE¼;  
Sec. 15, NW¼NE¼, NW¼;  
Sec. 16, NE¼NE¼, S½N¼, W½SW¼;  
Sec. 20, E¼E¼;  
Sec. 21, NW¼NW¼;  
Sec. 29, NE¼, SE¼NW¼, NE¼SW¼,  
S½SW¼;  
Sec. 31, SE¼NE¼, NE¼SE¼, S½SE¼;  
Sec. 32, N½NW¼, SW¼NW¼,  
NW¼SW¼.  
T. 2 N., R. 8 E.,  
Sec. 19, lots 3, 4, SE¼SW¼;  
Sec. 29, SW¼SW¼;  
Sec. 30, lot 1, SW¼NE¼, E¼NW¼,  
NE¼SW¼, SE¼;  
Sec. 32, NW¼NW¼, S½NW¼,  
NE¼SW¼, S½S¼.

(Approximately 4,767 acres)

(FR Doc. 78-2337 Filed 1-26-78; 8:45 am)

## [6740-02]

(Docket No. DA-601-Idaho Bureau of Land  
Management)

LANDS WITHDRAWN IN POWER SITE RESERVE  
NO. 498 AND PROJECT NO. 406Finding and Order Vacating Land Withdrawal  
Under Section 24 of the Federal Power Act

JANUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. On December 23, 1977, the Secretary issued an order amending DOE delegation order No. 0204-1 further delegating to the FERC the authority to take action in this proceeding.

The Bureau of Land Management has requested revocation of Power Site Reserve No. 498, and the withdrawal for Project No. 406, insofar as they pertain to the following described lands, thereby requiring Commission consideration under section 24 of the Federal Power Act:

BOISE MERIDIAN, IDAHO

- T. 11 S., R. 21 E.,  
Sec. 21, E¼SE¼;  
Sec. 27, SW¼;  
Sec. 34, NW¼NE¼, S½NE¼, NW¼SE¼,  
E¼SE¼.

The lands lie about 12 miles southwest of the town of Burley in Cassia County Idaho.

Those portions (approximately 12 acres) of the lands lying within 25 feet of the center line of the Shoshone

## NOTICES

Falls-Oakley transmission line as shown on Exhibit K Sheet 2 of 15 (FPC No. 282-9) are withdrawn pursuant to the filing on April 16, 1923, of an application for license for Project No. 406. Project No. 406 was consolidated with Project No. 282, and the Shoshone Falls-Oakley line was included in the license for Project No. 282; however, the line was subsequently relocated and no longer occupies the subject lands.

Power Site Reserve No. 498, dated July 19, 1915, withdrew approximately 25 acres within said subdivisions for a proposed transmission line. The application for this transmission line was rejected by the Department of the Interior on November 29, 1916.

The withdrawal for Project No. 406 and Power Site Reserve No. 498 no longer serve a useful purpose insofar as they pertain to the subject lands.

The Commission finds: That there is no objection to the revocation of Power Site Reserve No. 498 insofar as it pertains to the subject lands.

The Commission orders: That the withdrawal for Project No. 406 is hereby vacated insofar as it pertains to the subject lands.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2338 Filed 1-26-78; 8:45 am)

## [6740-02]

(Docket Nos. RP78-3; RP78-4; RP78-9)

## SOUTHERN NATURAL GAS CO., ET AL.

Order Denying Rehearing and Granting  
Clarification

JANUARY 20, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these

proceedings were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By our November 23, 1977 order in the subject dockets, we consolidated the proceedings in those dockets and denied the petitions of Southern Natural Gas Co. (Southern), East Tennessee Natural Gas Co. (East Tennessee), and Tennessee Gas Pipeline Co. (Tennessee), which petitions requested advance authorization to recoup the costs associated with an emergency gas purchase proposed to be made from Oklahoma Natural Gas Co. On December 21, and December 23, 1977 respectively, East Tennessee and Southern filed applications for rehearing of our November 23 order. Southern's application also contained a request for clarification of that order.

After careful review of the petitions for rehearing, we find that they fail to state grounds sufficient to warrant modification of our November 23 order. The arguments advanced in support of rehearing are simply reassertions of concerns considered by the Commission in our earlier determination to deny the requests for advance approval of the proposed emergency purchases. Accordingly, we will deny the petitions.

Southern's request for clarification asserts that uncertainty remains with respect to the question whether § 2.68 may be used to accomplish steps taken in anticipation and avoidance of an emergency prior to the outset of the emergency. Our response is that section 2.68 may be used to accomplish steps taken in anticipation and avoidance of an emergency. Although this conclusion is not specified in the text of § 2.68 itself, it is implied by the language used in Order No. 402 in promulgating section 2.68. Therein the

By telegram received January 18, 1978, East Tennessee submitted data on actual curtailments imposed and weather conditions experienced during the first portion of this winter; East Tennessee regards such data as pertinent to our action on its petition for rehearing. On January 18 and 19, 1978, related telegrams were received from the Tennessee Energy Authority, Chattanooga Gas Co., and a group of East Tennessee customers styled the East Tennessee Group. These latter telegrams express support for East Tennessee's petition for rehearing, and observe that the substantial effect which our determination thereon will have renders an expeditious disposition important.



Federal Power Commission adopted a policy to facilitate responses to requests made of non-jurisdictional distribution and pipeline companies for temporary assistance by jurisdictional concerns which are confronted with emergency gas supply situations. Specifically, it was declared that the exempt status of non-jurisdictional concerns would not be jeopardized by their short-term sale or transportation of gas in interstate commerce. We have previously interpreted this policy as authorizing the conduct of emergency transactions for the purpose of augmenting storage capacity in order to meet the requirements of a jurisdictional concern in a forthcoming heating season. (See Order Denying Petition For Emergency Relief And Granting Interventions, issued November 29, 1977 in Docket No. RP77-136-1.) The enlargement of storage capability being an anticipatory undertaking, it is clearly our view that preventive as well as curative steps may be taken in accordance with the policy of § 2.68.

The Commission finds: Southern and East Tennessee fail to state grounds sufficient to warrant the granting of their petitions for rehearing.

The Commission orders: (A) The petitions for rehearing filed by Southern and East Tennessee are denied.

(B) Southern's request for clarification is granted to the extent discussed herein.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2332 Filed 1-28-78; 8:45 am)

#### [6740-02]

[Docket Nos. G-14562; G-13680; G-13827; G-13948; G-19855; G-19580; G-19851; G-19900]

TENNESSEE GAS TRANSMISSION CO., ET AL.

#### Informal Conference

JANUARY 20, 1978.

Continental Oil Co., Mobil Oil Corp. (successor to Magnolia Petroleum Co.), Newmont Oil Co., Continental Oil Co., Atlantic Richfield Co. (successor to Atlantic Refining Co.), Cities Service Oil Co., and Getty Oil Co. (successor to Tidewater Oil Co.).

Take notice that an informal conference to discuss possible settlement will be held in the above-captioned proceeding on January 27, 1978, commencing at 10 a.m. in Room 8402 at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

This proceeding involves the disposition of escrowed refund amounts gen-

erated by certain gas sales from the above-captioned producers to Tennessee Gas Transmission Co. from the early 60's to 1970. The escrowed funds, which amounted to \$1.84 million in mid-1976, were generated to cover a contingent severance tax liability to the State of Louisiana based on whether the gas involved, produced from within the Disputed Zone, was from Federal or State lands. Such lands were subsequently determined to be Federal. This proceeding was initiated by the above-captioned producers by a petition filed herein September 30, 1976, noticed by the Federal Power Commission on March 4, 1977. Pursuant to such notice, The Public Service Electric and Gas Co. (of New Jersey) filed a petition to intervene.

Any interested persons may attend the conference. However, this will not constitute permission to intervene as a party.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2333 Filed 1-26-78; 8:45 am)

#### [6740-02]

[Docket No. OR78-1 (Formerly ICC, Docket No. 1&S 9164, et al.)]

#### TRANS ALASKA PIPELINE SYSTEM: INVESTIGATION AND SUSPENSION

#### Order on Petition To Hold Concurrent Proceedings

JANUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred

The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

to the FERC by section 402(a) (1) or 402(a) (2) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled, "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On November 16, 1977, the State of Alaska (Alaska) filed a petition in Docket No. OR78-1 requesting the Federal Energy Regulatory Commission (FERC) to authorize that evidentiary hearings scheduled in the captioned proceeding be held concurrently with a related proceeding now before the Alaska Pipeline Commission (APC).

Public notice of the filing of the petition by Alaska was issued on December 6, 1977, with comments due to be filed with the FERC on or before December 19, 1977. Based on a review of the petition and comments filed in response to the petition the FERC will grant Alaska's petition and order that evidentiary hearings in this proceeding be held concurrently with the APC's proceeding.

In the November 16, 1977 petition, Alaska states that it is a protestant in the FERC proceeding in Docket No. OR78-1 and an intervenor in the proceeding scheduled before the APC, *In the Matter of Setting An Initial Tariff for the Intrastate Transportation of Petroleum Over the Trans Alaska Pipeline System By Exxon, Sohio, ARCO and Union Alaska Pipeline Companies*, APC Docket Nos. P-77-8, P-77-9, P-77-10 and P-77-11. Both proceedings concern a number of common issues, according to Alaska, in which the state has a vital interest. Alaska includes the following among those issues common to both the FERC and the APC proceedings:

- (a) The propriety of using a valuation rate base, original cost less depreciation rate base, or some other type of rate base;
- (b) The original cost of the Trans Alaska Pipeline System (TAPS) which should be allowed as prudently-invested, including the amount of interest during construction that should be capitalized;
- (c) The proper rate of return to be applied to the rate base;
- (d) The proper amount of operating expenses;
- (e) The treatment of income taxes;
- (f) The service life of TAPS; and
- (g) The legality of tariff rules and regulations.

Alaska states that both commissions are investigating the just and reasonable rates allowable for the shipment of crude oil via the Trans Alaska Pipeline System (TAPS). The only significant difference between the FERC and the APC investigations, it states, is that the FERC proceeding will establish a just and reasonable rate for the interstate shipment of crude oil over the entire 800 mile distance of the system, while the APC investigation will establish a rate for the intrastate shipment of crude over the 469 miles between Prudhoe Bay to North Pole, Alaska, or for the entire 800 miles from Prudhoe Bay to Valdez.

Alaska supports concurrent hearings between FERC and APC as being in the public interest in that they would provide a more efficient and expeditious disposition of the proceedings. Concurrent hearings would reduce the litigation burdens on the parties, as well as encourage expediency, according to Alaska. Alaska adds that the APC proceeding is divided into two phases: The first phase, beginning January 4, 1978, concerns "narrow issues relevant solely to intrastate tariffs"; the second phase will occur only if the APC is unable to hear the case jointly with the FERC.

Alaska emphasizes that it is not seeking consolidation of the proceedings. Rather, Alaska only requests concurrent taking of evidence. Alaska suggests that the Commission's existing regulation (18 CFR 1.37(e)(4)) provides a convenient and workable procedure to govern separate hearings held concurrently by each commission on the common issues in both proceedings. Each commission would designate a presiding officer, and those officers would jointly preside over the proceedings. Each officer would be fully empowered to make rulings governing the record in his or her commission's proceeding. Alaska believes that a very high percentage of the record developed in such concurrent proceedings would be common to both agencies. Divergent rulings during the hearings, however, would be carefully identified and defined, and each agency would have a separate record upon which to base its final decision. Moreover, since each agency has independent statutory responsibilities, Alaska proposes that the hearing officers not discuss, either on or off the record, the resolution of substantive issues, and that each agency independently resolve the issues before it on its own record. Alaska notes that such procedure would depart from § 1.37(e)(5) which contemplates consultation between the agencies prior to the issuance of orders in concurrent proceedings.

Alaska states that it has been advised that the APC is willing to accept the Presiding Administrative Law Judge's procedural schedule established by ruling issued October 13, 1977, in Docket No. OR78-1 and that the APC is agreeable to holding a concurrent hearing at the FERC headquarters.

Alaska further states that a petition for concurrent hearings is also being filed with the APC.

On December 2, 1977, the energy Co. of Alaska (ECA) filed a reply to Alaska's petition and moved for a one week postponement of the commencement of the FERC hearings. ECA states that it is a protestant in the captioned proceeding before this Commission and an intervenor in the APC proceeding. EPA states that it joins in Alaska's petition to hold concurrent hearings before the FERC and the APC, except with respect to those issues which only relate to the determination of intrastate rates.

On December 15, 1977, Chief Administrative Law Judge Zwerdling, in the absence of Presiding Judge Kane, granted a Staff request for a two weeks' extension of the dates for filing prehearing briefs by the parties. Also, due to scheduling conflicts of certain parties, the January 10, 1978, hearing date was postponed for approximately two weeks to be fixed by Presiding Judge Kane, in consultation with the parties, after his return.

On December 19, 1977, Exxon Pipeline Co. (Exxon) filed a reply to Alaska's petition for concurrent hearings. Exxon, a respondent in the captioned proceeding, states that it agrees that concurrent evidentiary hearings should lead to a more efficient and expeditious disposition of these proceedings. In addition, Exxon agrees that the FERC is empowered to hold simultaneous hearings with the APC and does not object to the procedure outlined in Alaska's petition with regard to the respective roles of the presiding officers of both agencies during concurrent hearings. Exxon states that it disagrees, however, to the extent that Alaska implies that the FERC is limited to determining a just and reasonable rate for the interstate shipment of crude oil the entire 800 mile distance from Prudhoe Bay to Valdez, Alaska, and not for rates charged for intermediate shipments through the Trans Alaska Pipeline, as well.

In a letter dated December 19, 1977, ARCO Pipe Line Co., also a respondent in the captioned proceeding, filed comments on Alaska's petition. ARCO states it does not object to the proposed concurrent hearings, subject to approval of a stipulation concerning the scope of the hearings which has been negotiated and will be submitted by the parties. ARCO further states that if concurrent proceedings are held, a presiding officer of one commission should not communicate with

Exxon notes the tariffs filed by certain of the TAPS carriers include intermediate and in-transit rules identical with those set forth in their intrastate tariffs. Those rules are under investigation in this proceeding via former ICC Docket No. 36611, et al., consolidated with this proceeding.

a presiding officer of the other commission, except on the record, in order to preserve the independence and impartiality of each presiding official. ARCO adds that it is authorized to state that Union Alaska Pipeline Co. concurs in these comments.

Finally, Sohio Pipe Line Co. filed comments in reply to Alaska's petition on December 19, 1977. It also states it has no objection to concurrent hearings being scheduled, assuming the proposed stipulation of the parties is finalized and executed.

After reviewing Alaska's petition for concurrent hearings and the parties' comments in support, the Commission shall grant the request. We find the procedure for conducting concurrent evidentiary hearings as it was outlined in Alaska's petition would be suitable to be applied in the captioned proceeding scheduled before the FERC. In particular, each commission would designate a presiding officer or officers, and those officers would jointly preside over the hearings. Each officer would fully control assembling the record and ruling on the admissibility of evidence for the record of that officer's commission. Participation in concurrent evidentiary proceedings will in no way preclude either commission from causing to be presented pertinent evidence with respect to matters in issue in the case before it.

On December 27, 1977 the parties to the captioned proceeding submitted the stipulation referred to above concerning the scope of the concurrent proceedings. The stipulation provides in part that the signatories, who are parties in the FERC proceeding, will not oppose Alaska's petition for concurrent hearings provided Alaska files with each Commission a request that any authorized concurrent proceedings be held in accordance with the August 16, 1977 pre-hearing ruling of Administrative Law Judge Glennon which separated the proceeding for hearing and adjudication into two phases. The stipulation is referred to Administrative Law Judge Kane for consideration and ruling, subject to appeal to the Commission pursuant to the Commission's Rules.

The presiding officer designated by the FERC shall be the official to make all rulings with respect to scheduling witnesses and hearing dates and to announce all other rulings where there is no disagreement on the ruling between the presiding officers of the respective commissions. However, this procedure is without prejudice to the right of a presiding officer of the APC to announce a divergent ruling, whether respecting the admissibility of evidence or any other matter. In the event of divergent rulings, each commission's separate record will be clearly identified and defined, and the rulings of the presiding officers of each



commission will be considered the ruling for his or her commission. If in any proceeding, the ruling of one presiding officer has the effect of admitting any voluminous exhibit or testimony which is excluded by the ruling of another presiding officer, the taking of such evidence will, whenever possible, be deferred until after the completion of all proceedings which can be conducted under concurrent rulings. When such testimony is taken, the transcript of such evidence will be made available to the other commission, if requested.

In conducting such concurrent hearings, it is hoped that the presiding officers designated by each commission would cooperate in order to minimize divergent rulings and to expedite completion of the hearing records. However, we agree with the comments of several of the parties that a presiding officer of one commission should refrain from communicating with a presiding officer of the other commission on matters of substance outside of the record in the proceedings. The separate decisions of the respective presiding officers of each commission will, of course, be reached independently on the separate record of that commission and without consultation on substantive matters with an official of the other commission.

The Commission finds: It is in the public interest to grant the request of the State of Alaska that evidentiary hearings scheduled in the captioned proceeding with respect to Phase I issues be held concurrently with hearings by the APC in the related proceeding before it.

The Commission orders: (A) The petition filed November 16, 1977, by the State of Alaska is hereby granted, subject to the provisions discussed, supra. Accordingly, evidentiary hearings scheduled with respect to Phase I issues in the captioned proceeding shall be held concurrently with hearings before the APC in the related proceeding at a time designated by Judge Kane.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2339 Filed 1-26-78; 8:45 am]

#### [6740-02]

[Docket No. ER77-483]

#### VIRGINIA ELECTRIC AND POWER CO.

##### Compliance Filing

JANUARY 20, 1978.

Take notice that Virginia Electric and Power Co. (VEPCO) on January 4, 1978, tendered for filing, pursuant to

the Commission order of July 25, 1977, VEPCO's Electric Tariff, First Revised Volume No. 1 and Agreements for the Purchase of Electricity under this Revised Tariff for each resale municipal customer, except the town of Windsor, the city of Greenville and the town of Wakefield. VEPCO indicates that the Agreements for these three customers will be forwarded to the Commission as soon as they are received by VEPCO. VEPCO also tendered for filing rate schedules which VEPCO states reflect the terms to the approved settlement agreements effective November 28, 1977.

VEPCO states that it is VEPCO's understanding that the filing of the Tariff and the rate schedules completes the Commission's requirements in Docket No. ER77-483.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2334 Filed 1-26-78; 8:45 am]

#### [6740-02]

[Docket Nos. E-9420; E-9421]

#### YANKEE ATOMIC ELECTRIC CO. AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

##### Compliance Filing

JANUARY 20, 1978.

Take notice that on September 19, 1977, Yankee Atomic Electric Co. and Public Service Co. of New Hampshire ("Applicants") tendered for filing contract revisions providing for a 9.72 percent overall rate of return in determining cost of service charges by Applicants pertaining to Yankee Atomic Electric Co.'s nuclear generating station. Applicants state that the contract revisions, together with a revised cost of service study and depreciation study, are submitted in compliance with ordering paragraph C of the Commission's order of July 20, 1977 in the captioned proceeding. Applicants propose to place in effect the methods prescribed by the Commission upon acceptance of their compliance filing and thereafter submit a report of refunds based on those methods as effective from June 2, 1975.

Applicants state that copies of their filing have been mailed to counsel for all parties and the affected customers.

Any person desiring to be heard or protest said filing should file protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before February 10, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2335 Filed 1-26-78; 8:45 am]

#### [3128-01]

##### CONDUCT OF EMPLOYEES

#### List of Positions Exempt From Disclosure Requirements of Section 603 of Public Law 95-91

The following is a list of specific positions and classes thereof, within the Department of Energy other than the Federal Energy Regulatory Administration, which are of a nonregulatory and nonpolicy-making nature at or below GS-12 of the General Schedule or the equivalent thereto. The individuals occupying these listed positions have been exempted from the disclosure requirements of subsection 603(a) of the Department of Energy Organization Act (Pub. L. 95-91). This list has been compiled pursuant to subsection 603(c) of Pub. L. 95-91.

Any individual occupying a position not listed below may request reconsideration of the determination by writing to:

Ralph D. Goldenberg, Office of the General Counsel, Department of Energy, Washington, D.C. 20545.

#### LIST OF DOE POSITIONS EXEMPT FROM SUBSECTION 603(a) OF THE DOE ORGANIZATION ACT (PUB. L. 95-91)

##### DIVISION OF REACTOR DEVELOPMENT AND DEMONSTRATION (HEADQUARTERS)

Position title	Series	Grade
Administrative Assistant .....	301	GS 12 and below.
Acquisition Management Clerk .....	301	Do.
Administrative Aide .....	301	Do.
Mailroom Supervisor .....	305	Do.
Action Control Clerk .....	305	Do.
Mail and File Clerk .....	305	Do.
W.P. Operator .....	316	Do.

Position title	Series	Grade
Secretary .....	318	Do.
Executive Secretary .....	318	Do.
Secretary Typist .....	322	Do.
Administrative Assistant .....	341	Do.
Records Management Analyst .....	343	Do.
Sr. W.P. Operator .....	350	Do.
W.P. Operator .....	350	Do.
Budget and Statistical Analyst .....	560	Do.
Budget Assistant .....	560	Do.
Reactor Engineer .....	840	GS 9 and below.
Program Communications Specialist .....	1082	GS 12 and below.
Management Assistant .....	1601	Do.

##### DIVISION OF WASTE MANAGEMENT (HEADQUARTERS)

Position title	Series	Grade
Administrative Assistant .....	301	GS 12 and below.
Mail and Records Supervisor .....	305	Do.
File Clerk .....	305	Do.
Mail and File Clerk .....	305	Do.
Secretary .....	318	Do.
Administrative Assistant .....	341	Do.
Budget Assistant .....	501	Do.
Budget Analyst .....	560	Do.
Communications Analyst .....	1084	Do.

##### OFFICE OF THE GENERAL COUNSEL (HEADQUARTERS)

Position title	Series	Grade
Litigation Aide (Secretary) .....	301	GS 12 and below.
Administrative Assistant .....	301	Do.
Administrative Aide .....	301	Do.
Legislative Assistant .....	301	Do.
Patent Clerk .....	301	Do.
Mail Clerk (Typist) .....	301	Do.
Docket Clerk (Secretary) .....	301	Do.
Clerk (Patents) .....	301	Do.
Clerical Assistant .....	301	Do.
Administration Services Technician .....	301	Do.
Administrative Technician .....	301	Do.
Clerical Assistant (Typing) .....	301	Do.
Clerk (Typing) .....	301	Do.
Contract Analyst .....	301	Do.
Chief Mail and Records Section (Germantown) .....	305	Do.
Mail and Records Assistant .....	305	Do.
Clerk (Patents) .....	310	Do.
Clerk-Stenographer .....	312	Do.
Secretary .....	318	Do.
Foreign Patent Clerk .....	318	Do.
Secretary .....	322	Do.
Administrative Officer .....	341	Do.
Budget and Fiscal Assistant .....	501	Do.
Paralegal Specialist .....	950	Do.
Librarian (Law) .....	1410	Do.

##### RESOURCE APPLICATIONS (ALL HEADQUARTERS OFFICES EXCEPT NAVAL PETROLEUM RESERVES)

Position title	Series	Grade
Economist (SPRO and URE only) .....	110	GS 12 and below.
Administrative Services Specialist .....	301	Do.
Administrative Services Assistant .....	301	Do.
Environment Specialist .....	301	Do.
Paralegal Specialist .....	301	Do.
Program Assistant .....	301	Do.
Clerk (Typing) .....	301	Do.
Clerk (Teletyping) .....	301	Do.
Correspondence Management Specialist .....	301	Do.

Position title	Series	Grade
Staff Assistant .....	301	Do.
Administrative Assistant .....	301	Do.
Administrative Aide .....	301	Do.
Fuels and Facilities Program Specialist .....	301	Do.
Clerical Assistant (Stenographer) .....	301	Do.
Research Analyst .....	301	Do.
Facility Siting Program Specialist .....	301	Do.
Materials Analyst .....	301	Do.
Program Specialist .....	301	Do.
Legislative Assistant .....	301	Do.
Mail and File Clerk .....	301	Do.
Coal Resources Program Specialist .....	301	Do.

Position title	Series	Grade
Clerk (Stenographer) .....	301	Do.
Clerical Assistant (Typing) .....	301	Do.
Resource Program Specialist .....	301	Do.
Research Assistant .....	301	Do.
Chief, Mail and Records Section .....	305	Do.
Mail Analyst .....	305	Do.
Records Assistant .....	305	Do.
Clerk-Stenographer .....	312	Do.
Secretary (Stenographer) .....	312	Do.
Secretary .....	318	Do.
Secretary-Typist .....	322	Do.
Clerk-Typist .....	322	Do.
Assistant Administrative Officer .....	341	Do.
Office Services Supervisor .....	342	Do.
Program Analyst .....	345	Do.
Communications Aide .....	394	Do.
Budget Analyst .....	580	Do.
Production Engineer .....	801	GS 9 and below.
General Engineer .....	801	Do.
Engineering Draftsman .....	818	GS 12 and below.
Mechanical Engineer .....	830	GS 9 and below.

Position title	Series	Grade
Nuclear Engineer .....	840	Do.
Chemical Engineer .....	893	Do.
Production Systems Analyst .....	893	Do.
Industrial Engineer .....	896	Do.
Writer-Editor .....	1082	GS 12 and below.
Public Utilities Assistant .....	1130	GS 9 and below.
Chemist .....	1320	Do.
Hydrologist .....	1320	Do.
Geologist .....	1350	Do.
Technical Information Specialist .....	1412	GS 12 and below.
Operations Research Analyst .....	1515	GS 11 and below.
Travel Coordinator .....	2132	GS 12 and below.
Student Aide .....	YU-3606	Hourly.

##### DIVISION OF SAFEGUARDS AND SECURITY (HEADQUARTERS)

Position title	Series	Grade
Senior Receptionist .....	034	GS 12 and below.
International Safeguards Specialist .....	080	Do.
Internal Security Specialist .....	080	Do.
Screening Analyst .....	080	Do.
Screening .....	080	Do.
Security Officer .....	080	Do.
Physical Security Specialist .....	080	Do.
Security Assistant .....	080	Do.
Assessments Reports Specialist .....	080	Do.
Administrative Assistant .....	301	Do.
Clerk, CPCI .....	301	Do.
Chief, CPCI .....	301	Do.
Internal Security Assistant .....	301	Do.
Clerk-Typist .....	301	Do.
Screening .....	301	Do.
H.Q. File Supervisor .....	301	Do.
T.S. Control Clerk .....	301	Do.
File Clerk .....	301	Do.
Pre-Screening and Reviewing Clerk .....	301	Do.
Mail/Records Supervisor .....	305	Do.

Position title	Series	Grade
Mail/Records Assistant .....	305	Do.
File Clerk .....	305	Do.
Clerk, CPCI .....	305	Do.
Secretary .....	312	Do.
Secretary .....	318	Do.
Safeguards Preference and Research Assistant .....	318	Do.
Budget Assistant .....	501	Do.
Nuclear Materials Statistician .....	525	Do.
Visual Aid Specialist .....	1001	Do.

##### DIVISION OF MILITARY APPLICATION (HEADQUARTERS)

Position title	Series	Grade
Technical Reviewer .....	080	GS 12 and below.
Budgetary and Reports Analyst .....	301	Do.
Management Analyst .....	301	Do.
Project Control Analyst .....	301	Do.
Administrative Assistant .....	301	Do.
Emergency Operations Coordinator .....	301	Do.
Chief, Records Section .....	305	Do.
Assistant Chief, Records Section .....	305	Do.
Records Assistant .....	305	Do.
Mail and Reports Clerk .....	305	Do.
Code and Reference Clerk .....	305	Do.
Secretary .....	318	Do.
Budget and Accounting Analyst .....	560	Do.
Weapon Data Clearance Specialist .....	1412	Do.
Staff Assistant to the Director .....	(1) E-9 and below.	

\*Military.

##### DIVISION OF INTERNATIONAL SECURITY AFFAIRS (HEADQUARTERS)

Position title	Series	Grade
Special Security Officer .....	080	GS 12 and below.
Staff Assistant .....	131	Do.
Do .....	132	Do.
Information Analyst .....	301	Do.
Intelligence Reference Aide .....	301	Do.
Program Assistant .....	301	Do.
Information Systems Specialist .....	301	Do.
Mail and Records Clerk .....	305	Do.
Clerk-Stenographer .....	312	Do.
Secretary .....	318	Do.
Secretary-Typist .....	322	Do.
Chief, Administrative Branch .....	341	Do.

##### OFFICE OF LASER FUSION (HEADQUARTERS)

Position title	Series	Grade
Administrative Assistant .....	301	GS 12 and below.
Secretary .....	318	Do.
Administrative Officer .....	341	Do.
Budget Program Analyst .....	345	Do.

##### DIVISION OF CLASSIFICATION (HEADQUARTERS)

Position title	Series	Grade
Administrative Assistant .....	301	GS 12 and below.
Data Base Maintenance and Retrieval Assistant .....	301	Do.
Supervisor, Mail and Files .....	305	Do.
Mail and File Clerk .....	305	Do.



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Position title	Series	Grade
Secretary	318	Do.
Secretary-Typist	322	Do.
Clerk-Stenographer	322	Do.
Clerk-Typist	322	Do.
Classification Analyst	1301	Do.
Do	1310	Do.

OFFICE OF THE ASSISTANT SECRETARY FOR  
DEFENSE PROGRAMS (HEADQUARTERS)

Position title	Series	Grade
Mail and Records Analyst	305	GS 12 and below.
Mail and Records Clerk	305	Do.
Secretary	318	Do.
Secretary-Typist	318	Do.
Clerk-Typist	322	Do.
Administrative Officer	341	Do.
Management Specialist	341	Do.
Management Specialist	343	Do.

OFFICE OF THE CONTROLLER (HEADQUARTERS)

Position title	Series	Grade
Administrative Aide	301	GS 12 and below.
Program Control Center Coordinator	301	Do.
Financial Analyst	301	Do.
Management Information Technician	301	Do.
Unit Chief (Payroll)	301	Do.
Clerk	301	Do.
Clerk-Typist	301	Do.
Accounting Clerk	301	Do.
Systems Analyst Technician	301	Do.
Staff Assistant	301	Do.
Administrative Assistant	301	Do.
Reports Assistant	301	Do.
Mail Analyst	305	Do.
Secretary	312	Do.
Clerk Stenographer	312	Do.
Secretary	318	Do.
Clerk Typist	322	Do.
Systems Analyst	324	Do.
Administrative Assistant	341	Do.
Management Analyst	343	Do.
Program Analyst	345	Do.
Accounting Technician	501	Do.
Accounting Analyst	501	Do.
Accounting Reports Analyst	501	Do.
Accounting Clerk	501	Do.
Senior Accounting Clerk	501	Do.
Unit Chief (Payroll)	501	Do.
Payroll Clerk	501	Do.
Section Chief (Travel)	501	Do.
Cashier	501	Do.
Section Chief (Commercial Payments)	501	Do.
Unit Chief (Commercial Payments)	501	Do.
Payments Clerk	501	Do.
Staff Accountant	501	Do.
Budget Analyst	501	Do.
Budget Analyst Technician	501	Do.
Budget Technician	501	Do.
Budget and Accounting Analyst	504	Do.
Staff Accountant	510	GS 9 and below.
Accountant	510	Do.
Accounting Clerk	520	GS 12 and below.
Accounting Technician	520	Do.
Accounting Technician	525	Do.
Voucher Examiner	540	Do.
Unit Chief (Travel)	540	Do.
Senior Accounting Clerk	540	Do.
Unit Chief (Commercial Payments)	540	Do.
Voucher Processor	540	Do.
Payroll Technician	544	Do.
Section Chief (Payroll)	544	Do.
Payroll Clerk	544	Do.
Accounting Clerk	544	Do.
Payroll Supervisor	544	Do.

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Position title	Series	Grade
Budget Examiner	560	GS 9 and below.
Budget Analyst	560	Do.
Assistant Project Engineer	801	Do.
Assistant Cost Engineer	801	Do.
Engineering Assistant	802	GS 12 and below.
Financial Systems Analyst	1160	Do.

OFFICE OF THE ASSISTANT SECRETARY FOR  
ENVIRONMENT (HEADQUARTERS)

Position title	Series	Grade
Information Systems Analyst	301	GS 12 and below.
Records Management Analyst	301	Do.
Research Contract Analyst	301	Do.
Staff Assistant	301	Do.
Management Assistant (Economics)	301	Do.
Reports Analyst	301	Do.
Information Systems Coordinator	301	Do.
Travel Coordinator	301	Do.
Travel and Administrative Clerk	301	Do.
Environmental Assistant (Secretary)	301	Do.
Planning Aide	301	Do.
Clerical Assistant (Typing)	301	Do.
Clerk (DMT)	301	Do.
Mail and Records Specialist	305	Do.
Mail and File Clerk	305	Do.
Mail Clerk (Typing)	305	Do.
Clerk-Stenographer	312	Do.
Secretary	318	Do.
Administrative Secretary	318	Do.
Secretary Typist	322	Do.
Management Assistant	340	Do.
Administrative Officer	341	Do.
Policy Analyst Social Science	343	Do.
Budget Analyst	560	Do.
Staff Assistant	601	Do.
Fire Protection Engineer	803	GS 9 and below.
Systems Analyst	1520	GS 12 and below.

DIVISION OF MAGNETIC FUSION ENERGY—  
HEADQUARTERS

Position title	Series	Grade
Office Service Assistant	301	GS 12 or below.
Program Assistant	301	GS 11 or below.
Clerk-Stenographer	312	GS 12 or below.
Secretary	318	Do.
Administrative Officer	341	Do.
Budget Analyst	504	Do.

REGION I—BOSTON, MASS.

Position title	Series	Grade
Personnel Management Specialist	301	GS 12 and below.
Personnel Assistant	203	Do.
Word Processing Supervisor	203	Do.
General Clerk	301	Do.
Records Control Clerk	301	Do.
Federal Regional Council Liaison Officer	301	Do.
Intergovernmental Relations Officer	301	Do.
Consumer Affairs Officer	301	Do.
Energy Research Analyst	301	Do.
Energy Conservation Specialist	301	Do.
Utilities and Power Plant Specialist	301	Do.

Position title	Series	Grade
Secretary	312	Do.
Secretary	318	Do.
Clerk-Typist	322	Do.
Regional Administrator	324	Do.
Computer Aid	326	Do.
Energy Research Program Analyst	345	Do.
Budget and Accounting Technician	501	Do.
Public Information Officer	1081	Do.

REGION II.—NEW YORK

Position title	Series	Grade
Personnel Management Specialist	201	GS 12 or below.
Personnel Clerk—Typing	203	Do.
Energy Conservation Clerk	301	Do.
Clerk	301	Do.
Steno and Typing Supervisor	313	Do.
Secretary—Steno	318	Do.
Secretary—Typing	318	Do.
Secretary	318	Do.
Clerk-Typist	322	Do.
Office Services Manager	342	Do.
Accounts Maintenance Clerk	520	Do.
Accounts Technician	525	Do.
Supply Clerk	2005	Do.

REGION III.—PHILADELPHIA

Position title	Series	Grade
Personnel Management Specialist	201	GS 12 and below.
Personnel Clerk	203	Do.
Consumer Affairs/Special Impact Officer	301	Do.
Intergovernmental Program Specialist	301	Do.
Energy Conservation Specialist	301	Do.
Energy Resource Specialist	301	Do.
Clerk	301	Do.
Administrative Clerk	301	Do.
Mail Clerk	306	Do.
Clerk Steno	312	Do.
Secretary	318	Do.
Clerk Typist	322	Do.
Office Services Supervisor	342	Do.
Management Analyst	343	Do.
Fiscal and Budget Assistant	501	Do.
Voucher Examiner	540	Do.
General Engineer	801	Do.

REGION IV.—ATLANTA

Position title	Series	Grade
Personnel Management Specialist	301	GS 12 and below.
Personnel Staffing and Classification	201	Do.
Personnel Clerk	203	Do.
Supervisory Support Services Specialist	201	Do.
Consumer Affairs Specialist	301	Do.
Energy Resource Development Specialist	301	Do.
Energy Conservation Specialist	301	Do.
Clerk/Typist	301	Do.
Mail Clerk	305	Do.
File Clerk	305	Do.
Clerk/Steno	312	Do.
Secretary	318	Do.
Clerk/Typist	322	Do.
Coding Clerk	357	Do.
Accounts Maintenance Clerk	520	Do.
Voucher Examiner	540	Do.
Public Information Officer	1081	Do.
Procurement Clerk	1106	GS 5 and below.

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Position title	Series	Grade
Statistical Assistant	1531	GS 12 and below.

REGION V.—CHICAGO

Position title	Series	Grade
Social Science Analyst	101	GS 12 or below.
Personnel Assistant	203	Do.
Staff Assistant (stenography)	301	Do.
Support Services Specialist	301	Do.
Clerk Typist	301	Do.
Log Control Clerk	301	Do.
Clerk General	301	Do.
Clerk Typing	301	Do.
Mail Clerk	305	Do.
Clerk Stenographer	312	Do.
Secretary—Typing	318	Do.
Secretary (stenographer)	318	Do.
Secretary Stenography	318	Do.
Secretary	318	Do.
Clerk Typist	322	Do.
Office Services Supervisor	342	Do.
Communications Relay Operator	390	Do.
Payroll and Accounting Technician	501	Do.
Budget and Accounting Officer	504	Do.
Budget and Accounting Analyst	504	Do.
Legal Technician (typing)	986	Do.

REGION VI.—DALLAS

Position title	Series	Grade
Equal Employment Officer	160	GS 12 and below.
Personnel Officer	201	Do.
Personnel Management Specialist	201	Do.
Personnel Clerk (typing)	203	Do.
General Clerk	301	Do.
Data Specialist	301	Do.
Energy Conservation Specialist	301	Do.
Log Control Clerk	301	Do.
Clerk (typing)	301	Do.
Staff Assistant (typing)	301	Do.
Consumer Affairs/Special Impact Specialist	301	Do.
Staff Assistant	301	Do.
Case Tracking Specialist	301	Do.
Data Review Clerk	301	Do.
Government Relations Specialist	301	Do.
Clerk (steno)	301	Do.
Receptionist (typist)	304	Do.
Clerk (steno)	312	Do.
Secretary	318	Do.
Clerk-Typist	322	Do.
Program Analyst	345	Do.
Communications Technician	392	Do.
Accounting Technician	525	Do.
Accounting Clerk	520	Do.
Voucher Examiner	540	Do.
Payroll Clerk	544	Do.
General Engineer	801	Do.
Petroleum Engineer (energy resource development only)	881	Do.
Physical Scientist	1301	Do.
Supply Clerk	2005	Do.
Inventory Management Specialist	2010	Do.

REGION VII—KANSAS CITY

Position title	Series	Grade
Supervisory Personnel Management Specialist	201	GS 12 and below.
Personnel Management Specialist	201	Do.
Personnel Clerk (Typing)	203	Do.
Personnel Staffing Specialist	212	Do.
Position Classification Specialist	221	Do.
Clerk (Typing)	301	Do.
Energy Resource Development Specialist	301	Do.
Energy Conservation Specialist	301	Do.
Clerk (Steno)	301	Do.
Staff Assistant	301	Do.
Mail and File Clerk	305	Do.
Clerk-Stenographer	312	Do.
Secretary	318	Do.
Management Analyst	343	Do.
Management Assistant (Typing)	344	Do.
Program Analyst	345	GS 11 and below.
Operating Accountant	510	GS 12 and below.
Accounting Technician	525	Do.
Voucher Examiner	540	Do.
Applications Clerk (Steno)	963	Do.

REGION VIII—DENVER

Position title	Series	Grade
Social Service Analyst	101	GS 12 and below.
Equal Opportunity Specialist	160	Do.
Personnel Management Specialist	201	Do.
Personnel Assistant	201	Do.
Personnel Clerk	203	Do.
Clerk (Typing)	301	Do.
Clerk	301	Do.
Administrative Services Specialist	301	Do.
Mail Clerk	305	Do.
Clerk-Stenographer	312	Do.
Secretary	318	Do.
Clerk-Typist	322	Do.
Computer Systems Analyst	334	Do.
Computer Technician	335	Do.
Teletypist	365	Do.
Voucher Examiner	540	Do.
General Engineer	801	Do.
Physical Scientist	1301	Do.
Student Aid	YW-3501	Hourly.

REGION IX—SAN FRANCISCO

Title	Series	Grade
Personnel Staffing Specialist	212	GS 12 or below.
Staff Assistant	301	Do.
Clerk Typing	301	Do.
Information Access Specialist	301	Do.
Clerk Teletypist	301	Do.
Intergovernmental Relations Specialist	301	Do.
Supervisor, Administrative Services Unit	301	Do.
Staff Assistant (Steno)	301	Do.
Secretary	301	Do.
Clerk-Typist	301	Do.
Data Clerk	301	Do.
Clerk (Typing)	301	Do.
Clerk Typist	322	Do.
Accounting Clerk	525	Do.
Budget Analyst	540	Do.
Applications Clerk	963	Do.
Technical Information Specialist	1412	Do.
Statistical Analyst	1531	Do.
Program Training Specialist	1701	Do.
Supply Management Specialist	2001	Do.

REGION X—SEATTLE

Position title	Series	Grade
Economist	110	GS 12 and below.
Personnel Officer	201	Do.
Personnel Management Specialist	201	Do.
Personnel Clerk	203	Do.
Clerk (Typing)	301	Do.
Energy Program Specialist	301	Do.
Research Assistant	301	Do.
Environmental Specialist	301	Do.
Case Control Clerk	301	Do.
Support Service Technician	301	Do.
Clerk	301	Do.
Information Receptionist (Typing)	304	Do.
Clerk-Stenographer	312	Do.
Secretary	318	Do.
Clerk Typist	318	Do.
Clerk-Typist	322	Do.
Office Service Manager	342	Do.
Budget and Accounting Officer	504	Do.
Accounting Technician	524	Do.
Accounting Technician	525	Do.
Accounting Technician (Typing)	525	Do.
General Engineer	801	Do.
Public Information Specialist	1081	Do.
Technical Information Specialist	1412	Do.

ALASKA POWER ADMINISTRATION

Position title	Series	Grade
Personnel Assistant	203	GS 12 or below.
Clerk (Division Assistant)	301	Do.
Assistant to the Administrator	318	Do.
Clerk Typist	322	Do.
Administrative Assistant	341	Do.
Management Assistant	344	Do.
Financial Management Officer	505	Do.
Accountant	510	Do.
Accounting Technician	525	Do.
Office Draftsman	1021	Do.
Writer/Editor	1082	Do.

Hourly Employees Occupational Codes: WG 2806, WG 2843, WG 4742, WG 5349, WG 5407, WG 5803, and WG 5803.

ALBUQUERQUE OPERATIONS OFFICE

Position title	Series	Grade
Ind. Health Nurse	010	GS 12 and below.
Security Officer	080	Do.
Security Assistant	080	Do.
Security Specialist	080	Do.
Logistics Officer	080	Do.
Logistics Specialist	080	Do.
Senior Communications Controller	080	Do.
Chief Communications Controller	080	Do.
Safeguards Specialist	080	Do.
Training Specialist	080	Do.
Chief, Albuquerque Courier Section	080	Do.
Clearance Processing Supervisor	080	Do.
Fire Chief	081	Do.
Deputy Fire Chief	081	Do.
Fire Protection Specialist (Training)	081	Do.
Fire Marshal	081	Do.
Fire Prevention Inspector	081	Do.
Platoon Chief	081	Do.
Firefighter (Structural)	081	Do.
Convoy Commander	085	Do.



Position title	Series	Grade	Position title	Series	Grade
Training Officer.....	085	Do.	Top Secret Control Officer...	342	Do.
Chief, Protective Force Section.	085	Do.	Management Analyst	343	GS 11 and below.
Operations Officer.....	085	Do.	Systems Analyst.....	345	GS 12 and below.
Captains.....	085	Do.	Key Punch Operator.....	356	Do.
Lieutenant.....	085	Do.	Processing Reports Records Clerk.	356	Do.
Area Sergeant.....	085	Do.	Chief, Data Prep. and Control Unit.	359	Do.
Security Inspector.....	085	Do.	Data Control Clerk.....	359	Do.
Junior Security Inspector.....	085	Do.	Data Preparation Clerk.....	359	Do.
Shift Sergeant.....	085	Do.	Chief, Telecommunications Section.	391	Do.
Chief Protective Force.....	085	Do.	Communications and Fire Alarm Operator.	392	Do.
Security Specialist (Ship-ment).	085	Do.	Communications Equipment Operator.	392	Do.
Teacher-Demonstrator.....	090	Do.	Financial Management Assistant.	501	Do.
Personnel Officer.....	201	Do.	Chief, Administrative Support Section.	501	Do.
Personnel Intern.....	201	Do.	Chief, Accounts Payable Section.	501	Do.
Personnel Assistant.....	203	Do.	Chief, Commercial Accounts.	501	Do.
Training Assistant.....	203	Do.	Accountant.....	510	GS 11 and below.
Personnel Clerk.....	203	Do.	Accounts Maintenance Clerk	520	GS 12 and below.
Statistical Assistant.....	301	Do.	Accounting Clerk.....	520	Do.
Processing and Reports Supervisor.	301	Do.	Accounting Technician.....	525	Do.
Industrial Relations Assistant.	301	GS 6 and below.	Financial Analyst.....	525	Do.
Administrative Aide.....	301	GS 12 and below.	Voucher Examiner.....	540	Do.
Security Assistant.....	301	Do.	Chief Travel.....	540	Do.
Administrative Records Specialist.	301	Do.	Travel Clerk.....	540	Do.
Program Information Coordinator.	301	Do.	Chief, Payroll.....	545	Do.
Program Coordination Assistant.	301	Do.	Payroll Clerk.....	544	Do.
Reports Analyst.....	301	Do.	Budget Analyst.....	550	GS 9 and below.
Word Processing Center Supervisor.	301	Do.	General Engineer.....	801	Do.
Equipment Assistant.....	301	Do.	Communications Engineer.....	801	GS 12 and below.
Clerk (Typing).....	301	Do.	Engineering Student Trainee.	802	Do.
Clerk (Steno.).....	301	Do.	Technical Assistant.....	802	Do.
Administrative Assistant.....	301	Do.	Chief, C & M Branch.....	856	Do.
Word Processing Operator.....	301	Do.	Chief, Comm. Section.....	856	Do.
E.O.C. Specialist.....	301	Do.	Electronics Technician.....	856	Do.
Clerk (General).....	301	Do.	Communications Specialist.	856	Do.
Office Engineering Technician.	301	Do.	Electronic Surveillance Technician.	856	Do.
Records and Accounting Clerk.	301	Do.	Industrial Engineer (Intern).	896	GS 9 and below.
Administrative Clerk.....	301	Do.	Engineer Trainee.....	896	Do.
Quality Assurance Technical Aide.	301	Do.	Administrative Assistant.....	986	GS 12 and below.
Technical Clerk.....	301	Do.	Museum Tech/Historian.....	1016	Do.
Security Clerk.....	301	Do.	Museum Technician.....	1016	Do.
Processing Reports Records Clerk.	301	Do.	Museum Aide.....	1016	Do.
Directives Assistant.....	301	Do.	Chief, Graphic Arts Section.	1020	Do.
Records Control Clerk.....	305	Do.	Illustrator.....	1020	Do.
Mail and Records Clerk.....	305	Do.	Public Affairs Assistant.....	1061	Do.
Coding and Filing Clerk.....	305	Do.	Writer.....	1062	Do.
Mail Clerk.....	305	Do.	Contracts Assistant.....	1104	Do.
Chief, M.R. and T. Section.	305	Do.	Contract File Clerk.....	1104	Do.
Records Specialist.....	305	Do.	Health Physicist.....	1306	Do.
Clerk Stenographer.....	312	Do.	Safeguards Chemist.....	1320	GS 9 and below.
Clerk Typist.....	312	Do.	Registrar-Librarian (Typing)	1410	GS 12 and below.
Secretary Steno.....	312	Do.	Operations Research Analyst.	1515	GS 9 and below.
Secretary (Typing).....	318	Do.	Statistical Clerk.....	1531	GS 12 and below.
Clerk Typist.....	322	Do.	Supervisory Supply Clerk.....	2005	Do.
Contract Clerk Typist.....	322	Do.	Warehouseman.....	2005	Do.
Typesetter Operator.....	324	Do.	Distribution Clerk.....	2005	Do.
Computer Operator.....	332	Do.	Supply Clerk.....	2005	Do.
Chief, Computer Unit.....	334	Do.	Equipment Controller.....	2005	Do.
Computer Software Specialist.	334	Do.	Stores Equipment Specialist.	2005	Do.
Computer Software Programmer.	334	Do.	Fleet Maintenance & Documentation Coordinator.	2101	Do.
Systems Analyst.....	334	Do.	Equipment Maintenance Specialist.	2101	Do.
Programmer.....	334	Do.	Assistant Chief, Southwest-ern Courier Section.	2101	Do.
Data Base Administrator.....	334	Do.	Chief, Western Courier Section.	2101	Do.
Weapons Information Coordinator.	334	Do.	Travel Clerk.....	2132	Do.
Transportation Analyst.....	334	Do.	Shipment Planning Assistant.	2151	Do.
Computer Aide Scheduler.....	335	Do.	Museum Director.....	10615	Do.
ADP Systems Librarian.....	335	Do.			
Administrative Assistant.....	341	Do.			
Administrative Aide.....	341	Do.			
Chief, Administrative Support Section LAAO.	341	Do.			
Administrative Officer (Except LAAO).	341	Do.			
Chief, Office Services Section.	342	Do.			
Chief, PS&C Section.....	342	Do.			

Hourly Employees Occupational Code: 3502, 3506, 4414, 4742, and 4749.

## BARTLESVILLE ENERGY RESEARCH CENTER

Position title	Series	Grade
Personnel Officer.....	201	GS 12 and below.
Personnel Management Specialist.	201	Do.
Personnel Clerk.....	203	Do.
File Clerk (Typing).....	205	Do.
Clerk Stenographer.....	312	Do.
Clerk Dict Machine Transcriber.	316	Do.
Engineering Draftsman.....	318	Do.
Clerk Typist.....	322	Do.
Computer Specialist.....	334	Do.
Computer Programmer.....	334	Do.
Computer Technician.....	335	Do.
Administrative Officer.....	341	Do.
Telephone Operator (Typing).	363	Do.
Budget Officer.....	501	Do.
Supervisory Engineering Technician.	802	Do.
Engineering Technician.....	802	Do.
Supervisory Mechanical Engineering Technician.	802	Do.
Mechanical Engineering Technician.	802	Do.
Petroleum Engineering Technician.	802	Do.
Engineering Aid.....	802	Do.
Safety Engineer.....	802	Do.
Mechanical Engineer.....	830	Do.
Electronics Engineer.....	856	Do.
Electronics Technician.....	856	Do.
Petroleum Engineer.....	861	Do.
Chemical Engineer.....	893	Do.
Office Draftsman.....	1021	Do.
Photographer.....	1060	Do.
Visual Information Specialist.	1084	Do.
Procurement Clerk (Typing)	1106	Do.
Physical Science Technician.	1311	Do.
Physical Science Aid.....	1311	Do.
Research Chemist.....	1320	Do.
Research Chemist (Project Leader).	1320	Do.
Supervisory Research Chemist.	1320	Do.
Chemist.....	1320	Do.
Geologist.....	1350	Do.
Administrative Librarian.....	1410	Do.
Librarian (Assistant Librarian).	1410	Do.
Library Technician (Typing)	1411	Do.
Library Aid (Typing).....	1411	Do.
Library Aid.....	1411	Do.
Supply Technician.....	2006	Do.
Travel Clerk (Typing).....	2132	Do.

Hourly Employees Occupational Code: 2906, 3359, 3506, 3566, 4605, 4697, 4749, 5306, 5406, and 6907.

## BONNEVILLE POWER ADMINISTRATION

Position title	Series	Grade
Safety Specialist.....	018	GS 12 and below.
Safety Manager.....	018	Do.
Environmental Specialist.....	028	Do.
Fire Protection.....	061	Do.
Economist.....	110	Do.
Industry Economist.....	110	Do.
Regional Economist.....	110	Do.
Economics Assistant.....	119	Do.
Geographer.....	150	Do.
Equal Opportunity Specialist.	160	Do.
Counseling Psychologist.....	180	Do.
Sociologist.....	184	Do.
Personnel Management Specialist.	201	Do.
Labor-Management Relations and Wages.	201	Do.
Personnel Clerk.....	203	Do.
Staffing Clerk.....	203	Do.
Classification Clerk.....	203	Do.

Position title	Series	Grade
Employee Development Clerk.	203	Do.
Employee Relations Clerk.....	203	Do.
Personnel Assistant.....	203	Do.
Staffing Assistant.....	203	Do.
Employee Relations Assistant.	203	Do.
Classification Assistant.....	203	Do.
Personnel Staffing Specialist.	212	Do.
Position Classification Specialist.	221	Do.
Employee Relations Specialist.	230	Do.
Labor Relations Specialist.....	233	Do.
Employee Development Specialist.	235	Do.
Executive Assistant.....	301	Do.
Environmental Specialist.....	301	Do.
Right-of-way Management Specialist.	301	Do.
Right-of-way Management Inspector.	301	Do.
Confidential Assistant to the Administrator.	301	Do.
Personnel Assistant.....	301	Do.
Right-of-way Maintenance Specialist.	301	Do.
Office Services Specialist.....	301	Do.
Property Management Clerk	301	Do.
Property Management Officer.	301	Do.
Property Management Assistant.	301	Do.
Power Mktg. Information Specialist.	301	Do.
Substation Construction Superintendent.	301	Do.
EIS Process Coordinator.....	301	Do.
Administrative Manager.....	301	Do.
Administrative Technician.....	301	Do.
Office Assistant.....	301	Do.
Lead Administrative Technician.	301	Do.
Administrative Clerk.....	301	Do.
General Clerk.....	301	Do.
Vouchering Clerk.....	301	Do.
Engineering Clerk.....	301	Do.
Drawing and Blueprint Clerk.	301	Do.
Construction Clerk.....	301	Do.
Document Control Clerk.....	301	Do.
Lead Word Processing Clerk.	301	Do.
Student Aide.....	301	Do.
Clerk.....	301	Do.
Realty Clerk.....	301	Do.
Appraisal Assistant.....	301	Do.
Work Order Clerk.....	301	Do.
Substation Operation Inspector.	301	Do.
Substation Operation Specialist.	301	Do.
Maintenance Aide.....	301	Do.
General Aide.....	301	Do.
Information Receptionist.....	304	Do.
Mail and File Clerk.....	305	Do.
Mail Clerk.....	305	Do.
Mail Supervisor.....	305	Do.
Files.....	305	Do.
File Clerk.....	305	Do.
Clerk-Stenographer.....	312	Do.
Word Processing Supervisor.	313	Do.
Clerk-Dictating Machine Trans.	316	Do.
Lead Clerk-Dictating Machine Trans.	316	Do.
Secretary.....	318	Do.
Clerk Typist.....	322	Do.
Computer Operator.....	332	Do.
Peripheral Equipment Operator.	332	Do.
Computer Systems Analyst.....	334	Do.
Computer Programmer.....	334	Do.
Computer Specialist.....	334	Do.
Computer Aide.....	335	Do.
Computer Technician.....	335	Do.
Administrative Officer.....	341	Do.
Administrative Assistant.....	341	Do.
Office Services Supervisor.....	342	Do.
Management Analyst.....	343	Do.
Management Assistant.....	344	Do.
Program Analyst.....	345	GS 11 and below.
Print Shop Clerk.....	351	GS 12 and below.

Position title	Series	Grade
Card Punch Operator.....	356	Do.
Lead Card Punch.....	356	Do.
Data Transcriber.....	356	Do.
Coding Clerk.....	357	Do.
Telephone Supervisor.....	382	Do.
Telephone Operator.....	382	Do.
Lead Telephone Operator.....	382	Do.
Forester.....	460	Do.
Forestry Technician.....	462	Do.
Conservation Agronomist.....	471	Do.
Fishery Biologist.....	482	Do.
Wildlife Biologist.....	488	Do.
Supervisory Fiscal Specialist	501	Do.
Budget Technician.....	501	Do.
Travel Officer.....	501	Do.
Plant Accounting Assistant.....	501	Do.
Plant Accounting Analyst.....	501	Do.
Operating Accounting.....	510	Do.
Systems Accountant.....	510	Do.
Cost Accountant.....	510	Do.
Accountant.....	510	Do.
Staff Accountant.....	510	Do.
Accounts Maintenance Clerk	520	Do.
Accounting Technician.....	525	Do.
Voucher Examining Supervisor.	540	Do.
Lead Voucher Examiner.....	540	Do.
Voucher Examiner.....	540	Do.
Payroll Supervisor.....	544	Do.
Lead Payroll Technician.....	544	Do.
Payroll Clerk.....	544	Do.
Budget Analyst.....	560	Do.
Student Trainee (Accountant).	599	Do.
Nurse.....	610	Do.
Occupational Health Nurse.....	610	Do.
General Engineer.....	801	Do.
Engineering Technician.....	802	Do.
Engineering Aide.....	802	Do.
Civil Engineering Technician.	802	Do.
Electrical Engineering Technician.	802	Do.
Mechanical Engineering Technician.	802	Do.
Architecture Technician.....	802	Do.
Materials Engineer.....	806	Do.
Landscape Architect.....	807	Do.
Architect.....	808	Do.
Civil Engineer.....	810	Do.
Hydraulic Engineer.....	810	Do.
Structural Engineer.....	810	Do.
Surveying Technician.....	817	Do.
Engineering Draftsman.....	818	Do.
Sanitary Engineer.....	819	Do.
Mechanical Engineer.....	830	Do.
Nuclear Engineer.....	840	Do.
Electrical Engineer.....	850	Do.
Electronics Engineer.....	855	Do.
Electronics Technician.....	856	Do.
Industrial Engineer.....	896	Do.
Student Trainee (Electrical Engineer).	899	Do.
Student Trainee (Civil Engineer).	899	Do.
Student Trainee (General Engineer).	899	Do.
Conveyance Examiner.....	963	Do.
Para-Legal Assistant.....	986	Do.
Graphic Designer.....	1001	Do.
Exhibits Specialist.....	1010	Do.
Illustrator.....	1020	Do.
Office Draftsman.....	1021	Do.
Photographer.....	1060	Do.
Writer-Editor.....	1082	Do.
Technician Publication	1083	Do.
Writer-Editor.	1083	Do.
Technician Manuals Writer..	1084	Do.
Visual Information Specialist.	1084	Do.
Editorial Assistant.....	1087	Do.
Power Billing Clerk.....	1101	Do.
Procurement Clerk.....	1106	GS 5 and below.
Public Utilities Assistant.....	1130	GS 7 and below.
Production Controller.....	1150	GS 12 and below.
Realty Specialist.....	1170	GS 9 and below.
Power Operations Specialist.	1301	GS 12 and below.
Physicist.....	1310	Do.

Position title	Series	Grade
Physical Science Technician	1311	Do.
Hydrologist.....	1315	Do.
Chemist.....	1320	Do.
Meteorologist.....	1340	Do.
Meteorological Technician.....	1341	Do.
Geologist.....	1350	Do.
Supervisory Cartographer.....	1370	Do.
Supervisory Librarian.....	1410	Do.
Library Technician.....	1411	Do.
Technical Information Specialist.	1412	Do.
Mathematician.....	1520	Do.
Statistical Assistant.....	1531	Do.
Operations Superintendent.....	1601	Do.
Assistant Operations Superintendent.	1601	Do.
General Shops Superintendent.	1601	Do.
Vehicle Maintenance Superintendent.	1601	Do.
Line Vehicle Specialist.....	1601	Do.
Vehicle Records Officer.....	1601	Do.
Plant Maintenance Superintendent.	1601	Do.
Facility Manager.....	1640	Do.
Facility Management Specialist.	1640	Do.
Printing Officer.....	1654	Do.
Equipment Specialist.....	1670	Do.
Training Instructor.....	1712	Do.
Supply Control Assistant.....	2001	Do.
Supply Systems Analyst.....	2003	Do.
Supply Clerk.....	2005	Do.
Supply Technician.....	2005	Do.
Inventory Management Specialist.	2010	Do.
Distribution Facilities Officer.	2030	Do.
Transportation Officer.....	2101	Do.
Freight Rate Assistant.....	2131	Do.
Aircraft Dispatcher.....	2151	Do.
Airplane Pilot.....	2181	Do.
Helicopter Pilot.....	2181	Do.
Aircraft Pilot.....	2181	Do.

Hourly Paid Employees Occupational Codes:		
0261407, 0261409, 0261410, 0261436, 0261475,		
0261477, 0265077, 0280175, 0280177, 0280606,		
0280601, 0280602, 0280603, 0280606, 0280612,		
0280613, 0280625, 0280641, 0280654, 0280657,		
0280673, 0280674, 0280680, 0280681, 0280682,		
0280803, 0280804, 0280820, 0280841, 0280856,		
0280857, 0280873, 0281000, 0284375, 0284377,		</



## NOTICES

Position title	Series	Grade
Administrative Coordinator.....	301	Do.
Junior Accounting Clerk.....	301	Do.
Nuclear Materials Information Analyst.....	301	Do.
Information Receptionist/ File Clerk.....	304	Do.
Mail Records and Secretary Supervisor.....	305	Do.
Clerk.....	305	Do.
Mail and File Clerk.....	305	Do.
Distribution Clerk.....	305	Do.
Records and Document Control Clerk.....	305	Do.
Clerk-stenographer.....	312	Do.
Secretary.....	318	Do.
Secretary-Receptionist.....	318	Do.
Secretary and Docket Clerk.....	318	Do.
Clerk-Typist.....	322	Do.
Analyst Programmer.....	334	Do.
Programs/Systems Analyst.....	334	Do.
Administrative Officer.....	341	Do.
Management Trainee.....	341	Do.
Office Services Specialist.....	342	Do.
Records Management Analyst.....	343	Do.
Personnel Assistant.....	344	Do.
Teletype Operator.....	385	Do.
Communications Specialist.....	390	Do.
Communications Clerk.....	394	Do.
Accounting Clerk.....	501	Do.
Program Coordinator.....	501	Do.
Accounting Technician.....	525	Do.
Nuclear Materials Representative.....	525	Do.
Payroll Technician.....	554	Do.
Budget Analyst.....	580	Do.
Electronic Engineer.....	855	Do.
Public Information Officer.....	1081	Do.
Information Assistant.....	1081	Do.
Contract Management Trainee.....	1102	GS 7 and below.
Materials Management Specialist.....	1103	GS 12 and below.
Property Management Specialist.....	1103	GS 7 and below.
Purchasing Assistant.....	1105	Do.
Procurement Assistant.....	1106	Do.
Mass Spectroscopist.....	1301	GS 12 and below.
Health Physicist.....	1306	Do.
Scientific Aide.....	1311	Do.
Nuclear Material Control Technician.....	1311	Do.
Nuclear Material Technician Laboratory Technician.....	1311	Do.
Instrument Technician.....	1311	Do.
Chemist.....	1320	Do.
Mathematical Statistician.....	1529	Do.
Property Clerk.....	2010	Do.
Travel Services Supervisor.....	2132	Do.
Travel Clerk.....	2132	Do.

## ENVIRONMENTAL MEASUREMENTS LABORATORY

Position title	Series	Grade
Personnel Specialist.....	201	GS 12 and below.
Administrative Aide.....	301	Do.
Clerk.....	301	Do.
Lab Aide.....	301	Do.
Clerk-Stenographer.....	312	Do.
Secretary.....	318	Do.
Clerk-Stenographer.....	318	Do.
Computer Technician.....	335	Do.
Accountant.....	510	Do.
Industrial Hygienist.....	890	Do.
Mechanical Design Technician.....	802	Do.
Mechanical Engineer.....	830	Do.
Electrical Engineer.....	850	Do.
Lab Tech.....	856	Do.
Electronic Development Technician.....	856	Do.
Editorial Assistant.....	1087	Do.
Physical Scientist.....	1301	Do.
Lab Tech.....	1311	Do.
Chemist.....	1320	Do.
Physical Science TR.....	1399	Do.
Librarian.....	1410	Do.

Position title	Series	Grade
Statistician.....	1529	Do.
Property and Supply Clerk.....	2005	Do.
Property Management Specialist.....	2010	Do.

Hourly Employees Occupational Code: 3345, 3414, 3412, 4443, 4712, 4740, 6907, and 7002.

## GRAND FORKS ENERGY RESEARCH CENTER

Position title	Series	Grade
Economist.....	110	GS 12 and below.
Personnel Officer.....	201	Do.
Clerk-Typist.....	322	Do.
Administrative Officer.....	341	Do.
Administrative Assistant.....	341	Do.
Engineering Technician.....	802	Do.
Mechanical Engineering Technician.....	818	Do.
Engineering Draftsman.....	830	Do.
Chemical Engineer.....	893	Do.
Purchasing Clerk.....	1105	Do.
Physical Scientist.....	1301	Do.
Physicist.....	1310	Do.
Physical Science Aide.....	1311	Do.
Chemist.....	1320	Do.
Research Chemist.....	1320	Do.
Geologist.....	1350	Do.
Geologist Graduate Student.....	1350	Do.

Hourly Paid Employees Occupational Code: 3359, 3414, 3506, 3806, 4740, 4749, and 5441.

## GRAND JUNCTION OFFICE

Position title	Series	Grade
Clerk.....	203	GS 12 and below.
Mail and Records Clerk.....	305	Do.
Secretary.....	318	Do.
Administrative Secretary.....	318	Do.
Clerk Typist.....	322	Do.
Data Support Specialist.....	332	Do.
Trainee.....	501	Do.
Geological Engineer.....	880	GS 9 and below.

## IDAHO OPERATIONS OFFICE

Position title	Series	Grade
Senior Personnel Security Officer.....	080	GS 12 and below.
Security Assistant.....	080	Do.
Security Representative.....	080	Do.
Fire Chief.....	081	Do.
Deputy Fire Chief.....	081	Do.
Captain.....	081	Do.
Lieutenant.....	081	Do.
Lieutenant-Inspector.....	081	Do.
Pump Operator.....	081	Do.
Fire Alarm Operator.....	081	Do.
Firefighter.....	081	Do.
Captain.....	0885	Do.
Security Officer.....	0885	Do.
Lieutenant.....	0885	Do.
Patrol Sergeant.....	0885	Do.
Area Sergeant.....	0885	Do.
Security Inspector.....	0885	Do.
Security Guide.....	0885	Do.
Traffic and Shipment Officer.....	0885	Do.
Personnel Specialist.....	203	Do.
Personnel Assistant.....	203	Do.
Personnel Clerk.....	203	Do.
Security Clerk.....	301	Do.
Administrative Assistant.....	301	Do.
Administrative and Clerical Assistant.....	301	Do.
Administrative Clerk.....	301	Do.
Institutional Relations Specialist.....	301	Do.

Position title	Series	Grade
Receptionist.....	301	Do.
ADP and Telecommunications Specialist.....	301	Do.
New College Hire—Plans, Budget, and Engineering.....	301	Do.
Dosimetry Technician.....	301	Do.
Personnel Metering Clerk.....	301	Do.
Mail Room Supervisor.....	305	Do.
Mail and Records Assistant.....	305	Do.
Secretary.....	312	Do.
Clerk-Stenographer.....	318	Do.
Medical Secretary.....	318	Do.
Executive Assistant.....	318	Do.
Secretary.....	318	Do.
Secretary-Timekeeper.....	318	Do.
Clerk-Stenographer.....	322	Do.
Clerk-Typist.....	322	Do.
Administrative Officer.....	341	Do.
New College Hire—Energy and Technology.....	343	Do.
Management.....	344	Do.
Reports Analyst.....	344	Do.
Planning Analyst.....	345	Do.
Text Processing Machine Operator.....	350	Do.
Warning Communications Specialist.....	392	Do.
Radioecologist.....	401	Do.
Budget Clerk-Secretary.....	501	Do.
Budget Technician.....	504	Do.
Financial Analyst.....	510	Do.
Accountant.....	510	Do.
Accounting Technician.....	525	Do.
Voucher Examiner.....	540	Do.
Payroll Technician.....	544	Do.
Budget Analyst.....	560	Do.
Examining Technician.....	601	Do.
Assistant Head Nurse.....	610	Do.
Medical Technologist.....	644	Do.
X-Ray Technician.....	647	Do.
Resident Engineer.....	801	Do.
New College Hire—Reactor Operations Programs, Engineering Construction Management.....	810	Do.
Electronics Engineer.....	855	Do.
Electronics Development Technician.....	856	Do.
Technical Communications Representative.....	856	Do.
Calibration Technicians.....	856	Do.
Electronics Technicians.....	856	Do.
Project Management Analyst.....	895	Do.
Industrial Engineer.....	896	Do.
Information Assistant.....	1087	Do.
Property Management Assistant.....	1103	Do.
Dosimetry Systems Specialist.....	1301	Do.
Environmental Radiation Specialist.....	1301	Do.
Health Physicist (except in operation safety division).....	1306	Do.
Physicist.....	1310	Do.
Counting Room Technician.....	1311	Do.
Radiation Spectrometry Technician.....	1311	Do.
Health Physicist Technician.....	1311	Do.
Dosimetry Technician.....	1311	Do.
Chemist.....	1320	Do.
Radiochemist.....	1320	Do.
New College Hire—Energy and Technology.....	1350	Do.
Travel Assistant.....	2132	Do.

## MORGANTOWN ENERGY RESEARCH CENTER

Position title	Series	Grade
Personnel Management Specialist.....	201	GS 12 and below.
Personnel Assistant.....	203	Do.
Personnel Clerk (Typing).....	203	Do.
Clerk Stenographer.....	212	Do.
Staff Assistant.....	301	Do.
Information Receptionist.....	304	Do.
Clerk Stenographer.....	312	Do.
Secretary.....	318	Do.
Clerk Typist.....	322	Do.
Computer Systems Operator.....	332	Do.
Computer Specialist.....	334	Do.
Computer Programmer.....	334	Do.
Supervisory Program Analyst.....	345	Do.
Program Analyst.....	345	Do.
Office Machine Operator.....	350	Do.
Budget and Accounting Clerk.....	501	Do.
Petroleum Engineer Technician.....	802	Do.
Physical Science Technician.....	802	Do.
Engineering Technician.....	802	Do.
Electronics Technician.....	802	Do.
Supervisory Engineering Technician.....	802	Do.
Safety Engineer.....	803	Do.
Civil Engineer.....	810	Do.
Supervisory Engineering Draftsman.....	818	Do.
Engineering Draftsman.....	818	Do.
Mechanical Engineer.....	830	Do.
Electrical Engineer.....	850	Do.
Electronics Engineer.....	855	Do.
Electronics Technician.....	856	Do.
Petroleum Engineer.....	881	Do.
Chemical Engineer.....	883	Do.
Photographer.....	1060	Do.
Property Management Assistant.....	1103	Do.
Procurement Clerk.....	1106	Do.
Purchasing Assistant.....	1106	Do.
Research Physicist.....	1210	Do.
Supervisory Research Physicist.....	1310	Do.

## LARAMIE ENERGY RESEARCH CENTER

Position title	Series	Grade
Supervisory Personnel Officer.....	201	GS 12 and below.
Personnel Clerk.....	203	Do.
Mail Clerk.....	305	Do.
Secretary.....	318	Do.
Secretary (steno).....	318	Do.
Clerk-Typist.....	322	Do.
Computer Systems Analyst.....	334	Do.
Computer Specialist.....	334	Do.
Computer Aide.....	355	Do.

## NOTICES

Position title	Series	Grade
Office Services Supervisor.....	342	Do.
Telephone Operator.....	382	Do.
Time, Leave, and Payroll Clerk.....	544	Do.
Environmental Engineer.....	801	Do.
Engineering Technician.....	802	Do.
Petroleum Engineering Technician.....	802	Do.
Engineering Draftsman.....	818	Do.
Mechanical Engineer.....	830	Do.
Resident Mechanical Engineer.....	830	Do.
Electronics Engineer.....	835	Do.
Instrumentation Engineer.....	855	Do.
Electronics Technician.....	856	Do.
Petroleum Engineer.....	881	Do.
Chemical Engineer.....	893	Do.
Photographer.....	1060	Do.
Editor.....	1082	Do.
Visual Information Specialist.....	1084	Do.
Procurement Clerk.....	1106	Do.
Process Analyst.....	1301	Do.
Physicist.....	1310	Do.
Research Physicist.....	1310	Do.
Physical Scientist Technician.....	1311	Do.
Physical Science Aide.....	1311	Do.
Chemist.....	1320	Do.
Resident Chemist.....	1320	Do.
Geologist.....	1350	Do.
Mathematician.....	1520	Do.
Supply Technician.....	2005	Do.
Supply Clerk.....	2005	Do.
Travel Clerk.....	2132	Do.

Hourly Paid Employees: WG 1343, WG 2805, WG 3412, WG 3502, WG 3566, WG 3709, WG 3743, WG 4204, WG 4712, WG 4746, WG 5402, WS 5402, WG 5441, WG 5716, WG 5729, WG 5803, WL 5803, and WG 5823.

## MORGANTOWN ENERGY RESEARCH CENTER

Position title	Series	Grade
Personnel Management Specialist.....	201	GS 12 and below.
Personnel Assistant.....	203	Do.
Personnel Clerk (Typing).....	203	Do.
Clerk Stenographer.....	212	Do.
Staff Assistant.....	301	Do.
Information Receptionist.....	304	Do.
Clerk Stenographer.....	312	Do.
Secretary.....	318	Do.
Clerk Typist.....	322	Do.
Computer Systems Operator.....	332	Do.
Computer Specialist.....	334	Do.
Computer Programmer.....	334	Do.
Supervisory Program Analyst.....	345	Do.
Program Analyst.....	345	Do.
Office Machine Operator.....	350	Do.
Budget and Accounting Clerk.....	501	Do.
Petroleum Engineer Technician.....	802	Do.
Physical Science Technician.....	802	Do.
Engineering Technician.....	802	Do.
Electronics Technician.....	802	Do.
Supervisory Engineering Technician.....	802	Do.
Safety Engineer.....	803	Do.
Civil Engineer.....	810	Do.
Supervisory Engineering Draftsman.....	818	Do.
Engineering Draftsman.....	818	Do.
Mechanical Engineer.....	830	Do.
Electrical Engineer.....	850	Do.
Electronics Engineer.....	855	Do.
Electronics Technician.....	856	Do.
Petroleum Engineer.....	881	Do.
Chemical Engineer.....	883	Do.
Photographer.....	1060	Do.
Property Management Assistant.....	1103	Do.
Procurement Clerk.....	1106	Do.
Purchasing Assistant.....	1106	Do.
Research Physicist.....	1210	Do.
Supervisory Research Physicist.....	1310	Do.

Position title	Series	Grade
Research Physicist.....	1310	Do.
Physicist.....	1310	Do.
Physical Science Technician.....	1311	Do.
Chemist.....	1320	Do.
Research Chemist.....	1320	Do.
Biochemist.....	1320	Do.
Supervisory Chemist.....	1320	Do.
Geologist.....	1350	Do.
Librarian.....	1410	Do.
Assistant Librarian.....	1410	Do.
Library Aide (Typing).....	1411	Do.
Library Aid (Student Assistant).....	1411	Do.
Technical Information Analyst.....	1412	Do.
Mathematician.....	1520	Do.
Statistical Clerk.....	1530	Do.
Shop Manager.....	1640	Do.
Supervisory Supply Specialist.....	2001	Do.
Travel Clerk (Typing).....	2132	Do.

Hourly Paid Employees Occupational Code: 2805, 3305, 3359, 3414, 3502, 3703, 3806, 4204, 4607, 4749, 5402, 5823, and 6907.

## NAVAL PETROLEUM AND OIL SHALE RESERVE HEADQUARTERS AND FIELD ORGANIZATIONS

Position title	Series	Grade
Personnel Assistant.....	203	GS 12 and below.
Clerk (Typing and Steno).....	203	Do.
Clerk (Typing and Steno).....	301	Do.
Head, Administrative Department & Division.....	301	Do.
Head, Administrative Section.....	301	Do.
Staff Asst. Engineering Department.....	301	Do.
Supply/Travel Clerk.....	301	Do.
Clerk-Engineering Division.....	301	Do.
Mail and File Clerk.....	305	Do.
Clerk (stenography).....	312	Do.
Mail and File Clerk-Typing.....	312	Do.
File Clerk.....	315	Do.
Clerk Dictating Machine Transcriber.....	316	Do.
Secretary.....	318	Do.
Secretary (stenography).....	318	Do.
Secretary (typing).....	318	Do.
Clerk-Typist.....	322	Do.
Director, Admin. Division.....	341	Do.
Administrative Officer.....	341	Do.
Accounts Maintenance Clerk.....	520	Do.
Accounting Technician.....	525	Do.
Budget Analyst.....	560	Do.
Engineering Technician.....	802	Do.
Petro. Engr. Technician.....	802	Do.
Geological Technician.....	802	Do.
Procurement Clerk.....	1106	Do.

## NEVADA OPERATIONS OFFICE

Position title	Series	Grade
Emergency Response Officer.....	018	GS 12 and below.
Security Assistant.....	080	Do.
Security Inspector.....	080	Do.
Clearance Processing Specialist.....	080	Do.
Security Screener.....	080	Do.
Chief, Visitor Control.....	080	Do.
Personnel Control Clerk.....	080	Do.
Personnel Representative.....	201	Do.
Personnel Clerk.....	203	Do.
Administrative Assistant.....	301	Do.
Administrative Services Coord.....	301	Do.
Records & Schedules Asst.....	301	Do.
Clearance Processing Assistant.....	301	Do.



## NOTICES

Position title	Series	Grade	Position title	Series	Grade
Administrative Officer.....	301	Do.	Voucher Examiner.....	540	Do.
Contract Control Clerk.....	301	Do.	Payroll-Operations Supv.....	544	Do.
Clerk (Stenography).....	301	Do.	Employment Records and Payroll Clerk.....	544	Do.
Legal Clerk.....	305	Do.	Budget Analyst.....	580	GS 9 and below.
Mail and File Clerk (Typing).....	305	Do.	Accounting Co-op Student.....	599	GS 12 and below.
Mail and File Clerk.....	305	Do.	Student Trainee (Accounting).....	599	Do.
Records Clerk (Typing).....	305	Do.	Occupational Health Nurse.....	610	Do.
Mail Clerk.....	305	Do.	Industrial Hygienist.....	690	Do.
Clerk (Typing).....	305	Do.	General Engineer.....	801	GS 9 and below.
Data Control Clerk.....	305	Do.	Technical Security Engineer.....	801	GS 12 and below.
Mail and File Supervisor.....	305	Do.	Engineering Technician.....	802	Do.
Clerk-Stenographer.....	312	Do.	Safety and Fire Protection Engineer.....	804	GS 9 and below.
Clerk-Steno (Mag Card Typ. Operator).....	312	Do.	Engineering Draftsman (Patent).....	818	GS 12 and below.
Clerk (Stenography).....	312	Do.	Environmental Engineer.....	819	GS 9 and below.
Clerk-Diet. Mchn. Transcriber.....	316	Do.	Mechanical Engineer.....	830	Do.
Secretary.....	318	Do.	Scientific Analyst (Mechanical Engineer) (TIC).....	830	GS 12 and below.
Clerk-Typist.....	322	Do.	Nuclear Engineer.....	840	GS 9 and below.
File Clerk (Typist).....	322	Do.	Operations Analyst.....	840	Do.
Clerk Typist (Mag Card Typ. Operator).....	322	Do.	Scientific Analyst (Reactor Technician) (TIC).....	840	GS 12 and below.
Clerk (Typing).....	322	Do.	Electrical Engineer.....	850	GS 9 and below.
General Clerk (Typing).....	322	Do.	Electronics Engineer.....	855	Do.
Security Clerk (Typing).....	322	Do.	Chemical Engineer.....	893	Do.
Chief, Composing Section (TIC).....	324	Do.	Operations Analyst.....	898	Do.
Assistant Chief, Composing Section (TIC).....	324	Do.	Engineer Co-op Student.....	899	GS 12 and below.
Sr. Systems Composer.....	324	Do.	Student Trainee (Engineer).....	899	Do.
Systems Composer.....	324	Do.	Publications Illustrator.....	1001	Do.
Journal Compilation Gr. Ldr.....	324	Do.	Layout Artist (Publications).....	1001	Do.
Composing Machine Oper.....	324	Do.	Layout Artist.....	1001	Do.
Comp. Machine Oper. (Trainee).....	324	Do.	Assistant Chief, Publishing Services Section (TIC).....	1020	Do.
Remote Station Operator.....	332	Do.	Scientific Illustrator (Supervisor).....	1020	Do.
Remote Station Operator (Trainee).....	332	Do.	Photographer.....	1060	Do.
Computer Operator (Supv.).....	332	Do.	Publications Editor.....	1062	Do.
Computer Operator.....	332	Do.	FIND Publications Editor.....	1082	Do.
Computer Operator (Trainee).....	332	Do.	Editorial Assistant.....	1087	Do.
Programmer Analyst.....	334	Do.	Senior Editorial Ass.....	1087	Do.
Operations Analyst.....	334	GS 9 and below.	Proofreading Clerk.....	1087	Do.
ADP Systems Analyst.....	334	GS 12 and below.	FIND Publications Editor.....	1087	Do.
Computer Programmer (Trainee).....	334	Do.	Property Management Officer.....	1103	Do.
Programmer Aid.....	335	Do.	Property Management Assistant.....	1103	Do.
Computer Operations Spec.....	335	Do.	General Clerk (Typing).....	1106	Do.
Senior Data Control Clerk.....	335	Do.	Industrial Participation Assistant.....	1150	GS 9 and below.
Administrative Officer.....	341	Do.	Physical Scientist.....	1301	Do.
Chief, Administrative Division, CRBRPO.....	341	Do.	General Physical Scientist (TIC).....	1301	GS 12 and below.
Assistant Chief, Office Services Branch.....	342	Do.	Scientific Analyst (General Physical Scientist) (TIC).....	1301	Do.
Records Officer.....	342	Do.	Scientific Analyst (Reactor Tech) (TIC).....	1310	Do.
Records Analyst.....	342	Do.	Scientific Analyst (Physics) (TIC).....	1320	GS 9 and below.
Mail and File Supervisor.....	342	Do.	Chemist.....	1320	GS 12 and below.
Offices Services Supervisor.....	342	Do.	Scientific Analyst (Chemistry) (TIC).....	1320	GS 9 and below.
Assistant Chief, Document Management Branch (TIC).....	342	Do.	Radiochemist.....	1320	GS 9 and below.
Administrative Assistant.....	342	Do.	Librarian.....	1410	GS 12 and below.
Management Analyst.....	343	Do.	Library Assistant.....	1411	Do.
Reproduction and Stores Clerk.....	350	Do.	Library Technician.....	1411	Do.
Reproduction and Distribution Clerk.....	350	Do.	Library Assistant (Typing).....	1411	Do.
Publications Clerk.....	351	Do.	Chief Publications Request Section (TIC).....	1411	Do.
Printing Assistant.....	351	Do.	Library Technician (Research).....	1411	Do.
Clerk (Typing).....	351	Do.	Library Technician (Education).....	1411	Do.
Keypunch Operator.....	356	Do.	Chief, Motion Picture Services Section (TIC).....	1411	Do.
Communications Equipment Oper. (Supr.).....	392	Do.	Library Specialist (Motion Picture).....	1411	Do.
Communications Equipment Oper. (Comp.).....	392	Do.	Supervisory Library Technician.....	1411	Do.
Communications Specialist.....	393	Do.			
Chief, Accounts Payable, Payroll, and Travel Section.....	501	Do.			
Accounting Technician.....	501	Do.			
Accountant (SS Mats).....	501	GS 11 and below.			
Accountant.....	510	Do.			
Systems Accountant.....	510	Do.			
Accountant (SS Mats).....	510	Do.			
Accounting Technician.....	525	GS 12 and below.			
Accounting Technician (SS Mats).....	525	Do.			
Fiscal Accountant.....	525	Do.			

Position title	Series	Grade	Position title	Series	Grade
Library Assistant (Descriptive Catalog).....	1411	Do.	Statistical Assistant.....	1531	GS 12 and below.
Library Technician (Descriptive Catalog).....	1411	Do.	Building Superintendent.....	1640	Do.
Tech Information Specialist (Education).....	1412	Do.	Assistant Chief, Printing Branch.....	1654	Do.
Library Assistant (Education).....	1412	Do.	Equipment Priority Assistant Specialist.....	1670	Do.
Operations Analyst.....	1515	GS 9 and below.	Motor Vehicle Specialist.....	1670	Do.
Assistant Chief, Printing Branch.....	1640	Do.	Supply Management Assistant.....	2003	Do.
Equipment Priority Assistant Specialist.....	1670	Do.	Supply Officer.....	2003	Do.
Motor Vehicle Specialist.....	1670	Do.	Printing and Publications Clerk.....	2005	Do.
Supply Management Assistant.....	2003	Do.	Storekeeping Clerk.....	2005	Do.
Supply Officer.....	2003	Do.	Supervisory Storekeeping Clerk.....	2005	Do.
Printing and Publications Clerk.....	2005	Do.	Receiving Clerk.....	2005	Do.
Storekeeping Clerk.....	2005	Do.	Assistant Chief, Transportation Branch.....	2130	Do.
Supervisory Storekeeping Clerk.....	2005	Do.	Shipment Clerk (Steno).....	2134	Do.
Receiving Clerk.....	2005	Do.			
Assistant Chief, Transportation Branch.....	2130	Do.			
Shipment Clerk (Steno).....	2134	Do.			

Hourly Paid Employees Occupational Code: 4402, 4414, and 4417.

## PITTSBURGH ENERGY RESEARCH CENTER

Position title	Series	Grade	Position title	Series	Grade
Safety Specialist.....	18	GS 12 and below.	Personnel Clerk.....	203	Do.
Personnel Clerk.....	203	Do.	Word Processing Clerk.....	301	Do.
Word Processing Clerk.....	301	Do.	Clerical Aid.....	301	Do.
Clerical Aid.....	301	Do.	Clerk-Stenographer.....	312	Do.
Clerk-Stenographer.....	312	Do.	Secretary.....	318	Do.
Secretary.....	318	Do.	Clerk-Typist.....	322	Do.
Clerk-Typist.....	322	Do.	Computer Programmer.....	334	Do.
Computer Programmer.....	334	Do.	Computer Aid.....	335	Do.
Computer Aid.....	335	Do.	Chief, Administrative Services Branch.....	342	Do.
Chief, Administrative Services Branch.....	342	Do.	Office Machine Operator.....	350	Do.
Office Machine Operator.....	350	Do.	Occupational Health Nurse.....	610	Do.
Occupational Health Nurse.....	610	Do.	Chemical Engineering Technician (nonsupervisory).....	802	Do.
Chemical Engineering Technician (nonsupervisory).....	802	Do.	Engineering Technician (nonsupervisory).....	802	Do.
Engineering Technician (nonsupervisory).....	802	Do.	Electrical Engineering Technician (nonsupervisory).....	818	Do.
Electrical Engineering Technician (nonsupervisory).....	818	Do.	Engineering Draftsman.....	830	Do.
Engineering Draftsman.....	830	Do.	Mechanical Engineer (nonsupervisory).....	830	Do.
Mechanical Engineer (nonsupervisory).....	830	Do.	Technical Assistant.....	830	Do.
Technical Assistant.....	830	Do.	Electronics Technician (nonsupervisory).....	856	Do.
Electronics Technician (nonsupervisory).....	856	Do.	Chemical Engineer (nonsupervisory).....	893	Do.
Chemical Engineer (nonsupervisory).....	893	Do.	Chemical Engineer (Coop Student).....	899	Do.
Chemical Engineer (Coop Student).....	899	Do.	Public Information Officer.....	1061	Do.
Public Information Officer.....	1061	Do.	Procurement Clerk.....	1106	Do.
Procurement Clerk.....	1106	Do.	Physical Scientist (nonsupervisory).....	1301	Do.
Physical Scientist (nonsupervisory).....	1301	Do.	Research Physicist (nonsupervisory).....	1310	Do.
Research Physicist (nonsupervisory).....	1310	Do.	Physicist (nonsupervisory).....	1310	Do.
Physicist (nonsupervisory).....	1310	Do.	Physical Science Technician (nonsupervisory).....	1311	Do.
Physical Science Technician (nonsupervisory).....	1311	Do.	Physical Science Aid.....	1311	Do.
Physical Science Aid.....	1311	Do.	Research Chemist (nonsupervisory).....	1320	Do.
Research Chemist (nonsupervisory).....	1320	Do.	Chemist (nonsupervisory).....	1320	Do.
Chemist (nonsupervisory).....	1320	Do.	Mathematician.....	1520	Do.
Mathematician.....	1520	Do.	Computer Specialist.....	2005	Do.
Computer Specialist.....	2005	Do.	Supply Technician.....	2005	Do.
Supply Technician.....	2005	Do.	Supply Clerk.....	2005	Do.
Supply Clerk.....	2005	Do.	Travel Clerk.....	2132	Do.
Travel Clerk.....	2132	Do.	Assistant Travel Clerk.....	2132	Do.
Assistant Travel Clerk.....	2132	Do.			

Hourly Paid Employees: WG 3305, WG 3359, WL 3359, WO 3501, WO 3703, WO 4204, WO 4740, WS 4740, WO 5346, WO 5441, WL5441, and WS 5441.

## NOTICES

## PITTSBURGH NAVAL REACTORS OFFICE

Position title	Series	Grade
Security Assistant.....	080	GS 12 and under.
Security Screener.....	080	Do.
Visitor Control Clerk.....	080	Do.
Personnel Management Assistant.....	201	Do.
Personnel Assistant.....	203	Do.
Travel Voucher Clerk.....	301	Do.
Clerk Stenographer.....	312	Do.
Secretary.....	318	Do.
Clerk Typist.....	322	Do.
Administrative Assistant.....	341	Do.
Records Management Technician.....	344	Do.
Teletype Operator.....	385	Do.
Accountant.....	501	Do.
Accounting Technician.....	525	Do.
Budget Analyst.....	560	Do.
Physical Science Specialist.....	1301	Do.
Property Management Assistant.....	2003	Do.

## RICHLAND OPERATIONS OFFICE

Position title	Series	Grade
Personnel Security Analyst.....	0080	GS 12 and below.
Inspector/Escort.....	0080	Do.
Security Screener.....	0080	Do.
Escort.....	0080	Do.
Security Officer.....	0080	Do.
Security Operations Specialist.....	0080	Do.
Personnel Officer.....	201	Do.
Personnel Technician.....	203	Do.
Labor Relations Specialist.....	246	Do.
Administrative Assistant.....	301	Do.
Clerk.....	301	Do.
Public Affairs Clerk.....	301	Do.
Insurance and Processing Clerk.....	301	Do.
Mail and Commitment Control Clerk.....	301	Do.
Contract Clerk.....	301	Do.
Clerk Messenger.....	302	Do.
Receptionist.....	304	Do.
Document Control Clerk.....	305	Do.
Commitment Control Clerk.....	305	Do.
Clerk Stenographer.....	312	Do.
Secretary.....	318	Do.
Clerk-Typist.....	322	Do.
Administrative Assistant.....	341	Do.
International Programs Specialist.....	342	Do.
Records, Mail and Commitment Control Supervisor.....	342	Do.
Planning Analyst.....	345	GS 11 and below.
Telecommunications Operator.....	392	GS 12 and below.
Telecommunications Assistant.....	393	Do.
Telecommunications Specialist.....	393	Do.
Budget Technician.....	501	Do.
Budget Clerk.....	501	Do.
Financial Officer.....	504	Do.
Accountant.....	510	Do.
Accounting Clerk.....	520	Do.
Accounting Technician.....	525	Do.
Financial Technician.....	525	Do.
Budget Analyst.....	560	Do.
Public Affairs Specialist.....	1081	Do.
Technical Assistant.....	1081	Do.
Property Management Assistant.....	1103	Do.
Emergency Preparedness Assistant.....	1301	Do.
Health Physicist.....	1306	Do.
Travel Clerk.....	2132	Do.
Transportation Assistant.....	2134	Do.

## SAN FRANCISCO OPERATIONS OFFICE

Position title	Series	Grade
Security Specialist.....	080	GS 12 and below.
Personnel Security Specialist.....	080	Do.
Security Assistant.....	080	Do.
Convoy Commander.....	085	Do.
Convoy Commander-Mail Channels.....	085	Do.
Security Specialist.....	085	Do.
Personnel Relations Officer.....	201	Do.
Personnel Assistant.....	201	Do.
Personnel Assistant.....	203	Do.
Management Trainee (except Procurement).....	301	Do.
Administrative Assistant.....	301	Do.
Administrative Clerk.....	301	Do.
Security Clerk.....	301	Do.
Office Services Assistant.....	301	Do.
Engineering Management Staff Assistant.....	301	Do.
Proofreader.....	301	Do.
Mail and Records Supervisor.....	305	Do.
Records Clerk.....	305	Do.
Mail and Records Clerk.....	305	Do.
Clerk-Stenographer.....	312	Do.
Supervisor, Word Processing Center.....	313	Do.
Word Processing Technician.....	316	Do.
Clerk-Transcriber.....	316	Do.
Secretary.....	318	Do.
Administrative Clerk.....	318	Do.
Clerk Typist Admin. Clerk.....	322	Do.
Computer Specialist.....	334	Do.
Computer Programmer/Analyst.....	334	Do.
Programmer Assistant.....	334	Do.
Assistant Program Coordinator.....	340	GS 9 and below.
Assistant Program Coordinator Trainee.....	340	Do.
Chief Communications Services Branch.....	342	GS 12 and below.
Assistant Program Coordinator.....	345	GS 9 and below.
Data Transcriber.....	356	GS 12 and below.
Communications Equipment Operator.....	390	Do.
Communications Officer.....	393	Do.
Communications Specialist.....	393	Do.
Management Accountant.....	510	GS 11 and below.
Accounting Technician.....	525	GS 12 and below.
Nuclear Materials Analyst.....	525	Do.
Budget Analyst.....	580	GS 9 and below.
Assistant Budget Analyst.....	580	GS 12 and below.
Assistant Project Manager.....	801	GS 9 and below.
Project Engineer.....	801	Do.
Assistant Program Coordinator.....	840	Do.
Project Engineer.....	840	Do.
Assistant Program Coordinator.....	893	Do.
Illustrator.....	1021	GS 12 and below.
Assistant Public Affairs Officer.....	1081	Do.
Public Affairs Officer.....	1061	Do.
Technical Information Assistant.....	1081	Do.
Hawaii Liaison Officer.....	1081	Do.
Office Services Coordinator.....	1101	Do.
Reports Analyst.....	1106	Do.
Administrative Clerk.....	1106	Do.
Library Technician.....	1411	Do.
Library Aid.....	1411	Do.
Training Consultant.....	1720	Do.
Supply Clerk.....	2005	Do.
Assistant Supply Clerk.....	2005	Do.
Administrative Travel Clerk.....	2132	Do.

## SAVANNAH RIVER OPERATIONS OFFICE

Position title	Series	Grade
Security Representative .....	080	GS 12 and below.
Visitor Control Assistant .....	080	Do.
Security Assistant .....	080	Do.
Security Couriers .....	080	Do.
Processing Clerk .....	080	Do.
Personnel Officer .....	201	Do.
Personnel Assistant .....	201	Do.
Personnel Specialist .....	201	Do.
Administrative Assistant .....	301	Do.
Reports Clerk .....	301	Do.
Records and Services Clerk .....	301	Do.
Technical Services Assistant .....	301	Do.
Mail Clerk .....	305	Do.
Clerk-Stenographer .....	312	Do.
Secretary .....	318	Do.
Administrative Secretary .....	318	Do.
ADP Analyst .....	334	Do.
Emergency Planning Specialist.	341	Do.
Records and Services Assistant.	341	Do.
Administrative Assistant .....	341	Do.
Office Services Specialist.....	342	Do.
Miscellaneous Duplicating Equipment Operator.	350	Do.
SACNET Supervisor .....	392	Do.
Communications Equipment Operations.	392	Do.
Accounting Clerk .....	501	Do.
Accountant .....	510	GS 7 and below.
Voucher Examiner .....	540	GS 12 and below.
Budget Analyst.....	560	Do.
Accounting Co-ops.....	599	GS 7 and below.
Technical Assistant .....	802	GS 12 and below.
Nuclear Engineer .....	840	GS 9 and below.
Reactor Materials Engineer .....	840	Do.
Telecommunications Engineer.	855	Do.
Waste Management Engineer.	893	Do.
Engineering Co-ops.....	899	Do.
Public Affairs Assistant.....	1081	GS 12 and below.
Property Management Assistant.	1103	Do.
Contracts Clerk .....	1106	Do.
Transportation Assistant.....	2130	Do.



Position title	Series	Grade
Secretary .....	318	GS 12 and below.
Clerk-Typist .....	322	Do.
Office Services Supervisor .....	342	Do.
Accountant .....	510	GS 11 and below.
Accounts Maintenance Clerk .....	520	GS 12 and below.
Electrical Engineering Technician .....	802	Do.
Engineering Technician .....	802	Do.
Hydraulic Engineer .....	810	Do.
Janitor .....	3566	Wage grade.

## SOUTHWESTERN POWER ADMINISTRATION

Position title	Series	Grade
Personnel Management Specialist .....	201	GS 12 and below.
Personnel Clerk .....	203	Do.
Confidential Assistant .....	301	Do.
Management Assistant .....	301	Do.
Clerk (Office Services) .....	301	Do.
Clerk (Typing) .....	301	Do.
Billing Assistant .....	301	Do.
Supervisory System Operator .....	301	Do.
System Operator .....	301	Do.
Clerk-Stenographer .....	312	Do.
Secretary (Stenography) .....	318	Do.
Clerk-Typist .....	322	Do.
ADP Systems Manager .....	330	Do.
Computer Operator .....	332	Do.
Peripheral Computer Equipment Operator .....	332	Do.
Computer Programmer .....	334	Do.
Office Services Manager .....	342	Do.
Office Services Supervisor .....	342	Do.
Office Machine Operator .....	350	Do.
Operating Accountant .....	510	Do.
Accounts Maintenance Clerk (Budget) .....	520	Do.
Accounting Technician .....	525	Do.
Budget Analyst .....	560	Do.
Engineer Technician .....	802	Do.
Hydraulic Engineer .....	810	Do.
Engineering Draftsman .....	818	Do.
Electrical Engineer .....	850	Do.
Electronics Engineering .....	855	Do.
Public Information Specialist .....	1081	Do.
Statistical Clerk and Assistant .....	1531	Do.
Supply Management Representative .....	2003	Do.
Supply Technician .....	2005	Do.

## WESTERN AREA POWER ADMINISTRATION, BILLINGS, MONT.

Position title	Series	Grade
Safety Manager .....	018	GS 12 and below.
Position Classification Specialist .....	221	Do.
Realty Clerk .....	301	Do.
General Clerk Typing .....	301	Do.
General Clerk Steno .....	301	Do.
Supervisor Power System Dispatcher .....	301	Do.
Supervisor Power Area Dispatcher .....	301	Do.
Supervisor Power System Dispatcher .....	301	Do.
Supervisor Power Area Dispatcher .....	301	Do.
Mail Clerk .....	305	Do.
Clerk Stenographer .....	312	Do.
Secretary .....	318	Do.
Clerk-Typist .....	322	Do.
Computer Specialist .....	334	Do.
Administrative Officer .....	341	Do.
Programs Analyst .....	345	Do.
Telephone Operator .....	382	Do.
Finance Technician .....	601	Do.
Cost Accountant .....	610	Do.
Accountant .....	610	Do.
Accounting Technician .....	625	Do.
Voucher Examiner .....	640	Do.

Position title	Series	Grade
Engineering Technician .....	802	GS 12 and below.
Electrical Engineer Technician .....	802	Do.
Civil Engineer Technician .....	802	Do.
Material Engineer Technician .....	802	Do.
Civil Engineer .....	810	Do.
Supervisor Survey Technician .....	817	Do.
Surveying Technician .....	817	Do.
Engineering Draftsman .....	818	Do.
Electrical Engineer .....	850	Do.
Public Utilities Technician .....	1101	Do.
General Supply Specialist .....	2001	Do.
Supply Clerk .....	2005	Do.
Helicopter Pilot .....	3181	Do.

Hourly Paid Employees: WB 2619, WO 2619, WS 2619, WB 2806, WS 2806, WB 2808, WS 2808, WB 2843, WB 5703, WO 5823, WB 54287, and WS 54287.

## WESTERN AREA POWER ADMINISTRATION, BOULDER CITY, COLO.

Title	Series	Grade
Safety Manager .....	018	GS 12 and below.
Public Utilities Clerk .....	113	Do.
Personnel Officer .....	201	Do.
Personnel Assistant .....	203	Do.
Power System Operation Specialist .....	301	Do.
Power System Dispatcher .....	301	Do.
Switching Program Coordinator .....	301	Do.
Power Control Schedule Clerk .....	301	Do.
General Clerk .....	301	Do.
Power Control Billing Clerk .....	301	Do.
File Clerk .....	305	Do.
Mail File Clerk .....	305	Do.
Clerk-Steno .....	312	Do.
Safety Clerk-Stenographer .....	312	Do.
Clerk-Dictating Machine Translator .....	316	Do.
Secretary-Stenographer .....	318	Do.
Clerk-Typist .....	322	Do.
Computer Operator .....	332	Do.
Computer Systems Analyst .....	334	Do.
Computer Programmer .....	334	Do.
Administrative Assistant .....	341	Do.
Office Services Supervisor .....	342	Do.
Program Analyst .....	345	Do.
Data Transcriber .....	356	Do.
Accounting Assistant .....	501	Do.
Accountant .....	510	Do.
Accounting Technician .....	525	Do.
Budget Officer .....	560	Do.
Electrical Engineering Technician .....	802	Do.
Electrical Engineer .....	850	Do.
Electronics Engineer .....	855	Do.
Electronic Technician .....	855	Do.
Technical Writer .....	1083	Do.
Procurement Assistant .....	1102	GS 7 and below.
Purchasing Agent (Typing) .....	1105	Do.
Statistical Clerk .....	1130	GS 12 and below.
Cartographic Assistant .....	1371	Do.
Operations Research Analyst .....	1515	Do.
Statistical Assistant .....	1531	Do.
General Supply Officer .....	2001	Do.
Property Management Officer .....	2001	Do.
Supply Technician .....	2005	Do.
Supply Clerk .....	2005	Do.
Helicopter Pilot .....	3181	Do.

Hourly Paid Employees: WB 2619, WS 2619, WB 2806, WS 2806, WB 2808, WS 2808, WB 2843, WB 5703, WO 5823, WB 54287, and WS 54287.

## WESTERN AREA POWER ADMINISTRATION, DENVER, COLO.

Position title	Series	Grade
Clerk Typing .....	301	GS 12 and below.
Office Assistant Stenographer .....	301	Do.
Power System Dispatcher .....	301	Do.
Senior Power System Dispatcher .....	301	Do.
Head, Power System Dispatcher .....	301	Do.
File Clerk Microphotography .....	305	Do.
Clerk-Stenographer .....	312	Do.
Clerk Typist .....	322	Do.
Computer Specialist .....	334	Do.
Administrative Officer .....	341	Do.
Accountant .....	510	Do.
Payroll Clerk .....	544	Do.
Payroll Technician .....	544	Do.
General Engineer .....	801	Do.
Engineer Technician .....	802	Do.
Materials Engineer Technician .....	802	Do.
Civil Engineer Technician .....	802	Do.
Electrical Engineering Technician .....	802	Do.
Electrical Engineering Drafting .....	802	Do.
Landscaping Architect .....	807	Do.
Architect .....	808	Do.
Structural Engineer .....	810	Do.
Civil Engineer .....	810	Do.
Supervisor Surveying Technician .....	817	Do.
Engineering Draftsman .....	818	Do.
Electrical Engineer .....	850	Do.
Electronics Engineer .....	855	Do.
Electronics Technician .....	855	Do.
Purchasing Agent .....	1105	GS 7 and below.
Statistical Assistant .....	1531	GS 12 and below.
Power Operations Specialist .....	1601	Do.
Head and Chief, Transmission Lines and Substation Branch .....	1640	Do.
General Supply Supervisor .....	2001	Do.

Hourly Paid Employees: WB 2806, WS 2806, WB 2808, WS 2808, WB 2843, WB 4443, WB 5349, WB 6907, and WB 54287.

## WESTERN AREA POWER ADMINISTRATION, SACRAMENTO, CALIF.

Position title	Series	Grade
Power Contracts Clerk (Stenographer) .....	301	GS 12 or below.
Power Billing Clerk .....	301	Do.
Clerk Stenographer .....	312	Do.
Secretary (Stenographer) .....	318	Do.
Administrative Officer .....	341	Do.
Administrative Assistant .....	341	Do.
Accounting Technician .....	525	Do.
General Engineer .....	801	Do.
Engineering Technician .....	802	Do.
Electrical Engineer .....	850	Do.
Administrative Support .....	850	Do.
Supply Technician .....	2005	Do.

Hourly Paid Employees: WB 2806, WB 2806, WB 2843, and WB 5407.

## WESTERN AREA POWER ADMINISTRATION, SALT LAKE CITY, UTAH

Position title	Series	Grade
Personnel Officer .....	301	GS 12 and below.
Personnel Clerk .....	303	Do.
Clerk .....	301	Do.
Power System Dispatcher .....	301	Do.
Mail and File Clerk .....	305	Do.
Clerk-Stenographer .....	312	Do.
Secretary (Steno) .....	318	Do.
Clerk-Typist .....	322	Do.
Computer Operator .....	332	Do.

Position title	Series	Grade
Computer Specialist .....	334	GS 12 and below.
Program Analysis Officer .....	345	Do.
Office Machine Operator .....	350	Do.
Fiscal Clerk .....	501	Do.
Electric Engineering Technician .....	802	Do.
Civil Engineering Technician .....	802	Do.
Civil Engineer .....	810	Do.
Engineering Draftsman .....	818	Do.
Electrical Engineer .....	850	Do.
Electronic Engineer .....	855	Do.
Public Utility Technician .....	1101	Do.
General Supply Specialist .....	2001	GS 7 and below.
Supply Clerk .....	2005	GS 12 and below.
Aircraft Pilot .....	2181	Do.

Hourly Paid Employees: WS 2502, WB 2619, WS 2619, WB 2806, WS 2806, WB 2808, WS 2808, WB 2843, WS 2843, WB 3502, WB 4102, WB 5003, WB 5716, and WB 5803.

## OFFICES (HEADQUARTERS AND FIELD) NOT LISTED ELSEWHERE

All positions GS 12 or below in the following occupational series: 018, 080, 081, 085, 099, 201, 203, 212, 221, 243, 302, 304, 305, 312, 313, 316, 318, 332, 330, 322, 334, 335, 344, 350, 351, 356, 357, 382, 393, 394, 520, 525, 540, 544, 590, 599, 610, 644, 647, 690, 802, 818, 856, 899, 1001, 1015, 1060, 1081, 1082, 1083, 1084, 1087, 1106, 1311, 1341, 1370, 1371, 1374, 1410, 1412, 1531, 1654, 1712, 2005, 2151, and 2181.

The following positions in occupational series 301, GS 12 and below are exempted: Correspondence Information Coordinator, Correspondence Management Specialist, Correspondence Control Clerk, Administrative Fiscal Service Assistant (Typing), Clerk (Typing), Clerk, Administrative Assistant, Clerical Assistant, Clerk (Stenography), Work Processing Assistant (Editorial), Chief, Correspondence Unit, Staff Technician (Stenography), Information Clerk, Advisory Committee Management Officer, Document Control Clerk, Correspondence Management Technician, Staff Assistant (Stenography), Advisory Committee Program Specialist, Office Services Assistant, Clerical Assistant (Typing), Clerical Assistant (Stenography), Management Information Assistant, Information Assistant, Administrative Clerk, Administrative Aide (Typing), Project Assistant, Program Assistant, Correspondence Control Clerk (Typing), and Supervisory Correspondence Management Specialist.

Dated: January 23, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

(FR Doc. 78-2358 Filed 1-26-78; 8:45 am)

[6560-01]

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 848-6; OPP-42046B]

## ALASKA

## Submission of State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides—Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171 require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 27, 1977, the Alaska State Plan was approved contingent upon the promulgation of regulations by the Alaska Department of Environmental Conservation (ADEC) necessary for the implementation of the Alaska State Plan. Notice of contingent approval was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35183). Subsequently, on November 25, 1977, implementing regulations promulgated by the ADEC became effective. Having reviewed these regulations and finding that all requisite legal authorities required by FIFRA and 40 CFR Part 171 are now enacted and promulgated, the Regional Administrator, EPA Region X, hereby gives notice that the Alaska State Plan is now a fully approved State Plan.

Dated: January 20, 1978.

DONALD P. DUBOIS,  
Regional Administrator, U.S.  
Environmental Protection  
Agency, Region X.

(FR Doc. 78-2088 Filed 1-26-78; 8:45 am)

[6560-01]

[FRL 848-4; OPP-180170]

## OREGON DEPARTMENT OF AGRICULTURE

## Issuance of Specific Exemption To Use Nortron To Control Winter Weeds in Perennial Ryegrass Seed Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Oregon Department of Agriculture (hereafter referred to as the "Applicant") to use a maximum of 30,000 pounds of Nortron 1.5 EC (ethofumesate) for the control of winter weeds on 10,000 to 20,000 acres of newly-planted perennial ryegrass seed fields in the Willamette Valley of western Oregon. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

Dated: January 23, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

(FR Doc. 78-2358 Filed 1-26-78; 8:45 am)

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 H Street SW., Room E315, Washington, D.C. 20460.

In October 1977, the EPA granted a specific exemption to the Applicant for use of a maximum of 60,000 pounds of active ingredient ethofumesate (Nortron 1.5 EC) to control annual bluegrass, rattail fescue, velvetgrass, and various other weed pests on 40,000 acres of annual ryegrass seed fields in the Willamette Valley. This use was permitted since there are currently no pesticides registered for control of these weed pests in annual ryegrass.

The Applicant subsequently requested a specific exemption for control of winter weeds in newly-seeded perennial ryegrass seed fields. According to the Applicant, winter weeds are serious problems in establishing newly-seeded plantings of perennial ryegrass in western Oregon. The weeds compete strongly with germinating and newly-emerged seedlings. The potential economic loss to the grower due to infestations of these weeds during the first year could be as high as \$100 per acre, the Applicant estimated. The currently unfavorable market for annual ryegrass combined with the favorable market for perennial ryegrass has resulted in many growers planting perennial ryegrass, the Applicant stated. The increase in new seedlings is estimated at 10,000 to 20,000 acres.

The Applicant stated that the presently acceptable method for establishment of a new stand of perennial ryegrass is to drill the seed into rows and apply a band of activated charcoal directly over the seed row. An overall treatment of diuron is then applied to the field. The activated charcoal allows the ryegrass to germinate through the diuron treatment; however, the charcoal band, which covers about twenty percent of the field, also allows weed seeds within the band to germinate through the chemical treatment. Diuron should not be applied after crops or weeds emerge. The following pesticides have also been registered by EPA for control of one or more of the aforementioned weed pests: IPC (propham), atrazine, benefin (Balan), and bensulide (Betasan). IPC and atrazine are registered for application to established perennial ryegrass stands; they should not be applied to newly-planted fields. Benefin and bensulide, which are registered for weed control in established lawns, inhibit germination or adversely affect the seedling.

The Applicant therefore requested that a single application of Nortron



1.5 EC be made at a rate of 1.5 pounds of active ingredient per acre on a maximum of 20,000 acres of perennial ryegrass seed fields in the Willamette Valley for control of Rattail Fescue (*Festuca myuros*), Annual Bluegrass (*Poa annua*), and Common Velvetgrass (*Holcus lanatus*). Applications will be made by licensed commercial applicators using ground and air equipment. Some growers may elect to apply ethofumesate (Nortron) with ground equipment on their own property. Application rates and procedures will be recommended by qualified Oregon State University extension agents. The Applicant further stated that this use will not result in any increase in acreage to be treated with ethofumesate above the 40,000 acres authorized in the previous exemption; therefore, no additional hazard to man or the environment beyond that which was evaluated and determined to be acceptable in the October specific exemption is expected. Nortron will be restricted for application to ryegrass grown for seed crop.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak has or is about to occur; (b) there is no pesticide presently registered and available for use to control these winter weeds in Oregon; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the weeds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until January 31, 1978, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Nortron may be used at a rate of one and one-half pounds of active ingredient per acre in the Willamette Valley;
2. A single application may be made as a pre-emergent or early post-emergent treatment;
3. Nortron may be applied with both ground and air equipment;
4. A maximum of 30,000 pounds of active ingredient may be applied;
5. All applications will be made by State-licensed commercial applicators or by growers on their own property;
6. Crops other than perennial ryegrass will not be planted in treated fields within 12 months of application of Nortron. All ryegrass crops which are planted in treated fields within 12 months of application of Nortron will be grown for seed only and are subject to the same restrictions as treated grass;
7. Treated grass will not be grazed or cut for use as food and feed;

8. Grass seed and grass screenings will not be used as food and feed;

9. Ryegrass stubble and grass waste will be thoroughly tilled under after harvest;

10. Precautions will be taken to avoid spray drift to non-target areas;

11. All applicable directions, precautions, and restrictions on the Nortron label must be observed;

12. Prior to application of Nortron, the grower will be required to sign an agreement which states that he or she understands the provisions of the exemption and will observe all directions, restrictions, and precautions;

13. The Applicant is responsible for ensuring that all the provisions of this specific exemption are met and must submit a report summarizing the results of this program by October 1978;

14. The EPA shall be immediately informed of any adverse effects resulting from the use of Nortron in connection with this exemption; and

15. The total quantity of Nortron applied under authority of this specific exemption and the one issued in October, 1977, for treatment of annual ryegrass shall not exceed 60,000 pounds active ingredient.

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

Dated: January 19, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 78-2289 Filed 1-26-78; 8:45 am]

[6560-01]

[FRL 848-8]

#### RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the environmental Protection Agency from January 16 through January 20, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental statements is forty-five (45) days from this FEDERAL REGISTER notice of availability (March 13, 1978). The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

Copies of individual statements are available for review from the original

ing agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: January 24, 1978.

PETER L. COOK,  
Acting Director,  
Office of Federal Activities.

#### DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

#### FOREST SERVICE

##### Draft

Gospel Hump, Nezperce & Payette National Forest, Wilderness, Idaho County, Idaho, January 18: Proposed is the recommendation for a wilderness study area of 238,830 acres of national forest land in the Nezperce and Payette National Forests in northern Idaho, and a land management plan for 212,444 acres of national forest land in the Nezperce National Forest. Principal environmental impacts resulting from the recommendations in this EIS are associated with timber harvest and culture, treatment of big game winter ranges, off-road vehicle use and general wilderness use. (ELR Order No. 80047.)

Union Creek channel improvement, Ne-shoba and Newton Counties, Miss., January 18: Proposed are flood control measures in the city of Union, Mississippi, to reduce flooding of streets, yards, and grounds from various storm sizes up to and including the 100 year event. Proposed plan implementation call for increasing the flow capacity of 1.73 miles of previously altered intermittent streams and construction of about 1,400 ft. levee. Adverse impacts involve the displacement of existing wildlife from 18 acres of mixed sapling and shrubby-type vegetation to be cleared during channel construction and repopulation with other species once vegetation is reestablished. (ELR Order No. 80048.)

Mt. Rogers, National Recreation Area and Scenic Highway, several counties, Virginia, January 20: Proposed is a long range development plan and unit plan for the Mount Rogers natural recreation area located in Carroll, Grayson, Smyth, Washington and Wythe Counties, Va. Volume II of the DEIS proposed the construction of approximately 67 miles of two-lane scenic highway, East-West between U.S. 58 and I-77. Dredge and fill permits will be required for major stream crossings if this action is implemented. (USDA-FS-RADES ADM. (780-2)/FHWA-VA-EIS-77-03-D. (ELR Order No. 80067.)

##### Final

Union Pass Planning Unit, Bridger-Teton National Forest, Sublette, Teton, and Fremont Counties, Wyo., January 19: Proposed is a comprehensive land use plan for the Union Pass Planning Unit, Bridger-Teton National Forest, Wyo. The unit contains approximately 180,000 acres of national forest, and about 1,800 acres of non-national forest land. Plan implementation activities involve wood production, water, livestock forage, wildlife, fisheries, mineral, oil and gas exploration, and recreation activities. Adverse impacts include short-term impacts on water

quality arising from road-construction, displacement of wildlife, and some soil erosion. Comments made by: USDA, HUD, DOI, EPA, and AHP. (ELR Order No. 80055.)

#### DEPARTMENT OF DEFENSE

##### ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

##### Draft

Locks and Dam No. 1, rehabilitation, Minnesota, January 17: Proposed is the rehabilitation of locks and dam No. 1 in the St. Paul-Minneapolis reach of the Mississippi River at Mile 847.6 above the mouth of the Ohio River. Plan implementation calls for the closing and dewatering of the two locks from December 1 to May 1; rehabilitation should not affect the normal navigation season. Adverse impacts include increased water turbidity due to placement and removal of cofferdams; increased loads upon the Minneapolis sewer system; excavation of 4 acre of an island; adverse effects upon wildlife; and construction-related pollution. (St. Paul District.) (ELR Order No. 80043.)

Forest Grove Dam and Reservoir, Caney Creek, Henderson County, Tex., January 17: Proposed is the granting of a permit for the construction of a dam by the Texas Utilities Services Inc. on Caney Creek, Henderson County, Tex. Plan implementation calls for the construction of the Forest Grove Dam, circulating water intake canals and discharge structures, a pump station and pipeline and reservoir relocations. The reservoir will cover 4 to 5 miles of existing Caney Creek and will have a surface area of approximately 1,500 acres. Adverse impacts include the inundation of 1,500 acres of land and the associated displacement of wildlife; the loss of 5.2 miles of flowing stream and its ecosystem; and construction-related impacts. (Fort Worth District.) (ELR Order No. 80044.)

##### Final

Lakes Greeson, Ouachita, and Degray, operation and maintenance, several counties, Arkansas, January 19: proposed is the continuance of operation and maintenance activities at Lake Greeson, Lake Ouachita, and Degray Lake, Ark. The Lake Greeson and Lake Ouachita projects were authorized for the purposes of flood control and hydroelectric power generation. The Degray Lake project was authorized for flood control, hydroelectric power generation, water supply, navigation, and recreation. Adverse effects resulting from continued operation and maintenance include cold water release from hydroelectric power generation at Lake Greeson and Lake Ouachita, which has disrupted the once warmwater fishery downstream of each lake. (Vicksburg District.) Comments made by: EPA, USDA, DOI, DOT, and FPC. (ELR order No. 80056.)

Tillamook South Jetty Extension, Tillamook County, Oregon, January 19: Proposed is the extension of the south jetty at the entrance of Tillamook Bay an additional 1,500 feet to a point nearly opposite the north jetty. Channel width would be maintained at 1,200 feet. The jetty would be constructed to an elevation of 18 feet above mean low water with a crest width of 30 feet. Adverse effects include reduced

tidal interchange which would alter the flushing rate and could result in reduction of the bay's productivity. Approximately 6.75 acres of bottom habitat would be covered by the proposed extension. (Portland District.) Comments made by: EPA, USDA, DOC, DOI, ERDA, State and local agencies. (ELR Order No. 80080.)

Obion Creek Project, Kentucky, several counties, Kentucky, January 20: Proposed is a flood control project for Graves, Hickman, Carlisle, and Fulton Counties, Ky., which provides for about 34 miles of channel enlargement, about 8 miles of new channel construction and 3 miles of channel improvement of Hurricane Creek. The dredged material will be placed on a closed spoil bank along 8 miles of the new channel work. Adverse impacts include disruption of the benthic habitat, temporary increases in stream turbidity, noise, solid wastes, air pollution, and reduction in wildlife availability and fishery values. (Memphis District.) Comments made by: HUD, HEW, DOT, USDA, EPA, and DOI. (ELR order No. 80061.)

##### Supplement

Missouri River Levee System (S-1), Nebraska, January 18: This statement supplements a FEIS originally filed with CEQ in May of 1976. Since completion of the FEIS, it had been determined that a portion of the work to be done falls under the purview of section 404 of the Federal Water Pollution Control Act Amendments of 1972. A section 404 permit is required because permanent fill will be placed in wetlands in conjunction with the construction of 23,660 linear feet of levee and underseepage facilities along the right bank of the Missouri River at Bellevue, Nebr. Adverse impacts involve the elimination of approximately 1/4 acre of aquatic habitat in the Papillion Creek. (Omaha District.) (ELR order No. 80049.)

West Tennessee Tributaries Project (S-1), Tennessee, January 18: This statement supplements a FEIS originally filed with CEQ in July of 1975. This supplement addresses the written comments received by the corps concerning the West Tennessee Tributaries Project. (ELR order No. 80050.)

#### DEPARTMENT OF DEFENSE, AIR FORCE

Contact: Col. Luis F. Dominguez, Department of the Air Force, Room 5D431, Pentagon, Washington, D.C. 20330, 202-697-7799.

##### Final

MX: Buried Trench Construction and Test, Yuma County, Ariz., January 20: Proposed is the construction of two sections of underground tunnel in the San Cristobal Valley on the Luke Air Force range in Yuma County, Ariz. The proposed construction project will provide essential cost and construction data to analyze conceptual protective structures for the mobile, land-based intercontinental ballistic missile (ICBM) system known as MX. The trench will also serve as a test bed for mechanisms designed to punch through the tunnel roof and erect a dummy missile to simulate launch position. Long-term aesthetic degradation will result. Comments made by: USDA, DOD, DOI, DOT, EPA, and individuals. (ELR order No. 80065.)

#### DEPARTMENT OF DEFENSE, NAVY

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, 202-697-3689.

##### Supplement

Kahoolawe Island Target Complex, Hawaii, January 16: This statement supplements a FEIS originally filed with CEQ in March, 1972. This supplement provides a more complete table of contents and updates the information contained in the final statement. Three new targets have been added to the target complex and overall use of the island for ground operations of the U.S. Marine Corps has increased. Adverse impacts include erosion; and the possible extinction of five species of rare plants. (ELR order No. 80039.)

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Brown, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

##### Draft

Concept 80 West Development, Lakewood, Jefferson County, Colo., January 18: Proposed is the granting of HUD/FHA mortgage insurance for the Concept 80 West, Lake Borough Village, housing development in Lakewood, Colo. Plan implementation calls for the construction of 168 single family houses and 662 multifamily units. Adverse impacts include increased water usage, soil erosion, increased demand on social services, and construction-related pollution. (ELR Order No. 80051.)

Westland Creek Village Subdivision, Harris County, Tex., January 19: Proposed is the granting of HUD-FHA mortgage insurance for the development of the 628-acre Westland Creek Village Subdivision located in Harris County, Tex. The development will contain approximately 2,000 single family homes and 400 multifamily homes and shopping areas. Adverse impacts include the loss of agricultural land and an increased demand for fossil fuels through heavy dependence upon the automobile. (ELR Order No. 80059.)

##### Final

Piney Ridge Village, Carroll County, Md., January 20: This statement contains a proposal for mortgage insurance for the Piney Ridge Village in Carroll County, Md. The site of the proposed Piney Ridge Village planned unit development is 450 acres comprising most of the southwestern quadrant of the major intersection of State Route 26 and Route 32. Development will include construction of 1,695 dwelling units, and community centers. Land has been reserved for development of public open space and school areas. Adverse effects include increases in air pollution and community noise levels, and increased storm water runoff. Comments made by: EPA, DOI, and USDA.

Kendall Square Urban Renewal, Cambridge County, Mass., January 19: Proposed is the completion of an ongoing urban renewal project approved in 1965 and centered around NASA in the eastern part of the city of Cambridge, Mass. The planned uses of the Kendall Square urban renewal project are light industry, technical and general office space, retail stores, a fire station, possible hotel and residential, and a parking garage. Negative effects include complete relocation of six businesses, and construction-related impacts. Comments made by: COE, DOI, NRC, USDA, GSA, EPA, ERDA, and DOT. (ELR Order No. 80057.)



## SECTION 104(h)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. Copies are not available from HUD.

## Final

Boykin, Ala.—Water System and Road Improvements, Wilcox County, Ala., January 18: Proposed is the construction of a water system and road paving project in the Boykin Community, Wilcox County, Ala. The water project will consist of 10.5 miles of water mains. Six-inch pipe will be used for all mains with the exception of the short dead end lines that do not indicate future expansion; a 125,000 gallon elevated storage tank will be located at the north end of the system. The road improvement project consists of upgrading 2.84 miles of the present gravel surfaced roadways that run through the Boykin Community. Construction activities will cause short-term disruption. Comments made by: HEW, EPA, DOI, and COE. (ELR Order No. 80052.)

Kitsap County, Wash.—Wastewater Facilities, Kitsap County, Wash., January 16: Proposed is the extension of existing sewerage facilities in the unincorporated community of Manchester, Wash., to serve the planned 148-unit Megan Heights Subdivision and surrounding land area. The proposed sewer extension potential service area is bounded by Chester Street on the north, State Route 160 on the south, Puget Drive on the east, and Nebraska Street on the west. The Kitsap County Department of Development proposes to extend the present Manchester sewer district sewer interceptor from Hemlock Street to California Avenue. Adverse effects include the removal of trees and other vegetation. Comments made by DOT. (ELR Order No. 80040.)

## INTERSTATE COMMERCE COMMISSION

Contact: Mr. Richard I. Chais, Chief, Section of Energy and Environment, Room 3373, 12th and Constitution Avenue NW., Washington, D.C. 20423, 202-275-7692.

## Draft

Railroad Abandonment, Bonita Junction-Seagoville, several counties in Texas, January 19: The Southern Pacific Transportation Co. proposes to abandon 144.14 miles of branch line railroad between Bonita Junction and Seagoville, Tex. Adverse impacts include alterations in highway traffic volumes; highway deterioration, fuel consumption; and increased air and noise pollution. (Docket No. AB12, Sub-No. 53.) (ELR Order No. 80058.)

## DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

## BUREAU OF RECLAMATION

## Final

ANG Coal Gasification Co., Mercer County, N. Dak., January 20: The Bureau of Reclamation proposes to make available to ANG Coal Gasification Co. 17,000 acre-feet of water annually for coal gasification needs

## NOTICES

from Garrison Reservoir through a 40-year water service contract. The gasification complex, to be located in southwestern North Dakota, would produce 250 million cubic feet per day of synthetic natural gas for use in the Michigan and Wisconsin market areas. Major adverse impacts include use of 600 acres of land, disturbance of 12,500 acres of land, and emissions of 14,665 lbs. of sulfur dioxide, 6,143 lbs. of nitrogen oxides, and 693 lbs. of particulates each hour. FES 78-1. Comments made by: DOT, USDA, DOD, HEW, HUD, EPA, FPC, FEA, ERDA, and STAT. (ELR Order No. 80062.)

## NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

## Final

Radioactive Materials Transportation, January 16: This statement has been prepared in connection with the NRC re-evaluation of its present regulations governing air transportation of radioactive materials, to provide sufficient analysis to determine the effectiveness of the present rules and of possible alternatives to those rules. The statement discusses the environmental impact of radioactive material in all modes of transportation under the regulations in effect as of June 30, 1975. It then examines principal alternative modes to be considered. Comments made by: TVA, HEW, EPA, DOI, FEA, ERDA, and DOT. (ELR Order No. 80041.)

## DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

## FEDERAL AVIATION ADMINISTRATION

## Draft

Lansing Municipal Airport, Improvements, Cook and Lake Counties, Ill., January 17: Proposed is an airport development program for the Lansing Municipal Airport in Lansing, Ill. Plan implementation calls for the acquisition of 434.4 acres in fee simple and 14.5 acres in aviation easements; reconstruction and extension of runway 9-27 from 75 x 2432 to 75 x 3800 feet; construction of 35,000 sq. yds. of aircraft apron, a north parallel taxiway to runway 9-27, a visual slope indicator, one corporate hangar, 4 20-unit T-hangers and a 10,000 sq. yd. parking lot; and the installation of lighting systems. (ELR Order No. 80045.)

## Final

North Bend Municipal Airport Development, Coos County, Ore., January 16: The proposed action involves the development of the North Bend Municipal Airport, North Bend, Oregon. Development items include: a runway extension of 1,987 feet on the runway 4 end, a 200-foot runway safety area and an approach lighting system beyond the extended runway 4 end, a fill of approximately 45.7 acres of the mudflat southwest of the existing runway 4 end for the runway extension and runway safety area, and a runway extension of 700 feet on the runway 31 end. Adverse effects are loss of Benthic flora and fauna, reduced area for recreation, and reduced productivity of the estuary as a whole. Comments made by: EPA, USDA, DOC, COE, HEW, HUD, DOI, DOT, and ERDA. (ELR Order No. 80042.)

## FEDERAL HIGHWAY ADMINISTRATION

## Draft

MI-29, Reconstruction, Algonac, St. Clair County, Mich., January 20: Proposed is the reconstruction of 1.5 miles of MI-29 from the west city limits to Channelsyde Drive, City of Algonac, St. Clair County, Mich. Several alternatives have been included. Adverse impacts include displacement of families, residential dwellings, and other structures; alteration of surface drainage patterns; removal of ornamental and natural vegetation; and construction-related impacts. (FHWA-MICH-EIS-77-04-D) (ELR Order No. 80064.)

## Final

Louisiana North-South Expressway, several counties, Louisiana, January 19: This statement is an in-depth study which proposes the development and recommendation of route locations and design features for approximately 300 miles of expressway in central and northern Louisiana. To facilitate analysis, the study area was initially divided into three legs. The first leg extended from Opelousas to Alexandria; the second from Alexandria to Shreveport; and the third from Alexandria to Monroe. Detailed studies have been made of the study corridor areas and the potential physical, social, economic, and environmental impacts of alternative alignments and design concepts. (Region 6) (5 Vols.) Comments made by: COE, DOT, DOC, USDA, DOI, EPA, FPC, and GSA. (ELR Order No. 80054.)

Nebraska 370, Bellevue, Sarpy County, Nebr., January 17: Proposed is the improvement of two segments of approximately 1.25 miles of Nebraska 370 within the city of Bellevue from two to four lanes. The additional right-of-way for construction will require acquisition of two residences, two businesses, and the relocation of three mobile homes. Since a motel, one church, 73 homes and a number of businesses exceed the design noise levels, a full detailed study of all noise abatement measures will be made. Comments made by: FAA, USDA, COE, DOD, EPA, and DOI. (ELR Order No. 80046.)

9.5 mile N.H. Route 101 relocation, Rockingham County, N.H., January 18: Proposed is the relocation of 9.5 miles of New Hampshire Route 101 from, roughly, Interstate Route 93 in Manchester to Interstate Route 95 in Hampton. Project termini are N.H. Route 101 approximately 2 miles west of Candia Center and N.H. Route 101 approximately 1.5 miles east of the town of Raymond. The road will be an ultimate 4-lane facility, passing through rural wooded land. Adverse effects include acquisition of 260 acres of land and the relocation of two homes, one mobile home, one cabin, and two storage trailers. (Region 1) Comments made by: EPA, HUD, DOI, HEW, and USDA. (ELR Order No. 80053.)

S.T.H. 83, Waukesha County, Waukesha County, Wis., January 20: Proposed is the improvement of S.T.H. 83 located in the southeastern part of Wisconsin in the town and village of Mukwonago. The termini of this 2.5 mile project area at the south is the new S.T.H. 83-S.T.H. 15 interchange and at the north, it is the existing S.T.H. 83. Project alternatives are to remain on the existing alignment, "do nothing," and relocate a new roadway. Adverse effects will vary depending upon the alternative chosen. Comments made by: HUD, DOI, EPA, DNR, USDA, HEW, DOD, DOT, State and local

agencies and groups and individuals. (ELR Order No. 80063.)

[FR Doc. 78-2402 Filed 1-26-78; 8:45 am]

[6560-01]

[FRL 848-5; OPP-42033B]

## STATE OF NEW YORK

## State Plan for Certification of Pesticide Applicators; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136b), and the implementing regulations of 40 CFR Part 171, require each State desiring to certify applicators to submit a plan for such purpose, subject to approval by the Environmental Protection Agency (EPA). On June 29, 1976, the Honorable Hugh L. Carey, Governor of the State of New York, submitted a State Plan for Certification of Pesticide Applicators to EPA.

A summary of the New York State Plan was published in the FEDERAL REGISTER on October 28, 1967 (41 FR 47283). On January 10, 1977, the plan was approved contingent upon enactment of an approvable amendment to delete or clarify the exemption from Title 13 of Article 33 of the New York Environmental Conservation Law (ECL) granted to public employees in section 33-0103(1)(b) of the ECL, and pending EPA approval of implementing regulations to be promulgated by the Department of Environmental Conservation (DEC). Notice of contingent approval was published in the FEDERAL REGISTER on January 27, 1977 (42 FR 5122).

By letter dated October 5, 1977, from the Acting First Deputy Commissioner, the DEC submitted its determination that the exemption granted to public officials engaged in the performance of their official duties from certain provisions in Article 33 of the ECL, including Title 13—Unlawful Acts, does not apply to the unlawful act of applying restricted use pesticides without certification under Title 9—Permits and Certifications. Therefore, while the subject amendment would serve a clarifying function, it is not essential in light of this interpretation by the DEC.

On December 23, 1976, the DEC promulgated rules and regulations relating to the application of pesticides, Part 325 of Title 6 of the Codes, Rules and Regulations of the State of New York, which became effective on December 27, 1976 and were submitted to EPA for review. Having completed this review, the Regional Administrator, EPA Region II, hereby gives notice that the terms and conditions of contingent approval have been satisfied and that the New York State Plan is now a fully approved plan.

## NOTICES

Dated: January 13, 1978.

ECKARDT C. BECK,  
Regional Administrator, U.S.  
Environmental Protection  
Agency, Region II.

[FR Doc. 78-2288 Filed 1-26-78; 8:45 am]

[6730-01]

## FEDERAL MARITIME COMMISSION

## AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10128; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La.; San Francisco, Calif.; and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by February 6, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated herein after) and the statement should indicate that this has been done.

AGREEMENT No. T-2631-2.

FILING PARTY: Edward S. Bagley, Esquire, Terriberry, Carroll, Yancey & Farrell, 2100 International Trade Mart, New Orleans, La. 70130.

SUMMARY: Agreement No. T-2631-2 restates and modifies the basic agreement (as heretofore amended) between the members of the New Orleans Steamship Association (NOSA) setting forth the method of funding and implementing the guaranteed annual income plan negotiated with the New Orleans locals of the International Longshoremen's Association, AFL-CIO (ILA). Among other things, Agreement No. T-2631-2: (a) Provides that the contributions formerly paid by NOSA members to an escrow account will now be paid directly to the

Administrator of NOSA/ILA pension, welfare, vacation, and holiday funds; (b) makes certain technical changes to conform the agreement to the provisions of the labor contracts providing for the NOSA/ILA guaranteed annual income plan; and (c) provides for the accumulation of additional funds to meet NOSA's anticipated liability under the NOSA/ILA guaranteed annual income plan. Agreement No. T-2631-2 does not, however, revise the contributions by NOSA's members under the basic agreement, as previously amended.

By order of the Federal Maritime Commission.

Dated: January 24, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2359 Filed 1-26-78; 8:45 am]

[6730-01]

## INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

## Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Faro International (Rolando Cedron, d.b.a.), 128 Ridgefield Road, Philadelphia, Pa. 19154.

Dolores Vazquez Melendez, Rafael Mercado 613, Urb. Delicias, Rio Piedras, P.R. 00925.

World Jet Shipping Co. (Fred R. Barcell, d.b.a.), 7609 4th Avenue, Brooklyn, N.Y. 11209.

Eduardo Ubaldo Lopez, 1606 SW. 101 Avenue, Miami, Fla. 33165.

Pacific Freight Forwarders (Humberto Power, d.b.a.), 7223 NW. 43rd Street, Miami, Fla. 33166.

State International, Inc., 405 Lexington Avenue, New York, N.Y. 10017; Officers: Heinrich A. Joost, president; Hans-Jürgen Hottenrott, executive vice president; Clarissa Venth, treasurer; Kenneth L. Everett, secretary.

Ocean-Air Freight and Trade, Inc., 5-World Trade Center, Suite 6247, New York, N.Y. 10048; Officers: Hassan Ansari, president; Lidia Ansari, treasurer.

Daftron Freight, Inc., 413 North Oak Street, Inglewood, Calif. 90301; Officers: Arthur B. Davidson, Jr., president/secretary/director; Ronald Barker, vice president/director.

Manuel Medina, 3741 NW. 66th Avenue, Virginia Gardens, Fla. 33168.

Phillip A. Herzog, 130 Oliver Road, Waban, Mass. 02168.



Boston Overseas, Inc., 88 Broad Street, Boston, Mass. 02110; Officers: Timothy C. O'Shea, president; Kevin F. O'Donnell, vice president; Paul L. Kenny, clerk.

Fast Air Sea Transport, Inc., 15 Mount Vernon Street, Ridgely Park, N.J. 07660; Officers: J. W. Clauss, president; Doris M. Clauss, secretary; Kenneth Schmolze, vice president/treasurer; Emilio Lopez, assistant secretary.

By the Federal Maritime Commission.

Dated: January 24, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2361 Filed 1-26-78; 8:45 am]

# [6730-01]

[Docket No. 75-57]

## MATSON NAVIGATION CO.—PROPOSED RATE INCREASES IN THE UNITED STATES PACIFIC COAST/HAWAII DOMESTIC TRADE

### Adoption of Environmental Negative Declaration

By publication in the FEDERAL REGISTER on October 25, 1977, notice was given that the Federal Maritime Commission's Office of Environmental Analysis ("OEA") had determined that environmental issues relative to the above referenced proceeding did not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. §4321 et seq. and that the preparation of a detailed environmental impact statement was not required under section 4332(2)(c) of NEPA.

Ten days were permitted for filing exceptions to the Negative Declaration. No exceptions have been filed.

Notice is hereby given that the Federal Maritime Commission has this date adopted the Environmental Negative Declaration.

By the Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2362 Filed 1-26-78; 8:45 am]

# [6730-01]

[Independent Ocean Freight Forwarder License No. 1245]

## MONUMENTAL SECURITY STORAGE CO.

### Order of Revocation

The bond issued in favor of Monumental Security Storage Co., 3006 Druid Park Drive, Baltimore, Md. 21215, FMC No. 1245, was cancelled effective January 11, 1978.

By letter dated December 14, 1977, the licensee was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License

No. 1245 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before January 11, 1978.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The licensee has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (revised) Section 5.01(d) dated August 8, 1977:

It is ordered, That Independent Ocean Freight Forwarder License No. 1245 issued to Monumental Security Storage Co. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1245 be and is hereby revoked effective January 11, 1978.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Monumental Security Storage Co.

LEROY F. FULLER,  
Director, Bureau of  
Certification and Licensing.

[FR Doc. 78-2360 Filed 1-26-78; 8:45 am]

# [6820-24]

## GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-455]

## DEPARTMENT OF DEFENSE

### Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Department of Defense to represent, in conjunction with the Administrator of General Services, the interests of the executive agencies of the Federal Government in a natural gas rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* (a) Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Energy Regulatory Commission involving the application of the El Paso Natural Gas Co., for an increase in its natural gas rates. The authority

delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

(b) The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

(c) This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,  
Administrator of  
General Services.

JANUARY 16, 1978.

[FR Doc. 78-2311 Filed 1-26-78; 8:45 am]

# [6820-22]

## REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

### Meeting

JANUARY 19, 1978.

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 3, on February 16 and 17, 1978, from 9 a.m. to 4 p.m., in Room 2636 of the GSA Regional Office Building, Seventh and D Streets SW., Washington, D.C. The meeting will be devoted to the initial stage of the process for screening and evaluating prospective architect-engineer firms to furnish professional services required in connection with two building renovation projects and one new construction project, as follows: (1) Appraisers Stores, Baltimore, Md. (GS-03B-88092/89019); (2) Federal Building No. 3, Sultland, Md. (GS-03B-88097/89022); and (3) FBI Academy, Quantico, Va. (GS-03B-88148/89029). The meeting will be open to the public.

JOHN F. GALUARDI,  
Regional Administrator.

[FR Doc. 78-2351 Filed 1-26-78; 8:45 am]

# [4110-03]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### ADVISORY COMMITTEE

### Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the pro-

cedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Com-

Committee name	Date, time, and place	Type of meeting and contact person
Long Term Protocol Subgroup of the Psychopharmacological Agents Advisory Committee.	Feb. 27, 9 a.m. Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; (HFD-120), Julius J. Cinque, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3800.

*General function of the committee.* Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

*Agenda.—Open public hearing.* Any interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

*Open committee discussion.* Development of long term (Phase IV) protocols.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this FEDERAL REGISTER notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity

to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion. A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18) 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-2194 Filed 1-26-78; 8:45 am]

# [4110-03]

## CONTRACEPTIVES AND OTHER VAGINAL DRUG PRODUCTS PANEL

### Meeting Place Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Contraceptives and Other Vaginal Drug Products Panel meeting scheduled for February 3 and 4, 1978, in Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md., on February 3, and at the Holiday Inn, Chevy Chase, Md., on February 4, has been changed to meet at the Holiday Inn, Bethesda, Md., on February 4, 1978.

FOR FURTHER INFORMATION CONTACT:

Armond Welch, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-

463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of January 13, 1978 (43 FR 1999), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Contraceptives and Other Vaginal Drug Products Panel scheduled for February 3 and 4, 1978, will meet in Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, on February 3, and at the Holiday Inn, Bethesda, Md. 20014, on February 4. The open public hearing will begin at 9 a.m. on February 3.

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 78-2195 Filed 1-26-78; 8:45 am]

# [4110-03]

[Docket No. 76N-0292; DESI 6811]

## ISONIAZID

Drugs for Human Use; Drug Efficacy Study Implementation; Labeling Revision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice sets forth revised labeling for products containing isoniazid both as a single ingredient and as a component of a combination. The labeling includes a boxed warning statement that highlights the association between hepatitis and isoniazid therapy.

DATE: Supplements to approved NDA's due on or before March 28, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 6811, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (identify with NDA number): Division of Anti-Infective Drug Products (HFD-140), Room 12B-45, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of



Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

**SUPPLEMENTARY INFORMATION:** A notice was published in the FEDERAL REGISTER of October 12, 1976 (41 FR 44724) (DESI 6811) concerning certain single-entity and combination products containing isoniazid. The notice stated the effective indications but did not set forth full labeling. A previous notice published in the FEDERAL REGISTER of October 7, 1971 (36 FR 19520) had set forth full labeling for isoniazid based upon information available at that time. As discussed below, it is now appropriate to revise the full labeling on the basis of more recent information concerning isoniazid.

Although the association believes isoniazid and a risk of hepatitis has been known for years, and the current labeling includes warning statements on this risk, a review of recent information reveals an increasing risk in relation to increasing age. In addition there is an increased risk in alcohol abusers. The Director of the Bureau of Drugs is now requiring a Box Warning on the risk of hepatitis and the action to be taken to monitor this risk and to avoid aggravating hepatitis if it occurs.

In addition, because of the risk, it is appropriate to prioritize use of isoniazid for prophylactic purposes in various categories of patients and the new Indications section provides such priorities.

Other changes are also required in the labeling for isoniazid products. Accordingly, full labeling for single-entity isoniazid products is now revised to read as follows:

#### ISONIAZID

#### WARNING

Severe and sometimes fatal hepatitis associated with isoniazid therapy may occur and may develop even after many months of treatment. The risk of developing hepatitis is age related. Approximate case rates by age are: 0 per 1,000 for persons under 20 years of age, 3 per 1,000 for persons in the 20-34 year age group, 12 per 1,000 for persons in the 35-49 year age group, 23 per 1,000 for persons in the 50-64 year age group, and 8 per 1,000 for persons over 65 years of age. The risk of hepatitis is increased with daily consumption of alcohol. Precise data to provide a fatality rate for isoniazid-related hepatitis is not available; however, in a U.S. Public Health Service Surveillance Study of 13,838 persons taking isoniazid, there were 8 deaths among 174 cases of hepatitis.

Therefore, patients given isoniazid should be carefully monitored and interviewed at monthly intervals. Serum transaminase concentration becomes elevated in about 10-20 percent of patients, usually during the first few months of therapy but it can occur at any time. Usually enzyme levels return to normal despite continuance of drug but in

some cases progressive liver dysfunction occurs. Patients should be instructed to report immediately any of the prodromal symptoms of hepatitis, such as fatigue, weakness, malaise, anorexia, nausea, or vomiting. If these symptoms appear or if signs suggestive of hepatic damage are detected, isoniazid should be discontinued promptly, since continued use of the drug in these cases has been reported to cause a more severe form of liver damage.

Patients with tuberculosis should be given appropriate treatment with alternative drugs. If isoniazid must be reinstituted, it should be reinstituted only after symptoms and laboratory abnormalities have cleared. The drug should be restarted in very small and gradually increasing doses and should be withdrawn immediately if there is any indication of recurrent liver involvement.

Preventive treatment should be deferred in persons with acute hepatic diseases.

#### DESCRIPTION

Isoniazid is the hydrazide of isonicotinic acid. (Other descriptive information to be included by manufacturer or distributor should be confined to an appropriate description of the chemical and physical properties of the drug and the formulation.)

#### ACTIONS

Isoniazid acts against actively growing tubercle bacilli.

Within 1 to 2 hours after oral administration, isoniazid produces peak blood levels which decline to 50 percent or less within 6 hours. It diffuses readily into all body fluids (cerebrospinal, pleural, and ascitic fluids), tissues, organs, and excreta (saliva, sputum, and feces). The drug also passes through the placental barrier and into milk in concentrations comparable to those in the plasma. From 50 to 70 percent of a dose of isoniazid is excreted in the urine in 24 hours.

Isoniazid is metabolized primarily by acetylation and dehydrazination. The rate of acetylation is genetically determined. Approximately 50 percent of Blacks and Caucasians are "slow inactivators" and the rest are "rapid inactivators"; the majority of Eskimos and Orientals are "rapid inactivators."

The rate of acetylation does not significantly alter the effectiveness of isoniazid. However, slow acetylation may lead to higher blood levels of the drug, and thus an increase in toxic reactions.

Pyridoxine (B<sub>6</sub>) deficiency is sometimes observed in adults with high doses of isoniazid and is considered probably due to its competition with pyridoxal phosphate for the enzyme apotryptophanase.

#### INDICATIONS

For all forms of tuberculosis in which organisms are susceptible.

For preventive therapy for the following groups, in order of priority:

1. Household members and other close associates of persons with recently diagnosed tuberculous disease.

2. Positive tuberculin skin test reactors with findings on the chest roentgenogram consistent with nonprogressive tuberculous disease, in whom there are neither positive bacteriologic findings nor a history of adequate chemotherapy.

3. Newly infected persons.

4. Positive tuberculin skin test reactors in the following special clinical situations: prolonged therapy with adrenocorticosteroids; immunosuppressive therapy; some hematologic and reticuloendothelial diseases, such as leukemia or Hodgkin's disease; diabetes mellitus; silicosis; after gastrectomy.

5. Other positive tuberculin reactors under 35 years of age.

The risk of hepatitis must be weighed against the risk of tuberculosis in positive tuberculin reactors over the age of 35. However, the use of isoniazid is recommended for those with the additional risk factors listed above (1-4) and on an individual basis in situations where there is likelihood of serious consequences to contacts who may become infected.

#### CONTRAINDICATIONS

Previous isoniazid-associated hepatic injury; severe adverse reactions to isoniazid, such as drug fever, chills, and arthritis; acute liver disease of any etiology.

#### WARNINGS

See the boxed warning.

#### PRECAUTIONS

Use of isoniazid should be carefully monitored in the following:

1. Patients who are receiving phenytoin concurrently. Isoniazid may decrease the excretion of phenytoin or may enhance its effects. To avoid phenytoin intoxication, appropriate adjustment of the anticonvulsant should be made.

2. Daily users of alcohol. Daily ingestion of alcohol may be associated with a higher incidence of isoniazid hepatitis.

3. Patients with current chronic liver disease or severe renal dysfunction.

Periodic ophthalmologic examinations during isoniazid therapy are recommended when visual symptoms occur.

#### USAGE IN PREGNANCY AND LACTATION

It has been reported that in both rats and rabbits, isoniazid may exert an embryocidal effect when administered orally during pregnancy, although no isoniazid-related congenital anomalies have been found in reproduction studies in mammalian species (mice, rats, and rabbits). Isoniazid should be prescribed during pregnancy only when therapeutically necessary. The benefit of preventive therapy

should be weighed against a possible risk to the fetus. Preventive treatment generally should be started after delivery because of the increased risk of tuberculosis for new mothers.

Since isoniazid is known to cross the placental barrier and to pass into maternal breast milk, neonates and breast-fed infants of isoniazid treated mothers should be carefully observed for any evidence of adverse effects.

#### CARCINOGENESIS

Isoniazid has been reported to induce pulmonary tumors in a number of strains of mice.

#### ADVERSE REACTIONS

The most frequent reactions are those affecting the nervous system and the liver.

**Nervous system reactions.** Peripheral neuropathy is the most common toxic effect. It is dose-related, occurs most often in the malnourished and in those predisposed to neuritis (e.g., alcoholics and diabetics), and is usually preceded by paresthesias of the feet and hands. The incidence is higher in "slow inactivators".

Other neurotoxic effects, which are uncommon with conventional doses, are convulsions, toxic encephalopathy, optic neuritis and atrophy, memory impairment, and toxic psychosis.

**Gastrointestinal reactions.** Nausea, vomiting, and epigastric distress.

**Hepatic reactions.** Elevated serum transaminases (SGOT; SGPT), bilirubinemia, bilirubinuria, jaundice, and occasionally severe and sometimes fatal hepatitis. The common prodromal symptoms are anorexia, nausea, vomiting, fatigue, malaise, and weakness. Mild and transient elevation of serum transaminase levels, occurs in 10 to 20 percent of persons taking isoniazid. The abnormality usually occurs in the first 4 to 6 months of treatment but can occur at any time during therapy. In most instances, enzyme levels return to normal with no necessity to discontinue medication.

In occasional instances, progressive liver damage occurs, with accompanying symptoms. In these cases, the drug should be discontinued immediately. The frequency of progressive liver damage increases with age. It is rare in persons under 20, but occurs in up to 2.3 percent of those over 50 years of age.

**Hematologic reactions.** Agranulocytosis; hemolytic, sideroblastic, or aplastic anemia; thrombocytopenia; and eosinophilia.

**Hypersensitivity reactions.** Fever, skin eruptions (morbilliform, maculopapular, purpuric, or exfoliative), lymphadenopathy, and vasculitis.

**Metabolic and endocrine reactions.** Pyridoxine deficiency, pellagra, hyperglycemia, metabolic acidosis, and gynecomastia.

**Miscellaneous reactions.** Rheumatic syndrome and systemic lupus erythematosus-like syndrome.

#### OVERDOSAGE

**Signs and symptoms.** Isoniazid overdosage produces signs and symptoms from 30 minutes to 3 hours after ingestion. Nausea, vomiting, dizziness, slurring of speech, blurring of vision, and visual hallucinations (including bright colors and strange designs) are among the early manifestations. With marked overdosage, respiratory distress and CNS depression, progressing rapidly from stupor to profound coma, are to be expected, along with severe, intractable seizures. Severe metabolic acidosis, acetoneuria, and hyperglycemia are typical laboratory findings.

**Treatment.** Untreated or inadequately treated cases of gross isoniazid overdosage can terminate fatally, but good response has been reported in most patients brought under adequate treatment within the first few hours after drug ingestion.

Secure the airway and establish adequate respiratory exchange. Gastric lavage within the first 2 to 3 hours is advised, but should not be attempted until convulsions are under control. To control convulsions administer I.V. short-acting barbiturates and I.V. pyridoxine (usually 1 mg/1 mg isoniazid ingested).

Obtain blood samples for immediate determination of gases, electrolytes, BUN, glucose, etc.; type and cross-match blood in preparation for possible hemodialysis.

Rapid control of metabolic acidosis is fundamental to management. Give IV sodium bicarbonate at once and repeat as needed, adjusting subsequent dosage on the basis of laboratory findings (i.e., serum sodium, pH, etc.).

Forced osmotic diuresis must be started early and should be continued for some hours after clinical improvement to hasten renal clearance of drug and help prevent relapse; monitor fluid intake and output.

Hemodialysis is advised for severe cases; if this is not available, peritoneal dialysis can be used along with forced diuresis.

Along with measures based on initial and repeated determination of blood gases and other laboratory tests as needed, utilize meticulous respiratory and other intensive care to protect against hypoxia, hypotension, aspiration pneumonia, etc.

**NOTE.**—For preventive therapy of tuberculous infection it is recommended that physicians be familiar with the joint recommendations of the American Thoracic Society, American Lung Association, and the Center for Disease Control, as published in the American Review of Respiratory Diseases Vol. 110, No. 3, September 1974, or CDC's morbidity and Mortality Weekly Report, Vol. 24, No. 8, February 22, 1975.

#### DOSAGE AND ADMINISTRATION

For treatment of tuberculosis: Isoniazid is used in conjunction with other effective antituberculous agents. If the bacilli become resistant, therapy must be changed to agents to which the bacilli are susceptible.

Usual oral dosage: Adults—5 mg/kg up to 300 mg daily in a single dose; infants and children—10-20 mg/kg depending on severity of infection, (up to 300-500 mg daily) in a single dose.

For preventive therapy: Adults—300 mg per day in a single dose; infants and children—10 mg/kg (up to 300 mg daily) in a single dose.

Continuous administration of isoniazid for a sufficient period is an essential part of the regimen because relapse rates are higher if chemotherapy is stopped prematurely. In the treatment of tuberculosis, resistant organisms may multiply and the emergence of resistant organisms during the treatment may necessitate a change in the regimen.

Concomitant administration of pyridoxine (B<sub>6</sub>) is recommended in the malnourished and in those predisposed to neuropathy (e.g., alcoholics and diabetics).

The above labeling for single-entity isoniazid products also applies to the isoniazid component of combination products and should be incorporated into the labeling of such combinations. For combinations, the statement under Indications that reads: "For all forms of tuberculosis in which the organisms are susceptible" should be changed to read as follows:

For all forms of tuberculosis in which organisms are susceptible, and when the patient has been titrated on the individual components and it has therefore been established that this fixed dosage meets the foregoing needs.

This fixed-dosage combination drug is not recommended for initial therapy of tuberculosis or for preventive therapy.

Copies of the following references are available for public examination in the office of the Hearing Clerk (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between the hours of 9 a.m. and 4 p.m. Monday through Friday.

#### REFERENCES

- Black, M., J. R. Mitchell, H. J. Zimmerman, K. G. Ishak, and G. R. Epler, "Isoniazid-Associated Hepatitis in 114 patients," Gastroenterology, 69:289-302, 1975.
- Mitchell, J. R. et al., "Isoniazid Liver Injury: Clinical Spectrum, Pathology, and Probable Pathogenesis," Annals of Internal Medicine 84:181-192, 1976.
- Garibaldi, R. A., R. E. Drusin, S. H. Ferebee, and M. B. Gregg, "Isoniazid-Associated Hepatitis: Report of an



Outbreak," American Review of Respiratory Diseases 106:357-365, 1972.

4. Maddrey, W. C., and J. K. Boitnott, "Isoniazid Hepatitis," Annals of Internal Medicine 79:1-12, 1973.

5. Israel, H. L., "Isoniazid-Associated Hepatitis: Reconsideration of the Indications for Administration of Isoniazid," Gastroenterology 69:539-542, 1975.

6. Greenberg, H. B., "Correspondence: Isoniazid and the Liver," American Review of Respiratory Diseases 111:708-709, 1975.

7. Black, M., "Correspondence: Isoniazid and the Liver," American Review of Respiratory Diseases 111:708-709, 1975.

8. Farer, L., "Correspondence: The Isoniazid Problem," Gastroenterology 70:631, 637, 1976.

9. Reichman, L. B., "Correspondence: The Isoniazid Problem," Gastroenterology 70:631, 637, 1976.

10. Israel, H. L., "Correspondence: The Isoniazid Problem," Gastroenterology 70:631, 637, 1976.

11. Farer, L. S., "Correspondence: Isoniazid and Liver Injury," Annals of Internal Medicine 84:753-754, 1976.

12. Zimmerman, H. J., and J. R. Mitchell, "Correspondence: Isoniazid and Liver Injury," Annals of Internal Medicine 84:753-754, 1976.

13. Farer, L. S., J. L. Glassroth, and D. E. Snider, "Correspondence: Isoniazid-Related Hepatotoxicity," Annals of Internal Medicine 86:114-115, 1977.

14. Kopanoff, D. E., D. E. Snider, and G. J. Caras, "Isoniazid-Related Hepatitis: A U.S. Public Health Service Cooperative Surveillance Study," Center for Disease Control, Atlanta, (unpublished).

This notice applies not only to any isoniazid product subject to the drug efficacy study but to any such product that is the subject of a new drug application approved either before or after the drug amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. Any drug manufacturer or distributor may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above). Supplements containing revised labeling for drug products affected by this notice shall be submitted on or before March 28, 1978. The revised labeling may be put into use before approval of the supplemental new drug application, as provided for in 21 CFR 314.8 (d) and (e).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

## NOTICES

Dated: January 18, 1978.

J. RICHARD CROUT,  
Director, Bureau of Drugs.  
[FR Doc. 78-2197 Filed 1-26-78; 8:45 am]

## [4110-03]

Food and Drug Administration  
PANEL ON REVIEW OF VITAMIN, MINERAL,  
AND HEMATINIC DRUG PRODUCTS

## Notice of Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Panel on Review of Vitamin, Mineral, and Hematinic Drug Products by the Secretary, Department of Health, Education, and Welfare.

DATE: Authority for this committee will expire on February 28, 1978, unless the Secretary formally determines that continuance is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Richard L. Schmidt, Committee Management Officer (HFS-20), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-2765.

Dated: January 19, 1978.  
WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.  
[FR Doc. 78-2196 Filed 1-26-78; 8:45 am]

## [4110-83]

## Health Resources Administration

## ADVISORY COMMITTEES

## Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to assemble during the month of February 1978:

## NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Date and Time: February 10, 1978, 8:30 a.m.-5:00 p.m.

Place: 1st Floor Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW, Washington, D.C. 20201.

Type of Meeting: Open for entire meeting.  
Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub.

L. 93-641, (2) the implementation and administration of Titles XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: To advise on the development of the National Guidelines for Health Planning and to review the progress of the health planning program.

Anyone wishing to participate, obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782. Telephone 301-436-7270.

## NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION

Date and Time: February 13-14, 1978, 8:30 a.m.

Place: Conference Room No. 10, Building 31, National Institutes of Health, 6th Floor, C-Wing, Bethesda, Md. 20014.

Types of Meetings: Open February 13-8:30 a.m.-12:30 p.m. (10:30 a.m.-12:30 p.m. will be structured study for Council members.) Closed for remainder of the meeting.

Purpose: The Council advises the Secretary concerning the programs authorized by the Health Professions Educational Assistance Act of 1976, including recommendations on contracts, grant applications for construction, capitation, special projects, and financial need. These and other programs are designed to enable the health professions education institutions to meet the Nation's health manpower requirements.

Agenda: Agenda items for the open portion of the meeting will include a report by the Administrator, HRA: Bureau update; 1979 Budget; discussion of future meeting dates; and the review of draft documents prepared for use in implementing Pub. L. 94-484. The remainder of the meeting will be closed to the public for the review of applications submitted under the Family Medicine Residency Program. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 9-50, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

## GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Date and Time: February 17, 1978, 9:00 a.m.

Place: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

Type of Meeting: Open for entire meeting.  
Purpose: The Graduate Medical Education National Advisory Committee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirements of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; and (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

Agenda: Discussion will focus on review of consultant/staff discussions taking place since the previous meeting. Topics discussed include issues associated with the financing of graduate medical education; physician extenders; and the development of a manpower model.

A portion of the meeting will be available for comments and participation by the public. Due to limited seating, attendance by the public will be provided on a first-come, first-serve basis.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Dr. Frederick V. Featherstone, Bureau of Health Manpower, Room 4-42, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6430. Agenda items are subject to change as priorities dictate.

Dated: January 18, 1978.

JAMES A. WALSH,  
Associate Administrator for Operations and Management.  
[FR Doc. 78-2221 Filed 1-26-78; 8:45 am]

## [4110-83]

## LIST OF URBAN AND RURAL POVERTY AREAS

## Availability

Notice is hereby given that State health planning and development agencies and the Department of Health, Education, and Welfare regional offices have available a listing of urban and rural poverty areas. Title XVI of the National Health Planning and Resources Development Act of 1974 (Pub. L. 93-641), provides assistance to eligible applicants through project grants, allotments, loans and loan guarantees with interest subsidies for construction, conversion and modernization of medical facilities. The Act provides that the level of Federal participation in a project shall not exceed a percentage specified in the Act unless the project is located in an area determined by the Secretary to be an urban or rural poverty area, in which case the Federal share may cover up to 100 percent of the cost of

## NOTICES

the project. The term "urban or rural poverty area" has been defined as a census tract, census county division, or minor civil division, as applicable, in which a certain percentage of the residents have incomes below the poverty level (the "area percentage"). Under section 1633(15) of the Act, the area percentage must be one that, when the populations of all areas with poverty populations at or above that percentage are aggregated, will yield a total population which is the same percentage of the total population of the United States population with incomes below the poverty level, plus or minus five percent. Thus, the statute sets up absolute outer limits within which the Secretary may set the area percentage, but gives the Secretary discretion within those limits. The Secretary has decided to establish the rule that the area percentage will be as low as the law allows (21.92 percent), so that the benefits of being located in an urban or rural poverty area will be open to as many facilities as possible within the statutory constraints. That is, if the area percentage of population in poverty (from the U.S. Census figures for 1970) is 21.92 percent or higher, the area would qualify for Federal assistance through Title XVI in excess of the normal maximum.

If the percentage is not known to the applicant, or verification is desired, copies of the listing of urban and rural poverty areas are available at the DHEW regional offices and State health planning and development agencies listed below.

Dated: January 12, 1978.

HENRY A. FOLEY,  
Administrator.

DHEW Regional Office I, John F. Kennedy Federal Building, Boston, Mass. 02203.  
DHEW Regional Office II, 26 Federal Plaza, New York, N.Y. 10007.  
DHEW Regional Office III, P.O. Box 13716, Philadelphia, Pa. 19101.  
DHEW Regional Office IV, 50 Seventh Street NE, Atlanta, Ga. 30323.  
DHEW Regional Office V, 300 South Wacker Drive, Chicago, Ill. 60606.  
DHEW Regional Office VI, 1200 Main Tower, Dallas, Tex. 75202.  
DHEW Regional Office VII, 601 East 12th Street, Kansas City, Mo. 64108.  
DHEW Regional Office VIII, 1981 Stout Street, Denver, Colo. 80294.  
DHEW Regional Office IX, 50 Fulton Street, San Francisco, Calif. 94102.  
DHEW Regional Office X, 1321 Second Avenue, Seattle, Wash. 98101.  
Health Planning and Development Agency, Alabama State Department of Public Health, Montgomery, Ala. 36130.  
Office of Planning and Research, Department of Health and Social Services, Pouch H 01A, Juneau, Alaska 99811.  
State Health Planning and Development Agency, Department of Medical Services, L. B. J. Tropical Medical Center, Pago Pago, American Samoa 96799.  
Division of Planning and Resources, Arizona Department of Health Services, 1740 West

Adams Street, room 101, Phoenix, Ariz. 85001.  
Arkansas State Health Planning and Development Agency, 4815 West Markham Street, Little Rock, Ark. 72201.  
Office of Statewide Health Planning and Development, State Department of Health, 744 P Street, Sacramento, Calif. 95814.  
Office of Medical Care Regulation and Development, Colorado Department of Health, 4210 East 11th Avenue, Denver, Colo. 84220.  
Bureau of Health Planning and Development, Connecticut State Department of Health, 79 Elm Street, Hartford, Conn. 06115.  
Bureau of Health Planning and Resource Development, Department of Health and Social Services, Jesse S. Cooper Building, Dover, Del. 19901.  
Office of State Agency Affairs, Department of Human Resources, 1329 D Street, room 1023, Washington, D.C. 20004.  
Office of Health Planning and Development, Florida State Department of Health and Rehabilitation Services, 1323 Winewood Boulevard, Tallahassee, Fla. 32301.  
Office of the SHPDA, Department of Human Resources, 16 Executive Park Avenue NE, Atlanta, Ga. 30329.  
Department of Public Health and Social Services, Government of Guam, P.O. Box 2816, Agaña, Guam 96910.  
Hawaii State Health Planning and Development Agency, State Department of Health, 1250 Punchbowl Street, P.O. Box 3378, Honolulu, Hawaii 96801.  
Bureau Health Planning and Development, Idaho State Department of Health and Welfare, State House, Boise, Idaho 83720.  
State Health Planning and Development Agency, Department of Public Health, 535 West Jefferson Street, Springfield, Ill. 62761.  
State Health Planning and Development Agency, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Ind. 46206.  
Iowa State Health Planning and Development Agency, Iowa State Department of Health, P.O. Box 7112, Grand Station, 819 Grand Avenue, Des Moines, Iowa 50309.  
Bureau of Health Planning, Kansas Department of Health and Environment, 6700 South Topeka Avenue, Topeka, Kans. 66620.  
Center for Comprehensive Health Systems Development, Department of Human Resources, Health Services Building, 275 East Main Street, Frankfort, Ky. 40601.  
Louisiana State Health Planning and Development Agency, Department of Health and Human Resources, 150 Riverside Mall, Suite 410, Baton Rouge, La. 70801.  
Bureau of Health Planning and Development, Department of Human Services, State House, Augusta, Maine 04333.  
State Department of Health, Maryland CHP Agency, O'Connor Building, 201 West Preston Street, Baltimore, Md. 21201.  
State Health Planning and Development Agency, Massachusetts Department of Public Health, 600 Washington Street, room 614, Boston, Mass. 02111.  
State Health Planning and Development Agency, Office of Health and Medical Affairs, Lewis Cass Building, P.O. Box 30026, Lansing, Mich. 48909.  
State Health Planning and Development Agency, Capitol Square Building, 550 Cedar Street, St. Paul, Minn. 55101.



Mississippi Health Planning and Development Agency, Watkins Building, Suite 100, 510 George Street, Jackson, Miss. 39201.

State Health Planning and Development Agency, Division of Special Services, Department of Social Services, Broadway State Office Building, Jefferson City, Mo. 65101.

Bureau of Health Planning and Resource Development, State Department of Health and Environmental Sciences, Division of Hospital and Medical Facilities, Cogswell Building, Helena, Mont. 59601.

Health Systems Planning, Nebraska State Department of Health, 301 Centennial Mall South, P.O. Box 95007, Lincoln, Nebr. 68508.

Office of Health Planning and Resources, Nevada State Department of Human Resources, 505 East King Street, room 604, Carson City, Nev. 89710.

State Health Planning and Development Agency, State of New Hampshire, Executive Department, 2 1/2 North Main Street, Concord, N.H. 03301.

Division of Health Planning and Resource Development, State Department of Health, Health/Agriculture Building, P.O. Box 1540, Trenton, N.J. 08625.

State Health Planning and Development Agency, State Health and Social Services Department, P.O. Box 2348, Santa Fe, N. Mex. 87503.

New York Health Planning Commission, Tower Building, room 1161, Empire State Plaza, Albany, N.Y. 12237.

State Health Planning and Development Agency, Department of Human Resources, 325 North Salisbury Street, Raleigh, N.C. 27611.

Division of Health Planning, State Department of Health, Missouri Building, 1200 Missouri Avenue, Bismark, N. Dak. 58505.

State Health Planning and Development Agency, Ohio Department of Health, P.O. Box 118, 450 East Town, Columbus, Ohio 43216.

Oklahoma Health Planning Commission, Northeast 10th at Stonewall Street, Box 53551, Oklahoma City, Okla. 73105.

Health Planning and Development Section, Department of Human Resources, Suite 108, 2111 Front Street, NE., Salem, Oreg. 97310.

Office of Planning and Development, State Health Department, P.O. Box 90, Harrisburg, Pa. 17120.

Health Planning Division, Department of Health, Ponce de Leon Avenue, San Juan, Puerto Rico 00908.

Health Planning and Resource Development, Rhode Island State Department of Health, 75 Davis Street, Providence, R.I. 02908.

State Health Planning and Development Agency, South Carolina Department of Health and Environmental Control, 2600 North Bull Street, Columbia, S.C. 29201.

State Health Planning and Development Agency, State Department of Health, Joe Foss Building, Pierre, S.D. 57501.

Tennessee Health Planning and Resources Development Authority, Governors

Office, Capitol Boulevard Building, Suite 211, 226 Capitol Boulevard, Nashville, Tenn. 37219.

Texas Department of Health Resources, 1100 West 49th Street, Austin, Tex. 78756.

Department of Health Services, Trust Territory Government, Office of the High Commissioner, Saipan, Mariana Islands 96950.

Office of Health Planning and Resource Development, State Department of Social Services, 243 East Fourth Street, Salt Lake City, Utah 84111.

Vermont Health Policy Council, C/O Middlebury College, Middlebury, Vt. 05753.

Division of Health Planning and Resources Development, State Department of Health, 109 Governor Street, Richmond, Va. 23219.

State Health Planning and Development Agency, Department of Health, Box 1442, St. Thomas, Virgin Islands 00801.

Health Services Division, Department of Social and Health Services, 110 Fifth Avenue, East, Olympia, Wash. 98504.

State Health Planning and Development Agency, Office of the Governor, Charleston, W. Va. 25303.

State Health Planning and Development Agency, Division of Health, 1 West Wilson Street, room 699, Madison, Wis. 53702.

State Health Planning and Development Agency, Department of Health and Social Services, Division of Health and Medical Services, Hathaway Building, Cheyenne, Wyo. 82002.

[FR Doc. 78-2317 Filed 1-26-78; 8:45 am]

[4110-08]

National Institutes of Health  
NATIONAL DIABETES ADVISORY BOARD  
Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the National Diabetes Advisory Board on February 7, 23, and 24, 1978, 8:30 a.m. to 5 p.m., at the Twin Bridges Marriott, U.S. 1 and I-95, Washington, D.C.

The Board meeting will be held on February 24, 1978 and the Ad Hoc Insulin Study Committee meetings will be held on February 7 and 23, 1978.

The meetings, which will be open to the public are being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes and to review and evaluate the status of insulin supplies for diabetic patients in the United States. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-8045, will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: January 23, 1978.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
[FR Doc. 78-2327 Filed 1-26-78; 8:45 am]

[4110-12]

Office of Human Development Services  
FAMILY MEDIAN INCOME BY STATE  
Eligibility for Social Services

Under the provision of sections 2002(a)(5)(B), 2002(a)(6) (A) and (B), and 2002(a)(14)(A) of Title XX of the Social Security Act, promulgation is made of the median income of a family of four for each State and the States as a whole, applicable to the period October 1, 1978 through September 30, 1979. This promulgation is made for the purpose of determining the extent of Federal financial participation (FFP) in State expenditures under Title XX. The above listed sections impose certain limitations with respect to the availability of FFP based upon the relationship of the income of the family of a service recipient to the median income of a family of four in the State, adjusted in accordance with regulations prescribed by the Secretary to take into account the size of the family.

Estimates of the median income of families of four persons for each State and the District of Columbia were developed by the Bureau of the Census. In developing the median income scale, the Bureau of the Census used three sources of data: (1) The 1977 Current Population Survey, (2) the 1970 Census of Population, and (3) per capita personal income estimates from the Bureau of Economic Analysis. The methodology for adjusting median income for families of different size is specified in 45 CFR 228.60.

The median income for a family of four, by State, for fiscal year 1979—with calculations at the 80 percent, 90 percent, and 115 percent levels—are set forth below for use by States in establishing income ceilings and fee schedules under Title XX of the Social Security Act:

MEDIAN INCOME FOR FAMILIES OF 4

State	Median income	80 pct of median income	90 pct of median income	115 pct of median income
Alabama	15,346	12,277	13,811	17,648
Alaska	28,571	22,857	25,714	32,857
Arizona	17,131	13,705	15,418	19,701
Arkansas	13,679	10,943	12,311	15,731
California	18,931	15,145	17,038	21,771
Colorado	18,244	14,595	16,420	20,981
Connecticut	18,789	15,031	16,910	21,607
Delaware	16,859	13,487	15,173	19,388
District of Columbia	17,201	13,761	15,481	19,781
Florida	16,278	13,022	14,650	18,720
Georgia	15,799	12,639	14,219	18,169
Hawaii	20,113	16,090	18,102	23,130
Idaho	15,982	12,786	14,379	18,379
Illinois	19,336	15,469	17,402	22,236
Indiana	17,328	13,863	15,596	19,928
Iowa	16,949	13,535	15,227	19,457
Kansas	16,940	13,472	15,156	19,366
Kentucky	14,964	11,971	13,468	17,209
Louisiana	15,354	12,283	13,819	17,657
Maine	14,429	11,543	12,986	16,593
Maryland	19,331	15,465	17,398	22,231
Massachusetts	17,842	14,274	16,058	20,518
Michigan	18,572	14,858	16,715	21,358
Minnesota	17,970	14,376	16,173	20,666
Mississippi	13,475	10,780	12,128	15,496
Missouri	16,177	12,942	14,559	18,604
Montana	15,522	12,418	13,970	17,850
Nebraska	15,205	12,164	13,685	17,486
Nevada	18,290	14,632	16,461	21,034
New Hampshire	16,937	13,550	15,243	19,478
New Jersey	19,865	15,892	17,879	22,845
New Mexico	15,504	12,403	13,954	17,780
New York	17,200	13,760	15,480	19,496
North Carolina	15,214	12,171	13,693	17,496
North Dakota	15,469	12,375	13,922	17,789
Ohio	17,515	14,012	15,764	20,142
Oklahoma	15,621	12,497	14,059	17,964
Oregon	17,761	14,209	15,985	20,425
Pennsylvania	17,054	13,643	15,349	19,612
Rhode Island	16,991	13,593	15,292	19,540
South Carolina	15,416	12,333	13,874	17,728
South Dakota	13,684	10,947	12,316	15,737
Tennessee	14,859	11,887	13,373	17,068
Texas	17,420	13,936	15,678	20,033
Utah	16,656	13,325	14,990	19,154
Vermont	15,523	12,418	13,971	17,851
Virginia	17,955	14,364	16,160	20,648
Washington	18,359	14,687	16,523	21,113
West Virginia	15,564	12,451	14,008	17,899
Wisconsin	17,923	14,338	16,131	20,611
Wyoming	18,256	14,605	16,430	20,994

Note.—The median income for a family of 4 in the 50 States and the District of Columbia, applicable to the period Oct. 1, 1978, through Sept. 30, 1979, is \$17,315.

(Sec. 1102, 49 Stat. 674 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.771 Social Services for Low Income and Public Assistance Recipients.)

Dated: December 20, 1977.

Approved: January 20, 1978.

ARABELLA MARTINEZ  
Assistant Secretary for Human Development Services.

[FR Doc. 78-2223 Filed 1-26-78; 8:45 am]

[4110-08]

COMMITTEE ON CANCER IMMUNOTHERAPY  
Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the Committee on Cancer Immunotherapy, National Cancer Institute, February 16 and February 23, 1978, Building 10, Room 4B14, National Institutes of Health. These meetings will be open to the public on February 16 and Febru-

ary 23, from 1:15 p.m. to 1:45 p.m., to consider administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, these meetings will be closed to the public on February 16 and February 23, 1978, from 1:45 p.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the

discussions could reveal personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708 will provide summaries of the meetings and rosters of committee members.

Dr. George M. Steinberg, Executive Secretary, National Cancer Institute, Building 10, Room 4B09, National In-

MICHIO SUZUKI,  
Acting Commissioner,  
Administration for Public Services.



stitutes of Health, Bethesda, Md. 20014, 301-496-1791 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.395, National Institutes of Health.)

Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2218 Filed 1-26-78; 8:45 am)

#### [4110-08]

##### COMMITTEE ON CANCER IMMUNOTHERAPY

###### Meeting

NOTE: This document originally appeared in the FEDERAL REGISTER for Wednesday, January 25, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Committee on Cancer Immunotherapy, National Cancer Institute, February 9, 1978, Building 10, Room 4B14, National Institutes of Health. The meeting will be open to the public on February 9, 1978, from 1:15 p.m. to 1:45 p.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 9, 1978, from 1:45 p.m. to adjournment, for the review, discussion and evaluation of individual contract proposals. These proposals and the discussions could reveal personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 301-496-5708 will provide summaries of the meeting and a roster of committee members.

Dr. George M. Steinberg, Executive Secretary, National Cancer Institute, Building 10, Room 4B09, National Institutes of Health, Bethesda, Md. 20014 301-496-1791 will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.395, National Institutes of Health)

Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2214 Filed 1-24-78; 8:45 am)

#### [4110-08]

##### GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

###### Meeting

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, January 25, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, on February 6 and 7, 1978, at the LaPlaya Hotel, Camino Real at 8, Carmel-by-the-Sea, Calif.

The meeting will be open to the public on February 6, 1978, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 6 from 11 a.m. to 5 p.m., and on February 7 from 9 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md. 20014, telephone 301-496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B51, Building 31, National Institutes of Health, Bethesda, Md. 20014, telephone 301-496-6595, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
NIH Committee  
Management Officer.

(FR Doc. 78-2213 Filed 1-24-78; 8:45 am)

#### [4110-08]

##### NATIONAL ADVISORY RESEARCH RESOURCES COUNCIL

###### Amended Meeting

Notice is hereby given of an addition to the agenda of the meeting of the National Advisory Research Resources

Council, Division of Research Resources, January 30-31, 1978, Conference Room 10, Building 31-C, National Institutes of Health, Bethesda, Md. 20014, which was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 35880).

The open portion of the meeting, scheduled for January 30, will include additionally a Primate Supply Status Report by a member of the DRR staff, a General Discussion by the members of the National Advisory Research Resources Council, and a discussion of the DRR Forward Plan 1980-84.

Dated: January 20, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2215 Filed 1-26-78; 8:45 am)

#### [4110-08]

##### NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

###### Meeting

Notice is hereby given of the meeting on the state-of-the-art in Cooley's anemia research and treatment sponsored by the National Heart, Lung, and Blood Institute; February 13, 1978, in the National Institutes of Health, Bethesda, Md., Building 31, Wing C, Conference Room 9.

This meeting will be open to the public on February 13, 1978 from 9:30 a.m. to adjournment. The agenda will include a discussion of the dimension of the problem of Cooley's anemia research and treatment, the public and private resources for the diagnosis of, screening for, and research on Cooley's anemia; and the most fruitful areas for future research. Attendance will be limited to space available.

Mr. John B. Lyons, Administrative Officer, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, Bethesda, Md. 20014, phone 301-496-3533 will provide additional information.

Dated: January 19, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2217 Filed 1-26-78; 8:45 am)

#### [4110-08]

##### NATIONAL COMMISSION ON DIGESTIVE DISEASES

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that the National Commission on Digestive Diseases will hold a public hearing on March 2, and a Commission meeting on March 3, 1978, in Washington, D.C. 20201, places and

times listed below. The entire two days will be open to the public. Attendance by the public will be limited to space available.

The Commission will hold the public hearing March 2, 10:00 a.m. to 6:00 p.m. at the Department of Health, Education, and Welfare, Hubert Humphrey Building Auditorium, 2nd and C Streets SW. On March 3, the Commission will hold a meeting, 9:00 a.m. to 5:00 p.m., at the same location, in Room, 529A, to discuss business matters and reports.

Any member of the public who wishes to appear before the Commission on March 2 shall file a written statement or detailed summary of his remarks with the Commission before February 15, 1978. Statements or summaries may be sent to Dr. Thomas P. Vogl, Executive Secretary, National Commission on Digestive Diseases, Room 6C16, the Federal Building, 7550 Wisconsin Avenue, Bethesda, Md. 20014. The time allotted to each participant will be determined by the Commission Chairman based upon the number of individuals who request an opportunity to make presentations.

Messrs. James N. Fordham or Leo E. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Md. 20014, telephone 301-496-3583, will provide summaries of the Commission meeting.

(Catalog of Federal Domestic Assistance Program No. 13.484, National Institutes of Health.)

Dated: January 20, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2220 Filed 1-26-78; 8:45 am)

#### [4110-08]

##### RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

###### Cancellation of Meeting

Notice of cancellation is hereby given of a meeting of the Recombinant DNA Molecule Program Advisory Committee at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Md. 20014 on February 13-14, 1978 from 9 a.m. to 5 p.m., and will be rescheduled at a later date. This meeting was published in the FEDERAL REGISTER on Friday, January 13, 1978 (43 FR 2007 and 2008).

Dated: January 17, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer, NIH.

(FR Doc. 78-2216 Filed 1-26-78; 8:45 am)

Dated: January 12, 1978.

SUZANNE L. FREMEAUX,  
Committee Management Officer,  
National Institutes of Health.  
(FR Doc. 78-2219 Filed 1-26-78; 8:45 am)

#### [4110-08]

##### NATIONAL DIABETES ADVISORY BOARD

###### Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Diabetes Advisory Board on March 15, 1978, in Washington, D.C. The time and meeting location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: January 23, 1978.

SUZANNE L. FREMEAUX,  
Committee Management  
Officer,  
National Institutes of Health.

(FR Doc. 78-2328 Filed 1-26-78; 8:45 am)

#### [1505-01]

##### Food and Drug Administration

[Docket No. 77P-0168]

##### COHERENT RADIATION

Approval of Variance for Laser Linemaker,  
Model 81-11L

###### Correction

In FR Doc. 77-35702 appearing on page 63470 in the issue of Friday, December 16, 1977, in the 2nd column, the 1st full paragraph, the 3rd sentence, "20" should read "20."

Also, in the 6th paragraph, numbered 3, in the 3rd column, the 4th line from the bottom, "20" should read "20".



[4310-84]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Notice 42]

## ALASKA

## Filing of Protraction Diagram (Unsurveyed)

JANUARY 11, 1978.

1. Notice is hereby given that effective with this publication the following protraction diagrams are officially filed of record, for information only, in the Alaska State Office, 555 Cordova Street, Anchorage, Alaska. In accordance with 43 CFR 3101.1-4, these protractions will become the basic record for the description of oil and gas lease offers, State Selection applications under 43 CFR 2627, and other authorized uses filed at or subsequent to 10 a.m. on February 28, 1978.

Approved November 2, 1977, Seward Meridian

S 28-5	Tps. 69-71 S	Rs. 105-106 W.
S 32-3	Tps. 82-84 S	Rs. 142-145 W.
S 32-4	Tp. 85 S	Rs. 143, 144 W.
S 32-5	Tps. 85, 86 S	Rs. 145, 146 W.
S 32-6	Tps. 86-89 S	Rs. 149-154 W.
S 33-2	Tps. 5-7 N	Rs. 134-136 W.
S 33-3	Tps. 1-4 N	Rs. 132-136 W.
S 34-4	Tps. 93, 94 S	Rs. 168-173 W.
S 34-5	Tps. 90, 91 S	Rs. 162-165 W.
S 34-6	Tps. 93, 94 S	Rs. 181-184 W.
S 34-7	Tps. 93-96 S	Rs. 185-186 W.
S 34-8	Tp. 92 S	Rs. 182-185 W.
S 35-1	Tps. 93-97 S	Rs. 189-192 W.
S 35-2	Tps. 94-96 S	Rs. 193-196 W.
S 35-3	Tps. 95-96 S	Rs. 197-200 W.
S 35-4	Tps. 95-96 S	Rs. 201-204 W.
S 35-5	Tps. 95-96 S	Rs. 205-206 W.
S 35-6	Tps. 96-100 S	Rs. 210-214 W.
S 35-7	Tps. 97-100 S	Rs. 205-209 W.
S 35-8	Tps. 97-98 S	Rs. 201-204 W.
S 35-9	Tps. 97-98 S	Rs. 197-200 W.
S 35-10	Tps. 97-98 S	Rs. 193-196 W.
S 35-11	Tps. 101-103 S	Rs. 214-216 W.
S 36-1	Tps. 94-96 S	Rs. 220-223 W.
S 36-2	Tps. 94-96 S	Rs. 229-232 W.
S 36-3	Tps. 93-96 S	Rs. 233-236 W.
S 36-4	Tps. 93-97 S	Rs. 237-247 W.
S 36-5	Tps. 97-99 S	Rs. 229-233 W.
S 36-6	Tps. 99, 100 S	Rs. 226-228 W.
S 36-7	Tps. 101, 102 S	Rs. 226-229 W.
S 37-6	Tps. 85-88 S	Rs. 256-260 W.
S 37-7	Tps. 89, 90 S	Rs. 261-264 W.

2. Copies of this diagram are for sale at two dollars (\$2) per sheet by the State Director, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

Dated: January 13, 1978.

IRVING ZIRPEL, Jr.,  
Chief, Division of  
Cadastral Survey.

[FR Doc. 78-2225 Filed 1-26-78; 8:45 am]

## NOTICES

[1505-01]

[AA-6661-H]

## ALASKA

Alaska Native Claims Selection

## Correction

In FR Doc. 78-1891 appearing at page 3175 in the issue for Monday, January 23, 1978, on page 3176, in the third column, in the paragraph numbered "2.", in the next to last line, the date "February 2, 1978", should read "February 22, 1978".

[4510-30]

## DEPARTMENT OF LABOR

Employment and Training Administration

## EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS

## Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining

whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 23rd day of January 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK  
ENDING JANUARY 20, 1978

Name of applicant, location of enterprise,  
and principal product or activity

Champion Products, Inc. (Tenant of Chango County Industrial Development Authority), Norwich, N.Y., manufacture of athletic uniforms.

T. A. Kilgore & Co., League City, Tex., retail and wholesale of lumber supplies and related hardware.

Raven Industries, Inc., (Tenant of City of Parkston), Parkston, S. Dak., manufacture of men's, women's and children's apparel.

[FR Doc. 78-2245 Filed 1-26-78; 8:45 am]

[4510-30]

EXPANDED JOB CORPS CENTER AT FORMER  
ST. FRANCIS SEMINARY, SPRINGDALE, OREG.

Determination of Negative Environmental  
Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination by the Department under the National Environmental Policy Act and 40 CFR

Part 1500 that the consolidation of three existing Job Corps programs at the former St. Francis Seminary in Springdale, Oreg., does not constitute a major Federal action which will significantly affect the environment.

## FOR FURTHER INFORMATION:

Contact Raymond E. Young, Acting Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

**SUPPLEMENTARY INFORMATION:** Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority the Secretary is consolidating the Job Corps operations at the St. Francis Seminary location.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the expansion of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The Portland Job Corps Center is a training center with residential, nonresidential and educational facilities for approximately 275 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 80 is to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The use of facility is for the same purpose as used by the previous occupant, specifically residential living and education.

The center is a self-contained facility located on the Sandy River near Springdale, Oreg. The site is located on approximately 52 acres. Seven existing buildings will be utilized and three additional buildings will be erected.

Water is supplied to the center by the city.

On-site sewage treatment facilities will be upgraded as required to meet applicable standards. This will be accomplished either by the remodeling of the existing plant or by the installation of a new prepackaged plant with tertiary treatment.

The expanded Job Corps center will be operated in compliance with the Job Corps Environmental Standards

published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The consolidated Job Corps center will comply with the water quality and related standards of the State and local Government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center expansion will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 29th day of December, 1977.

RAYMOND E. YOUNG,  
Acting Director, Job Corps.  
[FR Doc. 78-2389 Filed 1-26-78; 8:45 am]

[4510-30]

FEDERAL SUPPLEMENTAL BENEFITS  
(EMERGENCY UNEMPLOYMENT  
COMPENSATION)

Ending of Federal Supplemental Benefits  
Program in All States

This notice announces the ending of the Federal supplemental benefit periods and additional eligibility periods in all States, due to the termination of the program at the end of January 1978.

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal supplemental benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Under the law the program expires in each State at the end of the last week that ends on or before January 31, 1978.

As the Federal supplemental benefits programs ends, there are Federal supplemental benefit periods in effect in the following States:

Alaska, Maine, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and Washington.

The benefit period and the program terminate in New York with the week ending on January 29, 1978, and in New Jersey with the week ending on January 31, 1978. In all the other States listed the benefit periods and the program terminate with the week ending on January 28, 1978.

In addition, there are additional eligibility periods which remain in effect in the States of Connecticut and Michigan, and in those States the ad-

ditional eligibility periods and the program also terminate with the week ending on January 28, 1978.

Signed at Washington, D.C., on January 24, 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.  
[FR Doc. 78-2391 Filed 1-26-78; 8:45 am]

[4510-30]

Employment and Training Administration

## FEDERAL-STATE EXTENDED BENEFITS

National "Off" Indicator for Extended Benefits

This notice announces the National "off" indicator for Extended Benefit Periods in the States, and the ending of Extended Benefit Periods in all but ten States, effective on January 28, 1978.

## BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Pub. L. 91-373), as implemented in State unemployment compensation laws, created the Extended Benefit Program as a permanent feature of the Federal-State Unemployment Compensation Program. Extended Benefits are payable under State laws for up to 13 weeks to individuals who have exhausted their rights to regular benefits under the State laws or under permanent Federal unemployment compensation laws administered by the States. Extended Benefits are payable only during an Extended Benefit Period, which may be triggered "on" in a State by either a State or National indicator, when insured unemployment in the State or in the Nation reaches the high rates set in the Act. Similarly, an Extended Benefit Period will end in a State or in all States when insured unemployment drops below the high rates set in the Act.

There was a National "on" indicator for the week ending on August 13, 1977, and an Extended Benefit Period therefore commenced with the week beginning on August 28, 1977, in all States in which an Extended Benefit Period was not already in effect. Extended Benefit Periods have remained in effect in all States since that date by reason of the National "on" indicator. Now that there has been a National "off" indicator for the week ending on January 7, 1978, the Extended Benefit Program will no longer remain in effect in most States after the week which ends on January 28, 1978.

## DETERMINATION OF "OFF" INDICATOR

I have determined in accordance with the Act, as amended by section 311(a) of the Unemployment Compen-

## NOTICES



sation Amendments of 1976 (Pub. L. 94-566, approved October 20, 1976; 90 Stat. 2667, 2678), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a National "off" indicator for Extended Benefits for the week ending on January 7, 1978, and that Extended Benefit Periods terminate with the week ending on January 28, 1978, in all States with respect to which there was also a State "off" indicator for the week ending on January 7, 1978.

In the following ten States, however, Extended Benefit Periods will continue in effect after January 28, 1978, because State indicators remain "on" in those States:

Alaska, Hawaii, Maine, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and Washington.

In the Virgin Islands, where the Extended Benefit Period took effect on January 1, 1978, following the approval of the Virgin Islands unemployment compensation law under section 3304(a) of the Federal Unemployment Tax Act, (26 U.S.C. 3304(a)), the Extended Benefit Period also ends on January 28, 1978.

#### INFORMATION FOR CLAIMANTS

Individuals currently filing claims for Extended Benefits in States in which Extended Benefit Periods will end on January 28, 1978, will receive written notices from the employment security agency of their State, advising them of the end of the Extended Benefit Period with respect to that State and the termination of further payments of Extended Benefits.

Persons who wish information about their rights to Extended Benefits in any State should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on January 24, 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.

[FR Doc. 78-2392 Filed 1-26-78; 8:45 am]

#### [4510-30]

##### PROPOSED JOB CORPS CENTER AT THE FATHER JUDGE SEMINARY IN MONROE, VA.

##### Determination of Negative Environmental Impact

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice-finding of negative environmental impact.

SUMMARY: The purpose of this notice is to announce a determination

by the Department under the National Environmental Policy Act and 40 CFR Part 1500 that the establishment of a Job Corps center at the Father Judge Seminary site does not constitute a major Federal action which will significantly affect the environment.

#### FOR FURTHER INFORMATION:

Contact Raymond E. Young, Director, Job Corps, Room 6100, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-6995.

#### SUPPLEMENTARY INFORMATION:

Title IV of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, 29 U.S.C. 911 et seq., directs the Secretary of Labor to establish Job Corps centers to provide occupational training to disadvantaged youths ages 16 through 21. The Secretary has issued regulations published at 29 CFR Part 97a, implementing Title IV of CETA. Pursuant to his authority, the Secretary is planning to establish a Job Corps center at the former Father Judge Seminary location provided an agreement can be reached on acquisition of the facilities.

Pursuant to 40 CFR Part 1500, the Department of Labor has conducted an environmental assessment as part of a site utilization study and has determined that preparation of an environmental impact statement is not required since the establishment of this Job Corps center is not a major Federal action which will significantly affect the quality of the human environment within the meaning of 40 CFR 1500.6(c). The proposed Monroe, Va., Job Corps Center will be a training center with residential and educational facilities for approximately 350 disadvantaged youth, men, and women, ages 16 through 21, who need and can benefit from intensive employment-related services. The function of the center and the staff of approximately 120 will be to provide skill training in selected vocational courses and continuing and/or remedial education in academic subjects.

The proposed use of the facility is intended for essentially the same purpose as used by the previous occupant, specifically, residential living and education.

The center will be a self-contained facility located on State Route 655, near Monroe, Va., approximately 12 miles north of Lynchburg, Va.

Water is supplied by 3 wells and 3 springs. Electric power is supplied by Appalachian Power Co. Sewage disposal is provided by an on-site sewage treatment plant which is inadequate. Provision has been made in the budget to provide new sewage treatment facilities and to modify existing boilers to meet current OSHA codes.

New construction will be required for vocational shop facilities and warehousing.

The proposed Job Corps center will be operated in compliance with the Job Corps Environmental Standards published at 29 CFR 97a.116, and with applicable Federal, State and local regulations concerning environmental health.

The proposed Job Corps center will comply with the water quality and related standards of the State and local government, and with the standards established pursuant to the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., with Executive Order 11752, and with regulations and guidelines of the U.S. Environmental Protection Agency.

The center installation will be designed, operated, and maintained so as to conform to Federal air quality standards, including those found in Executive Order 11752 and 40 CFR Part 86.

Signed at Washington, D.C., this 3rd day of January, 1978.

RAYMOND E. YOUNG,  
Director, Office of Job Corps and  
Young Adult Conservation  
Corps.

[FR Doc. 78-2388 Filed 1-26-78; 8:45 am]

#### [4510-30]

##### YOUTH COMMUNITY CONSERVATION AND IMPROVEMENT PROJECTS (YCCIP) AND YOUTH EMPLOYMENT AND TRAINING PROGRAMS (YETP) FOR YOUTHS WHO ARE MEMBERS OF MIGRANT AND OTHER SEASONALLY EMPLOYED FARMWORKER FAMILIES

##### Conditions for Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the conditions for competition, the availability of funds, the implementing schedule for submitting proposals, and the review criteria to be used for youth community conservation and improvement projects (YCCIP) and youth employment and training programs (YETP) for youths who are members of migrant and other seasonally employed farmworker families. Funds are to be awarded on a competitive basis to those grantees selected to operate YCCIP and/or YETP programs and are operating section 303 programs for migrant and seasonal farmworkers and their families during 1978 under the Comprehensive Employment and Training Act (CETA) of 1973, as amended.

#### FOR FURTHER INFORMATION CONTACT:

Paul A. Mayrand, Director, Office of Farmworker Programs, U.S. Department of Labor, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Youth Employment

and Demonstration Projects Act (YEDPA) of 1977, the Office of Farmworker Programs (OFF) of the Department of Labor (DOL) announces the availability of funds to implement youth community conservation and improvement projects (YCCIP) and youth employment and training programs (YETP) for youths who are members of migrant and seasonal farmworker families.

YCCIP and YETP grants will be made only to those grantees operating migrant and seasonal farmworker programs during 1978 under section 303 of the Comprehensive Employment and Training Act (CETA) of 1973, as amended, and only to those section 303 grantees selected as a result of a competitive process for YCCIP and YETP funds.

The selection procedures and other rules applying to YCCIP and YETP funds for youths who are members of migrant and seasonal farmworker families were published in the FEDERAL REGISTER on Friday, January 13, 1978, as Subpart J—Youth Community Conservation and Improvement Projects for section 303 grantees, and Subpart K—Youth Employment and Training Programs for section 303 grantees, of Part 97 of regulations under CETA.

In those regulations, it was stated that the proposal for YCCIP and YETP funds for youths who are members of migrant and seasonal farmworker families would be due on a date to be set by the Director, Office of Farmworker Programs, and published in the FEDERAL REGISTER.

This publication constitutes formal notice that proposals for YCCIP and YETP funds for programs for youths who are members of migrant and seasonal farmworker families must be hand delivered or posted by registered or certified mail no later than 3 p.m., February 13, 1978.

Each eligible applicant must submit three copies of the proposed YCCIP and/or YETP plans to the address listed below:

U.S. Department of Labor, Employment and Training Administration, 601 D Street NW., Room 7122, Patrick Henry Building, Washington, D.C. 20213; Attention: Director, Office of Farmworker Programs.

Two copies of the proposed YCCIP and/or YETP plans shall also be submitted directly to the appropriate Regional Administrator for Employment and Training at the same time the three copies are submitted to the above addressed and labeled: YCCIP and/or YETP plans for CETA 303 farmworker programs.

Proposed YCCIP and/or YETP plans sent by mail to the preceding address must be registered or certified with return receipt requested. In order to be considered as submitted on time by the Employment and Training Administration, the following conditions must be met:

1. The proposed YCCIP and YETP plans must be registered or certified by the Postal Service on or before 3 p.m., February 13, 1978. No deviation in this condition shall be made by the Employment and Training Administration. All proposed YCCIP and/or YETP plans received bearing postmarks after 3 p.m. shall be returned without consideration.

2. Proposed YCCIP and/or YETP plans delivered by hand must be taken to the address given previously in this section. All eligible applicants who deliver proposed YCCIP and/or YETP plans will be given a receipt bearing a time and date of delivery. Proposed YCCIP and/or YETP plans will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m., Washington, D.C., time except Saturdays, Sundays, and holidays. Proposed YCCIP and/or YETP plans will not be received by hand-delivery after 3 p.m., e.d.t., on February 13, 1978. No deviation in this condition shall be made and no proposed YCCIP and/or YETP plan delivered after 3 p.m., e.d.t., February 13, 1978, shall be accepted.

To reduce delay in implementing this process, grant application materials were sent to all section 303 grantees with programs for 1978. These grant application materials contained detailed information, instructions, and forms necessary for submitting YCCIP and YETP proposals, exclusive of the rating criteria contained herein.

Those section 303 grantees which intend to submit YCCIP and YETP grant applications, or both, are requested to notify both the Director, Office of Farmworker Programs, at the address previously cited, and the appropriate A-95 Clearinghouse by Standard Form 424 on or before February 3, 1978, so that appropriate arrangements may be made for prompt review of grant application.

Based upon proposals received from 303 grantees, the review panels will be using the following criteria to recommend those applicants to be awarded YCCIP and YETP grants.

A. *Program development.* Range 0-15 points. The program development factor is a rating of the proposed program's potential impact on the needs of youths and its fulfillment of the intent of the Youth Employment and Demonstration Projects Act (YEDPA). The rating will consider the following elements:

1. *Training.* The proposed program offers training, and/or work opportunities in a number of occupational categories. The effect of these training opportunities in enhancing the employability of youths must be clearly defined. Applicants are also responsible for defining and clarifying "meaningful work experience" if it is an activity in the proposal.

2. *Services.* The proposed program provides necessary supportive services

to assist youth to participate in employment and training activities which will enhance their employability.

3. *Program impact.* The proposed program will directly impact on the problems and needs of youth in the particular target area. Applicants must describe how the proposed program will supplement and not substitute for services already being provided by the applicant to youth.

The highest rating of 15 shall be awarded to an organization which has adequately analyzed the economic situation of the target area and identified the social and economic needs of the youth population, and has developed a program based on this analysis and identification, which provides training and supportive services that can be successfully implemented within the existing target area economic and labor market situations to meet these needs.

B. *Delivery system.* Range 0-15 points. The delivery system factor is a rating of the applicant's system for delivering the comprehensive program services and its potential ability to provide effective and timely services to youth. This rating shall include the potential effectiveness of subgrantees in providing services specifically for farmworker youth.

Applicants must describe the relationship of the proposed delivery system to other employment and training delivery systems for youth within the target area.

The highest rating of 15 shall be awarded to an organization whose delivery system demonstrates efficient operation and whose subgrantees (if any) delivery systems are coordinated with the applicant's into a functioning unit.

C. *Administrative capability.* Range 0-30 points. The administrative capability factor is a rating of the applicant's management experience and efficiency. The rating shall include consideration of the managerial expertise of the organization's present and proposed staff in managerial and decision-making positions. This factor shall also consider administrative efficiency based on comparative administrative cost.

The applicant must provide complete descriptions of both its management information system (MIS) and self-assessment procedures. Since YEDPA will be funded for only 1 year, the applicant must clearly demonstrate its ability to provide services, to provide accurate and complete reports on the status of the youth program and conduct self-assessment surveys to identify internal problems in order to take the necessary corrective action to improve the quality of services to youth. The MIS description should identify how compiled program data will be analyzed and utilized by the



applicant to improve the program and to provide narrative and statistical program summaries.

Applicants must also describe the procedures followed to identify and select subgrantees which have demonstrated competence and merit at the local level.

The highest rating of 30 shall be awarded to organizations which can demonstrate the capability to administer efficiently multiactivity delivery system with comparatively low administrative costs.

**D. Responsiveness to youth.** Range 0-15 points. The responsiveness to youth factor is a rating of the organization's active and visible involvement of youth in its planning and the proposed involvement of youth in implementing its proposed program of services. The rating will also consider the sensitivity of the organization's present and proposed staff in program positions to the needs of youth.

The highest rating of 15 shall be awarded to organizations which clearly demonstrate that youth will be actively involved in the planning, review and implementation of youth programs.

**E. Linkages and coordination.** 0-15 points. The linkage and coordination factor is a rating of an organization's demonstrated and documented programmatic ties with appropriate State and local agencies, private nonprofit organizations, and other groups providing resources and services to youth. The highest rating of 15 shall be awarded to applicants which would operate programs incorporating services at less than, or at no cost to section 303 from other agencies for the purpose of providing manpower and other services to youth and whose funding request includes letters of commitment for these services.

**F. Experimentation and innovation.** Range 0-10 points. The experimental

tion and innovation factors is a rating of the organization's capability to adequately describe a concept to be tested by the proposed program design, to utilize appropriate data and rationale as a premise for any hypothesis and to develop procedures and measures for testing the hypothesis. Applicants must clarify the areas in which the proposed program is either experimental or innovative.

The highest rating of 10 shall be awarded to organizations which clearly define the programmatic areas of experimentation and the internal administrative mechanisms to be used to measure any hypothesis regarding the needs of youth.

Signed in Washington, D.C., this 18th day of January 1978.

LAMOND GODWIN,  
Administrator, Office of  
National Programs.

[FR Doc. 78-2390 Filed 1-26-78; 8:45 am]

#### [4510-28]

##### Office of the Secretary

#### INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of

articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 11th day of January 1978.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

#### APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A'Paree, Inc. (ILGWU)	Camden, N.J.	Dec. 29, 1977	Dec. 22, 1977	TA-W-2,893	Ladies' dresses.
ASARCO, Inc., Tennessee Mines Division, New Market Mine (workers).	New Market, Tenn.	do	Dec. 23, 1977	TA-W-2,894	Mines zinc ore and mills it into zinc concentrate.
Benmax Sportswear Co. (ILGWU).	Ashbury Park, N.J.	Dec. 22, 1977	Dec. 15, 1977	TA-W-2,895	Ladies' coats and suits.
Bliss & Laughlin Industries, Inc., Bliss & Laughlin Steel Co. Division (USWA).	Detroit, Mich.	Dec. 19, 1977	do	TA-W-2,896	Cold rolled finished steel bars.
Braemar Coat Co. (ILGWU).	Panorama City, Calif.	Dec. 30, 1977	Dec. 27, 1977	TA-W-2,897	Ladies' coats.
Burlington Dress Co. (ILGWU).	Burlington, N.J.	Dec. 27, 1977	Dec. 22, 1977	TA-W-2,898	Ladies' dresses and sportswear.
Dana-Marie Fashions, Inc. (workers).	Paterson, N.J.	Dec. 22, 1977	Dec. 19, 1977	TA-W-2,899	Ladies' coats and ladies' and men's jackets.
Fay Sportswear (ILGWU).	Burlington, N.J.	Dec. 27, 1977	Dec. 22, 1977	TA-W-2,900	Children's and ladies' sportswear.
Hilton Coat & Suit Co. (ILGWU).	do	Dec. 29, 1977	do	TA-W-2,901	Ladies' separates and sportswear and outer-garments.
Jeans & Gauvin Pattern Co., Inc. (workers).	Haverhill, Mass.	Dec. 19, 1977	Dec. 14, 1977	TA-W-2,902	Shoe patterns for men, women and children's shoes.
Julius & Sons, Inc. (workers).	Boston, Mass.	Dec. 27, 1977	Dec. 20, 1977	TA-W-2,903	Leather coats, jackets and outerwear for men.
Keen Cast Manufacturing Corp. (IMAWU).	Griffith, Ind.	Dec. 29, 1977	Dec. 23, 1977	TA-W-2,904	Grey iron castings used in heavy machinery.
Lorraine Handbags, Inc. (company).	Boston, Mass.	Dec. 22, 1977	Dec. 14, 1977	TA-W-2,905	Ladies' leather handbags.
M. Hoffman Co., Inc. (workers).	do	Dec. 29, 1977	Dec. 20, 1977	TA-W-2,906	Blue jeans for men and women.

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#### APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Max Roth Leather Goods Corp. (workers).	New York, N.Y.	Dec. 27, 1977	do	TA-W-2,907	Plastic handbags.
National Can Corp. (USWA).	Lenexa, Kans.	Dec. 28, 1977	Dec. 19, 1977	TA-W-2,908	Metal containers for beverages.
Norstan Industries, Inc. (workers).	New York, N.Y.	Dec. 27, 1977	Dec. 21, 1977	TA-W-2,909	Main sales office of Norstan Industries, Inc. and pattern sample makers.
Owens-Illinois, Inc., Pittston plant (G.B.B.A.).	Pittston, Pa.	Dec. 29, 1977	Dec. 17, 1977	TA-W-2,910	The panel part of color television picture tubes.
Personal Sportswear Division of Leslie Fay, Inc. (workers).	Boston, Mass.	Dec. 22, 1977	Dec. 16, 1977	TA-W-2,911	Cut women's sportswear garments.
Shirely Willitt Co. (workers).	Dorchester, Mass.	Dec. 19, 1977	Dec. 14, 1977	TA-W-2,912	Women's sportswear.
Supreme Pants Co. (workers).	Garfield, N.J.	Dec. 22, 1977	Dec. 19, 1977	TA-W-2,913	Men's trousers.
Union Carbide Corp., Linde Division (workers).	East Chicago, Ind.	Dec. 28, 1977	Dec. 20, 1977	TA-W-2,914	Oxygen, nitrogen and argon.
University Clothing Corp. (workers).	Cambridge, Mass.	Dec. 22, 1977	Dec. 22, 1977	TA-W-2,915	Men's and women's raincoats.
Victor Wraps, Inc. (ILGWU).	Camden, N.J.	Dec. 29, 1977	do	TA-W-2,916	Ladies' separate and evening apparel.
Way Manufacturing Co. (workers).	Rockland, Mass.	Dec. 19, 1977	Dec. 12, 1977	TA-W-2,917	Women's sportswear.
Westinghouse Electric Corp. Lima Ohio plant—small motors division (IUE).	Lima, Ohio	Dec. 30, 1977	Dec. 27, 1977	TA-W-2,918	Fractional horsepower motors.

[FR Doc. 78-2002 Filed 1-26-78; 8:45 am]

#### [4510-28]

#### INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such

request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 4th day of January 1978.

HAROLD A. BRATT,  
Acting Director, Office of  
Trade Adjustment Assistance.

#### APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Al Tech Specialty Steel Corp., Dunkirk works (USWA).	Dunkirk, N.Y.	Dec. 27, 1977	Dec. 21, 1977	TA-W-2,838	Stainless bars and shapes, specialty wire, and alloy wire.
Armco Steel Corp., Ashland works, steel group (USWA).	Ashland, Ky.	Dec. 19, 1977	Dec. 15, 1977	TA-W-2,839	Basic carbon sheet, coil, blooms, and coated sheet and coil.
Boat Captain Bill (workers).	Provincetown, Mass.	Dec. 14, 1977	Dec. 13, 1977	TA-W-2,840	Scalloping and trawling for cod, haddock, flatfish, and mackerel.
Chloride, Inc., Pyrotector division (workers).	Hingham, Mass.	Dec. 16, 1977	do	TA-W-2,841	Smoke and heat detectors.
Consolidated Rail Corp., Logansport subdivision of Fort Wayne division (workers).	Logansport, Ind.	Dec. 15, 1977	Dec. 6, 1977	TA-W-2,842	Keeps the railway tracks clear and in good operating condition.
Eggie Motor Co., Inc. (workers).	Oaklyn, N.J.	Dec. 14, 1977	Dec. 5, 1977	TA-W-2,843	Selling American Motors new cars.
Ingersoll Steel Co. (workers).	New Castle, Ind.	Dec. 13, 1977	Dec. 9, 1977	TA-W-2,844	Stainless plate steel, plow steel, saw steel, forgings ingots.
J & T Sportswear, Inc. (workers).	Quincy, Mass.	Dec. 15, 1977	Dec. 12, 1977	TA-W-2,845	Women's sportswear.
N L Industries, Inc. titanium pigment division (workers).	South Amboy, N.J.	Dec. 12, 1977	Dec. 6, 1977	TA-W-2,846	Titanium dioxide pigment.
Olin Corp., fine paper and film group, endless belt department (United Paperworkers International).	Pisgah Forest, N.C.	Dec. 15, 1977	Dec. 1, 1977	TA-W-2,847	Woven textile conveyor belts used in the tobacco industry.

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## NOTICES

## APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Raider II (company).....	Provincetown, Mass.....	Dec. 14, 1977.	Dec. 13, 1977.	TA-W-2,846	The catching and selling of fish.
Union Railroad Co. (Brotherhood of Locomotive Engineers Union).....	East Pittsburgh, Pa.....	do.....	Dec. 9, 1977...	TA-W-2,849	Transporting of raw materials into U.S. Steel Corp. plants interplant moves and finished products from the plants to interchange points.
U.S. Steel Corp., corporate headquarters (workers).....	Pittsburgh, Pa.....	Dec. 15, 1977.	Dec. 12, 1977.	TA-W-2,850	Corporate headquarters employees.
Zerda (workers).....	Provincetown, Mass.....	Dec. 14, 1977.	Dec. 13, 1977.	TA-W-2,851	Scalloping of fish.

[FR Doc. 78-2002 Filed 1-26-78; 8:45 am]

[4510-28]

## INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision

thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Di-

rector, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 3, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 9th day of January 1978.

MARVIN M. FOOKS,  
Director, Office of  
Trade Adjustment Assistance.

## APPENDIX

Petitioner:union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Anthracite Overall Manufacturing Co., Inc. (ACTWU).....	Scranton, Pa.....	Dec. 19, 1977.	Dec. 13, 1977.	TA-W-2,867	Men's work pants.
Armco Steel Corp. (USWA).....	La Habra, Calif.....	do.....	Dec. 15, 1977.	TA-W-2,868	Warehousing of Armco Steel Corp. finished products.
Do.....	South Bend, Ind.....	do.....	do.....	TA-W-2,869	Drainage products and high guard rails.
Do.....	Memphis, Tenn.....	do.....	do.....	TA-W-2,870	Do.
Do.....	Fairbanks, Tex.....	do.....	do.....	TA-W-2,871	Do.
Do.....	Davis, Calif.....	do.....	do.....	TA-W-2,872	Do.
Baltimore & Ohio R.R. (workers).....	Benwood, W. Va.....	do.....	Dec. 9, 1977...	TA-W-2,873	Transporting of commodities and material for Wheeling Pittsburgh Steel.
Bethlehem Steel Corp., Burns Harbor plant (USWA).....	Chesterton, Ind.....	do.....	Dec. 15, 1977.	TA-W-2,874	Steel reinforcing bar steel posts, and other small steel shapes.
Bristol Fashions, Inc. (workers).....	Bristol, RI.....	Dec. 20, 1977.	Dec. 18, 1977.	TA-W-2,875	Ladies' sportswear.
Cleco Coat Co. (ILGWU).....	Clementon, NJ.....	Dec. 12, 1977.	Dec. 9, 1977...	TA-W-2,876	Children's garments.
Hennoch Manufacturing Contracting Corp. (workers).....	East Elmhurst, NY.....	Dec. 20, 1977.	Dec. 14, 1977.	TA-W-2,877	Ladies' and juniors' knitted tops.
Jones & Laughlin Steel Corp., Cleveland Works (USWA).....	Cleveland, Ohio.....	Dec. 19, 1977.	Dec. 15, 1977.	TA-W-2,878	Cold rolled sheets and steel for the auto industry.
Jones & Laughlin Steel Service Centers (USWA).....	Chicago, Ill.....	do.....	do.....	TA-W-2,879	Minor processing and handle orders less than mill orders; serve distributors in their local area.
Do.....	Glenahaw, Pa.....	do.....	do.....	TA-W-2,880	Do.
Do.....	Indianapolis, Ind.....	do.....	do.....	TA-W-2,881	Do.
Do.....	Lancaster, Pa.....	do.....	do.....	TA-W-2,882	Do.
Do.....	Memphis, Tenn.....	do.....	do.....	TA-W-2,883	Do.
Do.....	Nashville, Tenn.....	do.....	do.....	TA-W-2,884	Do.
Kensco Communications, Inc. (company).....	Quincy, Mass.....	do.....	do.....	TA-W-2,885	Distributor/retailer of 2-way citizens' band radios.
Mirando Manufacturing Co., Inc. (workers).....	Elizabeth, NJ.....	Dec. 12, 1977.	Dec. 7, 1977...	TA-W-2,886	Men's and boys' jackets.
Northeastern Steel & Wire Co. (USWA).....	Sterling and Rock Falls, Ill.....	Dec. 19, 1977.	Dec. 15, 1977.	TA-W-2,887	Structural products, bar products, rods and wire and other wire products.
National Supply Co. (USWA).....	Gainesville, Tex.....	do.....	do.....	TA-W-2,888	Triplex pumps, slush pumps, converters and cranes.
Do.....	Houston, Tex.....	do.....	do.....	TA-W-2,889	Wellhead control equipment.
Do.....	Los Nietos, Calif.....	do.....	do.....	TA-W-2,890	Oil drilling pumps.

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## NOTICES

## APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ranchers Exploration & Development Corp., Bluebird Mine (workers).....	Miami, Ariz.....	do.....	Dec. 14, 1977.	TA-W-2,891	The mining of copper, then copper cathodes are produced by the electrowinning process.
U.S. Steel Corp., Trenton plant (USWA).....	Trenton, NJ.....	do.....	Dec. 15, 1977.	TA-W-2,892	Fabricating shop and warehouse for materials produced elsewhere by U.S. Steel.

[FR Doc. 78-2003 Filed 1-26-78; 8:45 am]

[4510-27]

## Wage and Hour Division

## FIRE PROTECTION AND LAW ENFORCEMENT EMPLOYEES OF PUBLIC AGENCIES

## Study of Average Number of Hours Worked

AGENCY: Employment Standards Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor is required by the Fair Labor Standards Amendments of 1974 to conduct a study of the average number of hours in tours of duty worked by fire protection and law enforcement personnel employed by public agencies. The study was to have been completed and the results to have been published by January 1, 1978, but as a result of unexpected delays the study has not yet been concluded. Accordingly, until the study is done and the results have been published, public agencies availing themselves of the partial overtime exemption for law enforcement and fire protection employees in the Fair Labor Standards Act shall continue to compensate such employees at premium overtime rates for tours of duty in excess of 216 hours in a work period of 28 consecutive days. Where such employees have work periods of less than 28 days (but more than 7 days), premium overtime compensation shall be paid for tours of duty which in the aggregate exceed a correspondingly lower number of hours.

DATE: This notice takes effect January 1, 1978, and remains in effect until the results of the study of average number of hours are published in the FEDERAL REGISTER.

## FOR FURTHER INFORMATION CONTACT:

Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, 200 Constitution Avenue NW., Room S-3508, Washington, D.C. 20210, telephone 202-523-7043.

## SUPPLEMENTARY INFORMATION:

Section 7(k) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 201, et seq.) provides, effective January 1, 1978, as follows:

No public agency shall be deemed to have violated (the normal 40-hour overtime standard of the Act) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—

(1) In a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or

(2) In the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1)) bears to 28 days, compensation at a rate not less than one and one-half times the regular rate at which he is employed.

The study referred to in section 7(k) is described in section 6(c)(3) of the Fair Labor Standards Amendments of 1974:

The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct: (A) A study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the FEDERAL REGISTER.

The Fair Labor Standards Act wage and hour survey, which is being conducted pursuant to section 6(c)(3) of the 1974 amendments, is in the process of being concluded. Until this survey is concluded and the results thereof are published in the FEDERAL REGISTER, public agencies availing themselves of the exemption provided by section 7(k) of the Fair Labor Standards Act, shall continue to compensate affected employees at a rate of not less than 1½ times their regular rates of pay for all hours worked in excess of 216 in a work period of 28 consecutive days. For those employees who have a work period of at least 7 but less than 28 consecutive days, no overtime compensation is required until the ratio between the number of days in the work period and the hours worked during such work period exceeds the ratio between a work period of 28 days and 216 hours (7.1429), at which point all additional hours are paid for at 1½ times the employees' regular rates of pay. This is the same standard which has been in effect since January 1, 1977.

"Public agency" is defined in section 3(x) of the Fair Labor Standards Act as "the government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service or Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency." In *National League of Cities v. Usery*, 426 U.S. 833 (1976), the Supreme Court held that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act cannot constitutionally be applied to State and local governmental employees engaged in areas of traditional governmental functions. The Court specifically mentioned fire prevention and police protection as being traditional governmental functions. To the extent that this ruling affects the overtime provisions as described in this notice, those provisions no longer apply.

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Signed at Washington, D.C., on this 19th day of January 1978.

XAVIER M. VELA,  
Administrator, Wage and Hour  
Division, U.S. Department of  
Labor.

(FR Doc. 78-2394 Filed 1-26-78; 8:45 am)

## [3510-12]

NATIONAL ADVISORY COMMITTEE  
ON OCEANS AND ATMOSPHERE

## Meeting

JANUARY 24, 1978.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5, U.S.C. App I (Supp V, 1975), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting Thursday and Friday, February 16-17, 1978. These sessions will be open to the public and will be held in Room 6802 of the U.S. Department of Commerce Building, 14th Street between Constitution Avenue and E Street NW., Washington, D.C., beginning at 9 a.m. on both days.

The Committee, consisting of 18 non-Federal members appointed by the President from State and local governments, industry, science and other appropriate areas, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The agenda will include the following topics:

FEBRUARY 16, 1978

- 0900 Opening Remarks
- 0915 Commissioning Ceremony and Welcoming Remarks—Honorable Sidney Harman, Under Secretary of Commerce, Congressman John Murphy, Chairman, House Merchant Marine and Fisheries Committee, Dr. Frank Press, Science Advisor to the President and Director, Office of Science and Technology Policy.
- 1000 Break (members will be photographed for building passes in Room 2830B).
- 1030 Work and Views of Other Advisory Bodies—Mr. Harlan Cleveland, Director, Program in International Affairs, Aspen Institute of Humanistic Studies; Chair-

man, Department of Commerce Weather Modifications Advisory Board. Dr. Thomas F. Malone, Director, Holcomb Research Institute, Butler University; Member, Weather Modification Advisory Board. Mr. John Hussey, Director, Public Relations-Government Affairs, Monsanto Company; Chairman, NOAA Coastal Zone Management Advisory Committee.

1200 Lunch.

1400 Implementing the National Marine Fishery and Conservation Act of 1976—Mrs. Patsy Mink, Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State. Mr. Robert Schoning, Director, National Marine Fisheries Service, NOAA.

1500 The National Oceanic and Atmospheric Administration—Mr. Richard A. Frank, Administrator, NOAA.

1545 NACOA Plans—Chairman.

1700 Adjourn.

FEBRUARY 17, 1978

0900 Opening Remarks.

0905 The U.S. Coast Guard—Rear Admiral Raymond Wood, Chief, Office of Public and International Affairs.

1000 Organizing for Natural Resources Management—Mr. William Harsch, Deputy Associate Director, Natural Resources/Environment Division, President's Reorganization Project.

1045 NACOA Work Session.

1800 Adjourn.

The public is welcome at these sessions and will be admitted to the extent of the seating available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW. (Room 434, PG No. 1), Washington, D.C. 20235. The telephone number is 254-8418.

DOUGLAS L. BROOKS,  
Executive Director.

(FR Doc. 78-2441 Filed 1-26-78; 8:45 am)

## [4110-02]

NATIONAL ADVISORY COUNCIL ON  
THE EDUCATION OF DISADVANTAGED CHILDREN

## MEETING

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held on Friday, February 10 and on Saturday, February 11, 1978. The meeting will be held on Friday from 9 a.m. until 5 p.m., and on Saturday from 9:30 a.m. until 1 p.m.

The two-day meeting will be held at 425 13th Street NW., suite 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The purpose of the meeting is for Council to review and adopt the final draft Annual and special reports; discuss details for upcoming visits to Puerto Rico and San Diego, Calif.; and, plan further activities of Council.

Because of limited space, all persons wishing to attend should call for reservations by February 6, 1978, area code 202-724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 13th Street NW., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on January 24, 1978.

ROBERTA LOVENHEIM,  
Executive Director.

(FR Doc. 78-2340 Filed 1-26-78; 8:45 am)

## [7510-01]

NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION

(Notice 78-2)

## JAPAN ENGINEERING DEVELOPMENT CO.

Intent To Grant Foreign Exclusive Patent  
License

In accordance with the NASA foreign licensing regulations, 14 CFR 1245.405(e), the National Aeronautics and Space Administration announces its intention to grant to the Japan Engineering Development Co., Tokyo, Japan, a limited, exclusive patent license in Japan for the four NASA-owned inventions covered by the Japanese counterparts of: (1) U.S. Application Serial No. 760,795 for "Detection of Microbial Infection in Blood and Antibiotic Determinations," filed by NASA on January 19, 1977; (2) U.S. Application Serial No. 807,762 for "Boron Trifluoride Coatings for Thermoplastic Materials," filed by NASA on June 17, 1977; (3) U.S. Application Serial No. 814,005 for "Multilevel Metallization Method for Fabricating a Metal Oxide Semiconductor Device," filed by NASA on July 8, 1977; and (4) U.S. Application Serial No. 752,748 for "Polymeric Electrolytic Hygrometer," filed by NASA on December 21, 1976. Copies of the above U.S. patent applications can be purchased from the Na-

tional Technical Information Services, Springfield, Va. 22161, at a cost of \$3.75 a copy. Interested parties should submit written inquiries or comments within 60 days to the Assistant General Counsel for Patent Matters, Code GP-4, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: January 20, 1978.

S. NEIL HOSENBALL,  
General Counsel.

(FR Doc. 78-2314 Filed 1-26-78; 8:45 am)

## [7510-01]

(Notice 78-1)

## SUPERCritical WING PATENTS

## Patent Licensing Plan

Notice is hereby given that the National Aeronautics and Space Administration (NASA) has adopted a patent licensing plan for the supercritical wing invention covered by the United States and foreign patents held by NASA on behalf of the United States of America. The intent to adopt this patent licensing plan for this invention was previously announced in the FEDERAL REGISTER of February 14, 1977 (42 FR 9066).

The invention to be licensed under this plan is entitled "Airfoil Shape for Flight at Subsonic Speeds" and is covered by U.S. Patent No. 3,952,971, which was issued to NASA on April 27, 1976. The invention was made by Dr. Richard T. Whitcomb, an employee of the NASA Langley Research Center, Hampton, Va. NASA also has patents for the invention in Canada (Patent No. 953,699, issued August 27, 1974); France (Patent No. 72-39755, issued July 18, 1977); Great Britain (Patent No. 1,406,826, issued January 14, 1976); Australia (Patent No. 474,789, issued November 12, 1976); Israel (Patent No. 40,766, issued September 26, 1975); and Italy (Patent No. 975,491, issued July 20, 1974). Applications for patent are currently pending in Netherlands, West Germany, Sweden and Japan.

The patented invention pertains to an airfoil shape for flight at subsonic speeds above the critical Mach number in a range of Mach 0.7 to Mach 1.0. The supercritical airfoil greatly increases the options available to the aeronautical designer for increasing speed and/or efficiency and for reducing weight and noise in the aircraft.

The patent licenses for the manufacture and sale of aircraft employing this patented airfoil will be granted pursuant to the authority contained in the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(g)) as implemented by the NASA Domestic Patent Licensing Regulations (14 CFR 1245.2) and the NASA Foreign Patent Licensing Regulations (14 CFR 1245.4).

The basic features of the plan are as follows:

## LICENSES UNDER THE U.S. PATENT

NASA will grant non-exclusive royalty-free licenses under the U.S. patent for the manufacture of the patented invention in the United States. Any such license will include a royalty-free license for the licensee to sell the invention in the United States and under the patents in each foreign country in which NASA holds a patent.

## LICENSES UNDER FOREIGN PATENTS

Under applicable international agreements for the interchange of patent rights for defense purposes, participating Governments are entitled to use the invention for defense purposes without cost. NASA will grant nonexclusive, royalty-bearing licenses under its foreign patents for the manufacture of the invention in foreign countries for all other purposes. Any such royalty-bearing license to manufacture the invention under a foreign patent will include the granting of a license under all of the patents; without the payment of any additional royalties, to sell the invention in all countries in which NASA holds a patent, including the United States.

## ENFORCEMENT OF THE PATENTS

NASA intends to enforce its patent rights with respect to any unlicensed manufacture and/or sale of the invention in any country in which NASA holds a patent. NASA will, however, as appropriate, grant nonexclusive royalty-bearing licenses to unlicensed manufacturers of the invention for the sale of the invention in any country in which NASA holds a patent on the invention.

Inquiries and request for additional information concerning the licensing plan for this invention should be addressed to the Assistant General Counsel for Patent Matters, Code GP, NASA Headquarters, Washington, D.C. 20546. Upon request, NASA will provide detailed information and application forms to be used in applying for a license for this invention.

Dated: January 19, 1978.

S. NEIL HOSENBALL,  
General Counsel.

(FR Doc. 78-2091 Filed 1-16-78; 8:45 am)

## [7510-01]

(Notice 78-3)

NASA ADVISORY COUNCIL (NAC) LIFE  
SCIENCES COMMITTEE

## Meeting

The NAC Life Sciences Committee will meet on February 15-17, 1978,

Ames Research Center (ARC), Moffett Field, Calif. 94035. The meeting will be held in Room B-39 of the Life Sciences Building Number 239. Members of the public will be admitted on a first-come first-served basis, up to the seating capacity of the room, which is about 80 persons.

The NAC Life Sciences Committee serves in an advisory capacity only. In this capacity, it is concerned with man in relation to space travel, with exobiology, and with other life forms. Its academic interests include: Physiology, behavior, clinical aerospace medicine, microbiology, radiobiology, biochemistry, plant biology nutrition and food technology, exobiology, biology of gravity and rhythms, ecology and biotechnology. The current Chairman is Dr. G. Donald Whedon. There are 16 members.

The following list sets forth the approved agenda. For further information, please contact Dr. S. P. Vinograd, area code 202-755-3723, NASA Headquarters, Washington, D.C. 20546.

FEBRUARY 15, 1978

## Time and Topic

- 0800-0820—Administrative. To inform the Committee members of views and comments of the Chairman on intervening events, actions, and anticipated requirements, approve the minutes of the last meeting, and carry out Committee business.
- 0820-1700—Committee Work. Preparation of Committee document containing its recommendations to NASA on future directions for the Life Sciences.

FEBRUARY 16, 1978

- 0800-1300—Committee Work. (Continued.)
- 1300-1330—Overview of ARC Life Sciences Programs. To brief the Committee on the Life Sciences activities at ARC. The remainder of the day and half of the following morning will consist of briefings on specific research projects at ARC.
- 1330-1400—Autogenic Training for Vestibular Symptomatology.
- 1400-1430—Neuro-hormonal Regulation of Fluid and Electrolyte Balance.
- 1430-1500—Studies of Bone Metabolism.
- 1500-1530—Data on Female Bed Rest Studies.
- 1530-1600—Flight Hardware for Animal Investigations on Shuttle.
- 1600-1730—Tour of the Facilities.

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- 0800-0830—Animal Motion Sickness Studies.
- 0830-0900—Head-Up Displays for Aircraft.
- 0900-0930—Computer Graphic Modeling of Protein-Nucleic Acid Interaction.
- 0930-1000—Stable Isotope Organic Geochemistry.
- 1010-1100—NASA Life Sciences Overview. Briefing by the NASA Director for Life Sciences on events, progress, issues and status of the program.
- 1100-1130—Closed Ecological Life Support System (CELSS). To report the intervening progress of this effort; to discuss the final report of the summer study on this subject held at ARC the summer of 1977.
- 1130-1200—Kennedy Space Center Ecology Studies.



1200-1230—Spacelab I Biomedical Experiments.  
1330-1600—Committee Work: Continuation of preparation of the Committee document.

KENNETH R. CHAPMAN,  
Associate Administrator  
for External Relations.

JANUARY 24, 1978.

[FR Doc. 78-2315 Filed 1-26-78; 8:45 am]

#### [7555-01]

##### NATIONAL SCIENCE FOUNDATION

##### ADVISORY COUNCIL TASK GROUP NO. 2

###### Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

##### TASK GROUP NO. 2 OF THE NSF ADVISORY COUNCIL

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date: February 15, 1978.

Time: 9 a.m. to 5 p.m.

Type of Meeting: Open.

Contact Person: Ms. Margaret L. Windus, Executive Secretary, NSF Advisory Council, National Science Foundation, Room 518, 1800 G Street NW., Washington, D.C. 20550, telephone 202-632-4384.

Purpose of Task Group: The purpose of the Task Group, composed of members of the NSF Advisory Council, is to provide the full Council with a mechanism to consider numerous issues of interest to the Council that have been assigned by the National Science Foundation.

Summary Minutes: May be obtained from the Committee management Coordinator, Division of Personnel and Management, National Science Foundation, Room 248, 1800 G Street NW., Washington, D.C. 20550.

Agenda: To identify and review the ways non-scientists now participate in the formation of the Nation's science policy, the present arrangements for involving the public in the development of Foundation policies, and suggest possible new approaches or improvements in NSF practices.

Dated: January 24, 1978.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

[FR Doc. 78-2322 Filed 1-26-78; 8:45 am]

#### [7555-01]

##### SUBCOMMITTEE ON DEVELOPMENTAL BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR AND MOLECULAR BIOLOGY

###### Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

#### NOTICES

##### SUBCOMMITTEE ON DEVELOPMENTAL BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR AND MOLECULAR BIOLOGY

Date and time: February 12, 13, and 14, 1978—9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Mary Clutter, Program Director for Developmental Biology, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4314.

Purpose of Subcommittee: To provide advice and recommendations concerning support for research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 24, 1978.

[FR Doc. 78-2320 Filed 1-26-78; 8:45 am]

#### [7555-01]

##### SUBCOMMITTEE ON MOLECULAR BIOLOGY, GROUP A

###### Rescheduled Meeting

On January 13, 1978, the Notice of Meeting was published in the FEDERAL REGISTER, FR Document 78-977, for Group A of the Subcommittee on Molecular Biology meeting to be held on January 30 and 31, 1978. The meeting has been rescheduled for February 13 and 14 in Room 323.

There are no other changes to the notice.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 24, 1978.

[FR Doc. 78-2319 Filed 1-26-78; 8:45 am]

#### [7555-01]

##### SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION

###### Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation

announces the following meeting:

##### SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Date and Time: February 13 and 14, 1978, 9 A.M. to 5 P.M. each day.

Place: Room —, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Sherman L. Guth, Program Director, Sensory Physiology and Perception Program, room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-634-1824.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Sensory Physiology and Perception.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 24, 1978.

[FR Doc. 78-2321 Filed 1-26-78; 8:45 am]

#### [7590-01]

##### NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-13 and 50-99]

##### BABCOCK AND WILCOX CO.

###### Request for Approval of Transfer of Licenses

Notice is hereby given that by letter dated January 20, 1978, J. Ray McDermott & Co., Inc. (McDermott), and the Babcock & Wilcox Co. (B&W), requested the Nuclear Regulatory Commission (the Commission), pursuant to 10 CFR § 50.80 of the Commission's regulations, to approve the transfer of Facility License Nos. R-47 (Docket 50-99) and CX-10 (Docket 50-13) to a subsidiary of McDermott (which will also be named the Babcock & Wilcox Co.), effective upon the merger of B&W into McDermott.

A copy of the request is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Dated at Bethesda, Md., this 25th day of January 1978.

For the Nuclear Regulatory Commission.

KARL R. GOLLER,  
Assistant Director for Operating  
Reactors, Division of Operating  
Reactors.

[FR Doc. 78-2534 Filed 1-26-78; 10:26 am]

#### [7590-01]

[Docket No. 50-285]

##### OMAHA PUBLIC POWER DISTRICT

##### Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR-40 issued to Omaha Public Power District which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to reflect an extension of the Fort Calhoun Station Unit No. 1 exclusion area boundary.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated February 8, 1977, (2) Amendment No. 36 to License No. DPR-40, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Director, Division of Operating Reactors.

#### NOTICES

Dated at Bethesda, Md. this 20th day of January 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors  
Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-2292 Filed 1-26-78; 8:45 am]

#### [7590-01]

[Dockets Nos. 50-266 and 50-301]

##### WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

##### Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 32 and 36 to Facility Operating Licenses Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Co. and Wisconsin Michigan Power Co., which revised Technical Specifications for operation of the Point Beach Nuclear Plant Units Nos. 1 and 2, located in the town of Two Creeks, Manitowoc County, Wis. The amendments are effective as of the date of issuance.

These amendments consist of changes in the Technical Specifications that incorporate the Fire Protection System into the Limiting Conditions for Operation, Surveillance Requirements and Administrative Controls.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 28, 1977 as revised by letters dated October 5 and December 12, 1977, (2) Amendment No. 32 to License DPR-24, (3) Amendment No. 36 to License DPR-27, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the

Commission's Public Document Room 1717 H Street NW., Washington, D.C. and at the University of Wisconsin-Stevens Point Library, Attention: Mr. Arthur M. Fish, Stevens Point, Wis. 54481. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23d day of January 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,  
Chief, Operating Reactors  
Branch No. 3 Division of Operating Reactors.

[FR Doc. 78-2293 Filed 1-26-78; 8:45 am]

#### [7555-02]

##### OFFICE OF SCIENCE AND TECHNOLOGY POLICY

##### WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

###### Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

##### WORKING GROUP ON BASIC RESEARCH IN THE DEPARTMENT OF DEFENSE

Date: February 14 and 15, 1978.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. 20500.

Type of meeting: Open.

Contact person: Dr. William P. Raney, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-5636.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of advisory committee: The Office of Science and Technology Policy is conducting a study which will lead to the formulation of policy governing the performance of basic research by or for the mission agencies. Under the guidance of the Steering Committee on Basic Research in Mission Agencies, the Working Group on Basic Research in the DOD is to examine the policies and procedures and research programs of that agency for adequacy and balance between near-term and long-term technical objectives.

Agenda: 9 a.m. to 4 p.m.—Working meeting. Editing and redrafting of working papers.

WILLIAM MONTGOMERY,  
Executive Officer.

[FR Doc. 78-2395 Filed 1-26-78; 8:45 am]



[8010-01]

SECURITIES AND EXCHANGE  
COMMISSION

(Rel. No. 14396; SR-MSE-77-41)

MIDWEST STOCK EXCHANGE, INC.  
Order Approving Proposed Rule Change

JANUARY 20, 1978.

On October 27, 1978, the Midwest Stock Exchange, Inc. ("MSE") 120 South LaSalle Street, Chicago, Ill. 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change which would amend Article XXXIV, Rule 3 of the MSE Rules to establish a minimum percentage-of-volume trading requirement (calculated quarterly) with respect to any registered market maker's transactions on the MSE stock floor in securities in which a registered market maker has been assigned.<sup>1</sup>

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14158 (November 9, 1977)), and by publication in the FEDERAL REGISTER (42 FR 60032 (November 23, 1977)). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were made available to the public at the Commission's Public Reference Room (File No. SR-MSE-77-41).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

(FR Doc. 78-2291 Filed 1-26-78; 8:45 am)

<sup>1</sup>Pursuant to guidelines established by the MSE's Floor Procedure Committee, a registered market maker or a specialist must quote a two-sided market in each assigned issue. As to any such quotation, one side is required to be equal to or better than the current market in that issue in the New York market.

## NOTICES

[1505-01]

## SMALL BUSINESS ADMINISTRATION

(Declaration of Disaster Loan Area No. 1361)

## IDAHO

## Declaration of Disaster Loan

## Correction

In FR Doc. 78-1380 appearing on page 2682 in the issue of Wednesday, January 18, 1978, the numeral in small type in the heading should read as written above.

[8025-01]

(Declaration of Disaster Loan Area #1420)

## KANSAS

## Declaration of Disaster Loan Area

The first block of South Broadway, in the city of Lousburg, Miami County, Kans., constitutes a disaster area because of damage resulting from a fire which occurred on November 26, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on March 23, 1978, and for economic injury until the close of business on October 20, 1978, at:

Small Business Administration, District Office, 12 Grand Building, fifth floor, 1150 Grand Avenue, Kansas City, Mo. 64106, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 590023 and 59008.)

Dated: January 20, 1978.

PATRICIA M. CLOHERTY,  
Deputy Administrator.

(FR Doc. 78-2373 Filed 1-26-78; 8:45 am)

[8025-01]

(Declaration of Disaster Loan Area No. 1414, Amdt. 1)

## OREGON

## Declaration of Disaster Loan Area

The above numbered Declaration (See 43 F.R. 2282) is amended by adding Multnomah County and adjacent counties within the State of Oregon, and extending the filing date for physical damage until the close of business on March 13, 1978, and for economic injury until the close of business on October 9, 1978.

Dated: January 18, 1978.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-2294 Filed 1-26-78; 8:45 am)

[8025-01]

(Declaration of Disaster Loan Area No. 1419)

## RHODE ISLAND

## Declaration of Disaster Loan Area

Kent and Providence Counties and adjacent counties within the State of Rhode Island constitute a disaster area as a result of damage caused by flooding and wind which occurred on January 9, 1978. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on March 20, 1978, and for economic injury until the close of business on October 19, 1978 at:

Small Business Administration, District Office, 57 Eddy Street, Providence, R.I. 02903.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 19, 1978.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-2295 Filed 1-26-78; 8:45 am)

[8025-01]

(Declaration of Disaster Loan Area No. 1378; Amdt. 2)

## TENNESSEE

## Declaration of Disaster Loan Area

The above numbered Declaration (see 42 F.R. 54897, October 11, 1977) and Amendment No. 1 (see 42 F.R. 64753, December 28, 1977) are amended by adding Gibson County and adjacent counties within the State of Tennessee. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: December 30, 1977.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-2308 Filed 1-26-78; 8:45 am)

[8025-01]

(Declaration of Disaster Loan Area No. 1411; Amdt. 2)

## WASHINGTON

## Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 64657), and Amendment No. 1 (see 43 FR 2251), are amended by adding the city of Bingen (located in Klickitat County), and Whitman County, and adjacent counties within the State of Washington, and the time for filing applications is extended to March 16, 1978, for physical damage

## NOTICES

and October 16, 1978, for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: January 18, 1978.

A. VERNON WEAVER,  
Administrator.

(FR Doc. 78-2296 Filed 1-26-78; 8:45 am)

[4710-02]

## DEPARTMENT OF STATE

## Agency for International Development

HOUSING GUARANTY PROGRAM FOR THE  
REPUBLIC OF BOTSWANA

## Information for Investors

The Agency for International Development (AID) has authorized a guaranty of a loan in an amount not to exceed \$2,600,000 to finance housing projects in the Republic of Botswana. The Republic of Botswana (borrower) desires to receive proposals from eligible investors, as defined below, describing the terms and conditions upon which the investors will be willing to make this loan to the borrower. The full repayment of the loan will be guaranteed by AID. The AID guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 221 of the Foreign Assistance Act of 1961, as amended (the Act). The eligible investor and the terms of the loan must be acceptable to AID and disbursements of the loan will be subject to certain conditions required of the borrower by AID. This project is referred to as project No. 633-HG-001.

Eligible investors are invited to consult promptly with the borrower and submit proposals for an AID-guaranteed loan for the project. Those investors interested in extending a loan to the borrower should communicate with the borrower at the following address:

Botswana Embassy, 4301 Connecticut Avenue NW., Washington, D.C. 20008,

or

Permanent Secretary, Ministry of Finance and Development Planning, Private Bag 008, Gaborone, Botswana.

Copies of correspondence to one should be sent to the other.

Investors eligible to receive and AID guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for guaranty, the loan must be repayable in full no later than

the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate established from time to time by AID.

The borrower projects a schedule of disbursements covering approximately 24 months (or other period to be negotiated) from the date of the loan agreement, the first disbursement to be approximately July or August 1978, and prospective investors should consider this in proposing a guaranteed loan to the borrower. In addition, in the event the investor will engage in the reselling of the loan to other persons, the investor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the borrower.

Information as to the eligibility of investors and other aspects of the AID housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523, telephone 202-632-9637.

This notice is not an offer by AID or by the borrower. The borrower and not AID will select an investor and negotiate the terms of the proposed loan. Negotiations are expected to take place approximately April or May 1978.

Prospective investors are requested to submit offers to the borrower by March 15, 1978.

Dated: January 11, 1978.

PETER M. KIMM,  
Director,  
Office of Housing.

(FR Doc. 78-2316 Filed 1-26-78; 8:45 am)

[4710-02]

JOINT COMMITTEE ON AGRICULTURAL DEVELOPMENT  
OF THE BOARD FOR INTERNATIONAL  
FOOD AND AGRICULTURAL DEVELOPMENT

## Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the seventh meeting of the Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development on February 13-15, 1978.

The purpose of this meeting is to receive a progress report on the development of criteria for university inclusion on the roster; to receive a progress report on baseline studies; to review the status of Title XII projects in Asia, Africa, Latin America, and the Near East; and to consider other business brought before the Committee.

The meeting on February 13, 1978, will convene in Regional Work Groups (RWGs): Africa RWG at 9:30 a.m. in Room 2497, New State Department Building; Asia RWG at 10 a.m. in Room 609, Rosslyn Plaza Building, 1601 N. Kent Street, Rosslyn, Va.; Latin America RWG at 3 p.m. in Room 2248, New State Department Building; and Near East RWG at 1:30 p.m. in Room 6484, New State Department Building. The meeting on February 14 and 15, 1978, will convene from 9 a.m. to 5 p.m. at the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. Room designation will be posted in the lobby of the Quality Inn. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Fletcher E. Riggs, Deputy to the Associate Assistant Administrator, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9001.

Dated: January 18, 1978.

FLETCHER E. RIGGS,  
A.I.D. Advisory Committee Representative,  
Joint Committee on Agricultural Development,  
Board for International Food and Agricultural Development.

(FR Doc. 78-2306 Filed 1-26-78; 8:45 am)

[4710-02]

JOINT RESEARCH COMMITTEE OF THE BOARD  
FOR INTERNATIONAL FOOD AND AGRICULTURAL  
DEVELOPMENT

## Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the eighth meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on February 13, and 14, 1978.

The purpose of this meeting is to continue the priority assessment of Collaborative Research Support Programs (CRSP's); to hear program reports on CRSP planning contracts for small ruminants, sorghum/millet, aquaculture and nutrition; and to discuss the activities of the International Center for Living Aquatic Resource Management.



The meeting will begin at 9 a.m. and will adjourn at 4:30 p.m. on February 13, 1978, and will reconvene at 9 a.m. and adjourn at noon on February 14, 1978. The meeting on both days will be held in the Arlington Room of the Quality Inn, Pentagon City, 300 Army-Navy Drive, Arlington, Va. 22202. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Charles E. French, Research Coordinator, Development Support Bureau, is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 703-235-9054.

Dated: January 18, 1978.

CHARLES E. FRENCH,  
A.I.D. Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 78-2305 Filed 1-26-78; 8:45 am]

## [4710-02]

## RESEARCH ADVISORY COMMITTEE

## Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a) (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on March 30-31, 1978, at the Pan American Health Organization Building, 23d Street and Virginia Avenue NW., Conference Room "C", to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the field of food and nutrition and health and population. The meeting will begin at 9 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator, is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more specific information contact Dr. Erven J. Long, 1601 N. Kent Street, Arlington, Va., 22209 or call area code 202-235-2243.

Dated: January 10, 1978.

ERVEN J. LONG,  
A.I.D. Representative,  
Research Advisory Committee.

[FR Doc. 78-2303 Filed 1-26-78; 8:45 am]

## [4710-01]

[Public Notice CM-818]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW: STUDY GROUP ON MARITIME LAW MATTERS

## Meeting

A meeting of the Study Group on Maritime Law Matters, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10:30 a.m. on Wednesday, February 15, 1978, at the Department of State. Members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to consider the relationships of commodity values and commodity weights in connection with liability limit provisions in the Draft Convention on the Carriage of Goods By Sea.

Entrance to the Department of State building is controlled, and members of the general public should use the C Street entrance. Entry will be facilitated if arrangements are made in advance, and it is requested that members of the general public who plan to attend the meeting inform their name, affiliation, and address to Miss Dorothy Fagan, Office of the Legal Adviser, Department of State, prior to February 15, 1978. The telephone number is area code 202-632-8134.

Dated: January 17, 1978.

RICHARD D. KEARNEY,  
Chairman.

[FR Doc. 78-2312 Filed 1-26-78; 8:45 am]

## [4710-01]

[Public Notice CM-8/7]

SHIPPING COORDINATING COMMITTEE: SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

## Meeting

The working group on radiocommunications of the Subcommittee on Safety of Life at Sea (SOLAS), a component of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 1:30 p.m. on Thursday, February 16, 1978, in room 8442 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The meeting's purpose is to prepare position documents for the Nineteenth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO), to be held in London in the Autumn of 1978. In particular, the SOLAS Working Group will discuss the following topics:

Code of safety requirements for mobile offshore drilling units.

Operational standards for shipboard radio equipment.

Operational requirements for emergency position-indicating radio beacons and portable radio apparatus for survival craft.

Matters resulting from the World Maritime Administrative Radio Conference, 1974, and the work of the International Radio Consultative Committee.

Requests for further information on the meeting should be directed to Lt. F. N. Wilder, U.S. Coast Guard (G-OTM/74), Washington, D.C. 20590, telephone area code 202-426-1345.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,  
Chairman, Shipping  
Coordinating Committee.

JANUARY 18, 1978.

[FR Doc. 78-2313 Filed 1-26-78; 8:45 am]

## [4810-22]

## DEPARTMENT OF THE TREASURY

## Customs Service

## CERTAIN FISH FROM CANADA

## Initiation of Countervailing Duty Investigation and Preliminary Determination

AGENCY: Customs Service, United States Treasury.

ACTION: Initiation of Countervailing Duty Investigation and Preliminary Determination.

SUMMARY: This notice is to advise the public that a petition has been received and an investigation has been started for the purpose of determining whether or not benefits are granted by the Government of Canada to fishermen or processors which constitute a bounty or grant within the meaning of the countervailing duty statute. A preliminary determination that certain Canadian fish is being subsidized is being issued simultaneously. A final determination must be made not later than June 10, 1978.

EFFECTIVE DATE: January 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on June 10, 1977, alleging that payments or bestowals conferred by the Government of Canada upon production or exportation of certain fish from Canada constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Fish imports covered by this investigation are classifiable under items

110.3570, 110.3575, 110.5025, 110.5030, 110.5045, 110.5050, 110.5065, 110.5520, 110.5550, 110.5565, 110.5570, 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, 111.6800, Tariff Schedules of the United States Annotated (TSUSA).

The fish imports from Canada which are classifiable under items 110.1585, 110.1589, 110.4710, 110.4726, 110.7033, 110.7039, 111.2200, 111.6400, and 111.6811, TSUSA, are free of duty.

In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended, (19 U.S.C. 1301(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States with regard to these duty-free imports.

It is noted that a final affirmative countervailing duty determination and a waiver of countervailing duty were published concurrently in the FEDERAL REGISTER of April 13, 1977 (42 FR 19327), with respect to certain dutiable fish from Canada classifiable under item numbers 110.3560, 110.3565, and 110.5545, Tariff Schedules of the United States Annotated.

In view of the information developed recently in connection with the countervailing duty investigation on other Canadian fish, it is deemed appropriate at this time to issue a preliminary determination pursuant to section 303(a)(4), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), that bounties or grants are being paid or bestowed on the items subject to this investigation. Based on the information presently available, programs preliminarily determined to constitute a bounty or grant include: (1) Direct payments to fishermen and fish processors by the Federal Government under the Groundfish Temporary Assistance Bridging Program, which remains in effect for all groundfish except those items subject to waiver; (2) assistance to fishermen for the partial financing of vessel construction which program is presently funded; and (3) grants provided to the Newfoundland fishing industry by the Department of Regional Economic Assistance. The vessel construction assistance is preliminarily considered to constitute a bounty based on the *ad valorem* benefits involved derived from the previous investigation concluded April 1977, and the fact that a preponderance of Canada's fish production is exported. Regional incentive grants, while not at this stage quantified, would be considered preliminarily to constitute a bounty or grant since a preponderance of Canada's fish is exported.

A final decision in this case is required on or before June 10, 1978.

## [7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 576]

## Assignment of Hearings

JANUARY 24, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

## CORRECTION\*

MC 115826 (Sub-No. 272), W. J. Digby, Inc., now being assigned February 28, 1978 (1 day) at Denver, Colo. in a hearing room to be later designated.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2380 Filed 1-26-78; 8:45 am]

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary determination. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office on or before February 27, 1978.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan Number 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of treasury Department Order 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the initiation of a countervailing duty investigation and issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 23, 1978.

[FR Doc. 78-2304 Filed 1-26-78; 8:45 am]

## [4510-35]

## Fiscal Service

[Dept. Circ. 570, 1977 Rev., Supp. No. 8]

LONDON GUARANTEE & ACCIDENT COMPANY OF NEW YORK

Surety Companies Acceptable on Federal Bonds: Termination of Authority

Notice is hereby given that the certificate of authority issued by the Treasury to London Guarantee & Accident Company of New York, New York, under sections 6 to 13 of Title 6 of the United States Code, to qualify as an acceptable surety on Federal bonds is hereby terminated this date.

The company was last listed as an acceptable surety on Federal bonds at 42 FR 34074 July 1, 1977.

With respect to any bonds currently in force with London Guarantee & Accident Company of New York, bond approving officers of the Government should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding.

Dated: January 23, 1978.

D. A. PAGLIAI,  
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 78-2369 Filed 1-27-78; 8:45 am]

## [7035-01]

[Notice No. 575]

## ASSIGNMENT OF HEARINGS

JANUARY 24, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

## CORRECTION\*

FD 27972, Louisville and Nashville Railroad Co.—Trackage Rights—Over Grand Trunk Western Railroad Co., South Bend Subdivision, between Munster, Lake County, Indiana and Thornton Junction, Cook County, Ill., and FD 28464, Louisville and Nashville Railroad Co., Construction of

\* This notice corrects the date of the hearing as originally served.

\* This notice corrects the location of hearing room and the city from Dalton, Ill. to Dolton, Ill.



Connecting Track Over Grand Trunk Western Railroad Co., at Munster, Lake County, Ind., now assigned March 6, 1978 at Dolton, Ill., and will be held at the Dolton Village Hall, Council Room, Dolton Municipal Center, 14014 Park Avenue.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2381 Filed 1-26-78; 8:45 am]

## [7035-01]

[Notice No. 577]

## ASSIGNMENT OF HEARINGS

JANUARY 24, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 133095 (Sub 171), Texas Continental Express, Inc., now assigned January 26, 1978, at New Orleans, La., is cancelled and application dismissed.

MC 83539 (Sub 469), C & H Transportation Co., Inc., now assigned February 27, 1978, (1 day), in Room 609, Federal Office Bldg., 911 Walnut Street, Kansas City, Mo.

MC 138322 (Sub 5), BHY Trucking, Inc., now assigned March 22, 1978, at Los Angeles, Calif., is cancelled and application dismissed.

MC 121664 (Sub 23), G. A. Hornady, Cecil M. Hornady, and B. C. Hornady, d.b.a. Hornady Brothers Truck Line, now assigned February 2, 1978, for prehearing conference at Washington, D.C., is postponed to February 10, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 60987 (Sub 22), Arkin Truck Line, Inc., now being assigned April 4, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 114457 (Sub 317), Dart Transit Co., now being assigned April 5, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 103993 (Sub 879), Morgan Drive Away, Inc., now being assigned April 6, 1978 (2 days), at Chicago, Ill., in a hearing room to be later designated.

AB 1 (Sub 41), Chicago and North Western Transportation Co., abandonment, between Klevenville and Fennimore, including Lancaster Junction to Lancaster, Monfort Junction to Cuba City, and Ipswich to Platteville, in Dane, Iowa, Lafayette, and Grant Counties, Wis., now being assigned April 10, 1978 (1 week), at Dodgeville, Wis., in a hearing room to be later designated.

## NOTICES

MC 117557 (Sub 23), Matson, Inc., now being assigned April 24, 1978 (1 week), at Chicago, Ill., in a hearing room to be later designated.

AB 43 (Sub 43), Illinois Central Gulf Railroad Co., abandonment between Herscher and Barnes in Kankakee, Ford, Livingston and McLean Counties, Ill., now being assigned April 19, 1978 (3 days), at Bloomington, Ill., in a hearing room to be later designated.

MC 143749, Garwood Wrecker Service, now assigned March 22, 1978, at Kansas City, Mo., is cancelled and application dismissed.

MC 119702 (Sub 50), Stahly Cartage Co., now assigned April 12, 1978, at Kansas City, Mo., is cancelled and reassigned for April 12, 1978 (3 days), at St. Louis, Mo., in a hearing room to be later designated.

MC 136786 (Sub 113), Robco Transportation, Inc., now being assigned May 18, 1978 (2 weeks), at Des Moines, Iowa, June 13, 1978 (1 week), at Greensboro, N.C. and June 26, 1978 (3 days), at the Offices of the Interstate Commerce Commission in Washington, D.C. in hearing rooms to be later designated.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2382 Filed 1-26-78; 8:45 am]

## [7035-01]

[Finance Docket No. 28583 (Sub-No. 1):  
(Sub-No. 2)]

## BURLINGTON NORTHERN INC.

Control and Merger—St. Louis-San Francisco Railway Co.; Securities

JANUARY 23, 1978.

Burlington Northern, Inc. (BN), 176 East Fifth Street, St. Paul, MN 55101, represented by Frank S. Farrell, Vice President—Law, and St. Louis-San Francisco Railway Co. (Frisco), 906 Olive Street, St. Louis, MO 63101, represented by Donald E. Engle, Vice President and General Counsel, hereby give notice that on December 28, 1977, they filed with the Interstate Commerce Commission at Washington, D.C., a joint application under section 5(2) of the Interstate Commerce Act (Act) for an order approving and authorizing the control of Frisco by BN and the merger of the Frisco into BN. This application has been accepted and assigned Finance Docket No. 28583 (Sub-No. 1). BN filed a concurrent application under section 20(a) of the Act seeking authorization to issue securities in connection with the merger transaction. On January 14, 1978, a related application was filed seeking authority under section 5(2) of the Act for the acquisition of control by BN of Frisco Transportation Co., a wholly-owned motor carrier subsidiary of the Frisco, notice of which is published separately in this edition of the FEDERAL REGISTER under Docket No. MC-F-13500.

If approved by the Commission, the Frisco will be merged into BN and

Frisco's separate existence as a corporate entity will cease. The surviving company will be Burlington Northern, Inc., which will unify all present operations of Frisco and BN under common management. All properties of the Frisco will be under BN ownership. Under the terms of the merger agreement, in exchange for each outstanding share of Frisco common stock, BN will issue 0.95 share of BN common stock and one-half share of \$2.125 no par value preferred stock, \$25 redemption value.

Frisco owns and operates a 4,700 mile railroad system serving the following nine states: AL, AR, FL, KS, MS, MO, OK, TN, and TX. Principal routes include: Kansas City to Birmingham via Springfield, MO, and Memphis, TN; St. Louis to Dallas-Fort Worth via Springfield, MO, and Tulsa, OK; Kansas City to Tulsa via Fort Scott, KS; and St. Louis to Memphis via Cape Girardeau, MO. Other principal routes extend to Oklahoma City, Wichita, KS, Mobile, AL, and Pensacola, FL.

BN with its subsidiaries operates a 25,000 mile railroad system serving the states of CA, CO, ID, IL, IA, KS, KY, MN, MO, MT, NE, NM, ND, OR, SD, TX, WA, WI, WY, as well as the Canadian Provinces of British Columbia and Manitoba. Principal routes extend: from Chicago to Denver via Lincoln, NE; from Chicago to Seattle via the Twin Cities and Spokane; from Lincoln, NE, to Laurel, MT, via Alliance, NE; from Spokane to Portland; from Seattle to northern California via Portland and Wishram, WA; and from Denver to Houston.

The two principal points of interchange between BN and Frisco are St. Louis and Kansas City. It is proposed that present Frisco operations will be completely integrated into BN and that substantially all of the current Frisco railroad system will be operated as the Frisco Region of BN. No track construction or track abandonments are proposed in conjunction with the proposed merger.

Any person interested in filing an inconsistent application or petition for inclusion should file a notice of its intention to file same no later than March 13, 1978 (45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER). Original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Any traffic studies and data submitted shall relate to the calendar year January 1, 1976, to December 31, 1978. Any inconsistent applications and petitions for inclusion must be filed with the Commission by April 27, 1978.

Persons interested in filing an inconsistent application or petition for inclusion are further advised that they

should prepare a list of the information not otherwise available to them that will be necessary to complete the inconsistent application or petition for inclusion in accordance with section 1111.4(b)(4) or 1111.4(b)(5) of the Railroad Consolidation Procedures, 348 ICC 771, 816-817 (1977), and other discoverable matter which may be desired. This list should be submitted to BN and Frisco by February 27, 1978. BN and Frisco are directed to respond to those persons by March 14, 1978, specifically stating what information will be voluntarily supplied and what information will not be supplied, with reasons. Fifteen copies of the lists of requested information and the responses should be filed with the Commission when served.

On March 27, 1978, an initial prehearing conference will be conducted to discuss, among other things, disputes as to the production of information. Presiding at the conference will be Administrative Law Judge Paul J. Clerman, who has been designated to conduct the evidentiary portion of these proceedings. The conference will be at the offices of the Interstate Commerce Commission in Washington, D.C., commencing at 9:30 a.m.

Any interlocutory appeals from rulings by the Administrative Law Judge will be considered by Division 1, Commissioners Brown, Gresham, and Christian. By statute, the evidentiary phase of the proceedings must be concluded by January 25, 1980. The initial decision will be waived, and the determination of the merits of the application will be made in the first instance by the entire Commission, pursuant to section 5(2)(g)(vi) of the Act, as amended.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceedings designation (F.D. No. 28583, Sub-No. 1), and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, not later than March 13, 1978 (45 days after the date notice of the filing of the application is published in the FEDERAL REGISTER). Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to participate formally in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting writ-

## NOTICES

ten comments to the Commission shall, at the same time, serve copies of such written comments upon the applicants, the Secretary of Transportation, and the Attorney General.

By the Commission, Commissioner Christian not participating.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2379 Filed 1-25-78; 10:01 am]

## [7035-01]

[MC-F-13500]

## BURLINGTON NORTHERN, INC.

Control-Frisco Transportation Co.

JANUARY 23, 1978.

No. MC-F-13500 BURLINGTON NORTHERN, INC. (BN), represented by Frank S. Farrell, vice president-law, 176 East Fifth Street, St. Paul, Minn. 55101, and ST. LOUIS-SAN FRANCISCO RAILWAY CO. (FRISCO), represented by Donald E. Engle, vice president & general counsel, 906 Olive Street, St. Louis, Mo. 63101, hereby give notice that on January 14, 1978, they filed with the Interstate Commerce Commission in Washington, D.C., a joint application under section 5(2) of the Interstate Commerce Act (Act) seeking authorization for BN to acquire control of Frisco Transportation Co. (TC), a wholly-owned motor carrier subsidiary of Frisco, through the purchase of all Frisco's issued and outstanding common stock. The application has been accepted by the Commission and assigned docket number MC-F-13500. The operating rights sought to be controlled include general commodity authority (with certain exceptions) and specified commodity authorities as a common carrier over regular and irregular routes between points in MO; MO and AR; KS and MO; MO and OK; AR; TN and MS; MS; OK; TX and OK; KS; IL and MO; AR and TN; and TX. Operations over some of these authorities is restricted to service which is auxiliary to, or supplemental of, the rail service. These rights are more fully described in No. MC-89913 and sub-numbers. BN and BN Transport, Inc., BN's wholly-owned subsidiary, hold motor common carrier authority in interstate and foreign commerce to transport general commodities (with certain exceptions), and specified commodities over both regular and irregular routes. Operations extend from IL on the east to WA and OR on the west. This includes service to points in the following states: CO, ID, IL, IN, IA, KS, MN, MO, MT, ME, ND, OR, WA, WI, and WY. Operations over some of these authorities is restricted to service which is auxiliary to, or supplemental of the rail service. These rights are more fully described in No. MC-28573

and sub-numbers and No. MC-63562 and sub-numbers. Applicants state that there is no duplication of motor carrier operating rights between BN or its subsidiary, BN Transport, Inc., and TC. Both applicants do provide motor carrier service to the common points of St. Louis and Kansas City, Mo. Application has not been filed for temporary authority under section 210a(b). This application is directly related to the merger and securities issuance applications filed by BN and FRISCO pursuant to sections 5(2) and 20a of the Act. Notice of these applications is published separately in this edition of the FEDERAL REGISTER under Finance Docket Nos. 28583 (Sub-Nos. 1 & 2). The time limits established for Finance Docket No. 28583 (Sub-Nos. 1 & 2) will be applied to this motor carrier application, and the cases shall be considered together.

By the Commission, Commissioner Christian not participating.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2378 Filed 1-25-78; 10:01 am]

## [7035-01]

## ICC BEGINS MICROFILMING DOCKET FILES

JANUARY 25, 1978.

Effective February 1, 1978, all newly filed motor carrier applications for permanent operating authority and train abandonment applications will be placed on microfiche. A letter suffix "F" will be added to the docket numbers to distinguish newly filed (and therefore microfilmed) applications from existing application proceedings, which will continue to be maintained in hardcopy dockets. This will begin the Commission's program of placing and maintaining its public dockets on microfiche. The public dockets for the remaining types of Commission proceedings will be phased into the program in the future.

All correspondence, including protests and other filings, which relate to these dockets, must show the suffix "F" to assure proper handling by Commission staff. In addition, requests for copies of these dockets must specify whether hardcopy or microfiche is desired. Each microfiche, which contains up to 60 pages, will cost 10¢. The charge for hardcopy will remain 10¢ per page.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2387 Filed 1-26-78; 8:45 am]

## [7035-01]

[Notice No. 7]

## SPECIAL PROPERTY BROKERS

JANUARY 24, 1978.

The following applicants seek to participate in the property broker special



licensing procedure under 49 CFR 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including Alaska and Hawaii. Any interested person shall file an original and (1) copy of a verified statement in opposition limited in scope to matters regarding applicant's fitness on or before February 27, 1978. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation March 13, 1978.

B-77-30, filed November 21, 1977. Applicant: SHORELINE INTERNATIONAL, INC., 12360 Lake City Way N.E., Seattle, Wash. 98125. Applicant's representative: Ed Casey, Evergreen Bldg., Suite, Renton, Wash. 98055.

B-77-34, filed December 14, 1977. Applicant: INTER-MARITIME FORWARDING CO., INC., One World Trade Center, New York, N.Y. 10048.

B-77-35, filed December 13, 1977. Applicant: SIDNEY S. SHAPIRO, d.b.a. SID SAMUELS ASSOCIATES, Heritage Bldg., Room 102, 383 North Kings Highway, Cherry Hill, N.J. 08034. Applicant's representative: Robert B. Einhorn, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, Pa. 19107.

B-77-36, filed December 22, 1977. Applicant: CONTRACT CARRIER CORP., 25 Thomas Avenue, Baltimore, Md. 21225. Applicant's representative: Walter T. Evans, 7401 Wisconsin Avenue, Washington, D.C. 20014.

B-77-37, filed December 27, 1977. Applicant: M. G. MAHER & COMPANY, INC., 442 Canal Street, New Orleans, La. 70130. Applicant's represen-

tative: Paula L. Maher (Same address as applicant).

B-78-2, filed January 9, 1978. Applicant: MIDWEST CONTAINER SERVICES, INC., 14600 Detroit Avenue, Suite 432, Lakewood, Ohio 44107.

B-78-3, filed January 9, 1978. Applicant: TRANSCONEX, INC., 3000 Northwest 74th Avenue, Miami, Fla. 33152. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2383 Filed 1-26-78; 8:45 am)

#### [7035-01]

(Docket No. AB-9 (Sub-No. 7))

#### ST. LOUIS-SAN FRANCISCO RAILWAY CO.

##### Abandonment Between Aliceville and Reform in Pickens County, Ala., Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on November 29, 1977, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 76 (1977); for public use as set forth in said order, and further, that the above condition shall not preclude the sale or donation of rail property and/or facilities to the Illinois Central Gulf Railroad Co. for the purposes of maintaining rail service to shippers located along the line to be abandoned, the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Co. of its branch line extending from milepost RB-680.65 near Aliceville, Ala., to milepost RB-701.0 near Reform, Ala. A certificate of abandonment will be issued to the St. Louis-San Francisco Railway Co. based on the above-described finding of abandonment, February 27, 1978, unless within 30 days

from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad. If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2384 Filed 1-26-78; 8:45 am)

## sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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#### [6351-01]

##### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., January 31, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission Quarterly Review: First Quarter, Fiscal Year 1978.

##### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

(S-199-78 Filed 1-25-78; 2:32 p.m.)

#### [6351-01]

##### COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 p.m., January 31, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters, Rule Enforcement Review.

##### CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

(S-200-78 Filed 1-25-78; 2:32 pm)

#### [6570-06]

##### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 31, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: Litigation Authorization; General Counsel Recommendations; Matters closed to the public under sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

##### CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

Issued January 24, 1978.

(S-197-78 Filed 1-25-78; 11:04 am)

#### [6715-01]

##### FEDERAL ELECTION COMMISSION.

DATE AND TIME: Wednesday, February 1, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audits, compliance, personnel.

DATE AND TIME: Thursday, February 2, 1978 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

##### MATTERS TO BE CONSIDERED:

Portions open to the public.

I. Future meetings.

II. Correction and approval of minutes.

III. Advisory opinions: AO 1977-34, AO 1977-49, AO 1977-52, AO 1977-68.

IV. Appropriations and budget—first quarter management report.

V. Candidate loans and expenditures.

VI. FOIA regulations.

VII. Pending legislation.  
VIII. Pending litigation.  
IX. Classification actions.  
X. Liaison with other Federal agencies.  
XI. Routine administrative matters. Portions closed to the public (executive session): Any Audit, Compliance, or Personnel Matters continued from February 1, 1978.

##### PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer, 202-523-4065.

MARJORIE W. EMMONS,  
Secretary to the Commission.

(S-202-78 Filed 1-25-78; 3:17 pm)

#### [6740-02]

##### FEDERAL ENERGY REGULATORY COMMISSION.

##### NOTICE OF MEETING

JANUARY 24, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: January 24, 1978; approximately 6:15 p.m.

STATUS: Open.

MATTERS TO BE CONSIDERED: Texas Eastern Transmission Corp., Docket No. RP78-32.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

(S-198-78 Filed 1-25-78; 11:04 am)

#### [6740-02]

##### FEDERAL ENERGY REGULATORY COMMISSION.

##### NOTICE OF MEETING

JANUARY 25, 1978.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

TIME AND DATE: February 1, 1978, 10 a.m.



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SUNSHINE ACT MEETINGS

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda).

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, Telephone, 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 51ST MEETING, FEBRUARY 1, 1978, REGULAR MEETING

- I. Electric Rate Matters:  
ER-1.—Docket Nos. E-8641, E-8478, E-8251 and E-8169, New England Power Co.  
ER-2.—Docket No. E-8570 (fuel clause), Southern California Edison Co.  
ER-3.—Docket No. ER76-678, Maine Electric Power Co.  
ER-4.—Docket No. ER76-587, Georgia Power Co.  
ER-5.—Docket No. EL78-5, Pacific Gas & Electric Co.  
II. Licensed Project Matters:  
P-1.—Project No. 2292, Nekoosa Papers Inc.

POWER AGENDA, 51ST MEETING, FEBRUARY 1, 1978, REGULAR MEETING

- CAP-1.—Docket No. ER78-159, Pacific Power & Light Co.  
CAP-2.—Docket No. E-9604, Minnesota Power & Light Co.  
CAP-3.—Project No. 2334, Western Massachusetts Electric Co.  
CAP-4.—Lands Withdrawn in Project Nos. 1021, 1226, 1606 and 1722-Wyoming.  
CAP-5.—Lands Withdrawn in Project No. 163-Colorado.  
CAP-6.—Docket No. ER77-614, Union Electric Co.  
CAP-7.—(A) Louisiana Power & Light Co. v. F.E.R.C., 5th Cir. No. 77-3452. (B) Appalachian Power Co. v. F.E.R.C., D.C. Cir. No. 77-2004. (C) Appalachian Power Co. v. F.E.R.C., D.C. Cir. No. 77-2005.

MISCELLANEOUS AGENDA, 51ST MEETING, FEBRUARY 1, 1978, REGULAR MEETING

- M-1.—Docket No. —, organization of the Commission establishment of suspension and valuation board; delegation of authority to suspension and valuation board.

GAS AGENDA, 51ST MEETING, FEBRUARY 1, 1978, REGULAR MEETING

- I. Pipeline Rate Matters:  
A. Pipeline Rates:  
RP-1.—Docket No. RP73-97, Kentucky West Virginia Gas Co.  
RP-2.—Docket N. RP76-99, Tennessee Natural Gas Lines, Inc.  
II. Producer Matters:  
A. Special Relief:  
CI-1.—Docket No. RI76-147, Marshall Exploration, Inc.  
CI-2.—Reserved.  
CI-3.—Reserved.  
CI-4.—Reserved.  
B. Producer Certificates:  
CI-5.—Docket No. CI77-412, Phillips Petroleum Co.

CI-6.—Docket Nos. CI75-586 and CI77-41, Mobil oil Corp.

III. Pipeline Certificate Matters:

A. Pipeline Certificates:  
CP-1.—Docket No. CP77-527, Transcontinental Gas Pipe Line Corp.

CP-2.—Docket Nos. G-1350, G-17351, CP69-346, CP69-347, Pacific Gas Transmission Co.

CP-3(A) Docket No. CP77-363, Columbia Gas Transmission Corp. National Fuel Gas Supply Corp.

(B) Docket No. CP77-38, Tennessee Gas Pipeline Co., a Division of Tenneco Inc., and National Fuel Gas Supply Corp.

(C) Docket No. CI76-432, Cabot Corp. Docket No. CP76-19, Columbia Transmission Corp. and the Sylvania Corp. Docket No. CP76-361, Columbia Gas Transmission Corp.

CP-4.—Reserved.

CP-5.—Reserved.

B. Order No. 533 Authorizations: CP-6.—Docket No. CP78-38, Columbia Gas Transmission Corp. Docket No. CP78-65, Texas Eastern Transmission Corp. CP-7.—Docket No. CP76-181, Transcontinental Gas Pipe Line Corp. CP-8.—Reserved. CP-9.—Reserved. CP-10.—Reserved.

C. Liquefied Natural Gas: CP-11.—Docket No. CP71-264, Southern Energy Co. CP-12.—Docket No. CP71-68, Columbia LNG Corp. CP-13.—Reserved. CP-14.—Reserved. CP-15.—Reserved.

D. Synthetic Natural Gas:  
CP-16.—Docket Nos. CP77-495, et al., Transcontinental Gas Pipe Line Corp.

CP-17.—Reserved.

CP-18.—Reserved.

CP-19.—Reserved.

E. Curtailment:  
CP-20.—Docket No. RP75-62, Cities Service Gas Co.

IV. Oil Pipeline Matters:  
OR-1.—Docket No. OR78- (I.C.C. Docket No. NOR36217), Department of Defense v. Interstate Storage & Pipeline Corp.

GAS AGENDA, 51ST MEETING, FEBRUARY 1, 1978, REGULAR MEETING

CAG-1.—Docket No. CP77-522, Texas Eastern Transmission Corp. Transcontinental Gas Pipe Line Corp. Docket No. CP78-57, Texas Gas Pipe Line Corp.

CAG-2.—Docket No. CP76-350, Northwest Pipeline Corp.

CAG-3.—Docket No. CP78-62, Transwestern Pipeline Co.

CAG-4.—Docket No. CP78-64, Texas Eastern Transmission Corp.

CAG-5.—Docket No. CP78-63, Transwestern Pipeline Co.

CAG-6(A) City of Winfield, Kansas v. F.E.R.C., D.C. Cir. No. 77-2118. (B) Sebring Utilities Commission v. F.E.R.C., 5th Cir. No. 77-2911.

LOIS D. CASHELL, Acting Secretary.

[S-203-78 Filed 1-25-78; 3:55 pm]

[6720-01]

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 14, Pg. 3010, Friday, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 25, 1978.

PLACE: 1700 G. Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

CHANGES IN THE MEETING:

The following item has been added to the open portion of the meeting:

Appointment of Director, Office of Community Investment.

No. 129, January 20, 1978.

[S-194-78 Filed 1-25-78; 9:04 am]

[7910-01]

THE RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR, January 23, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, January 31, 1978, 10 a.m.

CHANGE IN MEETING: Addition of Matter 9 to the previously announced agenda.

MATTER TO BE CONSIDERED: 9. Freedom of Information Act Appeal: Miller and Chevalier.

STATUS: Closed to public observation.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 25, 1978.

GOODWIN CHASE, Chairman.

[S-201-78 Filed 1-25-78; 2:32 pm]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 2814, January 19, 1978.

CHANGES IN THE MEETING:

The following item will not be considered by the Commission at the open meeting scheduled for Wednesday, January 25, 1978, at 10 a.m.: Preliminary response to the recommendations submitted by the Advisory Committee on Corporate Disclosure.

The following item will be considered by the Commission at an open

meeting to be held on Thursday, January 26, 1978, at 9 a.m.: Issuance of a release setting forth the Commission's views as to those initiatives to be taken during the next year to facilitate the establishment of a national market system.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that Commission business required the rescheduling of the above matters and that no earlier notice thereof was possible.

JANUARY 24, 1978.

[S-195-78 Filed 1-25-78; 9:04 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 30, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Monday, January 30, 1978, at 4 p.m. and on Thursday, February 2, 1978, at 10 a.m. Closed meetings will be held on Tuesday, January 31, 1978, at 10 a.m., and immediately following the open meeting on Thursday, February 2, 1978.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain

SUNSHINE ACT MEETINGS

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Staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (8), (9)(i), and (10).

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the open meeting scheduled for Monday, January 30, 1978, at 4 p.m., will be: The Commission will meet with representatives of the Securities Industry Association to discuss current issues and developments of mutual concern.

The subject matter of the open meeting scheduled for Thursday, February 2, 1978, at 10 a.m., will be: 1. Issuance of a release which contains questions and interpretive responses relating to the disclosure of management remuneration.

2. Proposed transmittal of comments to the Office of Management and Budget ("OMB") expressing the views of the Commission on OMB's draft bill amending the Independent Offices Appropriations Act of 1952, which deals with fees charged by Federal agencies.

3. Proposed transmittal of comments to Congressman John M. Murphy, Chairman of the House Committee of Merchant Marine and Fisheries expressing the views of the Commission on H.R. 9819, Shipping Act Amendments of 1977, a bill intended to

remedy the problems of rebating and other such malpractices.

4. Consideration of the extent to which Commission announcements are required to be included in the FEDERAL REGISTER and of suggestions for reducing the Commission's cost of such publications.

5. Proposed rule change filed by the National Association of Securities Dealers, Inc. concerning fee and assessment schedule for fiscal year 1978.

The subject matter of the closed meeting scheduled for Tuesday, January 31, 1978, at 10 a.m., will be: Referral of files to Federal, State or Self-Regulatory authorities.

Formal orders of investigation.

Institution of injunctive actions.

Settlement of injunctive actions.

Institution of administrative proceedings.

Settlement of administrative proceedings.

Freedom of Information Act Appeal.

Regulatory matters arising from or bearing enforcement implications.

Other litigation matters.

The subject matter of the closed meeting scheduled for Thursday, February 2, 1978, immediately following the 10 a.m. open meeting, will be: Regulatory matter arising from or bearing enforcement implications.

Opinion.

Other litigation matters.

FOR FURTHER INFORMATION CONTACT:

Glynn L. Mays at 202-755-1280 or Margaret Topps at 202-376-8003.

JANUARY 24, 1978.

[S-196-78 Filed 1-25-78; 9:04 am]



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FRIDAY, JANUARY 27, 1978

PART II



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DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Health Care Financing  
Administration

■

MEDICAL PROFESSIONAL  
STANDARDS REVIEW  
ORGANIZATIONS

Designation of Alternate



[4110-35]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Part 471]

## DESIGNATION OF ALTERNATE PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

**SUMMARY:** This proposal sets forth criteria, and other selection factors, for the designation of alternate Professional Standards Review Organizations (PSROs) where physician-groups that qualify under section 1152 (b)(1)(A) of the Social Security Act are not available in a PSRO area. The Secretary is required to designate alternate PSROs in accordance with section 1152(b)(1)(B) of the Act. The intent is to inform organizations that may be interested in applying for designation as alternate PSROs.

**DATES:** Consideration will be given to written comments or suggestions received on or before March 28, 1978.

**ADDRESSES:** Address comments to: Acting Associate Administrator, for Health Standards and Quality, Room 16A-55, 5600 Fishers Lane, Rockville, Md. 20857. In commenting, please refer to HSQ-33-P. Comments will be available for public inspection, beginning approximately 2 weeks from today, at the address noted above, on Monday through Friday from 8:30 a.m. to 5 p.m., 301-443-3880.

**FOR FURTHER INFORMATION CONTACT:**

Hal Belodoff, Legal Analyst, Room 16A-44, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, phone 301-443-4086.

### SUPPLEMENTARY INFORMATION:

#### STATUTORY PROVISIONS

Section 1152 of the Social Security Act requires the Secretary to designate qualified organizations as PSROs. The Act provides for two categories of qualified organizations: (1) physician-composed associations having six specific characteristics; and (2) other public, nonprofit private, or other agencies or organizations of professional competence and otherwise suitable. Physician-composed associations which qualify under section 1152 (b)(1)(A) have first priority for designation as PSROs. After January 1, 1978, the Secretary may designate an alternate PSRO which qualifies under section 1152(b)(1)(B) in any area where there is no priority organization.

## PROPOSED RULES

### PUBLIC PARTICIPATION

The views of interested organizations and the general public have been secured through: (1) an Advanced Notice of Proposed Rulemaking published in the *FEDERAL REGISTER* on April 1, 1977 (42 FR 17501); and (2) five public hearings that took place between April and June, 1977, as announced in the *FEDERAL REGISTER* on April 1, 1977 (42 FR 17525) and May 20, 1977 (42 FR 25920).

#### DISCUSSION OF RECOMMENDATIONS

The major recommendations and the Department's responses are summarized below:

#### RECOMMENDATION 1

In areas where the medical establishment has opposed the development of PSROs, physician-groups should be allowed to organize an alternate PSRO without having to acquire a substantial proportion of physicians as members.

This recommendation was accepted.

The Department believes that the law does not preclude consideration of all physician-composed organizations as alternate PSROs, but only of those groups which could qualify as a priority organization under the Act. Under this proposal, physician-groups which apply to be alternate PSROs would need to show that they cannot voluntarily satisfy section 1152(b)(1)(A) requirements because of the resistance of the medical societies in the area. The Department believes that acceptance of the PSRO program by the large medical organizations in an area was the major obstacle that Congress wished to overcome by requiring alternate PSROs to be designated after a period of time during which representative physician-composed associations would have complete priority. Congressional intent to enable competent groups to perform PSRO activities if opposition prevented priority physician-groups from qualifying was reiterated in the 1975 amendment (Section 108(b) of Pub. L. 94-182), which permits the Secretary to forego notification and polling where the medical societies have taken a formal position of opposition to the PSRO program.

#### RECOMMENDATION 2

Do not eliminate medical societies and organizations controlled by medical societies from consideration for designation as alternate PSROs.

This recommendation was not accepted.

Medical societies were clearly the organizations expected by Congress to sponsor physician-composed PSROs which would qualify under section 1152(b)(1)(A). The Secretary has formally requested State and local medical societies to sponsor PSROs in their

respective designated areas. Their failure to do so may be viewed as an indication of lack of interest in, or opposition to, the PSRO program. In addition, if medical societies were permitted to apply as alternate PSROs it might discourage them from sponsoring a priority PSRO. That would not further the intent of the legislation.

#### RECOMMENDATION 3

Allow existing physician-composed PSROs to serve as alternate PSROs in adjoining areas where there is no priority PSRO. Existing PSROs already have the experience and knowledge necessary to ensure an efficient and effective assumption of review responsibilities. Designation of such organization would be preferable to using local nonphysician alternate PSROs or any other organization located outside the unserved area.

This recommendation was accepted in part.

In order to promote local support and operation of review activities, existing PSROs will not be preferred over other groups located within the unserved area.

#### RECOMMENDATION 4

Assign a higher priority to qualified fiscal intermediaries and other health insurers. Do not consider them only as a last resort.

This recommendation was accepted.

The Department agrees that an insurer located within the State, familiar with local norms and readily available to service the PSRO area is more suitable as an alternate PSRO than an out-of-State organization. The proposal reflects this view. It is proposed to issue a new part 471 of Title 42 as set out below:

### Part 471—DESIGNATION OF ALTERNATE PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

#### Sec.

471.1 Definitions.

471.2 Statutory basis and applicability.

471.3 Conditions for designation.

471.4 Priorities for consideration of applicants.

**AUTHORITY:** Sec. 1152, 86 Stat. 1430 (42 U.S.C. 1320); Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

#### § 471.1 Definitions.

(a) "Act" means the Social Security Act.

(b) "Alternate PSRO" means a PSRO designated under the provisions of Section 1152(b)(1)(B) of the Act.

(c) "PSRO" means a Professional Standards Review Organization.

(d) "Secretary" means the Secretary of the Department of Health, Education, and Welfare or any other official to whom the pertinent authority has been delegated.

## PROPOSED RULES

### § 471.2 Statutory basis and applicability.

(a) Section 1152(a) of the Act requires the Secretary to designate qualified organizations as PSROs. Section 1152(b) of the Act provides for two categories of qualified organizations: (1) physician-composed associations having six specific characteristics and (2) other public (including State agencies), nonprofit, private, or other agencies or organizations of professional competence and otherwise suitable. The regulations of this part set forth criteria for the designation of qualified organizations of the second type.

### § 471.3 Conditions for designation.

(a) *Absence of priority organization.* The Secretary may designate an alternate PSRO in an area if no organization which meets the requirements of sections 1152(b)(1)(A) and (2) of the Act applies for designation as a PSRO in the area.

(b) *Evaluating applications.* The Secretary will evaluate the suitability, capability, and willingness of an applicant organization to assume responsibility for review of the necessity, appropriateness, and quality of medical care and to make determinations that are binding for purposes of claims payment under the Act.

(c) *Basic conditions.* To be eligible for designation as an alternate PSRO, an organization must: (1) Have, or show that it will be able to obtain, the services of individuals with medical expertise to competently perform review activities;

(2) Demonstrate its ability to perform review within the boundaries of the designated area;

(3) Not be a medical society;

(4) Not be subject to excessive influence by a medical society in making decisions;

(5) Not reserve board of director positions for members of a medical society;

(6) Not be an organization composed exclusively of licensed doctors of medicine or osteopathy (other than an existing PSRO) except in a PSRO area in which an organization representing the largest number of doctors of medicine or osteopathy in the area has taken a formal position of opposition to, or noncooperation with, the PSRO program;

(7) Not have inherent conflicts of interest that affect its role as a reviewer of health care; and

(8) Be willing to perform PSRO activities without making a profit.

(d) *Other criteria.* The Secretary will also consider in his evaluation of applicants: (1) The degree of support the organization has from the aggregate community of health care institutions, health related organizations, and health care practitioners in the PSRO area; and

(2) The degree of support the organization has from consumers in the local PSRO area.

### § 471.4 Priorities for consideration of applicants.

(a) *Priorities for initial designation.* If more than one organization formally seeks designation as an alternate PSRO for a given area, the order of priority among those found to be qualified will be: (1) organizations physically located or headquartered in the PSRO area;

(2) existing PSROs;

(3) organizations, including fiscal intermediaries and health insurers, located outside the PSRO area but within the State in which the PSRO area is located;

(4) organizations located outside the State in which the PSRO area is located.

(b) *Additional criteria.* If the competing applicants fall in the same order of priority, the Secretary will consider additional information concerning their suitability, capability, and willingness to perform PSRO functions.

(c) *Criteria for nonrenewal of agreements with alternate PSROs.* The Secretary will not renew an agreement with an alternate PSRO if: (1) a physician-composed organization that meets the requirements of section 1152(b)(1)(A) is willing to enter into a PSRO agreement; and

(2) the Secretary anticipates that the designation of this organization will result in substantial improvement in the performance of PSRO duties.

**NOTE.**—The Health Care Financing Administration has determined that this document does not require preparation of an Economic Impact Statement, under Executive Order 11821, as amended by Executive Order 11949 and OMB Circular A-107.

Dated: November 7, 1977.

ROBERT A. DERZON,  
Administrator, Health Care  
Financing Administration.

Approved: January 13, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc.78-1611 Filed 1-26-78; 8:45 am]



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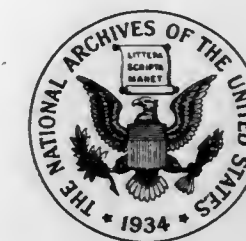
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FRIDAY, JANUARY 27, 1978  
PART III



ENVIRONMENTAL  
PROTECTION  
AGENCY

DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Food and Drug  
Administration

■

ETHYLENE OXIDE

Rebuttable Presumption Against  
Registration; Maximum Residue  
Limits and Daily Levels of Exposure



## PROPOSED RULES

[4110-03]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

## Food and Drug Administration

[21 CFR Parts 211 and 821]

[Docket No. 77N-0424]

ETHYLENE OXIDE, ETHYLENE CHLOROHYDRIN,  
AND ETHYLENE GLYCOLMaximum Residue Limits and Maximum Daily  
Levels of Exposure; Intent To Propose Rules

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

**SUMMARY:** The Commissioner of Food and Drugs intends to issue a proposed rule that would (1) establish maximum residue limits for ethylene oxide (ETO) and its two major reaction products, ethylene chlorohydrin (ETCH) and ethylene glycol (ETG), in drug products for human and veterinary use and medical devices and (2) establish maximum daily exposure levels for drug products for ETO and its two major reaction products.

FOR FURTHER INFORMATION  
CONTACT:

Marilyn L. Watson, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6490.

## SUPPLEMENTARY INFORMATION:

Elsewhere in this FEDERAL REGISTER the Environmental Protection Agency (EPA) is publishing a notice of rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Ethylene Oxide, based on reports of muta-

genicity and reproductive effects. This is the first step in EPA's regulatory procedures that may result in a cancellation of the registration of a pesticide.

Ethylene oxide has been used for a number of years as a sterilant for certain drug products for human and veterinary use, including biological products for human use, and certain medical devices. Many of these products cannot be sterilized by other means such as heat, filtration, radiation, or liquid chemical agents without degrading or otherwise damaging them; and there are no other acceptable safe gaseous substitutes available.

The Commissioner is aware of the local and systemic toxic effects of ETO and its reaction products as well as the reports of the mutagenic effects of ETO and ETCH. Because the Commissioner believes that the current use of ETO as a sterilant for certain drug products and medical devices is necessary for the delivery of required health care, he intends to propose maximum residue limits for certain drug products and medical devices and maximum daily levels of exposure to ETO, ETCH, and ETG from drug products for humans and animals. Such action will be directed to permitting the continued essential use of ETO as a sterilant.

The agency intends to publish in the FEDERAL REGISTER in the near future a proposal establishing these maximum residue limits and maximum daily levels of exposure.

Dated: January 24, 1978.

JOSEPH P. HILE,

Associate Commissioner for  
Compliance.

[FR Doc. 78-2368 Filed 1-26-78; 8:45 am]

## NOTICES

[6560-01]

ENVIRONMENTAL PROTECTION  
AGENCY

[OPP-30000/22; FRL 845-5]

## PESTICIDE PROGRAMS

Notice of Rebuttable Presumption Against Reg-  
istration and Continued Registration of Pes-  
ticide Products Containing Ethylene Oxide

The Deputy Assistant Administrator, Office of Pesticide Programs, Environmental Protection Agency (EPA), has determined that a rebuttable presumption exists against registration and continued registration of all pesticide products containing ethylene oxide (EtO).<sup>1</sup>

## I. REGULATORY PROVISIONS

**A. General.** Title 40, Part 162.11, of the Code of Federal Regulations for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 89 Stat. 751, 7 U.S.C. 136 et seq.), provides that a rebuttable presumption against registration shall arise if the Agency determines that a pesticide meets or exceeds any of the risk criteria relating to acute and chronic toxic effects set forth in Section 162.11(a)(3). If it is determined that such a rebuttable presumption has arisen, the regulations require that the registrant be notified by certified mail and afforded an opportunity to submit evidence in rebuttal of the presumption. In addition, the Agency has determined that the public should also be given notice of the bases for the presumption to provide an opportunity for comment and to solicit additional information relevant to the presumption.

A notice of rebuttable presumption against registration is issued when the evidence related to risk meets the criteria set forth in section 162.11(a)(3). It is emphasized that a notice of rebuttable presumption against registration and continued registration of a pesticide is not a notice of intent to cancel the registration of a pesticide, and may or may not lead to cancellation. The notice of intent to cancel is issued only if, after careful consideration of both the risks and benefits of a pesticide, it is determined that the pesticide may generally cause unreasonable adverse effects to man or the environment.

Accordingly, all registrants and applicants for registration are invited pursuant to 40 CFR 162.11(a)(4) to submit evidence in rebuttal of the pre-

<sup>1</sup>A position document containing background information and other material pertinent to the issuance of this notice has been prepared by the Agency Working Group on EtO and is also published with this notice.

sumptions listed in Part II of this notice. Registrants and other interested parties may submit for consideration data on benefits which they believe would justify registration or continued registration. In addition, any registrant may petition the Agency to voluntarily cancel a current registration pursuant to Section 6(a)(1) of FIFRA.

**B. Rebuttal Criteria.** Section 162.11(a)(4) provides that a registrant may rebut the presumption by sustaining the burden of proving:

(1) In the case of a pesticide presumed against pursuant to the chronic toxicity criteria, "that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects" (40 CFR 162.11(a)(4)(ii)); or

(2) That "the determination by the Agency that the pesticide meets or exceeds any of the criteria for risk was in error" (40 CFR 162.11(a)(4)(iii)).

**C. Benefits Information.** In addition to submitting evidence to rebut the presumption of risk, section 162.11(a)(5)(iii) provides that a registrant "may submit evidence as to whether the economic, social and environmental benefits of the use of the pesticide subject to the presumption outweigh the risk of use." If the risk presumptions are not rebutted, the benefit evidence submitted by the registrant, applicants, and other interested persons will be considered by the Administrator in determining the appropriate regulatory action. Specifically, section 162.11(a)(5)(iii) provides that if the "benefits appear to outweigh the risks," the Administrator may issue a notice of intent to hold a hearing pursuant to section 6(b)(2) of

<sup>1</sup>Registrants or other interested persons who desire to submit benefit information should consider submitting information on the following subjects, along with any other relevant information they desire to submit:

1. Identification of the major uses of the pesticide, including estimated quantities used by crop or other application.
2. Identification of the minor uses of the pesticide, including estimated quantities used by category.
3. Identification of registered alternative products for the uses set forth in (1) and (2) above, including an estimate of their availability.
4. Determination of the change in costs to the user of providing equivalent pesticide treatment with any available substitute products.
5. Assessment of regulation impact upon users from using available substitute pesticides or from using no other pesticides.
6. If the impacts upon either user costs or effectiveness are significant, a qualitative assessment of the regulation's impact on health care or storage of food products and consequence to consumers.

FIFRA rather than a notice of intent to cancel or deny registration pursuant to section 3(c)(6) of FIFRA. Alternatively, if the "benefits do not appear to outweigh the risks, the Administrator shall issue a notice pursuant to section 3(c)(6) or section 6(b)(1) of the Act, as appropriate." Moreover, if at any time the Administrator determines that a pesticide poses an "imminent hazard" to humans or the environment, a notice of suspension may be issued pursuant to section 6(c) of the Act.

Stated below are the section 162.11(a)(3) risk criteria which the Agency has found to have been met or exceeded by registrations and applications for registration of pesticide products containing EtO. The Agency's basis for concluding that these risk criteria have been met or exceeded is set out in "Ethylene Oxide: Position Document 1," which follows. Copies of attachments to the Position Document which are not published with this notice are available for public inspection in the Office of Special Pesticide Reviews. Information protected from disclosure pursuant to FIFRA Section 10 cannot be provided. Specific inquiries concerning the Position Document, as well as requests for access to these files, should be directed to Project Manager, Mr. J. B. Boyd, Office of Special Pesticide Reviews (WH-566), EPA, Room 447, East Tower, 401 M Street SW., Washington, D.C. 20460, 202-755-5632.

## II. PRESUMPTIONS

**A. Mutagenicity.** 40 CFR Section 162.11(a)(3)(ii)(A) states that "[a] rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) . . . induces mutagenic effects, as determined by multitest evidence." Section 162.3(y) defines mutagenic as "the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations." Section 162.3(1) defines degradation product as "a substance resulting from the transformation of a pesticide by physiochemical, or biochemical means."

On the basis of scientific studies and information summarized in the Position Document, the Agency has concluded that this risk index has been exceeded by all registrations and applications for registration of pesticide products containing EtO, and that a rebuttable presumption against new or continued registration of such products has therefore arisen.

**B. Other Chronic or Delayed Toxic Effects.** 40 CFR Section 162.11(a)(3)(ii)(B) provides that a rebuttable presumption shall arise if a pesticide "[p]roduces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as deter-







undertaken: a teratology study, a mutagenicity study, and a 3-year study for carcinogenicity that would include a limited study of reproductive effects. The Commissioner of Food and Drugs requested that the Associate Commissioner for Science study this recommendation.

In August 1976 the office assigned to review the recommendation suggested that no further studies be initiated at that time by FDA because preliminary tests were underway for five of the six recommended studies at the Carnegie-Mellon Institute of Research. In addition, the National Cancer Institute (NCI) had scheduled carcinogenicity bioassays on EtO and ECH (29).

We have confirmed that on April 27, 1977, the Carnegie-Mellon Institute of Research began a 2-year EtO inhalation study on rats. The protocol indicates that the animals will be examined for oncogenic and cytogenetic effects. To our knowledge, however, neither the teratology nor the reproductive effects study was completed. NCI still has both EtO and ECH tentatively scheduled for bioassays.

In April 1977 an HEW Subcommittee issued the "Report of the Subcommittee on the Benefits and Risks from the Use of Ethylene Oxide for Sterilization" (24). The conclusions were as follows:

The Subcommittee has concluded that ethylene oxide is an extremely useful chemical which, unfortunately, possesses mutagenic properties. There is little evidence that it is also carcinogenic to experimental animals, although adequate testing has yet to be conducted. Based on the documented mutagenicity of this compound, it is imperative that unnecessary and improper use of ethylene oxide for hospital sterilization purposes be prohibited, and that where ethylene oxide can be replaced by another practicable sterilization process, this should be done, providing the alternate process does not possess similar or more serious toxicologic properties. Where the use of ethylene oxide is to be continued, improved techniques of exhausting the gas from the sterilizer, the aerator, and the sterilized items need to be implemented. Gas sterilization should be supervised and monitored so as to prevent all unnecessary exposure to personnel. It is felt that this can be accomplished through improved exhaust, ventilation, and other engineering control techniques. Personnel should be trained in the safe operation of the process. Provided these control measures are instituted (and enforced), the use of ethylene oxide for specific health care applications should carry minimal risk to the health of hospital personnel. The benefits resulting from the use of ethylene oxide are the reduction in the prevalence of coincident infections in patients requiring health care.

On September 30, 1977, the Agency received the "Special Occupational Hazard Review and Control Recommendations for the Use of Ethylene Oxide as a Sterilant in Medical Facilities" (28) that was prepared by HEW's National Institute for Occupational Safety and Health (NIOSH). In the preface of this review, it is stated that this type of review is "prepared in such a way as to assist in the formulation of regulations." In the summary and conclusions section of the review, it is stated that, "The adequacy of the current U.S. EtO standard (i.e. the time-weighted average of 50 ppm EtO for a workday), which was based on the

data available at the time of promulgation, has not been addressed in this report." The report did recommend that "... exposure to EtO be controlled so that workers are not exposed to a concentration greater than 135 mg/cu m (75 ppm) determined during a 15-minute sampling period ..." and that measures be taken to minimize the mutagenic health risk. The report also states that there are plans to develop a criteria document during the 1980 fiscal year which will fully examine the adequacy of the current 50 ppm U.S. EtO standard.

### III. SUMMARY OF SCIENTIFIC EVIDENCE IN SUPPORT OF REBUTTABLE PRESUMPTION

#### A. Mutagenic Effects

40 CFR Section 162.11 (a)(3)(II)(A) states that "a rebuttable presumption shall arise if a pesticide's ingredient(s), metabolite(s), or degradation product(s) ... induces mutagenic effects, as determined by multitest evidence." Section 162.3 (y) defines mutagenic as "the property of a substance or mixture of substances to induce changes in the genetic complement of either somatic or germinal tissue in subsequent generations." Section 162.3 (1) defines degradation product as "a substance resulting from the transformation of a pesticide by physicochemical, or biochemical means."

Evidence in both prokaryotic (e.g. bacterial) and eukaryotic (e.g. animal and higher plant) systems indicates that EtO is a general point (gene) mutagen. This means that EtO can interact with DNA of various species to produce mutations in both reproductive and other body cells. There is also evidence that EtO can induce chromosomal mutations in somatic cells of humans and other mammals. In addition, ECH, an EtO degradation product, has been shown to be a point (gene) mutagen in bacterial systems. Human exposure to a mutagen has serious implications. The possible adverse effects to people, especially those of reproductive age, are: spontaneous abortions, stillbirths, birth defects in their children, and diseases in the adult life of subsequent generations. Any of these effects could result from exposure of the male and/or female parent to a mutagen. In addition, those exposed can be adversely affected by mutations of the somatic cells.

The Ethylene Oxide Working Group has concluded that EtO and ECH meet this risk criterion and are capable of inducing chromosomal mutations in animals.

1. *Ethylene oxide*.—(a) *Point (gene) mutations*.—i. *Microorganism studies*. Embree (22) placed EtO-impregnated Tygon tubing on *Salmonella typhimurium* test strains TA 1535, TA 1537, and TA 1538 on agar plates without microsomal activation. The EtO slowly leached into the plates causing a statistically significant ( $p < 0.05$ ) number of histidine revertants (reversion to the wild type at the histidine locus) in strain TA 1535. This indicated that mutation by base-pair substitution had occurred. Tests with strains TA 1537 and TA 1538 were negative. This suggests that EtO does not induce frame-shift mutations.

Rannug et al. (69) dissolved EtO in ethanol and applied the solution to *S. typhimurium* strain TA 1535 on agar plates without microsomal activation. The concentrations tested were 0.86, 4.77, 9.55, 47.7, and 95.5 mM EtO. A highly significant dose-response relationship for the induction of mutations was observed. These data confirm EtO's ability to induce mutation by base-pair substitution.

In an addendum to Rannug's paper (69), Hussain and Osterman-Golkar (37) reported the genetic risk (potency) of EtO. Using the dose-response curve of the frequency of mutation in *Escherichia coli*, the authors estimated this risk of EtO to be two mutants per  $10^6$  survivors per mM x hour.

A Stanford Research Institute study (46) established that there is a dose-response relationship for mutations in *S. typhimurium* strains TA 1535 and TA 100 exposed to atmospheres with varying concentrations of EtO ranging from 0.01 to 0.1%. These treatments were administered in 9-liter desiccators. There were negative results in strains TA 1537, TA 1538, and TA 98. This study confirmed that EtO induces mutations by base-pair substitution. A rat liver microsomal activation system (induced with Arochlor) was used and did not affect the mutagenic activity. This indicates that EtO is a direct-acting point (gene) mutagen in microbial systems. Microsomal activation provides information on the effect which mammalian metabolism can have on the genetic activity of a compound. The possible effects are the conversion of a promutagen to a mutagen and the conversion of a direct-acting mutagen to a nonmutagen.

Kolmark and Westergaard (49) tested a 0.025 M EtO aqueous solution on an adenine-requiring strain of *Neurospora crassa* (W.40) in a plate test. The observed frequency of reverse mutations (reversion to the wild type at the adenine locus) increased with the duration of exposure.

Kolmark and Kilbey (48) observed an increased incidence of reverse mutations in the macroconidial strain [K3/17 ad-3A (38701)] of *N. crassa* which were exposed to 1.5 to 150 mM EtO in culture media. The increase in the frequency of mutation was a function of dose and length of exposure. Kilbey and Kolmark (47) observed the same effects in a similar study.

ii. *Plant studies*. Studies of barley, wheat, and rice that were treated with EtO provided convincing evidence that such treatment results in heritable, viable mutants among the segregating generations (17, 19, 32, 40, 41, 53, 73).

iii. *Invertebrate studies*. Bird (8), Nakao and Auerbach (63), and Watson (88) injected *Drosophila melanogaster* males with aqueous solutions of EtO. Following these single doses of EtO at 55 to 175 mM, the males were mated with untreated females. The resulting progeny were examined for recessive lethal mutations on the X-chromosome (Muller-5 test). The increased incidence of these mutations showed a dose-response relationship.

b. *Chromosomal effects*.—i. *Cytogenetic studies*. In an in vivo cytogenetic study, Embree (22) exposed six male Long-Evans rats to 250 ppm EtO in a flow-through chamber for 7 hours per day on 3 consecutive days. Treated rats were sacrificed 24 hours after the last exposure. Several types of chromosomal aberrations were observed in the bone marrow. Incidences of chromatid gaps, isochromatid gaps, chromatid breaks, isochromatid breaks, rearrangements and exchanges, dicentric, rings, cells with more than one type of aberration per metaphase plate, and abnormal chromosome counts were significantly higher ( $p < 0.05$ ) in the exposed animals than they were in the controls.

In a similar experiment Embree (22) exposed groups of five male Long-Evans rats to 10, 25, 50, 250, or 1,000 ppm EtO in air. An additional group of five was exposed to

50 ppm. Treatment involved a single 4-hour exposure. The animals were bled 24 hours after treatment. The incidence of micronuclei in polychromatic erythrocytes from bone marrow of treated rats was higher than it was in the controls. This increase was significant for the two 50 ppm groups ( $p < 0.0025$ ) and for the 250 and 1000 ppm groups ( $p < 0.05$ ). A dose-response relationship was demonstrated.

Strekalova (80) administered a single oral dose of 9 mg/kg of EtO in water to two groups of six male rats. The animals were sacrificed after either 24 or 48 hours and bone marrow from the femur was examined for chromosomal rearrangements. The treated rats from both the 24- and 48-hour groups evidenced a higher incidence of chromosomal and chromatid bridges and fragments than did the controls. This increased incidence was significant after 24 hours ( $p < 0.001$ ) and after 48 hours ( $p < 0.002$ ).

Strekalova et al. (81) continuously exposed a group of 24 male white rats to air containing EtO at  $1.98 \pm 0.33$  ppm for 66 days. The animals were then maintained in uncontaminated air for 4 days before sacrifice. Spinal cord cells were examined and showed an increased incidence of chromosomal rearrangements in the treated rats at both exposure levels as compared to the controls. The statistical significance was not given and the rearrangements were not discussed.

Fomenko and Strekalova (26) observed the bone marrow cells of mongrel albino rats which were exposed to EtO by inhalation. Groups of six animals were continuously subjected to 0.55-1.65 ppm or 33 ppm EtO for 2, 4, 8, or 30 days. There was evidence of an increase in chromosomal aberrations that was dose and time dependent. As presented, the results do not allow statistical evaluation. The Office of Special Pesticide Reviews sent a memorandum to the Office of International Activities concerning this translation (11).

ii. *Dominant-lethal assays*. Embree (22) exposed 15 male Long-Evans rats to air containing 1000 ppm EtO for 4 hours. After a 24-hour recovery period, each treated male was placed with two virgin females which were replaced each week for 10 weeks. In matings from weeks 1, 2, 3, and 5, the mutagenic index (dead implants/total implants) of the EtO-treated males was significantly higher than that of controls ( $p < 0.05$ ).

Strekalova et al. (81) observed male white rats that were continuously exposed to EtO for 66 days. Twenty-four and 14 animals were maintained at levels of  $1.98 \pm 0.33$  ppm and at  $61.5 \pm 11.1$  ppm in air, respectively. Immediately following exposure the animals were allowed to mate with untreated females for 4 days. Mortality of the embryos resulting from mating of males exposed at the higher level was elevated at the  $p < 0.001$  level of significance, while the lower level of exposure also increased mortality at the  $p < 0.05$  level of significance.

iii. *Human mutagenic episode*. Ehrenberg (13) studied the lymphocytic effects in seven workers who were transiently exposed to a high concentration of EtO for 2 hours after an industrial accident involving an EtO spill. Since two of the seven workers were hospitalized with lung damage, Ehrenberg (66) estimated the level of exposure to be equivalent to 2 hours of continuous exposure to 1500 ppm. Eighteen months after-

\*Assuming totally independent events.

wards, peripheral blood lymphocytes were examined for chromosomal aberrations, including chromosomal translocations, gaps, breaks, and aneuploidy. When compared with 10 control subjects with no history of EtO exposure, the incidence of these aberrations was elevated ( $p < 0.05$ ).

2. *Ethylene chlorohydrin*.—(a) *Point (gene) mutations*.—i. *Microorganism studies*. Embree (22) placed a small amount of ECH on agar plates with *S. typhimurium* and tested it in the manner previously described. Only the TA 1535 strain, which had an increased incidence of reverse mutations, was significantly affected ( $p < 0.05$ ).

Malaville et al. (56) obtained positive results when they tested ECH at 0.4, 4, and 40  $\mu$ M/ml on strain TA 1530 in plate tests both with and without microsomal (mouse liver) activation. Metabolic activation enhanced the activity of ECH. There was a positive dose-response relationship. Positive results in this strain of bacteria show that ECH was inducing base-pair substitution mutations.

Voogd et al. (86) observed a significant ( $p < 0.05$ ) increase in the frequency of mutation in *Klebsiella pneumoniae* which were exposed to ECH in culture media lacking microsomal activation. This test organism is ordinarily dependent on an exogenous source of proline and uracil for growth. These mutants were apparently autotrophic revertants. Results indicate a dose-response correlation.

McCann et al. (58) observed reverse mutations at the histidine locus in *S. typhimurium* strain TA 100, and a weak response with TA 1535 by plate tests both with and without microsomal activation. The incidence of these ECH-induced revertants in TA 100 was enhanced by metabolic activation. The frequency of mutation increased with the dose in strain TA 100.

Rosenkranz et al. (71, 72) obtained a positive response with *S. typhimurium* strains TA 1530 and TA 1535 after treatment with ECH. This indicated a base-pair substitution mechanism for the mutagenic action of ECH. A dose-response correlation was demonstrated in strain TA 1530. *E. coli* (pol A1<sup>-</sup>) deficient in DNA polymerase also demonstrated a higher degree of inhibition when exposed to ECH than did the pol A<sup>+</sup> strain from which they were derived. This indicates that ECH is capable of interacting with DNA.

Rannug et al. (69) observed a significant ( $0.001 < p < 0.01$ ) increase of *S. typhimurium* strain TA 1535 mutants in a plate test with 1.0 M ECH. Chloroacetaldehyde, a possible metabolite of ECH, was shown to significantly ( $p < 0.001$ ) increase these mutations at 0.5 and 1.5 mM.

Hussain and Osterman-Golkar (37) calculated the genetic risk of chloroacetaldehyde from a dose-response curve of its induction of mutations in *E. coli*. This risk was defined as 30 mutants per  $10^6$  survivors per mM x hour.

Elmore et al. (23) reported that chloroacetaldehyde and ECH were mutagenic in a reversion (point mutation) test with *S. typhimurium* strains TA 1535 and TA 100 and in a DNA repair test with *Bacillus subtilis* DNA repair-deficient strains. This indicates a base-pair substitution mode of action. Dose-response curves were generated for these direct-acting mutagens. The effects were highly significant for chloroacetaldehyde.

ii. *Animal cell study*. Huberman et al. (36) detected no induction of 8-azaguanine and ouabain-resistant mutants among Chinese

hamster V79 cells which were exposed to ECH. However, a potential ECH metabolite, chloroacetaldehyde, showed positive results.

b. *Chromosomal effects*. In a cytogenetic study, Semenova et al. (75) placed albino rats in flowthrough inhalation chambers and exposed them to  $0.38 \pm 0.073$  ppm or  $3.2 \pm 0.097$  ppm for a period of 4 hours per day for as long as 120 days. Serial sacrifice and examination of bone marrow cells indicated a progressive, statistically significant increase ( $p < 0.05$ ) in chromosomal aberrations from the first through sixtieth day. The same effect was observed on the 120th day but it was less significant ( $p = 0.01$ ). Following the full regimen of exposure and a 2-week recovery period, there was still an effect ( $p = 0.1$ ).

3. *Ethylene glycol*. In a point (gene) mutation study, Embree (22) tested a small amount of EG on *S. typhimurium* strains TA 1535, TA 1537, and TA 1538 on agar plates without microsomal activation and found no revertants.

#### B. Reproductive Effects of Ethylene Oxide

40 CFR 162.11 (a)(3)(II)(B) provides that a rebuttable presumption shall arise if a pesticide "produces any other chronic or delayed toxic effect in test animals at any dosage up to a level, as determined by the Administrator, which is substantially higher than that to which humans can reasonably be anticipated to be exposed, taking into account ample margins of safety." Studies conducted with guinea pigs and rats indicate that EtO can adversely affect the male reproductive organs.

A study (20) in which male mice were exposed to air contaminated with radio-labeled EtO demonstrated residual radioactivity in the testes. In addition, male rats exposed to EtO in the air demonstrated affected germ cells as evidenced in each of two dominant lethal assays (22,81).

Hollingsworth et al. (33) observed atrophic effects on the testes of eight male guinea pigs which were exposed by inhalation to 357 ppm EtO in 123 seven-hour doses during a 176-day study. All animals survived, but appreciable degeneration of the testicular tubules and replacement fibrosis was noted. Hollingsworth also exposed the same number of guinea pigs to 204 ppm EtO in the same manner and observed a slight decrease in the weight of the testes. However, no histopathological effect was noted. In another test, 20 male rats which were exposed to 204 ppm EtO for 122 to 157 seven-hour periods during 176 to 226 days were noted to have small testes and slight degeneration of tubules. There was no evidence that withdrawal from exposure would allow restoration of the testicular structure. The authors also reported that there was no testicular histopathology or gross effect on guinea pigs or rats that were exposed to 113 ppm EtO in air. The exposure regimen consisted of 122 to 157 seven-hour periods during 176 to 226 days. No measure of fertility was taken in any of these tests.

In view of these findings, the Working Group has used 113 ppm as the no-observable-effect level (NEL) in assessing the margin of safety for humans.

In the only available epidemiological study mentioning the effects of EtO on the genital system, Joyner (45) examined 37 workers with an average of 10.7 years of continuous occupational exposure to 5 to 10 ppm EtO in the air. There were no statistically greater incidences of such genital disorders as benign prostatic hypertrophy,



acute prostatitis, spermatoceles, or seminomas of the testicle. However, no measure of reproductive capacity was taken.

There appear to be two populations at risk with respect to this potential adverse effect: 1) men who use this pesticide in the operation of EtO sterilization equipment on a routine basis and/or spend most of their time in the immediate area of the operation of this equipment, and 2) men who use EtO as a fumigant on a routine basis and/or often enter storage chambers shortly after such fumigation.

The most applicable level of inhalation exposure which is available for sterilization uses is commonly referred to as "a time-weighted average" (TWA). The most accurate indication of exposure to the EtO sterilization user is a TWA taken by continuously monitoring the breathing zone of the user throughout a typical work day and averaging the results. The Working Group is aware that, in practice, EtO sterilization equipment and conditions are many and varied. However, the Working Group has only four TWA's on which to base its exposure estimate. Three of the TWA's were provided by the U.S. Army's Environmental Hygiene Agency (27) and represented the "worst case" for individuals operating the machines tested. These TWA's, 16, 8, and 5 ppm, were well below the 50 ppm standard set by the Occupational Safety and Health Administration and currently in force for the workplace. The fourth TWA was supplied to EPA by a pesticide registrant (78). The breathing zone was continuously sampled to reflect actual use conditions. The TWA for this sterilization equipment was shown to be 0.16 ppm. The average of the four TWA's is approximately 7.3 ppm.

Assuming 7.3 ppm to be an approximate indication of the amount of EtO to which men using EtO sterilization equipment are continuously exposed, the Working Group compared this level to the NEL in male rats and guinea pigs (113 ppm).

In order to express these exposure levels as absorbed dose levels, compare these doses, and estimate the margin of safety, the working Group made certain assumptions: 1) rodents and man receive this dose of EtO primarily by inhalation; 2) the efficiency of uptake of the EtO by this route is the same in man as it is in rodents; and 3) the dose is proportional to the respired volume of EtO-contaminated air.

Once the relationship between exposure levels and absorbed dose levels is empirically established for a laboratory rodent, this relationship can be extrapolated to other laboratory rodents and humans. A series of experiments published by Ehrenberg et al. (20) provides the empirical data to determine the dose-exposure relationship for mice. In these experiments the EtO exposure level and duration of exposure varied. There were a total of seven values of exposure (ppm x hour) and absorbed dose during exposure ( $\mu$  mole/kg). These data were plotted and the slope was used to estimate the dose per unit of exposure times the duration of exposure in mice. The Working Group estimated that exposure to 1 ppm for a period of 1 hour gives mice an absorbed dose of 2.8  $\mu$  mole/kg. Although part of this dose may have been absorbed dermally, the Working Group assumed that most of the dose was absorbed by inhalation.

Using average body weights and respiratory rates (4), the Working Group estimated average respiratory intake to be as follows:

Humans (68.5 kg males) doing light work: 25.0 liter/hour/kg.  
Guinea pigs (466 g): 20.6 liter/hour/kg.  
Rats (113 g): 38.4 liter/hour/kg.  
Mice (20 g): 72.1 liter/hour/kg.

The Working Group then calculated the average daily doses based on the proportion of respired air of guinea pigs, rats, and men to the respired air of mice. The average daily doses administered to the guinea pigs and rats in the Hollingsworth study at the NEL (113 ppm) were estimated to be 28.2 and 52.6 mg/kg, respectively, whereas the daily dose to men doing light work while breathing air containing 7.3 ppm EtO was estimated to be 2.5 mg/kg. The difference between these estimated NEL doses in guinea pigs and rats and the estimated dose for men does not appear to provide an adequate margin of safety.

The Working Group is not aware of any data which quantify exposure to users of EtO fumigants. Labels of EtO fumigation products typically provide that fumigation be done only by experienced operators and that gas masks be worn prior to entering an area that is known to contain EtO vapors. However, the labels indicate that safe entry following fumigation does not require a gas mask unless there is a noticeable odor.

In the opinion of the Working Group, the warning based on noticeable odor is not sufficient to ensure that exposure to potentially hazardous levels of EtO will not occur. Based on published data (39), the median concentration of EtO which people can detect by smell is 700 ppm; the 95% confidence interval is 317 to 1540 ppm. The presence of other odorous ingredients in these pesticide products complicates precise utilization of these data. Sexton's review of medical and toxicological literature on EtO (76) also bears on this issue. He stated that, "When highly diluted with air ethylene oxide is only slightly disagreeable and is readily respirable. Prolonged exposure of this type is associated with early olfactory fatigue, and exposure may be prolonged to the point of considerable total absorption of ethylene oxide without warning."

Therefore, entry (e.g., loading and unloading) into the fumigation chambers and vaults between actual fumigation treatments may result in significant inhalation exposure to male fumigators. Although the Working Group is unable to quantify the amount of exposure, it is reasonable to anticipate that such exposure is too high in relation to the no-effect levels in rats and guinea pigs. Accordingly, a rebuttable presumption against registration has arisen against all pesticide products containing EtO.

The Working Group has also determined that dietary intake of stored food products (i.e., spices, copra, and black walnut meats) which have been fumigated with EtO does not appear to result in exposure to levels of EtO that might affect the gonads. An estimate of EtO ingestion that was based on actual EtO residue data was recently completed (60). Based on this analysis, the Working Group estimated that a 65-kg man would ingest approximately 0.0003 mg/kg/day. The Working Group concluded that there is an adequate margin of safety between the amount of EtO that might be ingested in stored food products and the estimated doses for which the Working Group

has calculated that there will be no effect (28.2 and 52.6 mg/kg/day in guinea pigs and rats, respectively).

#### IV. OTHER POSSIBLE CHRONIC OR DELAYED ADVERSE EFFECTS

EtO and its two principal degradation products, ECH and EG, have been identified in several studies as the cause of a number of other chronic effects. The available information, however, is insufficient to support a rebuttable presumption against EtO. The Working Group is aware that studies currently underway address some of these effects. However, the Working Group is seeking any and all information which might be available to aid the Agency in further assessments of these effects.

#### A. Oncogenic Effects

The Working Group referred all available data concerning oncogenicity to the Agency's Carcinogen Assessment Group (CAG) for review. A summary of the findings and conclusions from their report (2) is given below.

1. *Ethylene oxide*. There are few published oncogenic studies on EtO, although a 2-year study is now being conducted. The available experiments are reviewed below.

(a) *Human epidemiology study*. In a study of 37 operators at a plant producing EtO, Joyner (45) found no increased incidence of tumors in operators exposed to 5 to 10 ppm EtO. Three other operators who were exposed to EtO declined to participate in the study. All subjects were males who were 29 to 56 years old. The mean period of exposure for the group was 40 hours a week for 10.7 years. Operators were exposed to EtO for the following lengths of time: less than 5 years, 3; 5-10 years, 11; 10-15 years, 21; and more than 15 years, 2. This exposure estimate was based on current measurements and the assumption that the exposure had remained essentially the same since the plant process and equipment had been unchanged for 10 years.

Subjects were compared to a control group of 41 drawn from operators who worked in other production units at the plant and participated in the periodic physical exam program. Control group members had been employed at the plant for an average of 11.7 years. Controls were matched by age only. No attempt was made to analyze the exposure of the control group to other chemicals produced at the plant. There were no clinical signs of toxic effects in this group.

A complete history and physical examination was performed on each member of the study and control group. There was special emphasis on signs suggesting hepatic or renal toxicity. Laboratory tests including chest X-rays, ECG's, hemoglobin tests, and white and red blood counts were done. Medical records for each person were evaluated for complaints in the preceding 10 years and physicians' diagnoses in the previous 7 years. However, no attempt was made to control for possible biases introduced by variations in medical care or physician diagnoses.

Table 1 summarizes tumors found in the EtO operators and the control group during the 8-year period discussed in the study. Four operators who were exposed to EtO and six control group members had tumors. The health of the operators exposed to EtO was no worse than that of the controls.

TABLE 1.—Incidence of neoplasms among operators in an EtO plant, 1955-62<sup>1</sup>

Neoplasm	Number of operators with neoplasms <sup>2</sup>	
	Operators exposed to EtO	Control operators
Adenocarcinoma (bladder).....	1	0
Basal cell carcinoma (skin).....	0	2
Seminoma (testicle).....	0	1
Lipoma.....	1	0
Other benign neoplasms.....	2	3
Totals.....	4	6

<sup>1</sup>Data from Joyner (45).

<sup>2</sup>There were 37 operators who were exposed to EtO and 41 operators in the control group.

It should be noted that the study was designed to evaluate the overall health effects of EtO exposure; tumor incidences were only one aspect of that evaluation. The study group included only operators currently working in the plant. This introduces a possible bias in determining tumor incidence. Because exposed operators who had left the plant were not included, there is no way of knowing whether they developed tumors. Joyner reported that the records of eight former employees were reviewed but does not explain how the eight were selected. Clearly, such a sample can not be considered representative of the exposed population. Indeed, the sample could have systematically omitted those who, because of serious adverse effects from EtO exposure, left the plant.

(b) *Mouse Study*. Van Duuren et al. (84) used 8-week-old female Swiss-Milleron mice to study the effects of dermal exposure to EtO. The authors painted the clipped dorsal skin of 30 mice with approximately 100 mg of a 10 percent solution of EtO in acetone three times a week during their lifetime. Sixty mice were treated with acetone alone and 60 were untreated. Thirty positive controls were painted with a 2 percent solution of dibenz (a,h) anthracene (DBA) in acetone.

No tumors or skin irritation were noted on gross examination of the EtO-treated group. The median lifespan was 493 days. It is possible that the EtO could have boiled off the skin of the treated animals and thus would not have remained in contact with the skin to produce an effect.

Carcinomas were detected and confirmed microscopically on 90 percent (27 of 30) of the DBA-treated group, and were absent from control groups that were untreated or treated with acetone.

(c) *Rat Study*. Walpole et al. (87) tested various alkylating compounds on an unspecified strain of rat. A maximum total dose of 1 g/kg of EtO in arachis oil was administered subcutaneously to 12 rats for 94 days. The dosing schedule was not reported, nor were the age and sex of the animals. The rats were observed for their lifetime, and none of the 12 rats treated with EtO developed tumors.

In the same test, 8 of 12 rats infected with propane-1,2-epoxide developed sarcomas on the site of infection. These positive controls received a maximum total dose of 150 g/kg over 325 days and were observed for life.

2. *Ethylene Chlorohydrin*. (a) *Mouse Studies*. Homburger (34) conducted two studies of the oncogenic effects of ECH on mice.

In one study an injection site transfer was designed to shorten the latency period be-

tween the injection of the carcinogen and tumor development.

One hundred 7-week-old C57BL/6 male mice were subcutaneously injected in the groin with 1.2 mg ECH (the maximum tolerated dose) in 0.1 ml tricaprylin. The number and schedule of doses were not reported.

Five weeks after the injections, the injection sites were excised, pooled, and minced in 6 ml Ringer's solution. The tissue was divided into 25 equal portions, and each was injected into a mouse of the same age and strain as the primary host.

The same methodology was followed with positive and negative controls, which were treated with dibenzpyrene (25 mg) and tricaprylin (0.1 mg), respectively.

Eighteen weeks after the transfer of injection sites, all animals were sacrificed and gross autopsies were performed. No tumors were detected in the ECH-treated group (24 of 25 survived) or in any of the other five test groups. Tumors were induced in 96 percent of the positive controls within 17 weeks of the site transfer.

In another study, groups of 50 CF1 female mice and 50 A/He female mice were used to study the potential of ECH to induce lung adenomas.

One group of each strain of mice received a single intravenous injection of 1.2 mg ECH. Groups of 50 A/He and 50 CF1 mice were used as controls. Negative controls received 0.2 cc Ringer's solution. Positive controls received 0.05, 0.1, or 0.5 mg dibenzpyrene.

Another test group of 20 CF1 female mice received seven monthly injections of 1.2 mg ECH. Negative controls received a total of 1.4 ml Ringer's solution. No positive controls were used.

Mortality was low. Mice were sacrificed after 28 weeks. Their lungs were inflated with formaldehyde and inspected under a

dissecting microscope for tumors visible on the lung surfaces. Histological sections of some tumors were taken.

The tumor incidence in the two studies is shown in Table 2. There was no significant increase in tumors in the ECH-treated group compared to the controls.

TABLE 2.—Lung tumors in ECH-treated female mice<sup>1</sup>

Dose	Incidence of lung tumors			
	CF1		A/He	
	Number	Percent	Number	Percent
Single intravenous dose				
1.2 mg ECH.....	5/48	10.9	10/45	22.2
0.2 cc Ringer's solution.....	7/48	14.6	7/48	14.6
7 intravenous doses				
1.2 mg ECH.....	5/18	27.8		
1.4 ml Ringer's solution.....	2/18	11.1		

(b) *Rat Studies*. Mason et al. (57) used 344 four- to six-week-old Fisher rats to test ECH and EG. For each compound, 200 animals were divided into groups of 80, 60, 40, and 20 that contained equal numbers of females and males. Mason subcutaneously injected these animals with ECH in saline twice weekly for 52 weeks. Dose levels of ECH administered were 10.0, 3.0, 1.0, and 0.3 mg/kg, respectively. The maximum tolerated ECH dose determined earlier in the study was 30 mg/kg. There were negative and vehicle (0.25 ml saline) control groups containing 60 rats of each sex.

Mortality in the ECH-treated group was 2 percent at 12 months and 7.5 percent at 18 months; this was comparable to control mortality. All animals were sacrificed at 12 or 18 months, as planned, and complete autopsies were performed. No retardation in weight gain occurred during the study. Tumors were grouped by injection site and other sites including pituitary (adenoma), adrenal, blood (leukemia), mammary glands, and uterus. Except for total tumors, frequencies were not tabulated by dose level, but only by sex for the pooled treated group. Tumor incidence for all sites is shown in Table 3.

TABLE 3.—Tumor incidence in ECH-treated Fisher rats<sup>1</sup>

Compound/milligram	Dose, per kilogram	Tumor-bearing animals			
		Male		Female	
		Number	Percent	Number	Percent
ECH.....	10.0	1/40	3	7/40	18
	3.0	1/30	3	9/30	30
	1.0	1/20	5	4/20	20
	0.3	0/10	0	1/10	10
Negative control.....	0	5/60	8	9/60	15
Vehicle control (0.25 ml saline).....	0	3/60	5	9/60	15

<sup>1</sup>Data from Mason et al. (57).

<sup>2</sup>It was stated in the methods section and other places in the paper that there were 50 males and 50 females in each of the 2 control groups. However, this table and some others gave the number as 60 per sex for each control group. Percentages expressed in this table are based on groups of 60 rats.



Pituitary tumors occurred in 7 of 100 ECH-treated females (all dose levels) compared to 2 of 120 female controls ( $p=0.049$ ). This strain of rats frequently has a high incidence of pituitary tumors in untreated controls. Therefore, the slight increase noted in this study may not be related to the treatment. No significant increase in tumors occurred at other sites or at all sites combined. No increase in pituitary tumors was seen in males.

The positive controls were divided into four groups of 20 females and 20 males. The first two groups received single subcutaneous injections of 10 and 3.3 mg/kg nickel sulfide, respectively. The other two groups received the same doses of nickel sulfide by a single intramuscular injection in the thigh. Mortality was high: 75 percent at 12 months and 90 percent at 18 months. Tumor incidences among the animals in the positive control groups were not given.

Ambrose (5) administered ECH in the diet of 35 young weanling rats in concentrations ranging from 0.01 to 0.24 percent. One group of five rats that were fed only the regular diet served as controls. Treatment continued for 220 to 403 days. Autopsies and histopathological studies were conducted. No tumors were noted.

3. *Ethylene glycol*.—a. *Mouse Studies*. The two Homburger oncogenicity studies (34) which were described above also tested for the oncogenicity of EG.

In the injection site transfer study, the methodology and controls were the same as described above under ECH.

Each mouse was administered 26 mg EG. Fifteen of 26 EG-treated mice survived. (Ten mice in one cage were found dead 8 weeks after the sites were transferred. The carcasses were too autolyzed for study.) No tumors were reported in the EG-treated group.

In the single and repeated intravenous injection studies, each mouse was administered 26 mg EG per injection. The methodology and control groups were the same as in the ECH intravenous study. Tumor increases are shown in table 4. There was no significant increase in tumor induction in the EG-treated group as compared to the controls.

TABLE 4.—Lung tumors in female mice administered EG<sup>1</sup>

Dose	Incidence of lung tumors			
	CFI		A/He	
	Number	Percent	Number	Percent
Single intravenous dose				
26.0 mg EG.....	5/48	10.4	8/41	19.5
0.2 cc Ringer's solution.....	7/48	14.6	7/48	14.6
7 intravenous doses				
26.0 mg EG.....	3/20	15		
1.4 ml Ringer's solution.....	2/18	11.1		

<sup>1</sup>Data from Homburger (34).

Berenblum and Haran (7) painted 4- to 5-month-old female inbred Swiss mice with EG. Two groups of 20 mice each received single applications of EG and 70 applications of croton oil or paraffin as a secondary treatment. The other two groups of 20 mice received 12 applications of EG before being painted 70 times with croton oil or paraffin. There was a 4-week interval between the primary and secondary treatment. The dosing schedule for the two treatments was not stated. Fifteen mice that were painted with EG 12 times received no secondary treatment. The applications were made on about 1 square centimeter of skin. The animals were observed for at least 43 weeks. The 15 mice that were not treated with a promoter all survived and had no papillomas. Survival for the four groups receiving secondary treatment ranged from 90 to 100 percent. No papillomas developed in the mice treated with EG only and one developed in each of the two groups treated with EG and croton oil. None of the mice were administered croton oil alone.

Deringer (16) painted the clipped interscapular area of 2.5- to 3.5-month-old male and female mice with EG twice a week for their lifetime. The dosage was not reported. Half of the 68 mice treated did not have hair. The controls were not treated; 100 had hair and 86 did not. The median survival time for both the treated and control groups was 22 months. There was no increase in tumor induction in the EG-painted group as compared to the controls.

Reyniers et al. (70) observed tumor induction and toxic effects in a colony of inbred germ-free albino mice that were placed on corn cob bedding treated with EtO. It was not a controlled experiment. The treated bedding was introduced on December 15, 1961, and removed 150 days later on May 15, 1962. When the bedding was introduced, the colony consisted of 112 adult female, 79 adult male, and 10 suckling mice. The oldest animals of the colony were 605 days old, and four females were pregnant. No tumors were observed among an unspecified number of mice of different ages which were killed or died in 1961. The animals were free of polyoma viruses. However, following maintenance on EtO-treated corn cob bedding and gross or microscopic examination, 88 percent of the surviving females from 300 to 900 days old were found to have tumors (table 5). The tumors were of a wide variety of types including sarcomas, carcinomas, and lymphomas. They appeared from 153 to 194 days after exposure. The high rate of mortality among the male mice early in the exposure period precluded assessment of tumor formations.

According to the authors, "the only change in colony maintenance was the accidental introduction of corn cob bedding treated with EtO." Because other investigators had previously associated toxic effects with EG residues from bedding treated with EtO, the authors tested for and found EG in the EtO-treated bedding. However, they apparently did not attempt to determine whether other toxic compounds (e.g., EtO and ECH) were also present. Therefore, the data are not sufficient to identify the agent(s) responsible for tumor induction.

TABLE 5.—Tumor incidence in females before and after exposure to ground corn cob bedding treated with ethylene oxide<sup>1</sup>

Age, days	100-200	200-300	300-400	400-500	500-600	600-700	700-800	800-900	Total mice
Before exposure									
Number of mice with tumors.....	0	0	0	0	0	0	0	0	0
Number of mice....	21	17	26	7	10				83
After exposure									
Number of mice with tumors.....	0	0	1	3	11	25	17	5	62
Number of mice....	11	2	1	8	13	26	20	5	86

<sup>1</sup>Data from Reyniers et al. (70).

Mason et al. (57) and described above were also used to test EG. The same methodology and control groups were used. Four dose groups received injections of 1,000, 300, 100, or 30 mg EG/kg. Mortality was 2 percent

after 12 months and 5 percent after 18 months. The tumor incidence for all sites combined is shown in table 6. The incidence of tumors in the mice treated with EG was not higher than that of the controls.

TABLE 6.—Tumor incidence in EG-treated Fisher rats<sup>1</sup>

Compound	Dose, milligram per kilogram	Tumor-bearing animals			
		Males		Females	
		Number	Percent	Number	Percent
EG.....	1,000	2/40	5	6/40	15
	300	1/30	3	9/30	30
	100	2/20	10	3/20	15
	30	0/10	0	1/10	1
Negative control.....	0	5/60	8	9/60	15
Vehicle control (0.25 saline).....		3/60	5	9/60	15

<sup>1</sup>Data from Mason et al. (57).

4. *Conclusions*. CAG has concluded that the information available is insufficient to judge the safety of EtO in regard to oncogenicity. Although most of the tests for oncogenicity have thus far been negative, further study of the possible oncogenicity of EtO is warranted for at least two reasons. First, CAG has concluded that EtO and its degradation product ECH are mutagens. There is a strong correlation between oncogenicity and mutagenicity. Secondly, chemicals which are structurally related to EtO have been reported to be oncogenic (2).

Following review of essentially the same data, the International Agency for Research on Cancer (38) similarly concluded: "Although no carcinogenic effect was observed, the data do not allow an evaluation."

The Ethylene Oxide Working Group concurs with CAG's conclusions and adds the following observations.

a. *Lymphatic leukemia*. Brewer et al. (13) presented data from Ehrenberg and Hallstrom that were described above. The occurrence of one case of lymphatic leukemia among the group of 31 occupationally exposed people compared with none in the control group of 26 may have occurred by chance. However, the working Group requests epidemiological data on this and other types of cancer incidence among people occupationally exposed to EtO.

b. *Positive Ames test*. EtO belongs to the class of compounds termed alkylating agents. Alkylating agents which have been shown to be positive mutagens by the Ames test are frequently carcinogens in mammals.

Recent data from the Stanford Research Institute (46) demonstrate that EtO was positive in the Ames test and had a positive dose-response relationship. This data has led the Working Group to suspect that EtO may also be an oncogen.

As previously noted, a carcinogen bioassay of EtO is underway. In addition, the New York University Medical Center is completing a long-term carcinogenicity study which includes ECH.

b. *Teratogenicity and fetotoxicity*.—1. *Ethylene chlorohydrin*.—a. *Avian study*. In 1974, Verrett (85) tested ECH for teratogenic and fetotoxic effects on chicken embryos by injecting the compound into the egg via the air cell. When the ECH was administered at 50, 25, 12.5, or 5 mg/kg following 96 hours of incubation, the incidence of teratogenicity and fetotoxicity collectively was significant at the  $p<0.05$  level for each of these doses compared to vehicle controls. There was a clear dose-response relationship.

b. *Mammalian study*. The positive result in chicken embryos prompted a study in mammals which was recently completed by Courtney (15). ECH did not produce fetal malformations in CD-1 mice whether administered in drinking water (10, 25, 50, 100, or 200 mg/kg/day) or by inhalation (50 or 100 mg/kg/day). The 100 mg/kg/day was the maximum tolerated dose for administration by intubation. The Working Group regards the results in mice to be a more reliable test of this possible effect. Therefore, there is no indication that ECH poses



human risk as to teratogenicity and fetotoxicity.

2. *Ethylene oxide*. The Working Group is not aware of any study on the teratogenicity or fetotoxicity of EtO. Because a large number of EtO sterilization equipment operators are likely to be women of childbearing age, the Working Group believes that teratogenicity and fetotoxicity testing in mammals should be conducted.

C. *Neurotoxic effects*. The following studies suggest that EtO may cause adverse effects on the nervous system. However, more information is needed in order to assess the histopathology of the nervous system of animals exposed to EtO. It is extremely important that the Agency receive all data concerning possible neuropathy among users of EtO.

1. *Ethylene oxide*. Joyner (45) examined 37 workers who had been occupationally exposed to 5-10 ppm EtO for an average of 10.7 years. There were no statistically significant increased incidences of the several nervous system diseases observed in the exposed group compared to the control group.

Hollingsworth et al. (33) studied the effects of EtO on various species by exposing the animals to EtO-contaminated air for 7 hours a day, 5 days a week. Rats, rabbits, and a monkey exposed to 357 ppm (0.64 mg/liter) EtO for up to 85 days developed impairment of sensory and motor functions of the lumbar and sacral region and paralysis and muscular atrophy of the hind limbs. Each of two pairs of monkeys exposed to 357 ppm for 60 days and 140 days, respectively, also exhibited these impairments. In addition, their reflexes were either poor or absent and their sensation of pain in their hind quarters was greatly reduced. All these effects developed late in the exposure regimen and were reversible. The normal cremasteric reflex was elicited, and the test for the extensor reflex of the soles of the hind feet was negative. These signs are consistent with the existence of a peripheral neuropathy. No micropathology was evident. Guinea pigs exposed to 357 ppm EtO for 176 days did not appear to develop neurological impairment.

Two monkeys exposed to 204 ppm EtO for 176-226 days displayed neurological signs qualitatively similar to those just described with the exception that a positive Babinski's sign was elicited. This suggests that there was a disorder of the pyramidal tract in addition to a peripheral neuropathy. At the same level of exposure, rabbits developed slight to extreme paralysis of the rear legs. No impairment of the nervous system was observed in rats and guinea pigs exposed to 204 ppm EtO in the air. None of the species tested exhibited neurological abnormalities at 113 ppm or 49 ppm.

Similar effects have been observed in humans following misuse of EtO. During a less than 1-year period in 1975-76, there were three EtO sterilizer users hospitalized with neuropathy of the lower limbs. Clinical observations and followup indicated that these effects were reversible (42).

2. *Ethylene Chlorohydrin*. Kovyazin (50) reported that mongrel male rats exposed to 10±0.4 mg/m<sup>3</sup> ECH for 4 months developed signs indicating damage to the central nervous system (CNS). "Vegetative" and "microorganic disorders" of the CNS were observed in workers (18.9 percent of 113) who had 2 to 7 years of exposure to 4 to 10 mg/m<sup>3</sup> ECH.

#### D. Sensitivity and Hypersensitivity

EtO sterilization residues, collectively, may be a serious problem to hypersensitive people (see anaphylactic reaction reported by Poothullil et al. (67) and described below). Because of the nature of this specific exposure, the Working Group is referring this finding to FDA.

Three of the eight people tested showed sensitivity (77) with almost the same latency period. Data pertaining to ECH and EG that are presented in this part indicate that these degradation products do not independently elicit this delayed toxic effect.

1. *Ethylene Oxide*. Woodard et al. (90) administered EtO dermally (0.5 ml of 1 percent) or intracutaneously (0.5 ml of 0.1 percent) to separate groups of 10 male guinea pigs three times a week for 3 weeks. Results were negative.

Sexton et al. (77) exposed the forearms of eight human subjects to aqueous solutions of EtO. Following a varying regimen of topical dermal exposure to between 1 and 100 percent EtO for between 18 seconds and 60 minutes, three cases of sensitivity were observed (two after 19 days and one after 20 days). This was evidenced by pruritus and erythema with slight edema.

Thiess (82) applied 1 percent EtO to the skin of 30 production plant workers who had an average of 10.4 years of occupational exposure. There was no evidence of sensitization.

Royce et al. (74) observed that occupational dermatitis was caused by EtO. The Working Group requests information as to the frequency of this condition among users of EtO.

2. *Ethylene Chlorohydrin*. Lawrence et al. (54) intradermally injected groups of five Hartley strain guinea pigs (0.1 ml of a 10 percent ECH solution or 0.1 ml of a 5 percent ECH solution) with Freund's complete adjuvant. After 1 week, a 10 percent ECH solution was applied topically. After an additional 2 weeks, ECH was applied topically and an occluding bandage was attached for 1 day. Results were negative.

Woodard et al. (90) administered ECH dermally (0.5 ml of a 1 percent solution) or intracutaneously (0.5 ml of a 0.1 percent solution) to separate groups of 10 male guinea pigs three times a week for 3 weeks. Results were negative.

3. *Ethylene Glycol*. Woodard et al. (90) also administered EG as described above and obtained negative results.

4. *EtO Sterilization Residues*. Poothullil et al. (67) reported an anaphylactic reaction in a patient which they attributed to EtO residues from a kidney machine sterilized with EtO. The Working Group is referring this information to FDA.

#### E. Reproductive Effects of Ethylene Glycol

The information summarized in this part suggests a possible link between exposure to EG and decreased fertility in mice. However, the levels administered were either extremely high or lacked quantification. The Working Group noted the dramatic change in fertility of the mouse colony as well as the lack of experimental design in Reyniers' study.

Elis et al. (21) administered EG orally (0.4 or 0.1 percent of the parenteral LD<sub>50</sub>) to mice for 18 days. When compared to negative controls, both groups showed a marked decrease in the number of newborns per exposed female.

Reyniers et al. (70) observed inbred germ-free albino mice that were accidentally ex-

posed to EtO-treated corn cob bedding. They noted that the colony failed to reproduce despite increased matings. This trend was established prior to the incidence of a high level of mortality among males which developed approximately 4.5 months from the beginning of maintenance on the treated bedding. The population included 112 females and 79 males with a demonstrated history of successful matings.

Blood (10) administered 0.2 and 0.5 percent EG in diets of two male and one female rhesus monkeys, respectively, for 3 years. There were no histopathologic effects in the testes or ovaries.

#### F. Hematological Effects

Available data indicate that EtO, ECH, and EG may cause certain effects in blood.

1. *Ethylene Oxide*. Ehrenberg and Hallstrom (13) examined 31 people occupationally exposed to 1 ppm EtO in air (67) for an average of 15 years. Compared with a control group of 26, the lymphocyte counts were significantly elevated at the 0.05 > p > 0.001 level. There were also three cases of anisocytosis and one case of lymphatic leukemia in the exposed group and none in the controls. This latter effect is more fully discussed in the section on oncogenicity.

Short-term EtO exposure to rats via intraperitoneal injection or inhalation (13) showed the opposite effect: significantly decreased lymphocyte counts. This result followed administration of 50 mg EtO per kg of body weight in a single dose and 3 hours of exposure to 850 mg EtO per cubic meter of air, respectively.

Hollingsworth et al. (33) observed lymphocytosis in humans after excessive acute exposure to EtO vapor.

Joyner (45) reported a considerable elevation in white blood cell counts in people exposed to EtO for an average of 10.7 years. After assuming that there is a standard deviation of 1,800 white blood cells per cubic millimeter or a coefficient of variation of 30 percent, Ehrenberg (20) described Joyner's averages as highly significant. However, Union Carbide has now submitted the raw data which indicate the mean values were in arithmetic error and that there was no effect (43).

2. *Ethylene Chlorohydrin*. Woodard (90) observed an increased leukocyte count in rats after they were subcutaneously injected with 3 to 27 mg ECH/kg for 30 days.

Lawrence et al. (54) observed a significant increase in rat lymphocytes after the animals were intraperitoneally injected with 12.8 mg ECH/kg three times a week for 3 months.

Oser et al. (65) administered 30, 45, or 67.5 mg ECH/kg body weight/day to weanling albino rats (FDR strain) for 42 and 90 days. Total and differential leukocyte counts were not affected in any group. This blood parameter was also unaffected in pure-bred beagle dogs maintained for 90 days on 600, 900, or 1,350 ppm ECH in the diet. In addition, monkeys (*Macaca mulatta*) administered 30, 45, or 62.5 mg ECH per kg body weight per day showed considerable hematological variation that was within the normal range.

\*These observations are listed under EG because it was present in the bedding material. The levels at which EG was present were not indicated and the bedding was not analyzed for EtO or ECH.

3. *Ethylene Glycol*. Allen (3) reported hemorrhagic diathesis in several strains of male mice after they were maintained for 6 months on pine shavings sterilized with EtO. Reyniers et al. (70) also noted hemorrhaging in male mice maintained on EtO-treated corn cob bedding.

Kozlenchikov (51) reported leukocytosis in all 48 observed humans who ingested large quantities of EG in a short period of time.

Woodard (90) reported an elevated leukocyte count in rats and increased hematopoiesis in dogs that were subcutaneously injected with from 50 to 450 mg EG/kg for 30 days.

Moriarty et al. (61) noted highly elevated white blood cell counts in humans that had accidentally ingested EG.

#### APPENDIX A.—SPECIFIC CLASSES OF ITEMS STERILIZED WITH ET O WITHIN HOSPITALS OR HEALTH CARE FACILITIES

Anesthesia equipment (masks, bags, tubing, and breathing circuits).

Camera, photographic equipment, lenses, and lamps.

Catheters.

Diagnostic equipment (X-ray cassettes, blood pressure cuffs, and stethoscopes).

Fiberscope (including broncho-, duodeno-, gastrointestinal-, and laparoscopes).

Implantable prosthetic devices.

Laboratory equipment (microscope, endotracheal tube, elastic bandage, hemodialysis coil, venoclysis set, thermometers, PVC oxygen tents, incubators, resuscitation equipment, foam and floatation pads, sigmoidoscope specula, epidural cannula, tracheostomy tube, gun rubbermouth prop and dental dam, various syringes including ear).

Respiratory therapy equipment (nebulizer bacteria filters, respirator tubing, spirometer, mask, heart-lung oxygenator machines, humidifier, electronic nebulizer).

Surgical equipment (skin scribe pen, nerve locator/stimulator, mercury-filled equipment, electronic defibrillator equipment, cautery and electrosurgical equipment, cryoextractor, air instrument hand pieces and accessories, air supply hose, eye knives).

Surgical supplies (examination glove and finger cots, oral adhesive bandage, gelfoam, endospiral tube, tracheostomy tube, nasal airway tube, tape, sutures (catgut, silk, cotton, and nylon) ampules, vials, and stoppers/caps/closures).

Telescopic instruments (broncho- and cystoscopes, electrotomes, and endo-, ophthalmic-, and proctoscopes).

Transducers (pressure, blood flow, and associated cable).

Tubing (natural rubber, polyethylene, polyvinylchloride, latex rubber).

Miscellaneous (dilators, electric cords, hair clippers, pumps, motors, and items from isolation rooms, such as books, toys, blankets, furniture, phones, and TV sets).

Source: Department of Health, Education, and Welfare.

#### APPENDIX B.—SECTION 24(c) REGISTRATIONS OF PRODUCTS CONTAINING ETHYLENE OXIDE

(1) NJ-770003 (EPA SLN No.); registered to: New Jersey Department of Agriculture; treatment: bee equipment/bee diseases; issued: March 21, 1977; product: Carboxide (10 percent Ethylene Oxide); EPA Reg. No. 10330-6.

(2) WV-770004 (EPA SLN No.); registered to: West Virginia Department of Agriculture; treatment: bee equipment/foulbrood disease; issued: July 13, 1977; product: Oxidcarb (No EPA Reg. No.—new product).

(3) VA-760014 (EPA SLN No.); registered to: Virginia Department of Agriculture and Commerce; treatment: For control of *Bacillus* larvae or other pests of honeybees; issued: December 10, 1976; product: Bee Gas Sterilant Mix (No EPA Reg. No.—new product).

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# Foreign Trade Register

FRIDAY, JANUARY 27, 1978  
PART IV



## DEPARTMENT OF COMMERCE

National Oceanic  
and Atmospheric  
Administration

### ATLANTIC BILLFISHES AND SHARKS

Preliminary Fishery  
Management Plan



[3510-22]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

## ATLANTIC BILLFISHES AND SHARKS

## Preliminary Fishery Management Plan

In accordance with the Fishery Conservation and Management Act of 1976 ("the Act"), the Secretary of Commerce has been notified by the Secretary of State that Cuba has submitted an application to fish for sharks with longline gear within the fishery conservation zone (FCZ) off the Atlantic Coast. The Secretary has determined that the fishery management plans for Atlantic billfishes and sharks now being prepared by several Regional Fishery Management Councils, pursuant to Title III of the Act, will not be ready for implementation during 1978 and, therefore, has prepared the Preliminary Fishery Management Plan (PMP) Atlantic Billfishes and Sharks in accordance with section 201(g) of the Act.

A notice of availability of the final environmental impact statement on the proposed implementation of the PMP was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57716). The PMP has been approved under appropriate delegations of authority from the Secretary of Commerce to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

The PMP contains conservation and management measures applicable to foreign fishing for billfishes and sharks in the FCZ in the Atlantic, the Gulf of Mexico, and the Caribbean, and, when implemented, shall remain in effect until superseded by an approved and implemented fishery management plan(s).

Proposed implementing regulations to govern foreign fishing for billfishes and sharks under this PMP were published in the FEDERAL REGISTER on January 24, 1978, for public comment. All comments received by February 20, 1978, will be considered in preparing final regulations. Copies of the PMP, final environmental impact statement, and proposed regulations are available for public inspection at the following locations:

Environmental Science Information Center Library, Page Building 2, Room 193, 3300 Whitehaven Street NW., Washington, D.C. 20235.

## NOTICES

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William Stevenson, Regional Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Dated: January 19, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

PRELIMINARY FISHERY MANAGEMENT PLAN  
FOR ATLANTIC BILLFISHES AND SHARKS

## U.S. DEPARTMENT OF COMMERCE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, NATIONAL MARINE FISHERIES SERVICE

Southeast Fisheries Center, 75 Virginia Beach Drive, Miami, Fla. 33149, and Southeast Regional Office, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702.

January 1978

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## I. INTRODUCTION

This document presents a preliminary fishery management plan for Atlantic billfishes and sharks describing the possible effects on human environment of implementing the management plan. The preliminary management plan has been prepared under authority of the Fishery Conservation and Management Act of 1976 (FCMA) and a Final Environmental Impact Statement has been prepared in accordance with the National Environmental Policy Act of 1969 (NEPA).

NEPA sets forth the strategy of the Congress to achieve coordination of Federal activities and environmental consideration. NEPA's basic purpose is to ensure that Federal Officials weigh and give appropriate consideration to environmental values in policy formulation, decisionmaking, and administrative actions, in addition to technical and economic considerations. Section 102(2)(C) of NEPA requires preparation of a detailed environmental impact statement in the case of major Federal actions that may significantly affect the quality of the human environment.

The Fishery Conservation and Management Act of 1976 (P.L. 94-265) provides for the conservation and management of fishery resources of the United States by establishing a fishery conservation zone of 200 nautical miles, within which the United States has exclusive management authority over all fishery resources except highly migratory species of tunas. The Act calls for the preparation and implementation of fishery management plans, through which the objectives of a National Fishery Management Program may be accomplished.

Although the Act exempts tunas from the expansion of U.S. jurisdiction over fisheries resources, the Act does define "fishing" to include any "activity which can reasonably be expected to result in the catching, taking, or harvesting of fish" (Sec. 3(10)). Since billfish and sharks fall within the definition of "fish" (Sec. 3(6)), and the Act does not provide an exemption for incidental take, billfish and sharks taken incidental

to the catch of tuna by foreign vessels can be regulated within the FCZ.

The fishery management plans provide the basis for regulating harvest, predicated on scientific information and involving the needs of the States, the commercial fishing industry, recreational groups, consumers, environmental organizations, and other interested parties. In essence, the allowable catch of any fishery resource will be based on the optimum yield from that resource.

Foreign nations will be allowed to take only that portion of the optimum yield which cannot be harvested by U.S. vessels. The Act further outlines a specific application, licensing, permitting, and enforcement procedure regarding the participation of foreign nations in any U.S. fishery.

## II. DESCRIPTION OF THE PROPOSED ACTION

## A. FISHERY MANAGEMENT UNDER EXTENDED JURISDICTION

The Fishery Conservation and Management Act provides that the Secretary of Commerce must prepare preliminary fishery management plans when applications are received from foreign nations for permission to fish in the new fishery conservation zone, provided that no fishery management plan will be prepared by a regional fishery management council prior to March 1, 1977. This document is such a preliminary fishery management plan.

A preliminary management plan describes the fishery, provides a preliminary estimate of the optimum yield, the U.S. capacity, and the total allowable level of foreign fishing (if any). In addition, the preliminary plan contains permit requirements for foreign fishing vessels, as well as data reporting procedures that must be met during fishing activities.

Preliminary management plans become effective March 1, 1977 or thereafter, and remain in effect until superseded by approved Regional Fishery Management Council plans or Secretarial plans. Regulations implementing preliminary management plans may be promulgated by the Secretary.

A foreign nation begins entry into a U.S. fishery through the signing of a Governing International Fishery Agreement prior to making formal application for fishing rights. This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment on that nation to comply with the terms and conditions specified under the Act.

The Secretary of State, in cooperation with the Secretary of Commerce, determines that allocation of the total allowable surplus the applicant will receive.

## B. ENVIRONMENTAL SETTING

## 1. Geophysical Setting

Fishing for billfishes and sharks in the Gulf of Mexico and Atlantic Ocean is mostly in oceanic waters varying in depth from 100 meters to well over 1,000. Bottom topography plays a relatively unimportant role since the fishery is essentially a surface fishery. However, canyons, seamounts, and other major geographical configurations are distinctive features in the area where the fishery is most intense.

## 2. Biological Systems

The open ocean pelagic environment is inhabited by predators such as tunas, bill-

fishes and sharks. Other important sport fish, however, are found in association with tunas, billfishes, and sharks. These include dolphin-fish (*Coryphaena hippurus*), wahoo (*Acanthocybium solanderi*), king mackerel (*Scomberomorus cavalla*) and great barracuda (*Sphyrna barracuda*). The principal species taken by the Atlantic pelagic longline fishery are listed on page 4. Except possibly for some mid-water fishes or some of the squids, no other resource presently of equal commercial importance exists in the same area or at the same seasons as these pelagic fishes. Marine mammals are rarely associated with billfishes.

## LIST OF PRINCIPAL SPECIES TAKEN BY THE ATLANTIC PELAGIC LONGLINE FISHERY

## TUNAS

Yellowfin tuna, *Thunnus albacares*.  
Albacore, *Thunnus alalunga*.  
Bluefin tuna, *Thunnus thynnus*.  
Bigeye tuna, *Thunnus obesus*.  
Skipjack tuna, *Euthynnus pelamis*.  
Blackfin tuna, *Thunnus atlanticus*.

## BILLFISHES

Sailfish, *Istiophorus platypterus*.  
Blue marlin, *Makaira nigricans*.  
White marlin, *Tetrapturus albidus*.  
Longbill spearfish, *Tetrapturus pfluegeri*.  
Swordfish, *Xiphias gladius*.

## SHARKS

Longfin mako, *Isurus paucus*.  
Blue shark, *Prionace glauca*.  
Shortfin mako shark, *Isurus oxyrinchus*.  
Night shark, *Hypoprion signatus*.  
Oceanic white tip shark, *Carcharhinus longimanus*.  
Scalloped hammerhead shark, *Sphyrna lewini*.  
Silky shark, *Carcharhinus falciformis*.  
Thresher shark, *Alopias vulpinus*.  
Tiger shark, *Galeocerdo cuvieri*.  
Bignose shark, *Carcharhinus altimus*.  
Porbeagle shark, *Lamna nasus*.  
Spinner shark, *Carcharhinus maculipinnis*.  
Bigeye thresher shark, *Alopias superciliosus*.  
Great hammerhead shark, *Sphyrna mokarran*.  
Smooth hammerhead shark, *Sphyrna zygaena*.  
Galapagos shark, *Carcharhinus galapagensis*.

## OTHERS

Dolphin, *Coryphaena hippurus*.  
King mackerel, *Scomberomorus cavalla*.  
Wahoo, *Acanthocybium solanderi*.  
Great barracuda, *Sphyrna barracuda*.

## 3. Social and Economic Setting

Although a variety of species are caught by the pelagic foreign longline fishery, tunas and billfishes are of primary importance to the United States, and sharks are of increasing importance. The recommendations of this plan are made primarily with respect to management requirements for billfishes and sharks, but the recommendations are consistent with the requirements for other fishes associated with tunas, bill-

Any non-tuna species (e.g., dolphin, wahoo, etc.) not listed as being covered by this plan or other plans are prohibited species under Section 611.13 of the Foreign Fishing Regulations published in the FEDERAL REGISTER November 28, 1977, Volume 42, No. 228.

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fishes and sharks. The management requirements of tuna are not addressed in the plan, since highly migratory species are excluded from U.S. management authority by the Fishery Conservation and Management Act.

Billfishes and sharks are among the most sought after targets of the deep-sea angler. Consequently, a great deal of attention is focused on these fishes by anglers and conservation groups. Although billfishes (with the exception of swordfish) are not commonly utilized for food along the Atlantic and Gulf coasts, they are desirable as food in the Caribbean and frequently command a high price. Billfishes and sharks are also a significant and valuable by-catch of the tuna longline fishery. Tuna longline fisheries in the Fishery Conservation Zone (FCZ) of the United States are carried out primarily by Japan. South Korea and Taiwan also have tuna longline fleets in the Atlantic, but presently fish mainly in the equatorial and south temperate oceans.

The U.S. swordfish fishery, although relatively small, is a valuable fishery in terms of price-per-unit-catch. One of the restraining factors on the domestic swordfish fishery is the present Food and Drug Administration (FDA) restriction on the interstate sale of swordfish containing more than 0.5 parts per million mercury. There is some evidence, however, that despite these restrictions, a considerable amount of swordfish is transported from southern landing areas to metropolitan markets in the northeastern United States where it commands a high price. Many of these landings are unreported and there are few accurate data on landings of swordfish in Canada or the United States. Undoubtedly, any easing or removal of present FDA restrictions would result in a dramatic expansion of the fishery and possible rapid declines in catch-per-unit-effort, average individual size, and economic return (Caddy, 1976). Swordfish are the target of the Canadian longline fishery off the New England coast of the United States.

Sportfishing for sharks is increasing rapidly in popularity. Shark fishing does not require a large initial investment and sharks are readily available along most coastal areas of the United States. Fishing for sharks is particularly popular off the eastern United States where organized shark fishing tournaments and shark fishing clubs are numerous.

## 4. Relevant Problems and Issues

Both foreign and domestic fishermen utilize billfishes and sharks in the Fishery Conservation Zone, but the stocks of these species also extend outside the zone. In addition, there is a history of conflict between foreign and domestic fishermen who occupy the same fishing grounds.

Other problems include the prevention of overfishing of the total stocks and the establishment of an optimum yield for the FCZ. One of the major problems in the billfish fishery is lack of information on the status of stocks. The Japanese catch and effort data (Table 1, Figures 1, 2, 3, 4) suggest changes in the abundance of billfish stocks, yet the adequacy of these data for determining the significance of these changes is in question because for the most part, the billfish catch is incidental to the directed fishery for tunas. The management recommendations in this plan are designed to minimize conflict between domestic and foreign users, encourage development of an international management regime, and maintain availability of billfishes and



maintain availability of billfishes and sharks to the expanding U.S. fisheries.

#### C. THE PRELIMINARY FISHERY MANAGEMENT PLAN

##### 1. Preliminary Description of Fishery

a. Areas and stocks involved: The fishery for billfishes and sharks in the Atlantic Ocean and adjacent seas\* is conducted primarily by those nations that maintain longline fleets. The foreign longline fishery operates throughout the entire range of all of the Atlantic billfishes. Wise and Davis (1973) show the distribution of billfishes in the area of the Japanese longline fishery.

Within the FCZ the main concentration of longline fishing effort is in the northern Gulf of Mexico in the spring and summer and off northeastern United States in summer and early fall as determined from published Japanese fishing records. Foreign longliners also fish within the FCZ off Puerto Rico but their effort and the catch of billfishes are minimal.

There is a small but growing longline fishery for swordfish by Canada and the United States off the New England coast in the summer. Fishing by U.S. vessels extends into the Gulf of Mexico and off the east coast of Florida during the winter months. Since 1975, Florida fishermen, including some of the ones displaced from the U.S. fishery for spiny lobsters in the Bahamas, have fished for swordfish off Florida. Both commercial and recreational fishermen are involved in this fishery. There is increasing interest and activity in fishing for swordfish in the Gulf of Mexico and along the South Atlantic coast of the U.S. The swordfish fishery is a night fishery and the catch of other billfishes is minimal.

Off the Gulf and Atlantic coasts of the United States there is a directed domestic sport fishery for billfishes operating within 200 miles of the coast. In the 1950's sport fishing for billfishes was concentrated in only a few areas along the Atlantic coast. Sport fishing in the Gulf of Mexico, for example, was almost nonexistent. In recent years, however, newer and faster fishing boats have provided more opportunities to fish for billfishes in areas where previously no fishing took place. Now, sport fishing for billfishes takes place from every state along the Atlantic and Gulf coasts south of Massachusetts as well as from Puerto Rico and the U.S. Virgin Islands (Austin, et al., 1976). Anglers from the United States also fish extensively in foreign waters with their own vessels as well as in chartered vessels of the host nation.

The sailfish is primarily a coastal species, while the spearfish and the two marlins are more oceanic in their habitat. The swordfish ranges throughout both areas but is probably found in greater concentrations relatively near land masses. In the western Atlantic there are apparently two stocks of blue marlin; one in the South Atlantic and one in the North Atlantic (Mather, Jones, and Beardsley, 1972). The stocks of white marlin also appear to be separate in the North and South Atlantic based on longline catch records and tag returns. Tag return data also suggest that there may be two or more stocks in the North Atlantic; one summering off the mid-Atlantic coast of the

\*Unless otherwise noted, the term Atlantic includes the Caribbean Sea and Gulf of Mexico.

United States and the other in the Gulf of Mexico. Both of these groups apparently spend the winter off Venezuela (Mather et al., 1972). Tag returns from sailfish show mostly localized movements and relatively few long distance migrations. It is likely that separate stocks are present in the western halves of the North and South Atlantic although further partitioning with existing data is impossible. Nothing is known about the stock structure of the longbill spearfish. There is some evidence, although inconclusive, that separate races or sub-stocks of swordfish occur in the western North Atlantic. Beckett (1974) stated that although average size and catch rates in individual 1°-square areas dropped markedly after several seasons' fishing, expansion of fishing into adjacent unfished areas subsequently yielded larger fish and higher catch rates. In addition, slight differences in morphometric measurements have been detected, especially between fish from Georges and Grand Banks (Caddy, 1976).

Pelagic sharks have been taken for many years by sports fishermen from Maine to Texas. In this area, at least 20 species which exceed 100 pounds when fully grown are taken by anglers (J. Casey, NMFS, pers. comm.). Gentle (Masters Thesis, Univ. of Miami, 1977) lists sharks as one of the sport fishes of primary interest to fishermen on charterboats in Dade County, Florida. There is also a growing interest in recreational fishing for sharks throughout their range. Blue, mako, porbeagle, blacktip, silky, and dusky sharks are among the species most highly prized by recreational fishermen.

Meaningful stock assessment for shark populations in the area of concern is difficult for a variety of reasons. (1) There has never been a directed fishery on sharks sizeable enough to produce landings which might reflect the potential sustainable yield—most shark catches have been made incidental to other fisheries. (2) Many, probably most, of the sharks taken as incidental catches in U.S. fisheries have been discarded. In the era when shark livers were valued as vitamin sources (1938-50) livers were extracted at sea and the carcasses discarded. (3) Sharks taken in directed fisheries for use in manufacturing shark skin leather represented only small marginal operations at Salerno, Key West, and Marco, Florida, and in a few other areas.

b. Statistical history of exploitation: Prior to the entry of Japanese longline vessels into the Atlantic in 1956, the only fisheries for billfishes in the western Atlantic, other than sport fishing and some swordfish harpooning, were small subsistence fisheries throughout the Caribbean and off South America. Even sport fishing was limited to a few charterboats and a relatively small number of private vessels. In 1956 the Japanese first began longlining in the Atlantic and rapidly expanded their efforts; in 1965 they set almost 100 million hooks and caught almost 300,000 billfishes. The Japanese effort diminished considerably in the late 1960's and early 1970's. The entry of Cuba, South Korea, Taiwan, and Venezuela into the fishery more than made up for the decrease in Japanese effort (Kikawa and Honma, 1975). Table 1 shows the total catch of billfishes and the fishing effort in the entire Atlantic Ocean by the Japanese fleet from 1956 through 1974. The category sailfish includes the spearfishes since the Japanese do not discriminate between the two or more species. However, there is some evi-

dence that most of the catch consists of spearfishes because the sailfish is mainly a coastal species and for the most part stays out of the range of high-seas longline operations. This is substantiated by a lack of tag returns of sailfish from commercial longliners. Table 2, taken from Kikawa and Honma (1975), shows the longline catch of billfishes (excluding swordfish) by countries other than Japan; fishing effort is not available for these vessels. However, vessels of South Korea and Taiwan did not fish within the U.S. Fishery Conservation Zone. Foreign (Japanese, South Korea, and Taiwanese) vessels take about 6% of their total billfish catch within the FCZ (Tables 1,2,12). It was necessary to estimate this figure, since the catches are reported by 5°-squares which do not conform exactly to the boundaries of the FCZ.

The swordfish fishery was initially a U.S. and Canadian harpoon fishery operating primarily off New England and the maritime provinces of Canada. Catches ranged between 725-2,800 metric tons up until 1963 when the longline method was introduced and landings went to almost 10,000 tons (Table 3). Landings began to decline steadily to a low of about 32 tons in 1971, a level prompted by the increasing concern and enforcement of the ban of swordfish containing mercury levels greater than 0.5 parts per million. However, catches have begun to increase since then.

Although it was not possible to estimate the foreign catches of sharks within the FCZ, there have been significant U.S. recreational catches of sharks documented for the FCZ since 1965 (Deuel and Clark, 1968; Deuel, 1973).

(c) Significance of the historic domestic fishery: The development of the U.S. sport fishery for billfishes and sharks in the Atlantic is well documented in various books and popular articles. The first billfish taken on rod and reel sport fishing gear was caught off Miami, Florida, some time around 1900. Since then the development of fishing gear, boats, techniques, and the expansion of both the number of anglers (See II C e (1), page 13) and the fishing grounds have been rapid. These activities have economic significance for local communities on the Atlantic Coast.

Fishing for billfishes is considered by most fishermen to be the ultimate test in saltwater sport fishing and therefore has developed a charisma and aura of grandeur about it that has been further enhanced by the writings of Hemingway, Zane Grey, and others. Partly because of this, the capture of billfishes by other than anglers for purposes other than the pure excitement of catching a billfish is viewed with disfavor by the sport fishing community. Competition for the available fish is increasing within the sport fishery itself and unsuccessful fishing days are often blamed on overfishing by foreign longline fleets.

d. Types and numbers of vessels employed: (1) Domestic.

In the U.S. sport fishery, billfishes and sharks are caught from a variety of vessels. Generally, vessels are from 20 to 60 feet long and the method of power ranges from outboard engines to large diesels. Marlin fishing, as opposed to sailfish fishing, usually requires a larger vessel with an inboard diesel engine because of the distance that has to be traveled to reach suitable fishing grounds. In many areas off the east and Gulf coasts of the United States, productive marlin waters may be as much as 60-75

miles from shore, and sea conditions are frequently too rough for small vessels. Sailfish and sharks, however, are frequently caught within sight of land and are therefore well within range of small outboard powered vessels. Off the southeast Florida coast from Key West to Stuart, for example, large numbers of sailfish and some white marlin, blue marlin, and swordfish are caught each year by fishermen in outboard-powered vessels 16-25 feet long.

A 1968 survey of recreational fishermen from Massachusetts to Texas estimated that 2,468 vessels fished for billfishes from 50 ports (Austin et al., 1976). That survey indicated a large and growing recreational interest in billfishes and estimates were projected to 1975 and 1980. A September, 1976 poll of southeastern state conservation agencies estimated over 130,000 private and over 1,000 charter vessels capable of fishing for billfishes (Table 4). Ridgely (1975) estimated that in the Gulf and Atlantic regions, a total of 801,000 privately-owned recreational vessels fished in salt water. Although these several estimates provide a wide range of values, all indicate that the number of domestic recreational fishermen exploiting the billfish resource is large and the potential for capturing these billfishes is substantial.

The U.S. commercial fishery for swordfish is conducted by longline and harpoon vessels. U.S. longliners are generally much smaller than foreign longliners and set from 200-1,000 hooks per set as opposed to around 2,000 hooks by Japanese vessels. There are no accurate estimates available of the number of U.S. vessels participating in this fishery, but the number is probably between 50 and 100; about 50 "New England" and not more than 50 "Florida" vessels (J. Casey, NMFS, pers. comm.).

(2) Foreign. The number of foreign pelagic longline vessels operating in the Atlantic varies from year to year; however, it is likely that the number is between 100 and 300. The maximum number of foreign longline vessels that have been observed fishing in the FCZ of the United States varied from 1 to 13 in the Gulf of Mexico and from 3 to 15 in the South Atlantic coast for the years 1973-75 (Table 5). In 1977, however, almost 40 Japanese vessels were observed fishing in the Gulf of Mexico FCZ (Charles Fuss, NMFS, pers. comm.). Table 6 from Caddy (1976) gives the size and number of Canadian vessels landing swordfish in 1968-70.

e. Types and numbers of fishing gear employed: (1) Domestic.

Almost all sharks and billfishes, other than swordfish, are caught on rod and reel. Swordfish are caught by harpoons and longlines (commercial fishermen) and by rod and reel (sport fishermen). Since most billfishes and sharks are caught on rod and reel, the number of anglers is a minimum estimate of the amount of fishing gear employed.

In 1970 an estimated 63,000 persons fished for billfishes and caught about 235,000 of these fishes. Many of these fish were released alive. Additionally, an estimated 268,000 persons fished for sharks (including dogfish) and caught about 1,363,000 sharks (Deuel, 1973). Therefore, recreational fisheries for billfishes and sharks have substantial economic impact on U.S. coastal communities.

The number of billfish anglers has increased since 1970. Since 1971 the National Marine Fisheries Service has conducted daily dock sampling along the Gulf of Mexico in conjunction with tournament

sampling throughout the Gulf, western North Atlantic, and Caribbean Sea. The results of these surveys are shown in Table 7. North Carolina State officials estimated that between 1970 and 1975 the number of vessels participating in billfish tournaments in Morehead City increased from 34 to 117 (North Carolina Wildlife Resources Commission, Division of Marine Fisheries, pers. comm.). In Puerto Rico the number of vessels participating in marlin tournaments increased from 14 in 1954 to 70 in 1975 (Donald Erdman, Department of Agriculture, Commonwealth of Puerto Rico, pers. comm.). Although exact figures are not available, Alabama, Florida, South Carolina and Texas have reported steady increases in the rate of recreational vessel acquisitions, many of a size and type suitable for billfishing. For example, in South Carolina the rate of vessel acquisitions increased 30% in the last 2 years, from a base of 5,500 vessels, whereas Florida registers almost half a million vessels annually.

(2) Foreign. Pelagic longline is the primary gear used by foreign tuna vessels with the FCZ. A typical piece of gear fished by a single vessel may stretch for 60-70 miles and fish as many as 2,000 hooks. The gear is set and hauled approximately once every 24 hours. Since the Japanese began fishing in the Atlantic in 1956, they have published records of the numbers of hooks fished and the number of each species caught by 5° square of latitude and longitude. The number of hooks fished by the Japanese in the Atlantic increased rapidly to a peak of 97.5 million in 1965 but since then has fluctuated around 40 million. With the entry of South Korea and Taiwan into the fishery in the late 1960's and a subsequent rapid buildup of their effort, the total number of hooks fished in the entire Atlantic by all participants at present is probably between 150 and 200 million. Within the FCA, the number of hooks fished by Japanese longline vessels has averaged 3.9 million (1970-74) and ranged from 1.4 million (1970) to 7.2 million (1971) in this 5-year period. At present, longline vessels of South Korea and Taiwan do not fish in the FCZ.

f. Historical impact of foreign fishing on domestic fishery: (1) Competition for available stocks.

The U.S. sport fishery for billfishes is seasonal, particularly for the marlins. Both the white and blue marlin stocks in the western North Atlantic make extensive seasonal migrations (Mather et al., 1972) and are available to U.S. fishermen off their shores for only part of the year. The longline fishery, however, is highly mobile and moves seasonally to follow the major concentrations of tunas. Sport fishermen frequently state that when longliners have been fishing in a particular area, sport fishing for billfishes is poor for some time afterwards.

(2) Gear conflicts. There are numerous areas along the Atlantic and Gulf coasts of the United States where U.S. sport fishermen come into direct contact with Japanese longliners. Some of these are in the Gulf of Mexico off Port Aransas, Texas, and the Mississippi Delta; off Cape Hatteras, North Carolina; and off New Jersey and Maryland. U.S. fishermen have reportedly destroyed longline gear, although there is no record of U.S. sport fishing gear being damaged by foreign fishermen (NMFS Enforcement Agent Reports, 1976, St. Petersburg). Conflicts between foreign commercial and U.S. sport fishermen reached a peak in the late 1960's and prompted private negotiations

between representatives of the Japanese fishing industry and the U.S. sport fishing industry. These negotiations resulted in an informal understanding between the two parties that Japanese vessels would restrict their fishing to areas other than those where U.S. sport fishermen fished for billfishes, and to discourage the destruction of Japanese longline gear.

(3) Nontarget species mortalities. Billfishes and sharks are non-target species in the pelagic longline fishery; they are target species in the U.S. sport fishery. Swordfish are target species in the domestic harpoon and longline fisheries, the Canadian longline fishery and the U.S. sport fishery. Mather et al., (1972) estimated that the annual mortality rate for white marlin was 27%, based on tag return data, and de Sylva (1957) indicated that sailfish have a high natural mortality rate based on his analysis of length frequency data. There are no data on the mortality rates of any of the species of sharks. Dolphin-fish, wahoo, and king mackerel are non-target species in the U.S. fishery for billfishes but comprise an important and often desirable portion of the catch. These species are also taken as incidental catch in the pelagic longline fishery, but amounts are unknown.

(4) Economic interactions. Work has been done on the economics of various coastal communities and also on the impact of fishing in some of these communities (Daniel, 1974; Marr., 1974). However, this information generally has not been applied to shark and billfish fisheries. The data that are available (Gentle, MS) indicate that the economic impact is significant.

g. History of Regulation of foreign fisheries:

The longline fishery, except for exclusion from the 12-mile zone was not regulated before 1975. In 1975 and 1976 the Japanese fishery operated under bluefin tuna regulations, promulgated by the International Commission for the Conservation of Atlantic Tunas (ICCAT). These regulations did not greatly affect the overall longline fishing effort and thus had little or no effect on the catch of billfishes.

h. History of cooperative research, conservation, and data exchange:

In recent years the only official exchange of billfish data between foreign and U.S. scientists took place at the Hawaiian International Billfish Symposium in 1972 and at annual meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The Billfish Symposium drew together most of the scientists in the world who had worked or were working on billfishes. Most of the discussions dealt with billfish biology and there was very little information on status of stocks.

Each year the Standing Committee on Research and Statistics of ICCAT meets to discuss recent research and management problems for Atlantic tunas and billfishes. Both the U.S. and Japan have expressed concern over the declining catch rates for white and blue marlins. Unofficially, foreign and U.S. scientists routinely confer with each other over research activities and frequently exchange data.

Sharks have not received extensive attention as a fishery resource. The Anglo-American Caribbean Commission and the United Nations Fishery Development Program in the western North Atlantic have published reports and expedited data exchange on pelagic sharks. There has been a cooperative exchange of information on sharks between



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the United States and Canada for many years. Currently 19 countries, including South Korea, Japan, Taiwan, Cuba, France, Mexico, Germany, Italy, Canada, and Venezuela, are cooperating with U.S. scientists in tagging and in recovery of tags to trace migrations of sharks.

#### 2. Status of the Fishery Stocks

a. Distribution of exploited stocks: Wise and Davis (1973) showed the distribution of blue marlin in the Atlantic between 40° N. and 20° S. latitude based on catch records of the Japanese longline fleet. The major concentrations were in the western Atlantic. Mather et al. (1972) stated that the populations of blue marlin in the North and South Atlantic were probably distinct and hypothesized a July-September spawning season for the South Atlantic group.

The white marlin stocks also appear to be separate in the North and South Atlantic (Mather et al., 1972), although Wise and Davis (1973) demonstrated that considerable mixing probably takes place in January-March along the northern coast of South America based on the distribution of catches of the Japanese longline fleet. As with blue marlin, the major concentrations of white marlin occur in the western part of the Atlantic.

Mather et al. (1972) suggested an even further breakdown of the North Atlantic group of white marlin. Tag returns indicate that most of the white marlin in the western North Atlantic winter off the coast of Venezuela. In summer, one group migrates to the mid-Atlantic Bight off New Jersey and Maryland, while another group migrates to the northern Gulf of Mexico. A third group spends the summer off Venezuela. In the fall, the Gulf and mid-Atlantic groups begin their migration back to the wintering grounds off Venezuela.

The distribution of sailfish is difficult to determine from catch records of the longline fisheries since the Japanese include spearfish and sailfish in one category. The major concentrations of sailfish in the western North Atlantic, as determined from the sport fishery, occur off the southeastern coast of Florida, throughout much of the Caribbean, particularly off eastern Puerto Rico and Cozumel, Mexico; and in the northern and western Gulf of Mexico.

Wise and Davis (1973) found that the distribution of swordfish taken by the Japanese longline fishery does not vary significantly with season or locality. They advised caution in generalizing these findings, since swordfish apparently are night feeders and their findings were based only on longline gear fished during daylight hours.

There is little information about the distribution of pelagic sharks. Tag returns from a few species, however, indicate extensive migrations occur.

b. Abundance of exploited stock: For analysis purposes the area north of the equator and west of 40° W. longitude is considered to encompass the entire range of stocks of billfish and sharks under consideration. This area is referred to as either the western North Atlantic or Northwest Atlantic. Catch rates of blue marlin, white marlin, and sailfish/spearfish, based on the Japanese longline data, are shown in Figures 1, 2, and 3. The Index Area referred to in the figures is an area in the Caribbean bounded by 50° W. longitude, 20° N. latitude, Central and South America. It is a center of abundance for marlins and sailfish for which an extended and continuous time series of data is

available, and in which sufficient effort has been expended to adequately sample the year to year abundance of the stocks. The Index Area was used as the basis for generating a catch per unit effort (CPUE) index to be used in stock analysis. A detailed account of the analysis is presented in Otto, Zuboy, and Sakagawa (1977). It is apparent from the figures that measures of relative abundance of marlins and sailfish are to some degree area dependent. Also, the long term trend in the western North Atlantic (the assumed stock area) has been cyclical, i.e., a marked decrease in catch rates over time is not evident. The extreme spike in the curve for blue marlin is at least partially explained by examining catch rate in weight rather than numbers (Figure 4). It appears that for a few years in the early 1980's the catch was composed largely of small fish, but a great number of them. This demonstrates why the surplus production (Schaefer) model should be applied using weight (biomass) rather than numbers. The earlier analysis of billfish stocks used numbers of fish; the current analysis estimates maximum sustainable yield (MSY) in weight.

The status of billfish and shark stocks in the Western North Atlantic Ocean was investigated using a statistical base consisting of data from U.S. recreational fisheries surveys, published ICCAT and FAO statistics, and annual reports of effort and catch statistics in the Japanese tuna longline fishery (1956-1974). The last source was extensively analysed. Indexes of abundance using a time-area strata from the Japanese data were used to calculate "relative effort" following Gulland (1974). Total catch and relative effort were then used to calculate maximum sustainable yield (MSY) by application of the Schaefer model. MSYs were calculated under several assumptions for each species. The following estimates were selected as being most reasonable for management purposes:

	Metric tons	Number of fish
Blue marlin	4,000	40,000 to 50,000
White marlin	1,900	67,000 to 78,000
Sailfish/spearfish	900	48,000
Swordfish	5,900	
Sharks	41,000	

The estimates were based on biomass and are therefore, given in metric tons. However an estimate in numbers of fish is included for reference. Graphs of the yield curves are shown in Figures 6-10. The stocks appear to be at or near full exploitation in all cases. The "low recreational" catch values were used in the MSY calculations for marlins and sailfish because they gave a better fit to the model (Tables 9, 10, 11; Otto, Zuboy and Sakagawa, 1977). The MSY estimates for sharks and swordfish should be considered to be little more than proforma, as the data for these species are less reliable than the marlin and sailfish data.

c. Current fishing status: The amount of foreign (Japanese) longline fishing effort in the FCZ has fluctuated widely the past 20 years; the number of hooks set in 1974 was about 2.6 million and the catch of billfishes was about 10,800. The latest data available on the harvest of billfishes in the FCZ by the Japanese longline fishery are given in Table 12. Shown are fishing effort in num-

bers of hooks set, the numbers of vessel-days, and the numbers of billfishes caught within approximately 200 miles of the Atlantic, Gulf, and Caribbean coasts of the United States. Vessel-days were calculated by dividing the total number of hooks by 2,000. This number is the approximate number of hooks set by a single vessel in a 24-hour period. Also shown in Table 12 is the average effort and catch over a 5-year period. Figure 5 shows the approximate 200-mile zone and 5° square of latitude and longitude used to report catch data.

The U.S. commercial fishery for billfishes is directed mainly at swordfish. Landings peaked in 1964 at 1,387 metric tons, declined to a low of 32 metric tons in 1971 due to the FDA regulations, then rose to 578 metric tons in 1974.

Recreational catches of billfishes are difficult to ascertain with any degree of accuracy however, one recent estimate (1970) placed the total at 235,000 fish (Deuel, 1973). Domestic catches and capacity are presented in Section II C 3(b) and in Tables 9, 10, 11, and 13.

#### 3. Optimality

The development of a preliminary U.S. policy on foreign billfish and shark fishing within the U.S. 200-mile zone should consider the following critical issues:

(1) Sound and effective biological management must treat billfish and shark stocks throughout their ranges. Management policy should be established through international agreements between the U.S. and other harvesting nations.

(2) A number of socio-economic criteria can be identified for evaluating the impact of foreign billfish and shark fishing on domestic, recreational and commercial fisheries. An objective of this plan is to maximize the social and economic benefits to the recreational and commercial domestic fisheries. For billfish (excluding swordfish), the needs of the domestic recreational fishery are met by maximizing the quality of the angling experience such as the greatest number of fish hooked, and by maintaining a high availability of fish.

(3) Pub. L. 94-265 does not give the United States authority to manage the harvest of tunas, and the policy of the United States is that tuna fishery management should be conducted through international agreements. However, Pub. L. 94-265 clearly establishes U.S. authority to regulate foreign catches of billfishes and sharks.

An international agreement on billfish and shark management should be vigorously pursued. The action described in this plan, to manage billfish and shark stocks within the FCZ, indicates U.S. concern over the status of these stocks and our intention to do what we can to protect them and the interests of U.S. fishermen until such international agreement can be established. The economic value of billfish and sharks to the recreational fishing industry off the U.S. Atlantic and Gulf coasts is considerable. A survey of the recreational billfish and tuna fishery along the East and Gulf coasts of the U.S. in 1968 by the University of Miami examined fishing efforts and expenditures by only those fishermen who fished for billfishes and tuna (Austin et al., 1976). Extrapolations were made to 1975 and 1980 by Austin (1976) and are based on a conservative annual rate of increase in recreational fishing effort of 1.8 percent (U.S. Bureau of Outdoor Recreation, 1970). These data are believed to be minimum estimates as they

do not include, for example, a large, highly mobile fleet of trailerable vessels that are launched at a great many facilities along the eastern seaboard of the United States. Moreover, the value of this recreation must be much larger than out-of-pocket expenditures. It was estimated in 1968 that 222,545 angler days were spent in fishing for billfish. This had increased to 259,780 days by 1975 and it projected to reach 278,751 by 1980.

a. Optimum yield: The optimum yields for these fisheries are based on the percentage of the maximum sustainable yields determined above (Section II c.2.b.) for the Western North Atlantic which can be taken within the FCZ. The optimum yields consider objectives for management of the resources within the FCZ and foreign fishing which will occur outside the FCZ. The area within the FCZ is approximately 15 percent of the total area for which the MSY's for the involved stocks were calculated.

The 1978 U.S. domestic capacities for the shark and billfish stocks, based on catch rates, are given in Table 13. It is important to note that U.S. recreational fisheries for billfishes and sharks are rapidly expanding, probably at a higher rate than the 1.8 percent mentioned above. Unpublished NMFS data (Deuel, pers. comm.) indicate that marine recreational fishermen nationwide may have numbered 20 million in 1975, over twice the number reported for 1970. Estimates in 1977 by six Southeastern States show an average annual increase of 25 percent has occurred in the number of registered vessels capable of fishing for billfish in the last five years (Table 4). These increases suggest that the domestic fishermen are capable of taking increased numbers of sharks and billfish. Therefore, in determining current U.S. capacity (estimate of capability and intent to catch in 1978), the higher figures from the 1974 ranges specified in Tables 9, 10, and 11 were used to give the best estimate of U.S. capacity for 1978.

The OY's for blue marlin, white marlin, and sailfish/spearfish were determined by calculating the percent of total catch of these species from the western North Atlantic that occurred within the FCZ and taking that percent of MSY as OY for the FCZ. This assumes that OY for the western North Atlantic would be equal to MSY; a reasonable assumption since the stocks are not being over fished but are at or near full exploitation. Total catch and catch within the FCZ were calculated by averaging domestic and foreign catches for the period 1964 through 1974.

For sharks and swordfish, a different rationale was used. Sharks and swordfish are more densely concentrated over the continental shelves within the FCZ than in the open ocean outside the FCZ and generally have more localized distributions. Intensive fishing in the FCZ could result in harvesting a large portion of the MSY for the entire western North Atlantic and could detrimentally impact shark and swordfish stocks. Therefore, the OY's were modified downward from the MSY's to compensate for these factors on the basis of the percentage of the western North Atlantic contained in the U.S. FCZ. Since the FCZ is 15 percent of the total western North Atlantic, the OY's were set at 15 percent of the MSY. The OY's for billfishes and sharks were designed to prevent overfishing and maintain the MSY, recognizing the level of fishing both within and without the FCZ in 1978.

b. Total allowable level of foreign fishing. Since the domestic capacity is equal to the OY for all billfish species, there is no sur-

plus available for foreign fishing. The TALFF for sharks is the difference between OY and the U.S. capacity, or 1,150 m.t. When this TALFF is reached, no surplus is declared for all shark species and a no retention policy exists.

#### 4. Conservation and Management Measures Applicable to Foreign Fisheries

a. Data to be reported by foreign fishery: (1) Units for measuring and reporting catch. While fishing within the FCZ, each foreign fishing vessel will be required to maintain a daily fishing log that records: name and identification number of vessel; name of captain; date; midday fishing location (within 0.1° latitude and longitude); number of hooks set; number of each species of billfish (must separate sailfish and spearfish) and total number and estimated aggregate weight of sharks caught.

(2) Time requirement for reporting. A report listing catch and effort with gear capable of taking billfishes and sharks by time and area strata will be forwarded to the proper authority at least monthly.

b. Zones and/or periods of limited foreign fishing: (1) Vessel limitations: None; (2) Gear limitations: None; (3) Area limitations: None.

c. Catch limitations: The catch limitations are as follows: (1) To prohibit the retention of all billfishes caught within the FCZ. In addition, all billfishes taken shall not be removed from the water and shall be released in such a manner as to ensure maximum probability of survival, (2) when the aggregate catch of sharks by foreign vessels reaches the TALFF as set out in Table 13, the same non-retention provisions which apply to billfishes shall apply to sharks.

d. Other limitations, conditions, and requirements for foreign vessels catching billfishes and sharks: (1) Each foreign vessel fishing in the Fishery Conservation Zone must have a valid permit issued by the Secretary of Commerce.

(2) Each vessel entering the FCZ to engage in fishing must check in by radio or port call with U.S. regulatory authorities, and check out upon leaving the area.

(3) U.S. observers shall have boarding privileges and the full right to observe, sample all catches, tag fish, and inspect both fishing operations and cargo at any time without prior announcement on all foreign vessels fishing within the FCZ.

(4) Any billfishes or sharks (or parts thereof) observed aboard a foreign vessel fishing within the FCZ will be presumed to have been caught within the FCZ, unless such vessel has made arrangements with the appropriate U.S. enforcement authority prior to entering the FCZ to ensure that the billfish or sharks on board are identified as having been taken outside 200 miles.

(5) No foreign fishing vessel shall intentionally discard gear that could cause an environmental or navigational hazard.

e. Coastal State fishery conservation and management measures recommended for in-

1. The term fishing is defined in Sec. 3(10) of the FCMA as (A) the catching, taking or harvesting of fish; (B) the attempted catching, taking, or harvesting of fish; (C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or (D) any operations at sea in support of, or in preparation for any activity described in subparagraphs (A) through (C). Such terms do not include any scientific research activity which is conducted by a scientific research vessel.

corporation into this plan: None.

f. Other measures:

(1) It is recommended that an effective cooperative billfish and shark tagging program be established with foreign nations conducting fishing operations within the FCZ and the National Marine Fisheries Service.

(2) It is recommended that an international plan for regulation of billfishes and sharks be developed and implemented under the auspices of an international organization such as ICCAT.

g. Relationship of conservation and management measures to conservation needs:

As previously emphasized, a limited scientific base now exists with which stock analysis can be made for billfishes and pelagic sharks. Most stocks of billfishes appear to range well outside the U.S. FCZ and are subject to exploitation by foreign longline fisheries. At present, there is no international program to manage and conserve these stocks.

In view of these facts, the measures developed in this plan are designed both to regulate the catching, taking, or harvesting of billfishes and sharks by foreign vessels within the FCZ and to prohibit the retention of any billfishes and, when the TALFF has been reached, sharks so caught.

The NMFS considered excluding three species of sharks (blue, mako, and porbeagle) because of the possibility of overfishing these species and their importance to the U.S. recreational fishery. A decision was made not to exclude these species from the TALFF since status of the stocks data are limited and we did not want to place an undue burden on foreign fishermen. Generally, blue and porbeagle sharks are not taken south of Cape Hatteras. The first few months of foreign fishing is south of Cape Hatteras, diminishing the possibility of these species being taken before the TALFF is reached.

h. Relationships of conservation and management measures to national standards:

The recommended management measures proposed in this plan are fully consistent with the national standards for fishery conservation and management as outlined in Pub. L. 94-265 (Title III, sec. 301): in that (1) they attempt to prevent overfishing, (2) they are based on the best scientific information available, (3) the stocks are managed in the FCZ with attention to their occurrence throughout their ranges, (4) they do not apply to U.S. citizens and thus do not discriminate between residents of different states, (5) they promote more efficient use of the stocks by domestic fishermen, (6) they allow for variations among, and contingencies in, fisheries, fishery resources, and catches, and (7) they are designed to minimize management costs.

1. Approximate costs of conservation and management measures:

It is estimated that 4 man-years will be required by NMFS to adequately monitor foreign activities concerned with this plan and enforce fishing regulations off the U.S. Gulf and Atlantic coasts. An additional man-year will be required for Puerto Rico and the Virgin Islands. Salary and support costs for enforcement and management agents are estimated by NMFS for enforcement and does not include other NMFS costs associated with management, such as scientific research and data handling, cost to other Federal or State agencies such as patrol vessel operating expenses, or cost of observers, which will be borne by the foreign government.



WHITE MARLIN CPUE

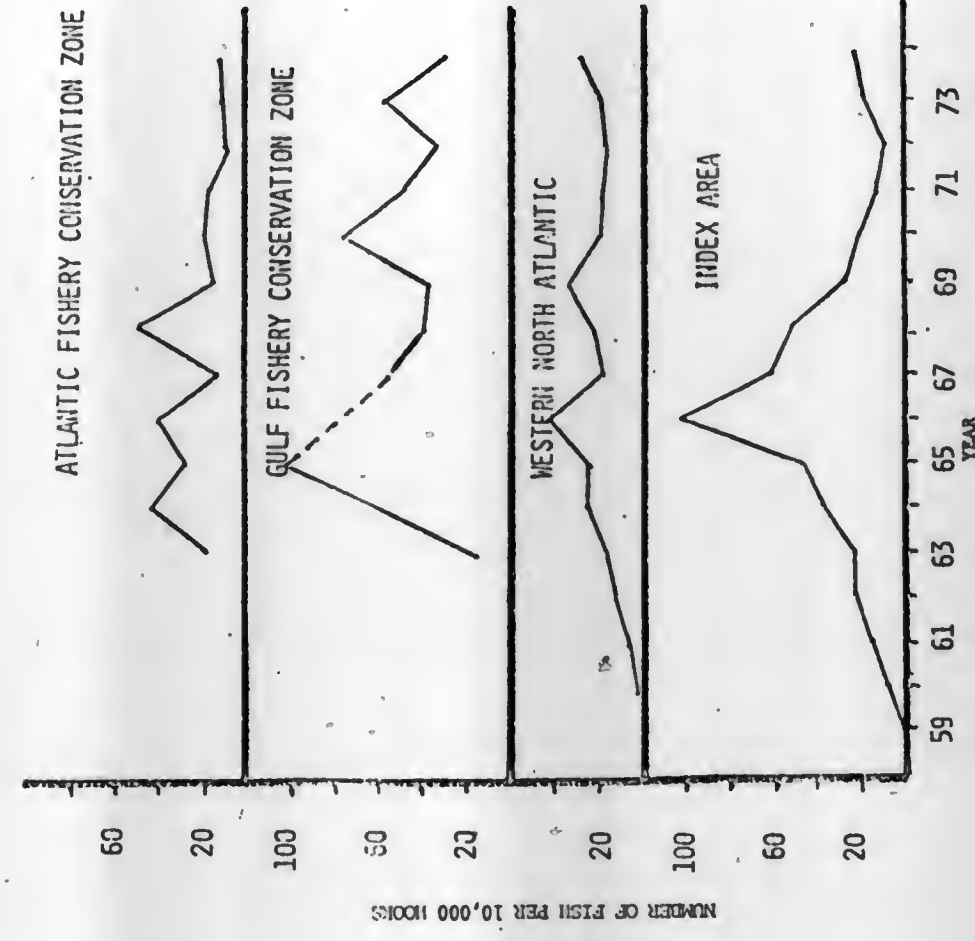


Figure 2. Numeric catch rates of white marlin from various areas by the Japanese longline fishery. See Figure 1 for explanation of areas.

BLUE MARLIN CPUE

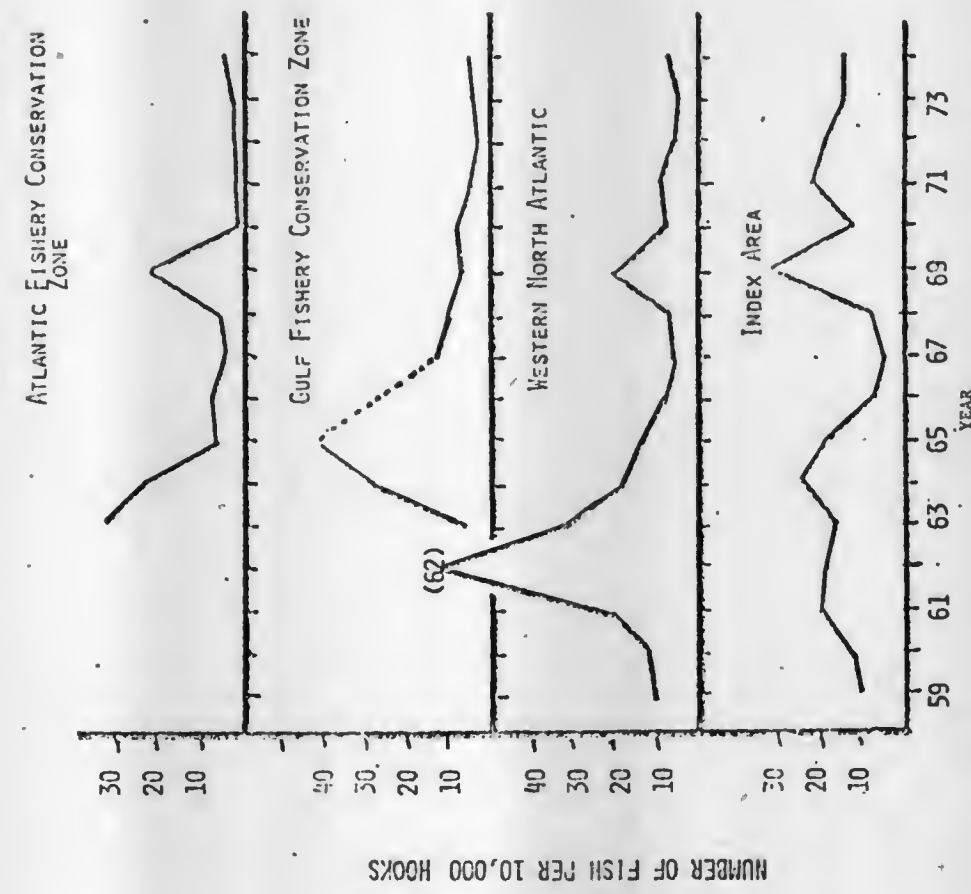


FIGURE 1. Numeric catch rates of blue marlin from various areas by the Japanese longline fishery. Fishery Conservation Zones are approximately 400 nautical miles North Atlantic is that area north of the equator and west of 40°W longitude. The Index area is that area of the Atlantic west of 50°W longitude and south of 20°N latitude.

SAILFISH/SPEARFISH CPUE

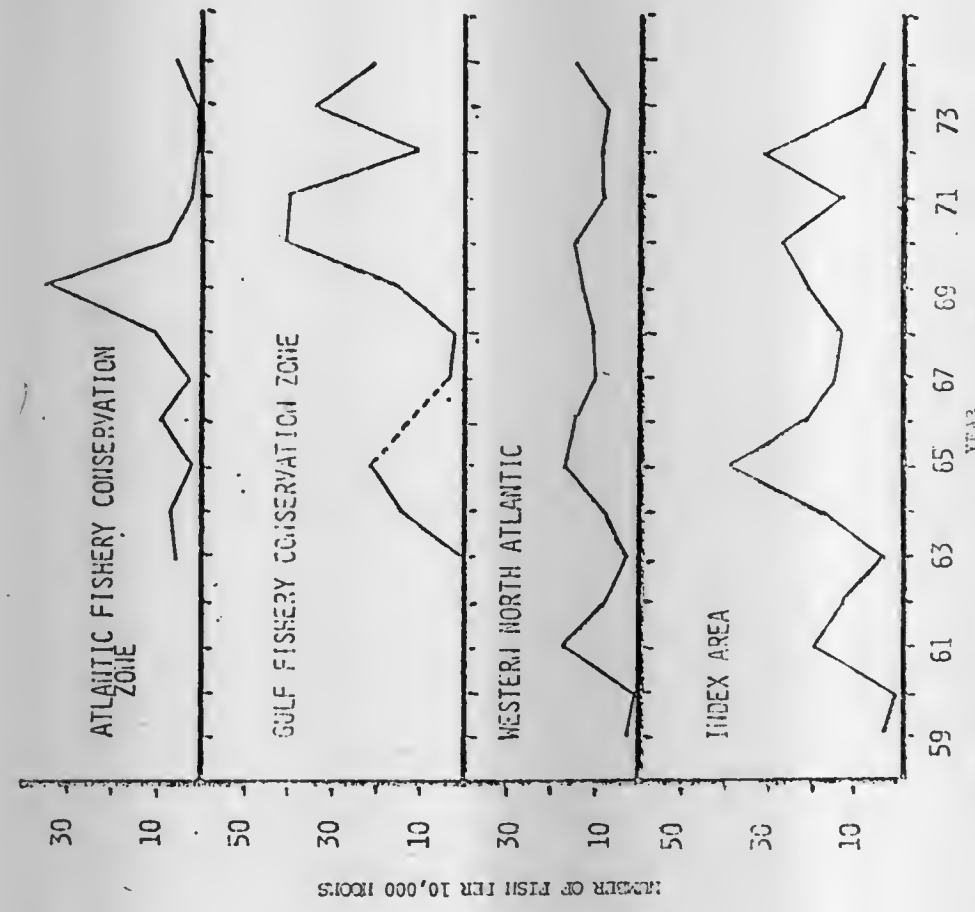


FIGURE 3. Numeric catch rates of sailfish/spearfish from various areas by the Japanese longline fishery. See Figure 1 for explanation of areas.

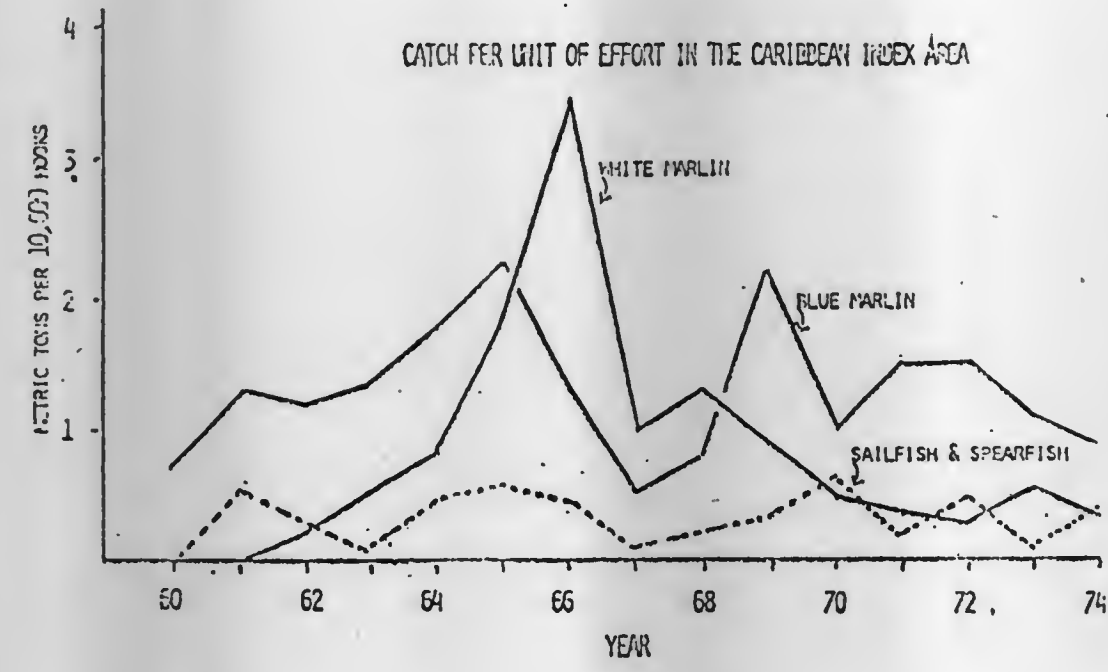


FIGURE 4. Index catch rates (metric tons) of marlins and sailfish/spearfish by the Japanese longline fishery.



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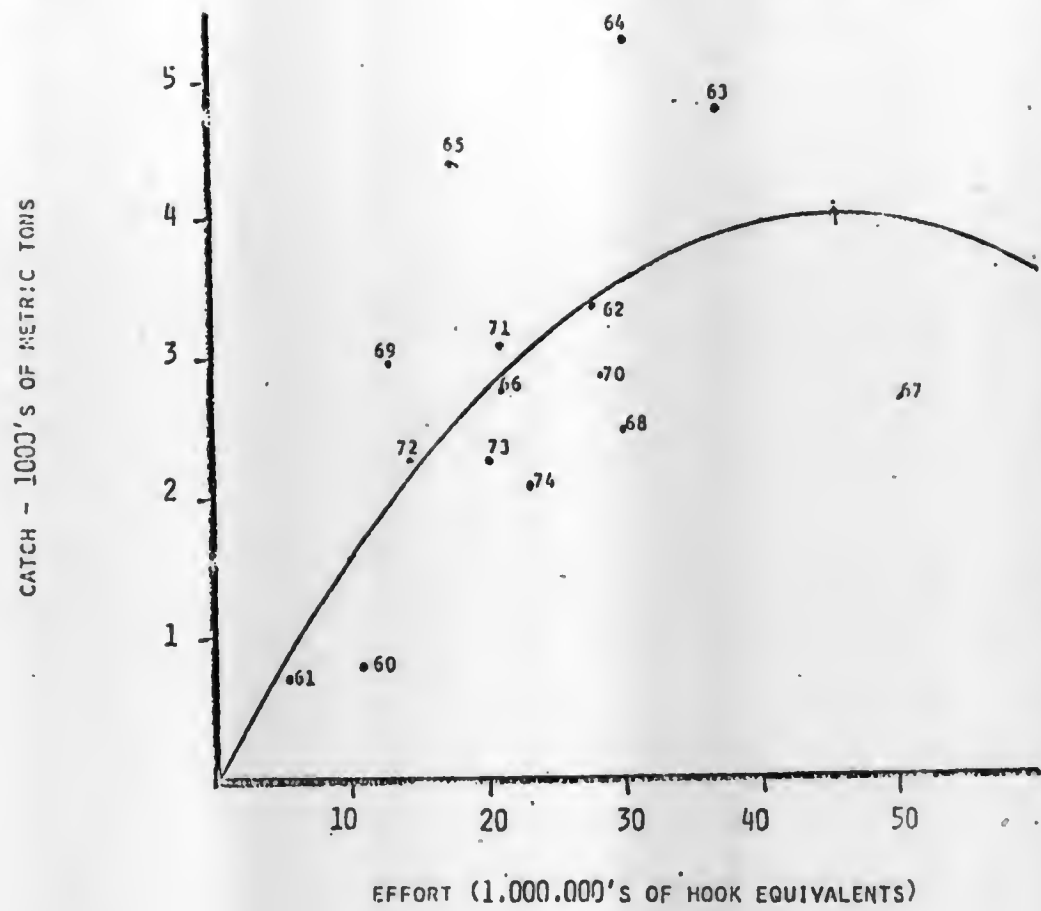


FIGURE 6. A historical catch-relative effort plot and Schaefer yield curve for blue marlin in the Western North Atlantic assuming the low recreational catch.

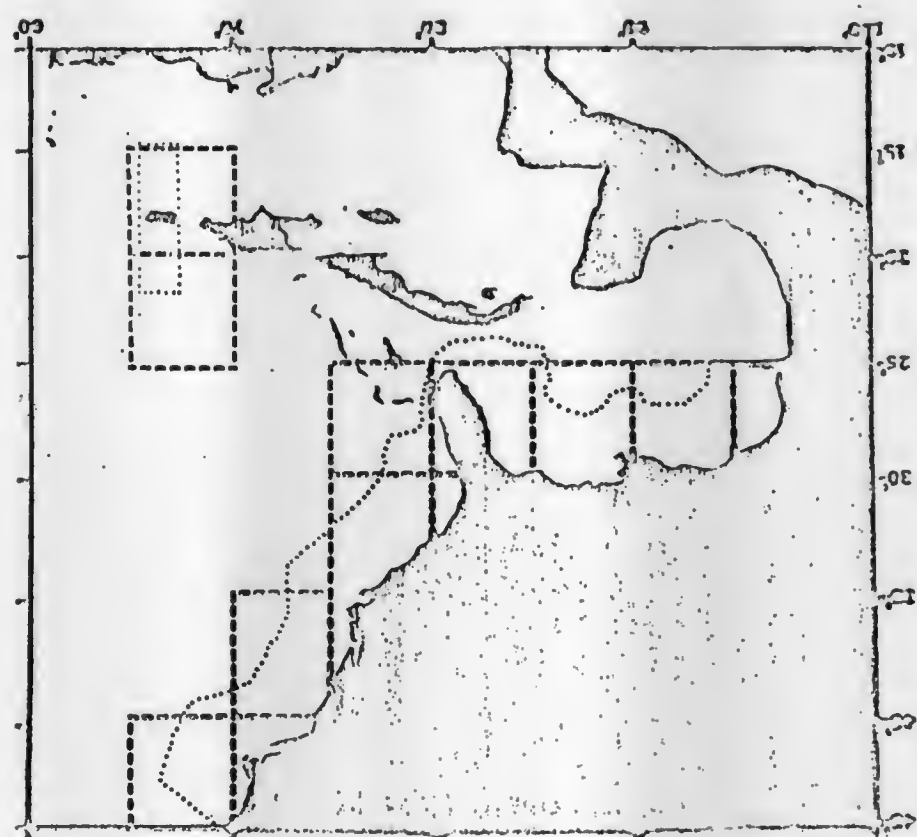


Figure 5 - Approximate seaward limit of 200-mile Fishery Conservation Zone (dotted line) and 50 squares of latitude and longitude from which Japanese longline catch and effort data were extracted (dashed line).

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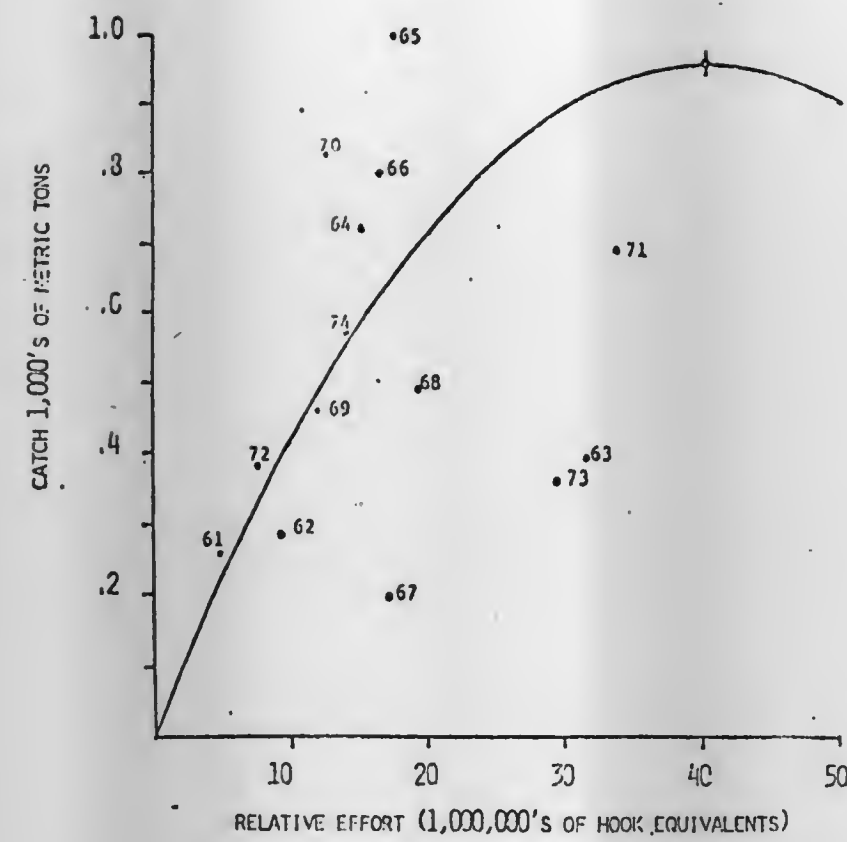


FIGURE 8. A historical catch-relative effort plot and Schaefer yield curve for sailfin in the Western North Atlantic assuming the low recreational catch.

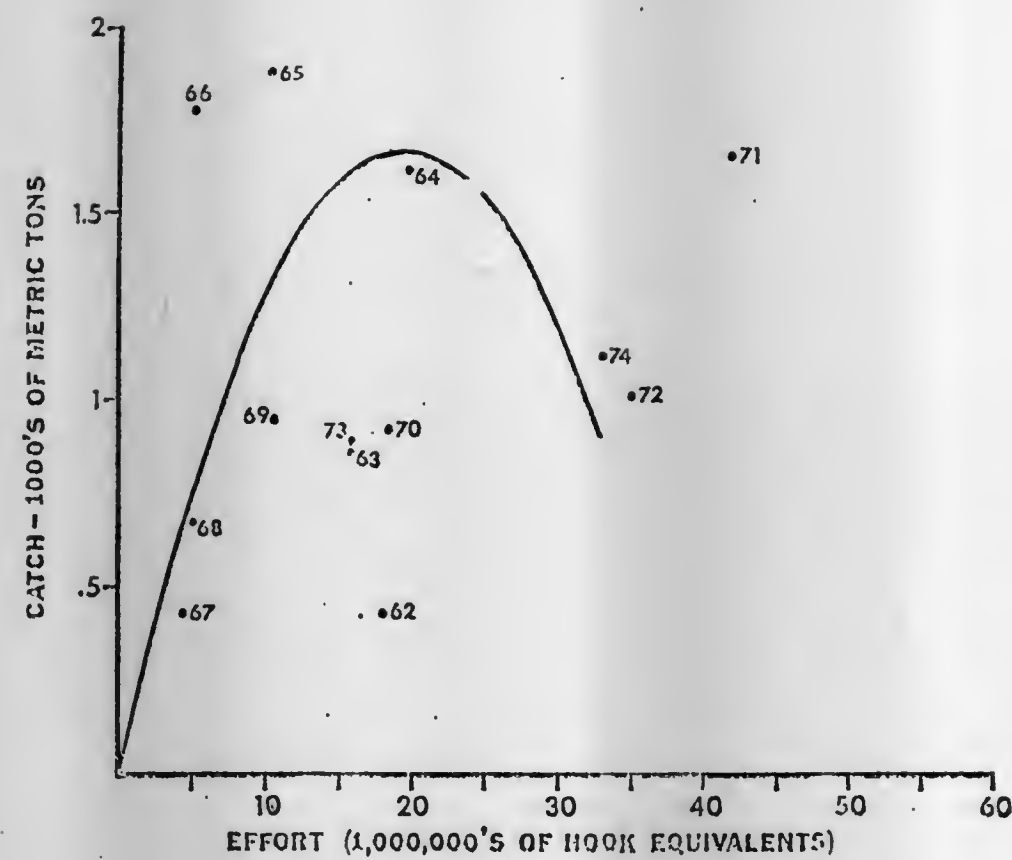


FIGURE 7. A historical catch-relative effort plot and Schaefer yield curve for white marlin in the Western North Atlantic assuming the low recreational catch.

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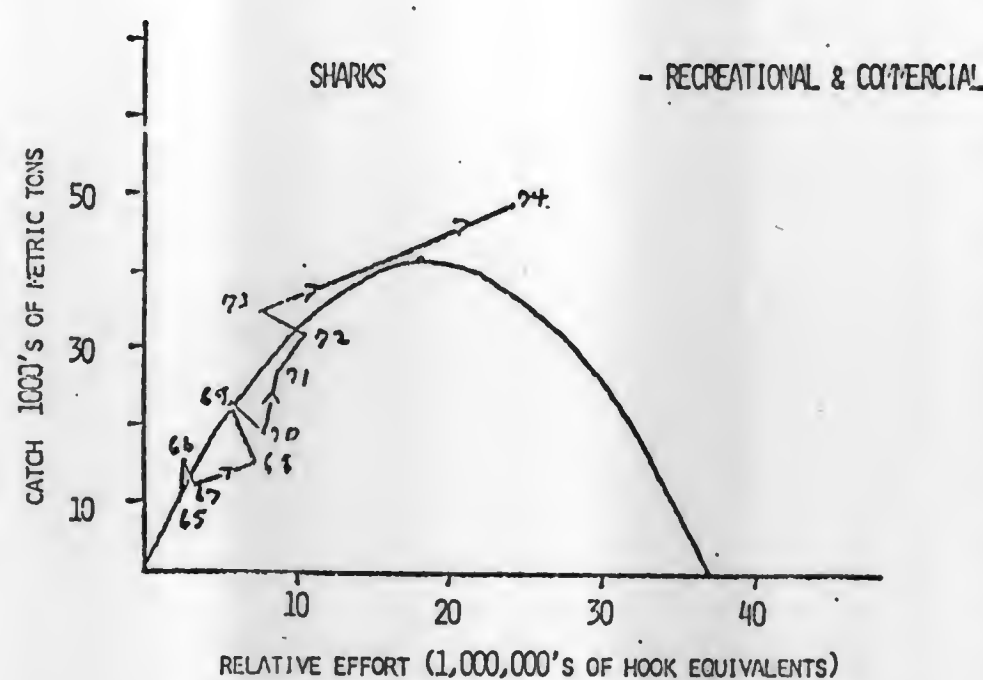


FIGURE 10. A historical catch-relative effort plot and Schaefer yield curve for pelagic sharks harvested by recreational and commercial fishermen in the North Atlantic.

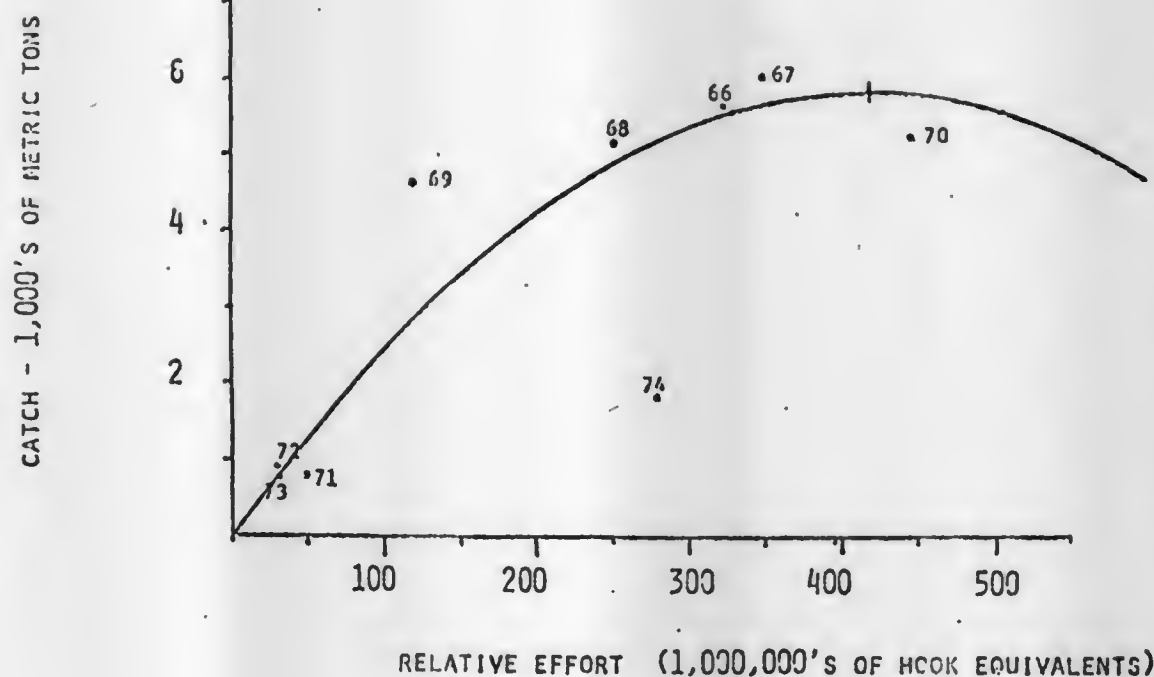


FIGURE 9. A historical catch-relative effort plot and Schaefer yield curve for swordfish in the Western North Atlantic.

TABLE 1. Catch of billfishes by the Japanese longline fishery, 1956-1974, in the entire Atlantic Ocean (Ref.: Japanese Far Seas Fishery Laboratory data).

Year	Hooks (1,000)	White Marlin	Blue Marlin	Swordfish	Sailfish Spearfish
-----1,000's of fish-----					
1956	131	1	-	-	-
1957	2,334	1	9	1	4
1958	8,000	1	10	1	4
1959	15,311	7	23	2	6
1960	20,725	11	27	3	12
1961	26,669	39	43	11	28
1962	54,104	111	111	19	67
1963	55,004	87	96	24	51
1964	84,998	163	84	31	118
1965	97,581	129	45	44	118
1966	51,814	89	22	22	65
1967	31,154	43	11	16	59
1968	30,247	43	9	17	52
1969	29,676	27	14	57	28
1970	41,580	32	11	57	39
1971	55,873	36	18	29	23
1972	44,139	15	5	32	11
1973	35,976	13	5	20	8
1974	38,495	12	4	25	7

Table 2. Estimated catch in number of billfishes (excluding swordfish) by Atlantic longline fisheries other than Japan (mainly South Korea and Taiwan), 1957-1973 (from Kikawa and Honma, 1975).

Year	White Marlin	Blue Marlin	Sailfish and Spearfish
1957	0	0	0
1958	0	0	0
1959	0	0	0
1960	0	0	0
1961	3,591	1,464	7,002
1962	4,798	1,953	9,336
1963	7,183	2,929	14,004
1964	4,789	1,953	9,336
1965	7,183	2,929	14,004
1966	8,380	3,417	16,338
1967	28,732	11,715	56,016
1968	40,704	16,596	79,356
1969	45,493	18,549	88,692
1970	44,296	18,061	86,358
1971	49,085	20,013	95,694
1972	51,479	20,990	100,362
1973	52,676	21,478	102,696

Table 3. Landings of swordfish, 1960-74. U. S. landings, 1960-70, are from Fisheries of the United States 1960-70. Statistics for other countries and for the United States from 1971-74 are from ICNAF Statistical Bulletins.

Year	Country			
	United States	Canada	Poland	German Democratic Rep.
-----Metric Tons-----				
1960	460	266	--	--
1961	409	1,662	--	--
1962	425	2,379	--	--
1963	1,252	8,510	--	--
1964	1,318	7,195	--	--
1965	1,229	1,874	--	--
1966	591	4,245	--	--
1967	475	4,795	--	--
1968	364	NA	--	--
1969	182	4,300	--	--
1970	273	453	--	--
1971	32	--	--	--
1972	87	--	--	--
1973	203	14	74	5
1974	578	2	--	--



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Table 4. Estimates of number of vessels capable of fishing for billfishes. Data obtained from state conservation agency employees (1977).

Respondent	Present number of billfish vessels		Growth in percent over the last five years	
	Private	Charter	Private	Charter
Texas Jim Stevens	4,000	300	300	200
Louisiana William Perret	101	10	30	0
Mississippi				
Alabama				
Florida John Jolly	125,000	1,000	120	50
Georgia Larry Smith	350	15	300	200
South Carolina David Cupka	350	32	100	20
North Carolina Michael Street	259	25	85	38
Total	130,060	1,302		

Table 5. Reported foreign longline vessels fishing for tuna in Fishery Conservation Zone in Southeast Region. (Source: Enforcement Division, NMFS, Southeast Region.)

Year	Area	Month	Nationality	No. of Vessels	Fishing Days	Estimated Catch/ Vessel-Day	Total Catch*
1973	Southern mid-Atlantic coast	Oct.	Japanese	6	180	4,900	882,000
		Nov.	"	6	180	4,900	802,000
							1,764,000
	Northern Gulf of Mexico	June	"	1	30	4,900	147,000
		July	"	2	60	4,900	294,000
		Aug.	"	2	60	4,900	294,000
1974	Southern mid-Atlantic coast	Aug.	"	3	90	6,000	540,000
		Sept.	"	10	300	6,000	1,800,000
		Oct.	"	15	450	6,000	2,700,000
							5,040,000
	Northern Gulf of Mexico	Aug.	"	1	30	6,000	180,000
		Sept.	"	1	30	6,000	180,000
							360,000
1975	Southern mid-Atlantic coast	Aug.	"	6	180	6,000	1,080,000
		Sept.	"	14	420	6,000	2,520,000
		Oct.	"	8	240	6,000	1,440,000
							5,040,000
	Northern Gulf of Mexico	June	"	13	390	3,000	1,170,000
							2,340,000

\*Includes tuna, billfishes, sharks. Weight in pounds.

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Table 6. Numbers and sizes of Canadian vessels landing at least some swordfish in the years 1958-70 (harpoon and longline) (from Caddy, 1976).

Year	Tonnage class			Total
	26-50	51-150	151+	
1968	27	73	10	110
1969	21	72	7	100
1970	19	69	9	97

Table 7. Results of dock and tournament sampling surveys by the National Marine Fisheries Service Oceanic Game Fish Investigations, 1971-75

Year	Boats Sampled	Hours Fished	Boat Days	Number Hooked		
				Blue Marlin	White Marlin	Sailfish
1971	281	12,439.1	1,554.9	260	497	461
1972	1,500	42,997.4	5,374.7	676	701	1,047
1973	1,273	25,055.4	3,131.9	716	724	842
1974	1,311	30,343.2	3,792.9	854	1,163	1,040
1975	1,671	35,726	4,466.1	879	1,770	2,092

Table 8. MSY estimates for billfish and sharks for the Northwest Atlantic (North of the equator and west of 40°W longitude).

	MSY	
	Metric Tons	Number of Fish
Blue Marlin <sup>1</sup>	4,000	40,000-50,000
White Marlin <sup>1</sup>	1,900	67,000-76,000
Sailfish/ Spearfish <sup>1</sup>	960	48,000
Swordfish <sup>2</sup>	5,800	
Sharks <sup>3</sup>	41,000	

1 Based on total longline catch and the low estimates of U.S. recreational catch (Tables 9, 10, 11).

2 Based on total commercial catch.

3 Based on total longline catch and an estimate of U.S. recreational catch.



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TABLE 9. Estimated Yearly Removals (metric tons) of Blue Marlin from the Atlantic Ocean North of the Equator and West of 40 Degrees  $\frac{1}{2}$  and Values of the Catch Per Unit of Effort Index Used to Calculate Relative Effort.

YEAR	LONGLINE COUNTRIES				U.S. RECREATIONAL		TOTAL			INDEX CPUE
	JAPAN <sup>2/</sup>	TAIWAN <sup>3/</sup>	CUBA <sup>4/</sup>	VENEZUELA <sup>5/</sup>	TOTAL <sup>6/</sup>	LOW <sup>7/</sup>	HIGH <sup>7/</sup>	LOW	HIGH	
1960	282	----	----	----	282	530	1749	812	2031	.741
1961	174	----	----	----	174	598	1964	722	2088	1.303
1962	2828	----	----	----	2828	592	1974	3408	4862	1.222
1963	4128	----	----	----	4128	658	2181	4786	6309	1.295
1964	4067	----	400	----	4467	828	2780	5295	7247	1.751
1965	3025	----	510	----	3535	838	2749	4373	6248	2.479
1966	1500	60	420	----	1980	765	2554	2745	4534	1.306
1967	290	215	1160	----	1665	1012	3404	2677	5069	.524
1968	342	414	800	300	1583	864	2907	2447	4490	.819
1969	598	294	600	400	1896	1070	3611	2966	5507	2.254
1970	715	392	300	400	1807	1049	3472	2856	5285	1.002
1971	1208	180	300	500	2188	917	3057	3105	5241	1.480
1972	251	258	450	600	1259	981	3249	2240	4508	1.533
1973	248	157	130	300	1194	1072	3572	2266	4766	1.126
1974	250	248	300	70	877	1200	3908	2077	4785	0.873

- 1/ Estimates exclude allowance for removals by countries such as Guadeloupe and Martinique which are not members of ICCAT and either do not report billfish landings to FAO or report billfish with unspecified tuna-like fishes.
- 2/ Whole Atlantic catch in weight according to ICCAT apportioned to the Western North Atlantic according to the proportion of blue marlin, by number, taken within the area.
- 3/ Whole Atlantic catch of billfish in weight apportioned to species assuming that the species composition of the Taiwanese billfish catch by weight is identical to that of Japan. Apportionment to western North Atlantic is according to the proportion, by number, of blue marlin taken in the area by Japan.
- 4/ ICCAT weight statistics apportioned by areal distribution of FAO.
- 5/ As reported to FAO, except for 1974.
- 6/ Includes landings by Panama and Korea in some years.
- 7/ Estimates from Otto, Zubov, and Sakagawa (1977) - unpublished report.

TABLE 10. Estimated Yearly Removals (metric tons) of White Marlin from the Atlantic Ocean North of the Equator and West of 40 Degrees  $\frac{1}{2}$  and Values of the Catch Per Unit of Effort Index Used to Calculate Relative Effort.

YEAR	LONGLINE COUNTRIES			TOTAL	U.S. RECREATIONAL		TOTAL		INDEX CPUE
	JAPAN <sup>2/</sup>	TAIWAN <sup>3/</sup>	VENEZUELA <sup>4/</sup>		LOW <sup>5/</sup>	HIGH <sup>5/</sup>	LOW	HIGH	
1960	17	----	----	17	195	650	212	667	.074
1961	6	----	----	6	193	647	199	653	.008
1962	180	----	----	180	239	800	419	980	.233
1963	658	----	----	658	206	829	864	1487	.554
1964	1398	----	----	1398	226	751	1624	2149	.821
1965	1635	----	----	1635	245	818	1880	2453	1.810
1966	1531	12	----	1533	244	812	1777	2345	3.501
1967	134	32	----	166	262	876	428	1024	.999
1968	248	111	30	389	282	940	671	1329	1.323
1969	443	221	40	704	244	815	948	1519	.900
1970	396	145	40	583	336	1120	919	1703	.499
1971	899	296	50	1245	305	1018	1550	2263	.372
1972	274	439	0	713	319	1066	1032	1779	.294
1973	399	148	0	547	336	1118	883	1665	.561
1974	411	349	9	769	350	1174	1119	1943	.348

- 1/ Estimates exclude allowance for removals by countries such as Guadeloupe and Martinique, which are not members of ICCAT and either do not report billfish landings to FAO or report billfish with unspecified tuna-like fishes.
- 2/ Whole Atlantic catch in weight according to ICCAT apportioned to the Western North Atlantic according to the proportion of white marlin, by number, taken within the area by Japan.
- 3/ Whole Atlantic catch of billfish in weight apportioned to species assuming that the species composition of the Taiwanese billfish catch by weight is identical to that of Japan. Apportionment to western North Atlantic is according to the proportion, by number, of white marlin taken in the area by Taiwan.
- 4/ The difference between total billfish reported to ICCAT and blue marlin reported to FAO was assumed to be 50 percent white marlin and 50 percent sailfish.
- 5/ Estimates from Otto, Zubov, and Sakagawa (1977) - unpublished report.

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TABLE 11. Estimated Yearly Removals (metric tons) of Sailfish from the Atlantic Ocean North of the Equator and West of 40 Degrees  $\frac{1}{2}$  and Values of Catch Per Unit of Effort Index Used to Calculate Relative Effort.

YEAR	LONGLINE COUNTRIES				U.S. RECREATIONAL		TOTAL		INDEX CPUE
	JAPAN <sup>2/</sup>	TAIWAN <sup>3/</sup>	VENEZUELA <sup>4/</sup>	TOTAL	LOW <sup>5/</sup>	HIGH <sup>5/</sup>	LOW	HIGH	
1960	18	----	----	18	172	574	190	592	.020
1961	14	----	----	14	245	821	259	835	.549
1962	55	----	----	55	233	775	288	830	.310
1963	124	----	----	124	264	882	388	1006	.122
1964	406	----	----	406	312	1035	718	1441	.470
1965	812	----	----	812	187	622	999	1434	.572
1966	499	5	----	504	293	979	797	1483	.483
1967	75	19	----	94	107	356	201	450	.117
1968	140	61	30	231	261	870	492	1101	.253
1969	137	20	40	197	260	863	457	1060	.388
1970	242	186	40	468	356	1185	824	1653	.654
1971	305	58	50	413	277	924	690	1337	.203
1972	107	9	0	116	264	879	380	995	.501
1973	84	12	0	96	263	875	359	971	.122
1974	172	35	9	216	351	1167	567	1383	.405

- 1/ Estimates exclude allowance for removals by countries such as Guadeloupe and Martinique, which are not members of ICCAT and either do not report billfish landings to FAO or report billfish with unspecified tuna-like fishes.
- 2/ Whole Atlantic catch in weight according to ICCAT apportioned to the Western North Atlantic according to the proportion of sailfish, by number, taken within the area. Japanese do not separate sailfish and spearfish in their statistics; spearfish landings are considered minor.
- 3/ Whole Atlantic catch of billfish in weight apportioned to species assuming that the species composition of the Taiwanese billfish catch by weight is identical to that of Japan. Apportionment to western North Atlantic is according to the proportion, by number, of sailfish taken in the area by Taiwan.
- 4/ The difference between total billfish reported to ICCAT and blue marlin reported to FAO was assumed to be 50 percent white marlin and 50 percent sailfish.
- 5/ Estimates from Otto, Zubov, and Sakagawa (1977) - unpublished report.

Table 12. Effort in number of hooks, number of vessel days, and catch in number of fish by the Japanese longline fishery, 1961-1974, in the Gulf of Mexico, the western North Atlantic, and off Puerto Rico and the Virgin Islands within 200 miles of the U.S. coast. (BM = blue marlin, WM = white marlin, SM = swordfish, SF = sailfish/spearfish.) Harbors squares included are 0434, 0792, 0813, 0814, 0823, 0804, 0824, 1162, 1163, 1164, 1171, 1512, and 1521.

GULF OF MEXICO							
Year	Number of Hooks	Vessel Days	BM	WM	SM	SF	Total
1961	410,336	205	1,103	2,512	123	587	4,335
1962	336,791	168	1,392	3,425	83	712	5,612
1963	0	0	0	0	0	0	0
1964	103,997	52	135	561	85	41	822
1965	101,990	51	102	396	18	27	543
1966	41,201	21	28	155	11	59	251
1967	392,610	198	331	2,976	310	1,604	5,041
1968	1,053,745	527	490	5,089	424	4,226	10,729
1969	949,478	475	295	3,204	381	210	4,788
1970	658,876	329	275	3,761	165	2,228	6,427
1971	708,429	350	354	2,113	261	1,379	4,187
1970-74 AVERAGE	751,027	376	348	3,428	288	2,069	6,134

ATLANTIC							
Year	Number of Hooks	Vessel Days	BM	WM	SM	SF	Total
1961	730,602	365	1,726	3,247	62	496	5,531
1962	2,009,116	1,055	1,053	5,519	809	423	7,784
1963	1,188,336	594	712	4,912	199	1,052	6,875
1964	243,602	122	75	267	18	49	410
1965	133,768	67	59	512	23	128	802
1966	359,639	78	343	233	11	542	1,129
1967	974,340	487	80	1,827	761	597	3,265
1968	6,180,180	3,090	1,200	10,581	4,723	877	17,381
1969	3,036,268	1,518	607	2,374	1,950	362	5,353
1970	5,844,545	1,922	990	4,020	2,466	380	7,475
1971	1,090,548	565	735	2,140	2,334	962	6,171
1970-74 AVERAGE	3,158,172	1,592	642	4,200	2,447	636	7,925

PUERTO RICO - VIRGIN ISLANDS							
Year	Number of Hooks	Vessel Days	BM	WM	SM	SF	Total
1970	567,846	284	1,437	1,455	55	123	3,070
1971	526,473	263	791	905	61	140	1,897
1972	0	0	0	0	0	0	0
1973	0	0	0	0	0	0	0
1974	39,232	20	82	44	12	66	204
1970-74 AVERAGE	226,710	113	462	481	26	66	1,036



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Table 13. Maximum sustainable yield (western North Atlantic), optimum yield (FCZ), U.S. capacity, and TALFF <sup>1/</sup>

Species	MSY <sup>2/</sup>	OY <sup>3/</sup>	U.S. Capacity (1978) <sup>4/</sup>	TALFF
Blue marlin	4,000	2520	3,908 <sup>4/</sup>	0
White marlin	1,900	1159	1,174 <sup>4/</sup>	0
Sailfish/Spearfish	960	604 <sup>6/</sup>	1,167 <sup>5/</sup>	0
Swordfish	5,800	870	1,387	0
Sharks	41,000	6,150 <sup>6/</sup>	5,000 <sup>7/</sup>	1,150

- <sup>1/</sup> All values in metric tons
- <sup>2/</sup> For Western North Atlantic (from Section II.C.2.b.)
- <sup>3/</sup> Explanation in Section II.C.3.a.
- <sup>4/</sup> From Tables 9, 10, and 11; estimated removal by U.S. recreational fisheries
- <sup>5/</sup> The 1964 catch was used as an indication of capacity because much of the catch in recent years has gone unreported.
- <sup>6/</sup> FCZ area is approximately 15% of Western North Atlantic, for reasons explained in section II.C.3.a. OY for FCZ is estimated as 15% of MSY
- <sup>7/</sup> This value is derived from the recreational catch of 9,917 M.T. in 1974 (Deuel,pers.comm.) which is estimated as 50% pelagic sharks or ca. 5,000 M.T.

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[FR Doc. 78-2188 Filed 1-26-78; 8:45 am]



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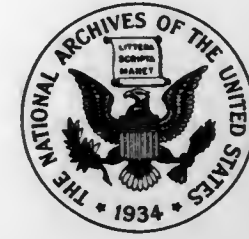
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FRIDAY, JANUARY 27, 1978  
PART V



DEPARTMENT OF  
LABOR  
Employment Standards  
Administration

MINIMUM WAGES  
FOR FEDERAL AND  
FEDERALLY ASSISTED  
CONSTRUCTION

General Wage  
Determination Decisions



[4510-27]

## DEPARTMENT OF LABOR

## Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND  
FEDERALLY ASSISTED CONSTRUCTION

## General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued

## NOTICES

subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

## MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C.

20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original general wage determination decision.

## MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Hawaii: HI77-5087 Sept. 23, 1977.  
Idaho: ID77-5088 Oct. 7, 1977.  
Louisiana: LA77-4220 Sept. 23, 1977.  
LA78-4001 Jan. 6, 1978.  
Nevada: NV77-5077 Sept. 23, 1977.  
New Jersey: NJ77-3093 July. 8, 1977.  
Oregon: OR77-5078 Sept. 23, 1977.  
South Dakota: SD77-5079; SD77-5086 do.  
Texas: TX77-4245; TX77-4252; TX77-4256; TX77-4258; TX77-4261; TX77-4265; TX78-4005 Jan. 20, 1978.

## SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

California: CA77-5092(CA78-5004); Sept. 30, 1977.  
CA77-5093(CA77-5005);  
CA77-5094(CA77-5006);  
CA77-5095(CA78-5007).  
Maryland: MD76-3152(MD78-3000) Apr. 2, 1978.  
Wyoming: WY77-5071(WY78-5008) July 1, 1977.

## CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General wage determination decision No. NY77-3116, pertaining to Chemung County, N.Y., is canceled. Agencies with building, heavy, and highway construction projects pending in this location should utilize the project determination procedure by submitting Form SF-308. See regulations Part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of Decision No. NY77-3116 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 20th day of January 1978.

RAY J. DOLAN,  
Assistant Administrator,  
Wage and Hour Division.

## NOTICES

MODIFICATIONS P. 2

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
DECISION #1477-5220 - Mod. #5 (42 FR 48658 - September 23, 1977) Bossier, Caddo & Calcasieu Parishes, Louisiana					
Change: Glaziers - Bossier & Caddo Parishes, Louisiana		.30			.04
DECISION #1478-4001 - Mod. #1 (43 FR 1276 - January 6, 1978) Statewide Louisiana					
Change: Glaziers - Zone 4 Ironworkers (Building Construction); Zone 1	.63	.30			.04
DECISION #1477-5077 - Mod. #5 (42 FR 48662 - September 23, 1977) Statewide (Does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada					
Change: Plumbers; Steamfitters; Remaining Counties and Nye County (north half)	.73	.90	\$1.95		.10
Plumbers (Utility); Statewide except Clark, Esmeralda, Lincoln, Nye County (south half) Sheet Metal Workers; Remaining Counties and Nye County (north half)	.73	.90	1.95		.10
	1.04	2.13			.05

MODIFICATIONS P. 1

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
DECISION #1477-5087 - Mod. #4 (42 FR 48663 - September 23, 1977) Statewide Hawaii					
Change: Asbestos Workers Roofers	.65	\$2.00	.70	.06	
	.95	1.00	.50	.10	
Add: Ceramic Tile Finisher Terrazzo Base Finisher Terrazzo Floor Grinder and Finisher	1.10	1.45		.10	
	1.10	1.45		.10	
	1.10	1.45		.10	
DECISION #1477-5088 - Mod. #4 (42 FR 54709 - October 7, 1977) Statewide Idaho					
Change: Line Construction Workers (Area 1): Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties; Cable Splicers; Leadman Pole Sprayer Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	.45	1%	.10	1/2%	
Tree Trimmer Tree Equipment Man Head Cutter (Chipper); Head Grindman; Podestman; Jackhammer Man Groundman; Tree Trimmer Helper	.45	1%	.10	1/2%	
	.45	1%	.10	1/2%	
	.45	1%	.10	1/2%	

Zone Pay: Each classification will receive the base rate plus Zone A - \$1.25, Zone B - \$2.00, Zone C - \$2.75, Zone D - \$4.00.

Base Zone: 0-3 miles from geographical center of towns listed below.  
Zone A: 3-20 miles radius from geographical center of towns listed below.  
Zone B: 20-35 miles radius from geographical center of towns listed below.  
Zone C: 35-50 miles radius from geographical center of towns listed below.  
Zone D: In excess of 50 miles from geographical center of towns listed below.

Spokane, Orofino, Coeur d'Alene, Sand Point, Kellogg, Lewiston.



MODIFICATIONS P. 3

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
DECISION #N377-3093 - Mod. #6 (42 FR 35367 - July 8, 1977) Bergen, Essex, Hudson, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey				
Change: Drywall tapers and finishers				
Electricians & Cable Splicers:				
- Zone 3	1.50	.50		.10
- Zone 8	6A	3A +.90		.02
- Zone 9	6A	3A +.50		.015
- Zone 10	6A	3A +.29		.02
- Zone 12	6A	3A +.90		.02
Laborers, Building Construction:				
- Zone 3				
Regular laborers	.50	.50		.02
Motor mixers, scaffold men, and pneumatic hammer operators	.50	.50		.02
Line Construction:				
- Zone 1				
Linemen, Cable Splicers, Line Equipment Operators, Line Truck Operators, Groundmen and Welders	7A	10A		3/4 of 1A
- Zone 2				
Linemen and Equipment Operators	6A	8A		3/4 of 1A
Cable Splicers	14.41	8A		3/4 of 1A
Groundmen	9.33	6A		3/4 of 1A
- Zone 3				
Linemen, Cable Splicers, Equipment Operators and Groundmen	5A	8A +.58		3/4 of 1A
- Zone 4				
Linemen, Cable Splicers, Line Equipment operators and Groundmen	6A	6A +.54		3/4 of 1A
- Zone 5				
Linemen, Cable Splicers Line Equipment Operators and Groundmen	6A	3A +.55		3/4 of 1A
- Zone 6				
Linemen, Cable Splicers, Line Equipment Operators and Groundmen	6A	3A +.60		3/4 of 1A

MODIFICATIONS P. 4

DECISION #N377-3093 - Mod. # 6	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Line Construction: (Cont'd)					
Zone 7					
Linemen and Equipment Operators	\$13.10	6A	3A +.60		3/4 of 1A
Groundmen and Line Truck Operators	11.55	6A	3A +.60		3/4 of 1A
Zone 8					
Linemen and Equipment Operators	13.14	6A	3A +.55		3/4 of 1A
Groundmen and Winch Operators	11.28	6A	3A +.55		3/4 of 1A
Zone 9					
Linemen and Equipment Operators	13.14	6A	3A +.60		3/4 of 1A
Groundmen and Line Truck Operators	11.28	6A	3A +.60		3/4 of 1A
Zone 10					
Linemen, Cable Splicers, and Equipment Operators	12.85	6A	3A +1.29		3/4 of 1A
Groundmen and Winch Operators	12.00	6A	3A +1.29		3/4 of 1A
Zone 11					
Linemen, Cable Splicers, and Equipment operators	12.85	6A	3A +.55		3/4 of 1A
Groundmen and Winch Operators	12.00	6A	3A +.55		3/4 of 1A
Zone 12					
Linemen and Equipment Operators	12.90	12A	7A		3/4 of 1A
Groundmen and Winch Operators	12.00	12A	7A		3/4 of 1A
Zone 13					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	11.20	6A	3A +1.00		3/4 of 1A
Groundmen	6.67	6A	3A +1.00		3/4 of 1A
Zone 14					
Linemen, Line Truck Operators, Equipment Operators and Cable Splicers	11.20	6A	3A +.60		3/4 of 1A

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MODIFICATIONS P. 5

DECISION #N377-3093 - Mod. # 6	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Line Construction: (Cont'd)					
Zone 14					
Groundmen	\$ 6.67	6%	3% +.60		3/4 of 1A
Marblesetters, Terrazzo Workers, & Tilesetters:					
Zone 2					
Terrazzo Workers	11.18	1.21	1.50		
Marblesetters, Terrazzo Workers, & Tilesetters Finishers:					
Zone 1					
Terrazzo Finishers	9.84	.76	1.95		
Pipefitters: Hudson Counties	11.50	1.00	1.00	1.00	.25
Plumbers & Steamfitter:					
Zone 1					
Steamfitter	11.50	1.00	1.00	1.00	.25

MODIFICATIONS P. 6

DECISION NO. OR77-5078 - Mod. #1 (42 FR 48700 - September 23, 1977) Statewide, Oregon	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change:					
Bricklayers: Graysmoma, Clackamas, Clatsop, Columbia, Gilliam, Hood River, Marion, Multnomah, Morrow, Polk, Sherman, Tillamook, Wasco (north of the City of Medford), Washington, Yamhill, Baker, Union, Umatilla, Walla Walla, North half of Malheur Cos.					
	\$11.83	.75	.85		.15
Electricians:					
Baker, Gilliam, Grant, Morrow, Umatilla, Wheeler Counties					
Electricians	13.17	.57	3A+.70		.02
Lead Cable Splicers	13.83	.57	3A+.70		.02
Coos, Curry, Lincoln, and these portions of Douglas and Lane Counties lying west of a line north and south from the NE corner of Coos County to the SE corner of Lincoln County					
Electricians	12.55	.90	3A+2.00		.04
Cable Splicers	13.81	.90	3A+2.00		.04
Benton, Crook, Deschutes, Jefferson, Lane (eastern portion), Linn, Marion, Polk, St. of Yamhill Counties					
Electricians	14.80	.65	3A+1.00		.06
Lead Cable Splicers	15.98	.65	3A+1.00		.06
Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington, W. of Yamhill Counties					
Electricians	14.80	.65	3A+1.00		.05
Lead Cable Splicers	15.55	.65	3A+1.00		.05
Harney, Jackson, Josephine, Klamath, Lake, that portion of Douglas lying east of a line running north and south from the NE corner of Coos to the SE corner of Lincoln Counties					
Electricians	13.38	.65	3A+1.00		.08
Cable Splicers	14.72	.65	3A+1.00		.08

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MODIFICATIONS P. 7

DECISION NO. OR77-5078 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Glaziers	\$11.11	.51	.65		.01
Ironworkers					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	11.85	.93	1.20		.10
Lathers	10.85	.60	.75		.01
Marble Setters					
Baker, Union, Umatilla, Wallowa, N of Malheur Cos.	11.06	.55	.50		
Mason Tenders: (including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo workers; Topping for cement finishers and mortar mixer)	9.46	.90	1.00		.10
Painters:					
Brush	9.92	.55	.70		.10
Spray	10.32	.55	.70		.10
Brigade, High work over 50' (brush)	10.67	.55	.70		.10
Brigade, High work over 50' (spray)	11.07	.55	.70		.10
Plumbers; Steamfitters; Coors, Curry, West Coast (City of Florence)	11.08	.81	1.40		.10
Remainder of Klamath and Lake Counties	12.73	.90	1.55		.10
Roofers:					
Clackamas, Clatsop, Columbia, Gilliam, Hood River, Multnomah, Sherman, Tillamook, Wasco, Washington and Wheeler Cos.	10.45	.70	.80		
Roofers					
Handling of irritating material (coal, tar or epoxy) in confined area	10.95	.70	.80		
Handling of irritating material (coal, tar or epoxy) in confined area	11.20	.70	.80		

MODIFICATIONS P. 8

DECISION NO. OR77-5078 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Coors, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake and Lane Counties	\$10.49	.65	.10		
Roofers					
Spray and/or application of irritating materials in a confined area	11.49	.65	.10		
Sheet Metal Workers: Coors, Curry, Douglas, Klamath Lake, Lane, Jackson, and Josephine Counties	12.635	.61	.61		.03
Terrazzo Workers: Baker, Umatilla, Union, Wallowa and N of Malheur Counties	10.39	.55	.50		
Tile Setters: Clatsop, Clackamas, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Wasco (north of the City of Eugene), Washington, Tillamook and N of Yamhill County	10.44	.70	.75		.15
Baker, Umatilla, Union, Wallowa Counties and N of Malheur Counties	10.39	.55	.50		
Line Construction: All Counties except Malheur	12.88	.45	.34	.10	1/24
Cable Splicers; Leadman Linemen; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	11.63	.45	.34	.10	1/24
Tree Trimmer	10.50	.45	.34	.10	1/24
Line Equipment Man	10.02	.45	.34	.10	1/24
Head Groundman (chipper); Jackhammer Man	8.76	.45	.34	.10	1/24
Groundman; Tree Trimmer Helper	8.24	.45	.34	.10	1/24
ADD: TIMBER SALES ROADS: Operating Engineer	8.65	1.00	1.00		
Operating Engineer Assistant (Oilier)	7.64	1.00	1.00		
Teamster	8.214	.68	.70		
Laborer	7.106	.90	1.00		
Power Saw Operator, Driller, Powderman	6.856	.90	1.00		

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MODIFICATIONS P. 9

DECISION NO. 8077-5086 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Electricians: Within 15 mile radius of Rapid City Post Office	9.85	.40	.34	64	1/24
Electricians	10.40	.40	.34	64	1/24
Cable Splicers	10.25	.40	.34	64	1/24
Within 15 to 35 miles radius of Rapid City Post Office	10.80	.40	.34	64	1/24
Electricians	11.10	.40	.34	64	1/24
Cable Splicers	11.65	.40	.34	64	1/24
Outside a 35 mile radius of Rapid City Post Office	8.45	.35	.40		
Electricians					
Cable Splicers					
Cement Masons					
DECISION NO. 8077-5086 - Mod. #2 (42 FR 4974-September 23, 1977) Minnehaha County, South Dakota					
Change: Electricians: Outside 30 miles from Sioux Falls Post Office	11.37	.40	.34	64	1/24
Electricians	12.38	.40	.34	64	1/24
Cable Splicers					

MODIFICATIONS P. 10

DECISION 8077-4265 - Mod. #2 (42 FR 53136 - September 30, 1977) Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant (since not include Dallas-Fort Worth Regional Airport) & Waco Counties, Texas

Change: Description of Work to Read as Follows: Highway Construction (since not include building structures in rest area projects) & Paving & Utilities Incidental to General Building Construction (not to be used for utilities incidental to General Building Construction in Tarrant Co.). This wage determination does not apply to any residential construction (single family homes & garden type apartments up to & including 4 stories).

DECISION 8077-4252 - Mod. #7 (42 FR 53147 - September 30, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallas, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change: Carpenters: Zone 2 - Carpenters Millwrights	9.63	.48	.40		.07
	10.13	.48	.40		
DECISION 8077-4256 - Mod. #9 (42 FR 53154 - September 30, 1977) Brazos County, Texas					
Change: Sheet metal workers	10.83	.325	.645	.42	.06
DECISION 8077-4258 - Mod. #9 (42 FR 53158 - September 30, 1977) Galveston & Harris Cos., Texas					
Change: Sheet metal workers - Harris Co	10.83	.325	.645	.42	.06
DECISION 8077-4261 - Mod. #6 (42 FR 53165 - September 30, 1977) Lubbock County, Texas					
Change: Painters - Brush Spray	7.35	.30	.20		.04
	8.10	.30	.20		.04

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MODIFICATIONS P. 11

DECISION #	Mod. #	Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
			H & W	Pensions	Vacation		
DECISION #TX27-4265 - Mod. #5 (42 FR 53169 - September 30, 1977) Wichita County, Texas		\$ 9.63 10.13	.48 .48	.40 .40			.07 .07
Change: Carpenters - Carpenters Millwrights - Millwrights							
DECISION #TX28-6005 - Mod. #1 (43 FR - January 20, 1978) Bowie County, Texas							
Change: Carpenters - Carpenters Millwrights - Millwrights Fildrivermen		8.50 10.70 9.20					.01 .04 .01
Add: Glaziers		5.30					

SUPERSEDES DECISION

COUNTIES: Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura  
DATE: Date of Publication  
DECISION NUMBER: CA78-5004  
Supersede Decision No. CA77-5092 dated September 30, 1977, in 42 FR 52941.  
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories, heavy and highway construction and dredging).

	Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
		H & W	Pensions	Vacation		
ASBESTOS WORKERS	\$ 13.65	\$1.05	\$ 1.27	.50		.06
BOILERMAKERS	13.175	.775	1.00			.02
BRICKLAYERS, Stonemasons:						
Imperial County	11.22	1.03	1.06			.12
Inyo, Kern and Mono Counties	12.65	1.00	1.45			.07
Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Westwood, Encinitas, Escondido, San Marcos, San Ramon, San Juan Capistrano, San Luis Obispo, Santa Barbara, Santa Cruz, Santa Fe, Santa Margarita, San Ysidro, Thousand Oaks, Van Nuys, West Hills, Woodland Hills)						
Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montecito and South of Rosecrans Blvd., including Riverside and San Bernardino Counties)	11.20	1.15	1.45			.30
Santa Barbara and San Joaquin Counties	11.20	1.28	1.55			.14
Obispo Counties	11.50	1.15	1.30			.02
Ventura County	11.78	1.00	1.20			.05
BRICK TENDERS	8.45	1.05	2.45	.60		
CARPENTERS:						
Carpenters	10.05	1.49	1.95	1.00		.06
Saw Filers	10.13	1.49	1.95	1.00		.06
Table Power Saw Operators	10.15	1.49	1.95	1.00		.06
Rhinoceros; Piledriversmen, Bridge or dock Carpenters;	10.18	1.49	1.95	1.00		.06
Berrick Bargemen; Rock Slinger	10.25	1.49	1.95	1.00		.06
Hardwood Floor Layers	10.28	1.49	1.95	1.00		.06
Head Note Slinger	10.30	1.49	1.95	1.00		.06
Millwrights	10.35	1.49	1.95	1.00		.06
CEMENT MASONS	9.41	1.10	1.75	1.00		.08
Cement Floating and Troweling Machine	9.66	1.10	1.75	1.00		.08
DRYWALL INSTALLERS	11.40	1.49	1.95	.90		.07

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	Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
		H & W	Pensions	Vacation		
ELECTRICIANS:						
Imperial County	\$ 13.70	.75	34+1.45			
Electricians	13.98	.75	34+1.45			
Cable Splicers						.15
Kern (China Lake Naval Ordnance Test Station, Edwards AFB)	15.75	.90	34+1.60			.15
Electricians, Technicians	17.35	.90	34+1.60			.15
Cable Splicers	13.25	.90	34+1.60			.15
Kern County (Remainder of Co.)	14.58	.90	34+1.60			.15
Electricians, Technicians						
Cable Splicers	13.02	1.25	34+1.95			.07
Los Angeles County	13.12	1.25	34+1.95			.07
Electricians						
Cable Splicers	12.65	1.05	34+1.95			.07
Traffic Signal and Street Lighting:	9.49	1.05	34+1.95			.07
Electricians	8.86	1.05	34+1.95			.07
Utility Technician No. 1						
Utility Technician No. 2	13.52	1.05	18+1.70			.02
Tunnel:	13.82	1.05	18+1.70			.02
Electricians						
Cable Splicers	12.67	.75	34			
Sound Technicians (on new building construction)	10.74	.75	34			
Sound Technicians (on modification of existing buildings)	13.34	.81	34+1.45			.02
Orange County	13.95	.81	34+1.45			.02
Electricians						
Cable Splicers	11.06	.85	34+1.65			.04
Riverside County	13.36	.85	34+1.65			.04
Electricians						
Cable Splicers	12.70	1.11	34+2.00			.04
Inyo, Mono and San Bernardino Counties	13.00	1.11	34+2.00			.04
Electricians						
Cable Splicers	13.97	1.11	34+2.00			.04
Tunnel:	14.27	1.11	34+2.00			.04
Electricians						
Cable Splicers						

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	Basic Hourly Rates	Fringe Benefits Payments				Education end/or Appr. Tr.
		H & W	Pensions	Vacation		
ELECTRICIANS: (Cont'd)						
San Luis Obispo County	\$13.41	1.20	34+1.50			.03
Electricians	14.75	1.20	34+1.50			.03
Cable Splicers						
Santa Barbara County	15.00	1.10	34+1.50			.03
(Vandenberg AFB)	16.00	1.10	34+1.50			.03
Electricians	13.25	1.10	34+1.50			.03
San Luis Obispo County	14.25	1.10	34+1.50			.03
Electricians						
Cable Splicers	13.41	.84	34+1.05			.02
Ventura County	14.75	.84	34+1.05			.02
Electricians						
Cable Splicers						
ELEVATOR CONSTRUCTORS:						
Imperial, Inyo, Kern (South of Tehachapi Range), Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	13.41	.745	.56	.56		.025
Elevator Constructors	704JR	.745	.56	.56		.025
Helpers	504JR					
Elevator Constructors' Helpers (Prob.)	14.82	.745	.56	.56		.025
Elevator Constructors	704JR	.745	.56	.56		.025
Helpers	504JR					
Elevator Constructors' Helpers (Prob.)	10.90	.67	.90			
Imperial County						
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, San Luis Obispo and Ventura Counties	11.19	.67	1.45			.04
IRONWORKERS:						
Fence Erectors	10.66	1.24	2.22	1.46		.06
Reinforcing	11.55	1.24	2.22	1.46		.06
Ornamental; Structural	11.55	1.24	2.22	1.46		.06

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PLASTERERS TENDERS; (Cont'd)	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or App. Tr.
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	\$12.075	\$1.05	\$ 2.45	.60
Kern County (Remainder of Co.)	9.45	1.05	2.45	.60
Los Angeles and Orange Cos.	10.475	1.05	2.45	.60
San Luis Obispo County	8.35	.95	1.95	.50
Santa Barbara County (except Santa Maria)	9.98	1.05	2.45	.60
Santa Maria Co. (Santa Maria)	10.08	1.05	2.45	.60
Ventura County	11.23	1.05	2.45	1.10
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties	12.41	1.08	1.68	1.38
Inyo, Kern (except east of Los Angeles Aqueduct) and Mono Counties	10.88	.95	1.85	1.45
Kern County (East of Los Angeles Aqueduct)	11.38	.95	1.85	1.45
REPLACEMENT & AIR CONDITIONING: Imperial, Los Angeles, Orange, Riverside and San Bernardino Counties	9.85	.96	.70	.90
ROOFERS: Imperial County	12.53	1.65	1.80	1.52
Inyo, Kern and Mono Counties	9.99	.50	.75	1.00
Riverside and San Bernardino Counties	10.20	.60	.60	.60
Los Angeles, Orange and Ventura Counties	10.45	.80	.75	1.10
San Luis Obispo and Santa Barbara Counties	12.32	.92	1.10	.065
SHEET METAL WORKERS: Imperial County	10.43	.535	.34	.0025
Imperial County (China Lake Naval Ordnance Test Station and Edwards AFB)	11.96	1.04	2.24	.02
Kern County (Remainder of County and all of Inyo and Mono Counties, Los Angeles County (that portion south of a straight line drawn between Gorman and Big Pines))	13.67	1.04	1.80	
	11.17	1.04	1.80	.02

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SHEET METAL WORKERS; (Cont'd)	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or App. Tr.
Los Angeles County (Remainder of portion)	\$ 12.78	1.04	\$ 2.24	.08
Orange County	11.62	1.04	2.13	.09
Riverside and San Bernardino Counties	10.10	1.04	1.80	.08
San Luis Obispo, Santa Barbara and Ventura Counties	12.73	1.04	2.02	.07
SOFT FLOOR LAYERS: Imperial County	9.55	.80	1.05	
Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino, Santa Maria, Santa Monica, and Ventura Counties	11.00	.70	.82	.06
Kern County (including that portion lying east of the Los Angeles Aqueduct and that portion of Inyo County included within the Inyo-Kern Naval Reservation)	9.97	.70	.60	.07
SPRINKLER FITTERS: Imperial Inyo, Kern, Mono, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara and Ventura (except Santa Paula, Point Mugu and Port Hueneme) and Area within 25 miles and Pomonas), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Hueneme)	15.07	.85	.95	.08
TERRAZZO WORKERS: Imperial County	14.66	.66	.90	.09
TILE SETTERS: Imperial County	11.84	.81	1.17	.08
Los Angeles, Orange and Ventura Counties	11.84	.81	1.17	.08
San Luis Obispo and Santa Barbara Counties	11.99	.90	1.10	.09
Riverside and San Bernardino Counties	9.47	1.05	1.20	.85
Inyo, Kern and Mono Counties	11.67	1.03	1.35	
TILE SETTERS' HELPERS: Imperial County	11.20	.65	.55	
Los Angeles, Orange and Ventura Counties	9.46	1.25	1.24	.13

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PAID HOLIDAYS:  
A-New Year's Day; B-Memorial Day; C-Independence Day;  
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as vacation pay credit. Six Paid Holidays: A through F.
- Employer contributes \$.23 per hour to Holiday Fund plus \$.14 per hour to Vacation Fund for the first year of employment, 1 year but less than 5 years \$.34 per hour to Vacation Fund, 5 years but less than 10 years \$.44 per hour to Vacation Fund; over 10 years \$.54 per hour to Vacation Fund.

LABORERS (Tunnel)	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or App. Tr.
BATCH PLANT LABORERS: Bull Gang Packer; Tractorman; Concrete Crew; Trucking Loaders and Spreaders; Chippers; Dumpmen; Dumpmen (outside); Sweeper (Truckmen and Switchmen in tunnel work); Tunnel materials handling Man; Tool Man	\$ 9.64	\$1.05	\$ 2.45	.60
CABLE TENDER: Chuck Tender; Hipper; Steel form raiser and setter's helper; Vibratorman; Jackhammer, pneumatic tools (except drill); Loading and unloading agitator cars; Pot tender using mastic or other materials	9.76	1.05	2.45	.60
BLASTER: Driller, Powderman; Chemical grout jetman; Cherry picker; Grout gunman; Grout Mixer; Grout pumpman; Jack-leg miner; Jumbo man; Kemper and other pneumatic concrete placer operator; Miner tunnel (hand or machine); Powderman (blast house); Primer Man; Shotter; Miner; Steel form raiser; Retriever; Rocker (steel); Tunnel concrete finisher; Nozzlemaster; Operating troweling and/or Grouting Machine; Sandblaster	9.92	1.05	2.45	.60
SHAFT, Raise miner; Diamond driller	10.20	1.05	2.45	.60

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LABORERS

LABORERS	Fringe Benefits Payments			
	Basic Hourly Rates	H & W	Pensions	Vacation and/or App. Tr.
Group 1	\$ 7.95	\$1.05	\$ 2.45	.60
Group 2	8.10	1.05	2.45	.60
Group 3	8.30	1.05	2.45	.60
Group 4	8.45	1.05	2.45	.60
Group 5	8.60	1.05	2.45	.60

Group 1: Boring Machine Helper (outside); Cleaning and Handling of Panels; Forms; Concrete Screeding for rough strike-off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry packing of concrete, plugging, filling of She-bolt Holes; Fire Watcher, Limbers, Brush Loaders, Pliers and Debris Handlers; Flag-man; Gas, oil and/or water pipeline laborer; Laborer, general or construction; Laborer; general cleanup; Laborer, landscaping; Laborer, jetting, temporary water and air lines; Material Hoseman (walls, slabs, floors and decks); Riggering and signaling; Scaler; Slip Form Raisers; Slurry Seal crews (mixer operator, applicator operator, squeegee man, shuttle man, top man); Stripper, asphalt, concrete or other paved surfaces; Tarman and mortar man; Tool crib or tool house laborer; Traffic delineating device applicator; Window cleaner; Wire mesh pulling—all concrete pouring operations

Group 2: Asphalt Shovelers; Cement dumper (on 1 yard or larger mixer and handling bulk cement); Cesspool Digger and Installer; Chucktender; Chute Man, pouring concrete, the handling of the chute from ready mix trucks, pumps, and chutes; Deckers, floors, foundations, footings, curbs, gutters and sidewalks; Concrete curbs, sidewalks, curbs, and form oiler; Cutting torch operators (demolition); Fine gravel, aggregate and street paving, airport, runways, and similar type heavy construction; Gas, oil and/or water pipeline wrapper—pot tender and form man; Guinea chaser; Headerboard Man—asphalt; Laborer, packing rod steel and pans; Power broom sweepers (small); Riprap stonepaver, placing stone or wet sacked concrete; Roto scraper and tiller; Sandblaster (pot tender); Septic tank digger and installer (leadman); Tank scaler and cleaner; Tree climber, faller, chain saw operator, Pittsburgh chipper and similar type brush shredders; Underground laborer, including caisson bellow

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons w.r.c. (long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Winches; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel), 900 lbs. capacity; Motor Patrol-Blade Operator (single engine); Rubber-tired Tractor (Buclid and similar type, except quad 9 Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple 9 Cat); Shovel, Backhoe, Dragline, Clamshell, Tower Crane (over 5 cu. yds. m.r.c.) (long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 64 yds.); Welder-certified; Woods Mixer and similar Pugmill Equipment

Group 8: Auto Graders; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable); Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more) (long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine; Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Buclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat. Push-pull (50¢ per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment (\$1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yd.)

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TRUCK DRIVERS

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
Group 1: \$ 8.72	\$ 1.25	.70	\$1.00		.10
Group 2: 8.40	1.25	.70	1.00		.10
Group 3: 8.86	1.25	.70	1.00		.10
Group 4: 8.95	1.25	.70	1.00		.10
Group 5: 8.98	1.25	.70	1.00		.10
Group 6: 9.00	1.25	.70	1.00		.10
Group 7: 9.04	1.25	.70	1.00		.10
Group 8: 9.05	1.25	.70	1.00		.10
Group 9: 9.10	1.25	.70	1.00		.10
Group 10: 9.13	1.25	.70	1.00		.10
Group 11: 9.18	1.25	.70	1.00		.10
Group 12: 9.20	1.25	.70	1.00		.10
Group 13: 9.25	1.25	.70	1.00		.10
Group 14: 9.50	1.25	.70	1.00		.10
Group 15: 9.75	1.25	.70	1.00		.10
Group 16: 9.85	1.25	.70	1.00		.10

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Boomarm; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 64 yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: PR and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck (including all trucks, but limited to truck applicable to pipeline and utility work, where a composite crew is used; Slurry driver; Truck Greaser and fireman (50¢ per hour additional for fireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 64 yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway Equipment within Teamsters jurisdiction (off highway combination of vehicles or equipment with multiple power sources, \$1.00 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

NOTICES

SUPERSEDES DECISION

STATE: CALIFORNIA  
COUNTIES: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino and Ventura, Santa Barbara and Ventura

DECISION NUMBER: CA78-5005  
Supersedes decision No. CA77-5093 dated September 30, 1977, in 42 FR 52953  
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
ASBESTOS WORKERS \$13.65 13.175	\$1.05 .775	\$ 1.27 1.00	.50		.06 .02
BOILERMAKERS Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia and South of Rosetrens Blvd., including Long Beach); Orange County Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	11.22 12.65	1.03 1.00	1.60 1.45		.12 .07
BRICKLAYERS; Stonemasons: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	11.20 11.20 11.50 11.78	1.15 1.28 1.15 1.00	1.45 1.55 1.30 1.20		.30 .30 .14 .05
BRICK TENDERS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	8.45 10.05 10.13 10.15	1.05 1.49 1.49 1.49	2.45 1.95 1.95 1.95	.60	.06 .06 .06 .06
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	10.05 10.13 10.15 10.15	1.49 1.49 1.49 1.49	1.95 1.95 1.95 1.95	1.00 1.00 1.00 1.00	.06 .06 .06 .06
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	10.18 10.25 10.28 10.30	1.49 1.49 1.49 1.49	1.95 1.95 1.95 1.95	1.00 1.00 1.00 1.00	.06 .06 .06 .06
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	10.55 10.55 10.55 10.55	1.49 1.49 1.49 1.49	1.95 1.95 1.95 1.95	1.00 1.00 1.00 1.00	.06 .06 .06 .06
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	9.41 9.66 11.40	1.10 1.10 1.49	1.75 1.75 1.95	1.00 1.00 1.00	.08 .08 .07
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	9.66 11.40	1.10 1.49	1.75 1.95	1.00 1.00	.08 .07
CEMENT MASONS: Imperial County Kern County Los Angeles County (Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Los Angeles County (except Cities of Santa Monica, Malibu, Venice, Pasadena, South Pasadena, Arcadia, Montrovia, and South of Rosetrens Blvd., including Long Beach) Riverside and San Bernardino Counties Santa Barbara and San Luis Obispo Counties Ventura County	11.40	1.49	1.95	1.00	.07



DECISION NO. CA78-5005

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
PAINTERS: Cont'd				
Brush awing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.89	.80	.60	.02
Brush awing stage (over 13 stories)	12.01	.80	.60	.02
Structural steel and bridge, awing	12.04	.80	.60	.02
Spray sandblaster awing stage (13 stories or less); Paste-sprayer; Special coating	12.14	.80	.60	.02
Steeplejack	12.59	.80	.60	.02
Kern County (Remainder of Co.)	9.87	.45		.03
Brush or roller, awing stage; Paperhangers; Taping joint	10.12	.45	.61	.03
Spray; Sandblasters	10.37	.45	.61	.03
San Luis Obispo, Santa Barbara and Ventura Counties	11.66	.90	.75	.03
Brush; Pot Tender	11.91	.90	.75	.03
Paperhangers; Paste Machine	12.16	.90	.75	.03
Operator; Iron and Steel	12.31	.90	.75	.03
Spray; Taper; Sandblasters	12.66	.90	.75	.03
Sign Painter	11.03			.115
Steeplejack	12.13	.83	1.85	.01
PLASTERERS:				
Imperial County	15.00			.01
Los Angeles and Orange Cos.	12.09			.01
Riverside and San Bernardino Counties	8.69	.70	1.05	.02
San Luis Obispo County	13.16	.80	2.15	.02
Santa Barbara County				
Ventura County	11.37	1.05	2.45	.02
PLASTERERS' TENDERS:				
Imperial, Riverside and San Bernardino Counties	12.07	1.05	2.45	.02
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	9.45	1.05	2.45	.02
Kern County (Remainder of Co.)				

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
ELEVATOR CONSTRUCTORS: (Cont'd)				
Kern, County (North of Tehachapi Range)	14.82	.745	.56	.02
Elevator Constructors, Helpers	700JR	.745	.56	.02
Elevator Constructors, Helpers	500JR		.90	
Helpers (Prob.)				
GLAZIERS:				
Imperial County	10.90	.67		.04
Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara, and Ventura Counties	11.19	.67	1.45	.06
IRONWORKERS:				
Fence Erectors	10.66	1.24	2.22	.06
Reinforcing	11.55	1.24	2.22	.06
Ornamental, Structural	11.55	1.24	2.22	.06
IRRIGATION & LAWN SPRINKLERS:				
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	9.75	1.04	1.66	.03
LATHIERS:				
Kern County	9.13	.60	1.30	.05
Los Angeles County (except City of Lancaster)	12.00	.70	.90	.03
Ventura County	11.72	1.05	1.15	.02
San Luis Obispo County	11.72	.67	1.20	.02
Santa Barbara County	8.72	.57	1.00	.03
Imperial County	11.50	.70	.90	.03
PAINTERS:				
Imperial, Orange, Riverside, Los Angeles (Pomona Area), San Bernardino (excluding Western portion)	10.99	1.09	1.18	.07
Brush; Paint Burners				
Paperhangers; Iron, steel and bridge (awing stage); Sheet Rock Taper	11.49	1.09	1.18	.07
Brush (awing stage); Spray	11.24	1.09	1.18	.07
Steeplejack	12.39	1.09	1.18	.07
Kern (Lancaster, Mojave, Palmdale, China Lake Naval Ordnance Test Station and Edwards AFB), Los Angeles (except Pomona Area), San Bernardino (west of a line North of Trono including China Lake, Arner, Johannesburg, Borom, South including the Wrightwood Area)				
Brush	11.64	.66	.80	.02
Structural steel and bridge; Painter Burner	11.76	.66	.80	.02

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
PAINTERS: Cont'd				
Brush awing stage (13 stories or less); Paperhangers; Sandblasters; Spray	11.89	.80	.60	.02
Brush awing stage (over 13 stories)	12.01	.80	.60	.02
Structural steel and bridge, awing	12.04	.80	.60	.02
Spray sandblaster awing stage (13 stories or less); Paste-sprayer; Special coating	12.14	.80	.60	.02
Steeplejack	12.59	.80	.60	.02
Kern County (Remainder of Co.)	9.87	.45		.03
Brush or roller, awing stage; Paperhangers; Taping joint	10.12	.45	.61	.03
Spray; Sandblasters	10.37	.45	.61	.03
San Luis Obispo, Santa Barbara and Ventura Counties	11.66	.90	.75	.03
Brush; Pot Tender	11.91	.90	.75	.03
Paperhangers; Paste Machine	12.16	.90	.75	.03
Operator; Iron and Steel	12.31	.90	.75	.03
Spray; Taper; Sandblasters	12.66	.90	.75	.03
Sign Painter	11.03			.115
Steeplejack	12.13	.83	1.85	.01
PLASTERERS:				
Imperial County	15.00			.01
Los Angeles and Orange Cos.	12.09			.01
Riverside and San Bernardino Counties	8.69	.70	1.05	.02
San Luis Obispo County	13.16	.80	2.15	.02
Santa Barbara County				
Ventura County	11.37	1.05	2.45	.02
PLASTERERS' TENDERS:				
Imperial, Riverside and San Bernardino Counties	12.07	1.05	2.45	.02
Kern County (China Lake Naval Ordnance Test Station, Edwards AFB)	9.45	1.05	2.45	.02
Kern County (Remainder of Co.)				

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Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
PLASTERERS' TENDERS: (Cont'd)				
Los Angeles and Orange Cos.	10.475	\$ 2.45	.85	
San Luis Obispo County	8.35	.95	1.95	.50
Santa Barbara County (except Santa Maria)	9.98	1.05	2.45	.60
Santa Barbara Co. (Santa Maria)	10.08	1.05	2.45	.60
Ventura County	11.23	1.05	2.45	1.10
PLUMBERS; Steamfitters:				
Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties	12.41	1.04	1.64	3/48
Kern (except east of Los Angeles Aqueduct)	10.88	.95	1.85	1.45
Kern (East of Los Angeles Aqueduct)	13.38	.95	1.85	1.45
REFRIGERATION & AIR CONDITIONING:				
Riverside and San Bernardino Counties	9.85	.96	.70	.05
Los Angeles and Orange Cos.	12.53	1.85	1.80	1.52
ROOFERS:				
Imperial County	9.99	.50	.75	1.00
Kern County	10.20	.60	.60	
Los Angeles, Orange and Ventura Counties	12.32	.92	1.10	
San Luis Obispo and Santa Barbara Counties	10.43	.535	.34	.085
Riverside and San Bernardino Counties	10.45	.80	.75	.0025
SHEET METAL WORKERS:				
Imperial County	11.96	1.04	2.24	
Kern County (China Lake Naval Ordnance Test Station and Edwards AFB)	13.67	1.04	1.80	.02
Kern County (Remainder of County); and Los Angeles Co. (that portion North of a straight line drawn between Gorman and Big Pine)	11.17	1.04	1.80	.02
Los Angeles County (Remaining portion)	12.78	2.24	2.13	.08
Orange County	11.62	1.04		
Riverside and San Bernardino Counties	10.10	1.04	1.80	.08

FEDERAL REGISTER, VOL. 43, NO. 19—FRIDAY, JANUARY 27, 1978



Basic Hourly Rates	Fringe Benefits Payments			Education Appr. Tr.
	H & W	Pensions	Vacation	
\$ 12.73	\$ 1.04	\$ 2.02		.07
9.35	.60	1.05		
11.00	.70	.82	.60	.06
9.97	.70	.60	1.18	.07
<b>SPRINKLER FITTERS:</b>				
Imperial, Kern, Orange (except Santa Ana), Riverside, San Bernardino (except Ontario), San Luis Obispo, Santa Barbara and Ventura (except Santa Paula Point Mugu and Port Buenees)				
15.07	.65	.95		.08
Los Angeles (Los Angeles City and Area within 25 miles, and Pomona), Orange (Santa Ana), San Bernardino (Ontario), and Ventura (Santa Paula, Point Mugu and Port Buenees)				
14.66	.66	.90		.09
<b>TILE SETTERS:</b>				
11.64	.81	1.17		.08
Imperial County				
Los Angeles, Orange and Ventura Counties				
11.99	.90	1.10		.09
San Luis Obispo and Santa Barbara Counties				
9.47	1.05	1.20	.85	.01
Riverside and San Bernardino Counties				
11.67	1.03	1.35		.13
11.20	.65	.55		.08
<b>TILE SETTERS' HELPERS:</b>				
9.46	1.25	1.24		
Los Angeles, Orange and Ventura Counties				
9.04	.81	1.17		
<b>IMPERIAL COUNTY</b>				
<b>PAID HOLIDAYS:</b>				
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving				
<b>POUNDS:</b>				
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.				
Six Paid Holidays: A through F.				

**LABORERS.**

Group 1: Boring Machine Reamer (outsides); Cleaning and Handling of Panels Forms; Concrete Screeding for rough strike-off; Concrete, water curing; Demolition Laborer, the cleaning of brick and lumber; Dry Packing of concrete, plugging, filling of Shee-Bolt Holes; Wire Matcher, Lumber, Brush Loaders, Pilers and Debris Handlers; Pligman, Gas, oil and/or water pipe-line laborer; Laborer, general or construction; Laborer, general cleanup; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material Hosenan (walls, slabs, floors and decks); Rigging and Signaling; Scales; Slip Pans Raisers; Slurry Seal Crows (mixer operator, applicator operator, queuegee man, shuttle man, top man); Stripper, asphalt, concrete or other paved surfaces; Tarmen and Mortar Man; Tool Crib or Tool House Laborer; Traffic Delimiting Device Applicator; Window Cleaner; Wire Mesh Pulling—all concrete pouring operations

**Group 2:** Asphalt Shovelers; Cement Dumper (on 1 yard or larger mixer and handling bulk concrete); Cesspool Digger and Installer; Chucktender; Chute Man, pouring concrete; the handling of the chute from ready-mix trucks, such as walls, slabs, decks, floors, foundations, footings, curbs, gutters and sidewalks; Concrete Curer—Impervious Membrane and Form Oiler; Cutting torch operator; Concrete Pump; Grader; Highways and street paving, airport, runways and similar type; Fine Grader; highways and street paving, pipeline wrapper—pot tender; Pile Driver; Road Breaker; Roadheader (small)—Asphalt Laborer, packing rod steel and wet packed concrete; Road Scanner (small) milder; Sandblaster (pot tender); Septic Tank Digger and Installer (license); Tank Scaler and Cleaner; Tree Climber, faller, chain saw operator; Pittsburgh Chipper and similar type Brush Sheeder; Underground laborer, including Caisson Bellows

## NOTICES

## LABORERS (Cont'd)

## POWER EQUIPMENT OPERATORS (Cont'd)

**Group 3:** Asphalt Baker, Lubman, Ironer and Asphalt Spreader Boxes (all types); Gruggmobile Man Concrete core cutter, grinder or sand; Concrete Cutting Machine, Concrete Cutter, cutting, scoring old or new concrete; Drilling Jackhammer, 2-1/2 ft. drill bit or longer; Del Tak-it Machinery Gas, oil and/or Water Pipeline Wraps—6" pipe and over by any method, inside and out/Hydro Seeder and similar type; Impacting, multi-plate, wet/dry, Potmen and Men (applying asphalt, lay-sold, dropping, spreading) Handling of such materials for ("applying" means applying, dropping, pushing, handling of such materials for pipe wrapping and waterproofing) Concreters/Pumpers, Jet, electric tools, Vibrating Machines, Pavement Breakers, Air Blasting Machines, and similar mechanical tools not apparently classified herein; Pipe-layers, Backup Man, coating, grouting making of joints, sealing, caulking, diaphragm, including rubber gasket joints, pointing and any and all other services; Road Slinger; Rotary Scarifier or Multiple Head Concrete Chipping Sofficer; Steel Header-board Man and Guideline Setter; Tampers, Barko, Wacker and similar type; Trenching Machine, hand propelled

**Group 4:** Cribber, Shorer, Lagging, Sheeting and Trench Bracing, hand-guided Lagging Hammer; Read Rock Slinger; Laser Beam; Overseize Concrete Vibrator Operator, 70 lbs. and over; pipelayer, including water, sewage, solid, gas or air; Prefabricated Manhole Installer; Sandblaster (nozzleman); water blasting; Welding in connection with laborers' work

**Group 5: Blasters Powderman**—all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller; All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills

Basic Hourly Rates	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Apprent. Tr.
\$ 9.75	.95	\$ 2.00	.50	.04
10.03	.95	2.00	.50	.04
10.32	.95	2.00	.50	.04
10.61	.95	2.00	.50	.04
10.68	.95	2.00	.50	.04
10.79	.95	2.00	.50	.04
10.91	.95	2.00	.50	.04
11.08	.95	2.00	.50	.04
11.21	.95	2.00	.50	.04

## POWER EQUIPMENT OPERATORS

Group 1: Breakman; Compressor (less than 600 C.F.M.); Engineer Oilier; Generator; Heavy Duty Repairman; Helper; Pump; Signaller; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, shovel; Fireman; Hydrostatic Pump; Oilier Crusher (asphalt or concrete); Painter; Plant Operator; Generator, Pump or Compressor; Muckey Beltrone; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oilier; Truck Crane Oilier



POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.t.c. (long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel), gas or electric; Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except quad 9 Cat); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. end up to 50 yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.t.c.) (long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 64 yds.); Welder-certified; Woods Mixer and similar; Pugmill Equipment

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable); Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more) (long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine; Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat. Push-pull (500 per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment (\$1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yd.)

TRUCK DRIVERS

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
Group 1:	\$ 8.72	\$ 1.25	.70	\$1.00	.10
Group 2:	8.80	1.25	.70	1.00	.10
Group 3:	8.86	1.25	.70	1.00	.10
Group 4:	8.95	1.25	.70	1.00	.10
Group 5:	8.98	1.25	.70	1.00	.10
Group 6:	9.00	1.25	.70	1.00	.10
Group 7:	9.04	1.25	.70	1.00	.10
Group 8:	9.05	1.25	.70	1.00	.10
Group 9:	9.10	1.25	.70	1.00	.10
Group 10:	9.13	1.25	.70	1.00	.10
Group 11:	9.18	1.25	.70	1.00	.10
Group 12:	9.20	1.25	.70	1.00	.10
Group 13:	9.25	1.25	.70	1.00	.10
Group 14:	9.30	1.25	.70	1.00	.10
Group 15:	9.75	1.25	.70	1.00	.10
Group 16:	9.85	1.25	.70	1.00	.10

NOTICES

TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axes (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axes

Group 5: Boomman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck; 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 64 yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axes

Group 10: PB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and utility working Truck including Winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Titeman (50¢ per hour additional for Titeman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 64 yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axes

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway Equipment within Teamsters jurisdiction (off highway combination of vehicles or equipment with multiple power sources, \$1.00 per hour additional; Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

SUPERSEDES DECISION

STATE: California  
COUNTY: San Diego  
DECISION NUMBER: CA78-5006  
DATE: Date of Publication  
Supersedes Decision No. CA77-5094 dated September 30, 1977, in 42 FR 52961  
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$ 13.65	\$ 1.05	\$ 1.27			.06
13.175	.775	1.00	.50		.02
11.44	1.03	1.19			.12
9.87	.77	1.95			
11.26	.56	1.20	.80		.07
11.39	.56	1.20	.80		.07
11.51	.56	1.20	.80		.07
8.81	.88	1.66	1.36		.07
9.11	.88	1.66	1.36		.07
12.85	.66	1.20	.80		.07
13.28	.70	344.71			.02
13.58	.70	344.71			.02
13.41	.745	.56			.05
704.36	.745	.56			.05
504.36	.67	.90			
10.66	1.24	2.22	1.46		.06
11.55	1.24	2.22	1.46		.06
11.55	1.24	2.22	1.46		.06
9.75	1.08	1.64	1.36		.12
11.50	.60	1.00			.05
11.86	.60	.70	.70		.02
10.45	.70	344.71			.02
13.57	.70	344.71			.02
13.87	.70	344.71			.02
11.84	.81	1.17			.08
9.04	.81	1.00			.08
10.99	1.09	1.18	.75		.07
11.24	1.09	1.18	.75		.07

NOTICES



Basic Monthly Rate	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
\$ 7.36	.77	\$ 2.05	.75	.13
7.41	.77	2.05	.75	.13
7.44	.77	2.05	.75	.13
7.46	.77	2.05	.75	.13
7.485	.77	2.05	.75	.13
7.49	.77	2.05	.75	.13
7.51	.77	2.05	.75	.13
7.54	.77	2.05	.75	.13
7.55	.77	2.05	.75	.13
7.57	.77	2.05	.75	.13
7.65	.77	2.05	.75	.13

**PAID HOLIDAYS:**  
A-New Year's Day; B-Memorial Day; C-Independence Day;  
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

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Basic Monthly Allowance	Fringe Benefits Payments	Fringe Benefits Payments			Education Appx. Tr.	
		H & W	Pensions	Vacation		
LABORERS (Cont'd) (Tunnel and Shaft Work)	BLASTERS; Drillers; Cherry Pickerman; Kemper and other pneumatic concrete placer operators; Miners, in short dry tunnels under streets, highways and similar places; Miners, tunnel (hand or machine) powdermen; Primerhouse; Timber- men; Retinbermen; (Wood or steel); Steel Form Raisers and Setters	\$ 7.90	.77	\$ 2.05	.75	.13
	Shaft	8.15	.77	2.05	.75	.13
	CONITE WORKERS:	8.09	.77	2.05	.75	.13
	Nozzlemen and Rodmen	7.77	.77	2.05	.75	.13
	Gunnel	7.355	.77	2.05	.75	.13
	Reboundmen					
	POWER EQUIPMENT OPERATORS					
	Group 1	9.75	.95	2.00	.50	.04
	Group 2	10.03	.95	2.00	.50	.04
	Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04	
Group 5	10.68	.95	2.00	.50	.04	
Group 6	10.79	.95	2.00	.50	.04	
Group 7	10.91	.95	2.00	.50	.04	
Group 8	11.08	.95	2.00	.50	.04	
Group 9	11.21	.95	2.00	.50	.04	

**POWER EQUIPMENT OPERATORS**

Group 1: Brakeman; Compressor (less than 600 C.R.M.); Engineer Oilier; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.R.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oilier Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Solla Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oilier; Truck Crane Oilier

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (truck); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter; Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant; Pileman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge-type Unloader and Turntable; Dinky Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; High-line Cableway Signman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 8 ft.)



POWER EQUIPMENT OPERATORS (Cont'd)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant; Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells; Forklift (under 5-ton capacity); Hydrographic Seder Machine (straw, pulp or seed); Machine Tool Operator; Magnolia Internal Pull Slab Vibrator; Mechanic Bar, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-slab); Johnson, Blower (asphalt or concrete); Rubber-tired Earth Moving Equipment (single or multiple engine, including 25 yds. truck); Self-propelled Tar Paving Machine; Self-Pore Pump (open-driven hydraulic lifting device for concrete forms); Skidloader (crawler and wheel type over 3/4 yd. and up to and including 1 1/4 yds.); Stinger Crane (Austin-Western or similar type); Tractor-Bulldozer, 1 1/4 yds.);

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (quite work); Compactor, self-propelled; Concrete Mixer -paving; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity) (Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grader-all; Grouting Machine; Heading Shield; Heavy Duty Repair-man; Hoist Operator (Chicago Boom and similar type); Holman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagthor and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (Hackley-tired, rial or track type); Pneumatic Concrete Placing Machine (Hackley-tired, rial or track type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. truck); Rubber-tired Earth Moving Equipment (multiple single unit) (self-loading-paddle wheel type-over 1 1/4 yds., up to and including 6 1/2 yds.); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar); Bulldozer, Tamer, Scraper and Push Tractor, single engine); Tractor Machine Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. m.r.c.) (Long Boom pay applicable); Self-propelled Curb and Gutter Machine

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Hydraulic Repair Machine; Combination Hoist, Stiff-legs, Guy Derrick or similar type (including 100 tons (long boom pay applicable); Concrete Rail Locomotive (diesel, gas or electric); Motor Patrol-plate Operator (single engine); Multiple Engine, Tractor (Euclid and similar type over 50 yds. truck); Rubber-tired Earth Moving Equipment (single engine-over 50 yds. truck); Rubber-tired Earth Moving Equipment (multiple engine-Euclid, Caterpillar and similar) (over 25 yds. and up to 50 cu. yds. truck); Shovel, Backhoe, Drag-line, Clamshell (over 5 cu. yds. m.r.c.) (Long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 6 1/2 yds.); Welder-certified; Woods Mixer and similar Pugmill Equipment

POWER EQUIPMENT OPERATORS (Cont'd)

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable); Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more) (Long boom pay applicable); Masa Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. truck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat; Pulpall (500 per hour additional to base rate); Tunnel Boring Machine (w/o a only); Tunnel Tractor (quad 9 or similar type); Tunnel Note Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment (\$1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yds.)

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
POWER EQUIPMENT OPERATORS (Hydraulic Suction Dredges)					
LEYERMAN	\$ 11.60	.95	2.00	.50	.04
WELDER	11.02	.95	2.00	.50	.04
DECKHAND	10.54	.95	2.00	.50	.04
WINCHMAN (Stern winch or dredge)	10.47	.95	2.00	.50	.04
BARGEHAND; Deckhand; Fireman; Oiler; Leveehand	9.93	.95	2.00	.50	.04
(Clamshell Dredges)					
LEYERMAN	11.60	.95	2.00	.50	.04
WELDER	11.02	.95	2.00	.50	.04
DECKHAND	10.54	.95	2.00	.50	.04
BARGEHAND; Deckhand; Fireman; Oiler	9.93	.95	2.00	.50	.04

NOTICES

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Group 1	\$8.45	\$1.05	.95	\$1.00	.10
Group 2	9.05	1.05	.95	1.00	.10
Group 3	9.25	1.05	.95	1.00	.10
Group 4	9.45	1.05	.95	1.00	.10
Group 5	11.45	1.05	.95	1.00	.10
Group 6	8.55	1.05	.95	1.00	.10

TRUCK DRIVERS

Group 1: 2 axle dump; 2 axle flatbed; Bunker; Concrete pumping; Industrial lift; truck repairman helper; welder helper; Warehouse-man; Forklift under 15,000 lbs.

Group 2: 3 axle dump; 3 axle flat bed; 2 axle water trucks; Erosin Control nozzle; dump-truck, less than 6 1/2 yds.; Forklift 15,000 lbs. and over; Pallet Pipeline working truck driver; Road oil spreader; Cement distributor or slurry driver; Bookman; Ross carrier

Group 3: Off-road dump under 35 tons; 4 axle but less than 7 axle; Loaded and trailer; Transit mix, under 8 yds.; 3 axle water trucks; Erosin control; Gout mixer; Dump-truck, 6 1/2 yds. and over; Dump-truck, DW 10's, 20's and over; Fuel truck and Dynamite; Winch, 2 axle; Truck greaser

Group 4: Off-road dump 35 tons and over; 7 axle or more; Transit mix, 8 yds. and over; A-frame or Swedish Cranes; Fireman; Water pull tankers; Welders; Winch truck, 3 axle or more

Group 5: Truck Repairman

Group 6: Traffic control, also swamper and helpers and pickups

NOTICES

STATE: California  
DECISION NO: CV78-5007  
COUNTY: San Diego  
DATE: Date of Publication  
Supersedes Decision No. CV77-5095 dated September 30, 1977, in 42 FR 52969.  
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
ASBESTOS WORKERS	\$ 13.65	\$ 1.05	1.27		.06
BOLTERMAKERS	13.175	.775	1.00	.50	.02
BRICKLAYERS; Stonemasons	11.44	1.03	1.19		.12
BRICK, BLOCK and STONEMASONS'					
TENDERS	9.87	.77	1.95		
CARPENTERS					
Carpenters	11.26	.56	1.20	.80	.07
Piledrivers	11.39	.56	1.20	.80	.07
Millwrights; Pneumatic Nailers;					
Hardwood Floorlayers	11.51	.56	1.20	.80	.07
CEMENT MASONS					
Cement Masons	8.81	.88	1.66	1.36	.07
Color Work; Composition,					
Mastic or Epoxy, Finishing	9.11	.88	1.66	1.36	.07
Machine; Curb Machine	12.65	.66	1.20	.80	.07
DRYWALL INSTALLERS					
Electricians	13.28	.70	3 1/4		.02
Cable Splicers	13.58	.70	3 1/4		.02
ELEVATOR CONSTRUCTORS	13.41	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70 1/2	.745	.56	a	.025
ELEVATOR CONSTRUCTORS' HELPERS					
IRONWORKERS	50 1/2	.67	.90		
IRONWORKERS	10.90				
Fence Erectors	10.66	1.24	2.22	1.46	.06
Reinforcing	11.24	2.22	2.22	1.46	.06
Ornamental Structural	11.53	1.24	2.22	1.46	.06
IRRIGATION and LAWN SPRINKLERS	9.75	1.08	1.66	1.36	.12
LATHERS					
Northern portion of San					
Diego County from center	11.50	.60	1.00		.05
of City of Del Mar	11.86	.60	1.70	.70	.02
Remainder of County	11.84	.81	1.17		.08
MARBLE SETTERS	9.04	.61	1.00		.08
MARBLE SETTERS' HELPERS					
PAINTERS	10.99	.99	1.18	.75	.07
Brush	11.24	.99	1.18	.75	.07
Spray; Swing Stage, Brush					
Paperhangers; Spray, Swing	11.49	.99	1.18	.75	.07
Stage; Sandblaster	11.46	.65	1.75		.07
PLASTERERS	10.46	.77	1.95	.50	
PLASTERERS' TENDERS	12.41	1.08	1.66	1.36	3/48
PLUMBERS; Steamfitters					



	Basic Hourly Rates	Fringe Benefits Payments			Education Allowance/ App. Tr.
		H. A. W.	Pension	Vacation	
ROOFERS	\$ 11.29	.60	.75	\$ 1.00	.01
SHEET METAL WORKERS	12.96	1.04	2.48		.07
SOFT FLOOR LAYERS	15.35	.80	2.48		.08
SPRINKLER FITTERS	15.35	.80	1.95		.08
STEEL ERECTOR WORKERS	11.84	.81	1.17		.08
TILE SETTERS	11.84	.81	1.17		.08
TERRAZZO & TILE SETTERS HELPERS	9.04	.81	1.00		
RIGGERS, WELDERS - Receive rate prescribed for craft performing operation to which rigging or welding is incidental					
FOOTNOTES:					
1. Employees contribute 8% of basic hourly rate for 6 months to 5 years' service and 5 years' service and vacation					
2. 6% of basic hourly rate for 6 months to 5 years' service and vacation					
3. Pay Credit. 6 Paid Holidays: 4 through P.					
PAID HOLIDAYS:					
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.					
LABORERS					
LABORERS, General Construction; Gas and oil pipeline; Jetway; Tool Shed Checker; Using dry packs; Plaster	\$ 7.36	.77	\$ 2.05	.75	.13
CUTTING TORCH OPERATOR (demolition); Scalor	7.41	.77	2.05	.75	.13
GUININE CHASER	7.44	.77	2.05	.75	.13
GRADING GRADEUR ON HIGHWAYS, STREETS AND AIRPORTS PAVING (sewer and drainage lines); Landscape Gardener and Nursery Man	7.46	.77	2.05	.75	.13
LABORER (packing rod steel and pins); Tank Scaler and Cleaner	7.485	.77	2.05	.75	.13
DRILLER'S HELPER (Chilson) Including Bellowers; Boring Machine Operator; Chuck Tender WINDOW CLEANER; Septic tank digger and intaller (leadman)	7.49	.77	2.05	.75	.13
CESSPOOL DIGGER AND INSTALLER	7.51	.77	2.05	.75	.13
	7.54	.77	2.05	.75	.13

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LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
CONCRETE CURERS; Impervious Membrans; Riprap Stonepavers; Sandblaster (spot tender); Pipelayer Backup Man, Coating, Grouting, Making of Joints, Sealing, Caulking, Diapering, and including Rubber Gasket Joints; pointing and any and all other work on concrete and masonry; ROCKER, SPREADER; Brooming; Raking; Cement dumper; Broomable man; Cement mixer (on 1 yard or larger mixers and handling bulk cement); Concrete Saw man (excluding tractor type); Bobo-Scraper, chipping hammer; Concrete core cutter and form blower; Gas and oil pipeline wrapper-pot tenders and form men; Operators and tenders of pneumatic and electric tools, concrete pump, vibrating machines and similar mechanical tools not separately classified herein; Tree climber using mechanical tools	\$ 7.55	.77	\$ 2.05	.75	.13
ROCK SLINGERS; Scaffolding men; Chair or safety belt or power tools	7.57	.77	2.05	.75	.13
DRILLERS, all other when drilling is for use of mechanical tools	7.62	.77	2.05	.75	.13
DRILLERS, all other when drilling is for use of mechanical tools	7.65	.77	2.05	.75	.13
PIPELAYERS, METALLIC OR NON-METALLIC (including water, sewage, solid, gas, air); Welding in connection with Laborer's Work	7.67	.77	2.05	.75	.13
GAS AND OIL PIPELINE WRAPPER (6" pipe and over)	7.70	.77	2.05	.75	.13
CRIBBER, SHORER, LAGGING, SHEETING AND TRENCH BRACING; Hand-guided lagging hammer	7.72	.77	2.05	.75	.13
STEEL HEADBOARD MAN	7.785	.77	2.05	.75	.13

## NOTICES

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			Education and App. Tr.
		H & W	Pension	Vacation	
DRILLERS - (all power drills, including 5 1/2 inch, hammer core, diamond, wagon track, multiple unit, and any and all types of mechanical drills, PONDMASTER (Nozzelman)	\$ 7.81 7.845 7.88	.77 .77 .77	\$ 2.05 2.05 2.05	.75 .75 .75	.13 .13 .13
HEAD ROCK SLINGERS					
FENCE ERECTORS:					
Class 1	7.86	.77	2.05	.75	.13
Class 2	7.61	.77	2.05	.75	.13
Class 3	7.36	.77	2.05	.75	.13
ROUNDERMEN	7.395	.77	2.05	.75	.13
POWER EQUIPMENT OPERATORS					
Group 1	\$ 9.75	.95	2.00	.50	.04
Group 2	10.03	.95	2.00	.50	.04
Group 3	10.32	.95	2.00	.50	.04
Group 4	10.46	.95	2.00	.50	.04
Group 5	10.68	.95	2.00	.50	.04
Group 6	10.79	.95	2.00	.50	.04
Group 7	10.91	.95	2.00	.50	.04
Group 8	11.08	.95	2.00	.50	.04
Group 9	11.21	.95	2.00	.50	.04

## POWER EQUIPMENT OPERATORS

## POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.R.M.); Engineer  
Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman;  
Switchman

Group 2: Compressor (600 C.Y.M. or larger); Concrete Mixer, skip  
type, conveyor; Fireman; Hydrostatic Pump; Oiler; Crusher (asphalt  
or concrete plant); Plant Operator; Generator, Pump or Compressor;  
3/4 yd. Drill Helper (oilfield); Skiploader - wheel type up to  
30/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman;  
Temporary Heating Plant; Trenching Machine Oiler; Truck Crane  
Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equip-  
ment Greaser (rack); Ford Permacore (with drayage attachments);  
Helicopter Radioman (ground); Power Concrete Pumping Truck; Road  
Power Concrete Saw; Power driver Jumbo Torsion Spring Road Carrier  
(job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Bomman or Mixerman  
(asphalt or concrete); Chip Spreading Machine; Concrete Pump  
(small portable); Bridge type Unloader and Turntable; Dinky  
Locomotive or Motorman (up to and including 10 tons); Equip-  
ment Greaser (greaser truck); Helicopter Helist; Highline  
Cableway Signalman; Hydra-hammer-aero Stomper; Power Sweeper;  
Roller (compacting); Screed (asphalt or concrete); Trenching  
Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including  
3/4 yd.); Batch Plant; Bit Sharpeners; Concrete Joint Machine  
(canal and similar type); Concrete Planer; Deck Engine; Derrick-  
can (oilfield type); Drilling Machine Operator (including water  
wells); Forklift (under 5-ton capacity); Hydrographic Seder  
Machine (straw, pulp or seed); Machine Pool Operator; Maginnis  
Internal Full Size Vibrator; Mechanic Bore, Gurb or Gutter  
Concrete or asphalt); Mechanical Finisher (concrete-Clary,  
or similar); Pavement Breaker (truck mounted);  
Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-  
tired Earth Moving Equipment (single engine, up to and including  
25 yds. struck); Self-propelled Tamping Machine; Slip  
Form Pump (power-driven hydraulic lifting device for concrete  
form); Skiploader (crawler and wheel type); Stinger Crane (Austin-  
up to and including 14 yds.); Tractor-bulldozer, Trencher, Scraper  
or similar type); Tractor-bulldozer, Trencher, Scraper (single  
engine, up to 100 h.p.; flywheel) and similar types, up to and  
including D-5 and similar type); Tugger Motor 1 dray, Tunnel  
Locomotive (over 10 and up to and including 10 tons); Welder-  
General

## NOTICES



POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing);  
Asphalt Paving Machine (barber greens or similar type); Bridge  
Machine Operator; Cast-in-place Pipe Laying Machine; Combination  
Mixer-Compactor; Concrete Pump (tremie); Concrete Pump (boom)  
Operator up to and including 25 ton capacity; Long-boom pay  
applicator; Grouting Plant; Drill Doctor; Blasting Grader;  
Rocklift (over 5 tons); Grade Checker; Grade-all; Grouting  
Machine; Heading Shield; Heavy Duty Repairman; Bolt Operator  
(Chicago Room and similar type); Bolman Bolt Loader and similar  
type; Latourneau slob Compactor or similar type; Lift Mobile;  
Euclid, Sierra and similar type; Material Moist; Mucking Machine  
(1/4 yd. rubber tired, rail or track type); Pneumatic Concrete  
Placing Machine (Hackley-Presswell or similar type); Pneumatic  
Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding  
caisson type); Rubber-tired Earth Moving Equipment (single engine-  
Caterpillar, Euclid, Athey Wagon, and similar types with any  
and all attachments over 25 yds. and up to and including 50  
cu. yds. struck); Rubber-tired Earth Moving Equipment (multiple  
engine, up to and including 25 yds. struck); Rubber-tired  
Scraper (self-loading-paddle wheel type-John Deere, 1040 and  
similar single unit); Skidloader (crawler and wheel type-over  
1 1/4 yds. up to and including 64 yds.); Surface Heaters and  
Planer; Trenching Machine (over 6 ft. depth capacity); Tower  
Crane; Tractor Compactor Drill Combination; Tractor (any type  
larger than D-5-100 Flywheel h.p. and over, or similar) Bull-  
dozer, grader, scraper and push tractor single engine; Tractor  
(boom attachment); Traveling Pipe Wrapping, Cleaning and Bending  
Machine; Tunnel Locomotive (over 3/4 yd. and up to 5 cu. yds. m.r.c.);  
Dragline, Crawler (over 3/4 yd. and up to 5 cu. yds. m.r.c.);  
(Long Boom pay applicable); Self-propelled Curb and Gutter  
Machine

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c.  
(Long boom pay applicable); Derrick Barge (long boom pay appli-  
cable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination;  
Moist, Stiff-legs, Guy Derrick or similar type, up to and including  
100 tons (long boom pay applicable); Monorail Locomotive (diesel),  
gas or electric; Motor Patrol-blade Operator (single engine);  
Multiple Engine Tractor (Euclid and similar type, except quad  
9 Cat); Rubber-tired Earth Moving Equipment (single engine, over  
30 yds. struck); Rubber-tired Earth Moving Equipment (multiple  
engine, Euclid, Caterpillar and similar) (over 25 yds. and up  
to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Crawler  
over 5 cu. yds. m.r.c.; (Long boom pay applicable); Tower Crane  
Repairman; Tractor Loader (crawler and wheel type over 64 yds.);  
Welder-certified; Woods Miter and similar Pughall Equipment  
Group 8: Auto Grader; Automatic Slip Form Crane-over 100 tons  
(Long boom pay applicable); Rubber-tired legs, Guy Derrick or  
similar type (capable of hoisting 100 tons); Less than 750 cu. yds.  
boom pay applicable); Mass Excavator - less than 750 cu. yds.;  
Mechanical Finishing Machine; Mobile Posa Traveler; Motor Patrol,  
multi-engine; Pipe Mobile Machine; Rubber-tired earth moving  
equipment (multiple engine, Euclid, Caterpillar and similar  
type over 50 cu. yds. struck); Rubber-tired self-loading Scraper  
(paddle wheel-auger type self-loading-2 or more units); Rubber-  
tired Scraper - pushing one another w/o Push Cat. Push-pull  
(500 per hour additional to base rate); Tandem Equipment (2  
units only); Tandem Tractor (quad 9 or similar type); Tunnel  
Mole Boring Machine  
Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline  
Cableway; Remote Controlled Earth Moving Equipment (31.00 p/h  
additional to base rate); Wheel Excavator (over 750 cu. yd.)

NOTICES

TRUCK DRIVERS	Basic Hourly Rate	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pension	Vacation	
Group 1:	\$8.85	\$1.05	.95	\$1.00	.10
Group 2:	9.05	1.05	.95	1.00	.10
Group 3:	9.25	1.05	.95	1.00	.10
Group 4:	9.45	1.05	.95	1.00	.10
Group 5:	11.45	1.05	.95	1.00	.10
Group 6:	8.55	1.05	.95	1.00	.10

TRUCK DRIVERS

Group 1: 2 axle dump; 2 axle flatbed; Bunkerman; Concrete pumping;  
Industrial lift; Truck repairman helper; Welder helper; Warehouse-  
man; Forklift under 15,000 lbs.  
Group 2: 3 axle dump; 3 axle flat bed; 2 axle water trucks; Erosin  
Control nozzle; dumpcrete, less than 64 yds.; Forklift 15,000 lbs.  
and over; Pallet; Pipeline working truck driver; Road oil spreader;  
Cement distributor or slurry driver; Boomman; Moss carrier  
Group 3: Off-road dump under 15 tons; 4 axle but less than 7 axle;  
Lowbed and trailer; Transit mix, under 8 yds.; 3 axle water trucks;  
Erosin control; Grout mixer; Dumpcrete 64 yds. and over; Dumpsters;  
DW 10's, 20's and over; Fuel truck and dynamite; Winch, 2 axle; Truck  
grapple  
Group 4: Off-road dump 35 tons and over; 7 axle or more; Transit mix,  
8 yds. and over; A-Frame or Swedish Cranes; Tireman; Water pull tankers;  
Welders; Winch truck, 3 axle or more  
Group 5: Truck Repairman  
Group 6: Traffic control, also swappers and helpers and pickups

SUPERSEDES DECISION

COUNTIES: Cecil, Caroline, Dorchester,  
Harford, Kent, Queen Annes, Talbot, Wicomico,  
& Worcester  
DECISION NO: MD78-3000  
DATE: Date of Publication  
Supersedes Decision No: 76-MD-3152 dated April 2, 1976 in 41 FR 14273.  
DESCRIPTION OF WORK: Highway construction (does not include airport runways  
and taxiways, bridges over navigable waters, tunnels, rest areas which include  
building structures, and railroad construction)

Basic Hourly Rate	H & W	Fringe Benefits Payments			Education and/or Appr. Tr.
		Pension	Vacation	Appr. Tr.	
Bricklayers	\$ 6.53				
Carpenters	6.08				
Cement Masons- Finishers	5.54				
Ironworkers, Structural	7.45				
Ironworkers, Reinforcing	6.50				
Laborers					
Laborers	4.00				
Airtool operators	4.44				
Asphalt rakers-spreaders	4.57				
Formsetters	5.00				
Guardrail erectors	4.25				
Painters	4.00				
Piledrivers	4.75				
Piledrivers	6.93				
Power Equipment Operators; Backhoes, Shovels, Graders, Blowdowns-Concrete Paver	5.97				
Bulldozers	5.75				
Crane, Derrick, & Dragline	6.33				
Grapple	6.76				
Guardrail-Post Hammer	4.85				
Loader	6.19				
Mechanic	5.76				
Motor Patrol-Grader	6.47				
Oilier-Greaser	4.25				
Power Broom	5.03				
Roller, Base	5.19				
Roller, Finish	5.80				
Screed Operator	4.88				
Scraper, Pan, & Scoop	5.00				
Truck Driver	4.36				
Welders - Rate for Craft					

NOTICES



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STATE: Wyoming COUNTY: Statewide  
DISCUSSION NUMBER: WY78-5008  
DATE: Date of Publication  
DATE: 12/1/77  
SUPERSEDES DECISION NO. WY77-5071 dated July 1, 1977, in 42 FR 14269.  
DISCUSSION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which include building structures; and railroad construction)

Basic Hourly Rate	Fringe Benefits Payments			Education Incentive And App. Tr.
	H & W	Pensions	Vacation	
\$ 8.37	.60	.60		.15
8.90	.50	.35		
6.21				
5.20	.35			
7.82				
10.42	.35	.38		3/48
9.47	.35	.38		3/48
8.55	.35	.38		3/48
7.03	.35	.38		3/48
9.47	.35	.38		3/48
8.19	.35	.38		3/48
7.03	.35	.38		3/48

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LABORERS

Basic Hourly Rates		H & W	Pensions	Vacation	Education and/or Appr. Tr.
<p><b>LABORERS</b></p> <p><b>Group 1:</b></p> <p>Aceman and hand faller; Bin Wall Installer Helpers; Concrete Worker (wet or dry); Concrete Workers (curing and drying); Dumpman; Erector and Installer (including the installation and erection of fences, snow fences, guard rails, and other safety devices); Sign and Right-of-way marker; Form Strippers; Form Setter Helper (paving); General Labor; Gunite Helper; Heater Tender; Landscaper Helper; Material Handler (lumber, rods, cement, concrete); Mosaicman; air and water; Pipe Setters' Helpers (non-metallic); Pipe Setters' Helpers (corrugated); Pre-watering, pre-setting and pre-irrigation (all work); Rip Rap Man; Sandblaster Pot Tender; Signal Man; Grada Concrete, etc.; Scissor Man or Hopper Man; Stake Driver; Equipment Operator and asphalt pot tender; Wrecking and demolition crews</p>					
\$ 5.21					
<p><b>Group 2:</b></p> <p>Asphalt Baker and Tampers; Bin Wall Installer; Bituminous Curb Builder; Cement Mason or Finisher; Helper and Tender; Chuck Tender; Form Setter (paving); Hand operated Vibratory Roller; Landscaper; Mortar Man on stone riprap; Operator of pneumatic, electric, gas tamper and similar mechanical tools; Pipe Setter (corrugated culvert pipe sectional, multiple and similar type); Pipe Setter (flexible pipe, non-metallic); Pipestripper; Powderman Helper; Power type Concrete Buggy (push or ride); Power Saw Operator (clearing); Vibrator, concrete</p>					
					\$ 3.1

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DECISION NO. WY78-5008

**LABORERS: (Cont'd)**

LABORERS: (Cont'd)	Basic Hourly Rate	Fringe Benefits Payments			Education Appx. %
		H & W	Pensions	Vacation	
Group 3: Concrete Saw; Gunite Nozzlemn; High Scaler (using air tools from bos'n chair, swing stage lift belt, or block and tackle shall receive \$.20 per hour more than the classified rate); Jackhammer and Pavement Breaker; Sandblaster Nozzlemn; Sewer Pipe Installer (non-metallic), clay, concrete, etc. (Caulker, collarman, joiner, mortarmn, Rigger, Jacker)	\$ 5.46				
Group 4: Powderman and Blaster; Wagon Drill, Air-trac, Diamond and other drills for blasting powder or grouting	5.71				
Group 5: Tunnel and Underground Work; Brakeman; Swamper; Vibrator Man	5.69				
Bull Gang; Dumpman; Mucker; Trackman	5.53				
Miners (drillers) Machine Men; Timberman; Steelmen; Drill Doctor; Form Setter and Mover; Spader; Tuggera spilling and/or Calison Workers; Powdermen; Jack- hammer; Finishers	5.96				
Nipper; Chucktender; Topman; Toplander	5.80				

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## POWER EQUIPMENT OPERATORS

POWER EQUIPMENT OPERATORS					
Group 1	\$ 7.12	.35	.35	.01	
Group 2	7.17	.35	.35	.01	
Group 3	7.22	.35	.35	.01	
Group 4	7.26	.35	.35	.01	
Group 5	7.31	.35	.35	.01	
Group 6	7.34	.35	.35	.01	
Group 7	7.38	.35	.35	.01	
Group 8	7.40	.35	.35	.01	
Group 9	7.51	.35	.35	.01	
Group 10	7.57	.35	.35	.01	
Group 11	7.59	.35	.35	.01	
Group 12	7.77	.35	.35	.01	
Group 13	7.81	.35	.35	.01	
Group 14	7.88	.35	.35	.01	
Group 15	7.94	.35	.35	.01	
Group 16	8.11	.35	.35	.01	
Group 17	8.45	.35	.35	.01	

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POWER EQUIPMENT OPERATORS

Group 1: Auger Machine Operator (post holes, etc.); Batch Bin Weighman; Scissorman or Hopperman; Beginner Operator; Brake-man and Helper; Crusher Oiler; Oiler; Utility; Scaled Operator; Tractor Operator (farm, crawler or wheel type, 60 HSP (draw-bar) or less with or without use of power attachments, except for use of back hoe or bucket)

Group 2: Broom Operators, self-propelled; Cableway Signalman (bellboy); Concrete Saw (self-propelled); Fireman; Power Loader, belt and bucket type

Group 3: Air Compressor over 315 cu. ft. capacity; Chip Spreader Operator; Form Grader Operator; Joint Machine Operator; Longitudinal Float Operator; Mixer Operator Concrete (under one yard); Helper (welder or heavy duty); Roller Operators, self-propelled (pneumatic, rubber tired, sheep foot, vibratory or combination type); Tire Repairman

Group 4: Pump Operator (all others)

Group 5: Conveyor Belt Operator; Fork Lift and Lumber Staker; Screening Plant Operator

Group 6: A-Frame Truck; Tractor Operators (farm, crawler or wheel type, over 60 HSP (drawbar) without use of power attachments

Group 7: Oiler, Lead Utility

Group 8: Gunnite and Grout Machine Operator; Mulching Machine Operator; Oil Distributor

Group 9: Front End Loader (up to and including 1 1/2 cu. yds.); Pavement Breakers, Hydro-tamper and similar type machines; Pumps, well points

Group 10: Moist Operator (one drum)

POWER EQUIPMENT OPERATORS (Cont'd)

Group 11: Haulage Motorman and Industrial type Motorman; Motor Patrol Operator (all others); Pump Operator (in tunnels, shafts, raises); Hydro type Cranes (up to 15 tons)

Group 12: Air Compressor, two or more machines or tunnels, shafts, raises of plant Operator; Asphalt plant Operator; Bituminous Lay-down Machine Operator; Concrete Machine Operator; Concrete Batch Plant; Concrete Finish Machine Operator; Concrete Spread and Paver Span Saw (Hunt process or similar); Concrete Spreader and Paver Operator; Curbsaw Operator; Drilling Machine, Integrated (Core, Rotary, Caisson, Diamond); Elevating Grader; Front End Loader (over 1 1/2 cu. yds.); Jumbo Form Operator; Mixer Operator, base course pug mill type; Mixer Bituminous Operator (travel plant); Mixer Operator Concrete (over one yard); Motor Patrol Operator (finish); Mucking Machine Operator (all types); Pneumatic Guns; Pumpcrete Operator; Roller Operator, (tandem steel wheel, three axle or three wheel); Scraper Equipment (all types); Shovels, Draglines, Cranes, Piledrivers, all truck mounted cranes, (manufacturer's rating) up to 3 1/2 yards, all attachments; Hydro type Cranes, (15 ton and over); Shuttle Car Operator; Subgrade Machine Operator (power); Tractor Operator, all with use of power attachments and including Puckot, Doser, Tournadoser, etc. (The use power attachment shall not include disk, pulling or rollers, and similar unskilled actions); Trenching Machine Operator; Wash Plant Operator

Group 13: Welder, Machine Doctor

Group 14: Hoist Operator (two or more drums of shafts or raises); Repairman; Mechanic; Machine Doctor, Welders and Helper; Heavy Duty Mechanic, Machine Doctor

Group 15: Cableway Operators; Mixer Drum Cranes, (Whirley, Gantry, Stiffleg, Overhead travelling)

Group 16: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes (manufacturer's rating) 3 1/2 yards to 7 cu. yds., all attachments; Wheel Excavator Operator

Group 17: Shovels, Draglines, Cranes, Piledrivers, all truck mounted Cranes, (manufacturer's rating) 7 cu. yds. and over, all attachments

NOTICES

TRUCK DRIVERS

Pick-up Truck Drivers (when used for hauling)

Dump Truck Drivers (water level capacity load)

Over 7 cu. yds. and less than 10 cu. yds.

Over 10 cu. yds. to and including 13 cu. yds.

Over 13 cu. yds. to and including 20 cu. yds.

Over 20 cu. yds. to and including 25 cu. yds.

Over 25 cu. yds. to and including 30 cu. yds.

Over 30 cu. yds. to and including 35 cu. yds.

Over 35 cu. yds. to and including 40 cu. yds.

Over 40 cu. yds. to and including 45 cu. yds.

Over 45 cu. yds. (to be negotiated prior to use)

Show Plow Truck Drivers (the cu. yd. rate of the truck driver classification):

Pilot Car Drivers

Gravel Spreaders

Flat Rack Material Truck Drivers:

Less than 2 tons

2 tons to 5 tons

Over 5 tons

Low Boy and Tandem Axle Float Drivers

Gang Truck Drivers

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
\$ 5.99	.35	.35		
6.04	.35	.35		
6.19	.35	.35		
6.29	.35	.35		
6.79	.35	.35		
6.79	.35	.35		
6.89	.35	.35		
6.94	.35	.35		
6.99	.35	.35		
7.04	.35	.35		
5.99	.35	.35		
6.04	.35	.35		
6.04	.35	.35		
6.19	.35	.35		
6.29	.35	.35		
6.79	.35	.35		
6.04	.35	.35		

TRUCK DRIVERS (Cont'd)

Stringing Truck Drivers; Single axle type truck; Multiple axle type truck; semi

Winch Trailer Truck Drivers (cable and hoist)

Utility Winch Truck Drivers

\*A\* Frame Truck Drivers

Warehousemen, Partsmen and Helpers

Material Checkers

Transit Mix or wet mix Truck Drivers:

Less than 5 cu. yds.; Single axle 5 cu. yds. to and over 10 cu. yds.; Tandem axle Over 10 cu. yds.

Power Broom Drivers and/or Operators

Water Truck Drivers:

2500 gal. or less (straight truck)

Over 2500 gal. to and including 3600 gal.

Over 3600 gal. (straight truck)

Over 3600 gal. (semi truck)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or App. Tr.
	H & W	Pensions	Vacation	
\$ 6.04	.35	.35		
6.79	.35	.35		
6.29	.35	.35		
6.29	.35	.35		
6.29	.35	.35		
6.04	.35	.35		
6.19	.35	.35		
6.29	.35	.35		
6.39	.35	.35		
6.49	.35	.35		
6.19	.35	.35		
6.04	.35	.35		
6.19	.35	.35		
6.29	.35	.35		
6.39	.35	.35		
6.49	.35	.35		



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	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
TRUCK DRIVERS (Cont'd)					
Heavy Duty (Euclid, electric or similar type)	\$ 6.79	.35	.35		
Fuel Service Truck Drivers	6.04	.35	.35		
Greasemen, Tiresmen, Service Men and Helpers	6.04	.35	.35		
Truck Mechanics and Helpers (shop and field):					
Field Mechanics	6.99	.35	.35		
Helpers - field (welders, mechanics, etc.)	6.55	.35	.35		

[FR Doc. 78-2101 Filed 1-28-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 19—FRIDAY, JANUARY 27, 1978

federal register

FRIDAY, JANUARY 27, 1978  
PART VI



DEPARTMENT OF  
STATE

FISHERY CONSERVATION  
AND MANAGEMENT

Applications for Permits to Fish  
off the Coasts of the United States



NOTICES

[4710-01]

DEPARTMENT OF STATE

[Public Notice 588]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after Febru-

ary 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1978 have been received from the Governments of Spain and the Union of Soviet Socialist Republics, and are published herewith.

Dated: January 18, 1978.

DONALD J. YELLMAN,  
Acting Director,  
Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FISH)

No. SP-78-0052

1. Name of Vessel KANTOXIDE Visual Ident. E.G.Z.J.  
 2. Type of Vessel Side trawler 3. H.P. (Call Sign) 48  
 4. Length 48 5. Gross Tonnage 483 6. Net Tonnage 200 7. Speed (knots) 12  
 8. Owner's Name and Address MANUAGA, S.A. Dársena de Equidazu, 1, 2 y 3  
ONDARROA (Vizcaya)  
 9. Types of Processing Equipment Flash freezer

10. Fisheries for which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Catching	Processing	Other Support
SOU		Bottom trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

FISHING VESSEL IDENTIFICATION FORM (FISH)

No. SP-78-0079

1. Name of Vessel PERALIA Visual Ident. E.F.K.M.  
 2. Type of Vessel Side trawler 3. H.P. (Call Sign) 44  
 4. Length 218 5. Gross Tonnage 481 6. Net Tonnage 218 7. Speed (knots) 10  
 8. Owner's Name and Address MANUEL GESTOSO COSTAS, - Tomás A. Alonso, 294  
VIGO  
 9. Types of Processing Equipment Flash freezer

10. Fisheries for which Permit is Requested:

Fishery Plans	Target Species	Gear To Be Used	Catching	Processing	Other Support
SOU		Bottom trawl	X	X	

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)



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Amended

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. UR-78-0213

1. Name of Vessel Tikhvin 2. Visual Identifier (Call Sign) UJUT  
 3. Type of Vessel 4. Length 85  
 5. Gross Tonnage 3170 6. Net Tonnage 1225 7. Max. Speed (Knots) 12.5  
 8. Owner's Name and Address BAZA AKTIVNOGO MORSKOGO RYBOLOVSTVA, MAKHODKA, USSR  
 9. Types of Processing Equipment Freezer, fish meal plant, filleter  
 10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear to be Used	Catching	Processing	Other Support
WOC	Hake		X		X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
 No X Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)  
 To conduct the support operations to U.S. catchers working for Marine Resources Co., Inc.

NOTICES

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
 No X Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)  
 To conduct the support operations to U.S. catchers working for Marine Resources Co., Inc.

Fishery Plans	Target Species	Gear to be Used	Catching	Processing	Other Support
WOC	Hake		X		X

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. UR-78-0238  
 1. Name of Vessel SULAK 2. Visual Identifier (Call Sign) UPTO  
 3. Type of Vessel Fish Processing Barge 4. Length 174  
 5. Gross Tonnage 18011 6. Net Tonnage 11076 7. Max. Speed (knots) 14.3  
 8. Owner's Name and Address BAZA TRALOVGO I REFRIZHERATORNOGO FLOTA, VLADIVOSTOK, USSR  
 9. Types of Processing Equipment Freezer, preserves line, fishmeal plant, fish dressing line  
 10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear to be Used	Catching	Processing	Other Support
			X		X

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11. Continued

SUPPORT OF APPROXIMATELY 3 OR 4 U.S. FLAG FISHING VESSELS FISHING FOR MARINE RESOURCES CO. OF SEATTLE.

Fishery - WOC  
 Species - Target species - Pacific Hake  
 Quantities - (Total amount for Tikhvin and Sulak combined) - approximately 10,000 MT to be processed for Marine Resources Co. from catches they will purchase from U.S. fishing vessels.  
 Dates - May through October  
 Location - Various locations within the USFCZ off Washington, Oregon and California.

Amended  
 UR-78-0213 & 0238

FISHING VESSEL IDENTIFICATION FORM (FOREIGN) No. UR-78-0103

1. Name of Vessel Ogon 2. Visual Identifier (Call Sign) UOPH  
 3. Type of Vessel side trawler 4. Length 58  
 5. Gross Tonnage 684 6. Net Tonnage 223 7. Speed (knots) 11.9  
 8. Owner's Name and Address upravlyanie promrazvedki Vladivostok, U.S.S.R.  
 9. Types of Processing Equipment -

10. Fisheries for Which Permit is Requested:

Fishery Plans	Target Species	Gear to be Used	Catching	Processing	Other Support
BSA	Pollock	Midwater Trawl	X		X
	Pacific Cod	Bottom Trawl	X		X
	Yellowfin Sole	"	X		X
	Other Flatfishes	"	X		X
	Alaska Hake	"	X		X
	Herring	"	X		X
	Pacific Ocean Perch	"	X		X
	Other Groundfish	"	X		X
GOA	Pollock	Midwater Trawl	X		X
	Pacific Cod	Bottom Trawl	X		X
	Plounders	"	X		X
	Pacific Ocean Perch	"	X		X
	Other Rockfishes	"	X		X
	Other Groundfish	"	X		X
	Alaska Hake	"	X		X
WOC	Hake	Midwater Trawl	X		X
	Jack Hake	"	X		X

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
 No X Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

NOTICES

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FEDERAL REGISTER, VOL. 43, NO. 19—FRIDAY, JANUARY 27, 1978



3878

No. 42-75-0497

FISHING VESSEL IDENTIFICATION FORM (FORSEIGN)

1. Name of Vessel Seaker 2. Visual Ident. UTRA  
 3. Type of Vessel side trawler 4. Length 58  
 5. Gross Tonnage 685 6. Net Tonnage 223 7. Speed (knots) 11.9  
 8. Owner's Name and Address UPRAVLENIE PROMRAZVEDKI  
Vladivostok, U.S.S.R.

9. Types of Processing Equipment

10. Fisheries for which Permit is Requested:

Fishery/Plans	Target Species	Gear To Be Used	Catching	Processing	Other Support
BSA	Pollock Pacific Cod Yellowfin Sole Other Flounders Atka Mackerel Herring Pacific Ocean Perch Other Groundfish	Midwater Trawl Bottom Trawl	x x x x x x x x	x x x x x x x x	x x x x x x x x
GOA	Pollock Pacific Cod Flounders Pacific Ocean Perch Other Rockfishes Other Groundfish Atka Mackerel	Midwater Trawl Bottom Trawl	x x x x x x x	x x x x x x x	x x x x x x x
MOC	Hake Jack Mackerel	Midwater Trawl	x x	x x	x x

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

(FR Doc. 78-2344 Filed 1-26-78; 8:45 am)

NOTICES

10. Fisheries for which Permit is Requested:

Fishery/Plans	Target Species	Gear To Be Used	Catching	Processing	Other Support
BSA	Pollock Pacific Cod Yellowfin Sole Other Flounders Atka Mackerel Herring Pacific Ocean Perch Other Groundfish	Midwater Trawl Bottom Trawl	x x x x x x x x	x x x x x x x x	x x x x x x x x
GOA	Pollock Pacific Cod Flounders Pacific Ocean Perch Other Rockfishes Other Groundfish Atka Mackerel	Midwater Trawl Bottom Trawl	x x x x x x x	x x x x x x x	x x x x x x x
MOC	Hake Jack Mackerel	Midwater Trawl	x x	x x	x x

11. Are Fishing Activities Requested in Support of Vessels of a Different Flag:  
☒ No ☐ Yes (If yes, attach supplemental sheet showing flag of other vessels, fishery, species, quantities, dates, locations and specific activities requested.)

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FEDERAL REGISTER, VOL. 43, NO. 19—FRIDAY, JANUARY 27, 1978

# Federal register

FRIDAY, JANUARY 27, 1978  
 PART VII



DEPARTMENT OF  
 THE INTERIOR  
 Geological Survey

OUTER CONTINENTAL  
 SHELF

Oil and Gas Sulphur Operations;  
 Oil and Gas Information Program



[4310-31]

## Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY,  
DEPARTMENT OF THE INTERIOR

## PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final rule.

**SUMMARY:** These regulations revise and more clearly define existing procedures (30 CFR 250.34) for the submission by oil and gas lessees on the Outer Continental Shelf (OCS) of plans for exploration and development/production activities on the OCS. The regulations also significantly expand the information which States affected by OCS development will receive, and provide commenting procedures for affected States and local governments. Finally, the regulations delineate procedures for determining whether or not an Environmental Impact Statement will be required for exploration and development/production plans.

## FOR FURTHER INFORMATION CONTACT:

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**EFFECTIVE DATE:** January 27, 1978. See Supplementary Information below.

## SUPPLEMENTARY INFORMATION:

In accordance with the provisions of the Administrative Procedures Act (5 U.S.C. 553(d)), the Secretary of the Interior has determined that it is in the public interest for these regulations to become final on publication. This determination is based on the need to have the regulations effective at the time of the next sale of OCS oil and gas leases. The North Atlantic OCS Lease Sale (Sale No. 42) is scheduled to be held on January 31, 1978.

## I. EXPLANATORY STATEMENT

These regulations were initially published as proposed regulations on September 27, 1977 (42 FR 49478). Fifty-nine comments from individuals, private interest groups, industry, State and local governments, and other Fed-

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eral agencies were received. The U.S. Geological Survey would like to thank all those who commented. The comments have helped greatly in the drafting of final regulations.

## II. DISCUSSION OF MAJOR COMMENTS

## AUTHORITY OF THE SECRETARY OF THE INTERIOR TO PROMULGATE THESE REGULATIONS

A number of commenters objected to the promulgation of these regulations in this form on the ground that there is no existing statutory basis for them.

The Outer Continental Shelf Lands Act of 1953 (OCS Lands Act) requires the Secretary of the Interior to:

Administer the provisions of (the) Act relating to the leasing of the Outer Continental Shelf, (and to) prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf. . . . 43 U.S.C. 1334(a)(1) (emphasis added).

These statutory provisions have been construed broadly to give the Secretary authority to prescribe regulations for protection of the environment. See *Union Oil Co., v. Morton*, 512 F. 2d 743 (9th Cir. 1975); *Gulf Oil Corp. v. Morton*, 493 F. 2d 141 (9th Cir. 1973).

Also, the National Environmental Policy Act of 1969 requires that:

... To the fullest extent possible ... the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Chapter ...

Clearly, the OCS Lands Act, as supplemented by the National Environmental Policy Act, gives the Secretary extensive authority to supervise and oversee all operations on OCS areas leased for oil and gas development. This necessarily includes the authority to obtain all available information on the resources of the OCS, and environmental information regarding the affected OCS area and all areas impacted by OCS development, whether on the OCS or not. In addition, the Secretary's authority to prevent waste clearly includes authority to order additional exploratory surveys where those surveys are necessary to the preparation and evaluation of a comprehensive proposal for exploration or development and production.

In the administration of any large Federal program, such as the OCS oil and gas program, it is necessary to address environmental impacts as they affect the entire ecological system, to the extent this is possible under existing technology. Because jurisdictional boundaries often impede this type of overview, an effective information ex-

change and coordination mechanism between jurisdictions is essential. The requirements contained in these regulations for the submission of information to the States are intended to meet this need.

The Outer Continental Shelf Lands Act provides specific authority for the creation of a coordination mechanism between the Department of the Interior and States affected by OCS development:

In the enforcement of conservation laws, rules, and regulations, the Secretary is authorized to cooperate with the conservation agencies of the adjacent States. 43 U.S.C. 1334(a)(1).

Thus there is ample authority under existing law for the promulgation of these regulations.

## REDUNDANCY OF REQUIREMENTS

Several commenters noted what they believed to be redundant information reporting requirements between these regulations and similar regulations and proposals being considered by other Federal agencies and offices within the Department of the Interior.

In the promulgation of these regulations an effort has been made to coordinate the requirements of the various pending proposals to avoid unnecessary duplication. The Department has for example, worked closely with the Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, to assure that these regulations will not duplicate or conflict with the requirements of OCZM's pending regulations, Proposed 15 CFR Part 930, 42 FR 43586, August 29, 1977, implementing the Federal consistency provisions of the Coastal Zone Management Act of 1972 (CZMA), as amended (16 U.S.C. § 1456).

Section 250.34-3 of these regulations appears to duplicate the requirements of the Appendices to OCZM's Consistency Regulations (42 FR 43609). The two agencies have agreed that in the final draft of the Consistency Regulations, the Appendices will be deleted.

Also, the consistency-related requirements of §§ 250.34-1 (c), (d), (e) and 250.34-34-2 (d), (e), (f) of these regulations appear to duplicate certain requirements of the OCZM Consistency Regulations. This is not the case. These provisions are intended merely to fulfill and reference the parallel requirements of the OCZM regulations.

It must be recognized, however, that OCZM is the agency with responsibility for implementation of the entire CZMA, including the consistency provisions. If questions arise regarding compliance with the consistency requirements, they should be addressed to OCZM.

The Department recognizes that there will be some redundancy be-

tween these regulations and other Federal Agency proposals. In most cases we have reviewed, however, the scope and purpose of other agency proposals varies so greatly from the scope and purpose of these regulations that it would be difficult or impossible to coordinate the proposals. The Department will continue to comment on the proposals of other agencies and offices in an effort to avoid duplication.

## INCONSISTENCY WITH OCS ORDERS, NOTICES TO LESSEES, AND LEASE STIPULATIONS

A number of commenters noted apparent inconsistencies and redundancies between these regulations and other OCS directives. Where the requirements of this section duplicate the requirements of OCS Orders, Notices to Lessees or Lease Stipulations, an attempt is being made to cross-reference the various directives with these regulations. Where no cross-reference is made, for example in proposed Lease Stipulation No. 4 for the North Atlantic Lease Sale (Notice of Sale No. 42, 42 FR 65285 (December 30, 1977)), it may be assumed that the information required to be provided to affected States under these regulations will generally fulfill similar requirements elsewhere.

Where there are inconsistencies between these regulations and OCS Orders and Notices to Lessees, the provisions of the regulations will govern. OCS Orders and Notices to Lessees are vehicles for implementing OCS regulations and therefore may not modify the regulations. The provisions of current OCS Orders and Notices to Lessees which are consistent with these regulations will continue in effect until modified or superseded.

Because the promulgation of these regulations obviates the need for a new OCS Order No. 15, the proposal to issue Order No. 15 (41 FR 204 (October 20, 1976)) is recinded with final publication of these regulations.

## WITHHOLDING CONFIDENTIAL INFORMATION FROM DISCLOSURE

A great many comments were addressed to the issue of whether or not confidential data and information received by Geological Survey from OCS lessees should be made available to affected States. Industry commenters objected to any release of information considered to be confidential under the disclosure exemptions of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department's implementing regulations (43 CFR Part 2, 30 CFR Parts 250 and 251). State and local government commenters, on the other hand, argued that it is necessary for State planning purposes that the States be supplied with virtually all data and information received by Geological Survey, regardless of

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the confidentiality of such information.

This issue has been directly addressed by the Department in the establishment of an "Outer Continental Shelf Oil and Gas Information Program," Proposed 30 CFR Part 252, 42 FR 53956 (September 26, 1977), which is being published as final regulations elsewhere in today's FEDERAL REGISTER. The provisions of those regulations are the result of a balancing of the public interest in obtaining information about its resources with the public interest in maintaining an active and competitive oil and gas industry. To that end, a procedure is established for the preparation of a Summary Report, specifically designed to assist affected States in planning for near-shore and onshore impacts from OCS activities, which will be derived from confidential data and information available to the Geological Survey. The Department believes that this is a fair accommodation of the competing interests involved. Anyone desiring a fuller discussion of these matters should refer to the 30 CFR Part 252 regulations and the preamble discussion published with them.

## APPLICABILITY TO EXISTING LEASES AND PENDING OCS PLANS

Several commenters questioned whether these regulations would be applicable to existing leases and OCS exploration and development/production plans submitted for approval prior to the effective date of the regulations. As regulations promulgated under the conservation authority of the Secretary of the Interior, these regulations are applicable to existing leases. As to OCS plans, the regulations will apply to those plans submitted after the effective date, and not to plans submitted prior to that date which are pending approval.

## III. SECTION-BY-SECTION DISCUSSION

An "Authority" statement was inserted to specify the various statutory bases for the regulations. The basic authority is the Outer Continental Shelf Lands Act. The National Environmental Policy Act is cited as authority for the section of the regulations dealing with Environmental Impact Statements (§ 250.34-4). The Coastal Zone Management Act (CZMA) is cited because of references to that Act made within the regulations and also because the regulations undertake to define a phrase contained in the CZMA. Section 307 of the CZMA (16 U.S.C. 1456) generally requires that activities "described in detail" in OCS exploration and development production plans be consistent with State coastal zone management programs approved under the Act. These regulations define what is to be described in detail in OCS plans.

An explanatory "note" has been added to make clear that definitions contained in 30 CFR §§ 250.2 and 252.2 will apply to these regulations.

It should also be noted that each of the four new subheadings of 250.34 (250.34-1, 250.34-2, 250.34-3, and 250.34-4) is considered to be a separate section.

## SECTION 250.34-1 EXPLORATION PLAN

**250.34-1(a).** The basic requirement that no exploration activities commence until an exploration plan has been approved has been modified to allow "preliminary activities" to go forward prior to the submission and approval of a plan. Preliminary activities are defined as geological, geophysical, and other surveys which (1) Are necessary to develop a comprehensive exploration plan, (2) do not result in any physical penetration of the seabed of greater than three hundred (300) feet of fifty (50) feet of consolidated formations, and (3) do not result in any significant adverse impact on the natural resources of the OCS.

This very limited exception to the activities which must be approved by Geological Survey is necessary in order that lessees be able to gather sufficient information to prepare an initial exploration plan. Without some specific knowledge of the area's geology, it would be difficult or impossible to prepare a comprehensive exploration plan, including locations for proposed wells, for the area. This system conforms with past practice and has been shown to not result in any appreciable adverse environmental impacts.

In addition, the word "approximate" has been inserted before "location of each proposed exploratory well" in § 250.34-1(a)(4) to allow some flexibility in final placement of wells. Although an exploration plan may propose locations for several wells, the exact location of later wells depends to some extent on the results of earlier wells.

A sentence has been added to the end of section 250.34-1(a) to require the lessee to indicate which portions of a proposed exploration plan he believes to be exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and implementing regulations (43 CFR Part 2). This is intended to lessen the burden on the Supervisor, who must determine which information is exempt from disclosure before transmitting copies of the plan to affected States (section 250.34-1(c)). This procedure should also help in the avoidance of errors by the Supervisor in deleting confidential information. It is hoped that lessees will segregate information believed to be confidential from the rest of the information contained in the plan so that the Supervisor can expedite his responsibilities in this regard.



Finally, paragraph (2) of the proposed regulations has been deleted. That paragraph would have required lessees to submit a general statement of intentions and expectations regarding development and production activities that would follow a discovery of oil and/or gas. Under the Outer Continental Shelf Lands Act, a lessee who makes a discovery of oil or gas, or both, on the OCS must proceed diligently to produce that oil or gas. In addition, lessees generally would not be able to state specifically how they will proceed to production until they find out the extent and quality of a discovery. Therefore, such a statement would be unnecessary and impracticable at this stage.

250.34-1(b). A new subsection has been inserted to clarify the procedure for submission and receipt of exploration plans and accompanying Environmental Reports (Exploration) required by § 250.34-3(a). (The succeeding subsections have been redesignated accordingly.) This new subsection clarifies the requirement that the plan and the Environmental Report be submitted concurrently, as one package in effect. Also the subsection calls for a determination by the Supervisor that the information in the plan and report is complete before he deems the package to be "received" for any purpose, including the running of applicable time periods for State review.

Finally, since the determination of completeness of the Environmental Report (Exploration) affects the State interest in obtaining near-shore and onshore information, the Supervisor is required to consult with each affected State in order to assure that each State has input in that determination. A similar provision appeared as section 250.34-3(b)(3) in the proposed regulations.

250.34-1(c). Minor changes only.

250.34-1(d). This subsection has been reorganized and clarified in several respects. It has been made clear that the general commenting procedures of paragraph (1) are available to all affected States, including States with approved coastal zone management programs. The Supervisor is now required to respond in writing to all timely written comments received from affected States. Also, in response to comments, a time period of 30 days for State review and comment has been added. Finally, the reference to the consistency requirements of the CZMA has been redrafted to conform to wording suggested by the Office of Coastal Zone Management.

250.34-1(e). Minor changes only.

250.34-1(f). Redrafted for clarity.

250.34-1(h). Redrafted for clarity.

250.34-1(h). A new subsection has been inserted to make clear that the responsibility of lessees to take appropriate measures to meet emergency

situations is not limited by these new regulations. Where the Supervisor approves or directs departures from an exploration plan in an emergency situation, he must advise affected States of the action taken.

250.34-1(i). The revised subsection of the proposed regulations was modified to allow minor revisions in exploration plans without full State comment and review. A revision that could cause significant changes in the impacts described in the applicable Environmental Report (Exploration) will require State review and revision of the Environmental Report.

#### SECTION 250.34-2 DEVELOPMENT AND PRODUCTION PLAN

Most changes made in this section conform to changes discussed above which were made in § 250.34-1. For an explanation of these changes, please refer to the appropriate discussion above.

250.34-2(a). Paragraph (5) of the proposed § 250.34-2(a) has been deleted. That paragraph would have required a lessee to submit a description of all new offshore facilities and operations proposed by the lessee or known by him (whether or not owned or operated by the lessee) to be directly related to the proposed development or production activities. That paragraph would have largely duplicated similar requirements contained in the section relating to the Environmental Report (Development/Production) § 250.34-3(b).

250.34-2(b). See discussion under 250.34-1(b) above.

250.34-2(c). No change.

250.34-2(d). Minor changes only.

250.34-2(e). See discussion under 250.34-1(d) above.

250.34-2(f). Minor changes only.

250.34-2(g). Redrafted for clarity.

250.34-2(h). See discussion under 250.34-1(h) above.

250.34-2(i). See discussion under 250.34-1(i) above.

#### SECTION 250.34-3 ENVIRONMENTAL REPORTS; INFORMATION TO BE PROVIDED TO AFFECTED STATES

Only minor changes have been made in this section. The introductory statements in subsections (a) and (b) were redrafted to make clear that the Environmental Report (Exploration) is not intended to be as detailed or comprehensive as the Environmental Report (Development/Production). Other changes were made to conform to changes in §§ 250.34-1 and 250.34-2.

#### SECTION 250.34-4 COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT

This section has been substantially reorganized to reflect the requirements of the National Environmental Policy Act (NEPA).

250.34-4(a). This subsection defines the steps the Supervisor must take in deciding whether an Environmental Impact Statement (EIS) should be prepared for an exploration or development and production plan. He must first prepare an environmental "assessment." The assessment must be prepared in accordance with applicable guidelines and policies. This assessment requirement actually does no more than restate existing Geological Survey practice. Paragraph (1) does, however, focus the assessment somewhat by incorporating the four specific considerations listed.

If after completing an assessment the Supervisor believes that an EIS is warranted, paragraph (2) requires him to review previous EIS's and determine whether the impacts which would be addressed in the new EIS have already been adequately considered in a previous EIS. In this regard he will consider the two specific issues listed.

Finally, the Director shall review the Supervisor's assessment of whether or not to prepare an EIS, and may reverse the Supervisor's determination.

250.34-4(b). Where it has been determined that an EIS will be prepared for a development and production plan under subsection (a), it must be decided whether the EIS will cover an individual plan or a number of plans. Subsection (b) requires that the EIS cover two or more proposed plans if the stated criteria have been met. It is intended that an EIS will be prepared for more than one plan where it is necessary to assess the cumulative impacts of a number of proposed plans.

Since it is possible that an individual development and production plan will trigger the criteria of this subsection, and that no other plans will be pending at that time, a sentence has been added to reflect the Supervisor's authority to order preliminary descriptions of development and production plans from other lessees in the area.

250.34-4(c). This subsection has been modified from the proposed regulations to conform with existing law regarding limitations on agency action during preparation of an EIS.

#### IV. ENVIRONMENTAL AND INFLATION IMPACT STATEMENTS

NOTE.—The Department of the Interior has determined that promulgation of these regulations will not have a significant impact on the environment and therefore will not require preparation of an Environmental Impact Statement. The Department has also determined that this document does not require preparation of an Inflation Impact Statement under Executive Order 11621 and OMB Circular A-107.

Dated: January 24, 1978.

JOAN M. DAVENPORT,  
Assistant Secretary  
of the Interior.

30 CFR 250.34 is modified to read:

Sec.  
250.34 Exploration, development, and production plans.  
250.34-1 Exploration plan.  
250.34-2 Development and production plan.  
250.34-3 Environmental reports; information to be provided to affected States.  
250.34-4 Compliance with the National Environmental Policy Act.

AUTHORITY: Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1331 et seq.); National Environmental Policy Act of 1969 (42 U.S.C. 4332); Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1456).

NOTE.—Terms used in this section are defined in 30 CFR 250.2 and 252.2.

§ 250.34 Exploration, development, and production plans.

§ 250.34-1 Exploration plan.

(a) No exploration activities, except for preliminary activities, may be commenced on any leased area until a proposed exploration plan covering that area has been submitted to and approved by the Supervisor. Preliminary activities are geological, geophysical, and other surveys which are necessary to develop a comprehensive exploration plan but which do not result in any physical penetration of the seabed of greater than three hundred (300) feet or fifty (50) feet of consolidated formations or in any significant adverse impact on the natural resources of the Outer Continental Shelf (OCS). An exploration plan may apply to one or more leases held by an individual lessee, or may be submitted by a group of lessees acting jointly through a unit operator pursuant to an approved unit agreement. A proposed exploration plan shall identify and describe (in the detail required by the regulations in this Part, OCS Orders, and Notices to Lessees) all exploration activities to be undertaken on the area covered by the plan for the time period specified in the plan. An exploration plan shall include:

(1) The proposed type and sequence of exploration activities to be undertaken together with a tentative timetable for performance;

(2) A description of the drilling vessels, platforms, or other offshore structures to be used indicating the important features thereof with special attention to safety features and pollution-prevention and control features;

(3) Types of geophysical equipment to be utilized;

(4) Approximate location of each proposed exploratory well, including surface and projected bottom hole location of each directionally drilled well;

(5) Current structure maps and, as appropriate, schematic cross sections showing expected depth of marker formations; and

(6) Such other relevant data and information as the Supervisor may require.

The lessee shall indicate which portions of the proposed exploration plan he believes to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2).

(b)(1) A proposed exploration plan and its accompanying Environmental Report (Exploration) shall be submitted at the same time and shall not be deemed received by the Supervisor until he has determined that they are complete and contain the information required by subsections 250.34-1(a) and 250.34-3(a) of this Part.

(2) Prior to making the determination under paragraph (1), the Supervisor shall provide each affected State with an advance copy of the Environmental Report (Exploration). If any affected State believes the Environmental Report (Exploration) does not satisfy the requirements of § 250.34(a), the State must make its objections known to the Supervisor within 10 days. The Supervisor shall attempt to resolve the State's objections through whatever means are available, including meeting informally with representatives of the lessee and affected State. If the differences cannot be resolved in this manner, the supervisor shall determine whether the report complies with the requirements of § 250.34-3(a) and shall notify the lessee and the affected State of the determination.

(c) The lessee shall submit to the Supervisor a sufficient number of copies of each proposed exploration plan to permit the Supervisor to transmit copies of the plan to the Governor and the coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. Within ten (10) days after his determination of receipt of the proposed plan under subsection (b)(1) of this section, the Supervisor shall transmit a copy of the plan, except for those portions he determines to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2), to the Governor and coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. The Supervisor shall also make copies of the plan available to the public, except for those portions he has determined to

be exempt, in accordance with the Freedom of Information Act.

(d)(1)(i) In his evaluation of a proposed exploration plan the Supervisor shall consider comments received from the Governors of affected States, whether or not such States have coastal zone management programs approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455). The Supervisor shall respond in writing to all timely submitted written comments and give his reasons for the action taken. The Supervisor may consult directly with affected States regarding matters contained in the comments.

(ii) The Supervisor shall not grant or deny approval for a proposed exploration plan until written comments have been received from each affected State, or until 30 days after each affected State receives a copy of the proposed plan and its accompanying Environmental Report, whichever occurs first.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Supervisor shall not approve any activity described in detail in an exploration plan and affecting any land or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455), unless such State or its designated agency concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to subsection 307(c)(3)(B) of such Act (16 U.S.C. 1456(c)(3)(B)), or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B) of such Act.

(e) The lessee may not drill any well until he receives the Supervisor's approval of an application for permit to drill filed in accordance with the requirements of sections § 250.41(a) and § 250.91(a). The Supervisor shall not approve any permit which does not conform to the applicable approved exploration plan. The Supervisor shall transmit a copy of the lessee's application for permit to drill, except for those portions he determines to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2), to each affected State, unless he is informed by such State that it does not wish to receive a copy of the application. Since a permit to drill must conform with an approved exploration plan, the permit application is not subject to separate State consistency review under the Coastal Zone Management Act.

(f) The Supervisor shall periodically review each approved plan. The frequency and extent of his review shall be based upon the significance of any



changes in available information and in other onshore or offshore conditions affecting or impacted by exploration pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this Part, the Supervisor shall require such revision pursuant to subsection (l) of this section.

(g) The Supervisor may authorize or direct the lessee to conduct such geological, geophysical, or other surveys as the Supervisor determines to be necessary for the evaluation of activities to be carried out under a proposed exploration plan or being carried out under an approved plan. The lessee shall provide the Supervisor, upon his request, with copies of any data obtained as a result of such surveys.

(h) Nothing in this section shall be viewed as limiting the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Supervisor may approve or require departures from an approved exploration plan. When such departures are authorized or directed, the Supervisor shall, as soon as practicable, advise the Governors of affected States of the action taken.

(i) Proposals to revise a proposed or approved exploration plan, whether initiated by the lessee or ordered by the Supervisor, shall be submitted to the Supervisor for approval in the same manner as, and with the same information required for, a new plan of exploration. When the Supervisor determines that a proposed revision could result in a significant change in the impacts identified and assessed in the Environmental Report (Exploration) submitted in accordance with subsection 250.34-3(a), the revision shall be subject to the procedures of subsections (b), (c), and (d) of this section, and the lessee shall submit appropriate revisions to the Environmental Report (Exploration) in accordance with § 250.34-3(a).

#### § 250.34-2 Development and production plan.

(a) No development or production activities may be commenced on any leased area until a proposed plan of development and production covering that area has been submitted to and approved by the Supervisor. A development and production plan may apply to one or more leases held by an individual lessee or may be submitted by a group of lessees acting jointly through a unit operator pursuant to an approved unit agreement. A proposed plan of development and production shall identify and describe (in the detail required by the regulations in this Part, applicable OCS Orders, and Notices to Lessees) all development and production activities to be undertaken on the area covered by the plan for the time period specified in

the plan. A development and production plan shall include:

(1) A description of the specific work to be performed together with a proposed schedule for development and production;

(2) A description of drilling vessels, platforms, or other offshore structures to be used showing the location, design, and important features thereof, including features pertaining to safety and to pollution prevention and control;

(3) The location of each well, including surface and projected bottom hole locations for each directionally drilled well;

(4) Current interpretations of all available geological and geophysical data, including structure maps and schematic cross sections of productive formations;

(5) A description of the environmental safeguards to be implemented in the course of development and production operations under the plan together with a discussion of how such safeguards are to be implemented;

(6) all safety standards to be met and the safety features to be utilized in order to meet those standards; and

(7) such other relevant data and information as the Supervisor may require.

The lessee shall indicate which portions of the proposed development and production plan he believes to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2).

(b) (1) A proposed development and production plan and the accompanying Environmental Report (Development/Production) shall be submitted at the same time, and shall not be deemed received by the Supervisor until he determines that they are complete and contain the information required by subsections 250.34-2(a) and 250.34-3(b).

(2) Prior to making the determination under paragraph (1), the Supervisor shall provide each affected State with an advance copy of the Environmental Report (Development/Production). If any affected State believes the Environmental Report (Development/Production) does not satisfy the requirements of § 250.34-3(b), the State must make its objections known to the Supervisor within 10 days. The Supervisor shall attempt to resolve the State's objections through whatever means are available, including meeting informally with representatives of the lessee and affected State. If the differences cannot be resolved in this manner, the Supervisor shall determine whether the report complies with the requirements of § 250.34-3(b) and shall notify the lessee and the affected State of the determination.

(c) The Supervisor may require the lessees of tracts on which oil or gas, or

both, have been discovered in paying quantities and which are adjacent to or nearby the area covered in a proposed plan of development and production, to submit a preliminary description of their plans for development and production on the adjacent or nearby areas.

(d) The lessee shall submit to the Supervisor a sufficient number of copies of each proposed plan of development and production to permit the Supervisor to transmit copies of the plan to the Governor and coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. Within ten (10) days after his determination of receipt of the proposed plan under subsection (b)(1) of this section, the Supervisor shall transmit a copy of the plan, except for those portions he determines to be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552) and implementing regulations (43 CFR Part 2), to the Governor and coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. The Supervisor shall also make copies of the plan available to the public, except for those portions he has determined to be exempt, in accordance with the Freedom of Information Act.

(e)(1) (i) In his evaluation of a proposed plan of development and production, the Supervisor shall consider comments received from the Governors of affected States, whether or not such States have coastal zone management programs approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455). The Supervisor shall respond in writing to all timely submitted written comments giving his reasons for the action taken. The Supervisor may consult directly with affected States regarding matters contained in the comments.

(ii) The Supervisor shall not grant or deny approval for a proposed plan of development and production until written comments have been received from each affected State, or until 60 days after each affected State receives a copy of the proposed plan and its accompanying Environmental Report, whichever occurs first.

(2) Notwithstanding the provision of paragraph (1) of this subsection, the Supervisor shall not approve any activity described in detail in a development and production plan and affecting any land or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1455), unless such State or its designated agency concurs or is conclusively presumed to concur with the consistency certification accompa-

nying such plan pursuant to subsection 307(c)(3)(B) of such Act (16 U.S.C. 1456(c)(3)(B)), or the Secretary of Commerce makes the finding authorized by subsection 307(c)(3)(B) of such Act.

(f) The lessee may not drill any well until he receives the Supervisor's approval of an application for permit to drill filed in accordance with the requirements of sections 250.41(a) and 250.91(a) of this Part. The Supervisor shall not approve any permit which does not conform with the applicable approved plan of development and production. The Supervisor shall transmit a copy of the lessee's application for permit to drill, except for those portions he determines to be exempt from disclosure under the Freedom of Information Act (43 U.S.C. 552) and implementing regulations (43 CFR Part 2), to each affected State, unless he is informed by such State that it does not wish to receive a copy of the application. Since a permit to drill must conform to an approved plan of development and production, the permit application is not subject to separate State consistency review under the Coastal Zone Management Act.

(g) The Supervisor shall periodically review each approved development and production plan. The frequency and extent of his review shall be based upon the significance of any changes in available information and in other onshore or offshore conditions affecting or impacted by development or production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this Part, the Supervisor shall require such revision pursuant to subsection (j) of this section.

(h) The Supervisor may authorize or direct the lessee to conduct such geological, geophysical, or other surveys as the Supervisor determines to be necessary for the evaluation of activities to be carried out under a proposed development and production plan or being carried out under an approved plan. The lessee shall provide the Supervisor, upon his request, with copies of any data obtained as a result of such surveys.

(i) Nothing in this section shall be viewed as limiting the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Supervisor may approve or require departures from an approved development and production plan. When such departures are authorized or directed, the Supervisor shall, as soon as practicable, advise the Governors of affected States of the action taken.

(j) Proposals to revise a proposed or approved development and production plan, whether initiated by the lessee or ordered by the Supervisor, shall be

submitted to the Supervisor for approval in the same manner as, and with the same information required for, a new development and production plan. When the Supervisor determines that a proposed revision could result in a significant change in the impacts identified and assessed in the Environmental Report (Development/Production) submitted in accordance with subsection 250.34-3(b), the revision shall be subject to the procedures of subsections (b), (d), and (e) of this section, and the lessee shall submit appropriate revisions to the Environmental Report (Development/Production) in accordance with § 250.34-3(b).

#### § 250.34-3 Environmental reports; information to be provided to affected states.

(a) Environmental Report (Exploration). At the same time the lessee submits a proposed exploration plan to the Supervisor, he shall submit an Environmental Report (Exploration). The report may be in summary form, need not be as detailed as the report required by subsection (b) of this section, and should reference information contained in the most recent Environmental Impact Statement prepared for the area. The Environmental Report (Exploration) shall include information available at the time of plan submission to the extent that such information is accurate, current, and applicable to the geographic area covered by the proposed exploration plan.

(1) The Environmental Report (Exploration) shall contain, but need not be limited to, the following information:

(i) a description of the affected ocean area, including a general description of water depth, currents, water quality, submarine geology, weather patterns, and ambient air quality;

(ii) a description of environmentally sensitive or potentially hazardous areas which might be affected by the proposed exploration activities and a description of the alternatives considered and the actions to be taken to preserve or protect such areas. Such areas shall include, but are not limited to, those of cultural, biological (e.g., fisheries), archeological, or geological (e.g., seismic) significance, and areas of particular concern designated by affected States pursuant to the Coastal Zone Management Act;

(iii) a description of procedures, personnel, and equipment that are to be used for preventing, reporting, and cleaning up spills of oil or waste materials which might occur during the proposed exploration activities, including information on response time, capacity, and location of equipment;

(iv) the location, size, and number of onshore support and storage facilities, their land requirements and related

rights-of-way and easements, which could result from or be required by approval of the proposed exploration plan, including where possible a timetable regarding the acquisition of lands and the construction or expansion of any facilities;

(v) an estimate of the number of persons expected to be employed in support of offshore, onshore, and transportation activities, including where possible the approximate number of new employees and families likely to move into the affected coastal area;

(vi) a description of the most likely travel routes for boat and aircraft traffic between offshore and onshore facilities, an estimate of the frequency such routes will be traversed, on a monthly basis, and the probable onshore location of terminals;

(vii) a description of the quantity and composition of solid and liquid wastes and gaseous pollutants likely to be generated by offshore, onshore, and transport operations and a description of treatment and disposal alternatives considered and actions to be taken to limited pollution effects;

(viii) an estimate of any significant demand for major supplies, equipment, goods, services, water, aggregate, energy, or other resources within coastal areas of affected States necessary for carrying out the proposed plan;

(ix) an assessment of the impact on the offshore and onshore environments expected to occur as a result of implementation of the proposed exploration plan, expressed in terms of magnitude and duration, with special emphasis upon the identification and evaluation of unavoidable and irreversible impacts on the environment;

(x) copies of all consistency certifications provided to affected States with approved coastal zone management programs; and

(xi) the name, address, and telephone number of an individual employee of the lessee to whom inquiries by the State agency may be made.

(2) The lessee shall submit a sufficient number of copies of each Environmental Report (Exploration) to permit the Supervisor to transmit a copy to the Governor and coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. The Supervisor shall transmit such copies at the same time he transmits copies of the applicable exploration plan. The Supervisor shall also make copies of the Environmental Report (Exploration) available to the public in accordance with the Freedom of Information Act.

(b) Environmental Report (Development/Production). At the same time the lessee submits a proposed development and production plan to the Supervisor, he shall submit an Environ-



mental Report (Development/Production). The report shall include all activities proposed for immediate implementation and those contemplated for future implementation and shall identify all environmental and safety features required by law together with such additional measures as the lessee proposes to employ. The report shall be as detailed as necessary to enable identification and evaluation of the significant environmental consequences of the proposed activities and shall include all information available to the lessee at the time of submission.

(1) The Environmental Report (Development/Production) shall contain, but need not be limited to, the following information:

(i) Location. The location, to the maximum extent practicable, and the description and size of any offshore and land-based operation to be conducted or contracted for as a result of the proposed lease or unit activity. This shall include:

(A) the acreage required within a State for facilities (such as staging areas for pipe coating and pipeline installation, platform fabrication and installation, and refineries), storage, rights-of-way and easements;

(B) the means proposed for transportation of oil and gas to shore, the routes to be followed by each mode of transportation and the estimated quantities of oil or gas, or both, to be moved along such routes;

(C) an estimate of the frequency of boat and aircraft departures and arrivals, the onshore location of terminals, and the normal routes for each mode of transportation; and

(D) quantities, types, and plans for disposal of solid and liquid wastes and gaseous pollutants which may be generated by offshore, onshore, and transport operations, and, regarding any wastes which may require onshore disposal, the means of transportation to be used to bring the wastes to shore, and the location of onshore waste disposal or treatment facilities.

(ii) Resource requirements. The requirements for land, labor, material, and energy for the items identified above including:

(A) the approximate number, timing, and duration of employment of persons who will be engaged in onshore development and transportation activities and offshore development and production activities, the approximate number of local personnel who will be employed for or in support of the development activities (classified by the major skills or crafts that will be required from local sources and estimated number of each such skill needed), and the approximate total number of persons who will be employed during the onshore construction activity and during all activities related to offshore development and production;

(B) the approximate number of people and families to be added to the population of local near-shore areas as a result of the planned development;

(C) an estimate of significant quantities of energy and resources to be used or consumed, including electricity, water, oil and gas, diesel fuel, aggregate, or other supplies, which may be purchased within an affected State; and

(D) the types of contractors or vendors which will be needed, although not specifically identified, and which may place a demand on local goods and services.

(iii) Time frame. A schedule setting forth specific development and production activities. To the maximum extent possible, individual activities are to be projected on a year-to-year basis. The schedule shall include:

(A) Sequence in which events are expected to be accomplished;

(B) Best estimate of time required to complete specific activities;

(C) Month and year that specific actions are most likely to occur onshore and offshore; and

(D) Month and year that other pertinent activities associated with development of onshore and offshore activities are likely to be accomplished.

(iv) Physical environment. A description of the leases to be developed. This portion of the report shall include data and information obtained or developed by the lessee together with other pertinent data and information available to the lessee from other sources. The lessee should cross-reference information on the physical environment in the most recent Environmental Impact Statement and should summarize pertinent information contained in other published accredited reports. The report shall clearly identify the source of all data and information contained therein. The data and information to be included in the lessee's report on the physical environment shall include where appropriate:

(A) Archeologic/cultural resource surveys of the lease or unit area;

(B) Seafloor configuration, stability, foundation characteristics, sedimentation, and erosion potential at the site of structural components described in the plan;

(C) Aquatic biota, including a description of fishery and marine mammal significance and utilization of the lease or unit area;

(D) Ocean currents described as to prevailing direction, seasonal variations and variations at different depths in the lease or unit area;

(E) Meteorologic conditions, including storm frequency and magnitude, wind direction and velocity, and ambient air quality, and listing, where possible, the means, extremes, and averages of each;

(F) Predevelopment water column quality (ambient) and temperature data for incremental depths for the area encompassed by the plan;

(G) Seismic risk and conditions (geophysical high-resolution surveys of sites, routes, and corridors);

(H) Amounts and types of ecologic disruption expected by construction of all planned facilities; and

(I) Volume and nature of emissions to be discharged into the atmosphere and the ocean. Specific components (e.g., NO, SO, hydrocarbons, etc.) are to be listed.

(v) Assessment of impacts. An assessment of the impact on the environment expected to occur as a result of implementation of the proposed plan. This section of the report shall identify specific and cumulative impacts that may occur both onshore and offshore. Such impacts shall be quantified to the fullest extent possible and shall be accumulated for all activities for each of the major elements of the environment (i.e., air, water, biota, etc.). In every case, impacts shall be expressed in terms of magnitude and duration. The report shall place special emphasis upon the identification and evaluation of unavoidable and irreversible impacts on the environment.

(vi) Contingency plans and equipment. A description of the contingency plans that are in effect for the area to be developed together with a discussion of the pollution-prevention and cleanup equipment that is or will be maintained on the drill site and in the area pursuant to a Regional Contingency Plan.

(vii) Alternatives to the plan. A discussion of alternatives to the activities proposed that were considered during the development of the proposed plan; for example, a comparison of development and production operations using a bottom-supported platform which extends above the surface of the ocean with a similar degree of oil and gas development using seafloor completion and production techniques. Any significant differences in the environmental impacts of the use of alternative technologies shall be identified and discussed.

(viii) Environmental monitoring systems. A description of existing monitoring systems that are currently measuring impacts of activities upon the environment in the lease area together with those additional systems that may be needed to provide accurate recording and reporting of cumulative impacts on the environment.

(ix) Consistency with applicable coastal zone management programs. Copies of all consistency certification provided to affected States with approved coastal zone management programs.

(x) Contact. The name, address, and telephone number of an individual em-

ployee of the lessee to whom inquiries by affected States may be directed.

(2) The lessee shall submit a sufficient number of copies of each Environmental Report (Development/Production) to permit the Supervisor to transmit a copy to the Governor and coastal zone management agency of each affected State and to the United States Office of Coastal Zone Management. The Supervisor shall transmit such copies at the same time he transmits copies of the applicable development and production plan. The Supervisor shall also make copies of the Environmental Report (Development/Production) available to the public in accordance with the Freedom of Information Act.

#### §250.34-4 Compliance with the National Environmental Policy Act (NEPA).

(a)(1) Prior to approval of a proposed exploration or development and production plan, or approval of significant revisions to approved exploration or development and production plans under subsections 250.34-1(i) or 250.34-2(j), the Supervisor shall prepare an Environmental Assessment, in accordance with applicable policies and guidelines, to determine whether the proposed activities constitute a major Federal action significantly affecting the quality of the human environment requiring preparation of an Environmental Impact Statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). In his assessment the Supervisor may utilize information contained in the lessee's Environmental Report.

(i) In his assessment of whether an Environmental Impact Statement is required, the Supervisor shall give particular attention to:

(A) Location of major structures in areas of high seismic risk or seismicity;

(B) Location of major structures within or near the boundary of a marine sanctuary, wildlife refuge or other areas of high ecological sensitivity.

(C) Location of bottom-founded structures in areas of potentially hazardous natural bottom conditions; and

(D) Use of new and/or unusual technology.

(ii) An Environmental Impact Statement shall not be prepared when the Supervisor determines that the impacts of activities described in the Proposed plan or revision have been adequately considered in a previous Environmental Impact Statement. In this regard, the Supervisor shall give particular attention to:

(A) Whether implementation of the activities described in the plan or revision would require construction of new onshore processing, storage, treatment, or transportation facilities which could have significant adverse

impacts upon the human, marine or coastal environments that have not been adequately considered in a previous Environmental Impact Statement; and

(B) The likelihood of adverse impacts on the human, marine or coastal environments that differ significantly in magnitude, duration, or nature from the impacts considered in a previous Environmental Impact Statement.

(iii) The Supervisor's assessment of whether or not to prepare an Environmental Impact Statement shall be reviewed by the Director and the Director may reverse the Supervisor's determination. The Supervisor shall transmit copies of the final Environmental Assessment to the affected States.

(b) Where it has been determined that an Environmental Impact Statement will be prepared, the Director shall decide whether the Statement will cover the activities described in a single proposed development and production plan or in a number of such plans covering an area of the OCS where there is a likelihood of significant development.

(1) The Environmental Impact Statement shall cover the activities described in two or more proposed development and production plans when:

(i) No additional lease sale Environmental Impact Statement evaluating the cumulative impacts of development and production for the area is being prepared or is planned for preparation within the next two (2) years.

(ii) At least one exploratory well has been completed in at least sixty-six percent (66%) of the significant geologic structures known to exist at the time of the lease sale or sales applicable to the area; and

(iii) The total potential production of oil and gas from the area exceeds or is expected to exceed existing and planned onshore processing, storage, treatment, and transportation facilities.

(2) If an Environmental Impact Statement is to be prepared for more than one plan, and only one plan is pending for approval, the lessees of tracts on which oil or gas, or both, have been discovered in paying quantities, and which are adjacent to or nearby the area covered by the pending plan, may be required to submit preliminary descriptions of their development and production plans pursuant to subsection 250.34-2(c) of this Part.

(3) If it is decided to prepare an Environmental Impact Statement for a proposed development and production plan or plans, the Supervisor shall not approve any activity described in such plan or plans prior to completion of the review process, if that activity would:

(i) Have a significant adverse environmental impact, or

(ii) Foreclose prematurely the subsequent adoption of alternatives to the proposed plan or plans which might have less environmental impact.

[FR Doc. 78-2437 Filed 1-25-78; 12:26 pm]

#### [4310-31]

##### PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This Part supplements the procedures contained in Parts 250 and 251 of this Chapter for the submission of oil and gas data and information resulting from exploration, development and production operations on the Outer Continental Shelf (OCS) to the Director, U.S. Geological Survey. In addition, this Part establishes procedures for the Director to make available summary reports of this data and information to the Governors of affected States and upon request to interested local government executives, consistent with the exemptions of the Freedom of Information Act.

These regulations are intended to aid in the implementation of President Carter's directive of May 23, 1977, to:

Develop regulations, operating orders, and lease provisions specifying the information required from industry about offshore and onshore impacts of prospective OCS development.

EFFECTIVE DATE: January 27, 1978. See Supplementary Information below.

#### FOR FURTHER INFORMATION CONTACT:

Russell G. Wayland, Acting Chief, Conservation Division, U.S. Geological Survey, National Center (Mail Stop 620), Reston, Va. 22092, 703-860-7524.

Authors: Hope Babcock, Office of the Assistant Secretary—Energy and Minerals, U.S. Department of the Interior; Charles Hardee, Office of the Solicitor, U.S. Department of the Interior; Gerald Rhodes, U.S. Geological Survey, U.S. Department of the Interior.

#### SUPPLEMENTARY INFORMATION:

In accordance with the provisions of the Administrative Procedure Act (5 U.S.C. 553(d)) the Secretary of the Interior has determined that it is in the public interest for these regulations to become final on publication. This determination is based on the need to have the regulations effective at the time of the next sale of OCS oil and gas leases. The North Atlantic OCS Lease Sale (Sale No. 42) is scheduled to take place on January 31, 1978.



## I. EXPLANATORY STATEMENT

These regulations were initially published as proposed regulations on September 26, 1977 (42 FR 48893). Fifty-four comments from private interest groups, industry, State and local governments, and other Federal agencies were received. The U.S. Geological Survey would like to thank all those parties who commented. The comments have been a great help in the drafting of final regulations.

## II. DISCUSSION OF MAJOR COMMENTS

## AUTHORITY OF THE SECRETARY OF THE INTERIOR TO PROMULGATE THESE REGULATIONS

A number of commenters objected to the promulgation of these regulations in any form on the ground that there is no existing statutory basis for them. The Outer Continental Shelf Lands Act of 1953 requires the Secretary of the Interior to:

Administer the provisions of [the] Act relating to the leasing of the Outer Continental Shelf, [and to] prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the Outer Continental Shelf \* \* \* 43 U.S.C. 1334(a)(1) (emphasis added).

These statutory provisions have been construed broadly to give the Secretary authority to prescribe regulations for protection of the environment. See *Union Oil Co. v. Morton*, 512 F. 2d 743 (9th Cir. 1975); *Gulf Oil Corp. v. Morton*, 493 F. 2d 141 (9th Cir. 1973).

In addition, the National Environmental Policy Act of 1969 requires that:

to the fullest extent possible \* \* \* the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Chapter \* \* \* (42 U.S.C. 4332).

In the administration of any large Federal program, such as the OCS oil and gas program, it is necessary to address environmental impacts as they affect the entire ecological system, to the extent this is possible under existing technology. Because jurisdictional boundaries often impede this type of overview, an effective information exchange and coordination mechanism between jurisdictions is essential.

The Outer Continental Shelf Lands Act provides specific authority for the creation of a coordination mechanism between the Department of the Interior and States affected by OCS development:

In the enforcement of conservation laws, rules, and regulations the Secretary is authorized to cooperate with the conservation

agencies of the adjacent States \* \* \* (43 U.S.C. 1334(a)(1)).

Thus there is ample authority under existing law for the promulgation of these regulations.

## EXTENT OF INFORMATION TO BE PROVIDED TO AFFECTED STATES

Most of the comments addressed the issue of how much information could or should be provided to affected States. Industry commenters, who will be supplying much of the specific data and information on which the Summary Report to the States will be based, objected to any release of information considered to be confidential under the disclosure exemptions of the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the Department's implementing regulations (43 CFR Part 2, 30 CFR Parts 250 and 251).

State and local government commenters, on the other hand, argued that it is necessary for State planning purposes that the States be supplied with virtually all data and information received by Geological Survey, regardless of the confidentiality of such information.

Protection of the confidentiality of OCS geological and geophysical information has been a longstanding policy of the Department of the Interior. Because of this, virtually every OCS regulation which raises disclosure questions makes reference to the rather specific exemption contained in the FOIA and Departmental regulations. The OCS "Operating" Regulations, 30 CFR 250.34(b), and the Geological and Geophysical Exploration Regulations, 30 CFR 251.14, are examples.

In the early days of the Carter Administration, this Department committed itself to timely coordination of the OCS Program with States which could be affected by OCS development. The past has demonstrated the problems of unplanned onshore and near-shore impacts from offshore development, and the Department believes that these problems can be substantially reduced through cooperative State/Federal planning in OCS matters.

On the other hand, the general public has an interest in maintaining competition within the OCS oil and gas industry. To a great extent, competition within the industry depends upon knowledge of the specific location and extent of oil and gas reserves. Each company obtains this information through analysis of data provided by geological and geophysical surveys. Thus the maintenance of competition is related to the extent to which confidentiality of this information can be protected.

Clearly, what is needed in this situation is a balancing of the competing interests. Section 252.4 of these regulations establishes a new procedure for

the preparation of a Summary Report in a manner which will protect the confidentiality of specific data and information. The Summary Report will be specifically designed to assist States in planning for near-shore and on-shore impacts of OCS development. Because of the difficulty in defining State information needs, a requirement has been imposed that the Director of the Geological Survey consult with affected States to determine the most appropriate scope and content of the Summary Report. This is intended to be a cooperative process among the Geological Survey, OCS lessees, and affected States, and should remain flexible to changing information needs, within the limitations of the exemption for confidential information.

The Department believes that the Summary Report will aid in balancing the public's interest in obtaining information about its resources with the public's interest in maintaining an active and competitive oil and gas industry. If experience demonstrates that further adjustments in the system are needed, the Department will consider taking additional steps to meet those needs.

On the issue of the extent of information to be provided to affected States, a number of commenters noted the differences in Geological Survey's proposed regulations, and those proposed by the Bureau of Land Management (BLM) on the same general topic. Proposed 43 CFR 3301.8(d), 42 FR 48898 (September 26, 1977). The proposed BLM regulations appeared to allow greater disclosure than do the Geological Survey regulations. It should be pointed out that BLM does not receive geological and geophysical data and information as does the Geological Survey. However, in order to have consistent Departmental policies and to conform with Departmental regulations implementing the Freedom of Information Act, the BLM final regulations (§ 3301.8(d)) have been revised.

## APPLICABILITY TO EXISTING LEASES AND PERMITS

A number of commenters questioned whether these regulations would be applicable to existing leases and permits. As regulations promulgated under the conservation authority of the Secretary of the Interior, these regulations are applicable to existing leases. The regulations will not be applicable, however, to geological and geophysical permits (30 CFR Part 251) approved prior to the effective date of the regulations.

## III. SECTION-BY-SECTION DISCUSSION

## SECTION 252.1 PURPOSE

This section has been clarified to more accurately delineate the purpose of the regulations.

## SECTION 252.2 DEFINITIONS

This section has been clarified as to form.

## SECTION 252.3 OIL AND GAS DATA AND INFORMATION TO BE PROVIDED

A sentence has been added to this section to make clear that the existing procedures of Parts 250 and 251 of this Chapter for submission of data and information to the Supervisor will apply to submissions under this section. This is in response to several comments asking whether the compensation requirements of Parts 250 and 251 were being modified. These regulations are not intended to modify existing compensation procedures.

If any question arises regarding what types of data and information the Supervisor may obtain, however, this section will govern over Parts 250 and 251.

## SECTION 252.4 SUMMARY REPORT TO AFFECTED STATES

Most of the changes made in this section are explained under the "Discussion of Major Comments" ("Extent of Information to be Provided to Affected States") above.

Subsection (c) has been deleted because it appears to establish a new standard for the withholding of confidential information based on a determination of whether disclosure would "unduly damage" the competitive position of the person submitting the data and information. The regulations now rely solely on the standards for disclosure established by the FOIA, and implementing regulations, as referenced in § 252.6.

## SECTION 252.5 LEASE SALE PLANNING INFORMATION TO BE MADE AVAILABLE TO AFFECTED STATES

A sentence was added to this section to clarify that once an index of lease sale information has been provided to affected States and local governments, the Director shall make available the information listed on the index where such information is subject to the control of the Geological Survey. Generally, information listed which is not subject to the control of the Geological Survey may be obtained from other Federal agencies, such as the Bureau of Land Management.

The section was also changed to clarify the requirement that some specific tract nomination information not be disclosed and that the FOIA standards of confidentiality will apply throughout.

## SECTION 252.6 FREEDOM OF INFORMATION ACT REQUIREMENTS

This section was changed to make clear that the Freedom of Information Act requirements for disclosure and allowances for exemption from disclosure will apply throughout the regulations.

sure will apply throughout the regulations. This means that all nonexempted information will be available to any party who requests it in accordance with the FOIA and that exempted information will not be made available.

## IV. ENVIRONMENTAL AND INFLATION IMPACT STATEMENTS

NOTE.—The Department of the Interior has determined that promulgation of these regulations will have no significant impact on the environment and, therefore, will not require preparation of an Environmental Impact Statement. The Department has also determined that this document does not require preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: January 24, 1978.

JOAN M. DAVENPORT,  
Assistant Secretary  
of the Interior.

The new Part 252 that is being added to Title 30 of the Code of Federal Regulations reads as follows:

## PART 252—OUTER CONTINENTAL SHELF (OCS) OIL AND GAS INFORMATION PROGRAM

Sec.  
252.1 Purpose.  
252.2 Definitions.  
252.3 Oil and gas data and information to be provided.  
252.4 Summary report to affected States.  
252.5 Lease sale information to be made available to affected States.  
252.6 Freedom of Information Act requirements.

AUTHORITY: Outer Continental Shelf Lands Act of 1953, as amended, (43 U.S.C. 1331); Freedom of Information Act (5 U.S.C. 552).

## § 252.1 Purpose.

The purpose of this Part is to supplement the procedures contained in Parts 250 and 251 of this Chapter for the submission of oil and gas data and information resulting from exploration, development, and production operations on the Outer Continental Shelf (OCS) to the Director, U.S. Geological Survey. In addition, this Part establishes procedures for the Director to make available certain information to the Governors of affected States and upon request to interested local Government executives, in accordance with the provisions of the Freedom of Information Act.

## § 252.2 Definitions.

(a) "Act" refers to the Outer Continental Shelf Lands Act of 1953, as amended, 43 U.S.C. 1331, et seq.

(b) "Affected State" means, with respect to any program, plan, lease sale or other activity, proposed or approved pursuant to the provisions of the Outer Continental Shelf Lands Act, any State:

(1) the laws of which are, pursuant to section 4(a)(2) of the Outer Continental Shelf Lands Act, laws of the

United States for the portion of the Outer Continental Shelf on which such activity is, or is proposed to be, conducted;

(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of the Outer Continental Shelf Lands Act;

(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining or transshipment, which oil was extracted from the OCS and transported by means of a vessel or by a combination of means, including vessels;

(4) which is designated by the Secretary of the Interior as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the Outer Continental Shelf; or

(5) in which the Secretary of the Interior finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine and coastal environment in the event of any oil spill, blowout, or release of oil or gas from vessels, pipelines, or other transportation facilities.

(c) "Analyzed geological information" is data which have been subjected to some analytical process such as identification of lithologic and fossil content, core analysis, laboratory analysis of physical and chemical properties, logs or charts of electrical, radioactive, sonic, and other well logs, and descriptions of hydrocarbon shows or hazardous conditions.

(d) "Data" includes facts and statistics or samples which have not been analyzed or processed.

(e) "Development" means those activities which take place following discovery of oil or natural gas in paying quantities. Said activities include geophysical activity, drilling, platform construction and other associated activities designed to establish a means for extraction of the discovered resources.

(f) "Director" refers to the Director of the United States Geological Survey, or his authorized representative.

(g) "Exploration" means those activities performed as part of the process of searching for oil or natural gas. Such activities include (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such resources; and (2) any drilling, whether on or off known geological struc-



# RULES AND REGULATIONS

tures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made, and the drilling of any additional delineation wells after such discovery is made when such wells are needed to delineate reservoirs or are needed to enable the lessee to determine whether to proceed with development and production activities.

(h) "Governor" means the Governor of a State or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor relevant to the Outer Continental Shelf Lands Act or the Coastal Zone Management Act of 1972 as amended (16 U.S.C. 1456).

(i) "Information," when used without a qualifying adjective, includes analyzed geological information, interpreted geophysical information, and interpreted geological information.

(j) "Interpreted geological information" means knowledge, often depicted in the form of maps and cross sections, developed by determining the geological significance of geological data and analyzed geological information.

(k) "Interpreted geophysical information" means knowledge, often depicted in the form of maps and cross sections, developed by determining the geological significance of geophysical data and processed geophysical information.

(l) "Lease" means the contract or agreement under which the leasehold rights are held by the lessee, or the land covered by the contract or agreement, whichever is required by the context.

(m) "Lessee" means the party authorized by a lease, or an approved assignment thereof, to explore for or to develop and produce leased deposits in accordance with the regulations in Part 250 of this Chapter, including all parties holding such authority by or through him.

(n) "Outer Continental Shelf" includes all submerged lands which lie seaward and outside of the area of lands beneath navigable waters as defined in the Submerged Lands Act (43 U.S.C. 1301 and 1302) of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(o) "Permittee" means the party authorized by a permit issued pursuant to Part 251 at this Chapter.

(p) "Processed geophysical information" is data which have been subjected to a change in form so as to facilitate interpretation. Processing operations may include, but are not limited to, applying corrections for known perturbing causes, rearranging or filtering data, and combining or transferring data elements.

(q) "Production" means those activities which take place after successful completion of any means for the re-

moval of resources, including such removal, field operations, transportation of oil or natural gas, operation monitoring, maintenance, and work-over drilling.

## § 252.3 Oil and gas data and information to be provided.

Any person engaging in the activities of exploration for, or development and production of, oil and gas on the Outer Continental Shelf (OCS) shall make available to the Oil and Gas Supervisor, U.S. Geological Survey, for his inspection and review, all data and information obtained or developed as a result of such activities, including geological and geophysical data, analyzed geological information, processed geophysical information, and interpreted geological and geophysical information. Copies of such specific data and information and any interpretation of such data and information shall be provided to the Supervisor upon his request. Any person submitting interpreted geological and geophysical data or information, where such data or information have been submitted in good faith, shall not be held responsible for any consequence of the use of or reliance upon such interpretations. Submission of data and information under this section shall be governed by the applicable requirements of 30 CFR Part 250 (for lessees) and 30 CFR Part 251 (for permittees), except if any question arises regarding the scope of data and information which the Supervisor may obtain, this section will govern.

## § 252.4 Summary Report to affected States

(a) The Director, after analysis, interpretation, and compilation of oil and gas data and information developed by the U.S. Geological Survey and of oil and gas data and information furnished by lessees, permittees, or other government agencies, shall make available to affected States and, upon request, to the executive of any local government whose jurisdiction covers an area impacted by OCS activities, a Summary Report of data and information designed to assist them in planning for the near-shore and on-shore impacts of potential OCS oil and gas development and production. The Director shall consult with affected States and other interested parties to define the nature, scope, content and timing of the Summary Report. The Summary Report shall not contain data or information which the Director determines is exempt from disclosure in accordance with § 252.6 of this Part. The Summary Report shall include:

(1) estimates of oil and gas reserves together with projected rates and volumes of oil and gas to be produced from leased areas and estimates of the oil and gas resources that may be

found within areas which the Secretary plans to offer for lease;

(2) approximate projections of the magnitude and timing of development, if and when oil or gas, or both, is discovered;

(3) methods of transportation to be used, including pipelines and approximate location of routes to be followed; and

(4) general location and nature of near-shore and onshore facilities.

(b) When significant changes in the information contained in a Summary Report occur, the Director shall prepare and distribute the new information to each affected State, and, upon request, to the executive of any local government whose jurisdiction covers an area impacted by OCS activities.

## § 252.5 Lease sale information to be made available to affected States.

The Director shall make available on a regular basis to each affected State and, upon request, to the executive of any local government whose jurisdiction covers an area impacted by OCS activities, a copy of an index which lists, to the best of his knowledge, all relevant, actual or proposed programs, plans, reports, Environmental Impact Statements, and other lease sale information. Upon request, the Director shall make available to such affected States and local governments copies of any lease sale information listed in the index and which is subject to the control of the U.S. Geological Survey. The Director shall not make available any lease sale information which identifies any particular tract with the name or names of any party or parties participating in the tract nomination process. The Director shall not make available any lease sale information which he determines is exempt from disclosure in accordance with § 252.6 of this Part.

## § 252.6 Freedom of Information Act Requirements.

The Director shall make available data and information in accordance with the requirements of the Freedom of Information Act (5 U.S.C. 552) and of the regulations contained in 43 CFR Part 2 (Records and Testimony), 30 CFR Part 250 (Oil and Gas and Sulphur Operations in the Outer Continental Shelf) and 30 CFR Part 251 (Geological and Geophysical Explorations of the Outer Continental Shelf). No data or information determined by the Director to be exempt from public disclosure under such Act and regulations shall be made available to the public or provided to any affected State or to the executive of any local government.

[FR Doc. 78-2438 Filed 1-25-78; 12:26 pm]

FRIDAY, JANUARY 27, 1978  
PART VIII



## DEPARTMENT OF THE INTERIOR

Bureau of Land  
Management

## ASSESSMENT AND MANAGEMENT OF ENVIRONMENTAL IMPACTS ON MARINE AND COASTAL ENVIRONMENTS

Outer Continental Shelf;  
Oil and Gas Leasing

Registered Property



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[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2430]

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

PART 3300—OUTER CONTINENTAL SHELF LEASING

Subpart 3301—Leasing Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will govern the timing and the type of environmental studies to be undertaken, by the Bureau of Land Management as needed for the assessment and management of environmental impacts on the marine and coastal environments of the Outer Continental Shelf as a result of oil and gas leasing.

DATE: January 27, 1978.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:

Robert C. Bruce, 202-343-8735, or Frank Monastero, 202-343-7744.

SUPPLEMENTAL INFORMATION: Proposed rulemaking on this subject was published on pages 35863 and 35864 of the FEDERAL REGISTER of July 12, 1977. Public comments were invited through August 11, 1977. Written comments were received from 22 sources, with 10 coming from State or local governments, 8 from industry, 3 from private organizations or individuals and 1 from a Federal agency. In addition, a meeting was held with the Office of Management and Budget, at their request, January 17, 1978. Two telephone contacts on the proposed rulemaking were received. All of the comments were given careful consideration. The major comments are summarized below.

While most of the comments were directed to specific sections of the proposed rulemaking, some general comments were received. Most of the general comments indicated approval of the proposed rulemaking and the formalization of our ongoing studies program. However, some commenters felt that the existing program as embodied in the proposed rulemaking was not sufficiently detailed. Others questioned whether the studies program adequately covers the requirement for environmental information on the Outer Continental Shelf (OCS). The Department believes that the studies program presently being used does provide the information needed by the

decisionmakers who must make decisions on the OCS. At the same time, the program and the information it provides are constantly being monitored and changed as needed. The studies program is believed to be adequate and will go forward.

Several comments were directed specifically to § 3301.7(a) of the proposed rulemaking. One set of comments focused on the requirement that the National Oceanic and Atmospheric Administration (NOAA) be used to the greatest extent possible in the studies. One suggestion was that more reliance be placed on contracts with private organizations, while another was that the States be allowed greater involvement in the studies process. Another suggestion was to rely on NOAA to the extent desirable. The association of the Department of the Interior through the Bureau of Land Management with NOAA in this studies program has been most satisfactory. NOAA's service will continue to be used to the greatest extent practical in the future. However, this does not preclude using other sources as needed to be consistent with the Economy Act (31 U.S.C. 686) and OMB Circular A-76.

A second area of comment on § 3301.7(a) dealt with the use of the term "interested parties." Many felt that the language of the proposed rulemaking was not specific enough. Nearly every one of those commenting on this subject wanted the term expanded to include the specific interest group he represented. The language of the section dealing with interested parties is believed to be sufficiently flexible to allow consultation with any appropriate party. If a change were made, a major problem would be who should or should not be specifically included in the definition.

Some commenters discussed use of the word "nearshore" in § 3301.7(a) and urged that the term be specifically defined in the final rulemaking. Generally, the aim of the comments was to expand the term to include onshore facilities and secondary impacts resulting from OCS leasing. The question of the areas that should be covered by the program has been a matter of debate since shortly after the initiation of the studies program. The rulemaking as written is sufficiently broad to allow BLM to work with State and local governmental jurisdictions to identify studies that are needed to make decisions about the impacts that will flow from OCS leasing. It must also be kept in mind that the BLM studies will be done in conjunction with the activities of other Federal agencies that have responsibilities for coastal area protection. The language of § 3301.7(a) has therefore not been amended to further define the term "nearshore."

A few commenters wanted § 3301.7(a) to require studies, whether needed or not, especially in those areas where off-shore development has already taken place. Other commenters suggested that no studies be done in areas where substantial development has already occurred. We amended the section to provide that studies would not be required in those areas where substantial development has taken place. However, this section as amended, is believed to be flexible enough to require some studies in areas already under lease if it is determined studies are needed to furnish information for assessment. In carrying out this rulemaking, the Bureau will conduct studies in all areas, with the possible exception of Louisiana-Texas OCS, an area where substantial development has occurred, to obtain the information needed to adequately ascertain the impact of oil and gas development on the OCS and its environment. The type of information and degree of study will vary depending on the region, the extent of development and the use to be made of the studies' information.

Those commenting on § 3301.7(b) felt that the objective of the study program was not clearly stated and that more specificity was needed. Several felt that the aim of the program was not adequately stated, nor were the uses to be made of information derived from the study properly enumerated. In accordance with these comments, § 3301.7(b) has been amended to provide a better description of the aim of the studies and the use that will be made of the information obtained. The new language makes it clear that the studies will examine off-shore, nearshore, and onshore impacts, as necessary. Results will be used in the decisionmaking process to prepare lease schedules, select tracts, ensure that appropriate mitigation measures are taken, to prepare environmental statements, and to meet other Bureau requirements for input to post-leasing decisions.

Those commenting on § 3301.7(c) identified several areas of concern. Most of the comments focused on the time for initiation of studies. All of those commenting on the time for initiating studies recommended that the period be lengthened, with most recommending that the studies be started at least 1 year prior to a lease sale. This change was not adopted; it was not felt to be needed. The 6-month period provided for in the rulemaking is a minimum period and the studies can begin at any point prior to the sale. The goal is to start the studies 18 months prior to a lease sale. The rulemaking gives the needed flexibility.

Other comments on § 3301.7(c) were aimed at setting firm requirements for the completion of all studies prior to

certain decision points. One group of comments, those made by the State and local governments and certain interest groups, wanted to be sure that needed information was in hand for consideration prior to a decision point. On the other hand, those commenting on behalf of the oil industry wanted it clear that permits would not be delayed for long periods of time while studies were continued. As the conflict in the comments makes clear, it is nearly impossible to set time requirements for the studies that will be satisfactory to everyone. The studies program is designed to be one more tool for use by the Federal Government in the gathering of information it needs to make decisions on leasing on the OCS. Each situation is different and the type of information needed will vary with each leasing situation. Further, it must be recognized that studies are not only a part of a specific lease decision but are also used in making decisions on broader management functions which relate to several leases and cover the whole OCS program.

The existing studies program calls for the preparation of studies plans for each area of the OCS in cooperation with interested parties. These studies plans are then circulated among interested parties for review and comment, with needed revisions being made prior to the initiation of the studies program. The existing program gives needed flexibility to work with interested parties and take into account the needs that will vary from area to area. These needs then will be identified by those reviewing the studies plans as well as from the Bureau of Land Management's review of each situation.

A large number of comments were addressed to § 3301.7(d) with special emphasis on the feeling that the proviso made the section virtually meaningless. We have restudied the section and agree that it is contradictory and contributes nothing to the rulemaking. We have, therefore, deleted the section. The section was inserted to describe our effort to have generally complete studies for each OCS area prior to a decision being made on development or production plans. However, emergency situations do arise and language was included to cover them. We will continue under our present operation of having either completed studies or studies sufficiently complete to give the decisionmaker adequate information upon which to base his decision prior to approving any development or production plan.

Finally, comments on § 3301.7(e) requested the inclusion of language calling for specific use of the findings obtained from a monitoring program. This suggestion was adopted. Language has been added to § 3301.7(e)

setting specific uses for the findings obtained from the monitoring program.

Editorial and language changes needed to clarify the rulemaking has been made.

The principal authors of this rulemaking are Frank Monastero, Chris Oynes, and Robert C. Bruce, members of the Bureau of Land Management's OCS Task Force.

In accordance with the provisions of the Administrative Procedures Act (5 U.S.C. § 553(d)) the Secretary of the Interior has determined that it is in the public interest for these regulations to become final upon publication. This determination is based on the need to have the regulations effective at the time of the next sale of OCS oil and gas leases. The North Atlantic OCS lease sale (Sale No. 42) is scheduled to take place on January 31, 1978.

Under the authority of section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334), Subpart 3301, Park 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is hereby amended by adding a new § 3301.7 as set forth below.

GUY R. MARTIN,  
Assistant Secretary  
of the Interior.

JANUARY 24, 1978.

§ 3301.7 Environmental studies.

(a) The Director shall, except in areas where there has been substantial development, conduct a study of any area or region included in any lease sale in order to establish information needed for prediction, assessment and management of impacts on the human, marine and coastal environments of the Outer Continental Shelf and the nearshore area which may be affected by oil and gas activities in such area or region. Such study shall be planned and carried out in cooperation with the affected coastal States and interested parties and, to the extent possible, shall not duplicate studies done under other laws. To the maximum extent practicable, the Director shall enter into appropriate agreements with the National Oceanic and Atmospheric Administration for the performance of the studies required by this regulation. Cooperative agreements with affected States may be entered into for the purpose of carrying out the studies required in this section.

(b) Any study of an area or region shall be designed to: (1) Provide information on the status of the environment upon which predictions of the impacts of Outer Continental Shelf oil and gas development for leasing decisionmaking may be based, (2) provide information on the ways and extent that Outer Continental Shelf develop-

ment can potentially impact the human, marine, biological, and coastal areas, (3) ensure that information already available or being collected under the program is in a form that can be used in the decisionmaking process associated with a specific leasing action or with the longer term Outer Continental Shelf minerals management responsibilities, and (4) provide a basis for future monitoring of Outer Continental Shelf operations.

(c) Data collection or other study program activity in connection with the study required by paragraph (a) of this section shall be commenced no later than 6 months after the effective date of this regulation with respect to all sales held either before or to be held within one year of its effective date. For all subsequent sales, the data collection or other study program activity shall be commenced no later than 6 months prior to a lease sale. The Director may utilize information collected in any study prior to the effective date of this section in conducting any such study.

(d) After the leasing and developing of any area or region, the Director shall conduct such additional studies to establish additional information as he deems necessary and shall continue to monitor the human, marine, and coastal environments of such area or region in a manner designed to provide information which can be used for comparison with the results of studies conducted prior to Outer Continental Shelf oil and gas development. This will be done to identify any significant changes in the quality and productivity of such environments, to establish trends in the areas studied, and to design experiments identifying the causes of such changes. Findings from such studies will be used to recommend modifications in practices which are employed to mitigate the effects of Outer Continental Shelf activities and to enhance the data/information base for impact prediction resulting from a single future sale action or cumulative actions.

[FR Doc. 78-2439 Filed 1-25-78; 12:19 am]

[4310-84]

[Circular No. 2431]

PART 3300—OUTER CONTINENTAL SHELF LEASING

Subpart 3301—Leasing Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking adds a new § 3301.8 to Subpart 3301 setting up the procedure for the release of specified information with respect to any program, plan, lease, sale or other activity proposed, conducted



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or approved relating to the Outer Continental Shelf (OCS) to States and local governments affected by such activity. This information is needed so that the affected governments can determine the impact of OCS development and can plan accordingly.

DATE: January 27, 1978.

ADDRESS: Director (210), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION, CONTACT:

Robert C. Bruce, 202-343-8735, or William J. Quinn, 202-343-8457.

**SUPPLEMENTARY INFORMATION:** Proposed rulemaking on this subject was published on page 48898 of the *FEDERAL REGISTER* of September 26, 1977. Public comments were invited through October 26, 1977, but a 15 day extension allowed the submission of comments until November 10, 1977. Written comments were received from 42 sources, with 32 comments coming from industry, seven from State and local government, and three from historical and environmental groups. The comments were given careful consideration during the decisionmaking process. The major comments are summarized below.

This final rulemaking specifies the types and kinds of information that the Bureau of Land Management (BLM) will make available to State and local governments affected by OCS activities and the conditions under which such information will be provided. This information is needed so the affected governments can determine the impact the OCS program will have and plan accordingly.

A good many of the comments appeared to be based on a misunderstanding of the roles of BLM and the U.S. Geological Survey (USGS) have in information access, availability and type. Since BLM is the leasing agency, its information is primarily related to the environmental impact and conduct of the sale. The functions of the USGS include supervision of the exploration, development and production activities on a lease. In this capacity, it has geologic, geophysical and other data on the oil and gas potential of an area. Thus, USGS, not BLM, is the agency in control of geologic and geophysical data and interpretation.

Another general comment made was that the rulemaking was in excess of the statutory authority granted the Secretary of the Interior under the Outer Continental Shelf Lands Act (43 U.S.C. 1334). The Act gives the Secretary broad authority in dealing with the resources of the OCS. This rulemaking, while not dealing directly with OCS leasing, does deal with problems that are directly attributable to leasing activity on the OCS. Thus, the

issuance of this rulemaking clearly falls within the authority granted by the Act.

Comments were made that the definition of the term "affected State" as used in § 3301.8(a) is vague and overly broad. Particular emphasis was placed on the point that § 3301.8(a)(3) allows a land-locked state to qualify as an affected state. Those commenting felt that the definition should be limited so that only those states adjacent to an OCS development and those where major additional facilities for said development will be located, can qualify to receive information. While it is clear that some states, particularly those adjacent to OCS development and those where major facilities are located, are more clearly impacted, this is not an adequate test of which states should have access to OCS information. Many states, those inland as well, may have major oil and gas facilities that are impacted by OCS development. Further, a broad definition is necessary because of the unpredictability of where oil spills or other environmental problems resulting from OCS development may impact. It must be remembered that this information is being furnished to the states to enable them to plan effectively. In addition, the use of the term "significant" in reference to impacts or risks of damage has the effect of restricting the number of affected states.

Commenters suggested the inclusion of historical and cultural resources among the resources covered by § 3301.8(a)(4). Historical and cultural resources are included in the phrase "coastal, marine or human" now contained in § 3301.8(a)(4). This suggestion was not adopted.

Comments on § 3301.8(b) suggested that the language be expanded to allow the release of information to affected local governments. Local governments impacted by OCS developments do have need of information so that they can make plans to deal with the impacts of OCS development. This section has been amended to provide for the release of information to impacted local governments that request it.

Commenters asked that § 3301.8(b) be amended to clearly state that an "index" would not contain any confidential or proprietary information. There was no intention that such information be included in an index. The language suggested in one of the comments has been adopted to clarify this point.

The largest number of comments on the proposed rulemaking were directed at the question of authority to release information and the types of information that could be released. Some of the comments alleged that the release of information provided for in the proposed rulemaking ex-

ceeded the authority granted under the provisions of the Freedom of Information Act (5 U.S.C. 552) (FOIA). Other comments suggested that the rulemaking provisions dealing with the release of information violated the protection afforded by the 5th amendment of the Constitution. The FOIA has been implemented by Department of the Interior regulations and those regulations are in keeping with the general interpretation given the FOIA. A comparison of the Departmental regulations and the provisions of the proposed rulemaking led to the conclusion that this rulemaking had perhaps gone a little further than the guidelines set down by the Departmental regulations. Having reached that conclusion, § 3301.8(d) has been rewritten to reflect the Departmental regulations. As rewritten, the provision reflects most of the comments raised on this matter.

Some of the comments contended that the cross reference section that makes reference to 30 CFR 252 could be interpreted as allowing the release of geologic and geophysical data, thereby jeopardizing a firm's competitive position. This interpretation was not intended. The change made to § 3301.8(d) should remove any doubt about this matter, but in case it does not, it should be remembered that geologic and geophysical data and interpretations are under the sole custody of the USGS and their release is subject to the regulations in 30 CFR 252. Therefore, the cross reference provision is needed. It thus appears that the contention concerning the 5th amendment is without merit.

Comments raised the point that § 3301.8(c) authorizes the release of "specific industry interest information" on tracts nominated for sale. Some of those commenting felt that this wording is ambiguous and could jeopardize a firm's competitive position. The section has been rewritten to state that "related indications of interest (i.e. high and low) on tracts nominated" are available for release. This follows current Departmental practice. No competitive impact has been observed as a result of this procedure.

Commenters raised the question of whether the protection afforded by § 3301.8(c) to tract nominators by not linking their names to tracts nominated is cancelled by the language in § 3301.8(d). This same point was raised by some commenters who wanted to know if the confidentiality of nominators is absolute or whether information relating to nominators can be released if a determination is made that it will not compromise the competitive position of any party, as the language now implies. The protection of nominators is absolute and the rulemaking has been revised to make it clear the names of nominators will not be released.

A comment suggested that the States have no need to know which tracts are nominated, even in aggregate, unless they are selected for leasing. The question was raised as to the impact a tract that is not leased could have on a State. If the States are to have an opportunity for meaningful input into the tract selection process, they must have aggregate nomination information. The release of the greatest amount of information at the earliest possible time on tracts will be helpful to them. It is current Departmental practice to release relative indications of interest in tracts, i.e., high and low.

One suggestion made by the comments on the matter of release of information was that strict criminal penalties should be provided for disclosure of privileged or confidential information by the States. The Secretary of the Interior has no authority to impose criminal sanctions for the release of information. In addition, the rulemaking establishes, particularly in the new § 3301.8(d), safeguards to prevent release of sensitive information. The propriety of the allegation that the States cannot maintain confidentiality is questionable when no proof has been offered to support the allegation.

Some of the comments called for a public hearing on the rulemaking so that the ramifications of the rulemaking could be thoroughly aired. The time allowed for public comment on the rulemaking gave all interested parties adequate time to review the rulemaking and make their comments. No clear public purpose would be served by delaying the rulemaking and holding a public hearing. The wide range of comments received is a clear indication that the rulemaking has been carefully and critically examined.

Among the comments was the suggestion that an economic impact statement should be required on this rulemaking. The economic impact of the rulemaking is negligible at best and clearly outside of the requirements set forth in Executive Order 11821 and OMB Circular No. A-107. The earlier determination that an economic impact analysis is not needed is still correct.

Editorial and language changes needed to clarify the rulemaking have been made.

The principal authors of this rulemaking are William J. Quinn, Chris Oynes, and Robert C. Bruce of the

Bureau of Land Management's OCS Task Force.

In accordance with the provisions of the Administrative Procedures Act (5 U.S.C. § 553(d)) the Secretary of the Interior has determined that it is in the public interest for these regulations to become final upon publication. This determination is based on the need to have the regulations effective at the time of the next sale of OCS oil and gas leases. The North Atlantic OCS lease sale (Sale No. 42) is scheduled to take place on January 31, 1978.

Under the authority of section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334), Subpart 3301, Part 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is hereby amended by adding a new § 3301.8 as set forth below.

GUY R. MARTIN,  
Assistant Secretary of  
the Interior.

JANUARY 24, 1978.

Subpart 3301—Leasing Areas

§ 3301.8 Oil and gas information.

(a) For the purposes of this section, an affected State with respect to any program, plan, lease, sale, or other activity proposed, conducted or approved pursuant to the Act, is any State:

(1) The laws of which are declared, pursuant to section 4(a)(2) of the Act, to be the law of the United States for the portion of the Outer Continental Shelf on which such activity is, or is proposed to be conducted;

(2) Which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of the Act;

(3) Which is receiving, or in accordance with the proposed activity, will receive, oil for processing, refining, or transshipment which was extracted from the Outer Continental Shelf and transported by means of vessels or by a combination of means including vessels;

(4) Which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in social, governmental or economic conditions resulting from the exploration, development and produc-

tion of oil and gas anywhere on the Outer Continental Shelf; or

(5) In which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine and coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines or other transshipment facilities.

(b) The Director shall transmit on a regular basis to any affected State and, upon request, to the executive of any local government whose jurisdiction is included in an area impacted by Outer Continental Shelf activities, a copy of an index which lists, to the best of his knowledge, all relevant actual or proposed Departmental programs, plans, reports, environmental statements, lease sale information, and any other similar type of relevant information. Confidential or proprietary information shall not be included in the index.

(c) The Director shall transmit to any affected State and, upon request, to the executive of any local government whose jurisdiction is included in an area impacted by Outer Continental Shelf activities, a copy of any comment or negative nomination timely filed in response to a Call for Nominations and Comments for a proposed sale and shall also provide relative indications of interest (i.e. high and low) on tracts nominated for sale, except that no particular tract shall be identified with the name or names of any particular party so that it will not compromise the competitive position of any party or parties participating in the nominations.

(d) The Director shall make available data and information in accordance with the requirements of the Freedom of Information Act (5 U.S.C. 552) and of the regulations contained in 43 CFR Part 2 (Records and Testimony). No data or information determined to be exempt from public disclosure under such Act and regulations shall be made available for public disclosure or provided to any affected state or to the executive of any local government.

[FR Doc. 78-2440 Filed 1-25-78; 12:19 pm]



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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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## rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

## Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment: (1) Revokes the Schedule C exception for the position of Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board), Office of the Secretary; and (2) excepts from the competitive service under Schedule C one position of Assistant Secretary (Enforcement and Operations), Office of the Under Secretary, Office of the Secretary because the position is confidential in nature.

EFFECTIVE DATE: January 30, 1978.

## FOR FURTHER INFORMATION:

On Position Authority Contact: Sallie E. West, Civil Service Commission, 202-632-3782.

On Position Content Contact: Henry DeSeguirant, Department of the Treasury, 202-566-2707.

Accordingly, 5 CFR 213.3305(a)(59) is revoked and (78) is added as set out below:

## § 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* . . .  
(59) [Revoked]

(78) Assistant Secretary (Enforcement and Operations), Office of the Under Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2601 Filed 1-27-78; 8:45 am]

[3410-02]

## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Navel Orange Reg. 427]

## PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

## Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes a minimum size requirement of 2.20 inches in diameter for fresh California-Arizona navel oranges shipped to market from District 2 during the period February 3 to July 13, 1978. This requirement is designed to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: February 3, 1978.  
FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On December 28, 1977, notice was published in the FEDERAL REGISTER (42 FR 64703) inviting written comments not later than January 16, 1978, on a proposed minimum size requirement of 2.20 inches for shipments of California-Arizona navel oranges from District 2, under Marketing Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

Shipment of this season's navel orange crop is now in progress, and ample supplies of navel oranges meeting this size requirement are available to satisfy the demand in fresh domestic markets. Navel oranges which do not meet this size requirement may be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing. The regulation reflects the Department's appraisal of the need for regulation based on the current and prospective crop and market conditions, and it would tend

to promote orderly marketing in the interest of producers and consumers.

After consideration of all relevant matter presented, including the proposal in the notice, the recommendation of the committee, and other available information, it is hereby found that the regulation, as hereafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to engage in further public rule-making and good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as: (1) Shipment of navel oranges from District 2 is now in progress; (2) currently domestic shipments of fresh District 2 California-Arizona navel oranges are required to be at least 2.20 inches in diameter under Navel Orange Regulation 419 (42 FR 63379; 43 FR 753), and this requirement expires February 2, 1978; (3) notice of this proposed minimum size requirement was published in the FEDERAL REGISTER, and no comments were filed during the 19 days provided; and (4) handlers subject to this regulation will have adequate time to make any necessary preparations prior to the effective time.

## § 907.727 Navel Orange Regulation 427.

(a) During the period February 3, 1978, through July 13, 1978, no handler shall handle any navel oranges grown in District 2 which are of a size smaller than 2.20 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the navel oranges contained in any type of container may measure smaller than 2.20 inches in diameter.

(b) As used in this section, "handle", "handler", and "District 2", mean the same as defined in the marketing order.

(Secs. 1-19, 48 Stat. 31 as amended; (7 U.S.C. 601-674).)

Dated: January 25, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-2444 Filed 1-27-78; 8:45 am]



[3410-02]

**PART 915—AVOCADOS GROWN IN SOUTH FLORIDA****Amendment of Budget of Expenses**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

**SUMMARY:** This regulation authorizes an increase of \$20,450 in expenses for the 1977-78 fiscal period, to be used to fund a market development and promotion project for avocados by the Avocado Administrative Committee, which locally administers the Federal Marketing order covering fresh avocados. The funds will be transferred from committee reserve, and no assessments will be collected from avocado handlers.

**DATES:** Effective April 1, 1977, through March 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Charles R. Brader, 202-447-6393.

**SUPPLEMENTARY INFORMATION:** On January 5, 1978, a notice was published in the *FEDERAL REGISTER* (43 FR 974) inviting written comments not later than January 23, 1978, on proposed amendment of budget of expenses, under Marketing Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. None was received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the proposal in the notice, it is found that § 915.216 (42 FR 35142; 63636) should be and hereby is amended to read as follows:

§ 915.216 Expenses and carryover of unexpended funds.

(a) Expenses that are reasonable and likely to be incurred by the Avocado Administrative Committee during fiscal year April 1, 1977, through March 31, 1978, will amount to \$88,210.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the *FEDERAL REGISTER* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which the amendment is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. Immediate increase in the previously approved ex-

**RULES AND REGULATIONS**

penses is necessary in order for the committee to meet obligations incurred in accordance with the provisions of the marketing order during 1977-78.

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: January 25, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-2446 Filed 1-27-78; 8:45 am)

[6210-01]

**Title 12—Banks and Banking****CHAPTER II—FEDERAL RESERVE SYSTEM****SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

(Reg Z; FC-0139 through FC-0142)

**PART 226—TRUTH IN LENDING****Official Staff Interpretations**

AGENCY: Board of Governors of the Federal Reserve System.

**ACTION:** Official staff interpretation(s).

**SUMMARY:** The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

**EFFECTIVE DATE:** January 31, 1978.

**FOR FURTHER INFORMATION CONTACT:**

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

**SUPPLEMENTARY INFORMATION:** (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (3) 15 U.S.C. 1640(f).

§ 226.4(i) Preemption of State laws regarding usury, credit cost disclosure and permissible credit charges granted by the Act for "qualified" cash discounts applies to nonconsumer credit card transactions.

§ 171 Preemption of State laws regarding usury, credit cost disclosure and permissi-

ble credit charges granted by the Act for "qualified" cash discounts applies to non-consumer credit card transactions.

DECEMBER 5, 1977.

This is in response to your letter of . . . in which you inquire about the scope of the preemption from State law that is provided by § 171(c) of the Truth in Lending Act to encourage and facilitate the offering of cash discounts in accordance with § 167(b) of the Act. Your question, specifically, is whether the preemptive effect of § 171(c) extends to transactions which have been otherwise excluded from the scope of Federal Truth in Lending law by § 104(1) of the Act (e.g., transactions involving the extension of business credit or credit to a governmental agency).

The circumstances prompting your request are as follows: Your company operates a substantial number of retail outlets throughout the country and is studying the feasibility of offering discounts to customers who pay by cash, check, or similar means. As a part of that study you have discovered several State laws which, in your opinion, would characterize such a discount as a cost of credit for usury and disclosure purposes in business, as well as in consumer credit transactions. You further explain that, as a practical matter, it is often impossible to distinguish at the point of sale whether a particular purchase, paid for by use of a credit card, involves an extension of business or consumer credit. As a result you believe that if the preemptive provisions of § 171(c) were only to apply to consumer credit transactions, sellers in a number of States, particularly some of the large commercial States, will be reluctant to offer cash discounts.

Section 226.4(i)(5) of Regulation Z, which essentially mirrors the language of § 171(c) of the Act, reads as follows:

"(5) *Notwithstanding any other provisions of this Part*, any discount which, pursuant to paragraph (1) (§ 226.4(i)(1)) is not a finance charge for purposes of this Part shall not be considered a finance charge or other charge for credit under the laws of any State relating to:

(i) Usury; or  
(ii) Disclosure of information in connection with credit extensions; or  
(iii) The types, amounts, or rates of charges or the element or elements of charges permissible in connection with the extension or use of credit." (Emphasis added.)

Staff believes that Congress's purpose in adopting § 171(c) was to facilitate the implementation of discount programs pursuant to § 167(b) of the Act. Staff believes it would be inconsistent with that purpose to read the preemptive provisions of § 171(c) to apply only to State laws regarding consumer credit and not to State laws regarding business credit. To interpret this section so as not to preempt State laws regarding business credit would result in requiring a merchant who wished to implement such a program to ascertain which credit transactions are for business purposes and which are for consumer purposes. In light of the fact that many credit cards are used for both business and consumer transactions, such a requirement, if read into the Act and regulation, would be a particular difficulty for credit card transactions. Consequently, in staff's view, § 171(c) of the Act and § 226.4(i) (5) of Regulation Z preempt the types of State laws listed therein with respect to business transactions.

Staff believes that its opinion is supported by the statutory and regulatory language. Section 171(c) begins by stating, "Notwithstanding any other provisions of this title . . ." As previously noted, this language is mirrored in the underlined portion of § 226.4(i) (5) reproduced above. Staff believes that this language can be read to indicate that the general exemption from coverage of business credit contained in § 104(1) of the Act and § 226.3(a) of the regulation does not apply with regard to matters that § 171(c) and § 226.4(i) (5) govern. Therefore, in staff's opinion, the preemptive effect of § 171(c) of the Act and § 226.4(i) (5) of the regulation operate with respect to State laws, of the types listed therein, that pertain to business credit.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d) (3) and limited in its scope to the facts and issues discussed above. I trust that this is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,  
Associate Director.

§ 226.4(i) With regard to gasoline service stations, if credit card price for gasoline is clearly disclosed on the pump, that price shall be considered the "regular price," and other signs and posters located in the service area and visible from the road may be considered advertisements. With regard to gasoline service stations, the disclosure of the availability of cash discounts required at public entrances is satisfied by any sign located so that it is clearly visible to all customers entering the service area.

DECEMBER 5, 1977.

This is in response to your letter of . . . in which you requested an official staff interpretation of § 226.4(i) of Regulation Z. Your client, a national retail gasoline dealer, is considering various alternative methods of enabling its branded dealers to offer customers a discount if they pay for gasoline purchases with cash rather than by use of a credit card. It is contemplated that this discount will not apply to purchases of other types of goods or services generally available at the service stations.

Section 226.4(i) specifies varying price and other disclosure requirements and limitations with regard to notification of the availability of discounts for cash, advertising, and price tagging/posting when discounts for cash are offered. Because of the unique nature of gasoline service stations vis a vis the normal enclosed store-type retail establishments, some questions have arisen as to the permissible disclosures on signs of varying types which may be displayed at gasoline service stations.

Along with your letter, you have submitted prototype designs of five signs which you have asked staff to review for content as well as proposed placement at a service station. Staff feels that to review the signs which you have submitted and approve their use in an official staff interpretation would be tantamount to approving a disclosure form, and the staff generally refrains from issuing official staff interpretations for such purposes. However, the staff does feel that, due to the unique nature of gasoline service stations, some general comments with respect to compliance with § 226.4(i) may be helpful in answering the questions you raised.

First, with regard to the advertising and price tagging/posting provisions of § 226.4(i), staff recognizes that, because of the "open air" nature of gasoline service

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stations, there may be some question as to what constitutes a tagged or posted price and what constitutes an advertisement. Pole and free standing signs which are visible from the road may be intended as advertisements to attract customers, but also might be viewed as disclosing the "posted price." If they are viewed as disclosing the "posted price," this would cause the price differential to be classified as a prohibited surcharge. However, staff feels that when the credit card price for gasoline is clearly disclosed on the pump itself, that price shall be considered the "regular price." In such a situation, other signs and posters located in the service area and visible from the road can be considered advertisements and, as such, may state the cash price without also disclosing the credit card price. Of course, there must be some indication on such signs and posters that the stated price is not available to credit card purchasers as required by § 226.4(i)(1)(ii).

With regard to the § 226.4(i)(1)(ii) requirement that establishments offering discounts for cash disclose the availability of such discounts at or near each public entrance and at all locations where a purchase may be made, staff feels that the public entrance portion of that requirement will be satisfied by a sign/poster/etc. located anywhere on the premises so long as it is clearly visible to any customer entering the service station area. The latter portion of that provision clearly requires similar notifications at all locations where a purchase may be made.

This is an official staff interpretation of Regulation Z issued in accordance with § 226.1(d)(3) of the regulation, and limited in scope to the facts and issues discussed herein. I trust that it provides sufficient guidance to determine whether your proposed disclosures are in compliance with the regulation.

Sincerely,

JERAULD C. KLUCKMAN,  
Associate Director.

§ 226.7(a) "Other charges" include charges that are automatically imposed upon default by the customer.

DECEMBER 5, 1977.

This is in response to your letter of . . . in which you inquired about the scope of the phrase "other charges" which appears in § 226.7(a)(6) of Regulation Z. Specifically, you ask whether a bank which "desires to have its [credit] cardholders contractually agree to pay all costs including attorneys' fees incurred by it in legal proceedings to collect the cardholder's indebtedness in the event of delinquency by the cardholder" would be imposing an "other charge" so as to necessitate making the disclosures described in § 226.7(a)(6).

Public Information Letters 331, 386, and 797 (copies of which are enclosed) state that charges imposed in the event of delinquency or late payment are "other charges" under § 226.7(a)(6). Staff believes that charges imposed in the event of default similarly are "other charges" so as to require the disclosures set forth in that section. The question you raised, however, is whether the various costs which may be incurred by your client in legal proceedings to collect an overdue debt owed by a cardholder, and which the cardholder is contractually obligated to pay, are charges imposed in the event of default.

It is staff's opinion that if the imposition of these costs is automatic upon default (for example, if they become immediately due and collectible by virtue of default), they

constitute "other charges" to be disclosed pursuant to § 226.7(a)(6). If, however, the imposition of the charges is not automatic but, rather, is conditioned upon employment of the services of an attorney to effect collection or expenditure of other amounts in conjunction with collection efforts, then they are not the type of charges intended to be disclosed pursuant to § 226.7(a)(6).

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3), and limited in scope to the facts and issues herein. I trust it is responsive to your inquiry.

Sincerely,

JERAULD C. KLUCKMAN,  
Associate Director.

§ 226.4(a) Charge imposed for customer's exceeding his or her credit card credit limit may be considered a default charge (to be disclosed as an "other charge" under § 226.7(a)(6)), rather than a finance charge under § 226.4(a).

§ 226.4(c) Charge imposed for customer's exceeding his or her credit card credit limit may be considered a default charge (to be disclosed as an "other charge" under § 226.7(a)(6)), rather than a finance charge under § 226.4(a).

§ 226.7(a) Charge imposed for customer's exceeding his or her credit card credit limit may be considered a default charge (to be disclosed as an "other charge" under § 226.7(a)(6)), rather than a finance charge under § 226.4(a).

JANUARY 9, 1978.

This responds to your . . . letter and your . . . letter (amending your letter of . . . ) in which you request an official staff interpretation of § 226.4(c) of Regulation Z. You state that your client, a bank, issues credit cards and, in doing so, sets a credit limit for its customers. You indicate that the bank's Customer Agreement provides that exceeding an established credit limit by 10 per cent is an "Event of Default" and provides further that such an event is neither desired nor anticipated. You indicate that your client does not knowingly allow a customer to exceed his or her credit limit by 10 or more per cent. Rather, such may occur, for example, when a customer makes small purchases for which authorization is not needed.

You also state that the customer will be sent a notice within a week of exceeding the credit limit by 10 or more per cent indicating that no further purchases are to be made until the balance is once again below the credit limit and requesting immediate payment of the amount in excess of the customer's credit limit. You also state that if the customer's balance remains in excess (by 10 or more per cent) of his or her credit limit at the end of each monthly billing cycle, there will appear on the customer's billing statement the following notice:

You are over your credit limit by \$——. Do not use your card until your "New Balance" is once again below your credit limit.

You state further that your client may also request that the customer return his or her credit card, depending upon the amount of the balance and the amount by which the customer has exceeded the credit limit. Moreover, you indicate that the authorization center will be instructed that no further authorizations are to be made until the customer's account is below 110 per cent of the customer's credit limit.



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You indicate that the entire amount over 110 per cent of the limit may not be included in the "minimum payment due" appearing on the monthly billing statement. However, the "minimum payment due," since it is calculated on the new balance including the amount in excess of 10 per cent of the customer's credit limit, will reflect at least a portion of the excess amount. If the customer continues to make the "minimum payment due" and no further charges are made, the bank will not institute any collection activity, other than suspending further privileges and possibly requiring that the customer return the credit card(s) to the bank until the customer's account is once again below the credit limit.

You indicate that your client proposes to charge a customer an "over-the-limit" charge of \$5.00 for each monthly billing cycle at the end of which the balance is over 110 per cent of the credit limit. You question whether the charge is a finance charge as defined in § 226.4(a), or whether it is a default charge, as provided in § 226.4(c), to be disclosed pursuant to § 226.7(a)(6).

Section 226.4(c) provides that "[a] late payment, delinquency, default or other such charge is not a finance charge if imposed for actual unanticipated late payment, delinquency, default, or other such occurrence." It has long been staff's position with regard to late payment charges (and staff would apply this same criteria to a default or delinquency charge) that:

The continuing status of a late payment charge is dependent upon the actions taken by the creditor in connection with the customer's account following the imposition of a late payment charge. If the creditor imposes a late payment charge periodically, but continues to allow the delinquent customer to use his credit plan without informing him that the account is considered in default and that continued delinquency will result in his credit privileges being cancelled, such late payment charges would properly be interpreted as additional finance charges. (See Public Information Letter 797, a copy of which is enclosed for your convenient reference.)

Staff regards the charge which your client intends to impose as being within the purview of § 226.4(c) and thereby excludable from the finance charge determination. Your client's collection procedures, such as, the suspension of credit privileges, which may include the return of the credit card to your client, and the inclusion within the minimum payment due of a proportionate part of the amount over the customer's credit limit, appear to support categorization of the above-described charge as a default charge rather than as a finance charge.

Staff would caution you, however, that its conclusion is based on the assumption that your client's credit program does not facilitate such customer activity. Practices which appear to do so could indicate that the creditor anticipated such customer activity, that the customer's activity is considered a routine part of the creditor's plan and, therefore, that the \$5.00 charge is an additional finance charge.

This is an official staff interpretation of Regulation Z, issued in accordance with § 228.1(d)(3) of the regulation. It is limited to the issue of whether the charge your client intends to impose comes within the purview of § 226.4(c). Nothing in this interpretation is to be construed as a comment

on or an approval of any aspect of the above-described credit program other than the § 226.4(c) issue. If you have questions in the future, please feel free to contact the Federal Reserve Bank of New York or this office.

I note that you may represent creditors subject to the laws of the State of Connecticut. Since Connecticut has been granted an exemption under the applicable portions of the Truth in Lending Act, you may wish to contact the office of Mr. David H. Nelditz, Bank Commissioner of the State of Connecticut, for his views.

Sincerely,

NATHANIEL E. BUTLER,  
Associate Director.

Board of Governors of the Federal Reserve System, January 24, 1978.

THEODORE E. ALLISON,  
Secretary of the Board.  
(FR Doc. 78-2687 Filed 1-27-78; 8:45 am)

## [1505-01]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

(Dockets Nos. 14684 and 14324; Amendment Nos. 1-29, 21-46, 23-21, 25-42, 27-14, 29-15, 91-145, and 121-1381)

## AIRWORTHINESS REVIEW PROGRAM

## Amendment No. 6: Flight Amendments

## Correction

In FR Doc. 78-1034 appearing at page 2302 in the issue for Monday, January 16, 1978, in the heading the last Amendment No. appearing in brackets read "... 121-1381". It should have read "... 121-138" as set forth in the heading above.

## [1505-01]

(Docket Nos. 14684 and 14324; Amendment Nos. 1-29, 21-46, 23-21, 25-42, 27-14, 29-15, 91-145, and 121-1381)

## AIRWORTHINESS REVIEW PROGRAM

## Amendment No. 6: Flight Amendments

## Correction

In FR Doc. 78-1034 appearing at page 2302 in the issue for Monday, January 16, 1978, make the following corrections:

(1) On page 2303, in the middle column, in the second full paragraph, between the third and fourth lines, insert: "be possible to show that the effect of".

(2) On page 2309, in the middle column, in the first full paragraph, the 34th line should read: "quies that VMC<sub>c</sub> must be determined to".

(3) On page 2323, in the third column, in amendatory paragraph 55, in the fifth line, the reference to "§ 25.1595" should read "§ 25.1585".

(4) On page 2325, in the third column, in § 27.1545(b)(1)(ii), insert a period after "(power on)".

(5) On page 2327, in the third column, in § 29.1545(b)(1)(ii), delete the semicolon after "VNE".

## [4910-13]

(Docket No. 17563; Amdt. Nos. 47-19 and 91-146)

## PART 47—AIRCRAFT REGISTRATION

## PART 91—GENERAL OPERATING AND FLIGHT RULES

## Aircraft Registration Eligibility Identification and Activity

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to delete the requirement in the Federal Aviation Regulations that each holder of a certificate of aircraft registration file an annual report on the current eligibility of the aircraft for registration, and to discontinue the request for voluntary annual reports providing other information about the aircraft and its activity. The FAA has determined that there is no current need for these annual reports. These amendments are intended to relieve the public of this burden.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Virginia Swimmer, Technical Section, FAA Aircraft Registry, Aeronautical Center, P.O. Box 25082, Oklahoma City, Okla. 73125, telephone 405-686-2284.

SUPPLEMENTARY INFORMATION: Section 47.44 of the Federal Aviation Regulations (14 CFR 47.44) presently requires the holder of a Certificate of Aircraft Registration to submit a report by April 1 of each year, providing information pertinent to the aircraft's continuing eligibility for registration. The report, made on Part 1 of AC Form 8050-73 (Aircraft Registration Eligibility Identification, and Activity Report), must state: (1) The name and address of the owner, (2) whether he is a United States citizen (if not a governmental unit); (3) the aircraft's make, model, and registration and serial number; and (4) whether the aircraft has been registered under the laws of a foreign country.

Section 91.53 (14 CFR 91.53) presently provides for the voluntary submission of Part 2 of AC Form 8050-73. Part 2 requests (but does not require) that the certificate holder submit the

following information: (1) The name and address of the principal operator of the aircraft (if not the owner); (2) the make and model of the aircraft's engines; (3) the communications and navigational aids capability of the aircraft's equipment; (4) the airport where the aircraft is based; and (5) the activity of the aircraft for the previous calendar year (as shown by hours flown and purpose of flight).

Sections 47.44 and 91.53 were adopted in 1970, as Amendments Nos. 47-10 and 91-72 (published in the FEDERAL REGISTER on February 5, 1970; 35 FR 2578). The purpose of § 47.44 was to provide for updating and revising the aircraft register, so that it would reflect, to the extent possible, only those aircraft eligible for registration. The FAA has received these reports annually from 1970 through 1977. As a result, approximately 32,000 obsolete aircraft records have been removed from the aircraft register, and the register is now reasonably current.

Moreover, the FAA has determined that the aircraft register can now be kept current, for the most part, with the use of information that is submitted to the FAA in the ordinary course of business. This information includes: notices of the sale, export, destruction, theft, and cannibalization of aircraft; notices of change of address and of the death of aircraft owners; and requests for change of registration number.

With respect to those aircraft for which no information is received within a reasonable period of time, it may be necessary to require some holders of Certificates of Aircraft Registration to file a report similar to that required by § 47.44. Such a reporting system would be considerably less of a burden on the public and on the FAA than the present one. The FAA may initiate rulemaking in the near future to propose such a requirement.

The purpose of § 91.53 was to collect statistical information useful in long-range aviation planning and in forecasting FAA workload. In addition, the name and address of the principal operator, if other than the owner, was requested to assist in distributing airworthiness directives.

However, voluntary compliance with § 91.53 has not proven to be an effective means of collecting information on aircraft activity. After study of the matter, the FAA has determined that statistical sampling methods will be more effective. Moreover, because information as to the operator of the aircraft is collected on a voluntary basis and only once a year, § 91.53 has not been a satisfactory means of maintaining a mailing list for Airworthiness Directives. For these reasons the FAA has determined it should no longer re-

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quest the voluntary submission Part 2 of AC Form 8050-73, and will consider other means of maintaining a suitable mailing list for Airworthiness Directives.

Revoking §§ 47.44 and 91.53 will relieve any burden that may be imposed by these annual reports, and will not result in any other burden on the public. It will also eliminate agency costs incurred for computer use, mail distribution, report processing, and legal enforcement.

In the past the FAA has mailed a partially preprinted AC Form 8050-73 to each holder of a Certificate of Aircraft Registration in January each year, for submission by April 1. These forms will not be sent out in January of 1978. To delay revoking §§ 47.44 and 91.53 could cause confusion among certificate holders as to their reporting responsibility for 1978. For this reason, the FAA has determined that notice and public procedure hereon would be impractical and contrary to the public interest and that good cause exists for making this amendment effective on less than 30 days notice.

Although these amendments are being adopted without prior notice and public procedure, interested persons may wish to comment on the revoking of these reporting procedures. Accordingly, they are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or amendment number, and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591.

## DRAFTING INFORMATION

The principal authors of this document are Virginia Swimmer, Technical Section, FAA Aircraft Registry, and Joseph M. Dorsey, Office of the Chief Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, Parts 47 and 91 of the Federal Aviation Regulations (14 CFR Parts 47 and 91) are amended, effective January 30, 1978, by revoking and reserving §§ 47.44 and 91.53 as follows:

§ 47.44 [Reserved]

§ 91.53 [Reserved]

(Secs. 313(a), 501, 601(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1401, 1421(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document

does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 25, 1978.

LANGHORNE BOND,  
Administrator.

(FR Doc. 78-2570 Filed 1-27-78; 8:45 am)

## [4910-13]

(Airspace Docket No. 77-SW-68)

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## Alteration of Control Zone: Tyler, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Tyler, Tex. (Pounds Field Airport), control zone to coincide with the hours of operation of Tyler, Airport Traffic Control Tower (ATCT) which are reduced from continuous to 0700 to 2300 local time daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours of operation to conform to the air traffic control tower hours of operation.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart F, 71.171 (42 FR 355) of FAR Part 71, the Tyler, Tex., control zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the airport traffic control tower hours of operation. Special weather observations are provided on a 24-hour basis which is one of the requirements for a continuous control zone operation.

A traffic survey was completed on March 31, 1977, which indicated insufficient activity to retain the continuous control tower operation. On March 23, 1978, the airport traffic control tower hours of operation will be reduced to 0700 to 2300 local time daily. This will necessitate a similar reduction in the control zone hours of operation.



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The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the control zone operation. Consequently, we have elected to omit circularization of the change for comment.

## DRAFTING INFORMATION

The principal authors of this document are David Gonzalez, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355) is amended, effective 0901 G.m.t., March 23, 1978 as follows.

In Subpart F, 71.171 (42 FR 355), the Tyler, Tex., control zone is amended by adding the following sentence:

This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on January 17, 1978.

HENRY L. NEWMAN,  
Director, Southwest Region.

(FR Doc. 78-2466 Filed 1-27-78; 8:45 am)

## [4910-13]

[Airspace Docket No. 78-WE-2]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Temporary Control Zone,  
Daggett, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes a temporary control zone for the Barstow-Daggett Airport, Daggett, Calif. This action will provide controlled airspace for aircraft/helicopters making instrument approaches to the Barstow-Daggett Airport during the "Brave Shield XVII" joint military exercise.

EFFECTIVE DATE: April 1, 1978.

ADDRESS: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch,

AWE-530, 15000 Aviation Boulevard,  
Lawndale, Calif. 90261.

## FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261, telephone 213-536-6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to designate a temporary control zone for the Barstow-Daggett Airport, Daggett, Calif., during the April 1, 1978 through April 23, 1978 time period.

A temporary control tower will be furnished by the Department of the Army with air traffic control services provided by U.S. Army air traffic controller personnel.

Approximately 150 rotary-wing aircraft will be temporarily based at the Barstow-Daggett Airport.

Under the circumstances presented, the FAA concludes that the rule is temporary in nature and does not significantly impose any additional burden on any person but adds to air safety. Therefore, I find notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

## DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division and DeWitte T. Lawson, Jr., Office of the Regional Counsel.

## ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective April 1, 1978 through April 23, 1978, as follows:

1. Amend § 71.171 of Part 71, Federal Aviation Regulations to read:

DAGGETT, CALIF.

Within a five mile radius of Barstow-Daggett Airport (latitude 34°51'20" North; longitude 116°47'10" West).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on January 18, 1978.

ROBERT H. STANTON,  
Director, Western Region.

(FR Doc. 78-2467 Filed 1-27-78; 8:45 am)

## [6320-01]

## CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS  
(Reg. ER-1044, Amdt. 41)PART 221—CONSTRUCTION, PUBLICATION,  
FILING AND POSTING OF TARIFFS OF AIR  
CARRIERS AND FOREIGN AIR CARRIERS

## Tariff Filing Deadline

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment conforms our regulation with the statutory requirement that foreign indirect freight carriers file tariffs at least 45 days before the date they are to become effective.

DATES: Effective: February 21, 1978.  
Adopted: January 24, 1978.

## FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Associate General Counsel, Rates and Agreements, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5436.

SUPPLEMENTARY INFORMATION: ER-1038, amendment 40, to Part 221 (43 FR 1322, January 9, 1978) provided in part that indirect domestic freight carriers file tariffs with the Board at least 45 days from the date on which the tariff would become effective. Pub. L. 65-162 requires that this tariff filing deadline apply to both foreign and domestic indirect freight carriers. The prior amendment inadvertently left foreign carriers outside of the new deadline, and this amendment is designed to include such carriers, thereby conforming the Board's economic regulations with the statutory requirement. This editorial amendment is issued by the undersigned pursuant to delegation of authority from the Board to the General Counsel, in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, paragraph (a)(2) of § 221.160 is amended to read as follows:

## § 221.160 Required notice.

(a) Statutory notice required. . . .

(2) For tariffs pertaining to air transportation of property, at least 60 days if filed by an air carrier or foreign air carrier directly engaged in the operation of aircraft, or at least 45 days if filed by an air carrier or foreign air carrier not directly engaged in the operation of aircraft.

(Secs. 204 and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758, as amended (49 U.S.C. 1324, 1373).)

By the Civil Aeronautics Board.

PHILIP J. BAKES,  
General Counsel.

(FR Doc. 78-2489 Filed 1-27-78; 8:45 am)

## [3510-07]

Title 15—Commerce and Foreign Trade

CHAPTER 1—BUREAU OF THE CENSUS,  
DEPARTMENT OF COMMERCEPART 50—SPECIAL SERVICES AND STUDIES BY  
THE BUREAU OF THE CENSUSFee Structure for Statistics for City Blocks in  
the 1980 Census of Population and Housing

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final rule.

SUMMARY: As part of the 1980 decennial Census of Population and Housing, the Census Bureau is planning to tabulate and publish block data for each urbanized area in the United States and for each incorporated place over 10,000 inhabitants. State and local government authorities will be able to contract with the Bureau of the Census to produce block data for areas not included in the regular block statistics program. This notice contains information on fees and other requirements to be met by requesting authorities in undertaking contracts for block statistics.

## FOR FURTHER INFORMATION CONTACT:

Arthur F. Young, Chief, Housing Division, Bureau of the Census, Washington, D.C. 20233, 301-763-2863.

EFFECTIVE DATE: January 30, 1978.

SUPPLEMENTARY INFORMATION: In accordance with the rulemaking provisions of administrative procedure 5 U.S.C. 553, it has been found that notice and hearing on this schedule of fees and postponement of the effective date thereof is impracticable and unnecessary for the reason that such procedure, because of the nature of the rules, serves no useful purpose.

In accordance with the provisions of title 13, United States Code, section 8, authorizing the Department of Commerce to make special statistical surveys and studies, and to perform other specified services upon the payment of the cost thereof, the following fee structure is hereby established. No transcript of any record will be furnished under authority of this act which would disclose data on individual housing units or violate existing or future acts requiring that information furnished be held confidential.

15 CFR 50.40 is revised as follows:

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§ 50.40 Fee structure for statistics for city blocks in the 1980 Census of Population and Housing.

(a) As part of the regular program of the 1980 census, the Census Bureau will publish printed reports containing certain summary population and housing statistics for each city block, drawn from the subjects which are being covered on a 100-percent basis. For these subjects, a substantial amount of additional data by block will be available on computer tape.

(b) The 1980 block data under the regular program will be prepared for:

(1) Each urbanized area in the United States. An urbanized area is delineated by the Census Bureau in each standard metropolitan statistical area and generally consists of a city or group of contiguous cities with a 1970 population of 50,000 or more, together with adjacent densely populated land (i.e., land having a population density of at least 1,000 persons per square mile).

(2) And, outside urbanized areas, for each incorporated place (such as a city or village) that was reported as having 10,000 or more inhabitants in—(i) The 1970 census, or (ii) The 1973, 1975, or 1976 official population estimates published by the Bureau, or (iii) A special census conducted by the Bureau on or before December 31, 1977.

(c) Outside the above-mentioned urbanized areas and places, State and local government authorities will be able to contract with the Bureau of the Census to produce block data for their areas. In undertaking this contract, the requesting authority will be required to pay a fee, supply certain maps, and meet certain time deadlines as follows:

(1) Fee: (i) Population size:

	Fee per area
Under 2,500 .....	\$500
2,500 to 4,999 .....	600
5,000 to 9,999 .....	700

(ii) The final fee will be based upon the 1980 census population counts. A refund or additional charge will be made if the contracting area is in a different population size group as a result of the census.

(iii) The cost for an area with a population of 10,000 or more will be determined on an individual basis.

(iv) Multiple area contracts may be negotiated at a savings.

(v) The fee is based on estimated 1980 costs. If the 1980 cost exceeds the estimated cost, an additional fee may be requested from the contracting area. If actual costs are less than the estimated cost, a refund may be made.

(vi) Any incorporated place which contracts for block statistics and which reaches a population of 10,000 or more in the 1980 census will have

the fee completely refunded, as the place will then be considered to be part of the regular block statistics program.

(vii) If the area submits maps which are not adequate for the Bureau's purposes (see Maps, below) and therefore have to be redrafted by the Bureau, a surcharge of \$300 per map sheet requiring revision will be applied to the fee for the particular area.

(2) Maps: (i) In order for the Bureau to provide data on a block-by-block basis, it must have a map which clearly delineates each block. The contracting government authority must supply such maps. A copy of the specifications for preparing the block maps will be provided upon request and, in any event, will accompany the copy of the contract which is sent to the government authority for signature.

(ii) The maps must be furnished to the Census Bureau within 30 calendar days after the government authority signs the contract.

(iii) The Bureau will review the maps and, if revision is necessary, return them within 30 calendar days to the government authority.

(iv) Within 30 calendar days thereafter, the revised maps must be transmitted to the Bureau and, if they are still inadequate and must therefore be redrafted by the Bureau, the above-mentioned surcharge of \$300 per map sheet requiring revision will be imposed.

(3) Timing: (i) The contract must be signed, and a downpayment of \$250 per area made, by April 1, 1978. A check or money order should be made payable to "Commerce-Census."

(ii) If an area decides to withdraw after signing a contract and making a downpayment, the cost of work performed to date will be deducted from the refund.

(iii) The balance of the fee must be mailed to the Bureau by January 1, 1980.

(d) In consideration of the fees paid and maps supplied, the Bureau will:

(1) Identify the individual blocks in its records and tabulations.

(2) Make available the block data for the particular area in the same manner as for areas in the regular block statistics program (i.e., both in terms of printed reports and computer summary tapes). Two copies of the printed report (including the printed maps) which contain the block statistics for the particular area will be furnished to the contracting government authority.

(e) Requests for participation in the contract block statistics program or for further information should be addressed to the Director, Bureau of the Census, Washington, D.C. 20233.

Dated: January 24, 1978.

MANUEL D. PLOTKIN,  
Director, Bureau of the Census.

(FR Doc. 78-2533 Filed 1-27-78; 8:45 am)



3904

[4810-22]

## Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS  
SERVICE, DEPARTMENT OF THE TREASURY  
(T.D. 78-34)

## PART 159—LIQUIDATION OF DUTIES

Waiver of Countervailing Duties—Non-Rubber  
Footwear and Handbags From Uruguay

AGENCY: Department of the Treasury, Customs Service.

ACTION: Waiver of countervailing duties.

**SUMMARY:** This notice is to inform the public that a determination has been made to waive countervailing duties that would otherwise be required by section 303 of the Tariff Act of 1930 on imports of non-rubber footwear and handbags from Uruguay. The waiver is being issued based on actions by the Government of Uruguay to phase out the effective export subsidy on these items. The waiver will expire on January 4, 1979, unless revoked earlier.

**EFFECTIVE DATE:** January 30, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Richard B. Self, Office of Tariff Affairs, U.S. Treasury Department, 15th and Pennsylvania Avenue NW., Washington, D.C. 202-566-8585.

**SUPPLEMENTARY INFORMATION:** In T.D.'s 78- and 78- , published concurrently with this determination it has been determined that bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), are being paid or bestowed directly or indirectly upon the manufacture, production, or exportation of non-rubber footwear and handbags from Uruguay.

Section 303(d) of the Tariff Act of 1930, as amended by the Trade Act of 1974 (Pub. L. 93-618, January 3, 1975), authorizes the Secretary of the Treasury to waive the imposition of countervailing duties during the four-year period beginning on the date of enactment of the Trade Act of 1974 if he determines that:

(1) Adequate steps have been taken to reduce substantially or eliminate during such period the adverse effect of a bounty or grant which he has determined is being paid or bestowed with respect to any article or merchandise;

(2) There is a reasonable prospect that under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and

## RULES AND REGULATIONS

(3) The imposition of the additional duty under this section with respect to such article or merchandise would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Based upon analysis of all the relevant factors and after consultations with interested agencies and parties with direct interest in this proceeding, I have concluded that steps have been taken to reduce substantially the adverse effects of the bounty or grant. Specifically the Government of Uruguay is committed toward the total removal of the net bounty derived from the tax rebate certificate program (reintegro) (or any equivalent or comparable benefit) on all leather products, except tanned leather as such, to all export markets between January 1, 1978 and January 1, 1979. Such elimination will be staged according to the following schedule: 50-percent reduction by January 1, 1978 (such reduction took place December 28, 1977); 50-percent reduction of the remaining balance on or before July 1, 1978; and total elimination of any remaining subsidy on or before January 1, 1979.

The waiver is conditions further that the Government of Uruguay will proceed with its previously stated decision to eliminate the reintegro (or equivalent) for all exports from Uruguay on or before January 1, 1983.

The issuance of this waiver of countervailing duties would not inhibit in any way the right of the U.S. Government to take appropriate actions in the event that future imports of non-rubber footwear and handbags from Uruguay were having a disruptive effect on U.S. industry.

After consulting with appropriate agencies, including the Department of State, the Department of Labor, the Department of Commerce, and the Office of the Special Representative for Trade Negotiations, I have further concluded: (1) That there is a reasonable prospect that, under section 102 of the Trade Act of 1974, successful trade agreements will be entered into with foreign countries or instrumentalities providing for the reduction or elimination of barriers to or other distortions of international trade; and (2) That the imposition of countervailing duties on non-rubber footwear and handbags from Uruguay would be likely to seriously jeopardize the satisfactory completion of such negotiations.

Accordingly, pursuant to section 303(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(d)), I hereby waive the imposition of countervailing duties as well as the suspension of liquidation ordered in T.D.'s 78- and 78- , on non-rubber footwear and handbags from Uruguay.

This determination may be revoked, in whole or in part, at any time and

shall be revoked whenever the basis supporting such determination no longer exists. Unless sooner revoked or made subject to a resolution of disapproval adopted by either House of the Congress of the United States pursuant to section 303(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(e)), this waiver of countervailing duties will, in any event, by statute cease to have force and effect on January 4, 1979.

On or after the date of publication in the FEDERAL REGISTER of a notice revoking this determination in whole or in part, the day after the date of adoption by either House of Congress of a resolution disapproving this "Waiver of Countervailing Duties", or January 4, 1979, whichever occurs first, countervailing duties will be assessable on non-rubber footwear and handbags imported directly or indirectly from Uruguay in accordance with T.D.'s 78- and 78- , published concurrently with this determination.

## § 159.47 [Amended].

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting after the last entry from Uruguay under the commodity headings "Non-rubber footwear" and "Handbags" the number of this Treasury Decision in the column heading "Treasury Decision", and the words "Imposition of countervailing duties waived" in the column headed "Action".

(R.S. 251, secs. 303, as amended, 624; 46 Stat. 687, 759, 88 Stat. 2051, 2052; 19 U.S.C. 66, 1303, as amended, 1624.)

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

JANUARY 24, 1978.

[FR Doc. 78-2469 Filed 1-27-78; 8:45 am]

[4810-22]

(T.D. 78-33)

## PART 159—LIQUIDATION OF DUTIES

Countervailing Duties—Leather Handbags  
From Uruguay

AGENCY: United States Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

**SUMMARY:** This notice is to advise the public that an investigation has resulted in a determination that the Government of Uruguay has provided benefits considered to be bounties or grants within the meaning of the countervailing duty law to manufacturers who export leather handbags to the United States. However, countervailing duties are being waived, based upon the criteria established by the Trade Act of 1974, including the ac-

tions taken and to be taken by the Government of Uruguay to reduce significantly the bounty or grant.

**EFFECTIVE DATE:** January 30, 1978.  
**FOR FURTHER INFORMATION CONTACT:**

Vincent P. Kane, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

**SUPPLEMENTARY INFORMATION:** On December 7, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 61908).

The notice stated that it had been determined preliminarily that benefits had been received by the Uruguayan manufacturers/exporters of leather handbags which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The benefits preliminarily determined to be bounties or grants were:

(1) Income tax exemptions on certain export related income;  
(2) Preferential financing for export; and

(3) The granting of tax certificates, known as "reintegros," upon exportation of the goods.

The rebate of value added taxes upon export of goods and the rebate of import duties paid on raw materials used in the production of leather handbags for export were determined not to constitute a bounty or grant within the meaning of the Act.

The handbags subject to this determination are classified under item number 706.0820 of the tariff schedules of the United States as leather handbags, other than reptile. The term "handbags" as used in the petition covers "pocketbooks, purses, shoulder bags, clutch bags, and all similar articles by whatever name known, customarily carried by women or girls, but not including luggage or flatgoods."

Programs found not to have been utilized by the leather handbag industry include government sponsored export insurance, a tax holiday for new industries and benefits for locating within certain free ports and zones. These are, therefore, not addressed by this Determination.

The Tentative Determination also indicated that it was the Treasury's intention to waive countervailing duties based on steps by the Uruguayan government to reduce significantly and relatively quickly the effective bounty or grant that was found to exist. However, before a Final Determination was to be made, consideration would be given to any relevant data, views, or arguments submitted in writing within 15 days from the date of publication of the Preliminary Determination.

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Based on additional information received and considered, it is hereby determined that the payment granted to the tanners upon the export of the finished handbags does constitute a bounty or grant within the meaning of the Act. Based on the information available, however, the tanners subsidy serves only to make tannery prices for hides in Uruguay equal to hides sold in neighboring countries which are readily available to handbag manufacturers in Uruguay. The net amount of this bounty is, therefore, zero, since the cost of producing handbags, absent the subsidy, would not be increased if handbag producers merely shifted their sources of supply to neighboring countries.

In addition, the net effect of the principal export subsidy found is offset by certain fiscal charges which are indirect taxes directly related to the exported leather handbags. These taxes are not rebated upon export; however, they could be rebated without being considered a "bounty" or "grant" under the Act as consistently interpreted by the Treasury Department. Thus, these unreputed taxes act to reduce the effective export benefit. Such indirect taxes include: (1) Export taxes charged on the value of the handbags exported, plus a tax on the value of the export rebate certificate;

(2) Value added taxes that are charged in manufacturing the exported handbags, (the Government of Uruguay generally rebates 75 percent of the value added taxes paid); (3) Taxes on agricultural transactions which in this case involve a 4 percent tax on the value of hides purchased by tanners; and (4) Import taxes and other special taxes which are assessed on the non-leather items of the handbag.

Finally, the effective export benefit is reduced through a regular devaluation of the peso to the dollar since the certificate tendering the benefit is not received before 90 days after application has been made for it.

After consideration of all the information received, it is hereby determined that the subject leather handbags from Uruguay receive bounties or grants within the meaning of the Act. The bounties or grants are in the form of the payments referred to in the Preliminary Determination, taking into account the offsets described in this Notice.

Accordingly, notice is hereby given that dutiable leather handbags, imported directly or indirectly from Uruguay, entered, or withdrawn from warehouse, for consumption on or after January 30, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net

amount of such bounties or grants has been estimated and declared to be 17.4 percent of the f.o.b. price for export to the United States of leather handbags from Uruguay.

Effective January 30, 1978, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable leather handbags imported directly or indirectly from Uruguay, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of leather handbags from Uruguay are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation.

Notwithstanding the above, a "Notice of Waiver of Countervailing Duties" is being published concurrently with this order which covers leather handbags from Uruguay subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

## § 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country", the name "Uruguay" and by inserting the words "leather handbags", in the column headed "Commodity," the number of this treasury Decision in the column headed "Treasury Decision," and the words "Bounty Declared-Rate" in column headed "Action."

(R.S. 251, as amended, secs. 303, as amended, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624.)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised November 2, 1954 and section 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to



the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.  
JANUARY 24, 1978.

[FR Doc. 78-2470 Filed 1-27-78; 8:45 am]

## [4810-22]

(T.D. 7832)

## PART 159—LIQUIDATION OF DUTIES

## Countervailing Duties—Nonrubber Footwear From Uruguay

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary and final countervailing duty determination.

SUMMARY: This notice is to advise the public that an investigation has resulted in a determination that the Government of Uruguay has provided benefits considered to be bounties or grants within the meaning of the countervailing duty law to manufacturers who export non-rubber footwear to the United States. However, countervailing duties are being waived, based upon the criteria established by the Trade Act of 1974, including actions taken and to be taken by the Government of Uruguay to reduce significantly the bounty or grant.

EFFECTIVE DATE: January 30, 1978.

## FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION: On September 1, 1977, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the FEDERAL REGISTER (42 FR 45977). The notice stated that a petition had been received alleging that the payments or bestowals conferred by the Government of Uruguay upon the manufacture, production, or exportation of nonrubber footwear constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act").

On December 7, 1977, the Treasury indicated its intention to waive countervailing duties against nonrubber footwear imports from Uruguay based on certain steps the Government of Uruguay planned to take to reduce significantly and relatively quickly the effective bounty or grant that was found to exist (42 FR 61908). Interested parties were given a period of 15 days in which to submit written views on this proposed action.

The nonrubber footwear specified in the petition is classified under items 700.05 through 700.85 inclusive of the Tariff Schedules of the United States Annotated (TSUSA), except items 700.28, 700.51, 700.52, 700.53, 700.54 and 700.60.

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs regulations (19 CFR 159.47(c)), it has been determined that benefits have been received by Uruguayan manufacturers/exporters of nonrubber footwear which constitute payment or bestowal of a bounty or grant within the meaning of the Act. These benefits have been conferred under the following programs:

- (1) The granting of tax certificates, known as "reintegros," to manufacturers of nonrubber footwear, upon the exportation of the goods;
- (2) Income tax exemptions on certain export-related income; and
- (3) Preferential financing for exports.

The rebate of value-added taxes upon export of goods and the rebate of import duties paid on raw materials used in the production of nonrubber footwear for export have been determined not to constitute bounties or grants within the meaning of the Act.

Programs found not to have been utilized by the nonrubber footwear industry include government-sponsored export insurance, a tax holiday for new industries, and benefits for locating within certain free ports and zones. These are, therefore, not addressed by this determination.

The payment granted to the tanners upon the export of nonrubber footwear does constitute a bounty or grant within the meaning of the Act. Based on the information available, however, the tanners' subsidy serves only to make tannery prices for hides in Uruguay equal to hides sold in neighboring countries, which are readily available to nonrubber footwear manufacturers in Uruguay. The net amount of this bounty, therefore, is zero, since the cost of producing nonrubber footwear absent the subsidy would not be increased if nonrubber footwear producers merely shifted their sources of supply to neighboring countries.

In addition, the net effect of the principal export subsidy found is offset by certain fiscal charges which are indirect taxes directly related to the exported footwear. These taxes are not rebated upon export; however, they could be rebated without being considered a "bounty" or "grant" under the Act as consistently interpreted by the Treasury Department. Thus, these unrebated taxes act to reduce the effective export benefit. Such indirect taxes include:

- (1) Export taxes charged on the value of the nonrubber footwear exported, plus a tax on the value of the export rebate certificates;

(2) Value-added taxes that are charged in manufacturing the exported nonrubber footwear (the Government of Uruguay generally rebates 75 percent of the value-added taxes paid);

(3) Taxes on agricultural transactions which in this case involve a 4-percent tax on the value of hides purchased by tanners; and

(4) Import taxes and other special taxes which are assessed in the non-leather items of the footwear.

Finally, the effective export benefit is reduced due to a regular devaluation of the peso to the dollar since the certificate tendering the benefit is not received before 90 days after application has been made for it.

After consideration of all the information received, it is hereby determined that the subject nonrubber footwear from Uruguay receive bounties or grants within the meaning of the Act. The bounties or grants are in the form of the payments referred to in this notice, taking into account the offsets described.

This notice combines the preliminary and final countervailing duty determinations required under section 303 of the Act.

Accordingly, notice is hereby given that dutiable nonrubber footwear, imported directly or indirectly from Uruguay, entered, or withdrawn from warehouse, for consumption on or after January 30, 1978, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been estimated and declared to be 23 percent of the f.o.b. price for export to the United States of nonrubber footwear from Uruguay.

Effective on or after the date of publication of this notice in the FEDERAL REGISTER and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable nonrubber footwear imported directly or indirectly from Uruguay, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent that it can be established to the satisfaction of the Commissioner of Customs that imports of non-rubber footwear from Uruguay are subject to a bounty or grant smaller than the amount which otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant

if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production, or exportation.

Notwithstanding the above, a "Notice of Waiver of Countervailing Duties" is being published concurrently with this order which covers non-rubber footwear from Uruguay subject to this investigation in accordance with section 303(d) of the Act. At such time as the waiver ceases to be effective, in whole or in part, a notice will be published setting forth the deposit of estimated countervailing duties which will be required at the time of entry, or withdrawal from warehouse, for consumption of each product then subject to the payment of countervailing duties.

## § 159.47 [Amended]

The table in § 159.47(f) of the Customs regulations (19 CFR 159.47(f)) is amended by inserting under the column headed "Country," the name "Uruguay," and inserting the words "Nonrubber footwear" in the column headed "Commodity," the number of this Treasury decision in the column headed "Treasury Decision," and the words "bounty-declared rate" in the column headed "Action."

(R.S. 251, as amended secs. 303, as amended, 624, 46 Stat. 687, 759 19 U.S.C. 66, 1303, 1624.)

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, revised November 2, 1954, and § 159.47(d) of the Customs regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel of the Treasury.

JANUARY 24, 1978.

[FR Doc. 78-2471 Filed 1-27-78; 8:45 am]

## [4110-07]

## Title 20—Employees' Benefits

## CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 11]

## PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

## Aid to Families With Dependent Children Programs

AGENCY: Social Security Administration, HEW.

ACTION: Interim regulation.

SUMMARY: The Social Security Administration (SSA) is changing its reg-

ulation on disclosure of official records and information (Regulation No. 1). The changes are required by Pub. L. 95-216 which amended the Social Security Act and the Federal Unemployment Tax Act. This new law requires SSA and State unemployment compensation agencies to give earnings information to State and local government agencies and officials for administering programs of Aid to Families with Dependent Children (AFDC), established by title IV-A of the Social Security Act. This law also requires the Secretary of Health, Education, and Welfare (HEW) to decide by regulation what earnings information the State or local agencies and officials need, and what safeguards should be observed to make sure the information disclosed is used only for proper AFDC purposes. Because of time constraints, this change in the regulation deals only with disclosures by SSA, not by unemployment compensation agencies, the latter will be added after discussions with the Department of Labor.

EFFECTIVE DATE: The amendments are effective January 30, 1978.

## FOR FURTHER INFORMATION CONTACT:

Mr. John Renner, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7336.

SUPPLEMENTARY INFORMATION: SSA's regulation dealing with disclosure of personal information is 20 CFR Part 401, or Regulation No. 1. The version of Regulation No. 1 now in effect is an interim regulation, containing only general guidelines for deciding when personal information may be disclosed. (A more detailed revision is being prepared.) Since the new law, Pub. L. 95-216, requires the Secretary of HEW to decide specifically what information the State or local agencies and officials need and what safeguards there should be to protect the information, the current interim regulation is being expanded. The general rules now in effect will become Subpart A of Regulation No. 1, and a new Subpart-B will be added to contain just the rules required by the new law.

The new law became effective as soon as it was enacted (December 20, 1977), and so the new regulation is also needed immediately. For this reason the Secretary finds that there is good cause for dispensing with prior notice and a delayed effective date. Therefore, as authorized by the Administrative Procedure Act, 5 U.S.C. 553(b)(3), these regulation changes go into effect immediately.

The new law covers disclosures not only by SSA but also by State unemployment compensation agencies covered under section 3304(a) of the Fed-

eral Unemployment Tax Act (26 U.S.C. 3304(a)). However, since discussions will be necessary with the Department of Labor as to how this regulation will affect the unemployment compensation agencies, the present revision provides only for disclosures by SSA. Provision for disclosures by unemployment compensation agencies will be added at the earliest practical date.

Disclosures under this new subpart are not in conflict with the Privacy Act (5 U.S.C. 552a). Wage information requested by State or local agencies or officials for purposes of administering AFDC programs is not exempt from the Freedom of Information Act (FOIA, 5 U.S.C. 552). Since the wage information will be disclosed after a written request, the FOIA requires the disclosures. Section 552a(b)(2) of the Privacy Act (5 U.S.C. 552a(b)(2)) permits disclosure when required by the FOIA.

(Secs. 1102, 1106(a), Social Security Act (42 U.S.C. 1302, 1306(a)); sec. 411, Social Security Act (42 U.S.C. 611), as added by Pub. L. 95-216 (91 Stat. 1561).)

(Catalog of Federal Domestic Assistance Programs No. 13.800-13.807, Social Security Programs.)

NOTE.—SSA has decided that this document does not need an Economic Impact Statement under Executive Order 11949 and OMB Circular A107.

Dated: January 11, 1978.

DON WORTMAN,  
Acting Commissioner  
of Social Security.

Approved: January 24, 1978.

JOSEPH A. CALIFANO, JR.,  
Secretary of Health,  
Education, and Welfare.

Part 401 of Title 20 of the Code of Federal Regulations is revised as follows:

1. The heading "Subpart A—General" is added before § 401.1, to read as follows:

## Subpart A—General

## § 401.1 Purpose and scope.

## §§ 401.1 and 401.2 [Amended]

2. The word "part" is changed to "subpart" each place that it occurs in Subpart A, §§ 401.1 and 401.2.

3. A new Subpart B is added following § 401.3, to read as follows:

## Subpart B—Disclosures of Wage Information for Programs of Aid to Families with Dependent Children

Sec.

401.101 Purpose and scope.

401.102 Definitions.

401.103 When information may be disclosed.

401.104 Information which is necessary.

401.105 Protection of confidentiality.



**AUTHORITY:** Secs. 1102, 1106(a), Social Security Act (42 U.S.C. 1302, 1306(a); sec. 411, Social Security Act (42 U.S.C. 611), as amended by Pub. L. 95-216 (91 Stat. 1581).

**Subpart B—Disclosures of Wage Information for Programs of Aid to Families With Dependent Children**

**§ 401.101 Purpose and scope.**

(a) This subpart sets out the rules covering disclosure of wage information by the Social Security Administration (SSA), and received by an agency or official of a State or local government for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a program of Aid to Families with Dependent Children (AFDC) under title IV-A of the Social Security Act. This subpart also sets out how the agency or official may use this information.

(b) This subpart implements §§ 402(a)(9), 411, and 1106(a) of the Social Security Act. Releases of wage information which are not provided for in this subpart are restricted by section 6103 of the Internal Revenue Code, as well as section 1106(a) of the Social Security Act and regulations implementing each of these statutory provisions.

**§ 401.102 Definitions.**

(a) "Wage information." "Wage information" includes:

(1) Information about both "wages" and "self-employment income" as those terms are defined in title II of the Social Security Act; and

(2) The name, address, and employer identification number of an employer reporting wages for social security purposes.

(b) "Wage reporting period." "Wage reporting period" means the period for which earnings are required to be reported for social security tax purposes.

(c) "Aid to Families with Dependent Children" or "AFDC." "AFDC" means a program of aid or services under title IV-A of the Social Security Act.

(d) "Client." "Client" means someone who receives or has applied for aid or services under an AFDC program, or someone considered to be a member of that person's family for AFDC purposes.

**§ 401.103 When information may be disclosed.**

SSA may release wage information to an agency or official of a State or local government only if the agency or official:

(a) Needs the information for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, as it relates to the administration of the AFDC program (for example, deciding a client's initial or continuing eligibility or pursuing an investigation or

prosecution of alleged or suspected fraud or similar abuse of the AFDC program);

(b) Requests the information in writing, certifying that the information is to be used only for the purpose described in paragraph (a) of this section.

(c) Makes any reimbursement requested by SSA for the costs of furnishing the information; and

(d) Agrees to comply with the provisions of § 401.105.

**§ 401.104 Information which is necessary.**

The following wage information is considered necessary for purposes of deciding whether someone is eligible for AFDC aid or services, or the amount of the aid or services:

(a) Wage information relative to any AFDC client for the most recent available wage reporting period; and

(b) Wage information for specified earlier reporting periods regarding a specified client, when the requesting agency or official certifies that the information is needed for that period.

**§ 401.105 Protection of confidentiality.**

Agencies and officials receiving wage information under this subpart shall observe the following measures to protect the confidentiality of the information against inappropriate or illegal access or disclosure.

(a) The agency or official may redisclose the information only as follows:

(1) Any wage information may be given to the individual who is the subject of the information.

(2) A client may be given wage information about other clients in the same family, if the information is needed in connection with an AFDC claim.

(3) Wage information about a client or someone else in the client's family may be given to an attorney or other person representing the client, if the information is needed in connection with an AFDC claim.

(4) Wage information may be given to another State or local agency or official who needs the information for a purpose described in § 401.103(a).

(5) Any wage information may be released without restriction if the information has become public in a court proceeding.

(b) The information shall not be given to employees or officials who do not need the information in connection with determining an individual's eligibility for aid or services, or the amount of such aid or services as it relates to the administration of the AFDC program.

(c) The agency or official shall not use the information for any purpose other than determining an individual's eligibility for aid or services, or the amount of such aid or services as it relates to the administration of the AFDC program.

(d) The information shall be stored in a place physically secure from access by unauthorized persons.

(e) Information in electronic format, such as magnetic tapes or discs, shall be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal, or other means.

(f) The agency or official shall instruct all personnel who will have access to the information as to the confidential nature of the information, the requirements of this subpart, and the criminal and civil sanctions against illegal use or disclosure of wage information covered by this subpart contained in Federal statutes (such as section 1106(a) of the Social Security Act and section 7217 of the Internal Revenue Code), and any relevant State statutes.

(g) The agency or official shall permit SSA to make on-site inspections to ensure that the requirements of Federal statutes and regulations are being met.

[FR Doc. 78-2513 Filed 1-27-78; 8:45 am]

**[8320-01]**

**Title 38—Pensions, Bonuses, and Veterans' Relief**

**CHAPTER I—VETERANS ADMINISTRATION**

**Part 21—Vocational Rehabilitation and Education**

**Subpart D—Administration of Educational Benefits; 38 U.S.C. Chapters 34, 35, and 36**

**PROMPT REFUNDS**

**AGENCY:** Veterans Administration.

**ACTION:** Final regulation.

**SUMMARY:** This amendment is intended to provide a definition of "prompt refund" to correct a problem arising from unreasonable delay by some schools in making refunds. It is hoped that the schools will be more expeditious and uniform in their refunds. An error is also corrected which has erroneously told the schools to refund the portion of the tuition earned and to keep the portion not earned. This rule is correctly stated in all places except one where this erroneous phrasing is longstanding.

**EFFECTIVE DATE:** January 23, 1978.

**FOR FURTHER INFORMATION CONTACT:**

June C. Schaeffer, Assistant Director for Policy and Program Administration, Education and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C., 20420, 202-389-2092.

**SUPPLEMENTARY INFORMATION:** On page 54954 of the FEDERAL REGISTER.

TER of October 12, 1977, there was published a notice of proposed regulatory development to amend Part 21 relative to defining the prompt refund schools offering nonaccredited courses are required to give their students. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. Three comments were received.

One person commenting objects to implementation of the proposed change to § 21.4255 on the grounds that the Veterans Administration has no authority to define "prompt refund."

The requirement that a school offering nonaccredited courses provide a pro rata refund to a student who withdraws or discontinues his or her training is a requirement of the law (38 U.S.C. 1776(c)(13)). The Administrator has authority to make all rules and regulations necessary or appropriate to carry out the laws administered by the Veterans Administration (38 U.S.C. 210(c)). Many problems can result if schools unreasonably delay making a refund.

Consequently, the authority granted the Administrator in 38 U.S.C. 210(c) is sufficient authority to allow the term "prompt refund" to be defined by regulation.

Another person commenting suggests that prompt refunds are necessary only when a student withdraws entirely from a school. He suggests that if a student enrolls in several unit subjects, withdraws from some, but not all of them, the school should not have to give a refund to the student until after the term is over.

The pro rata refund policy of a school offering nonaccredited courses should apply to both a partial and a complete withdrawal from training. It is not clear what purposes would be served by not promptly refunding tuition fees to those who partially withdraw from a school. This suggestion is rejected.

A third person used this opportunity to oppose a provision of the regulations which was not proposed to be amended and which has long been in effect.

The proposed change to § 21.4255 is deemed proper and is hereby adopted.

**Approved:** January 23, 1978.

**By direction of the Administrator.**

RUFUS H. WILSON,  
Deputy Administrator.

In § 21.4255, paragraphs (d) and (e) are revised and paragraph (f) is added so that the revised and added material reads as follows:

**§ 21.4255 Refund policy: nonaccredited courses.**

A refund policy will meet the requirements of § 21.4254(c)(13), if it

provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length when the school makes provision for refund within the following limitations:

(d) *Books, supplies, and equipment.* Where the veteran or eligible person purchases his or her books, supplies, and equipment from a bookstore or other source, and the cost of such items is separate and independent from the charge made by the school for tuition and fees, he or she may retain or dispose of such items at his or her own discretion. Where the school furnishes the books, supplies, and equipment, with the cost thereof included in the total charge payable to the school for the course, and the veteran or eligible person withdraws or is discontinued prior to the completion of the course, refund will be made in full for the amount of the charge for the unissued books, supplies, and equipment. Issued items may be disposed of at the discretion of the veteran or eligible person.

(e) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this section, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata portion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(f) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this section.

[FR Doc. 78-2460 Filed 1-27-78; 8:45 am]

**[4110-02]**

**Title 45—Public Welfare**

**CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 104—STATE VOCATIONAL EDUCATION PROGRAMS**

**PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION**

**State Administered Programs and Commissioner's Discretionary Programs; Correction**

**AGENCY:** Office of Education, HEW.  
**ACTION:** Correction, final regulations.

**SUMMARY:** In the regulations published in the FEDERAL REGISTER on October 3, 1977, Pages 53822-53891, certain technical corrections need to be made. The document is corrected as follows:

(1) On page 53830, second column, § 104.3(b) should read: (b) Section 100b.17—General Application;

(2) On page 53830, second column, § 104.3(e) should be deleted.

(3) On page 53830, second column, § 104.3 (f), (g) and (h) should be redesignated § 104.3 (e), (f) and (g).

(4) On page 53860, first column, § 105.603(e), the words, educational or training, should be deleted.

(5) On page 53865, first column, under the definition of vocational instruction, the words, including cooperative education, should be deleted.

**FOR FURTHER INFORMATION CONTACT:**

Michael Brustein, telephone 202-245-8952.

Dated: January 19, 1978.

L. DAVID TAYLOR,  
Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 78-2447 Filed 1-27-78; 8:45 am]

**[4110-02]**

**PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM**

**Family Contribution Schedule**

**AGENCY:** Office of Education, HEW.

**ACTION:** Final regulation.

**SUMMARY:** This final rule amends current regulations dealing with the Family Contribution Schedules for the Basic Educational Opportunity Grant Program for the 1978-79 academic year. The amendments (a) revise the



criteria for determining which parent's annual adjusted family income shall be considered in computing eligibility for a student whose parents are divorced or separated, (b) allow an applicant to file a supplemental Form in the instance of a loss of unemployment benefits, (c) provide that a revision in previously reported asset amounts may be submitted if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States, (d) increase the personal asset reserve amount to \$17,000 and the farm and business asset reserve amount to \$50,000 and (e) increase the amount of the family size offsets to reflect inflation during 1977, as measured by the 1977 Consumer Price Index.

**EFFECTIVE DATE:** Pursuant to section 431(d) of the General Education Provision Act, as amended (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment. However, the regulation shall be effective only with regard to Basic Educational Opportunity Grants made for the period of July 1, 1978 through June 30, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Bill Moran, 202-245-1744.

**SUPPLEMENTARY INFORMATION:** Notice of proposed rulemaking was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35948), to amend Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations. Interested persons were given the opportunity to submit comments, suggestions, or objections regarding the proposed rule.

Of the ten written responses received from the public, all agreed with the proposed changes in the 1978-79 Family Contribution Schedules. In addition, three of the comments received concerned the treatment of the independent student in the Basic Grant need analysis computations. These comments are discussed below.

The Commissioner's recommendation to revise the criteria for determining which parent's annual adjusted family income shall be considered in computing Basic Grant eligibility for a student whose parents are divorced or separated did not receive any negative comments and most commenters indicated that they felt the recommendation substantively improved program

equity. As noted in the notice of proposed rulemaking, this revision was proposed as part of the efforts to develop common data elements for the Basic Grant application and the applications of the major need analysis services. The final regulation, therefore, requires income information from the parent who has custody of the student or, in cases in which the term "custody" is no longer applicable, the parent with whom the student resided for the greater portion of the twelve month period preceding the date of application. If the applicant resided with neither parent during that period, the income of the parent who is providing the greater portion of the applicant's support shall be considered.

The proposed revision to include the loss of unemployment benefits as a permissible condition for filing a Supplemental Form brought widespread approval from the commenters. Two commenters suggested that this concept be extended to include the automatic loss of social security educational benefits at age twenty-two. One commenter indicated that this could be accomplished by allowing the applicant to file a Supplemental Form when such benefits terminated, while the other urged that an automatic exclusion of such income, keyed to the student's birthdate, take place during the processing of the application (with reasonable assumptions about the continuation of benefits through the end of an academic year). The suggestion was not adopted at this time. Since, beginning with the 1978-79 academic year, Basic Grant eligibility may be computed from information submitted on the forms of other need analysis services which are using common data elements, the suggestion will be subject to further study and discussion with these organizations before a decision will be reached by the Commissioner.

A number of commenters responding to the notice of proposed rulemaking on the 1978-79 Family Contribution Schedules suggested changes concerning the treatment of the "independent student." One commenter recommended that the family size offset for the single independent student be raised to half the amount of the family size offset for an independent student with one dependent. Another suggested that special criteria should be developed in the Family Contribution Schedules to determine the eligibility of a dependent spouse. Currently, the dependent spouse is considered as an independent student. Also, several commenters suggested that the Family Contribution Schedules should provide an asset reserve specifically for the home equity of independent students with dependents.

To respond fully to these suggestions as well as to other concerns which have been expressed by members of Congress, the financial aid community, and the general public, the Commissioner is undertaking an extensive study of independent students, their differentiating characteristics, and any special difficulties or problems they may encounter in financing their postsecondary education. The suggested changes noted above have not been adopted for the 1978-79 Family Contribution Schedules. However, they will be given careful consideration during the overall review of the treatment of the independent student.

In the course of this study of independent students, the Office of Education will be in continuing consultation with the financial aid community and the various committees of the Congress. It is the Commissioner's belief, that through the gathering and analysis of data on the independent student, together with the views of the Congress and the financial aid community, a reasonable, effective and judicious treatment of the independent student will result. The Commissioner expects to present to the Congress recommendations based upon this study in the Spring of 1978.

The proposed revision in the definition of an "independent student" which was published as a notice of proposed rulemaking simultaneously with the publication of the proposed 1978-79 Family Contribution Schedules will not be implemented for 1978-79. Because of the broad diversity of opinions which were received on the proposed changes, the Office of Education is undertaking an extensive and detailed study of independent students, their differentiating characteristics and any special difficulties or problems they may encounter during their educational experience. The Commissioner has decided to include the criteria for determining self-supporting status, the family size offset for single independent students, the status of home equity for independent students with dependents, and the expected contribution towards educational costs from an adult spouse as some of the items to be studied in the comprehensive study of the independent student.

The proposed change in the regulations allowing revisions in previously reported asset amounts to be submitted if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States received unanimous approval from the commenters. One commenter suggested that the filing of corrections to reflect asset losses from natural disasters be permitted in all cases rather than being limited to those losses re-

sulting from natural disasters in an area which has been declared a national disaster area by the President. This recommendation was not incorporated into the final regulation, however, because, as the notice of proposed rulemaking discussed, if a student's family should suffer a loss of assets because of an individual disaster after the Basic Grant application has been submitted, the financial aid officer at the student's institution may take this loss into account in determining eligibility for aid under the campus-based programs (National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant).

If that loss of assets has been of such magnitude that the family can no longer be expected to contribute the amount which had originally been expected, the financial aid officer has the discretion under the regulations governing each of the campus-based programs to reduce the expected family contribution to a level which reflects the family's current financial circumstances and to increase the awards from the three campus-based programs accordingly. The purpose of this change for the Basic Grant Program is to reflect losses of assets when those losses are so widespread among students and their families in a particular area that the campus-based program would be taxed to such an extent that the additional need could not be met.

As stated in the notice of proposed rulemaking, the six percent figure for the rise in the cost of living was used as an estimate to determine the family size offsets with the expectation that it would need to be adjusted. In actuality, the Consumer Price Index rose 6.5 percent, and the family size offsets have been altered to reflect that figure.

In addition to the changes submitted in the notice of proposed rulemaking, the final regulations also contain modifications not included under the proposed rulemaking procedure. After the publication of the notice of proposed rulemaking with regard to the Family Contribution Schedules, several public comments were received from the Congress and interested organizations urging an increase in the asset reserves currently in effect for the personal and farm and business categories. The arguments in favor of asset reserve increases are based on the following reasons. By increasing the asset reserve allowances to a level more in keeping with the average asset holdings of the various population groups, greater equity in the program can be achieved. Secondly, the increase in the asset reserve allowance would help to relieve the increased burden of middle income Americans who have experienced most severely the influence of rapid inflation on their personal and other assets.

In response to these recommendations, the final regulations have been amended. The personal asset reserve allowance is increased from \$12,500 to \$17,000 and the farm and business asset reserve allowance is increased from \$25,000 to \$50,000. In view of equity considerations, the Commissioner believes that these increases are both reasonable and necessary.

In view of the pressing need to incorporate the provisions dealing with the treatment of the personal asset reserve and the farm and business asset reserve allowances as part of the application process for 1978-79 academic year, and since the proposed change will only have a positive effect upon Basic Grant applicants, it has been determined in accordance with 5 U.S.C. 553(b) that to resort to proposed rulemaking procedures with respect to this provision would be impractical, unnecessary and contrary to public interest.

In light of the foregoing, Part 190 of Title 45 of the Code of Federal Regulations is amended by the revision of Subpart C and D as set forth below.

**NOTE.**—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Statement under Executive Order 11821 and OMB Circular A-107.

(Catalogue of Federal Domestic Assistance Number 13.539, Basic Educational Opportunity Grant Program.)

Dated: December 20, 1977.

ERNEST L. BOYER,  
U.S. Commissioner of Education.

Approved: January 24, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary of Health,  
Education, and Welfare.

Part 190 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

#### PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. In § 190.32a, paragraphs (c), (e) and (f) is amended to read as follows:

§ 190.32a Annual adjusted family income.

(c) For a student whose parents are divorced or separated, only the income as described in paragraph (a) of this section of the parent who has custody of the applicant shall be considered in determining the annual adjusted family income. If custody was not awarded, if neither parent now has custody, or if the parents have equal custody, only the income of the parent with whom the applicant resided for the greater portion of the twelve-month period preceding the date of the application shall be considered. If the applicant did not reside with either parent during the twelve-month period preceding the date of applica-

tion, the income of the parent who is providing the greater portion of the student's support shall be considered.

(e) If a parent whose income is taken into account under paragraph (c) of this section has remarried, the income of that parent's spouse shall also be considered in determining the annual adjusted family income of the student if the student:

(1) Has received or will receive financial assistance of more than \$600 per year from that parent's spouse in the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested, or

(2) Has lived or will live for more than 6 weeks in the home of that parent's spouse during the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested.

(f) If a parent whose income is taken into account under paragraph (a) of this section was a widow or widower and that parent has remarried, the income of that parent's spouse shall also be considered in determining the annual adjusted family income of the student if the student:

(1) Has received or will receive financial assistance of more than \$600 per year from that parent's spouse in the calendar year(s) in which aid is received or the calendar year prior to the academic year for which aid is requested, or

(2) Has lived or will live for more than 6 weeks in the home of that parent's spouse during the calendar year in which aid is received or the calendar year prior to the academic year for which aid is requested.

2. In § 190.33, subparagraph (b)(1) is amended to read as follows:

§ 190.33 The expected family contribution for dependent students from dependent students from effective income.

(b) \* \* \*

(1) Family size offset. A family size offset is the amount specified in the following table. Family members include the student, the student's parents and the student's parent's dependents. If the parents are divorced or separated, family members include the student and any parent whose income is taken into account for the purpose of computing the annual adjusted family income and that parent's dependents. If the parents are divorced and the parent whose income is taken into account for the purpose of computing the annual adjusted family income has remarried, or if the parent was a widow or widower who has remarried, family members shall also in-



clude any dependents of that spouse if the new spouse's income is taken into account in determining the annual adjusted family income.

Family size offsets

Family members:	Amount
2.....	\$4,100
3.....	4,950
4.....	6,300
5.....	7,400
6.....	8,400
7.....	9,300
8.....	10,300
9.....	11,250
10.....	12,200
11.....	13,100
12.....	14,050
13.....	15,000

Plus \$950 for each additional family member over 13.

3. In § 190.35, subparagraph (a)(2) is amended to read as follows:

§ 190.35 Computation of standard expected contribution from parent's assets.

(a) \* \* \*

(2)(i) If the net assets determined in paragraph (a)(1) of this section do not include farm or business assets, deduct an asset reserve of \$17,000 from the net assets. (ii) If the net assets determined in paragraph (a)(1) of this section include farm assets or business assets, deduct an asset reserve of \$50,000 from the net assets. However, in this case an asset reserve of not more than \$17,000 may be deducted from non-farm and/or non-business assets owned by the parents.

4. In § 190.39, subparagraph (a)(5) and paragraph (c) are added to read as follows:

§ 190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

(a) \* \* \*

(5) A parent whose income was included in the calculation of expected family contribution as determined in § 190.33 has experienced a loss of unemployment benefits in the base year or the tax year subsequent to the base year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States.

5. In § 190.43, subparagraph (b)(1) is amended to read as follows:

§ 190.43 The expected family contribution for independent students from annual adjusted family income.

(b) \* \* \*

(1) Family size offset. A family size offset is the amount specified in the following table. Family members include the student and his dependents. If the student is divorced or separated, family size shall include any person whose income is taken into account for the purpose of computing the annual adjusted family income and his or her dependents.

Family size offsets

Family members:	Amount
2.....	\$4,100
3.....	4,950
4.....	6,300
5.....	7,400
6.....	8,400
7.....	9,300
8.....	10,300
9.....	11,250
10.....	12,200
11.....	13,100
12.....	14,050
13.....	15,000

Plus \$950 for each additional family member over 13.

An offset of \$1,100 shall be made for the single independent student.

6. In § 190.48, Subparagraph (a)(6) and paragraph (c) would be added to read as follows:

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for independent students.

(a) \* \* \*

(6) An applicant or spouse whose income was included in the calculation of the expected family contribution as determined in § 190.43 has experienced a loss of unemployment benefits in the base year or the tax year subsequent to the base year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area which has been declared a national disaster area by the President of the United States.

[FR Doc. 78-2512 Filed 1-27-78; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1297]

PART 1033—CAR SERVICE

Railroad Operating Regulations for Freight Car Movement

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1297).

SUMMARY: An acute shortage of several types of freight cars exists throughout the country. Service Order No. 1297 applies to all loaded and empty cars of mechanical designations "XM" and "XMI" boxcars, "LO" covered hopper cars and "FC" flat cars. Service Order No. 1297 requires these loaded cars to be placed within 24 hours following arrival at destination; empty cars must be removed from point of unloading or interchange tracks within 24 hours, and loaded and empty cars shall be forwarded within 24 hours. Cars held for light repairs or cleaning shall be placed not later than the first 7 a.m. after car is carded, and these repairs shall be completed within 24 hours. Empty cars, owned by and bearing the registered reporting marks assigned to the line holding the car, are exempt from provisions of this order.

DATES: Effective 11:59 p.m., January 31, 1978. Expires 11:59 p.m., May 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 24th day of January 1978.

There are acute shortages of freight cars throughout the country resulting in failures of carriers to furnish an adequate supply of freight cars to shippers located on their lines. These shortages of freight cars are impeding both the domestic and export movements of agricultural, mineral, forest, and manufactured products, and other commodities. The existing car service rules, regulations, and practices of the railroads are ineffective with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of freight cars to meet the

requirements of shippers. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that a good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1297 Car Service Order 1297.

(a) Railroad operating regulations for freight car movement. Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) Application. (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars listed in the Official Railway Equipment Register ICC-R.E.R. No. 405, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," "LO," or "FC."

(iii) Exception. Empty cars owned by the Alaska Railroad, while held in the State of Washington, pursuant to instructions of the car owner, are exempt from the provisions of this order.

(iv) Exception. Empty cars described in part (ii) of this section owned by and bearing the registered reporting marks assigned to the line holding the car, and empty cars of private ownership reported and awaiting instructions from the car owner, are exempt from the provisions of this order.

(v) Exception. To alleviate hardships or inequities, including, but not limited to those caused by extreme weather disruptions, exceptions to this order may be authorized to the carrier by the Railroad Service Board, Interstate Commerce Commission, Washington, D.C. Requests for such exceptions may be made only by carriers and shall be sent to W. H. Van Slyke, Chairman, Car Service Division, Association of American Railroads, Washington, D.C., for recording and submission to the Railroad Service Board, Interstate Commerce Commission, for consideration.

(vi) Actual placement means placing a car in an accessible position for loading or unloading, or placing on an industrial interchange track serving the consignor or consignee. If such placing is prevented by any cause attributable to consignor or consignee and car is placed on the private or other than public delivery tracks serving the consignor or consignee, it shall be considered constructively placed without notice.

(vii) Holidays shall be those listed in item 525 of Agent D. M. Rogers' tariff 4-K, ICC H-74, general car demurrage rules and charges, supplements thereto, or successive issues thereof.

(2) Placing of cars. (i) Loaded cars shall be actually or constructively placed within 24 hours, exclusive of Saturdays, Sundays, and holidays, following arrival at destination, or after arrival at the yard from which cars are dispatched for actual placement.

(ii) Empty cars which after placement will be subject to demurrage, storage, or detention rules applicable to cars for loading, or which are subject to storage rules and charges applicable to assigned cars held empty awaiting placement for loading by the assignee, shall be actually placed or appropriate notice as required by applicable tariffs issued within 48 hours, exclusive of Saturdays, Sundays, and holidays, after arrival at the point where held.

(iii) When delivery of a car, either empty or loaded, consigned or ordered to an industrial interchange tract or to an other than public delivery track, cannot be made because of any condition attributable to consignor or consignee, such car shall be held at destination or, if it cannot reasonably be accommodated there, at an available hold point; and constructive placement notice shall be sent or given the consignor or consignee within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or hold point.

(iv) Proper notice for cars placed on public delivery tracks shall be sent or given within 24 hours after placement, exclusive of Saturdays, Sundays, and holidays.

(v) Cars held at destination for accessorial terminal services described in the applicable tariffs, such as holding for orders or inspection, shall be placed on unloading, hold, or inspection tracks; and proper notice shall be given within 24 hours, exclusive of Saturdays, Sundays, and holidays, after arrival of car at destination or at hold point. Time and charges shall be computed following such notice and demurrage or detention charges assessed in accordance with provisions of governing tariffs.

(3) Removal of cars. (i) Empty cars must be removed from point of unloading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following unloading or release by consignee or shipper, unless such empty cars are ordered or appropriated by the shipper for reloading within such 24-hour period. Empty cars not ordered for loading at point where made empty must be forwarded or set aside to be cleaned, repaired, or weighed, if to be weighed at that point, within 24 hours following removal of empty cars.

(ii) Outbound loaded freight cars must be removed from point of loading or interchange tracks of industrial plants within 24 hours, exclusive of Sundays and holidays, following acceptance by carrier of the shipping instruction covering the cars. Such cars must be forwarded, weighed, if to be weighed at that point, or set aside for repairs within 24 hours following release and removal.

(iii) Cars subject to parts (i) and (ii) of this section, not made accessible to the carrier, shall be subject to demurrage until such time as they become, and remain, accessible to the carrier.

(iv) Cars shall not be removed from point of unloading or from industrial interchange tracks, nor released from demurrage or detention status, until all bracing, blocking, dunnage, paper, residue of lading, debris, and other foreign matter directly related to the inbound load have been removed from the car in accordance with the requirements of rules 14 and 27 of the Uniform Freight Classification, ICC 8, issued by J. D. Sherson, supplements thereto, or reissues thereof.

Exception. Dunnage being returned to shipper under provisions of the applicable tariffs may be left in cars released as empty, provided that proper shipping instructions are received by the carrier prior to 5 p.m. of the first day, which is not a Saturday, Sunday, or holiday, immediately following release of the car.

(4) Forwarding of cars. (i) Loaded cars and empty cars shall be forwarded within 24 hours, except cars described in parts (ii), (iii), or (iv) of this section, or cars described in part (ii) of section (2).

(ii) Exception. Loaded cars held subject to instructions of consignee, consignor, or other qualified owner of the freight contained therein, while subject to applicable tariffs.

(iii) Exception. Cars held for repairs, weighing, or cleaning. (See section (5).)

(iv) Exception. Cars held because no train or switch engine service is available between hold point and destination.

(5) Cars held for repairs, weighing, or cleaning. (i) Cars of system, foreign, or private ownership which are held for light repairs or cleaning shall be placed on repair or cleaning tracks not later than the first 7 a.m., exclusive of Sundays and holidays, after time carded for repairs or cleaning. Light repairs or cleaning shall be accomplished within 24 hours, exclusive of Sundays and holidays, after placement on repair or cleaning tracks; except that when necessary to order material from car owner to make the repairs to foreign or private cars held awaiting such material, repairs shall be completed within 24 hours, exclusive of Sundays and holidays, after receipt of such material at the station at which the repair point is located.



## RULES AND REGULATIONS

(ii) Light repairs are defined as repairs requiring less than 20 man-hours by repair track forces to complete.

(iii) Cars which must be weighed shall be weighed and restenciled, if required, within 24 hours, exclusive of Sundays and holidays, after arrival at the point at which weighing is to be accomplished, or after request for weight is received, if weights are requested by shipper or by car owner.

(iv) Cars which have been repaired, cleaned, or weighed shall become subject to sections 2, 3, or 4, as applicable, from the date such repairs, cleaning, or weighing have been accomplished.

(6) *Movement of freight cars.* (i) No common carrier by railroad subject to the Interstate commerce Act shall delay the movement of cars by holding such cars in yards, terminals, or sidings for the purpose of increasing the time in transit of such cars.

(ii) Cars shall not be set out between terminals except in cases of emergency.

(iii) Backhauling cars for the purpose of increasing the time in transit is prohibited.

(iv) Through cars shall not be handled on local or way freight trains for the purpose of increasing the time in transit of such cars.

(v) The use by any common carrier by railroad, or the acceptance of instructions from the shipper, for the movement of cars over its line via any route other than its shortest available route or its usual and customary fast freight route from point of receipt of the car from cosignor, or connecting line, to point of delivery to consignee, or to next connecting line, except for the purpose of according a lawfully established transit privilege (not including a diversion or reconsignment privilege) is hereby prohibited.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Effective date.* This order shall become effective at 11:59 p.m., January 31, 1978.

(d) *Expiration date.* This order shall expire at 11:59 p.m., May 31, 1978, unless otherwise modified, changed, or

suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

*It is further ordered.* That a copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Member Robert S. Turkington not participating.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2529 Filed 1-27-78; 8:45 am)

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

[7 CFR Part 930]

CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

## Change in Assessment Procedure

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on a proposal to set exact dates on which handler assessments shall be billed by the Cherry Administrative Board. The uncertainty of the billing dates under the present procedure has caused some administrative problems for the Board and for cherry handlers.

DATE: Comments must be received by February 15, 1978.

ADDRESS: Comments should be addressed to: Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Currently, the Cherry Administrative Board bills each cherry handler for the first one-third of his total program assessment at the time the handler completes his packing for the season; the second one-third is billed 60 days after pack completion; and the final one-third is billed 90 days after pack completion. The uncertainty of the billing dates under the present procedure has caused some administrative problems for the board and for cherry handlers. The proposal would establish exact dates for the billing of these assessments. The proposal was submitted by the Cherry Administrative Board, established under marketing order No. 930 (7 CFR Part 930), regulating the handling of cherries grown in eight designated states, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal would amend § 930.107(a) to read as follows:

§ 930.107 Assessment procedure.

(a) Each handler shall be billed for the first one-third of his total assessments on September 1, the second one-third of such assessments on October 1, and all remaining unpaid assessments on November 1.

Dated: January 25, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-2530 Filed 1-27-78; 8:45 am)

[3410-02]

[7 CFR Part 1207]

[Amtd. 7]

## POTATO RESEARCH AND PROMOTION PLAN

## Proposed Amendment Regarding Designated Handler

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on an amendment proposed by the Potato Board to clarify the responsibilities of potato handlers regarding assessments. This proposed amendment would elaborate on regulations concerning who is responsible for paying assessments for seed potatoes.

DATE: Comments due by February 15, 1978.

ADDRESSES: Comments may be addressed to the Hearing Clerk, Room 1077 South Building, U.S. Department of Agriculture, Washington, D. C. 20250. Two copies of all written comments shall be submitted and they will be made available for inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D. C. 20250, phone 202-447-6393.

SUPPLEMENTARY INFORMATION: The Potato Board is the administrative agency established by the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611-2627).

The proposal is as follows:

§ 1207.512 [Amended.]

1. In § 1207.512 revise the first sentence in paragraph (a) to read as follows:

(a) Unless otherwise provided in paragraphs (a)(8), (b), and (c) of this section, the designated handler shall be the first handler of such potatoes.

2. In § 1207.512 revise paragraph (a)(8) to read as follows:

(a) \* \* \*

(8) Producer utilizes potatoes of his own production for seed in planting his subsequent crop. Such seed potatoes do not enter the current of commerce; there is no designated handler in this instance since the potatoes have not been handled as heretofore defined and no assessment is due. However, seed potatoes sold or shipped to other producers for planting or to other persons for subsequent disposition enter the current of commerce and are subject to assessment.

The producer of seed potatoes shall be the designated handler of such potatoes shipped to other producers for planting and the assessment is due when he first sells or otherwise handles such potatoes. The first person who acquires seed potatoes from the producer thereof for subsequent disposition other than planting by said person shall be the designated handler of such potatoes.

Dated: January 25, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

(FR Doc. 78-2445 Filed 1-27-78; 8:45 am)



[3128-01]

## DEPARTMENT OF ENERGY

Economic Regulatory Administration  
[10 CFR Part 211]DOMESTIC CRUDE OIL ALLOCATION  
PROGRAM

Proposed Amendment to the Entitlements Program as to Certain Limited-Product Refineries Located in State of Alaska and Request for Comment on Similar Situations Elsewhere

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Economic regulatory Administration ("ERA") of the Department of energy ("DOE") hereby gives notice of a proposal to amend the domestic crude oil allocation program (the "entitlements program") to clarify the proper calculation of entitlements to be issued to certain refineries located in the State of Alaska, in order to avoid the potential for duplicate entitlement issuances for the same volume of crude oil. The refineries affected are specialized facilities that produce and sell or use only certain products from Alaskan crude oil. The remaining unfinished oils or refined products from these refineries are then injected into the Trans-Alaska Pipeline and commingled with the crude oil in the pipeline for further shipping and ultimate sale to other refiners as crude oil. The proposed rule would make it clear that such limited-product Alaskan refineries earn entitlements only on that portion of the processed crude oil that is not injected into the pipeline in the form of either unfinished oil or refined products.

DATES: Comments by March 9, 1978, 4:30 p.m. Hearings: Anchorage, Alaska, March 13, 1978, 9:30 a.m.; Washington, D.C., March 16, 1978, 9:30 a.m. Requests to speak by March 6, 1978, 4:30 p.m.

ADDRESSES: Send comments to Office of Regulations Management, Economic Regulatory Administration, Room 2214, Box RD, 2000 M Street NW., Washington, D.C. 20461.

## HEARINGS

- (1) Anchorage hearing: March 13, 1978, 9:30 a.m., Z. J. Loussac Library, 427 F Street, Anchorage, Alaska 99501.
  - (2) Washington hearing: March 16, 1978, 9:30 a.m., Room 2105, 2000 M Street NW., Washington, D.C. 20461.
- Send requests to speak to (1) Anchorage hearing: Department of Energy, Subregional Office G-11, Room 229, Federal Office Building, 605 West 4th Avenue, Anchorage, Alaska 99501; (2) Washington hearing: Office of Regulation Management,

## PROPOSED RULES

Economic Regulatory Administration, Room 2214, Box RD, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION  
CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214B, 2000 M Street NW., Washington, D.C. 20461, 202-254-5201.

Ed Villade (Media Relations), Department of Energy, Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9833.

Robert Kane (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, 202-254-7200.

Doug McIver (Entitlements Program Office), Economic Regulatory Administration, Room 6128I, 2000 M Street NW., Washington, D.C. 20461, 202-254-8660.

Margaret R. Dinneen (Office of General Counsel), Department of Energy, Room 5136, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9565.

## SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Proposed amendment.
- III. Proposed effective date.
- IV. Specific comments requested.
- V. Comment procedures.

## I. BACKGROUND

The DOE's entitlements program is designed basically to equalize the cost of crude oil purchases among U.S. refiners. Each refiner is issued each month a number of entitlements equal to the total volume in barrels of its crude oil runs to stills for the month, multiplied by the national domestic crude oil supply ratio (a fraction which represents generally that percentage of crude oil processed by domestic refiners which is domestic price-controlled crude oil, with a weighting based on the respective volumes of upper and lower tier crude oil). By roughly equalizing crude oil acquisition costs for all refiners, the program fulfills one of its key objectives: Namely, preserving a competitive market for all refiners, regardless of their relative access to controlled domestic crude oil. Entitlement issuances to refiners characteristically deal with a crude oil feedstock fully processed into a range of finished products for sale in the marketplace.

However, certain facilities in the State of Alaska do not fit the characteristic pattern: These facilities process crude oil produced on Alaska's North Slope in order to obtain only a limited range of products and inject all of the remaining products or unfinished oils into the TAPS pipeline,

where they flow commingled with unprocessed crude oil. Several of these limited product facilities retain for sale or use only products dedicated for consumption at or near the remote locations where the facilities operate. One facility, a joint venture of two of the North Slope producing companies, is located at Prudhoe Bay; it processes crude oil which has not yet traversed the TAPS pipeline and is therefore eligible only for upper tier entitlements. Another plant at Fairbanks is independently owned but also makes a limited range of distillate-type material for local markets, with the remainder of its crude runs reinjected into the TAPS pipeline. Three other facilities are currently operational or planned at TAPS pipeline pumping stations south of the Brooks Range. These plants are operated by Alyeska, the TAPS pipeline service company, and make products solely for pipeline operational consumption. The net draw-off of crude oil by the facilities expected to report for entitlements purposes is less than 1.5 percent of current pipeline throughput. The unfinished oils and products injected into the TAPS pipeline and thus commingled with the crude oil in the pipeline are transported on to Valdez for tanker loading and ultimate sale to and processing by other refiners as crude oil, for which those refiners are issued entitlements.

The proper treatment of the Alaskan facilities described above involves two issues under the entitlements program:

- (a) Are the limited-product facilities "refineries" for purposes of the entitlements program?

The definition of a refinery currently found in 10 CFR 211.62 is as follows:

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant.

Since the facilities in question process crude oil and manufacture at least some refined petroleum products, they are refineries under current regulations. Furthermore, such facilities located in the Lower 48 States have always been treated as refineries under the entitlements program. (Some of these limited-product facilities are sometimes referred to as "topping plants." However, nothing of significance turns upon the terminology applied. Such plants are in fact limited-product refineries and are "refineries" within the meaning of § 211.62.)

- (b) Should these limited product refineries receive entitlements for all of their crude oil runs to stills, as is typically the case with other refiners?

Alaska's limited-product refineries present the potential for a given volume of crude oil to earn entitlements

twice. Such a double-counting could arise if the initial refiner reported its total crude oil runs to stills for the calculation of entitlements issuances. From this total, however, a measurable and in some instances large volumes of unfinished oils or refined products would be returned to be commingled with Alaska North Slope ("ANS") crude oil in the TAPS pipeline and sold as crude oil after being transported to the lower 48 states. A refiner purchasing and processing the commingled stream, unless it had received the appropriate certification under § 212.131 as to the composition of the stream (which would create a difficult accounting burden upon sellers because of the necessity to trace or allocate the injected products and unfinished oils to particular purchasers), would then report the total volume of the commingled stream in its crude oil runs to stills, thus earning entitlements as to volumes for which the original refiner has already been issued entitlements. Such a double counting of entitlements would not be proper, and the purpose of the proposed amendment is to make clear the method by which this result is to be avoided.

## II. PROPOSED AMENDMENT

To avoid the possibility of erroneous duplicate entitlement issuances for the same oil, the ERA proposes an amendment which explicitly requires the subtraction from a refiner's crude oil runs to stills of any volumes of unfinished oils or refined products which are injected or reinjected into the TAPS pipeline and commingled with the crude oil in the line. For example, if a refiner processes 15,000 barrels of crude oil in a particular month to obtain a limited range of products and returns 10,000 barrels of unfinished oil or refined products to the pipeline, it would report only 5,000 barrels as crude oil runs to stills. This amendment would add a new subparagraph (8) to § 211.67(d).

## III. PROPOSED EFFECTIVE DATE

The ERA understands that those limited-product Alaskan refiners in question that now report under the entitlements program are in fact accounting for their crude oil runs to stills on a "net" basis, as proposed herein. Thus, adoption of the amendment proposed herein would expressly confirm the propriety of the existing practices of the refiners in question. The amendment is therefore proposed to be made effective upon adoption.

## IV. SPECIFIC COMMENTS REQUESTED

- (a) The proposed amendment would apply only to limited-product refineries as described in this notice that operate in the State of Alaska, because

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the ERA is not aware of any similar situation elsewhere in the United States. However, the ERA wants to know: (1) whether other similar facilities (i.e., facilities which retain only a limited amount of products and commingle the remaining unfinished oils or refined products with unprocessed crude oil) exist in other parts of the United States, (2) how any such additional limited-product refineries are reporting their crude oil runs to stills under the entitlements program, and (3) whether any such additional refineries should receive similar regulatory treatment.

(b) The ERA also specifically asks whether it is necessary and appropriate to include some or all of the limited-product refineries covered in this proposal in the entitlements program at all, given that these facilities typically produce and retain products for which there are only limited practical uses under the circumstances and given that, because of their geographic location, at least some of these refineries are not practically in competition with other refiners. The ERA wishes to assess whether these refineries should continue to be treated as refineries for purposes of the entitlements program, since the purpose of equalizing crude oil costs among refiners may not be pertinent in light of the fact that the production of at least some of these refineries is not practically in market-place competition with other refinery production.

(c) Finally, assuming that these refineries continue to be covered under the entitlements program, the ERA requests comments upon whether continued imported tier entitlements treatment for ANS crude oil refined in Alaskan refineries is appropriate, in view of the facts that the principal reason for affording such entitlements treatment to ANS oil was the high cost of transporting the oil to the Lower 48 States and that the cost of shipping oil to the refineries in question here is considerably less.

V. WRITTEN COMMENTS AND PUBLIC  
HEARING PROCEDURES

## a. WRITTEN COMMENTS

You are invited to participate in this rulemaking by submitting views, data, or arguments with respect to the proposal set forth in this notice. Comments should be submitted to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope with the designation "Amendment of Entitlements Program for Alaskan Refineries." Fifteen copies should be submitted. All comments received by March 9, 1978, and all relevant information will be considered by the ERA before final action is taken on the proposed amendment. All comments received by

the ERA will be available for public inspection in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

## b. PUBLIC HEARINGS

1. *Request procedure.* The times and places for the hearings are indicated in the "Hearings" section of this notice. If necessary to present all testimony, the hearings will be continued to 9:30 a.m. of the first business day following the dates therefor shown above.

Any person may make a written request for an opportunity to make an oral presentation at the hearings. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

Each person selected to be heard will be so notified before 4:30 p.m., March 8, 1978, and must submit 50 copies of his or her statement before 4:30 p.m., March 15, 1978. Statements for the Washington hearing should be sent to Office of Regulations Management, Economic Regulatory Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461. Statements for the Anchorage hearing should be sent to the Department of Energy, Subregional Office G-11, Federal Office Building, 605 West 4th Avenue, Anchorage, Alaska 99501.

2. *Conduct of the hearings.* We reserve the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were



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made and will be subject to time limitations.

You may submit questions to be asked of any person making a statement at the hearings to the Office of Regulations Management at the above address before 4:30 p.m., March 9, 1978. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The ERA or the presiding officer, if the question is submitted at a hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase copies of the transcripts from the reporters.

As required by section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

NOTE.—The ERA has determined that this document does not contain a major proposal requiring preparation of an inflationary impact statement under Executive Order 11821 and OMB Circular A-107.

Pursuant to the requirements of section 404 of the Department of Energy Organization Act (Pub. L. 95-91), upon issuance this proposed rule will be referred to the Federal Energy Regulatory Commission for a determination of whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 402 (a)(1), (b), and (c)(1) of the Act. The Commission will have until March 9, 1978, the date the public comment period closes, to make this determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385 and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the

Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., January 24, 1978.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

Section 211.67 is amended in paragraph (d) to add a new subparagraph (8) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(d) Adjustments to volume of crude oil runs to stills.

(8) The volume of crude oil runs to stills of a refinery as to any of its refineries located in the State of Alaska in a particular month, for purposes of the calculations in paragraph (a)(1) of this section and the calculations for the national domestic crude oil supply ratio, shall not include the number of barrels of unfinished oils or refined petroleum products injected or reinjected by that refinery into the Trans-Alaska Pipeline System in that month.

(FR Doc. 78-2574 Filed 1-27-78; 8:45 am)

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-NW-28-AD]

AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM.

SUMMARY: This extension of time to comment upon a Notice of Proposed Rule Making published December 12, 1977, in 42 FR 62398 is necessary to permit interested parties to provide information not previously known to the FAA.

DATES: The new deadline for comment is extended to February 10, 1978.

ADDRESSES: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 77-NW-28-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

Joseph M. Starkel, Airframe Section, ANW-212, Engineering and Manu-

facturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration issued a Notice of Proposed Rulemaking in the above referenced docket on December 2, 1977 (Published in 42 FR 62398 on December 12, 1977), which solicited comments on an inspection program of the emergency escape slide cool gas generator system, used on the Boeing 747 series airplanes.

In conjunction with comments received by FAA from the Air Transport Association, several airlines, The Boeing Co., and Rocket Research Corp., the manufacturer of the cartridge for the cool gas generator has indicated that it would like to provide information not previously available regarding the safety issue involved.

The comment period specified in the NPRM expired on January 13, 1978. The FAA has determined that comments from the manufacturer of the cartridge for the cool gas generator are essential to evaluate the safety issue involved.

DRAFTING INFORMATION

The principal authors of this document are Joseph M. Starkel, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

EXTENSION OF COMMENT PERIOD

Accordingly, the deadline for comments on the NPRM in Docket No. 77-NW-28-AD is hereby extended to February 10, 1978.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A107.

Issued in Seattle, Wash., on January 20, 1978.

C. B. WALK, Jr.,  
Director, Northwest Region.

(FR Doc. 78-2464 Filed 1-27-78; 8:45 am)

[4910-13]

[14 CFR Part 71]

[Docket No. 78-SO-2]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Danville, Ky., transition area. An NDB approach procedure is being developed for Goodall Field, and additional controlled airspace is required for containment of IFR operation. This action will lower the base of controlled airspace from 1200 to 700 feet in the vicinity of Danville to accommodate aircraft executing the NDB approach procedure.

DATES: Comments must be received on or before March 7, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before March 7, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory circular No. 11-2 which describes the application procedures.

PROPOSED RULES

THE PROPOSAL

The FAA is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Danville, Ky., transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Goodall Field.

DRAFTING INFORMATION

The principal authors of this document are Ronald T. Niklasson, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by adding the following:

DANVILLE, KY.

That airspace extending upwards from 700 feet above the surface within a 7-mile radius of Goodall Field (Lat. 37°34'45" N., Long. 84°46'10" W.); within 3.5 miles each side of the 033° bearing from the Goodall RBN (Lat. 37°34'35" N., Long. 84°45'50" W.) extending from the 7-mile radius to 8.5 miles northeast of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on January 20, 1978.

GEORGE R. LACAILLE,  
Acting Director, Southern Region.  
(FR Doc. 78-2462 Filed 1-27-78; 8:45 am)

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 77-EA-59]

RESTRICTED AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes to alter the time designation of Fort Indiantown Gap, Pa., Restricted Area R-5802. This proposal would extend the hours of utilization of R-5802 on Saturday to 2400 hours local time during the summer months only. This action would eliminate the necessity by the Army to issue NOTAMS each time

training requirements could not be completed within the authorized designated hours.

DATES: Comments must be received on or before March 1, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region; Attention: Chief, Air Traffic Division, Docket No. 77-EA-59, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before March 1, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 73 of the Federal Avi-



## PROPOSED RULES

ation Regulations (14 CFR Part 73) that would alter the time designation for utilization of Fort Indiantown Gap, Pa., Restricted Area R-5802. Time of designation of this restricted area is staggered throughout the year and includes 0800 to 2000 local time everyday from May 11 through August 31. This proposal would increase this time of designation on Saturdays, between May 11 and August 31, from 0800 to 2400 local time. During the summer of 1977, the Army was burdened with the requirement to issue NOTAMS to extend the time utilization of R-5802 as set forth in the rule in order to complete training. This action creates an additional communications workload for the Army airspace officer and for the involved FAA agencies. On the basis of this review, the FAA believes this action would relieve the Army of a NOTAM communications problem. Also, associated flight service stations would be relieved of an additional workload of dissemination and transmission of these time utilization extension NOTAMS. The NOTAM authorization presently permits the Army to extend the time designation of R-5802 whenever it is deemed necessary.

The current time of designation for Saturdays from May 11 through August 21 is 0800-2000 hours local. This action would extend the time designation to 2400 hours local time. NOTAMS must be issued at least 48 hours in advance.

## DRAFTING INFORMATION

The principal authors of this document are Mr. Lewis W. Still, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

## THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.58 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 703) to increase the time of designation of R-5802, Fort Indiantown Gap, Pa., as follows:

R-5802 FORT INDIANTOWN GAP, PA.

Time of designation. May 11 through August 31, 0800-2400 hours local time, Saturdays.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 20, 1978.

WILLIAM E. BROADWATER,  
Chief, Airspace and Air  
Traffic Rules Division.  
(FR Doc. 78-2463 Filed 1-27-78; 8:45 am)

[4910-13]

[14 CFR Part 139]

(Docket No. 13397; Reference Notice No. 73-31)

PART 139—CERTIFICATION AND OPERATIONS:  
LAND AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS

Withdrawal of Proposal Requiring Safety Equipment To Be Listed and Described in Airport Operations Manuals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This is a withdrawal of a notice of proposed rulemaking in which the FAA invited comments on a proposed amendment to the Federal Aviation Regulations that would have required firefighting and rescue equipment and other safety equipment required for airport certification to be listed and described in airport operations manuals approved by the Administrator. This action is taken as a result of an analysis of comments received and is intended to avoid imposing an unnecessary administrative burden on airport management.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert J. Endres, Office of Airports Programs, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3085.

SUPPLEMENTARY INFORMATION: Notice 73-31 was published in the FEDERAL REGISTER on December 21, 1973 (38 FR 35017). It proposed to amend Part 139 to require that firefighting and rescue equipment and other safety equipment required for certification be described and listed in each certificate holder's operations manual. Under the proposal equipment listed in this manner would have been eligible for Federal funding in accordance with the applicable statutes and the Federal Aviation Regulations related to airport aid programs.

In the comments received in response to Notice No. 73-31, the principal objection made was related to the requirement of listing safety equipment in airport operations manuals. This requirement was viewed as creating an unnecessary administrative burden. Also, the FAA has determined that the proposed amendment, as published, can cause confusion and that

the purpose for which it was intended can be served by setting forth lists of eligible items of safety equipment in advisory circulars or other documents associated with the Airport Aid Program.

In view of the foregoing, the FAA has determined that rule making action on the proposed amendment would not be appropriate at the present time and the Notice 73-31 should be withdrawn. However, withdrawal of this proposed amendment does not preclude the FAA from issuing similar notices in the future, nor does it commit the FAA to any course of action.

## DRAFTING INFORMATION

The principal authors of this document are Augustus A. Melton, Jr., Office of Airports Programs, and Howard A. Bartnick, Office of the Chief Counsel.

## WITHDRAWAL OF PROPOSED AMENDMENTS

Accordingly, the notice of proposed rule making published in the FEDERAL REGISTER (38 FR 35017) on December 21, 1973, and circulated as Notice NO. 73-31, entitled "Certification and Operations: Land Airports Serving CAB-Certificated Air Carriers" is hereby withdrawn by the Federal Aviation Administration.

(Sec. 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on January 19, 1978.

WILLIAM V. VITALE,  
Acting Assistant Administrator,  
Office of Airports Programs.

(FR Doc. 78-2465 Filed 1-27-78; 8:45 am)

[7035-01]

INTERSTATE COMMERCE  
COMMISSION

[49 CFR Part 1241]

(Docket No. 36557 (Sub-No. 1))

## REPORTING RAILROAD TRACK MAINTENANCE

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Informal Conference.

SUMMARY: The objective of this conference is to provide a forum for the exchange of views on the topics of deferred maintenance and betterment vs.

depreciation accounting for railroads. The Commission believes that clarification of the specific issues relating to these topics can be better obtained through participation of interested parties in an informal conference.

Docket No. 36557, Reporting Railroad Track maintenance, was served July 5, 1977 (June 20, 1977, 42 FR 32819). The revised response period expired September 15, 1977. Among the major issues to be addressed by the participants at this conference are the following: (1) Determining what information concerning railroad track maintenance is obtainable and relevant to the analysis of a railroad's track maintenance efforts, (2) developing an appropriate definition for deferred maintenance, (3) developing an appropriate methodology and format for quantification and disclosure of deferred maintenance by railroads, and (4) betterment vs. depreciation accounting for railroads.

DATES: The conference will be conducted by a Commission staff group beginning February 15, 1978, and will continue until all parties have been heard.

ADDRESSES: The conference will be held at the Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, D.C.

All parties interested in making a presentation must contact Ronald Young, Chief, Section of Accounting, Bureau of Accounts, at 202-275-7448, by January 31, 1978, advising him of their intention to present oral comments. All participants will receive a list of the names of all parties scheduled to speak containing the date and time of their presentation.

## PROPOSED RULES

All those scheduled to speak at the conference are requested to submit six copies of a position paper outlining their proposed oral comments to James B. Thomas, Jr., Director, Bureau of Accounts, 12th and Constitution Avenue NW., Washington, D.C. 20423, by February 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Ronald Young, Chief, Section of Accounting, 12th and Constitution Avenue NW., Washington, D.C. 20423, phone 202-275-7448.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2409 Filed 1-27-78; 8:45 am)

[3510-22]

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric  
Administration

[50 CFR Part 216]

## BOWHEAD WHALES

Withdrawal of Proposed Regulations Regarding Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Withdrawal of proposed rule.

SUMMARY: The National Marine Fisheries Service (NMFS) hereby withdraw the proposed regulations governing the subsistence harvest of bowhead whales published on November 25, 1977.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal Program Manager, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235, telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: Under the authority of the Marine Mammal Protection Act (MMPA) the NMFS published proposed regulations (42 FR 60185, Friday, November 25, 1977) to govern the subsistence harvest of bowhead whales. These regulations were proposed to implement a research and conservation program developed by the United States and presented to a special meeting of the International Whaling Commission (IWC) in December 1977.

The United States sought IWC acceptance of a comprehensive research and conservation program which would provide for a controlled subsistence harvest. At the December 1977 meeting, the IWC amended its schedule to allow a limited native subsistence harvest of bowhead whales during 1978 and established a harvest quota for the Bering Sea bowhead whale stock of 18 whales struck or 12 landed.

In view of the foregoing events, the NMFS has determined that rulemaking based on the proposed regulations under the NMFA is not appropriate at the present time, and that the regulations proposed on November 25, 1977, should be withdrawn.

The NMFS, as a result of the recent IWC adoption of limited subsistence harvest, will propose regulations under the authority of the Whaling Convention Act to regulate the subsistence harvest of bowhead whales.

Dated: January 24, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

(FR Doc. 78-2472 Filed 1-27-78; 8:45 am)



## notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-07]

### DEPARTMENT OF AGRICULTURE

Farmers Home Administration  
(Designation No. A561)

#### ILLINOIS

##### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Johnson County, Ill., as a result of drought, April 15 through August 15, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. James R. Thompson that such designation be made.

Applications for emergency loans must be received by this Department no later than July 20, 1978, for physical losses and January 19, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-2425 Filed 1-27-78; 8:45 am)

[3410-07]

(Designate No. A562)

#### KANSAS

##### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Kansas counties as a result of severe hailstorms, accompanied by high winds, October 31 and November 1, 1977: Coffey, Franklin, and Osage.

Therefore, the Secretary has designated these areas as eligible for emer-

gency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. Robert F. Bennett that such designation be made.

Applications for emergency loans must be received by this Department no later than July 20, 1978, for physical losses and January 19, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-2426 Filed 1-27-78; 8:45 am)

[3410-07]

(Designation No. A556)

#### MINNESOTA

##### Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Minnesota counties as a result of a hailstorm and tornado July 14, 1977, and a hailstorm July 16, 1977, in Fillmore County; excessive rainfall ranging during periods from July 15 through October 21, 1977, in Koochiching, Lake of the Woods, Roseau, and St. Louis Counties; also a hailstorm and windstorm September 8, 1977, in Roseau County; and also a hailstorm July 15, 1977, in St. Louis County.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904, Subpart C, Exhibit D, Paragraph V B, including the recommendation of Gov. Rudy Perpich that such designation be made.

Applications for emergency loans must be received by this Department

no later than July 17, 1978, for physical losses and January 16, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 20th day of January 1978.

GORDON CAVANAUGH,  
Administrator,  
Farmers Home Administration.  
(FR Doc. 78-2427 Filed 1-27-78; 8:45 am)

[3410-11]

#### Forest Service

##### NATIONAL FOREST MANAGEMENT ACT COMMITTEE OF SCIENTISTS

##### Meeting Cancellation

The Committee of Scientists meeting announced in the FEDERAL REGISTER on January 18, 1978, scheduled in Washington, D.C., on February 6-8, 1978, has been cancelled. This meeting will be rescheduled for a later time in February.

Dated: January 24, 1978.

THOMAS R. JONES,  
Acting Deputy Chief.  
(FR Doc. 78-2503 Filed 1-27-78; 8:45 am)

[3410-11]

#### Forest Service

##### PROPOSED LAND EXCHANGE, LAKE-Forest ENTERPRISES, INC., SUPERIOR NATIONAL FOREST

##### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a proposed land exchange with Lake-Forest Enterprises, Inc., in the Superior National Forest, USDA-FS-FES-(Adm)-76-08.

The environmental statement concerns a proposed land exchange between Lake-Forest Enterprises, a land agent for Erie Mining Co., and the United States.

## NOTICES

This final environmental statement was transmitted to EPA on January 20, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, room 3210, 12th Street and Independence Avenue, SW., Washington, D.C. 20013.

USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, Wis. 53203

USDA, Forest Service, Superior National Forest, Federal Building, Duluth, Minn. 55801

A limited number of single copies are available upon request to Forest Supervisor, Superior National Forest, Federal Building, Duluth, Minn. 55801.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,  
Acting Deputy Chief.

JANUARY 20, 1978.

(FR Doc. 78-2422 Filed 1-27-78; 8:45 am)

[3410-16]

#### Soil Conservation Service

##### LOWER QUEEN CREEK WATERSHED, ARIZONA

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Lower Queen Creek Watershed, Arizona.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Thomas G. Rockenbaugh, State Conservationist, Soil Conservation Service, has determined that the preparation and review of an environmental impact statement is needed for this project.

The purpose of this project is to provide one hundred year frequency flood protection to people, livestock, farmland, and residential and other properties situated in the area frequently inundated by floodwaters from Queen Creek and Sonoqui Washes. Works of improvement will include conservation land treatment, a floodwater retarding dam, emergency spillway, and channel work.

A draft environmental impact statement will be prepared and circulated

for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Thomas G. Rockenbaugh, State Conservationist, Soil Conservation Service, 3008 Federal Building, 230 North First Avenue, Phoenix, Ariz. 85025, FTS 261-6711.

No administrative action on implementation of the proposal will be taken until 30 days after the date of the publication.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 18, 1978.

VICTOR H. BARRY, Jr.,  
Deputy Administrator  
for Programs.

(FR Doc. 78-2449 Filed 1-27-78; 8:45 am)

[3410-16]

##### SOUTH BRANCH-PARK RIVER WATERSHED, CONNECTICUT

##### Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the South Branch-Park River Watershed, Hartford County, Conn.

The environmental assessment of this Federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. John W. Tippie, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for the purpose of completing the channel work as planned under the watershed protection and flood prevention work plan of 1961. This Pub. L. 566 project will carry a peak discharge equal to the August 8, 1955, event. The project objectives are reduction of floodwater and sediment damages in the city of Hartford and the towns of West Hartford and Newington. The planned works of improvement include 1.7 miles of channel in Trout Brook and on Asylum Branch, including approximately 1,500 feet of conduit, and 1.1 miles on Mill Brook and 0.7 mile on Piper Brook. The modification of six bridges is anticipated.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. John W. Tippie, State Conservationist, Soil Conservation Service, Mansfield Professional Park, Storrs, Conn. 06268, telephone 203-429-9361.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

Dated: January 13, 1978.

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation  
Service, U.S. Department  
of Agriculture.

(FR Doc. 78-2450 Filed 1-27-78; 8:45 am)

[6320-01]

### CIVIL AERONAUTICS BOARD

(Docket No. 24847)

#### TRANSAVIA HOLLAND B.V.

##### Reassignment of Proceeding

This proceeding, previously assigned to Administrative Law Judge Ralph L. Wiser, has been reassigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to Judge Kane.

Dated at Washington, D.C., January 24, 1978.

NAHUM LITT,  
Chief Administrative Law Judge.  
(FR Doc. 78-2487 Filed 1-27-78; 8:45 am)

[6320-01]

(Docket No. 28125; Order 78-1-106)

#### TRANSPORTES AEROS BENIANOS, S.A.

##### Statement of Tentative Findings and Conclusions and Order To Show Cause Regarding Permit Cancellation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of January 1978.

Transportes Aereos Benianos, S.A. (TABSA), a Bolivian air carrier, holds a foreign air carrier permit<sup>1</sup> authorizing: (a) Foreign air transportation of property and mail between a point or points in Bolivia, the intermediate points Lima, Peru; Guayaquil, Ecuador; and Panama City, Panama; and the terminal point Miami, Fla.; and (b) the performance of off-route charter trips in foreign air transportation

<sup>1</sup>Order E-25697, approved September 18, 1967.



## NOTICES

under Part 212 of the Board's economic regulations.

The Board has been advised that the Government of Bolivia informed<sup>1</sup> the Department of State that TABSA's Bolivian operating permit has been canceled.<sup>2</sup>

By Order 75-7-142, adopted July 30, 1975, the Board directed all interested persons to show cause why TABSA's permit should not be canceled. Objections were filed, and no final order was issued at that time.

In view of the foregoing and all the facts of records, the Board tentatively finds and concludes:

1. That it is in the public interest to cancel the foreign air carrier permit held by TABSA; and

2. That Order 75-7-142 should be vacated.

Accordingly, it is ordered, That: 1. All interested persons are directed to show cause why the Board should not make final its tentative findings and conclusions, and why an order should not be issued which would, subject to the approval of the President, pursuant to section 801 of the Act, cancel the foreign air carrier permit held by Transportes Aereos Benianos, S.A., pursuant to Order E-25697;

2. Any interested person having objection to the issuance of an order making final the Board's tentative findings and conclusions and issuing the permit shall, within 21 days after the adoption of this order, file with the Board and serve upon the persons named in paragraph 5, a statement of objections specifying the part or parts of the tentative findings and conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon in support of the statement of objections. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be given to the matters and issues raised by the objections before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with its tentative findings and conclusions if it is determined that there are no factual issues present that warrant the holding of an evidentiary hearing.<sup>4</sup>

<sup>1</sup>Diplomatic note from the Embassy of Bolivia, October 28, 1977.

<sup>2</sup>Bolivian Ministerial Resolution No. 1749.

<sup>3</sup>Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with its tentative findings and conclusions; and

5. This order shall be served upon Transportes Aereos Benianos, S.A., and the Ambassador of Bolivia in Washington, D.C.

This order will be published in the FEDERAL REGISTER and will be transmitted to the President.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,  
Secretary.

[FR Doc. 78-2488 Filed 1-27-78; 8:45 am]

[6335-01]

## COMMISSION ON CIVIL RIGHTS

## UTAH ADVISORY COMMITTEE

## Meeting Cancellation

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Utah Advisory Committee, originally scheduled for February 16-18, 1978 (FR Doc. 78-1918), on page 3147, has been canceled.

Dated at Washington, D.C., January 24, 1978.

JOHN I. BINKLEY,  
Advisory Committee  
Management Officer.

[FR Doc. 78-2484 Filed 1-27-78; 8:45 am]

[3510-07]

## DEPARTMENT OF COMMERCE

## Bureau of Census

## CENSUS ADVISORY COMMITTEE ON THE ASIAN AND PACIFIC AMERICANS POPULATION FOR THE 1980 CENSUS

## Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix I, 1976), notice is hereby given that the Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 census will convene on February 24, 1978. The committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Md.

This committee was established in June 1976 to advise the Director,

\*All Members concurred.

Bureau of the Census, during the planning of the 1980 Census of Population and Housing on such elements as improving the accuracy of the population count, developing definitions and terminology for improved identification and classification of the Asian and Pacific Americans population, suggesting areas of research, recommending subject content, and tabulations of particular use to the Asian and Pacific Americans population, and expanding the dissemination of census results among present and potential users of census data in the Asian and Pacific Americans community.

This committee is composed of 21 members appointed by the Secretary of Commerce, and constitutes a broad spectrum of community leaders, scholars, and other appropriate persons.

The agenda for the meeting, which is scheduled to adjourn at 5 p.m., is: (1) Current status of 1980 census planning, (2) testing and selection aids, (3) public information plans for dress rehearsal, (4) affirmative action programs, (5) instructions for processing race and ethnic origin items, (6) data publication plans, (7) update on current surveys, (8) committee discussion, and (9) committee recommendations and plans for next meeting.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Mr. Clifton S. Jordan, Deputy Chief, Demographic Census Staff, Bureau of the Census, Room 3779, Federal Building 3, Suitland, Md., mailing address: Washington, D.C. 20233, telephone 301-763-5169.

Dated: January 24, 1978.

MANUEL D. PLOTKIN,  
Director,  
Bureau of Census.

[FR Doc. 78-2424 Filed 1-27-78; 8:45 am]

[3510-07]

## SURVEY OF RETAIL SALES, PURCHASES, AND INVENTORIES

## Determination

In accordance with Title 13, United States Code, sections 182, 224, and 225, and due notice of consideration having been published December 9, 1977 (42 FR 62176), I have determined that certain 1977 annual data for retail trade are needed to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data are also applicable to a

variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1951. It provides on a comparable classification basis, data covering 1976 and 1977 yearend inventories and 1977 annual sales and purchases. Additional data covering payroll and operating expenses, capital expenditures, and changes in depreciable assets are requested in the 1977 survey as supplemental data for the 1977 Census of Retail Trade. These data are not publicly available on a timely basis from nongovernmental or other governmental sources.

Reports will be required only from a selected sample of firms operating retail establishments in the United States, with probability of selection based on their sales size. The use of scientific sampling techniques will effectively serve to relieve respondent burden by not requiring this information to be reported for each establishment filing 1977 Census of Retail Trade reports. The sample will provide, with measurable reliability, statistics on the subjects specified above.

Report forms will be furnished to the firms covered by the survey and will be due 20 days after receipt. Copies of the forms are available on written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that an annual survey be conducted for the purpose of collecting these data.

Dated: January 24, 1978.

MANUEL D. PLOTKIN,  
Director,  
Bureau of the Census.

[FR Doc. 78-2421 Filed 1-27-78; 8:45 am]

[3510-25]

## Industry and Trade Administration

## ELECTRONIC INSTRUMENTATION TECHNICAL ADVISORY COMMITTEE

## Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I (1976 ed.)), notice is hereby given that a meeting of the Electronic Instrumentation Technical Advisory Committee will be held on Tuesday, February 21, 1978, at 9:30 a.m., in Room 3817, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. The meeting will continue February 22 in Room 6802, Main Commerce Building to its conclusion.

The Electronic Instrumentation Technical Advisory Committee was initially established on October 23, 1973. On October 7, 1975, and October 21, 1977, the Assistant Secretary for Administration approved the recharter and extension of the Commit-

tee pursuant to section 5(c)(1) of the Export Administrative Act of 1969, as amended, 50 U.S.C. App. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to electronic instrumentation, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on October 21, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the mat-

ters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Electronic Instrumentation Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on October 28, 1977 (42 FR 56767).

## NOTICES

Dated: January 25, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration,  
Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-2431 Filed 1-27-78; 8:45 am]

[3510-25]

## SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

## Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (1976 ed.), notice is hereby given that a meeting of the Semiconductor Technical Advisory Committee will be held on Wednesday, February 22, 1978, at 9:30 a.m., in Room 1851, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Semiconductor Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, and January 13, 1977, the Assistant Secretary for Administration, approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App., sec. 2404(c)(1), and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving: (A) Technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductor products, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee will meet only in executive session to discuss matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Written statements may be submitted at any time before or after the meeting.

The Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the general counsel, formally determined on January 27, 1977, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409 that the matters to be discussed in the executive session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meet-



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NOTICES

ings and public participation therein, because the executive session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the meeting have been properly classified under Executive Order 11652. All Committee members have appropriate security clearances.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Industry and Trade Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone area code 202-377-4196.

The complete notice of determination to close meetings or portions thereof of the series of meetings of the Semiconductor Technical Advisory Committee and of any subcommittees thereof was published in the FEDERAL REGISTER on March 2, 1977 (42 FR 12078).

Dated: January 2, 1978.

RAUER H. MEYER,  
Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 78-2432 Filed 1-27-78; 8:45 am]

[3510-03]

Maritime Administration

LYKES BROS. STEAMSHIP CO., INC.

Application for 20-Year Operating-Differential Subsidy Agreement; Correction

In FR Doc. 78-147, appearing in the FEDERAL REGISTER on January 6, 1978 (43 FR 1116) notice was given that with respect to the application of Lykes Bros. Steamship Co., Inc. (Lykes), for a 20-year operating-differential subsidy agreement, the Maritime Subsidy Board had decided to extend an opportunity for interested parties to present their views on the section 601(a)(4) aspects of Lykes' application, such comments to be considered separately from any consideration of the section 605(c) issues under Docket No. S-451.

Written comments were invited for filing by February 3, 1978, with the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230. Replies to submitted comments were requested by close of business on March 6, 1978.

Upon request made and good cause shown by Lykes, the date for submission of comments is hereby extended

to close of business on March 17, 1978. Any reply to submitted comments shall be filed by close of business on April 14, 1978.

Dated: January 24, 1978.

By order of the Maritime Subsidy Board/Maritime Administration.

ROBERT J. PATTON, JR.,  
Assistant Secretary.

[FR Doc. 78-2429 Filed 1-27-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Public Meeting

This is a public announcement of a meeting of the Standing Regulatory Measures Committees of four Regional Fishery Management Councils, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). The councils concerned are the New England, Mid-Atlantic, South Atlantic, and Caribbean Fishery Management Councils.

The meeting will be from 1 p.m.-5 p.m. on February 18, 1978, and from 8:30 a.m.-noon, on February 17, 1978, at the Howard Johnson's Motor Lodge, 2646 Jefferson Davis Highway, Crystal City, Arlington, Va. 22202, telephone 703-684-7200.

**Proposed agenda.** (1) Common needs for regulation of Atlantic coast marine fisheries; (2) common logbook and catch reporting systems; (3) common license systems; (4) reciprocal interstate enforcement agreements; and (5) other business.

The meeting is open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Mr. Spencer Apollonio, Executive Director, New England Fishery Management Council, Peabody Office Building, 1 Newbury Street, Peabody, Mass. 01960, telephone 617-535-5450.

Dated: January 25, 1978.

WINFRED H. MEIBOHM,  
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-2486 Filed 1-27-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

FUEL OIL MARKETING ADVISORY COMMITTEE SUBCOMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub.

L. 92-463, 86 Stat. 770), and the FEDERAL REGISTER notice of 43 FR 2917, January 20, 1978, notice is hereby given that the Middle Distillate Monitoring Subcommittee of the Fuel Oil Marketing Advisory Committee will meet in Washington, D.C. at 10:00 a.m., on February 15, 1978. The meeting will be held in Room 2105, 2000 M Street NW., Washington, D.C.

The purpose of this initial meeting will be to address the process by which the Subcommittee will inquire into the reasons for differences in the trends of heating oil marketing costs. The Subcommittee will make recommendations on the development of guidelines for judging the reasonableness of the margins observed in the current heating season.

The agenda for the meeting is as follows:

1. Introductory Remarks and Overview of Procedures;
2. Introduction of Subcommittee Members and Mediator;
3. Establishment of Subcommittee Procedures and Schedules;
4. Discussion of Preliminary Middle Distillate Data;
5. Review of Preliminary Benchmark Calculations; and
6. Remarks From the Floor (10 Minute Rule).

Consideration will be given to the views of each Subcommittee member with regard to the appropriate cost elements to be considered in reviewing the heating oil market performance. Subsequent Subcommittee meetings will be conducted on or about the 15th of each successive month following February until June, with appropriate notice published in the FEDERAL REGISTER.

The meeting is open to the public. The Chairman of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Advisory Committee Management Office 202-566-9996 and reasonable provision will be made for their appearance on the agenda.

The transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Any person may purchase a copy of the transcript from the reporter.

NOTICES

Issued at Washington, D.C. on January 25, 1978.

WILLIAM S. HEFFELFINGER,  
Director of Administration.

[FR Doc. 78-2532 Filed 1-25-78; 4:37 pm]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. R177-115]

ART MACHIN & ASSOCIATES, INC.

Order Granting Special Relief and Permitting Intervention

JANUARY 20, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(d)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On July 18, 1977, as supplemented on August 19, 1977, Art Machin & Associates, Inc. (Machin), filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations for the sale of natural gas to United Gas Pipe Line Co. (United) from the G. A. Kelly No. 1 Well, Willow Springs Field, Gregg County, Tex.<sup>1</sup> Subsequently, on October 31, 1977, Machin filed an amended petition for special relief.

Machin's sale of gas to United is being made pursuant to a small pro-

ducer certificate granted in Docket No. CS71-1133 on October 12, 1971, and under a contract dated June 10, 1968, which provides for the current rate of 41 cents per Mcf. Machin proposes to re-perforate and re-acidize the existing zones at a cost of \$30,000. Machin states that this expenditure will enhance production and prevent a premature abandonment. Consequently, Machin requests that the Commission authorize it to collect a total rate of 69.18 cents per Mcf at 14.73 psia for the sale.

Notice of Machin's petitions for special relief was issued on September 8, 1977, and on November 11, 1977, notice of Machin's amended petition for special relief was issued. United filed a timely petition to intervene, stating that it would support any price that the Commission determines to be just and reasonable.

Based on data submitted by Machin, an estimated additional 571,474 Mcf of gas and 7,714 Bbls. of liquids will be recovered over the remaining 12 year producing life. Machin has a net book investment of \$77,000 and will incur an estimated \$106,575 in operating costs over the remaining producing life.

Using the above costs and reserves in a traditional costing methodology, and allocating costs between gas and liquids by the modified Btu method, Staff estimates that a total rate of 69.18 cents per Mcf at 14.73 psia would allow Machin to recover all costs associated with the productive gas portion of this well plus a 15 percent rate of return,<sup>2</sup> and concludes that the requested rate is cost supported.

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that it is in the public interest to grant special relief to Machin.

The Commission orders: (A) Machin's petition for special relief, as amended, is hereby granted.

(B) Machin is authorized to collect a total rate of 69.19 cents per Mcf at 14.73 psia for the sale of natural gas to United from G. A. Kelly No. 1 Well, Willow Springs Field, Gregg County, Tex., effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authorization is contingent upon Machin's filing within 30 days of the effective date set forth above a statement signed by United that the proposed work has been performed to United's satisfaction.

(C) The special rate authorized in Ordering Paragraph (B) shall not become effective as provided therein unless Machin files within 30 days of the issuance of this order a contractual amendment authorizing the rate granted herein and an appropriate rate change filing in accordance with § 154.94 of the Commission's Regulations (18 CFR 154.94).

(D) United is permitted to intervene in the above-entitled proceeding subject to the rules and regulations of the Commission; *Provided, however*, That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding and that such intervenor agrees to accept the record as it now stands.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

<sup>1</sup>See Appendix B attached hereto.

Average investment and annual rate base

Line No.	Year	Annual N.W.I. production Mcf	Beginning of year investment	Depreciation <sup>1</sup>	End of year investment	Average investment <sup>2</sup>
	(a)	(b)	(c)	(d)	(e)	(f)
1.....	Average investment:					
2.....	1.....	72,850	\$107,000	\$ 18,939	\$88,061	\$97,531
3.....	2.....	61,116	88,061	15,889	72,172	80,117
4.....	3.....	51,281	72,172	13,332	58,840	65,506
5.....	4.....	43,047	58,840	11,191	47,649	53,245
6.....	5.....	36,119	47,649	9,390	38,259	42,954
7.....	6.....	30,327	38,259	7,884	30,375	34,317
8.....	7.....	25,472	30,375	6,622	23,753	27,064
9.....	8.....	21,370	23,753	5,556	18,197	20,975
10.....	9.....	18,454	18,197	4,798	13,399	15,798
11.....	10.....	15,630	13,399	4,063	9,336	11,368
12.....	11.....	13,230	9,336	3,440	5,896	7,616
13.....	12.....	11,138	5,896	2,896	3,000	4,448
14.....	Totals.....	400,032		104,000		460,939
15.....	Average annual investment <sup>2</sup> .....					
						38,412

<sup>1</sup>See Appendix A for a complete list of the interest owners covered by this petition.



## Average investment and annual rate base—Continued

Line No.	Year	N.W.I. production (Mcf)	Beginning of year investment	Depreciation <sup>1</sup>	End of year investment	Average investment <sup>2</sup>
	(a)	(b)	(c)	(d)	(e)	(f)
16.....	Average annual rate base:					38,412
17.....	Average annual investment:					1,110
18.....	Average annual working capital allowance:					39,522
19.....	Total annual rate base:					39,522

<sup>1</sup> Column (b) × line 7 of sheet 2.  
<sup>2</sup> (Column (c) + column (e)) ÷ 2.  
<sup>3</sup> Column (f) of line 14 ÷ 12 yr. remaining producing life.  
<sup>4</sup> 0.125 × line 7 of sheet 1 ÷ 12 yr. remaining producing life.

[FR Doc. 78-2325 Filed 1-27-78; 8:45 am]

ART MACHIN & ASSOCIATES, INC., DOCKET NO.  
 RI77-115, G. A. Kelly No. 1 WELL, WILLOW  
 SPRINGS FIELD, GREGG COUNTY, TEX.

## APPENDIX A

## Working interest owners covered by petition

Name	Percent working interest
Art Machin & Associates, Inc.....	22.806400
George V. Allen Estate.....	6.250000
Apex Pipe, Inc.....	3.125000
Dr. Richard Aubrey.....	12.500000
Dr. Charles Bloom.....	1.562500
Virginia H. Burford.....	.781250
Robert Cargill.....	13.599100
T. B. Field, Jr.....	.781250
Charles A. Hinton.....	1.562500
Hinton Production.....	12.109375
A. B. McCarter.....	3.125000
William Helmbrecht, Jr.....	3.125000
J. S. Hudnall.....	1.071375
G. J. Loetterle.....	.714250
Mariam M. Martin, Indp. Exec.....	3.125000
Metco Investment Co.....	1.562500
Doris H. Neely.....	.390625
V. J. Pearson.....	6.250000
G. W. Pirtle.....	1.071375
Perry Thompson.....	1.562500
Dr. Hohn Wensley.....	1.562500
W. Herbert Scott.....	1.562500

Total..... 100.000000

NOTE.—All working interest owners have a revenue interest which is equal to 70 percent of their working interest.

## APPENDIX B

## Unit cost of gas

Line No. and item	Amount
(a)	(b)
1. Net working interest volumes	
2. Gas—Mcf at 14.73 lb/in. <sup>3</sup> .....	400,032
3. Liquids—barrels <sup>1</sup> .....	5,400
4. Cost of production	
5. Return on rate base at 15 percent <sup>2</sup> .....	\$71,140
6. DD&A <sup>3</sup> .....	104,000
7. Production expense <sup>4</sup> .....	108,575
8. Subtotal.....	281,715

## APPENDIX B—Continued

## Unit cost of gas

Line No. and item	Amount
(a)	(b)
9. Allocated to gas <sup>5</sup> .....	255,600
10. Regulatory expense <sup>6</sup> .....	400
11. Total cost of production.....	256,000
12. Unit cost of gas (cents/Mcf)	
13. Cost of production <sup>7</sup> .....	63.99
14. Production tax <sup>8</sup> .....	5.19
15. Total unit cost of gas.....	69.18

<sup>5</sup> 571,474 Mcf × .700 N.W.I.  
<sup>6</sup> 7,714 barrels × .700 N.W.I.  
<sup>7</sup> Line 19 of sheet 3 × .15 × 12 yr. remaining producing life.  
<sup>8</sup> From line 6 of sheet 2.  
<sup>9</sup> Based on estimated operating expenses of \$7,560 per year for the 1st yr and escalated 5 percent per year for 5 yr.  
<sup>10</sup> Line 8 × line 12 of sheet 2.  
<sup>11</sup> Line 2 × .1 cent/Mcf per opinion No. 749.  
<sup>12</sup> Line 11 × line 2.  
<sup>13</sup> 7.5 percent × line 15.

## Investment and Allocation of Costs

Line No. and item	Amount
(a)	(b)
1. Investment	
2. Remaining net book investment January 1, 1977.....	\$77,000
3. Rework well.....	30,000
4. Total investment.....	107,000
5. Less salvage value <sup>1</sup> .....	3,000
6. Depreciable investment.....	104,000
7. Depreciation per unit of production <sup>2</sup> .....	.259974
8. Allocation of costs <sup>3</sup> .....	432,035
9. Gas—MMBtu <sup>4</sup> .....	44,129
10. Liquids—MMBtu <sup>5</sup> .....	
11. Total—MMBtu.....	476,164
12. Percentage allocated to gas <sup>6</sup> .....	90.73

<sup>1</sup> Petitioner's estimate.  
<sup>2</sup> \$104,000 ÷ 400,032 Mcf.  
<sup>3</sup> Modified Btu method per opinion No. 749.  
<sup>4</sup> 400,032 Mcf × 1.080 MMBtu/Mcf.  
<sup>5</sup> 5,400 barrels × 5.448 MMBtu/barrel × 1.5 modifier.  
<sup>6</sup> Line 9 ÷ line 11.

[6740-02]

[Docket No. RI77-108]

## MARINE CONTRACTORS AND SUPPLY, INC.

## Order Granting Special Relief and Permitting Intervention

JANUARY 20, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been acted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On June 17, 1977, as amended on August 4, 1977, Marine Contractors and Supply, Inc. (Marine) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations for the sale of natural gas to Transcontinental Gas Pipe Line Corp. (Transco) from the CRA/SUA Montgomery No. 1 Well, Lucy Field, St. Charles Parish, La.

Marine's sale of gas to Transco is being made under a contract dated August 22, 1957, pursuant to a small producer certificate granted in Docket No. CS76-414 on March 1, 1976. Marine is currently receiving 85 cents per Mcf for the subject gas pursuant to a Commission order granting special relief issued September 20, 1976 in Docket No. RI76-131. Marine states that it is necessary to undertake extensive rebuilding of the access road to

this facility and major tank repairs. These projects are estimated to cost \$51,230 and \$8,580, respectively. Also, a sand infiltration problem associated with the well will require annual expenditures of \$47,550. Furthermore, Marine states that a rework project estimated to cost \$128,000 in its previous special relief application, filed in Docket No. RI76-131, actually cost \$210,000. Marine requests that the Commission authorize it to collect a total rate of \$1.51 per Mcf for the sale. In a letter to Marine dated June 10, 1977, Transco agreed to amend the subject gas purchase contract to provide for a price of \$1.62 per Mcf or such lesser price which the Commission may approve.

Notice of Marine's petition for special relief was issued on June 29, 1977 and on September 20, 1977, notice of Marine's amended petition for special relief was issued. Transco filed a timely petition to intervene.

Based on data submitted by Marine, Staff accepts as reasonable Marine's estimated costs of \$51,230 for road repair and \$8,580 for tank repair. Staff has computed Marine's remaining net book value at \$226,718 for lease and equipment. Staff estimates no salvage value for equipment due to the length of the project and the nature of the proposed work. Marine expects to spend \$43,987 initially in annual well operating expense, which includes pump operating costs plus \$47,550 annually for sand treatment. Based on these costs and allowing for 5 percent annual inflation for well operating expenses over the first five years of this project, Staff estimates total operating expenses of \$688,160 for the seven year operating life of this project. Staff also accepts as reasonable Marine's reserve estimate of 775,559 Mcf of gas attributable to its 87.50 percent net working interest.

Using the above costs and reserves in a traditional costing methodology, Staff estimates that a total rate of \$1.51 per Mcf would allow Marine to recoup all costs associated with the project and earn a 15 percent rate of return.<sup>1</sup>

Upon consideration of the data submitted and Staff's analysis thereof, we conclude that it is in the public interest to grant special relief to Marine.

The Commission orders: (A) Marine's petition for special relief, as amended, is hereby granted.

(B) Marine is authorized to collect a total rate of \$1.51 per Mcf for gas sold to Transco from the CRA/SUA Montgomery No. 1 Well, Lucy Field, St. Charles Parish, La., effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authori-

<sup>1</sup> See Appendix A attached hereto.

## APPENDIX—Continued

## Unit cost of gas

Line No. and item	Amount
(a)	(b)
6. DD & A <sup>1</sup> .....	288,528
7. Production expense <sup>2</sup> .....	688,160
8. Regulatory expense <sup>3</sup> .....	776
9. Total cost of production.....	1,119,774
10. Unit cost of gas (cents/Mcf)	
11. Cost of production <sup>4</sup> .....	1.44
12. Production tax <sup>5</sup> .....	.07
13. Total unit cost.....	1.51

<sup>1</sup> 958,433 Mcf minus 70,080 Mcf pumping fuel times 0.875 net working interest.  
<sup>2</sup> Line 14 of schedule 3 times 0.15 times 7 yr. production life.  
<sup>3</sup> From line 11 of schedule 2.  
<sup>4</sup> Based on expected well and pump initial operating expense of \$43,987 per year escalated 5 percent per year for the 1st 5 yr. plus a constant \$47,550 per year in sand treatment expense.  
<sup>5</sup> Line 2 times 0.1 cents/Mcf per Opinion No. 749.  
<sup>6</sup> Line 9 divided by line 2.  
<sup>7</sup> Louisiana production tax.

## Investment

Line No. and item	Amount
(a)	(b)
1. Investment:	
2. Net purchase cost.....	\$41,735
3. Workover expense.....	210,604
4. Total.....	252,339
5. Less depreciation <sup>1</sup> .....	25,621
6. Remaining net book value.....	226,718
7. Road repair.....	51,230
8. Tank repair.....	8,580
9. Total project investment.....	286,528
10. Less salvage value.....	
11. Depreciable investment.....	286,528
12. Depreciation per unit of production <sup>2</sup> .....	.369447069

<sup>1</sup> Based on production of 87,646 Mcf N.W.I. Volumes since completion of previous workover.  
<sup>2</sup> Line 11 divided by 775,559 Mcf.

## Average investment and annual rate base

Line No.	Year	N.W.I. production (Mcf)	Beginning of year investment	Depreciation <sup>1</sup>	End of year investment	Average investment <sup>2</sup>
	(a)	(b)	(c)	(d)	(e)	(f)
1.....	Average annual investment:					
2.....	1.....	156,584	\$286,528	\$57,849	\$228,679	257,604
3.....	2.....	131,250	228,679	48,490	180,189	204,434
4.....	3.....	118,125	180,199	43,641	136,558	158,373
5.....	4.....	107,100	136,548	39,568	96,980	116,764
6.....	5.....	96,600	96,980	35,689	61,291	79,136
7.....	6.....	87,150	61,291	32,197	29,094	45,192
8.....	7.....	78,750	29,094	29,094		14,547
9.....	Total.....	755,559		286,528		876,050
10.....	Average annual investment <sup>3</sup> .....					
11.....	Annual rate base:					
12.....	Average annual investment.....					
13.....	Annual working capital allowance <sup>4</sup> .....					
14.....	Annual rate base.....					

<sup>1</sup> Column (b) times line 12 of schedule 2.  
<sup>2</sup> Column (c) plus column (e) divided by 2.  
<sup>3</sup> Column (f) of line 9 divided by 7 yr. project life.  
<sup>4</sup> 0.125 times line 7 of schedule 1 divided by 7 year productive life.

[FR Doc. 78-2326 Filed 1-27-78; 8:45 am]



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[6740-02]

Federal Energy Regulatory Commission  
(Docket No. CP73-184 and Docket No. CI73-485)

COLORADO INTERSTATE GAS CO. AND CIG  
EXPLORATION, INC.

Informal Conference

JANUARY 19, 1978.

Take notice that on January 31, 1978, at 3:30 p.m., an informal conference will be convened of all interested persons including representatives of the applicant and Commission staff, for the purpose of explaining and clarifying issues raised in the joint petition of Colorado Interstate Gas Co. and CIG Exploration, Inc., to amend order. The conference will be held in Room 8402, at the office of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2412 Filed 1-27-78; 8:45 am]

[6740-02]

(Docket No. CP78-1541)

COLUMBIA GULF TRANSMISSION CO.

Application

JANUARY 24, 1978.

Take notice that on January 12, 1978, Columbia Gulf Transmission Co. (applicant), P.O. Box 683, Houston, Tex. 77001, filed in Docket No. CP78-154 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) and 157.7(g) of the regulations thereunder (18 CFR 157.7(b) and 157.7(g)) for a certificate of public convenience and necessity authorizing the construction during the 12-month period commencing January 1, 1978, and operation of facilities to enable applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, and authorizing the construction and for permission and approval to abandon for the same period and operation of new or additional field compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open for public inspection.

The stated purpose of this budget type application is to augment applicant's ability to act with reasonable

dispatch in the construction of gas-purchase facilities to enable applicant to connect its system with the facilities of an independent producer or other similar seller, authorized by the Commission to make a sale of gas to applicant for resale in interstate commerce, or the system of another natural gas company authorized to transport gas for the account of or for the exchange of gas with applicant and to augment applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing applicant's system-salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed gas-purchase facilities would not exceed \$12 million with no single offshore project expenditure to exceed \$2.5 million and no single onshore project to exceed \$1.5 million and that the total cost of its proposed construction, relocation, removal, or abandonment of field compression facilities will not exceed \$3 million with no single project to exceed \$500,000. Applicant states that these costs would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion be-

lieves that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2415 Filed 1-27-78; 8:45 am]

[6740-02]

(Docket No. EL78-41)

FLORIDA CITIES v. FLORIDA POWER & LIGHT  
CO.

Order Instituting Investigation and Designating  
Officers

JANUARY 24, 1978.

On October 14, 1977, Florida Power & Light Co. (F.P. & L.) tendered for filing with the Commission in Docket No. ER78-19, proposed changes in sheet Nos. 5 through 10 of its FERC electric tariff, original volume No. 1, applicable to its various municipal and rural electric sales-for-resale customers.<sup>1</sup> Public notice of the filing was issued on October 20, 1977, with comments, protests, and petitions to intervene due to be filed with the Commission on or before November 7, 1977.

On November 7, 1977, the city of Homestead, the Fort Pierce Utilities Authority, the city of Starke and the Utilities Commission of New Smyrna Beach (hereinafter collectively referred to as "Florida cities"), all situated within the State of Florida, filed a petition to intervene, protest, motion to reject, or in the alternative, request for 5 months suspension, expedited hearing and investigation, and documents request and consolidation. Florida cities allege, inter alia, that the existing SR-1 tariff (which F.P. & L. proposes to supersede by the instant filing), which makes wholesale power service available in all territories served by F.P. & L. without restriction, has been violated. Florida cities aver that F.P. & L. continually refuses to sell wholesale power service to Fort Pierce under the SR-1 tariff, despite repeated requests for such power. Consequently, Florida cities request an investigation by the Commission of this issue, and if the Commission deems it appropriate, a reference to the appropriate enforcement agencies for violation of the tariff and the Federal Power Act.

In addition, Florida Cities allege, inter alia, that the proposed SR-2 tariff filing would limit wholesales service to a limited class of customers and exclude service availability to municipal

<sup>1</sup>This filing is designated as rate schedule SR-2.

ities in Florida who have adequate generation, but desire to purchase firm power service for their economic benefit. The allegations relating to SR-2 will be investigated within the context of the ratemaking proceedings in Docket No. ER 78-19.<sup>2</sup>

Specifically, Florida Cities' petition to intervene sets forth the following allegations, inter alia, with respect to the issue of F.P. & L.'s alleged refusal to sell wholesale power to Fort Pierce:

(1) That the utilities authority of Fort Pierce has, since 1976, repeatedly requested the opportunity to purchase wholesale power from F.P. & L. Despite the clear commands of F.P. & L.'s existing tariff, their request has been denied. For example, by letter of September 12, 1977, F.P. & L. stated to the Fort Pierce Director of Utilities that:

In regard to your comment that it was the consensus of you and your associates that my position on SR-1 amounted to a refusal, I would prefer to stand on the statement that I actually made during the meeting and that is in view of actual and potential restrictions on our generation capability we are reluctant at this time to extend the obligations for utility type service over and beyond those which we have hitherto undertaken;

(2) That Fort Pierce reiterated its request after September 12, 1977; and,

(3) That F.P. & L. has not agreed to sell wholesale power.

On December 1, 1977, F.P. & L. answered Florida Cities' petition to intervene. In response, F.P. & L. recognized that Homestead, New Smyrna Beach and Starke were interested parties. However, F.P. & L. asserted that Fort Pierce is not now, nor has it ever been, a sales-for-resale customer of F.P. & L. and, therefore, has not shown that it is an interested party to the case and F.P. & L. opposes its intervention. In addition, F.P. & L. denied that it has attempted to exclude municipally owned utilities in its service area from access to wholesale power and to limit those municipalities which can qualify for wholesale power purchases under the tariff from generation coordination.

F.P. & L.'s so-called SR tariff was tendered for filing with the Federal Power Commission (FPC) on January 29, 1973. This represented the first tariff-type filing ever made by F.P. & L. and was designed to supersede the contract-type filings of the past. Under the tariff F.P. & L. grouped all

<sup>2</sup>Pursuant to Commission order issued December 30, 1977, in Docket Nos. ER 78-19 and ER 78-81, the issues raised by Florida Cities' petition which relate to alleged restrictive availability provisions of the PR and SR-2 tariff, the proposed termination of service to Homestead, inter alia, will be investigated in the context of the on going consolidated proceedings in Docket Nos. ER 78-19 and ER 78-81.

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wholesale customers, consisting of rural electric cooperatives and municipal customers, together. The rate changes reflected in the tariff were requested to become effective on April 1, 1973, for customers whose contracts had lapsed by that date, and with respect to others, as their respective contracts expired.

By order of March 29, 1973, in Docket No. E-8008, the Commission accepted F.P. & L.'s tariff for filing, suspended the rates reflected therein for 5 months until September 1, 1973, at which time they became effective subject to refund and granted intervention.

Thereafter, F.P. & L.'s SR tariff was superseded by the SR-1 tariff which became effective April 1, 1976.

Original sheet No. 5 of the SR-1 tariff which became effective on April 1, 1976, and which is on file with this Commission provides in pertinent part:

SALE FOR RESALE RATE SCHEDULE SR-1

Available: In all territory served by the company.

Application: To electric service supplied to a municipal electric utility or to a cooperative non-profit membership corporation organized under the provisions of the rural electric cooperative law for their own use or for resale.

Limitation of service: Neither the company nor the customer, unless ordered to do so by a properly constituted authority, shall distribute or furnish electric power and energy to a customer of the other. No power and energy sold hereunder shall be resold at wholesale for use outside the State of Florida. Standby or emergency service is not permitted hereunder.

The Florida Cities' allegations and the answer by F.P. & L. raise legal and factual questions which in our view would be most expeditiously handled through the initiation of an investigation pursuant to section 307 of the Federal Power Act. In addition, we perceive that this investigation will be enhanced by the delegation of authority to the investigative Staff so as to permit access to witnesses and records necessary for the progress of the investigation. The following issues are to be investigated:

(1) Has F.P. & L. refused to serve the Fort Pierce Utilities Authority;

(2) If so, was the refusal a violation of the filed SR-1 tariff and the applicable provisions of the Federal Power Act; and

(3) If F.P. & L. has unlawfully refused to serve the Fort Pierce Utilities Authority, what sanction, if any, is justified under the Federal Power Act.

In light of the nature of the allegations, the Commission deems it appropriate

<sup>1</sup>F.P. & L., FERC electric tariff, original volume No. 1, original sheet No. 5.

to advise the parties involved, that if a violation of the Federal Power Act has occurred and that the alleged acts or omissions may fall within the sanctions set forth in sections 314 and 316 of the Federal Power Act, or the Commission's rules, regulations, conditions, restrictions, or orders, the Commission will pursue all available civil and criminal sanctions should it be found that the nature of the violation and the surrounding circumstances therefore warrant such action.

Moreover, the seriousness of the allegations, as well as the need for an expeditious determination of the issues dictates that this investigative proceeding be conducted separate and apart from the proceedings in Docket No. ER 78-19.

The Commission finds: (1) It is necessary and appropriate in the proper exercise of the Commission's responsibilities under the Federal Power Act that an investigation be initiated pursuant to section 307 of the Federal Power Act for the purpose of investigating the issues as set forth above. The staff is instructed to report back to the Commission on the basis of appropriate action to be undertaken at the conclusion of the investigation.

(2) This investigation will be enhanced by the delegation of authority to the investigative Staff to permit access to witnesses and records necessary for progress of the investigation.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 301, 307, 309, 314, and 316 thereof and the Commission's rules of practice and procedure, an investigation is hereby instituted for the purpose of the investigation of the issues as set forth above in this docket.

(B) Bernard Cromes and Sheila Hollis are hereby designated as officers of this Commission under section 307(b) of the Federal Power Act for the purposes of the investigation in this docket and are hereby empowered to perform, any and all of the powers specifically set forth in that section of the Act during the course of this investigation.

(C) Any person desiring to be heard or to make any protest with reference to the matters presented in this proceeding, should, on or before January 31, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing herein must file



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petitions to intervene in accordance with the Commission's rules.

(D) The Secretary shall cause prompt publication of this order to be made in the *FEDERAL REGISTER*.

(E) Said officers designated in paragraph (B) above shall submit findings and recommendations to this Commission on or before April 7, 1978.

By the Commission.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2416 Filed 1-27-78; 8:45 am]

[6740-02]

[Docket No. ER76-83]

OHIO POWER CO.

Proposed Settlement Agreement

JANUARY 24, 1978.

Take notice that Ohio Power Co. (OPCo) tendered for filing on January 5, 1978, agreements of settlement and compromise (agreements) between OPCo and 13 of its municipal customers (Municipals).

OPCo indicates that all of the agreements which are identical except for the Municipal signatory, provide for the following changes in OPCo's FPC (FERC) tariff MRS:

(1) The inclusion of an additional new subsection dealing with mutually agreed upon procedures for the curtailment of power and energy deliveries to Municipals in the event there were to be a shortage of capacity and/or electric energy requiring OPCo to curtail power and energy deliveries to its own customers;

(2) A reduction in the demand charge, without change in the originally stated energy charge; and

(3) The reduction in the demand charge has the effect of reducing, for the twelve (12) month period ending June 30, 1975 (period I), the proposed increase of revenues from the approximately \$911,024 for which the filing was made in Docket No. ER76-83 to a level of approximately \$680,984.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before February 10, 1978. Comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing

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are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2417 Filed 1-27-78; 8:45 am]

[6740-02]

[Docket No. ER76-17]

OHIO POWER CO.

Proposed Settlement Agreement

JANUARY 24, 1978.

Take notice that Ohio Power Co. (OPCo) on January 5, 1978, tendered for filing an agreement of settlement and compromise (agreement) between OPCo and Wheeling Electric Co.

OPCo indicates that the agreement provides for the following changes in OPCo's FPC Rate Schedule No. 18:

(1) The inclusion of an additional new subsection dealing with mutually agreed upon procedures for the curtailment of power and energy deliveries to Wheeling in the event there were to be a shortage of capacity and/or electric energy requiring OPCo to curtail power and energy deliveries to its own customers;

(2) A reduction in the demand charge without change in the originally stated energy charge; and

(3) The reduction in the demand charge has the effect of reducing, for the twelve (12) month period ending December 31, 1975 (period II), the proposed increases of revenues from the approximately \$6,228,660 for which the filing was made in Docket No. ER76-17 to a level of approximately \$4,556,110.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before February 10, 1978. Comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2418 Filed 1-27-78; 8:45 am]

FEDERAL REGISTER, VOL. 43, NO. 20—MONDAY, JANUARY 30, 1978

[6740-02]

[Docket No. C168-815]

PHILLIPS PETROLEUM CO.

Extension of Time

JANUARY 13, 1978.

On January 10, 1978, Phillips Petroleum Co. filed a motion to extend the date set for the prehearing conference in the above-referenced proceeding, as established by Commission order issued December 16, 1977. The motion states that counsel for United Gas Pipe Line Co. does not object to the requested extension.

Upon consideration, notice is hereby given that the date for the prehearing conference in this proceeding is changed to February 9, 1978, at 10 a.m., e.s.t. The conference will be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2411 Filed 1-27-78; 8:45 am]

[6740-02]

[Docket No. RP77-136-1]

SOUTHERN NATURAL GAS CO.

Order Denying Rehearing and Granting Clarification

JANUARY 23, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and

the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By our November 29, 1977, order in the subject docket, we denied a petition of Southern Natural Gas Co. (Southern), which petition sought advance authorization to recover the costs of a proposed emergency storage service arrangement. By petition filed on December 22, 1977, Southern seeks clarification and rehearing of our November 29 order.

After review of Southern's petition for rehearing, we find that it fails to state grounds sufficient to warrant a grant of rehearing. Accordingly, we shall deny the petition.

Southern's request for clarification asserts that uncertainty remains with respect to the question whether § 2.68 may be used to accomplish steps taken in anticipation and avoidance of an emergency prior to the outset of the emergency. Our response is that § 2.68 may be used to accomplish steps taken in anticipation and avoidance of an emergency. Although this conclusion is not specified in the text of § 2.68 itself, it is implied by the language used in Order No. 402 in promulgating § 2.68. Therein the Federal Power Commission adopted a policy to facilitate responses to requests made of non-jurisdictional distribution and pipeline companies for temporary assistance by jurisdictional concerns which are confronted with emergency gas supply situations. Specifically, it was declared that the exempt status of nonjurisdictional concerns would not be jeopardized by their short-term sale or transportation of gas in interstate commerce. In issuing our November 29 order, we interpreted § 2.68 as authorizing the conduct of emergency transactions for the purpose of augmenting storage capability in order to meet the requirements of a jurisdictional concern in a forthcoming heating season. The enlargement of storage capability being an anticipatory undertaking, it is clearly our view that preventative as well as curative steps may be taken in accordance with the policy of § 2.68.

The Commission orders: (A) Southern's petition for rehearing is denied. (B) Southern's request for clarification is granted to the extent discussed herein. (C) The Secretary shall cause prompt publication of this order in the *FEDERAL REGISTER*.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2414 Filed 1-27-78; 8:45 am]

## NOTICES

[6740-02]

[Docket No. RP78-32]

TEXAS EASTERN TRANSMISSION CORP.

Order Instituting Investigation

JANUARY 20, 1978.

The Commission has determined that an investigation should be commenced and an investigatory proceeding should be conducted before the Commission and its duly appointed hearing officers to examine the questions raised by the telegram of Texas Eastern Transmission Corp. (Tetco), filed January 20, 1978, requesting Commission approval of Tetco's recovery of costs which would be incurred in the purchase and transportation of gas pursuant to emergency procedures set forth in the Commission's statement of general policy and interpretations and regulations under the Natural Gas Act.

In its filing, Tetco states that it proposes to commence purchasing 200,000 Mcf per day at a price of \$2.25 per Mcf for a 60-day period from Houston Pipeline Co. in order to alleviate projected curtailments in category 1 of 7.25 percent in January and 2.75 percent in February. The point of delivery of the emergency gas has not yet been specified; however, it is indicated that delivery will commence immediately upon receipt of Commission approval.

Tetco did not specify the appropriate regulation under which the emergency procedure would be instituted but it requests that the Commission permit "the recovery of costs incurred in the purchase and transportation . . . of this gas through the PGA provisions." It appears that the proposed transaction would be consummated either under § 2.68 of the Commission's statement of general policy and interpretations or § 157.22 of the regulations under the Natural Gas Act.

The Commission has concluded that a public investigatory proceeding shall be held to investigate the nature of the reported emergency, the underlying causes and questions of fact raised by Tetco's proposal to alleviate that emergency. We herein authorize the Secretary or person designated by him to issue subpoenas as provided in ordering paragraph (C).

The Commission finds: Prior notice and publication in the *FEDERAL REGISTER* of this proceeding is impracticable and unnecessary, given the circumstances.

The Commission orders: (A) Pursuant to sections 4, 5, 7, 14, 15, and 16 of the Natural Gas Act, and section 401(g) of the Department of Energy Organization Act, the Commission institutes an investigation with respect to Tetco's request described above, including the alleged existing emergency condition, compensation to be received

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by the seller, and any other matter relevant to the Commission's actions with respect to this matter.

(B) A public investigatory proceeding shall be convened on January 21, 1978, at 3 p.m., e.s.t., in hearing room A of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, for the purpose of taking evidence on all issues of law and fact which are material to Tetco's request described above, and the other matters described in paragraph (A).

(C) The Secretary, or any person designated by him, is authorized to issue such subpoenas as the Secretary or his designee determines appropriate, which subpoenas may require the personal appearance of, and production of documents by, officers or employees of Tetco, Gulf Oil Corp., Columbia Gulf Transmission Corp., any supplier, or proposed supplier, or transporter for Tetco, or any officer or employee of any person affiliated with any of the above-described persons.

(D) Tetco, Gulf Oil Corp., Columbia Gulf Transmission Corp., and any other persons to whom subpoenas are issued under ordering paragraph (C) are directed to appear, give such testimony, produce such documents, and respond to such questions as the Commission or its officers may require at the hearing described in ordering paragraph (B). Any other person invited by the Commission for such purpose may appear and give such testimony as the Commission may request at such hearing.

By the Commission.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2413 Filed 1-27-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION  
AGENCY

[FRL 848-1]

AGENCY COMMENTS ON ENVIRONMENTAL  
IMPACT STATEMENTS AND OTHER ACTIONS  
IMPACTING THE ENVIRONMENT

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of June 1, 1977, and June 30, 1977.

Appendix I below contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency

FEDERAL REGISTER, VOL. 43, NO. 20—MONDAY, JANUARY 30, 1978



responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II below, and the EPA source for copies of the comments as set forth in Appendix VI below.

Appendix II below contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I below.

Appendix III below contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV below contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI below.

Appendix V below contains a listing of proposed Federal agency regulations.

PETER L. COOK,  
Acting Director,  
Office of Federal Activities.

Dated: January 20, 1978.

APPENDIX I.—Draft environmental impact statements for which comments were issued between June 1, and June 30, 1977

Identifying No.	Title	General nature of Source for copies of comments
D-COE-E30006-FL	Beach Erosion Control Study, Coastal Shores of Nassau County, Fla.	LO2
D-COE-E30022-NC	Marine, Shallow Bay, Harbor, Navigation Channel and Dual Jetty System, Deep Creek, N.C.	ER2
D-COE-E30007-00	Operation and Maintenance, Hartwell Lake, Savannah River, Ga. and S.C.	LO2
D-COE-E30045-GA	Isle of Hope Marina, Expansion of Existing Marina, Skidaway River, Chatham County, Ga.	LO1
D-COE-F30003-MN	Barge Terminal Expansion, Packer River Terminal, Dakota County, Minn.	EU1
D-COE-G30407-AR	Operation and Maintenance, Lake Greason, Lake Ouchitla, and Degrass Lake, Ark.	LO1
D-COE-G30604-TX	Vince and Little Vince Bayous, Harris County, Tex.	LO1
D-COE-K30010-CA	East San Raphael Baylands Development, Permit, Marin County, Calif.	LO2
D-COE-K80018-CA	Bel Marin Keys Unit IV, Ignacio Industrial Park Unit 3, Marin County, Calif.	ER2

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APPENDIX I.—Draft environmental impact statements for which comments were issued between June 1, and June 30, 1977

Identifying No.	Title	General nature of Source for copies of comments
D-FHW-F40009-IL	WI-595 IL-2 to I-80, Rock Island and Henry Counties, Ill.	LO1
D-FHW-H40071-IA	I-380 Extension, Waterloo and Cedar Falls Metropolitan Area, Black Hawk County, Iowa (FHW-IA-EIS-77-03-D).	ER2
D-FHW-H40072-MO	Lees Summit Road, U.S. 24 to I-70, Independence, Jackson County, Mo. (FHW-MO-EIS-76-3-D).	3
D-FHW-J40065-CO	South Santa Fe Drive, Florida to Bowles, Arapahoe and Denver Counties, Colo.	ER2
D-FHW-K40052-CA	Improvements, CA-131 Tiburon, Marin County, Calif.	LO2
D-FHW-K61014-CA	Arden Bar Park and C. M. Goeth Park, Land Use Plan and Jeddiah Smith Memorial Trail Bridge, American River, Sacramento County, Calif.	LO1
D-HUD-C24001-PR	Construction of Sanitary Sewer System, Rios Community, Humacao, Puerto Rico.	EU2
D-HUD-C30015-NJ	The Oaks at Glenwood, Madison Township, Middlesex County, N.J.	LO2
D-HUD-D85013-VA	Newington Forest Development, Fairfax County, Va.	LO2
D-HUD-F85020-MN	Maple Grove and Boundary Creek Additions, Hennepin County, Minn.	LO1
D-HUD-G85034-TX	Bonnie Subdivision, Harris County, Tex.	LO2
D-HUD-G85040-TX	Shiloh Trails Subdivision, Harris County, Tex.	LO1
D-HUD-G85043-TX	Summerfields Community, Tarrant County, Tex.	LO1
D-HUD-G85045-TX	Autumn Run and Bear Creek Subdivisions, Harris County, Tex.	LO2
D-HUD-G85046-TX	Rolling Green Subdivision, Harris County, Tex.	LO2
D-HUD-G85049-TX	Atascocita Subdivision, Harris County, Tex.	LO2
D-HUD-G85050-TX	Ranch Country Subdivision, Harris County, Tex.	LO1
D-HUD-K85008-CA	Sweetwater, Avocado and Cottonwood Villages, Residential Development of Ranch, San Diego Area, Calif.	ER2
D-NRC-H06001-NB	Fort Calhoun Station, Unit 2, Omaha Public Power District, Docket No. 50-548, Washington, County, Nebr. (NUREG-0213).	ER1
D-VAD-D80005-VA	Washington, D.C. Area National Cemetery, Quantico, Va.	LO2
D-OSH-A86101-00	Proposed Standard for Occupational Exposure to Sulfur Dioxide.	LO1

FEDERAL REGISTER, VOL. 43, NO. 20—MONDAY, JANUARY 30, 1978

APPENDIX I.—Draft environmental impact statements for which comments were issued between June 1, and June 30, 1977

Identifying No.	Title	General nature of Source for copies of comments
D-AFS-E85018-MS	Timber Management Plan, Desoto National Forest, Miss. (USDA-FS-R-DES-ADM-77-08).	LO2
D-AFS-J35002-MT	Reconstruction, Big Creek Dam, Selway-Bitterroot Wilderness, Use of Motorized Equipment, Bitterroot National Forest, Mont.	LO1
D-AFS-J65066-MT	Multiple Use Plan, Hornet Planning Unit, Kootenai National Forest, Lincoln County, Mont.	LO2
D-SCS-C36025-NY	Deposit Watershed, Broome, Chenango, and Delaware Counties, N.Y.	LO1
D-AFS-K65028-CA	Eldorado National Forest, Timber Management Plan, Calif.	LO1
D-AFS-L61088-AK	Southeast Alaska Area Guide, Revised Edition of the Draft Tongass Guide of Alaska, 1976	LO1
D-SCS-H36061-KS	Middle Creek Watershed Project, Linn and Miami Counties, Kans.	3

D-NOA-K80001-CA	State of California Coastal Management Program.	LO1
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DS-UAF-B11002-ME	Proposed Reduction at Loring Air Force Base, Limestone, Arctostone County, Maine.	ER2
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D-USA-J20007-CO	Disposal of Chemical Agent Identification Sets, Rocky Mountain Arsenal, Colo.	LO2
D-USA-J39004-CO	Pilot Containment Operations, Rocky Mountain Arsenal, Adams County, Colo.	LO2

D-BLM-A02114-00	Proposed 1977 Outer Continental Shelf Oil and Gas Lease Sale No. 46, Gulf of Mexico.	ER2
DS-BPA-L08026-00	Location Evaluation, Bonneville Dam Intergrating Transmission Study Area 76-4, Washington, and Idaho.	LO1
D-IBR-J06001-ND	ANG Coal Gasification Co. Project, N. Dak. ....	ER2

D-FAA-E31022-NC	Airport Expansion and Improvements, Raleigh-Durham Airport, Raleigh, N.C.	ER2
D-FAA-F31010-IN	Proposed Development, Shelbyville Municipal Airport, Shelby County, Ind.	LO1
D-FHW-D40046-PA	LR 87045, Vine Street Expressway, Philadelphia, Pa.	EU2
S-FHW-D40047-PA	LR 1084 and LR 39, Everett Bypass, Noise Technical Report, Bedford County, Pa.	LO2
D-FHW-D40047-TN	LR 1084 and LR 39, Everett Bypass, Pa-30, Bedford County, Pa.	LO2
D-FHW-E40109-TN	TN-42, Proposed Alford Bypass to South of Livingston Bypass, Overton and Putnam Counties, Tenn. (FHW-TN-EIS-76-06-D).	LO2

D-FAA-E31022-NC	Airport Expansion and Improvements, Raleigh-Durham Airport, Raleigh, N.C.	ER2
D-FAA-F31010-IN	Proposed Development, Shelbyville Municipal Airport, Shelby County, Ind.	LO1
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D-FHW-D40047-TN	LR 1084 and LR 39, Everett Bypass, Pa-30, Bedford County, Pa.	LO2
D-FHW-E40109-TN	TN-42, Proposed Alford Bypass to South of Livingston Bypass, Overton and Putnam Counties, Tenn. (FHW-TN-EIS-76-06-D).	LO2

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D-FHW-D40047-TN	LR 1084 and LR 39, Everett Bypass, Pa-30, Bedford County, Pa.	LO2
D-FHW-E40109-TN	TN-42, Proposed Alford Bypass to South of Livingston Bypass, Overton and Putnam Counties, Tenn. (FHW-TN-EIS-76-06-D).	LO2

D-FAA-E31022-NC	Airport Expansion and Improvements, Raleigh-Durham Airport, Raleigh, N.C.	ER2
D-FAA-F31010-IN	Proposed Development, Shelbyville Municipal Airport, Shelby County, Ind.	LO1
D-FHW-D40046-PA	LR 87045, Vine Street Expressway, Philadelphia, Pa.	EU2
S-FHW-D40047-PA	LR 1084 and LR 39, Everett Bypass, Noise Technical Report, Bedford County, Pa.	LO2
D-FHW-D40047-TN	LR 1084 and LR 39, Everett Bypass, Pa-30, Bedford County, Pa.	LO2
D-FHW-E40109-TN	TN-42, Proposed Alford Bypass to South of Livingston Bypass, Overton and Putnam Counties, Tenn. (FHW-TN-EIS-76-06-D).	LO2

APPENDIX II.—DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

ENVIRONMENTAL IMPACT OF THE ACTION

L.O.—Lack of Objection

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

E.R.—Environmental Reservations

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

E.U.—Environmentally Unsatisfactory

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

ADEQUACY OF THE IMPACT STATEMENT

Category 1.—Adequate

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2.—Insufficient Information

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3.—Inadequate

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—Final Environmental Impact Statements for which comments were issued between June 1, and June 30, 1977

Identifying No.	Title	General nature of comments	Source for copies of comments
S-COE-A32487-FL	Tampa Harbor, Deepening, Hillsborough County, Fla.	In general, EPA's concerns were adequately addressed in the supplement to the final EIS. However, EPA believes the overall result of the project will involve degradation in water quality values.	E
F-COE-82099-LA	Removal of Water Hyacinth and Aquatic Plant Control Program, New Orleans, La.	EPA continues to have environmental reservations on the project as proposed. The draft EIS rates environmental quality values based on the use of 24-D on moving waterways since 24-D was registered for aquatic use on still waters. Since then Weedar 64 (EPA registration No. 264-2) has been registered for use by Federal or State agencies against the water hyacinth.	G



APPENDIX III.—Final Environmental Impact Statements for which comments were issued between June 1, and June 30, 1977—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
F-COE-82009-LA	Removal of Water Hyacinth and Aquatic Plant Control Program, New Orleans, La.	cinth in quiescent or slow-moving waters. While 2, 4-D has been approved for some uses, EPA's experience indicates that herbicides control aquatic plant growth during use, but once the application ceases the growth returns. The additional burden of 2, 4-D application on Louisiana waters and treatment plants may be excessive in view of Louisiana's history of problems with chlorinated organic compounds in drinking water supplies.	
F-COE-B35003-ME	George's River Maintenance Dredging Project, Thomaston, Maine.	EPA's review of the final EIS has been completed and the project has been found to be satisfactory from the standpoint of environmental quality, health and welfare, within EPA's areas of jurisdiction and expertise.	B
F-COE-E35042-NC	Wanchese Harbor Development Project, N.C.	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA feels that the Corps determination that the public benefits to be derived from the Wanchese Harbor project outweigh the damage to the wetlands is a matter for discolore under the National Environmental Policy Act (NEPA).	E
F-COE-F26001-MN	Reserve Mining Co., Discharge Structure, Lake County, Minn.	In general, EPA's concerns were adequately addressed in the final EIS. However, EPA recommends to the Corps of Engineers measures that should be required to minimize the impacts of the Reserve Mining Co.'s operations upon air quality.	F
F-COE-30008-MI	Ludington Harbor, Mitigation of Shore Damage, Federal Navigation Structures, Michigan.	EPA's concerns were adequately addressed in the final EIS.	F

NOTICES

APPENDIX III.—Final Environmental Impact Statements for which comments were issued between June 1, and June 30, 1977—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF AGRICULTURE			
F-AFS-J55047-MT	OPHIR-DOG MacDonald Pass Planning Unit, Helena National Forest, Mont.	EPA feels the final EIS did not adequately address EPA's concerns on the draft EIS regarding water quality. However, subsequent contact between EPA and the forest service indicate serious water quality impacts are unlikely as a result of this action.	I
DEPARTMENT OF INTERIOR			
F-BOR-J99049-00	The Continental Divide Trail, Colorado, Idaho, Montana, New Mexico, and Wyoming.	In general EPA's concerns were adequately addressed in the final EIS. However, since the EIS did not analyze site specific impacts, EPA requested that BOR ensure the analysis be done prior to implementation of specific project elements.	I
F-IBR-J34007-CO	Dolores Project, Montezuma and Dolores Counties, Colo.	EPA's concerns were adequately addressed in the final EIS.	I
DEPARTMENT OF TRANSPORTATION			
F-FAA-F51004-IN	Clark County Airport, Construction and Development, Jeffersonville, Ind.	EPA continues to have environmental concerns about the proposed project and feels the final EIS did not adequately respond to comments made on the draft EIS. Specifically, EPA expressed concern in regard to impacts on noise and water quality.	F
F-FAA-K51003-CA	Redley Municipal Airport, Fresno, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
F-FHW-A42109-MN	I-94, U.S. 12 and I-394 to MN-132, Hennepin County, Minn.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-C40008-NY	Rochester outer Loop Scottsville Rd. to Winston Rd., Monroe County, N.Y.	EPA's concerns were adequately addressed in the final EIS.	C
F-FHW-D40040-MD	MD-2 and MD-4 Extended, Lower Patuxent River Bridge to MD-235, St. Marys County, Md.	EPA's concerns were adequately addressed in the final EIS. EPA recommended the responses given to air and water quality comments made in previous letters, and	D

APPENDIX III.—Final Environmental Impact Statements for which comments were issued between June 1, and June 30, 1977—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF TRANSPORTATION			
F-FHW-D40040-MD	MD-2 and MD-4 Extended, Lower Patuxent River Bridge to MD-235, St. Marys County, Md.	continues to encourage the use of noise abatement measures in the project area.	J
F-FHW-F40036-WI	Oneida Street Bridge and Approaches, Appleton, Outagamie County, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-F40052-WI	Wisconsin Rapids, Daly Ave., Wood County, Wis.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-F40055-IN	IN-3, Allen and Dekalb Counties, Ind.	EPA's concerns were adequately addressed in the final EIS.	F
NP-FAA-D51008-PA	Proposed Radar Facility (MRF) JASS, Ft. Belvoir, Clearfield County, Pa.	EPA's concerns were adequately addressed in the final negative declaration.	D
F-FHW-40080-OH	OH-315, Ackerman Rd. to I-270, Franklin County, Ohio.	EPA's concerns were adequately addressed with comments regarding noise impacts and water quality. EPA requested the following provisions be implemented: Highway pollutants will not degrade water quality in adjacent streams, meanders established to protect riparian habitat, preservation of oxbow portion of the Olenangy River, dense vegetative landscaping for mitigation of noise impacts.	F
FS-FHW-H40041-MO	MO-71, South Midtown Freeway, Kansas City, Jackson County, Mo. (FHW-MO-EIS-71-27-FS)	EPA continues to have environmental reservations with the proposed project. EPA's concerns regarding noise impacts and water quality are not addressed in the final EIS. EPA's concerns regarding noise impacts and water quality are not addressed in the final EIS. EPA's concerns regarding noise impacts and water quality are not addressed in the final EIS.	H
F-FHW-J40022-ND	U.S. 2, Leeds to Churches Ferry, Benson County, N.D.	EPA's concerns were adequately addressed in the final EIS.	I

APPENDIX III.—Final Environmental Impact Statements for which comments were issued between June 1, and June 30, 1977—Continued

Identifying No.	Title	General nature of comments	Source for copies of comments
DEPARTMENT OF TRANSPORTATION			
F-FHW-K40041-CA	Salicoy St. extension, Woodman Av. to Vanuys Blvd., Los Angeles County, Calif.	do	J
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
F-HUD-E55013-GA	Georgetown Subdivision, Chatham County, Ga. (HUD-R04-EIS-76-15-F)	do	E
F-HUD-E59005-TN	New Chicago Priority Area Improvement Project, Memphis, Shelby County, Tenn.	EPA was not given the opportunity to review the draft EIS. Therefore, EPA requested additional information regarding noise impacts and urban redevelopment.	E
F-HUD-K85010-CA	Residential Redevelopment of Suisun City, Solano County, Calif.	EPA continues to have environmental reservations on the project as proposed. Specifically, the project is to be built on a floodplain, and no adequate flood protection is currently available.	J
INTERSTATE COMMERCE COMMISSION			
F-ICC-E53002-SC	East Cooper and Berkeley RR. Co. Construction and Operation Railroad Line, Berkeley County, S.C.	EPA's concerns were adequately addressed in the final EIS. However, even though the route has been realigned to minimize destruction of wetlands, the proposed project will entail the destruction of 25.8 acres of wetlands.	E
TENNESSEE VALLEY AUTHORITY			
F-TVA-E06004-TN	Philips Bend Nuclear Plant, Units 1 and 2, Hawkins County, Tenn.	EPA's concerns were adequately addressed in the final EIS. However, EPA feels the TVA should assess the noise impacts relating to full plant operation.	E
DEPARTMENT OF DEFENSE			
S-USN-A10040-WA	Trident Submarine Support Site, Bangor, Wash.	EPA's concerns were adequately addressed in the supplement to the final EIS.	K



APPENDIX IV.—Final Environmental Impact Statements which were reviewed and not commented on between June 1 and June 30, 1977

Identifying No.	Title	Source of review
CORPS OF ENGINEERS		
F-COE-E3202-00	Little River Inlet Navigation Project, Brunswick County, N.C.	E
F-COE-E36042-NC	Adkin Branch Flood Control Project, Kinston, Lenoir County, N.C.	E
COE-G34008-LA	Gulf Intracoastal Waterway, Louisiana Section, Replacement of Vermillion Lock, La.	G
F-COE-G34021-TX	Operation and Maintenance, Bardwell Lake, Benbrook Lake, Grapeville Lake and Navarro Mills Lake, Trinity River Basin, Tex.	G
F-COE-G35002-OK	Tulsa Urban Renewal Authority, River Parks Project, Tulsa, Okla.	G
F-COE-H08000-MO	161 KV Transmission Line Crossings, Lake of the Ozarks, Cass County, Mo.	H
F-COE-C83009-NJ	Thimble Shoar Bay, Pebble Beach, Indianola Complex Residential Lagoon Development, Permit, Ocean County, N.J.	C
DEPARTMENT OF AGRICULTURE		
F-AFS-B82003-ME	Cooperative Spruce Budworm Suppression Project, Maine, Year 1977.	B
F-AFS-G65023-NM	Red River Ski Area, Carson National Forest, Taos County, N. Mex. River Proposal for River Classification, Under the Wild and Scenic Rivers Act, Snohomish County, Wash.	G
F-AFS-L61038-WA	Avery Brook Watershed, Hartford County, Conn.	K
F-SCS-B36010-CT		B
DEPARTMENT OF COMMERCE		
F-NOA-B91006-00	Fishery Management Plan, Groundfish, Haddock, Cod, Yellow-tail Flounder.	B
DEPARTMENT OF DEFENSE		
F-USN-L02002-AK	Continuing Exploration and Evaluation of Naval Petroleum Reserve No. 4, Alaska.	K
Department of Transportation		
F-PAA-L51007-AK	Aktok Airport, Alaska.	K
F-FHW-E40076-FL	FL-926, Normandy Dr., Rue Versailles to FL-A-1-A, Dade County, Fla.	E
F-FHW-E40092-FL	Southeastern Extension, FL-9-A, Jacksonville, 1-95 and 1-295, Duval County, Fla.	E
F-FHW-G40051-TX	U.S. 237, Intersection with U.S. 79 to U.S. 84, Anderson County, Tex.	G
F-FHW-H40018-IA	IA-582 Arterial, Polk and Warren Counties, Iowa.	H
F-FHW-L40034-WA	WA-14, Kennewick Vicinity, Benton County, Washington (FHW-WN-EIS-76-02-F).	K
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-E38021-TN	Rural Water Project, (CDBG) Dekalb County, Tenn.	E
F-HUD-G85023-TX	Williamsburg Subdivision, Harris County, Tex.	G
F-HUD-G89002-OK	Industrial Utilities, Lawton, Okla.	O
F-HUD-H91002-IA	South Federal Ave. Redevelopment Project, Mason City, Iowa.	H
DEPARTMENT OF LABOR		
F-OSH-A99106-00	Joint OSHA/NIOSH Standards Completion Project.	A

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APPENDIX V.—Regulations, legislations and other Federal agency actions for which comments were issued between June 1 and June 30, 1977

Identifying No.	Title	General nature of comments	Source for copies of comments
Department of Defense			
R-USA-A86100-00	32 CFR Pt. 656, Environmental Quality, Installations, Use of Off-Road Vehicles (ORV) on Army Land (AR 210-9) (42 FR 21620)	EPA believes the Army rulemaking will have a distinct beneficial effect on the agency's environmental program and made suggestions which would allow for the same coordination to those areas adjacent to Army lands.	A
Department of Transportation			
R-CGD-A52119-00	48 CFR Pts. 50, 54, 55, 58, 61, 107, 108, 109, Requirements for Mobile Offshore Drilling Units (42 FR 22298)	EPA reviewed the proposed rulemaking and requested the Coast Guard maintain the existing pl. 46 of title 33 which provides for a safety zone around a platform to prevent damage to biotic resources from harmful substances. Subsequently EPA recommended the final rule be published in the Federal Register, 33 and 46 concurrently in the Federal Register.	A
Corps of Engineers			
R-COE-A35151-00	33 CFR Pt. 303, Permits for Discharge of Dredged or Fill Material Into Waters of the United States, Proposed Rulemaking	EPA agrees with the establishment of the nationwide permit system and offered several suggestions which would strengthen the system from an environmental point of view.	A
Department of Agriculture			
A-AFS-A63128-00	Draft Assessment Element Outline and the Proposed Alternative Forest Service Program Directions and National Goals	EPA made several comments on the proposed action, specifically, EPA believes that several portions of the outline require a more explicit reference to environmental concerns and impacts.	A
U.S. Department of the Interior			
R-BIA-A01047-00	25 CFR Pts. 171, 177, 182 and 183, Mining on Indian Lands	EPA made several comments which would provide the additional environmental protection required for typical mining operations on Indian lands.	A

NOTICES

APPENDIX VI.—Source for copies of EPA comments

- A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 922, Waterside Mall SW., Washington, D.C. 20460.
- B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Mass. 02203.
- C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, N.Y. 10007.
- D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pa. 19108.
- E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Ga. 30308.
- F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Ill. 60604.
- G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Tex. 75270.
- H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Mo. 64108.
- I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colo. 80203.
- J. Director of Public Affairs, Region 9, Environmental Protection Agency, 215 Fremont Street, San Francisco, Calif. 94105.
- K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Wash. 98101.

[FR Doc. 78-2290 Filed 1-27-78; 8:45 am]

[FRL 849-7; OPP-30000/24A]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Certain Pesticide Products Containing Thiophanate-methyl; Extension of Period for Submission of Rebuttal Evidence and Comments

On November 23, 1977, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient thiophanate-methyl. This notice was published in the FEDERAL REGISTER on December 7, 1977 (42 FR 61970). The regulations governing rebuttable presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause shown, an additional sixty (60) days may be granted in which such

evidence may be submitted (40 CFR 162.11(a)(1)(i)).

A request for an additional 60 days in which to present evidence to the Agency has been received from one of the major registrants who was affected by the notice of presumption. The requester has specified a need for additional time to communicate with foreign developers of the chemical and the industrial users of their products and to complete and submit certain test data that would not be available by January 24, 1978.

The Agency agrees that additional time would be beneficial for the submission of complete and accurate responses to this notice of presumption. Therefore, because good cause has been shown, all registrants, applicants for registration, and other interested persons shall have until March 27, 1978, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St., SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in inspecting them. All comments should bear the identifying notation "OPP-30000/24A".

Comments and information received on or before March 27, 1978, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(a)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after March 27, 1978, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section at the above address from 8:30 to 4 p.m. on normal business days. The file supporting the Agency's presumption against this pesticide is available for public inspection in the Office of Special Pesticide Reviews, Rm. 447, East Tower during the same time period.

Dated: January 25, 1978.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

[FR Doc. 78-2642 Filed 1-27-78; 8:45 am]

NOTICES

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

(Docket No. 21417)

AMERICAN TELEPHONE & TELEGRAPH CO.  
Order Regarding Long Lines Department, Revisions of Tariff FCC No. 260, Private Line Services, Series 1000 (Telegraph)

<sup>1</sup>See 42 FR 64737.

Adopted: January 20, 1978.

Released:

By the Chief, Common Carrier Bureau:

1. Comments in this proceeding were to have been filed on or before February 1, 1978, and reply comments on or before February 22, 1978. We have determined that the proceeding would be materially aided by our extending the due dates by approximately 1½ months. This additional time will afford interested persons and the Commission an adequate opportunity to review the American Telephone & Telegraph Co. cost submissions received on December 19, 1977 and January 16, 1978, and the "Petition for Enlargement of Issues and for Modification of Procedures," submitted by the Central Station Electrical Protection Association on December 5, 1977. Delegated authority to the Chief, Common Carrier Bureau, to so order is contained in § 0.303(c) of the Commission's rules and regulations, 47 CFR 0.303(c).

2. Accordingly, it is ordered, That the due dates for comments and reply comments in this proceeding are hereby extended to March 20, 1978, and April 10, 1978, respectively.

For the Federal Communications Commission.

PHILIP V. PERMUT,  
Deputy Chief,  
Common Carrier Bureau.

[FR Doc. 78-2480 Filed 1-27-78; 8:45 am]

[6712-01]

(Report No. 894)

COMMON CARRIER SERVICES INFORMATION  
Re: Applications Accepted for Filing

JANUARY 23, 1978.

By the Chief, Common Carrier Bureau:

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.



Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30-day notice period (see section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cutoff date for filing a mutually exclusive application is the close of business 1 business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cutoff rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's rules.)

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

Applications accepted for filing:

#### DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

- 20613-CD-P-(4)-78 Delta Valley Radiotelephone Co., Inc. (KMA743). C.P. for additional facilities to operate on 2178.4 MHz, control at locations No. 1: 3502 Kroy Way, Sacramento, Calif., additional facilities to operate on 2128.4 MHz, control at location No. 4: 2171 Ralph Avenue, Stockton, Calif., and additional facilities to operate on 2128.4 and 2178.4 MHz, repeater, to be located at a new site described as location No. 5: At north peak of Mount Diablo, approximately 7.5 miles northeast of Danville, Calif.
- 20616-CD-P-78 Little Rock Radio Telephone Co., Inc. (new). C.P. for a new 1-way station to operate on 35.58 MHz to be located at 1501 North University, Little Rock, Ark.
- 20622-CD-P-(2)-78 Tel-Illinois, Inc. (new). C.P. for a new 1-way station to operate on 158.70 MHz, base to be located at location No. 1: 1029 Main Street, Danville, Ill., and

control facilities to operate on 459.300 MHz to be located at location No. 2: 2424 West Skyline Drive, Champaign, Ill.

20629-CD-P-(2)-78 Mount Shasta Radiotelephone, Inc. (KUS379). C.P. for additional facilities to operate on 929.0 MHz, repeater at location No. 2: Summit Gray Butte, 7.1 miles northeast of Mount Shasta, Calif., and for additional facilities to operate on 939.5 MHz, control at a new site described as location No. 3: 612 South Mount Shasta Boulevard, Mount Shasta, Calif.

20651-CD-P-(3)-78 Nashville Mobilphone, Inc. (KIY750). C.P. to replace transmitter and relocate facilities operating on 454.200, 454.225, and 454.350 MHz from location No. 3 to location No. 2: 0.5 miles north of Old Hickory Boulevard and 1 mile west of Granny White Pike, Nashville, Tenn.

20652-CD-TC-78 North Alabama Paging Co., Inc. Consent to transfer of control from Walter B. Smith, transferor, to Ernest A. Poole, transferee. Station: KUC951, Decatur, Ala.

20653-CD-P-78 RAM Broadcasting of Massachusetts, Inc. (KSV956). C.P. for additional facilities to operate on 152.24 MHz to be located at a new site described as location No. 4: Asnebumskit Hill, 2.6 miles east of Paxton, Mass.

20656-CD-P-(2)-78 James D. and Lawrence D. Garvey, d.b.a. Radiofone (KUS285). C.P. to relocate facilities operating on 43.22 MHz and 43.58 MHz at location No. 1 to be located at 700 Poydras Street, New Orleans, La.

20657-CD-P-(3)-78 Otis L. Hale, d.b.a. Mobilphone Communications (KLB500) (resubmitted). C.P. to change antenna system operating on 152.21 MHz at location No. 2 and replace transmitter operating on 152.09 MHz, base and replace transmitter and change antenna system and relocate facilities operating on 459.05 and 152.09 to be located from location No. 1 to location No. 2: Shinall Mountain, 9 miles west-northwest of Little Rock, Ark.

20658-CD-R-78 Southwestern Bell Telephone Co. (KWB401) (developmental). Renewal of license expiring February 9, 1978. Term: February 9, 1978 to February 9, 1979.

20659-CD-P-(3)-78 South Central Bell Telephone Co. (KIB389). C.P. to change antenna system operating on 152.51, 152.63, and 152.81 MHz, located approximately 7.9 miles northeast of Signal Mountain, Tenn.

20660-CD-P-(2)-78 Industrial Communications Systems, Inc. (KSV926). C.P. for additional facilities to operate on 2173.8 MHz, repeater at location No. 1: Santiago Peak radio site, Santa Ana, Calif.; and for additional facilities to operate on 2123.6 MHz, control to be located at a new site described as location No. 9: 2660 Woodland Drive, Anaheim, Calif.

20662-CD-P-(2)-78 Industrial Communications Systems, Inc. (KMD990). C.P. for additional facilities to operate on 2173.6 MHz, repeater at location No. 1: Santiago Peak radio site, Santa Ana, Calif.; and for additional facilities to operate on 2123.6 MHz, control, to be located at a new site described as location No. 6: 2660 Woodland Drive, Anaheim, Calif.

20663-CD-P-(4)-78 American Communications Systems, Inc. (KIG300). C.P. for additional facilities to operate on 43.58 MHz at four new sites described as location No. 3: 255 Scenic Highway, Lawrenceville, Ga.;

location No. 4: 1000 Atlanta West Boulevard, Lithia Springs, Ga.; location No. 5: 1412 Milstead Road, Conyers, Ga.; and location No. 6: 1480 Lawrenceville Road, Marietta, Ga.

20664-CD-P-78 Selective Radio Paging, Inc. (KKT407). C.P. to change antenna system operating on 35.22 MHz located at 700 Poydras Street, New Orleans, La.

20665-CD-AL-78 Alco Telephone Answering Service of Greenville, Miss., Inc. Consent to assignment of license from Alco Telephone Answering Service of Greenville, Miss., Inc., assignor, to L & L Services, Inc., d.b.a. Metro Communication Services, assignee. Station: KUC976, Oxford, Miss.

20666-CD-MP-78 Digital Paging Systems of Toledo, Inc. (KWU348). Modification of C.P. to relocate facilities operating on 454.325 MHz to be located at 1049 South McCord Street, Toledo, Ohio.

20667-CD-P-(2)-78 ComEx, Inc. (KCI295). C.P. for additional facilities to operate on 72.22 and 72.62 MHz, control at location No. 2: Uncanoonuc Mountain, near Gofftown, N.H.

20668-CD-MP-(5)-78 Southwest Mobilphone, Inc. (KDS461). Modification of C.P. to replace transmitter, change antenna system and relocate facilities operating on 454.325 and 454.350 MHz at location No. 1: 3.5 miles north of U.S. Highway 83 and 23rd Street, 0.1 mile east on unmarked road, McAllen, Tex.; replace transmitter and change antenna system operating on 454.075 and 454.150 MHz at location No. 2: 2105 East 14th Street, Brownsville, Tex.; and replace transmitter and change antenna system operating on 454.025 MHz at location No. 3: off New Hampshire Road, 0.75 mile south of Harlingen, Tex.

20669-CD-P-78 Edythe L. Kies, d.b.a. Traverse Answering Service (KRS702). C.P. for additional facilities to operate on 152.12 MHz at location No. 1: Cedar Run Road, Traverse City, Mich.

#### CORRECTIONS

20611-CD-AL-78 AAA Answerphone, Inc., Jackson. Correct station location to read Tupelo, Miss., instead of Jackson, Miss. All other particulars to remain as reported on PN No. 893, dated January 16, 1978.

20615-CD-P-78 General Telephone Co. of California (KUA300). Correct file number to read: 20615-CD-P/ML-78. All other particulars to remain as reported on PN No. 893, dated January 16, 1978.

#### MAJOR AMENDMENTS

21755-CD-P-77 Mobile Communication Service, Inc. Amend to change the base frequency to 43.22 MHz. All other particulars to remain as reported on PN No. 868, dated July 25, 1977.

20160-CD-P-(2)-78 Schaller Telephone Co., Schaller, Iowa (KWU471). Amend base frequency 152.21 MHz to read 152.51 MHz. All other particulars to remain as reported on PN No. 883, dated November 7, 1977.

#### POINT TO POINT MICROWAVE RADIO SERVICES

OR-1013-CF-AL-(1)-78 Eastern Oregon Telephone Co. Consent to assignment of radio station license from Eastern Oregon Telephone Co., assignor to Blue Mountain Telephone, Inc., assignee for station (WAH556) Boardman, Ore.

MA-1059-CF-P-78 American Telephone and Telegraph Co. (WQR45) Court and Putnam Street, Brockton, (Plymouth) Mo.

Mass. Lat. 42°05'11" N. Long. 71°00'53" W. CP to change polarization from H to V on frequencies 11625, 11545, and 11465 MHz toward High Rock, Mass.

MA-1060-CF-P-78 Same (KCA22) High Rock 2.0 miles West of Foxboro, (Norfolk) Mass. Lat. 42°03'40" N. Long. 71°17'18" W. CP to change polarization from H to V on frequencies 11015, 11095, and 11175 MHz toward Brockton, Mass.

AR-1017-CF-P-78 Southwestern Bell Telephone Co. (KKB55) 725 South Church Street, Jonesboro, (Craighhead) Ark. Lat. 35°50'11" N. Long. 90°42'17" W. CP to increase power and add frequency on 4110H MHz on azimuth 127.5° toward Bay, Ark.

AR-1028-CF-P-78 Same (KKB54) 1 mile southeast of Bay, (Craighhead) Ark. Lat. 35°44'30" N. Long. 90°33'12" W. CP to increase power and add frequency on 4150H MHz on azimuth 307.6° toward Jonesboro, Ark.

AR-1071-CF-P-78 Same (WCT903) 301 West Main Eldorado, (Union) Ark. Lat. 33°12'40" N. Long. 92°39'58" W. CP to add a new point of communication on frequency 2128.2V MHz on azimuth 194.1° toward Junction City, Ark.

WA-1072-CF-P-78 Pacific Northwest Bell Telephone Co. (KPE29) 2.7 miles southeast of Moses Lake, (Grant) Wash. Lat. 47°05'16" N. Long. 119°15'25" W. CP to add antennas and frequency on 5945.2H MHz on azimuth 258.9° toward Kittitas, Wash.

WA-1073-CF-P-78 Same (KPE28) 10 miles east of Kittitas, (Kittitas) Wash. Lat. 46°57'30" N. Long. 120°11'25" W. CP to add antennas and frequencies on 6197.2H MHz on azimuth 78.2° toward Moses Lake, Wash., and 4110V MHz on azimuth 247.9° toward Wymmer, Wash.

WA-1074-CF-P-78 Same (KPZ38) 5.5 miles west-northwest of Wymmer, (Kittitas) Wash. Lat. 46°51'01" N. Long. 120°34'32" W. CP to add frequencies on 4150V MHz toward Kittitas, Wash., on azimuth 67.6° and 4150V MHz on azimuth 169.8° toward Yakima, Wash.

WA-1075-CF-P-78 Same (KOJ91) 208 West Yakima Avenue, Yakima, (Yakima) Wash. Lat. 46°36'03" N. Long. 120°30'37" W. CP to add frequency 4110V MHz on azimuth 349.8° toward Wymmer, Wash.

MO-1076-CF-P-78 American Telephone and Telegraph Co. (new) 6.5 miles north-northeast of Hillsboro, (Jefferson) Mo. Lat. 38°19'32" N. Long. 90°31'42" W. CP for a new station on frequencies 6034.2H and 6063.8V MHz on azimuth 234.0° toward Richwood, Mo.

MO-1077-CF-P-78 Same (new) 4.2 miles southwest of Richwoods, (Washington) Mo. Lat. 38°06'56" N. Long. 90°53'37" W. CP for a new station on frequencies 6286.2V, 6315.9H MHz on azimuth 53.8° toward Hillsboro, Mo., 6286.2H, 6315.9V MHz on azimuth 261.4° toward Rosati, Mo.

MO-1078-CF-P-78 Same (new) 1.5 miles northeast of Rosati, (Crawford) Mo. Lat. 38°02'24" N. Long. 91°30'53" W. CP for a new station on frequencies 6034.2V, 6063.8H MHz on azimuth 81.1°, 6034.2H, 6063.8V MHz on azimuth 282.5° toward Brinktown, Mo.

MO-1079-CF-P-78 Same (new) 0.9 miles north of Brinktown, (Maries) Mo. Lat. 38°08'17" N. Long. 92°04'52" W. CP for a new station on frequencies 6286.2V, 6315.9H MHz on azimuth 102.2°, 6286.2V, 6315.9H MHz on azimuth 296.5° toward Barnett, Mo.

MO-1080-CF-P-78 Same (new) 0.8 miles south-southeast of Barnett, (Morgan) Mo.

Lat. 38°22'01" N. Long. 92°40'04" W. CP for a new station on frequencies 6034.2H, 6063.8V MHz on azimuth 116.1° toward Brinktown, Mo., 6034.2H, 6063.8V MHz on azimuth 273.4° toward Cole Camp, Mo.

MO-1081-CF-P-78 Same (new) 7.5 miles southeast of Cole Camp, (Benton) Mo. Lat. 38°23'11" N. Long. 93°06'29" W. CP for a new station on frequencies 6286.2V, 6315.9H MHz on azimuth 93.1° toward Barnett, Mo., 6286.2V, 6315.9H MHz on azimuth 302.7° toward Windsor, Mo.

MO-1082-CF-P-78 Same (new) 3.7 miles north of Windsor, (Johnson) Mo. Lat. 38°35'43" N. Long. 93°31'26" W. CP for a new station on frequencies 6034.2H, and 6063.8V MHz on azimuth 122.5° toward Cole Camp, Mo.

KS-1032-CF-MP-78 Mid-Kansas, Inc. (WBB 402) 2.0 miles north of Kinsley, Kans. Lat. 37°57'29" N. Long. 99°25'44" W. Modification of construction permit to add 5945.2V MHz toward Jetmore, Kans., on azimuth 287.6° via power split.

OH-1034-CF-P-78 Tower Communication Systems Corp. (KQO 42) Shanesville, Ohio. Lat. 40°30'56" N. Long. 81°39'14" W. Construction permit to replace transmitter(s), change polarization to vertical and to change frequency to 5989.7V, 6137.9V and 6078.6V MHz toward Coshocton, Ohio, the latter 2 frequencies via power split, on azimuth 209.3°.

OH-1035-CF-P-78 Tower Communication Systems Corp. (KQO 41) Coshocton, Ohio. Lat. 40°16'04" N. Long. 81°50'14" W. Construction permit to replace transmitter(s), change polarization to vertical and to change frequency to 6212.2V MHz toward Shanesville (Sugar Creek), Ohio, on azimuth 29.5°.

NE-1064-CF-P-78 Mountain Microwave Corp. (KZA 62) Manchester, 14 miles southwest of Chadron, Nebr. Lat. 42°38'02" N. Long. 102°06'07" W. Construction permit to add 6005.5V MHz 6050H, and 6167.6H MHz toward Hemingford, Nebr., via power split, on azimuth 176.8° and to change polarization and increase power toward existing points of communication located at Crawford, Gordon, Rushville, Chadron, all in Nebraska and Pine Ridge, S.C.

OH-1041-CF-P-78 MCI Telecommunications Corp. (WLB66) 0.5 miles north of Scotch Ridge, Ohio. Lat. 41°24'33" N. Long. 83°32'04" W. Construction permit to change polarization: 5974.8, 6034.2, 6093.5, and 6152.8 from H to V; 6004.5 from V to H, all towards Petersburg, Mich.

TX-1058-CF-P-78 Waco Communications, Inc. (new) 401 West Loop 340, Waco, Tex. Lat. 31°30'59" N. Long. 97°11'50" W. Construction permit for a new station, 2129.2H MHz towards Moody, Tex. on azimuth 205.8°.

AR-1036-CF-P-78 Oklahoma Allied Telephone Co. (KPP33), 310 Clayton Street, Poteau (Le Flore), Okla. Lat. 35°03'08" N. Long. 94°37'13" W. CP to correct coordinates and change frequencies 5937.8H and 6056.4H MHz to 2112H and 2120H MHz on azimuth 294.9° toward Cavanal Mountain, Ark., replace antennas and transmitters.

OK-1037-CF-P-78 Same (KPP34), Cavanal Mountain 3.6 miles northwest of Poteau (Le Flore), Okla. Lat. 35°04'27" N. Long. 94°40'40" W. CP to correct coordinates and change frequencies on 6189.8V and 6308.4V to 2162H and 2170H MHz on azimuth 114.9° toward Poteau, Okla., 6204.7V to 2178H MHz on azimuth 330.4° toward Vian, Okla., 6323.3V to 2166H MHz

on azimuth 349.8° toward Beaver Mountain, Okla., replace antennas and transmitters.

OK-1038-CF-P-78 Same (KPP35), 105 North Blackstone Vian (Sequoyah), Okla. Lat. 35°29'55" N. Long. 94°58'18" W. CP to correct coordinates and change frequencies 5952.6V and 6071.2V MHz to 2126H MHz on azimuth 150.2° toward Cavanal, Okla., replace antennas and transmitters.

OK-1039-CF-P-78 Same (new), Beaver Mountain 6.3 miles north of Marble City (Cherokee), Okla. Lat. 35°40'17" N. Long. 94°48'35" W. CP for a new station on frequencies 2116H MHz on azimuth 169.7° toward Cavanal Mountain, Okla. and 2112H MHz on azimuth 46.3° toward Stilwell, Okla.

OK-1040-CF-P-78 Same (new), 116 South First Stilwell (Adair), Okla. Lat. 35°48'46" N. Long. 94°37'40" W. CP for a new station on frequency 2162H MHz on 226.4° toward Beaver Mountain, Okla.

AK-1046-CF-P-78 RCA Alaska Communications, Inc. (WAH393), Valdez Trm. 3.7 miles south-southwest Valdez across Valdez, Alaska. Lat. 61°05'06" N. Long. 146°23'32" W. CP to add antennas and increase structure height on 2162.4V MHz toward Valdez, Alaska.

ID-904-CF-P-78 Cambridge Telephone Co., Inc. (new), Cuprum (Adams), Idaho. Lat. 45°04'41" N. Long. 116°43'17" W. CP for a new station on frequency 2122H MHz on azimuth 60.1° toward Smith Mountain. Passive reflector and from Passive reflector toward Mesa, Idaho on azimuth 189.1°.

ID-905-CF-P-78 Same (new), Lat. 44°38'25" N. Long. 116°26'57" W. Mesa (Adams), Idaho. Lat. 44°38'25" N. Long. 116°26'57" W. CP for a new station on frequency 2178V MHz on azimuth 349.1° toward Smith Mountain. Passive reflector and from Passive reflector toward Cuprum, Idaho on azimuth 240.8°.

#### CORRECTIONS

The following applications were inadvertently omitted from Public Notice Report No. 888 December 12, 1977.

OK-616-CF-P-78 Southwestern Bell Telephone Co. (KEZ68), 820 Avant Avenue, Clinton (Custer), Okla. Lat. 35°30'46" N. Long. 98°58'11" W. CP to add a new point of communication and increase structure height on frequency 6286.2H MHz on azimuth 244.2° toward Canute, Okla.

OK-617-CF-P-78 Same (new), 2.7 miles southwest of Canute (Washita), Okla. Lat. 35°22'40" N. Long. 99°18'35" W. CP for a new station on frequencies 6034.2V MHz toward Clinton, Okla. on azimuth 64.0° and 11035V MHz on azimuth 291.8° toward Elk City, Okla.

OK-618-CF-P-78 Same (new), 515 West Broadway, Elk City (Beckham), Okla. Lat. 35°24'38" N. Long. 99°24'35" W. CP for a new station on frequency 11485V MHz on azimuth 111.8° toward Canute, Okla.

The following application was inadvertently omitted from Public Notice Report No. 889 December 19, 1977.

TN-702-CF-P-78 South Central Bell Telephone Co. (WJG57), 3 miles northwest of Dickson (Dickson), Tenn. Lat. 36°05'50" N. Long. 87°25'58" W. CP to add receive space diversity antenna at Lobelle, Tenn. for frequency 3710V.

TN-703-CF-P-78 Same (KJG56), 4 miles southwest of Lobelville (Perry), Tenn. Correct entry to read: CP to change polar-



ization from H to V on frequency 3730, V to H on 3750, 3830, 3910, 3990, 4070, 4150, H to V on 4130 toward Lexington, Tenn., add receive space diversity antenna from Lexington, and on 3730H toward Dickson, Tenn.

[FR Doc. 78-2483 Filed 1-27-78; 8:45 am]

## [6712-01]

## FM AND TV TRANSLATOR

Applications Ready and Available for Processing Pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules

Adopted: January 20, 1978.

Released: January 25, 1978.

By the Chief, Broadcast Bureau.  
Notice is hereby given pursuant to §§ 1.572(c) and 1.573(d) of the Commission's rules, that on March 16, 1978, the TV and FM translator applications listed in the attached appendix will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.519(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on March 15, 1978, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on March 15, 1978. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

## VHF TV TRANSLATOR APPLICATIONS

BPTTV-5971 (K02FV), Franklin, Ariz., York-Sheldon Television. Req: Add Loma Linda Estates and Verde Lee Acres, Nevada, to present principal community, increase output power to 5 watts.  
BPTTV-5972 (K07IR), York, Sheldon, Duncan, and Franklin, Ariz., York-Sheldon Television Association. Req: Add Verde Lee Acres and Loma Linda Estates, Arizona, to present principal community, increase output power to 10 watts.

BPTTV-5973 (K11JJ), York, Sheldon, Duncan, and Franklin, Ariz., York-Sheldon Television Association. Req: Add Verde Lee Acres and Loma Linda Estates, Arizona, to present principal community, increase output power to 10 watts.

BPTTV-5977 (K09EF), Royal City and Beverly, Wash., Sentinel Bluff Television, Inc. Req: Change principal community to Vantage and Beverly, Wash., increase output power to 10 watts, change primary TV station to KVEW, Channel 42, Kennewick, Wash.

BPTTV-5980 (K04DD), Weaverville, Calif., Weaverville Translator Co., Inc. Req: Add Douglas City and Junction City, Calif., to present principal community.

BPTTV-5985 (new), McGrath, Alaska, Iditarod Area School District. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KAKM-TV, KENI-TV, KIMO-TV, and KTVA-TV Anchorage, Alaska.

BPTTV-5986 (K13NL), Dry Lake, Thayer Junction, Point of Rocks, Wyo., Upper Bear River TV Service. Req: Change frequency to Channel 7, 174-180 MHz.

BPTTV-5995 (new), Tuscarora, Nev., Washoe Empire. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KTVN-TV, Reno, Nev.

BPTTV-5997 (K07CH), Plains, Mont., Plains-Paradise TV District. Req: Add Paradise to present principal community, output power to 10 watts.

BPTTV-6000 (new), Mayfield, Utah, Mayfield Town TV. Req: Channel 7, 174-180 MHz, 1 watt. Primary: KUED-TV, Salt Lake City, Utah.

BPTTV-6001 (new), Bassett, Nebr., City of Bassett. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KPRY-TV, Pierre, S. Dak.

BPTTV-6002 (K06AY), Santa Clara and Washington, Utah, Washington County Television Department. Req: Change principal community to Santa Clara and Veyo, Utah, and Littlefield, Ariz., increase output power to 10 watts, delete KLAS-TV, Channel 8, Las Vegas, Nev., from present primary TV station.

## UHF TV TRANSLATOR APPLICATIONS

BPTT-3434 (K77AJ), Delta and West Millard County, Utah, Millard County. Req: Change principal community to Oak City, Lynndyl, and Delta, Utah.

BPTT-3438 (K70BW), Lihue, Kauai, Hawaii, Lee Enterprises, Inc. Req: Change frequency to Channel 69, 800-806 MHz.

BPTT-3439 (K82AM), Waimea, Kauai, Hawaii, Lee Enterprises, Inc. Req: Change frequency to Channel 57, 728-734 MHz, increase output power to 20 watts.

BPTT-3445 (K82BT), Tropic, Utah, University of Utah. Req: Change frequency to Channel 55, 716-722 MHz, change principal community to Rural, Garfield and Kane County, Utah.

BPTT-3474 (new), Allentown-Bethlehem, Pa., NEP Communications, Inc. Req: Channel 28, 542-548 MHz, 100 watts. Primary: WNEP-TV, Scranton/Wilkes-Barre, Pa.

BPTT-3475 (new), Delhi, N.Y., Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison, and Otsego Counties. Req: Channel 56, 722-728 MHz, 10 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3476 (new), Mount Upton and Gilbertsville, N.Y., Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison, and Otsego Counties. Req: Channel 56, 722-

728 MHz, 10 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3477 (new), Otsego and Wellsbridge, N.Y., Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison, and Otsego Counties. Req: Channel 62, 758-764 MHz, 10 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3478 (new), Smyrna, Sherbourne, and Earlsville, N.Y., Board of Cooperative Educational Services, Sole Supervisory District—Delaware, Chenango, Madison, and Otsego Counties. Req: Channel 58, 722-728 MHz, 100 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3479 (new), Martinsburg, Pa., John R. Powley. Req: Channel 65, 776-782 MHz, 100 watts. Primary: WOPC-TV, Altoona, Pa.

BPTT-3482 (K64AD), Golconda and Paradise Valley, Nev., Humboldt County. Req: Change frequency to Channel 66, 782-788 MHz, increase power to 100 watts.

BPTT-3483 (new), Hartford, Conn., Spanish International Communications Corp. Req: Channel 69, 800-806 MHz, 1000 watts. Primary: WXTV-TV, Paterson, N.J.

BPTT-3485 (new), Fort Walton Beach, Fla., WTVY, Inc. Req: Channel 58, 722-728 MHz, 100 watts. Primary: WTVY-TV, Dothan, Ala.

BPTT-3486 (new), Belden, N.Y., Board of Cooperative Educational Services of Broome-Delaware-Tioga Counties. Req: Channel 62, 758-764 MHz, 10 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3487 (new), Tioga Center and Nichols, N.Y., Board of Cooperative Educational Services of Broome-Delaware-Tioga Counties. Req: Channel 64, 770-776 MHz, 10 watts. Primary: WSKG-TV, Binghamton, N.Y.

BPTT-3488 (K79AM), Manson and Chelan, Wash., Manson Community TV Co., Inc. Req: Change frequency to Channel 66, 782-788 MHz, delete Chelan, Wash., from present principal community, increase output power to 100 watts.

BMPTT-897 (W62AD), Harpursville, N.Y., Board of Cooperative Educational Services of Broome-Delaware-Tioga Counties. Req: Change frequency to Channel 66, 782-788 MHz.

## FM TRANSLATOR APPLICATIONS

BPFT-476 (new), Lead, S. Dak., James E. Taylor Broadcasting Co. Req: Channel 221, 92.1 MHz, 1 watt. Primary: KGGG-FM, Rapid City, S. Dak.

BPFT-477 (new), Spearfish, S. Dak., James E. Taylor Broadcasting Co. Req: Channel 237, 95.3 MHz, 1 watt. Primary: KGGG-FM, Rapid City, S. Dak.

BPFT-478 (new), Redding, Calif., David Maurer. Req: Channel 224, 92.7 MHz, 10 watts. Primary: KFMF-FM, Chico, Calif.

BPFT-479 (new), Salinas, Calif., Christian Broadcasting Fellowship. Req: Channel 240, 95.9 MHz, 1 watt. Primary: KAMB-FM, Merced, Calif.

BPFT-480 (new), Drummond, New Chicago, Hall, and Willow Creek rural area, Mont., Drummond TV Tax District. Req: Channel 257, 99.3 MHz, 10 watts. Primary: KBOW-FM, Butte, Mont.

BPFT-481 (new), Colorado Springs, Colo., Classical Communications, Inc. Req: Channel 280, 103.9 MHz, 10 watts. Primary: KVOD-FM, Denver, Colo.

BPFT-482 (new), Boulder, Colo., Karlo Broadcasting, Ltd. Req: Channel 221, 92.1 MHz, 10 watts. Primary: KKKX-FM, Denver, Colo.

BPFT-483 (new), Lebanon, Ephrata, Akron, Lancaster, Mount Joy, Pa., New Life Broadcasting of Pennsylvania, Inc. Req: Channel 249, 97.7 MHz, 1 watt. Primary: WKDN-FM, Camden, N.J.

BPFT-484 (new), Stateline, Nev., Secret Mountain Laboratory, Inc. Req: Channel 265, 100.9 MHz, 10 watts. Primary: KEZC-FM, Truckee, Calif.

BPFT-485 (new), Johnson City, Kingsport, Bristol, Tenn., and Bristol, Va., The Moody Bible Institute of Chicago. Req: Channel 217, 91.3 MHz, 1 watt. Primary: WMBW-FM, Chattanooga, Tenn.

BPFT-486 (new), Elizabethton, Tenn., The Moody Bible Institute of Chicago. Req: Channel 202, 88.3 MHz, 1 watt. Primary: WMBW-FM, Chattanooga, Tenn.

BPFT-487 (new), Port Orford, Oreg., Kury Radio, Inc. Req: Channel 292, 106.3 MHz, 10 watts. Primary: KURY-FM, Brookings, Oreg.

BPFT-494 (W296AB), Silver Bay, Minn., Stereo Broadcasting, Inc. Req: Change frequency to Channel 280, 103.9 MHz.

[FR Doc. 78-2482 Filed 1-27-78; 8:45 am]

## [6712-01]

[FCC 78-18]

## TANNER ELECTRONIC SYSTEMS TECHNOLOGY, INC.

## Petition for Waiver of Section 15.59(g) of the Commission's Rules

Adopted: January 10, 1978.

Released: January 16, 1978.

By the Commission.

1. On November 14, 1977, Tanner Electronic Systems Technology, Inc. (TEST), filed a petition for waiver of the marketing cutoff date in § 15.59(g) of January 1, 1978, in which to market a CB receiver/converter which is designed for installation and use with a conventional automobile AM radio.<sup>1</sup>

2. TEST was one of the 25 petitioners denied the same relief requested here in the Commission's order released November 30, 1977 (FCC 77-768).<sup>2</sup> However, TEST has again requested a waiver since it does not believe the reasons for denial in the November order apply to TEST. It is alleged that one reason for the earlier decision was the purported "failure" of petitioners to cease manufacturing prior to the August 1, 1977, cutoff date; and the petitioner does not fall into this category since it ceased the manufacture of equipment in November of 1976.

<sup>1</sup>Some models are designed for 40 channel reception, although most models receive only 23 channels.

<sup>2</sup>In a judgment of December 16, 1977, the U.S. Court of Appeals for the District of Columbia Circuit affirmed that order, but authorized TEST to seek reconsideration before the Commission on grounds of its "special circumstances." *Arthur Fulmer, Inc. v. FCC*, D.C. Cir., No. 77-2064. We have treated TEST's November 14th pleading as a petition for reconsideration.

## [6210-01]

## FEDERAL RESERVE SYSTEM

## STRATTON AGENCY, INC.

## Formation of Bank Holding Company

Stratton Agency, Inc., Stratton, Nebr., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Commercial Bank, Stratton, Nebr. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than February 19, 1978.

Board of Governors of the Federal Reserve System, January 23, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2430 Filed 1-27-78; 8:45 am]

## [1610-01]

## GENERAL ACCOUNTING OFFICE

## REGULATORY REPORTS REVIEW

## Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review staff, GAO, on January 18 and 19, 1978. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed EEOC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before February 17, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the

Applicable trade names: TEST CB-23, TEST CB Receiver, CB-40, Citizens Band Monitor, Art Linkletter CB-23, Art Linkletter CB Receiver, Craftsman CB-40, Surveyor CB-23, and Fulcomm CB Converter.

[FR Doc. 78-2481 Filed 1-27-78; 8:45 am]

<sup>3</sup>In the matter of petitions to extend the sales cutoff date for certain CB radios. Order extending date adopted August 24, 1977, released September 1, 1977, FCC 77-586, — FCC 2d —.

<sup>4</sup>In the matter of petitions to extend the January 1, 1978, sales cutoff date for 23-channel CB radios and CB receiver/converter. Order denying extension adopted November 9, 1977, released November 30, 1977, FCC 77-768, — FCC 2d —.



Regulatory Reports Review Staff, 202-275-3532.

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

The EEOC requests clearance of a new Form 283, Intake Questionnaire. The form is in compliance with the Privacy and Freedom of Information Acts as well as amendment to the Commission's procedural regulations at 29 CFR 1601.19. The purpose of Form 283 is to assist the Commission in its evaluation of the allegations brought forth to it by potential Charging Parties. The data on the form is used by EEOC in its pre-charge counseling process to screen out non Title VII matters, assist Charging Parties in evaluating their charges and to frame the charge in such a manner as to direct the investigation and effect any potential relief. Use of the form is not mandatory; however, pursuant to the Commission's Procedural Regulation at 29 CFR 1601.19, the Commission requires that this information be secured in order to ascertain whether there is a factual basis for invoking the Commission's jurisdiction and upon which to proceed. The EEOC estimates that respondents will number approximately 45,000 annually and that reporting time will average 30 minutes for each Form 283 filed.

The EEOC requests clearance of revisions to Form 5, Charge of Discrimination to bring it into compliance with changes in the Commission's procedural regulations at 29 CFR 1601.12, 42 FR 55389. The revisions will be three new forms 5A, 5B, and 5C which will replace Form 5. Form 5A is used when charges are filed with EEOC; Form 5B is used when charges are filed with EEOC and a state/local agency; and Form 5C is used when charges are filed with a state/local agency and then EEOC also. The purpose of the forms is to assist persons who believe they have been aggrieved to file charges of unlawful employment practices with the Commission. Use of the forms is not mandatory; however section 706(b) of Title VII of the Civil Rights Act of 1964, as amended, requires that charges be in writing under oath, affirmation, or verified under penalty of perjury. The EEOC estimates that approximately 45,000 charges of Discrimination will be filed annually and that reporting time will average 2.5 hours for each form filed.

**NORMAN F. HEYL,**  
Regulatory Reports  
Review Officer.

[FR Doc. 78-2531 Filed 1-27-78; 8:45 am]

**NOTICES**

[4110-35]

**DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE**

*Health Care Financing Administration*

**HEALTH CARE FINANCING ADMINISTRATION  
RULINGS**

*Publication*

The purpose of this notice is to inform the public that the Administrator, Health Care Financing Administration, has authorized establishment of a new rulings publication, to be entitled Health Care Financing Administration Rulings. The Health Care Financing Administration Rulings will include materials required to be made public by the Freedom of Information Act (5 U.S.C. 552(a)(1)): that is, final opinions, including concurring and dissenting opinions, as well as orders made in the adjudication of cases; statements of policy and interpretations adopted by the Health Care Financing Administration or one of its components not published in the FEDERAL REGISTER; and indexes of administrative staff manuals and instructions to staff that affect a member of the public. Health Care Financing Administration jurisdiction includes responsibility for the medicare and medicaid programs; the certification of health standards for health care facilities; the Professional Standards Review Organization program; the maintenance of program integrity against fraud and abuse; the Provider Reimbursement Review Board; and related matters.

Examples of the kinds of materials to be published are: significant Federal court decisions concerning Health Care Financing Administration programs; significant decisions of Administrative Law Judges and the Appeals Council of the Social Security Administration, the Provider Reimbursement Review Board, and the Administrator of the Health Care Financing Administration on behalf of the Secretary; opinions of the Office of the General Counsel; and other formal policy statements.

Health Care Financing Administration Rulings will be binding upon all components of the Health Care Financing Administration to which they apply. They will be published and updated periodically to maintain their currency and relevance.

(Social Security rulings concerning medicare matters previously published by the Commissioner of Social Security in Social Security Rulings will be either republished as Health Care Financing Administration Rulings, or rescinded; no publications that are similar in nature to the new Health Care Financing Administration Rulings announced herein were published by the former Social and Rehabilitation Service, or by the Public Health Service.)

Copies of the publication, when issued, will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. A check or money order covering the cost of the publication, when listed, must accompany the publication order.

(Catalog of Federal Domestic Assistance Program Nos. 13.714, Medical Assistance Programs; 13.800, Medicare—Hospital Insurance; 13.801, Medicare—Supplementary Medical Insurance.)

Dated: January 20, 1978.

**ROBERT A. DERZON,**  
Administrator, Health Care,  
Financing Administration.

[FR Doc. 78-2434 Filed 1-27-78; 8:45 am]

[4110-35]

**MICHIGAN STATEWIDE PROFESSIONAL  
STANDARDS REVIEW COUNCIL**

*Request for Nominations for Public Member  
Positions*

Nominations are being accepted for public member positions on the Michigan Statewide Professional Standards Review Council.

Statewide Councils are established in each State in which there are located three or more Professional Standards Review Organizations (PSROs). Because there are now three PSROs in Michigan, the Michigan Statewide Council is being formed.

PSROs review medical care services paid for under the medicare, medicaid, and maternal and child health and crippled children services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care. The Statewide Council: (1) Helps to coordinate PSRO activities and disseminates information among them; (2) assists the Secretary in the development of uniform data gathering and operating procedures; (3) reviews certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) works with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assists the Secretary of Health, Education, and Welfare to carry out several of his responsibilities, including the evaluation of the PSROs' review activities and the selection of replacement PSROs when necessary.

There will be four public representatives on the Statewide Council. Nominees for these four Council positions will be considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Michigan under the medicare, medicaid, and maternal and child

health and crippled children services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals not affiliated with organizations and groups: (1) Whose representation on the Statewide Council is required by law (PSRO representatives or physician representatives), or (2) which are represented on the Statewide Council Advisory Group (health care practitioners other than physicians, hospitals, and other health care facilities).

Persons selected for public member positions on the Council should represent a broad segment of public interest. Please include with your nomination biographical data concerning the nominee, including a brief description of the nominee's participation in community activities.

Persons or organizations may submit nominations. All nominations received within 60 days of this notice will be considered.

Please send your nominations to: George R. Holland, Acting Regional Administrator, Health Care Financing Administration, 300 South Wacker Drive, Chicago, Ill. 60606.

After consideration of all nominees, including nominees of the Governor of Michigan, the Secretary will appoint four public representatives, two of whom will have been recommended by the Governor of Michigan.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, 312-353-8057.

Dated: January 23, 1978.

**ROBERT A. DERZON,**  
Administrator, Health Care,  
Financing Administration.

[FR Doc. 78-2436 Filed 1-27-78; 8:45 am]

[4110-35]

**VIRGINIA STATEWIDE PROFESSIONAL  
STANDARDS REVIEW COUNCIL**

*Request for Nominations for Public Member  
Positions*

Nominations are being accepted for public member positions on the Virginia Statewide Professional Standards Review Council.

Statewide Councils are established in each State in which there are located three or more Professional Standards Review Organizations (PSROs). Because there are now three PSROs in Virginia, the Virginia Statewide Council is being formed.

PSROs review medical care services paid for under the medicare, medicaid,

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and maternal and child health and crippled children services programs in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care. The Statewide Council: (1) Helps to coordinate PSRO activities and disseminates information among them; (2) assists the Secretary in the development of uniform data gathering and operating procedures; (3) reviews certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) works with doctors and other practitioners and with medical facilities so that they will assure that medical care provided is necessary, appropriate, and of acceptable quality; and (5) assists the Secretary of Health, Education, and Welfare to carry out several of his responsibilities, including the evaluation of the PSROs review activities and the selection of replacement PSROs when necessary.

There will be four public representatives on the Statewide Council. Nominees for these four Council positions will be considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Virginia under the medicare, medicaid, and maternal and child health and crippled children services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals not affiliated with organizations and groups: (1) Whose representation on the Statewide Council is required by law (PSRO representatives or physician representatives), or (2) which are represented on the Statewide Council Advisory Group (health care practitioners other than physicians, hospitals, and other health care facilities).

Persons selected for public member positions on the Council should represent a broad segment of public interest. Please include with your nomination biographical data concerning the nominee, including a brief description of the nominee's participation in community activities.

Persons or organizations may submit nominations. All nominations received within 60 days of this notice will be considered.

**PLEASE SEND YOUR NOMINATIONS TO:**

Alwyn L. Carty, Acting Regional Administrator, Health Care Financing Administration, 3535 Market Street, Room 3111, Philadelphia, Pa. 19101.

After consideration of all nominees, including nominees of the Governor of Virginia, the Secretary will appoint four public representatives, two of whom will have been recommended by the Governor of Virginia.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, BCFA, 215-596-1351.

Dated: January 23, 1978.

**ROBERT A. DERZON,**  
Administrator, Health Care  
Financing Administration.  
[FR Doc. 78-2435 Filed 1-27-78; 8:45 am]

[4110-02]

*Office of Education*

**STATE POSTSECONDARY EDUCATION  
COMMISSIONS**

*Closing Date for Receipts of Information Concerning Establishment of State Postsecondary Education Commissions*

In order for a State to receive funds appropriated for fiscal year 1978 to support statewide comprehensive planning for postsecondary education as authorized under section 1203(a) of the Higher Education Act of 1965 (20 U.S.C. 1142b(a)), it must have established a State Postsecondary Education Commission which, as required by section 1202(a) of that Act, is "broadly and equitably representative of the general public and public and private nonprofit and proprietary institutions of postsecondary education in the State, including community colleges, junior colleges, postsecondary vocational schools, area vocational schools, technical institutes, 4-year institutions of higher education and branches thereof." States which have not previously submitted information concerning establishment of such a State Commission and which wish to receive such planning funds must submit the following information to the U.S. Commissioner of Education by March 1, 1978:

(1) An indication of which of the following three options for establishing a section 1202 State Commission a State has chosen to follow: (i) Creation of a new Commission; (ii) designation of an existing State agency or State Commission; or (iii) expanding, augmenting or reconstituting the membership of an existing State agency or State Commission.

(2) An indication whether any of the following State-administered program authorities contained in the Higher Education Act of 1965 have been assigned to the section 1202 State Commission:

(i) Community Services and Continuing Education (HEA section 105); (ii) Equipment for Undergraduate Instruction (HEA section 603); and (iii) Grants for Construction of Undergraduate Academic Facilities (HEA section 704).

(3) The official name, address and telephone number of the State Commission.



(4) The names, mailing addresses and terms of office of the members of the State Commission.

(5) The name, title, mailing address and telephone number of the principal staff officer of the State Commission.

(6) A letter, signed by the Governor, explaining how the membership of the State Commission meets the "broadly and equitably representative" requirements of section 1202(a) and what provisions have been made to ensure continuing compliance with these requirements of the law.

The above information may be sent by mail or hand-delivered.

(a) *Information sent by mail.* Information sent by mail should be addressed to the U.S. Commissioner of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Such information will be considered to be received on time if:

(1) The information was sent by registered or certified mail not later than February 24, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The information is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

(b) *Information delivered by hand.* Information to be delivered by hand must be taken to Room 4181, 400 Maryland Avenue SW., Washington, D.C. Hand-delivered information will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except Saturdays, Sundays, and Federal holidays. Information will not be accepted after 4 p.m. on the closing date.

(20 U.S.C. 1142b)

(Catalog of Federal Domestic Assistance Number 13.550: State Postsecondary Education Commissions.)

Dated: January 25, 1978.

ERNEST L. BOYER,  
U.S. Commissioner of Education.

[FR Doc. 78-2609 Filed 1-27-78; 8:45 am]

[4110-12]

Office of the Secretary  
OFFICE OF PUBLIC AFFAIRS

Statement of Mission, Organization, and Functions

Part A of the Statement of Mission, Organization, and functions for the

Department of Health, Education, and Welfare, Office of the Secretary, Office of Public Affairs (42 FR 61632-33 date December 6, 1977), is amended to delete reference to the Deputy Assistant Secretary for Media Relations and make other minor functional changes. The amended Chapter reads as follows:

SECTION AP.00. *Mission.* The mission of the Office of Public Affairs is to serve as the Secretary's principal public affairs policy adviser; to provide centralized professional leadership and continuous monitoring and evaluation of Department-wide policies, procedures and operating practices regarding public affairs activities; and to administer the Freedom of Information Act.

SECTION AP.10. *Organization.* The Office of Public Affairs, headed by the Assistant Secretary for Public Affairs, who reports to the Secretary, consists of the following organizations:

The Office of the Assistant Secretary for Public Affairs  
Planning and Evaluation Public Affairs Staff  
Inspector General Public Affairs Staff  
Media Relations Division  
Freedom of Information Division  
Regional Operations Division  
Review and Outreach Division  
Editorial Operations Division

SECTION AP.20. *Functions.*

A. *The Office of the Assistant Secretary for Public Affairs.* Provides executive leadership, policy direction, and management strategy for the Department's public affairs programs and activities.

Counsels and acts for the secretary and the Department in carrying out responsibilities under statutes, Presidential directives, and Secretarial orders for informing the media, general public, specialized audiences, HEW employees, and other Federal employees about the programs, policies, and services of the Department.

Establishes and enforces policies and practices which produce an accurate, clear, efficient, and consistent flow of information to the media, general public and other audiences about Departmental programs and activities.

Maintains channels and procedures for transmitting to Departmental policy officials information on how the Department's programs and proposals are viewed by the media and both the general and specialized publics.

Consults on the selection of key public affairs personnel in the Principal Operating Components (POCs) and the Regions.

Establishes guidelines and standards (with the Office of Personnel and Training) for development, training, promotions, details, and related matters for the public affairs personnel in the Department.

Concurs in all public affairs plans and budgets for the POC's and regional offices and otherwise exercises functional supervision over their public affairs activities.

Ensures coordination among public affairs components. Manages public affairs issues and special activities that cut across POC lines.

Reviews and approves all publications and audio-visual materials produced with Departmental funds. Provides administrative and budgetary services for the Office of Public Affairs.

A.1. *Office of Planning and Evaluation Public Affairs Staff.* Provides advice and assistance on all public affairs matters to the Office of Planning and Evaluation, Office of the Secretary, in consultation with the Assistant Secretary for Public Affairs.

Assists in the preparation of press releases, articles, speeches and related materials.

Provides information to news gathering and reporting media on planning and evaluation issues.

Arrange interviews and other direct contacts with media representatives.

Coordinates with other elements of OASPA the public affairs activities of P&E.

A.2. *Inspector general public affairs staff.* Provides advice and assistance on all public affairs matters to the Office of Inspector General (OIG), Office of the Secretary, in consultation with the Assistant Secretary for Public Affairs.

Assists in the preparation of press releases, articles, speeches, and related materials.

Provides information to news gathering and reporting media on issues relating to the OIG.

Arranges interviews and other direct contacts with media representatives.

Coordinates with other elements of OASPA the public affairs activities of OIG.

B. *Media relations division.* Plans, directs and coordinates the issuance of public information from HEW to the press and broadcast media.

Prepares news releases and other news material for the Secretary and other top Department officials. Reviews and clears all news releases and other news material prepared by HEW components.

Coordinates and arranges news conferences, briefings, interviews and appearances by the Secretary and other key HEW officials with the press and broadcast media.

Directs the preparation of the *Green Sheet*, a daily compilation of news concerning HEW programs and activities.

C. *Freedom of information division.* Administers the Freedom of Information Act (FOIA) and the HEW regulations implementing that law. Develops policy guidelines and training programs for all HEW components re-

garding the FOIA and related legislation, i.e., the Privacy Act, Federal Advisory Committee Act, and the Government in the Sunshine Act; and, together with staff of the Office of General Counsel, assists in development of HEW regulations implementing these statutes. Provides responses to requests made under the Freedom of Information Act and determines the availability of records and information under the law and HEW regulations.

Coordinates with the Office of Fair Information Practices in resolving questions which overlap the FOIA and the Privacy Act regarding release of records.

Directs operation of the HEW Public Reading Room, visitors information and telephone locator service.

Provides policy guidance on and maintains the index of materials required by FOIA.

D. *Regional operations division.* Advises the ASPA on all regional public affairs issues and procedures. Informs the ASPA of all regional public affairs issues.

Provides technical assistance, direction and general information to public affairs staff in the Regions. Coordinates public affairs activities among Regions.

Provides briefing materials for Presidential and Secretarial travel to the region.

Serves as liaison between the regional staff and headquarters agencies.

E. *Review and outreach division.* Under the direction of the Assistant Secretary for Public Affairs, establishes Departmental policy and procedures for the procurement, design, production, distribution and quality control of publications, audiovisual products, and exhibits.

Reviews and clears all publications, audiovisual products, and exhibits.

Reviews audiovisual and publications aspects of HEW public affairs components' plans to ensure they are supportive of Departmental priorities and standards.

Provides technical assistance on development of publications and audiovisual products.

Provides the central coordinating function with HEW for outreach activities, including citizen participation and involvement.

Initiates, designs and effects outreach and citizen participation programs with national and community organizations, minority and women's groups, organizations for the handicapped, student and public interest groups, and individuals which are concerned with the broad range of policies, programs and issues of the Department.

Coordinates, assists and maintains liaison with all elements of the Department, including the Regions, involved in outreach and citizen participation activities.

Acts as the central resource within HEW for information on national organizations and interest groups. Conducts seminars and conferences to achieve productive citizen interaction with HEW issues, programs and policies.

F. *Editorial operations division.* Serves as the principal resource within the Department for preparing, reviewing, and editing written materials reflecting HEW policy.

Prepares speeches, statements, articles, and related material for the Secretary and other top Departmental officials.

Drafts other materials for non-departmental publications.

Edits Congressional testimony of Departmental officials.

Directs the preparation of publications with Department-wide implications such as *HEW Now*.

Manages the Public Affairs Resource Center containing information on HEW programs and activities.

Directs the HEW Speakers' Bureau. Screens requests for the Secretary's speaking engagements and coordinates the scheduling of speaking engagements of other policy-level officials of the department.

Dated: January 17, 1978.

JOSEPH A. CALIFANO, Jr.,  
Secretary.

[FR Doc. 78-2516 Filed 1-27-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

Federal Disaster Assistance Administration  
[Docket No. NFD-592; FDAA-545-DR]

WASHINGTON

Amendment to Notice of Major Disaster  
Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This notice amends the notice of major disaster declaration for the State of Washington (FDAA-545-DR), dated December 10, 1977.

DATED: January 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The notice of major disaster for the State of Washington, dated December 10, 1977, and amended on December 16, 1977, and December 20, 1977, is hereby further amended to in-

clude the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 10, 1977:

The county of Whitman.  
The city of Bingen (in Klickitat County).  
(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,  
Administrator, Federal Disaster  
Assistance Administration.

[FR Doc. 78-2474 Filed 1-27-78; 8:45 am]

[4210-01]

Office of Interstate Land Sales Registration  
[Docket No. 77-169-IS]

BROOKRIDGE COMMUNITY, UNITS 1 AND 2  
Hearing

In the matter of Brookridge, Inc., and Charles M. Sasser, Jr., president, respondent; Docket No. N-78-837; OILSR No. 0.2843-09-834 and A.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Brookridge Community, unit 1 and 2, Brookridge, Inc., and Charles M. Sasser, Jr., president, its officers and agents, hereinafter referred to as "respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a notice of proceedings and opportunity for hearing dated December 8, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of record and property report for Brookridge Community, units 1 and 2, located in Brooksville, Fla., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The respondent filed an answer received January 3, 1978/January 5, 1978, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Judge James W. Mast, in Tampa, Fla., at a place to be determined at later date, on March 8, 1978.

5. The following time and procedure is applicable to such hearing: The par-



ties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before February 8, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The respondent is hereby notified that failure to appear at the above schedule hearing shall be deemed a default and the proceedings shall be determined against respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1). This notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 12, 1978.

By the Secretary.

JAMES W. MAST,  
Chief Administrative Law Judge.  
(FR Doc. 78-2476 Filed 1-27-78; 8:45 am)

#### [4210-01]

[Docket No. 77-170-IS]

#### BROOKRIDGE COMMUNITY, UNIT 3

##### Notice of Hearing

In the matter of Brookridge, Inc., and Charles M. Sasser, Jr., president, respondent; Docket No. N-78-838; OILSR No. 0-3663-09-934.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Brookridge Community, unit 3, Brookridge, Inc., and Charles M. Sasser, Jr., president, its officers and agents, hereinafter referred to as "respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a notice of proceedings and opportunity for hearing dated December 8, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of record and property report for Brookridge Community, unit 3, located in Brooksville, Fla., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The respondent filed an answer received January 3 and 5, 1978, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR

1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Judge James W. Mast, in Tampa, Fla., at a place to be determined at later date, on March 8, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before February 8, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The respondent is hereby notified that failure to appear at the above schedule hearing shall be deemed a default and the proceedings shall be determined against respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1). This notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 12, 1978.

By the Secretary.

JAMES W. MAST,  
Chief Administrative Law Judge.  
(FR Doc. 78-2477 Filed 1-27-78; 8:45 am)

#### [4210-01]

[Docket No. 77-171-IS]

#### BROOKRIDGE COMMUNITY, UNIT 4

##### Hearing

In the matter of Brookridge, Inc., and Charles M. Sasser, Jr., president, respondent; Docket No. N-78-839; OILSR No. 0-3972-09-1041.

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Brookridge Community, unit 4, Brookridge, Inc., and Charles M. Sasser, Jr., president, its officers and agents, hereinafter referred to as "respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a notice of proceedings and opportunity for hearing dated December 8, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based on information obtained by the Office of Interstate Land Sales Registration showing that the statement of record and property report for Brookridge Community, unit 4, located in Brooksville, Fla., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The respondent filed an answer received January 3 and 5, 1978, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR

2. The respondent filed an answer received January 3 and 5, 1978, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the notice of proceedings and opportunity for hearing will be held before Judge James W. Mast, in Tampa, Fla., at a place to be determined at later date, on March 9, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before February 8, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The respondent is hereby notified that failure to appear at the above schedule hearing shall be deemed a default and the proceedings shall be determined against respondent, the allegations of which shall be deemed to be true, and an order suspending the statement of record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1). This notice shall be served upon the respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 12, 1978.

By the Secretary.

JAMES W. MAST,  
Chief Administrative Law Judge.  
(FR Doc. 78-2478 Filed 1-27-78; 8:45 am)

#### [4210-01]

[Docket No. 77-172-IS]

#### FORRESTER'S RETREAT, SECTIONS I, II AND III

##### Notice of Hearing

In the matter of Green Forest Estates Co. and Clark G. Thompson, President, Respondent; OILSR No. 0-3008-49-309; (Docket No. N-78-836).

Pursuant to 15 U.S.C. 1706(e) and 24 CFR 1720.165(b) notice is hereby given that:

1. Forrester's Retreat, sections I, II, and III, Green Forest Estates Co. and Clark G. Thompson, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. L. 90-448) (15 U.S.C. 1701, et seq.) received a notice of proceedings and opportunity for hearing dated December 13, 1977, which was sent to the developer pursuant to 15 U.S.C. 1706(b), 24 CFR 1701.45(a)(1) and 1720.120 based

on information obtained by the Office of Interstate Land Sales Registration showing that the Statement of Record and Property Report for Forrester Estates Company, sections I, II, and III, located in Polk County, Tex., contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an answer received January 9 and 12, 1978, in response to the notice of proceedings and opportunity for hearing.

3. In said answer the Respondent requested a hearing on the allegations contained in the notice of proceedings and opportunity for hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), it is hereby ordered, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Houston, Tex., at a place to be determined at later date, on March 1, 1978.

5. The following time and procedure is applicable to such hearing: The parties are directed to file all affidavits and a list of all witnesses with the Hearing Clerk, HUD Building, Room 10278, Washington, D.C. 20410, on or before February 8, 1978. Copies of all documents filed should be served at the same time on all parties of record.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: January 18, 1978.

By the Secretary.

JAMES W. MAST,  
Chief Administrative Law Judge.  
(FR Doc. 78-2475 Filed 1-27-78; 8:45 am)

#### [4310-84]

#### DEPARTMENT OF THE INTERIOR

Bureau of Land Management  
(NM 32483, 32484 and 32485)

##### NEW MEXICO

##### Applications

JANUARY 11, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural

Gas Co., has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 22 E.,  
Sec. 10, E½SE¼;  
Sec. 15, E½NE¼;  
T. 17 S., R. 27 E.,  
Sec. 34, E½SE¼;  
T. 18 S., R. 27 E.,  
Sec. 3, lots 1, 2, SW¼NE¼, N½SW¼,  
SW¼SW¼ and NW¼SE¼;  
Sec. 4, lot 20;  
Sec. 8, SE¼SW¼, N½SE¼ and SW¼SE¼;  
Sec. 9, N½NE¼, E½NW¼, SW¼NW¼ and  
NW¼SW¼.

These pipelines will convey natural gas across 4,565 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2451 Filed 1-27-78; 8:45 am)

#### [4310-84]

[Wyoming 62287]

##### WYOMING

##### Application

JANUARY 19, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Okla., filed an application for a right-of-way to construct a 4½ inch pipeline and install anodes for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 22 N., R. 95 W.,  
Sec. 8, S½N¼,  
Sec. 10, N½S½;  
T. 22 N., R. 96 W.,  
Sec. 4, S½S½,  
Sec. 10, NE¼NE¼,  
Sec. 12, N½N¼.

The proposed pipeline will transport natural gas from the Champlin 438 Wellhead located in the SE¼ of Section 5, T. 22 N., R. 96 W., in an easterly direction to connect with Cities Service Gas Co.'s gathering line located in the SE¼ of Section 11, T. 22., R. 95 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will

be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2452 Filed 1-27-78; 8:45 am)

#### [4310-84]

[Wyoming 62188]

##### WYOMING

##### Application

JANUARY 19, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company has filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 94 W.,  
Sec. 32, N½NW¼, SE¼NW¼

The pipeline will transport natural gas from a well located in the NW¼ of section 32 to an existing natural gas pipeline within the NW¼ section 32, T. 21 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2453 Filed 1-27-78; 8:45 am)

#### [4310-84]

[Wyoming 62186]

##### WYOMING

##### Application

JANUARY 20, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing



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## NOTICES

Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co., has filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

## SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 21 N., R. 94 W.,  
Sec. 28, NW¼SW¼.

The pipeline will transport natural gas produced from a well located in the SW¼ of section 28 extending in a westerly direction to the point of connection with an existing natural gas pipeline facility in section 29, T. 21 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2454 Filed 1-27-78; 8:45 am)

## [4310-84]

(Wyoming 61843)

WYOMING  
Application

JANUARY 20, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co., of Colorado Springs, Colo., filed an application for a right-of-way to construct two 4½ inch pipelines and a 6½ inch pipeline for the purpose of transporting natural gas across the following described public lands:

## SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 17 N., R. 93 W.,  
Secs. 8 and 20;  
T. 17 N., R. 94 W.,  
Sec. 4, 10 and 12;  
T. 18 N., R. 94 W.,  
Sec. 32.

The two 4½ pipelines will transport natural gas from the Sinclair No. 1-8 well located in the SW¼ of section 8, T. 17 N., R. 93 W., Carbon County, Wyo., and from the CIGE No. 1-20-17-93 well located in the NW¼ of section 20, T. 17 N., R. 93 W., Carbon County, Wyo., and both will connect into Colorado Interstate Gas Co.'s proposed 6½ inch pipeline. The 6½ inch pipeline

will transport natural gas from the Ladd Petroleum Federal No. 1-12-74 well located in the SW¼ of section 12, T. 17 N., R. 94 W., Sweetwater County, Wyo., and will connect into an existing pipeline located in the SW¼ of section 32, T. 18 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2455 Filed 1-27-78; 8:45 am)

## [4310-84]

(Wyoming 62180)

WYOMING  
Application

JANUARY 20, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northern Gas Co. has filed an application for a right-of-way to construct a 4-inch pipeline and appurtenant facilities for the purpose of transporting natural gas across the following described public lands:

## SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 32 N., R. 95 W.,  
Sec. 3, SW¼SW¼;  
Sec. 4, lot 2, S¼NE¼;  
T. 33 N., R. 95 W.,  
Sec. 27, SE¼SW¼, SW¼SE¼;  
Sec. 34, W¼E¼.

The pipeline will transport natural gas from a point in section 27, T. 33 N., R. 95 W., southerly to a compressor station in section 10, T. 32 N., R. 95 W., Fremont County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management,

1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,  
Chief, Branch of Lands and  
Minerals Operations.

(FR Doc. 78-2456 Filed 1-27-78; 8:45 am)

## [4310-55]

## Fish and Wildlife Service

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Alan C. Buchanan, Missouri Department of Conservation, Fish and Wildlife Research Center, 1110 College Avenue, Columbia, Mo. 65201.

The applicant requests a permit to take small numbers of Curtis' pearly mussels (*Epioblasma* (= *Dysnomia*) *Florentina curtisi*) fat pocketbook pearly mussels (*Potamilus* (= *Propithecus*) *capax*) and Higgin's eye pearly mussels (*Lampsilis higginsii*) from waters in Missouri for scientific research.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1838. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2520 Filed 1-27-78; 8:45 am)

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Erma J. Fisk, 17101 Southwest 284 Street, Homestead, Fla. 33030.

The applicant seeks a permit to capture, band, and release brown pelicans (*Pelecanus occidentalis*) within the state of Florida for the purpose of scientific research. Any injured pelicans found will be transported to the Miami Zoo Veterinary Department to be treated then released, if appropriate. Humane shipment and care has been indicated by applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing

to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1791. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2517 Filed 1-27-78; 8:45 am)

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: International Crane Foundation, City View Road, Baraboo, Wis. 53913.

The applicant requests a permit to import twelve immature wild caught black-necked cranes (*Grus nigricollis*) from India for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1841. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2523 Filed 1-27-78; 8:45 am)

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: International Crane Foundation, City View Road, Baraboo, Wis. 53913.

The applicant requests a permit to import 12 fertile eggs of the Siberian white crane (*Grus leucogeranus*) taken from the wild in Russia, for the purpose of enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application avail-

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able to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1840. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2528 Filed 1-27-78; 8:45 am)

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Minnesota Zoological Garden, 12101 Johnny Cake Road, Apple Valley, Minn. 55124.

The applicant requests a permit to purchase in interstate commerce one male and two female white-cheeked gibbons (*Hylobates concolor leucogenys*) from Ken Chisholm of Montreal, Canada, for the purpose of enhancement of propagation. The animals were previously imported from Canada and are currently on breeding loan to the Zoo. The animals were taken from the wild in Laos in 1975.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1752. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch,  
Federal Wildlife Permit Office.

(FR Doc. 78-2521 Filed 1-27-78; 8:45 am)

## [4310-55]

## ENDANGERED SPECIES PERMIT

## Receipt of Application

Applicant: Ray Pawley Brookfield Zoo, 15W506 West 63rd (Burr Ridge), Hinsdale, Ill. 60521.

The applicant seeks to buy from David Kroner, Herp-Oster-Specimens,

1132 Ventura Boulevard, North Hollywood, Calif. 91604, in interstate commerce one Madagascar radiated tortoise (*Geochelone* (= *Testudo*) *radiata*) shell for the purpose of scientific research.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1860. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2522 Filed 1-27-78; 8:45 am)

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Robin S. Casey & Howard Casey, Rt. 3 Box 3021, Albuquerque, N. Mex.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1809. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

(FR Doc. 78-2524 Filed 1-27-78; 8:45 am)

## [4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Ernest Caughman, Box 174, Elliott, S.C. 29046.



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The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1774. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

[FR Doc. 78-2525 Filed 1-27-78; 8:45 am]

[4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Virgil L. Coleman, Rt. 2 Box 372, Atlanta, Tex. 75551.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1751. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

[FR Doc. 78-2518 Filed 1-27-78; 8:45 am]

[4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Chic Klouda, Miami Valley Road, Fort Valley, Ga. 31030.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1855. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

[FR Doc. 78-2519 Filed 1-27-78; 8:45 am]

[4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Keith I. McClelland, R.R. 4, Findlay, Ohio 45840.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1854. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address by March 1, 1978. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

[FR Doc. 78-2526 Filed 1-27-78; 8:45 am]

[4310-55]

## THREATENED SPECIES PERMIT

## Receipt of Application

Applicant: Rollen H. Williams, 2109 West Lake Street, Ft. Collins, Colo. 80521.

The applicant wishes to apply for a Captive Self-Sustaining Population permit authorizing the purchase and sale for propagation, those species of pheasants listed in 50 CFR 17.11 as T(C/P). Humane shipment and care in transit is assured.

Documents and other information submitted with this application available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WFO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-1803. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: January 25, 1978.

DONALD G. DONAHOO,  
Chief, Permit Branch, Federal  
Wildlife Permit Office.

[FR Doc. 78-2527 Filed 1-27-78; 8:45 am]

[4310-10]

## National Park Service

## COLORADO NATIONAL MONUMENT

## Boundary Revision

Pursuant to the Act of October 21, 1976, Pub. L. 94-578 (90 Stat. 2734) section 302(a), the Secretary of the Interior is authorized to revise the boundary of the Colorado National Monument and to include additional lands into the monument, not to exceed 2,800 acres within the areas so designated for addition, and to publish these revisions by map or other boundary description in the FEDERAL REGISTER.

1. In accordance with the Act, supra, notice is hereby given that the boundary of the Colorado National Monument is hereby revised to exclude from the monument 13.10 acres of privately owned lands as delineated on the attached map.

2. Further, notice is hereby given that an additional 2,793.65 acres, consisting of both federally and privately owned lands, are added to and made part of the existing monument as delineated on the attached map.

3. The lands excluded from and added to the Colorado National Monument are identified and depicted on the official Colorado National Monument boundary map numbered 119/80,006, and dated January 1977. This map and supporting legal descriptions for revisions authorized by the Act, supra, are available for inspection in the headquarters office for the Colorado National Monument, P.O. Box

## NOTICES

3953

438, Fruita, Colo. 81521, the Rocky Mountain Regional Office of the National Park Service, 655 Parfet Street, Lakewood, Colo. 80225, and the Department of the Interior, Washington, D.C. 20240.

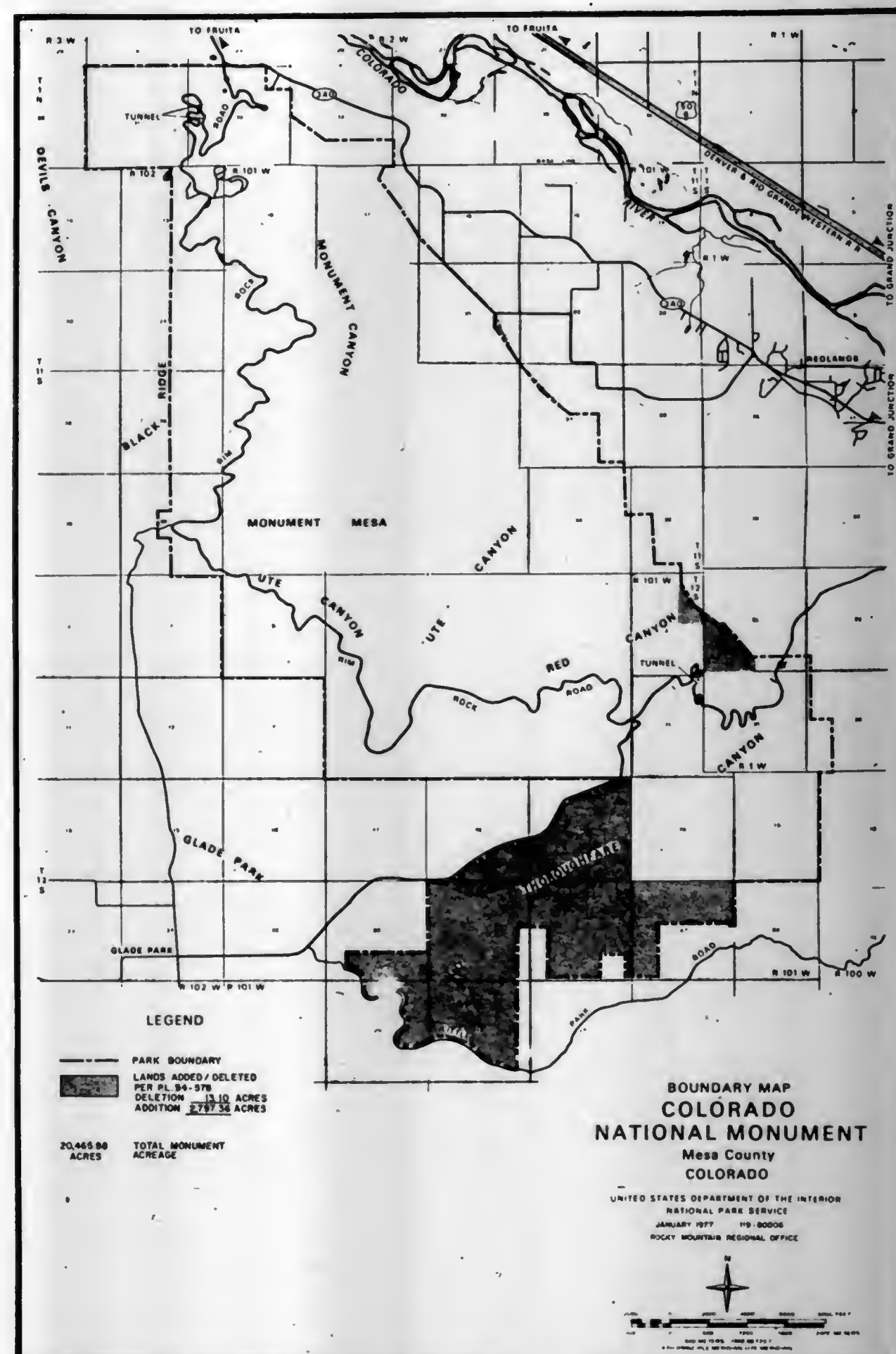
All federally owned lands lying within the revised boundary as delineated on the referenced map are therefore included in the Colorado National Monument and are subject to the laws and regulations applicable to the monument. Subject to valid existing rights, all federally owned lands designated hereby are prohibited from all forms of use, application, location, settlement, and disposal under the authority of the public land laws and the general mining and mineral leasing laws and regulations.

The administration and jurisdiction of said lands is transferred to the National Park Service.

Dated: January 19, 1978.

CECIL D. ANDRUS,  
Secretary of the Interior.





[FR Doc. 78-2479 Filed 1-27-78; 8:45 am]

[4410-01]

## DEPARTMENT OF JUSTICE

Drug Enforcement Administration  
[Docket No. 77-25]

MALCOLM E. BRIDWELL, M.D.

Revocation of Registration

On July 7, 1977, the Administrator of the Drug Enforcement Administration directed to Malcolm E. Bridwell, M.D., of Hobart, Okla. (hereinafter respondent), an order to show cause why respondent's DEA registration AB2144602 should not be revoked pursuant to 21 U.S.C. 824, for the reason that on May 12, 1977, in the U.S. District Court for the Western District of Oklahoma, respondent was found guilty of one count of conspiracy to distribute schedule II controlled substances, 17 counts of illegal distribution of controlled substances, and 13 counts of failure to keep proper records, all felonies relating to controlled substances; and for the further reason that on May 28, 1977, the Board of Medical Examiners for the State of Oklahoma revoked respondent's license to practice medicine in the State of Oklahoma, thereby terminating respondent's authority to prescribe, dispense, administer, or otherwise handle controlled substances in said State. On August 23, 1977, respondent, through his attorney, requested a hearing on the order to show cause.

Respondent suggested that this matter be submitted on briefs and Government counsel concurred. Accordingly, the Administrative Law Judge directed that no evidentiary hearing would be held in this matter and that the case would be decided on the briefs submitted on the following issues:

1. Whether respondent's felony convictions can serve as lawful basis for revocation of his DEA registration since they have been appealed and thus, in a sense, are not yet final; and
2. Whether the State board action revoking respondent's license to practice medicine in Oklahoma can lawfully serve as a basis for DEA revocation since that action has been appealed to the appropriate Oklahoma State court and thus, in a sense, is not yet final.

Respondent's felony convictions, revocation of respondent's license to practice medicine in the State of Oklahoma, and the appeal of both these actions to the appropriate appellate courts were stipulated by both parties.

The Administrative Law Judge found that the Administrator of DEA has repeatedly and consistently interpreted the word "convicted" in section 824(a)(2) of Title 21 of the United States Code, as not meaning a final

conviction in the sense that all appeals have been exhausted. The term has been construed to mean nothing more than that a judgment of conviction has been duly entered in a trial court. Accordingly, the Administrative Law Judge concluded that respondent's conviction in the instant case, even though it be presently under challenge in a Court of Appeals, does provide at this time a lawful basis for revocation of his DEA registration pursuant to 21 U.S.C. 824(a)(2).

Additionally, the Administrative Law Judge found that the State Board of Medical Examiners chose to proceed against respondent for unprofessional conduct under the procedures set forth in 59 Okl. St. Ann. 503 and since there is no requirement for finality of conviction under section 503, respondent's license to practice medicine in the State of Oklahoma has been revoked.

The Administrative Law Judge further found that 21 U.S.C. 824(a)(3) does not require that the Government wait until all appeals concerning the revocation of a state license have been exhausted before proceeding against a registrant on the basis that his license has been revoked by competent state authority.

Accordingly, the Administrative Law Judge concluded that respondent's Oklahoma State license to practice has been revoked and that respondent is no longer authorized by Oklahoma State law to engage in distribution or dispensing of controlled substances insofar as the applicable provisions of the Controlled Substances Act are concerned. (21 U.S.C. 823(f) and 824(a)(3).)

The Administrator adopts these findings of fact and conclusions of law and, therefore, concludes that the registration of Malcolm E. Bridwell should be revoked.

Accordingly, under the authority vested in the Attorney General by section 304 of the Controlled Substances Act (21 U.S.C. 824), and redelegated to the Administrator of the Drug Enforcement Administration by Title 28, Code of Federal Regulations § 0.100, as amended, the Administrator hereby orders that the registration of Malcolm E. Bridwell, be, and hereby is, revoked, effective immediately.

Dated: January 24, 1978.

PETER B. BENSINGER,  
Administrator.

[FR Doc. 78-2473 1-27-78; 8:45 am]

[7537-01]

NATIONAL FOUNDATION ON THE  
ARTS AND THE HUMANITIES

LITERATURE ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.

L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel to the National Council on the Arts will be held on February 17, 1978, from 9 a.m. to 5 p.m.; on February 18, 1978, from 9 a.m. to 5 p.m.; and on February 19, 1978, from 9 a.m. to 2 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on February 18, 1978, from 2 p.m. to 5 p.m. At this time there will be a question-and-answer exchange.

The remaining sessions of this meeting on February 17, 1978, from 9 a.m.-5 p.m.; on February 18, 1978, from 9 a.m.-2 p.m.; and on February 19, 1978, from 9 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER, March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,  
Administrative Officer, National  
Endowment for the Arts, Na-  
tional Foundation on the Arts  
and the Humanities.

[FR Doc. 78-2419 Filed 1-27-78; 8:45 am]

[7555-01]

## NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SOCIAL AND  
DEVELOPMENTAL PSYCHOLOGY

Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

SUBCOMMITTEE ON SOCIAL AND DEVELOPMENTAL PSYCHOLOGY OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Date and time: February 16-17, 1978, 9 a.m.-5 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, Room 338.

Type of meeting: Closed.

Contact person: Kelly G. Shaver, Program Director for Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5714.

Purpose of panel: To provide and evaluate research proposals and projects as part of the selection process for awards.



Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 25, 1978.

[FR Doc. 78-2491 Filed 1-27-78; 8:45 am]

## [7555-01]

## NATIONAL SCIENCE BOARD REGIONAL FORUMS

The National Science Board is planning a series of regional forums in response to language in the NSF Authorization Act for Fiscal Year 1976 which directed the Foundation " . . . to facilitate the participation of members of the public in the formulation, development, and conduct of the National Science Foundation's programs, policies, and priorities."

The primary objective of the forums is to encourage the expression of views by the general public on scientific and science education issues. Several Members of the National Science Board will participate in each forum; participation is invited from business, State and local government, educational institutions, public interest and citizen groups, and the community at large. Ideas exchanged at the forum will help the Board expand its information base and assist in its policymaking role for the National Science Foundation.

The NSB will hold the fifth of its regional forums in Denver, Colo., on February 21, 1978. Six issue areas were identified for discussion by a regionally based planning group. These areas are briefly described:

## WATER

When the supply of water is limited, as is the case with this region, demand becomes more intense. Concerns relating to water management, water availability for the numerous requirements, jurisdictional issues, and water quality questions need intensive examination and research. In addition, the issues relating to water resources require appropriate and effective discussion with the broadest possible public.

## ENERGY

Energy is one of this region's greatest resources. Yet within this vast re-

source are questions relating to environmental concerns and regional growth strategies. There remain questions in the energy area regarding access to and development of traditional and nontraditional sources of energy, the conservation of energy, the research related to various energy sources, socioeconomic impacts, and the role of institutions on energy-related research. In addition, there needs to be greater public understanding of this complex issue.

## LAND USE

Land as a resource is also finite in nature. Issues of land use and the related management questions regarding institutions are particularly important to this region. Whether land be for recreational, agricultural, industrial, or municipal use and purposes, additional research on land use priorities is required.

## THE ROLE OF COMMUNICATION AND INFORMATION

Information and understanding combine to form knowledge. Communication of this knowledge is essential to the resolution of problems dealing with such issues as water, energy, and land. Components of this knowledge include awareness, affordability, and understanding. Science, technology, and research create large amounts of information; however, more investigation leading to how to use and communicate the research information is needed.

## THE ROLE OF SCIENCE, TECHNOLOGY, AND RESEARCH

Societal problems and goals are closely interwoven with science, technology, and research. This interrelationship creates opportunities as well as challenges. By the proper use of science, technology, and research, problems once considered insoluble may now be resolved and, as potential problems emerge, these may be addressed before they become divisive issues. Since many decisions have political and socioeconomic components, as well as scientific and technical ones, these aspects must be considered and addressed. The specific issues of water, energy, and land use are current examples of this interaction of science, technology, and research in today's society.

## THE ROLE OF INSTITUTIONS

The implementation of solutions to many issues such as water, energy, and land involve institutions such as those in the governmental sector (Federal, State, local, and Indian), various citizen groups, legal and academic groups, and businesses and industry. Problems may occur more rapidly than institutions can change; this gradually dimin-

ishes the effectiveness of a single solution to the problem. Institutions often operate by crisis decisionmaking and may make decisions based upon inadequate information, even though research results of science, technology, and research are often available. How might this problem be overcome?

In addition to the issues selected above, the National Science Board is asking that participants consider three areas of concern to the Board and provide some suggestions to the Board on these issues. The three areas are:

## (1) CAREERS FOR WOMEN, MINORITIES, AND HANDICAPPED IN SCIENCE

The National Science Board hopes to increase the participation of women, minorities, and the handicapped in careers in science. These groups have been traditionally underrepresented in the sciences and in receipt of doctoral degrees in the sciences. Programs have been initiated in order to improve the opportunities for these groups. Are other types of forms of programs needed?

## (2) YOUNG RESEARCHERS: SUPPLY AND DEMAND

Fewer and fewer faculty positions in the sciences are becoming available today. As a result, the supply of young Ph. D.'s is outstripping the demand for them in academic science. If the supply is curtailed, do we lose a generation of scientific researchers? Are other sources of employment available and appropriate?

## (3) ALTERNATIVE PERFORMERS OF BASIC RESEARCH

The National Science Foundation's primary mission is the support of basic research in the sciences. The Nation's primary producer of basic research is the university. Almost all of NSF's funds for basic research go to colleges and universities. What should the role of industry or other possible producers be in federally funded basic research?

The Fifth NSB Forum will take place at the Cosmopolitan Hotel in Denver, Colo. The Forum will begin at 9 a.m. and adjourn at 4:45 p.m. on February 21. Participation is encouraged from interested citizens from the States of Arizona, California, Colorado, Nevada, New Mexico, and Utah. Further information may be obtained from the Community Affairs Branch, Room 527, National Science Foundation, 1800 G Street NW., Washington, D.C.

Interested citizens from the far southwest region who cannot attend the Forum are invited to send written comments on science policy issues to

the above NSF address by March 15, 1978.

RAYMOND E. BYE, Jr.,  
Office of Government  
and Public Programs.

JANUARY 25, 1978.

[FR Doc. 78-2493 Filed 1-27-78; 8:45 am]

## [7555-01]

## SUBCOMMITTEE ON POLITICAL SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

## Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Political Science of the Advisory Committee for Social Sciences.

Date and Time: February 16 and 17, 1978, 9 a.m. to 5 p.m. each day.

Place: Room 643 and Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Richard E. Dawson, Program Director, Political Science Program, Room 316, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4348.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in political science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,  
Acting Committee  
Management Officer.

JANUARY 25, 1978.

[FR Doc. 78-2492 Filed 1-27-78; 8:45 am]

## [1505-01]

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-315]

## INDIANA &amp; MICHIGAN ELECTRIC CO. AND INDIANA &amp; MICHIGAN POWER CO.

## Issuance of Amendment of Facility Operating License

## Correction

In FR Doc. 78-1817 appearing on page 3185 in the issue of Monday, January 23, 1978, in the 1st paragraph, the last sentence, now reading "The amendment is effective February 22, 1978", should read: "The amendment is effective 30 days from the date of its issuance."

## [7590-01]

[Docket No. 50-263; Amendment to License No. DPR-22 (Increase Spent Fuel Storage Capacity)]

## NORTHERN STATES POWER CO., (MONTICELLO NUCLEAR GENERATING PLANT, UNIT 1)

## Notice and Order Concerning Location of Special Prehearing Conference

The Atomic Safety and Licensing Board on December 15, 1977, issued an order to convene a special prehearing conference in this proceeding at 10 a.m., local time, on Tuesday, January 31, 1978, in Courtroom No. 2 (7th Floor), The U.S. Federal Courthouse, 316 N. Roberts Street, St. Paul, Minn. 55101. The Board now has been advised that Courtroom No. 2 is unavailable on that date.

Wherefore, it is ordered, in accordance with the Atomic Energy Act of 1954, as amended, and the Rules of Practice of the Commission, a special prehearing shall convene at 10 a.m., local time, on Tuesday, January 31, 1978, in Courtroom No. 1 (6th Floor), The U.S. Federal Courthouse, 316 N. Roberts Street, St. Paul, Minn. 55101.

Dated at Bethesda, Md., this 25th day of January, 1978.

For the Atomic Safety and Licensing Board.

Robert M. Lazo.

[FR Doc. 78-2707 Filed 1-27-78; 10:30 am]

## [8010-01]

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14270; File No. SR-Amex-77-37]

## AMERICAN STOCK EXCHANGE, INC.

## Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on December 12, 1977, the above-men-

tioned self-regulatory organization filed with the Securities and Exchange Commission a rule change as follows:

## STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

Commentary .01 to Rule 347 is amended to read as follows:

## GRATUITIES TO EMPLOYEES OF FINANCIAL CONCERNS

\*\*\* Commentary.

.01 Gratuity Defined.—A gratuity is a gift of any nature. Pursuant to Exchange policy, however, gratuities valued at [\$25] \$50 or less in total to any one person during a calendar year are considered an exception to Rule 347 and no notice of the employer's consent is required to be filed with the Exchange.

Commentary .01 and .02 to Rule 348 are redesignated .02 and .03 respectively and a new .01 is added to read as follows:

## GRATUITIES TO EMPLOYEES OF EXCHANGE

\*\*\* Commentary.

.01. Gratuity Defined.—A gratuity is a gift of any nature. Pursuant to Exchange policy, however, gratuities valued at \$50 or less in total to any one person during a calendar year are considered an exception to Rule 348, and prior written approval of the Exchange is not required.

\*\*\*

## AMEX' STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to modify Exchange policy as to the amount of a gratuity which will be considered an exception to the requirements of Rule 347 and 348, to take account of inflation. The \$25 exception has been in effect for many years.

The proposed change relates to a stated policy of an administrative character, and is consistent with section 6(b)(1) of the Act.

No comments were solicited or received with respect to the proposed rule change.

The Amex has determined that no burden on competition will be imposed by the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protec-



tion of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary to the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

DECEMBER 14, 1977.

[FR Doc. 78-2508 Filed 1-27-78; 8:45 am]

#### [8010-01]

[Rel. No. 10101; (811-1694)]

#### DAVIDGE EARLY BIRD FUND

Filing of Application Order Declaring That Company Has Ceased To Be Investment Company

JANUARY 23, 1978.

In the matter of Davidge Early Bird Fund, 1747 Pennsylvania Avenue NW., Washington, D.C. 20036.

Notice is hereby given, that Davidge Early Bird Fund ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that at a special meeting of shareholders held on December 20, 1977, Applicant's shareholders approved an Agreement and Plan of Reorganization and Liquidation providing for exchange of substantially all of Applicant's assets for shares of the common stock of Stratton Growth Fund. The settlement upon the Plan of Reorganization took

place on December 21, 1977, and Applicant received 82,512,357 shares of the common stock of Stratton Growth Fund in exchange for its assets. As of December 30, 1977, Applicant had distributed all of such Stratton Growth Fund shares to shareholders on a pro rata basis and retained no other assets after the distribution. Provision has been made for payment of all of Applicant's liabilities.

Section 8(f) provides, in substance, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it may so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given, that any interested person may, not later than February 17, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-2504 Filed 1-27-78; 8:45 am]

#### [8010-01]

[Rel. No. 14408; (SR-MSE-77-38)]

#### MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

JANUARY 23, 1978.

In the matter of Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Ill. 60606.

On October 27, 1977, the Midwest Stock Exchange, Inc., filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to eliminate its policy requiring agreements for all discretionary accounts for which options are traded to be renewed annually in writing.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 14266 (December 13, 1977)) and by publication in the FEDERAL REGISTER (42 FR 63977 (December 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority:

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-2505 Filed 1-27-78; 8:45 am]

#### [8010-01]

[Rel. No. 34-14397; File No. SR-MSRB-77-9]

#### MUNICIPAL SECURITIES RULEMAKING BOARD

##### Proposed Rule Changes

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 17, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

##### STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGES

The Municipal Securities Rulemaking Board (the "Board") is filing herewith the amendments set forth below (hereafter referred to as the "proposed amendments" or the "proposed rule changes") to the Board's proposed rule G-11 (hereafter sometimes referred to as the "proposed rule").

Proposed rule G-11 establishes certain terms and conditions for sales of

Proposed rule G-11 was filed with the Securities and Exchange Commission on August 17, 1977 (File No. SR-MSRB-77-9), and has not yet been approved.

new issue municipal securities during the underwriting period. The proposed amendments effect the following changes in the proposed rule:

1. The definition of the term "order period," which had been in section (e) of the proposed rule, has been moved to the definitional section.

2. The definition of the term "underwriting period" has been modified to provide that it ends at the later of such time as the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of securities.

3. Section (b) of the proposed rule, relating to disclosure of capacity, has been modified to require disclosure of identity of the municipal securities dealer submitting an order for a municipal securities investment portfolio (a "related portfolio"), or for an affiliated municipal securities investment trust or accumulation account (hereafter collectively referred to as an "affiliated investment trust"), rather than the specific identity of the related portfolio or affiliated investment trust for which the order is submitted.

4. Section (c) of the proposed rule, relating to confirmations of sales, has been modified to permit a confirmation of sale to be issued for the account of a related portfolio or affiliated investment trust to the affiliated municipal securities dealer placing the order.

5. A new section (d) has been added which requires disclosure of the identity of persons on whose behalf group orders are submitted to a syndicate or syndicate member. The senior syndicate manager must disclose to other members of the syndicate, upon request made prior to final settlement of the account, the identity of the person on whose behalf a group order is submitted, as well as the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order. "Group order" is defined in section (a) to mean an order for securities held in syndicate which is for the account of all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate. With respect to disclosure of the identity of related portfolios and affiliated investment trusts, the requirements of section (b) would govern.

6. A new sentence has been added to section (e) of the proposed rule (formerly section (d)), relating to the priority of orders, expressly placing on a syndicate manager the burden of justifying that any allocation made in a manner other than in accordance with the agreed-upon order of priority is in the best interests of the syndicate.

7. Section (f) of the proposed rule (formerly section (e)), has been modified to require that communications relating to priority of orders and order

period be in writing. This would apply both to communications between a syndicate manager and syndicate members and between syndicate members and others.

8. Section (g) of the proposed rule (formerly section (f)), relating to disclosure of syndicate expenses, has been modified to clarify that, for purposes of the proposed rule, the term "management fees" included compensation accruing to a syndicate manager in the circumstances described.

The proposed amendments also include changes of a technical or clarifying nature.

##### STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes is as follows:

##### Purpose of Proposed Rule Changes

Proposed rule G-11 is designed to meet the Board's statutory mandate in section 15B(b)(2)(K) of the Securities Exchange Act of 1934, as amended (the "Act"), by increasing the scope of information available to syndicate managers and members, other municipal securities professionals and the investing public, in connection with the distribution of new issue municipal securities. The Board believes that such information will, among other matters, enable syndicates to make more informed decisions in allocating securities among prospective purchasers; assure that information obtained by the senior syndicate manager in its capacity as such is available to other members of the syndicates; enable prospective purchasers to frame their orders to the syndicate in a manner that will enhance their ability to obtain securities; render syndicate managers accountable for the allocation of securities in accordance with announced allocation procedures; and provide syndicate members with information regarding syndicate expenses to enable them to analyze the operation of the syndicate account and to make an initial determination whether to participate in a syndicate. The Board has adopted the proposed amendments in furtherance of these purposes and as a result of its review of the proposed rule and its consideration of comments received on the proposed rule subsequent to its filing with the Commission. The specific purposes of the proposed amendments are discussed below.

In the proposed rule as filed, the term "underwriting period" was defined to end "at such time as the issuer delivers the securities to the syndicate." One of the commentators

\*The Commission published the proposed rule for comment in the FEDERAL REGISTER on August 26, 1977 (FR Doc. 77-24780).

on the proposed rule, Continental Illinois National Bank & Trust Co. ("Continental Bank") noted that under this definition the disclosure requirements of the proposed rule would cease if an issuer effects early delivery of securities, although distribution of the securities might still be in process. To address this point, the proposed amendments modify the definition of "underwriting period" to provide that it ends, for purposes of the proposed rule, at the later of such time as the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of securities. This modification will assure that the underwriting period is of sufficient duration to accomplish the purposes of the proposed rule.

The proposed amendments also modify the disclosure requirements in section (b) of the proposed rule with respect to the identity of related portfolios and affiliated investment trusts. Continental Bank, the Dealer Bank Association, and the Public Securities Association (the "PSA") all objected to the provision in proposed rule G-11(b) requiring disclosure of the specific identity of the related portfolio or affiliated investment trust. After consideration of their comments, the Board determined that such disclosure is not necessary to accomplish the purpose of section (b) of the proposed rule which is to enable the senior syndicate manager to evaluate on an informed basis for allocation purposes all orders submitted to the syndicate and to assure that all members of the syndicate have access to the information provided to the senior syndicate manager. Accordingly, the proposed amendments modify section (b) to require a syndicate manager to disclose the identity of the municipal securities dealer submitting an order for a related portfolio or affiliated investment trust, and that the order is for a related portfolio or for an affiliated investment trust of such municipal securities dealer, rather than the specific identity of the related portfolio or affiliated investment trust for which the order is submitted. Reference is made to the discussion below concerning new section (d) of the proposed rule.

Section (c) of the proposed rule has been modified to reflect the change effected by the proposed amendments in section (b). Since the specific identity of a related portfolio or affiliated investment trust will not be required, the confirmation of sale may be issued to the municipal securities dealer who places the order, indicating on the confirmation that it is for the account of a related portfolio or for the account of an affiliated investment trust, as the case may be. Section (c) has also been amended to make clear that it is not intended to preclude designated sales.



The proposed amendments also add a new section (d) to the proposed rule. Under this section, every municipal securities dealer that submits a group order, as defined, will be required to disclose the identity of the person for whose account the order is submitted. Submission of a group order directly to the senior syndicate manager would be deemed to be the submission of a group order by such manager to the syndicate. The senior syndicate manager must disclose to the other syndicate members, upon request made prior to final settlement of the account, certain information concerning the group order, including the identity of the person on whose behalf the group order is submitted.

Group orders are defined for purposes of the proposed rule to mean orders for securities held in syndicate, which are for the account of all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate. The definition would require disclosure with respect to group orders submitted by municipal securities dealers, whether or not members of the syndicate, as well as group orders of customers. Designated orders are not subject to the disclosure requirements in new section (d) to the extent of the designation.

As a matter of contract and law, group orders belong to all members of a syndicate on a pro rata basis in proportion to their respective participations in the syndicate. The Board therefore believes it appropriate to require disclosure of the identity of persons on whose behalf group orders are submitted and to require the senior syndicate manager to give access to such information to the other members of the account. In its comment letter on proposed rule G-11 the Weeden Holding Corp. ("Weeden") states that "the knowledge of which institutions are currently buying is of value to the marketplace, and the identity of these buyers should not be restricted to managers alone."

As reflected in the proposed amendment to section (b), related portfolios and affiliated investment trusts may be identified by reference to the affiliated municipal securities dealer entering an order on their behalf. The Board believes that this information is sufficient to identify the entity or entities on whose behalf the order is placed and that any further identification requirement would be burdensome and constitute unnecessary regulation. For example, a municipal securities dealer often purchases securities on behalf of banks within a bank holding company system without the specific allocation of such securities among such banks having been determined. To require the specific identification of the related portfolio or portfolios for which securities are being

purchased would necessitate a decision within the bank holding company system at an early point concerning the allocation of the securities. This type of decision does not serve the purposes of proposed rule G-11 and could have an undue adverse impact on the legitimate investment activities of related portfolios within a bank holding company system. By contrast, the specific identity of nonrelated purchasers on whose behalf group orders are submitted is necessary to identify sufficiently the account for which the orders are submitted.

The PSA and Weeden expressed concern in their respective comment letters regarding the provision in section (e) (formerly section (d)) authorizing a syndicate manager on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority. If the syndicate manager determines in its discretion that it is in the best interests of the syndicate. The Board believes that the grant of such discretion, if permitted by a syndicate, is appropriate and necessary in order to provide a syndicate manager with the flexibility to react to unanticipated developments in the course of an underwriting. However, the Board believes that the responsibility of a syndicate manager to make the required determination before departing from the agreed upon order of priority should be emphasized and made more explicit. Accordingly, the proposed amendments expressly place the burden on the syndicate manager to justify that such an allocation is in the best interests of the syndicate, should the question arise.

The Chubb Corp. and Weeden recommend that the requirement in section (f) of the proposed rule (formerly section (e)) to disclose information relating to the establishment of the order of priority be modified to require that such disclosure be in writing. The Board believes this is an appropriate and necessary modification to assure that the information is transmitted to all interested parties.

With respect to the proposed amendments in section (g) of the proposed rule (formerly section (f)), the National Association of Securities Dealers, Inc., recommended that "management fees" be defined to include compensation accruing to a syndicate manager in the situation in which a syndicate manager buys securities from an issuer and sells them to a syndicate of which it is the manager. To address this concern, the Board has added a new sentence to section (g) providing that, for purposes of the proposed rule, management fees will include any amount to be realized by a syndicate manager and not shared with other members of the syndicate, which is attributable to the difference in the price to be paid

to an issuer for the purchase of a new issue of municipal securities and the price at which such securities are to be delivered by the syndicate manager to the members of the syndicate.

The other changes effected by the proposed amendments are of a clarifying or technical nature.

#### Basis Under the Act for Proposed Rule Changes

The Board adopted proposed rule G-11 pursuant to sections 15B(b)(2)(C) and 15B(b)(2)(K) of the Act. Section 15B(b)(2)(C) provides that the Board's rules must

be designed . . . to promote just and equitable principles of trade . . . to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and [must] not be designed to permit unfair discrimination between customers . . .

Section 15B(b)(2)(K) authorizes and directs the Board to adopt rules to

. . . establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period.

#### Comments Received From Members, Participants or Others on Proposed Rule Changes

The Commission published the proposed rule for comment in the FEDERAL REGISTER on August 26, 1977. The Board reviewed all of the comment letters received by the Commission as well as letters submitted to the Board on the proposed rule, which letters have previously been forwarded to the Commission.

#### Burden on Competition

The Board is of the opinion that the proposed rule changes will not impose any burden on competition but, to the contrary, will promote competition by increasing the information available in the market place regarding the distribution of new issue municipal securities.

By March 6, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submis-

sions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by February 20, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

JANUARY 20, 1978.

#### Text of Proposed Rule Changes<sup>1</sup>

Rule G-11. Sales of new issue municipal securities during the underwriting period.

(a) Definitions. For purposes of this rule, the following terms have the following meanings:

(i) The term "accumulation account" means an account established in connection with a municipal securities investment trust to hold securities pending their deposit in such trust.

(ii) The term "customer" means any person other than a broker, dealer, or municipal securities dealer acting in its capacity as such.

(iii) The term "group order" means an order for securities held in syndicate, which order is for the account of all members of the syndicate on a pro rata basis in proportion to their respective participations in the syndicate. Any such order submitted directly to the senior syndicate manager will, for purposes of this rule, be deemed to be the submission of such order by such manager to the syndicate.

(iv) The term "municipal securities investment trust" means a unit investment trust, as defined in the Investment Company Act of 1940, the portfolio of which consists in whole or in part of municipal securities.

(v) The term "order period" means the period of time, if any, announced by a syndicate during which orders will be solicited for the purchase of securities held in syndicate.

(vi) The term "related portfolio," when used with respect to a municipal securities dealer, means a municipal securities investment portfolio of such municipal securities dealer or of any person directly or indirectly controlling, controlled by or under common

<sup>1</sup> Italics indicate additions; [brackets] indicate deletions.

control with such municipal securities dealer.

(vi) The term "syndicate" means an account formed by two or more persons for the purpose of purchasing, directly or indirectly, all or any part of a new issue of municipal securities from the issuer, and making a distribution thereof.

(vii) The term "underwriting period" means the period commencing with the first submission to a syndicate of an order for the purchase of new issue municipal securities or the purchase of such securities from the issuer, whichever first occurs, and ending at such time as the issuer delivers the securities to the syndicate or the syndicate no longer retains an unsold balance of securities, whichever last occurs.

(b) Disclosure of Capacity. Every municipal securities dealer that submits an order to a syndicate or to a member of a syndicate for the purchase of municipal securities held by the syndicate shall disclose at the time of submission of such order if the securities are being purchased for its dealer account, for the account of a related portfolio of such municipal securities dealer, for a municipal securities investment trust sponsored by such municipal securities dealer, or for an accumulation account established in connection with such a municipal securities investment trust. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each order submitted for such a related portfolio, municipal securities investment trust, or accumulation account, indicating the identity of the municipal securities dealer submitting the order [related portfolio, municipal securities investment trust, or accumulation account], whether it is for a related portfolio or for a municipal securities investment trust or for an accumulation account, and the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(c) Confirmations of Sale. Sales of securities held by a syndicate to a related portfolio, municipal securities investment trust or accumulation account referred to in section [paragraph] (b) above shall be confirmed by the syndicate manager directly to such related portfolio, municipal securities investment trust or accumulation account or for the account of such related portfolio, municipal securities investment trust or accumulation account to the municipal securities dealer submitting the order. Nothing herein contained shall be construed to require that sales of municipal securities to a related portfolio, municipal securities investment trust or accumulation account be made for the benefit of [by] the syndicate.

(d) Disclosure of group orders. Every municipal securities dealer that submits a group order to a syndicate or to a member of a syndicate, shall disclose at the time of submission of such order the identity of the person on whose behalf the order is submitted, except as otherwise provided in section (b) of this rule. The senior syndicate manager shall promptly disclose to the other members of the syndicate, upon request made prior to final settlement of the syndicate account, each group order, indicating the identity of the person on whose behalf the order is submitted (except as otherwise provided in section (b) of this rule), the aggregate face amount of each maturity and the maturity dates of the securities which are the subject of the order.

(e)[(d)] Priority of orders. Every syndicate shall establish [provide for] the priority to be accorded to different types of orders for the purchase of securities from the syndicate during the underwriting period and, if such priority may be changed, the procedure for making changes. For purposes of this rule, the requirement to establish [provide for] priority shall not be satisfied if a syndicate provides only that the syndicate manager or managers may [solely by a provision permitting the syndicate manager or managers to] determine in the manager's or managers' discretion the priority to be accorded different types of orders. Notwithstanding the preceding sentence [foregoing], a syndicate may include a provision permitting the syndicate manager or managers on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, if the syndicate manager or managers determine in its or their discretion that it is in the best interests of the syndicate. In the event any such allocation is made, the syndicate manager or managers shall have the burden of justifying that such allocation was in the best interests of the syndicate.

(f)[(e)] Communications relating to priority of orders and order period. Prior to the first offer of any securities by a syndicate, the senior syndicate manager shall furnish in writing [communicate] to the other members of the syndicate (i) the priority to be accorded to different types of orders for securities to be distributed by the syndicate, (ii) the procedure, if any, by which such priority may be changed, (iii) if the senior syndicate manager or managers are to be permitted on a case-by-case basis to allocate securities in a manner other than in accordance with the agreed upon order of priority, the fact that they are to be permitted to do so, and (iv) if there is to be an order period, whether orders may be confirmed prior to the end of the order period. [For purposes of this provision, the term "order period"



shall mean a period of time announced by the syndicate during which orders will be solicited for the purchase of securities held in syndicate.) Any change in the provisions governing the priority of orders shall be promptly furnished in writing [communicated] by the senior syndicate manager to the other members of the syndicate. Syndicate members shall promptly furnished in writing [communicate] the information described in this section [paragraph] to others, upon request.

(g)(1)(f) Disclosure of syndicate expenses. At or before the final settlement of a syndicate account, the senior syndicate manager shall furnish to the other members of the syndicate an itemized statement setting forth the nature and amounts of all actual expenses incurred on behalf of the syndicate. Notwithstanding the foregoing, any such statement may include an item for miscellaneous expenses, provided that the amount shown under such item is not disproportionately large in relation to other items of expense shown on the statement and includes only minor items of expense which cannot be easily categorized elsewhere in the statement. Discretionary fees for clearance costs [and management fees] to be imposed by a syndicate manager and management fees shall be disclosed to syndicate members prior to the submission of a bid, in the case of a competitive sale, or prior to the execution of a purchase contract with the issuer, in the case of a negotiated sale. For purposes of this section, the term "management fees" shall include, in addition to amounts categorized as management fees by the syndicate manager, any amount to be realized by a syndicate manager and not shared with the other members of the syndicate, which is attributable to the difference in price to be paid to an issuer for the purchase of a new issue of municipal securities and the price at which such securities are to be delivered by the syndicate manager to the members of the syndicate.

[FR Doc. 78-2507 Filed 1-27-78; 8:45 am]

#### [8010-01]

[Rel. No. 14403; (File No. SR-OCC-77-13)]

#### OPTIONS CLEARING CORP.

Order Approving Rule Change Submitted To Improve Its Disciplinary Procedures.

JANUARY 23, 1978.

In the matter of the Options Clearing Corp. 5950 Sears Tower, Chicago, Ill. 60606.

On October 11, 1977, The Options Clearing Corp. ("OCC") submitted, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change to enable OCC to enforce disciplinary

proceedings against its members more effectively.

In accordance with section 19(b) of the Act and Rule 19b-4 thereunder, the proposed rule change was published in the FEDERAL REGISTER (42 FR 59578, November 18, 1977), and the public was invited to submit comments until December 9, 1977. Notice of the filing and an invitation for comments also appeared in Securities Exchange Act Release No. 14163, November 10, 1977. No letters of comment were received.

The Commission has reviewed the OCC submission and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of section 17A and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change contained in File No. SR-OCC-77-13 be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,  
Secretary.

[FR Doc. 78-2506 Filed 1-27-78; 8:45 am]

#### [3190-01]

#### OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-10]

#### AMERICAN IRON & STEEL INSTITUTE

#### Discontinuance Regarding Bilateral Agreement Petition

Pursuant to regulations of the Office of the Special Representative for Trade Negotiations the section 301 committee has provided for public hearings and has conducted a review with respect to a petition by the American Iron & Steel Institute. That petition alleged that a bilateral agreement between the European Community and Japan diverted significant quantities of Japanese steel to the United States adversely affecting U.S. commerce. (See FEDERAL REGISTER of October 15, 1976, p. 45628.)

The Special Representative for Trade Negotiations has reported to the President the results of that review. Pursuant to Presidential decision of January 18, 1977, further action on this petition is hereby discontinued.

The following major factors were significant in the determination to discontinue the section 301 complaint;

(1) During the period covered by the understanding, exports to the EC by

the six largest Japanese steel companies, operating as a government approved cartel, were limited to 1.22 million metric tons per year. However, actual exports by these companies were substantially less in both 1976 and 1977, suggesting that depressed market conditions in the EC were a more effective restraint than the understanding.

(2) The pattern of Japanese exports to the United States of steel products covered by the cartel have been generally consistent with domestic market conditions here. The major growth in export volume in 1976 was in product categories where U.S. demand grew substantially (e.g., sheets).

(3) The surge in Japanese steel exports in 1976 and 1977 was widespread and the increases in shipments to the U.S. market were not more pronounced than increases to many other markets. The U.S. share of one-fifth of total Japanese steel exports has remained relatively stable. The surge appears to be principally the result of the depressed domestic demand in Japan and low rates of steel capacity utilization which created pressure on Japanese firms to increase exports.

On the basis of these considerations, there is not sufficient justification to claim that the EC/Japanese understanding created any unfair burden on the United States.

The discontinuation is effective January 30, 1978.

ROBERT S. STRAUSS,  
Special Representative  
for Trade Negotiations.

[FR Doc. 78-2443 Filed 1-27-78; 8:45 am]

#### [4910-13]

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### AIR CARRIER DISTRICT OFFICE AT MONTGOMERY FIELD, SAN DIEGO, CALIF.

#### Closing

Notice is hereby given that on or about February 10, 1978, the Air Carrier District Office at 3750 John J. Montgomery Drive, San Diego, Calif. 92123, will be closed. Services to the air carrier public of San Diego, Calif., formerly provided by this office, will be provided by the Air Carrier District Office located in the Federal Building at 880 Front Street, San Diego, Calif. 92188. This information will be reflected in the FAA organization statement the next time it is reissued.

(Sec. 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a)).)

Issued in Los Angeles, Calif., on January 18, 1978.

ROBERT H. STANTON,  
Director, Western Region.

[FR Doc. 78-2442 Filed 1-27-78; 8:45 am]

#### [4810-22]

#### DEPARTMENT OF THE TREASURY

#### U.S. Customs Service

#### CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM ARGENTINA

#### Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of Argentina to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

#### FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of Argentina upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber from Argentina constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888) and March 7, 1977 (42 FR 12898). In addition, all

Alleged bounties or grants as provided in the petition include the following:

1. Customs duty exemptions on imports of equipment to be used for export production.
2. Regional incentives including tax concessions and development grants.
3. Cash rebates (reembolso) or tax credits of up to 30 percent paid on export transactions.
4. Preferential financing for export operations and transactions.
5. Government provisions of export credit insurance that is not otherwise available privately and is operated at below-cost rates.
6. More favorable exchange rate for export transactions and adjustments to offset domestic cost increases.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of Argentina upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investi-

similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

gation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

#### APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.6650
237	Manmade, woven	380.0464
237	do	380.5176
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420

#### COATS AND JACKETS

49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1260
63	do	380.0043
118	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5164
229	do	380.8415

#### TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6660
222	Manmade, knit	380.0428
222	do	380.8165
238	Manmade, woven	380.0467
238	do	380.5184
238	do	380.8455

#### OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.6320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107



3964

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
224	Manmades, knit	380.0401
224	do	380.0404
229	Manmades, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
45	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmades	380.0423
221	do	380.8147

## DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0099
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmades, knit	380.0408
224	do	380.8117
231	Manmades, woven	380.0449
231	do	380.8425

## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
PAJAMAS AND OTHER NIGHTWEAR		
60	Cotton, knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmades, knit	380.0411
217	do	380.8123
232	Manmades, woven	380.0452
232	do	380.8430

## MUFFLERS, SCARVES AND SHAWLS

62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1580
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmades, knit	372.1030
224	do	372.7000
227	Manmades, woven	372.1060
227	do	372.7520
227	do	372.7540

## NECKTIES

62	Cotton, knit	373.0510
62	do	373.1010
62	Cotton, woven	373.0540
63	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmades, knit	373.0530
224	do	373.2500
240	Manmades, woven	373.0560
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

## BEACHWEAR

224	Manmades, knit	380.0425
224	do	380.8163
240	Manmades, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0640
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
125	Wool, woven	378.4010
125	do	378.4510
218	Manmades, knit	380.0410
218	do	380.0417
218	do	380.8133
218	do	380.8135
223	do	378.0524
223	do	378.0548
223	do	378.8010
239	Manmades, woven	378.0566
239	do	378.8512
239	do	378.8518

## WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	Cotton, knit	704.4508

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2105 Filed 1-27-78; 8:45 am]

## [4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM BRAZIL

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of Brazil to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

## FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of Brazil upon the manufacture,

production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber from Brazil constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888) and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

Alleged bounties or grant as provided in the petition include the following:

1. Excessive Industrial Products Tax (IPI) and Goods Circulation Tax (ICM) credits on export transactions.

2. Exemption of export profits from the corporate income tax.

3. Preferential financing for export transactions.

4. Tax relief on equipment and earnings to certain new industries and to industries located in economically depressed areas.

5. Partial exemption from payment of IPI and import duties on machinery purchases dependent on export performance.

The leather wearing apparel from Brazil specified in the petition which is classifiable under item 791.7600 of the Tariff Schedules of the United States Annotated (TSUSA) is eligible for duty free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930 as amended, (19 U.S.C. 1301(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States. That information indicates that a sharp rise in imports as a percentage of total consumption of leather wearing apparel has occurred in the United States during a recent period of time. In addition, there is information contained in the petition that em-

ployment has dropped in addition to actual manhours expended for this industry during a recent period of time.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of Brazil upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## NOTICES

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## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
121	Wool, woven	380.6310
121	do	380.6610
224	Manmades, knit	380.8103
224	do	380.0402
229	do	380.0443
229	do	380.5184
229	do	380.8415

## TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6560
222	Manmades, knit	380.0428
222	do	380.8165
238	Manmades, woven	380.0467
238	do	380.5184
238	do	380.8455

## OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.6320
121	do	380.6620
224	Manmades, knit	380.8101
224	do	380.8107
224	do	380.0401
224	do	380.0404
229	Manmades, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
46	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.0043
47	do	380.2775
47	do	380.2777
47	do	380.2778

## APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.6650
237	Manmades, woven	380.0464
237	do	380.5176
237	do	380.8450
224	Manmades, knit	380.8143
224	do	380.0420

## COATS AND JACKETS

49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1280
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240



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## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
47	Cotton, woven	380.2779
62	Cotton, Knit	380.0027
116	Wool, Knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.1137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

## DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

## PAJAMAS AND OTHER NIGHTWEAR

60	Cotton, knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

## MUFFLERS, SCARVES AND SHAWLS

62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540

## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
NECKTIES		
62	Cotton, knit	373.0510
62	do	373.1010
63	Cotton, woven	373.0540
63	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0560
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

## BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0640
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.6010
239	Manmade, woven	378.0566
239	do	378.0568
239	do	378.6512
239	do	378.6518

## WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508
	Leather (100 percent)	705.3510
	Leather (part)	705.3550
	Rubber and plastics (dipped)	705.8600

## LEATHER WEARING APPAREL

49	With cotton, woven	791.7414
50	do	791.7418
62	With cotton, knit	791.7420
63	With cotton, woven	791.7426
117	With wool, knit	791.7430

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
125	With wool, woven	791.7440
221	With manmade, knit	791.7456
222	do	791.7458
224	do	791.7462
224	do	791.7464
229	With manmade, woven	791.7472
238	do	791.7482
240	do	791.7484
	With other fibers	791.7490
	All leather apparel	791.7600

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2103 Filed 1-27-78; 8:45 am]

[4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE REPUBLIC OF CHINA

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of the Republic of China to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

## FOR FURTHER INFORMATION CONTACT:

Al Jemmott, Operations Officer, Technical Branch, Duty assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D. C. 20229, 202-566-5492.

## SUPPLEMENTARY INFORMATION:

A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of the Republic of China upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber from the Republic of China constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics,

## NOTICES

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## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
48	Cotton, woven	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0008
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.6320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107
224	do	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
46	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.6120
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

household textiles, and miscellaneous products of textile mills made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

Alleged bounties or grants as provided in the petition include the following:

1. Income tax holidays for firms opening or expanding production facilities or accelerated depreciation of their fixed assets used for exportation.

2. Special incentives for enterprises requiring higher technology and equipment with longer service life.

3. Loans under preferential terms for companies producing for export.

4. Exemption from import duties on certain machinery and equipment.

5. A tax incentive for sales promotion abroad.

6. Tax benefits for exporting firms that locate in Export Processing Zones, including exemption from import duties and dues on machinery and equipment, raw materials and semi-finished products imported for their own use.

7. Government supported export risk insurance at premiums below cost.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of the Republic of China upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976, (41 FR 56881), January 21, 1977 (42 FR 3888) and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5148
120	do	380.6350
120	do	380.6650
237	Manmade, woven	380.0464
237	do	380.5176
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420
COATS AND JACKETS		
49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1260
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5164
229	do	380.8415

## TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6660
222	Manmade, knit	380.0428
222	do	380.8165
238	Manmade, woven	380.0



## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
<b>DRESSING GOWNS AND ROBES</b>		
55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

## PAJAMAS AND OTHER NIGHTWEAR

60	Cotton, knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

## MUFFLERS, SCARVES AND SHAWLS

62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540

## NECKTIES

62	Cotton, knit	373.0510
62	do	373.1010
63	Cotton, woven	373.0540
63	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0580
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

## BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0035
42	do	380.0016
42	do	380.0021
42	do	380.0040

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
58	Cotton, knit	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1629
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	380.0417
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.9010
239	Manmade, woven	378.0566
239	do	378.0568
239	do	378.8512
239	do	378.8518

## WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

(FR Doc. 78-2106 Filed 1-27-78; 8:45am)

[4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM COLOMBIA

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of Colombia to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Technical Branch, Duty Assessment

Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

**SUPPLEMENTARY INFORMATION:** A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of Colombia upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber from Colombia constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their tariff schedule classifications.

Alleged bounties or grants as provided in the petition include the following:

1. Payment of negotiable tax certificates (CAT's) at 5 percent of the value of export transactions.

2. Customs duty exemptions on equipment used in production for export.

3. Direct subsidy payments as well as indirect maritime subsidies for export-oriented industries.

4. Advantageous rates for loans to finance export production.

5. Government assistance in the payment of export credit insurance costs.

6. Tax concessions for firms located in free trade zones.

The leather wearing apparel from Colombia specified in the petition which is classifiable under item 791.7600 of the Tariff Schedules of the United States Annotated (TSUSA), is eligible for duty-free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930 as amended (19 U.S.C. 1301(a)(2)), there

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of The United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States. That information indicates that a sharp rise in imports as a percentage of total consumption of leather wearing apparel has occurred in the United States during a recent period of time. In addition, there is information contained in the petition that employment has dropped in addition actual man-hours expended for this industry during a recent period of time.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of Colombia upon the manufacture, production, or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, JR.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## APPENDIX

Catalog No.	Item	TSUSA No.
<b>SUITS</b>		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.6650
237	Manmade, woven	380.0484
237	do	380.5176
237	do	380.8450

## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
224	Manmade, knit	380.8143
224	do	380.0420
<b>COATS AND JACKETS</b>		
49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1260
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.8110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5164
229	do	380.8415

## TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6660
222	do	380.0428
222	Manmade, knit	380.8165
228	Manmade, woven	380.0467
238	do	380.5164
238	do	380.8455

## OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.5138
121	do	380.6320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107
224	do	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
45	Cotton, woven	380.2769
46	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.8120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0630
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

## DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

## PAJAMAS AND OTHER NIGHTWEAR

60	Cotton, knit .....	380.0012
60	do .....	380.0625
60	Cotton, woven .....	380.2100
60	do .....	380.2400
60	do .....	380.3909
63	do .....	380.0052
63	do .....	380.0053
217	Manmades, knit .....	380.0411
217	do .....	380.8123
232	Manmades, woven .....	380.0452
232	do .....	380.8430



## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
62	Cotton, knit	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540

## NECKTIES

62	Cotton, knit	373.0510
62	do	373.1010
63	Cotton, woven	373.0540
63	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0560
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

## BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0640
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0548
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	380.0417
218	do	370.8133
216	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.6010
239	Manmade, woven	378.0566
239	do	378.0568
239	do	378.8512
239	do	378.6518

## WORK GLOVES

39	Cotton, woven	704.4010
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## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508
—	Leather (100 pct)	705.3510
—	Leather (part)	705.3550
—	Rubber and plastics (dipped)	705.8600

## LEATHER WEARING APPEAL

49	With cotton, woven	791.7414
50	do	791.7416
62	With cotton, knit	791.7420
63	With cotton, woven	791.7426
117	With wool, knit	791.7430
125	With wool, woven	791.7440
221	With manmade, knit	791.7456
222	do	791.7458
224	do	791.7462
224	do	791.7464
229	With manmade, woven	791.7472
238	do	791.7482
240	do	791.7484
—	With other fibers	791.7490
—	All leather apparel	791.7600

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2107 Filed 1-27-78; 8:45 am]

## [4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM INDIA

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of India to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was re-

ceived on November 7, 1977, alleging that benefits conferred by the Government of India upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber from India constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

Alleged bounties or grants as provided in the petition include the following:

1. Direct cash assistance provided to exporters of textiles and textile products on exportation and amounting to from 9 to 17.5 percent of the f.o.b. value on certain textile products.

2. Direct tax credits of 15 percent of export value which may be applied directly to outstanding income or business taxes.

3. Deduction of 150 percent of overseas expenses for export promotion from total taxable income. Through the Market Development Fund, the Indian Government may make outright grants for export promotion to individual firms.

4. Remission of Customs duties and excise taxes on machinery and equipment used in export production.

5. Comprehensive export insurance and low rate export credits available to Indian exporters for overseas market development available through the Export Credit and Guarantee Corporation and the Industrial Development Bank of India, both Indian Government entities.

6. Favorable treatment with respect to import licenses and foreign exchange as a reward for export performance.

7. Special foreign exchange concessions and financial assistance for purchase of equipment to firms located in the Kandla Free Trade Zone.

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888) and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

The leather wearing apparel from India specified in the petition which is classifiable under item 791.7600 of the Tariff Schedules of the United States Annotated (TSUSA) is eligible for duty free entry under the Generalized System of Preferences. In the event that it becomes necessary to refer this matter to the United States International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930 as amended (19 U.S.C. 1301(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States. That information indicates that a sharp rise in imports as a percentage of total consumption of leather wearing apparel has occurred in the United States during a recent period of time. In addition, there is information contained in the petition that employment has dropped in addition to actual man-hours expended for this industry during a recent period of time.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of India upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investi-

gation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5145
120	do	380.8350
120	do	380.8650
237	Manmade, woven	380.0464
237	do	380.5178
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420

## COATS AND JACKETS

49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1260
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
229	Manmade, woven	380.0402
229	do	380.0443
229	do	380.5184
229	do	380.8415

## TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.8360
124	do	380.8660
222	Manmade, knit	380.0428
222	do	380.8165
238	Manmade, woven	380.0467
238	do	380.5184
238	do	380.8455

## OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0048
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.8320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
224	Manmade, knit	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
48	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.5340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

## DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425



## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
PAJAMAS AND OTHER NIGHTWEAR		
60	Cotton, knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

MUFFLERS, SCARVES AND SHAWLS		
62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	380.1540
63	do	380.1560
118	Wool, knit	372.3000
117	do	380.1020
117	do	380.3500
125	Wool, woven	372.1050
125	do	380.4500
224	Manmade, knit	372.1030
224	do	380.7000
227	Manmade, woven	372.7520
227	do	380.7540

NECKTIES		
62	Cotton, knit	373.0510
62	do	380.1010
63	Cotton, woven	373.0540
63	do	380.1045
117	Wool, knit	373.0520
117	do	380.1520
125	Wool, woven	373.0550
125	do	380.1540
224	Manmade, knit	373.0530
224	do	380.2500
240	Manmade, woven	373.0560
240	do	380.2700

VESTS		
63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

BEACHWEAR		
224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

- UNDERWEAR		
41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0640
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564

## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
59	Cotton, woven	378.2018
59	do	378.2518
113	Wool, knit	378.3510
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	380.0417
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0546
223	do	378.8010
239	Manmade, woven	378.0566
239	do	378.0568
239	do	378.8512
239	do	378.8518

WORK GLOVES		
39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508
—	Leather (100 pct)	705.3510
—	Leather (part)	705.3550
—	Rubber and plastics (dipped)	705.8800

LEATHER WEARING APPAREL		
49	With cotton, woven	791.7414
50	do	791.7418
62	With cotton, knit	791.7420
63	With cotton, woven	791.7426
117	With wool, knit	791.7430
125	With wool, woven	791.7440
221	With manmade, knit	791.7456
222	do	791.7458
224	do	791.7462
224	do	791.7464
229	With manmade, woven	791.7472
238	do	791.7482
240	do	791.7484
—	With other fibers	791.7480
—	All leather apparel	791.7600

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

(FR Doc. 78-2104 Filed 1-27-78; 8:45 am)

[4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE REPUBLIC OF KOREA

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of the Republic of Korea to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A prelimi-

nary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.  
FOR FURTHER INFORMATION CONTACT:

Anthony L. Russo, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of the Republic of Korea upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and man-made fiber from the Republic of Korea constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

Alleged bounties or grant as provided in the petition include the following:

1. Short and long term financing at preferential interest rates.
2. Credit on duty payments for imports used in export production.
3. Deferred payment export financing arrangements.
4. Deferral of due dates for certain domestic taxes.
5. "Link" of distribution of import permits for otherwise restricted items on the basis of export performance.
6. Inclusion in loss accounts of reserve funds for losses from exports.
7. Special depreciation allowance related to export performance.
8. Tax exemption, special public services and other benefits to firms located in Export Industrial Estates and Masan and Iri Export Zones.

The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888) and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.

9. Excessive "wastage" drawback allowances.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of the Republic of Korea upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKWELL, JR.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.6650
237	Manmade, woven	380.0484
237	do	380.5178
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420

## COATS AND JACKETS

49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1260
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240
121	do	380.8310

## NOTICES

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
121	Wool, woven	380.6810
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5184
229	do	380.8415

TROUSERS		
50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6680
222	Manmade, knit	380.0428
222	do	380.8185
238	Manmade, woven	380.0467
238	do	380.5184
238	do	380.8455

OVERCOATS AND RAINCOATS		
48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.1840
62	do	380.0615
63	Cotton, woven	380.0048
63	do	380.0048
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.8320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107
224	do	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

SHIRTS		
43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0084
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
48	do	380.0087
48	do	380.2782
48	do	380.2785
48	do	380.2787
48	do	380.2789
48	do	380.2792
48	do	380.2795
48	do	380.2797
48	do	380.2799
47	do	380.0043
47	do	380.2772
47	do	380.2775
47	do	380.5717
47	do	380.2778
47	do	380.2779

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

SWEATERS AND CARDIGANS		
44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

DRESSING GOWNS AND ROBES		
55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

PAJAMAS AND OTHER NIGHTWEAR		
60	Cotton, Knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

MUFFLERS, SCARVES AND SHAWLS		
62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540



## NECKTIES

62	Cotton, knit	373.0510
82	do	373.1010
63	Cotton, woven	373.0540
83	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0560
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
83	do	380.3620

## BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0840
56	do	378.1014
58	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1018
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3519
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0418
218	do	380.0417
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.6010
239	Manmade, woven	378.0568
239	do	378.0568
239	do	378.6512
239	do	378.6518

## WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2108 Filed 1-27-78; 8:45 am]

[4810-22]

## Customs Service

## LEATHER WEARING APPAREL FROM URUGUAY

## Final Countervailing Duty Determination

AGENCY: Customs Service, U.S. Treasury Department.

ACTION: Final Countervailing Duty Determination.

SUMMARY: This notice is to advise the public that an investigation has resulted in a determination that the Government of Uruguay has given benefits considered to be bounties or grants within the countervailing duty law to manufacturers who export leather wearing apparel to the United States. Since this merchandise is duty-free, the case is being referred to the U.S. International Trade Commission for an injury determination. However, should the Commission's determination be affirmative, the Treasury would consider it appropriate to waive countervailing duties, based upon the criteria established by the Trade Act of 1974, including the actions taken and to be taken by the Government of Uruguay to reduce significantly the bounty or grant.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: On July 27, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 38251). The notice stated that it preliminarily had been determined that benefits had been received by the Uruguayan manufacturers/exporters of leather wearing apparel which may constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (referred to in this notice as "the Act"). The benefits preliminarily determined to be bounties or grants were:

(1) Income tax exemptions on certain export-related income;

(2) Preferential financing for exports; and

(3) The granting of tax certificates, known as "reintegros," to manufacturers of leather wearing apparel, upon the exportation of the goods.

The rebate of value-added taxes upon export of goods and a rebate of import duties paid on raw materials used in the production of leather wearing apparel for export has been determined not to constitute a bounty or grant within the meaning of the Act.

Programs found not to have been utilized by the leather wearing apparel industry included government-sponsored export insurance, a tax holiday for new industries, and benefits for locating within certain free ports and zones.

The notice offered interested parties an opportunity to submit any relevant data, views or arguments in writing with respect to the preliminary determination in time to be received not later than August 26, 1977.

Subsequent investigation lead to the conclusion that the subsidy granted to the tanners upon the exportation of the finished leather wearing apparel constitute a bounty or grant within the meaning of the Act. Based on present information available, however, the tanners' subsidy serves to make Uruguayan tannery prices equal with neighboring country competition, which is readily available to leather wearing apparel manufacturers in Uruguay. Thus the net effect of the bounty or grant is zero since the cost of producing leather wearing apparel absent the subsidy would not be increased due to lower prices available from neighboring countries.

In addition, the effect of the export subsidy is offset by certain fiscal charges which are indirect taxes that are directly related to the exported leather wearing apparel. These taxes are not rebated on export, and under the Act would be eligible for rebate and thus act to reduce the effective export benefit. Such taxes include:

(1) Export taxes charged on the value of the leather wearing apparel plus a tax on the value of the export rebate certificates;

(2) Value-added taxes that are charged in manufacturing the leather wearing apparel (the Government of Uruguay generally rebates 75 percent of value-added taxes paid);

(3) Taxes on agricultural transactions which in this case involve a 4-percent tax on the value of the hide purchased by the tanner; and

(4) Import taxes and other special taxes which are assessed on the non-leather items of the leather apparel.

Finally, the export benefit is reduced due to a regular devaluation of the peso to the dollar since the certificate tendering the benefit is not received before 90 days after application has been made for it.

After consideration of all information received, it is hereby determined that leather wearing apparel from Uruguay is subject to bounties or grants within the meaning of section 303 of the Act. The bounties or grants are in the form of the payments referred to in the preliminary determination, taking into account the offsets described in this notice. The net amount of the bounty or grant has been estimated and determined to be

approximately 12 percent of the f.o.b. price for export to the United States of leather wearing apparel from Uruguay.

Further, the leather wearing apparel subject to this determination is classified under item 791.7600 of the Tariff Schedules of the United States, Annotated (TSUSA), and is entered duty-free pursuant to the U.S. Generalized System of Preferences, authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461-2465, 88 Stat. 2066-2071).

In accordance with sec. 303(a)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article of merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such article or merchandise into the United States.

Accordingly, the U.S. International Trade Commission is being advised of this determination and the liquidation of entries, or withdrawals from warehouse, for consumption of the duty-free leather wearing apparel in question will be suspended pending the determination of the Commission.

Should the determination of the Commission be affirmative, the Treasury would consider it appropriate to waive countervailing duties under section 303(d) of the Act. The Government of Uruguay is committed to the total removal of the net bounty derived from the tax rebate certificate program (reintegro) for all leather products, except tanned leather, between January 1, 1978 and January 1, 1979. A 50-percent reduction in the effective bounty was accomplished December 29, 1977. A 50-percent reduction in the remaining effective export subsidy will be made on or before July 1, 1978, with total elimination accomplished on or before January 1, 1979. These actions will have the effect of removing almost completely the effective bounty or grant, thus satisfying the first waiver criteria under section 303(d) of the Act. Based on the very active role of the developing countries in the Multilateral Trade Negotiations in Geneva, combined with progress that is being made to negotiate agreements eliminating non-tariff barriers to trade, the remaining criteria governing the waiver provision would appear to be satisfied.

Effective on or after January 30, 1978, and until further notice, upon the entry for consumption of withdrawal from warehouse for consumption of such duty-free leather wearing apparel, liquidation will be suspended pending the determination of the U.S. International Trade Commission.

Pursuant to Regorization Plan No. 26 of 1950 and Treasury Department

Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised November 2, 1954, and section 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,  
General Counsel  
of the Treasury.

JANUARY 24, 1978.

[FR Doc. 78-2468 Filed 1-27-78; 8:45 am]

[4810-22]

## CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM THE PHILIPPINES

## Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of countervailing duty investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of the Philippines to the manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. countervailing duty law. A preliminary determination will be made not later than May 7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward F. Haley, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of the Philippines upon the manufacture, production, or exportation of men's and boys' apparel and textile mill products of cotton, wool, and manmade fiber from India constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and manmade fibers, as specified in U.S. bilateral textile agree-

ments; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their tariff schedule classifications.

A. Deductions for 5 years of costs for direct labor and local raw materials used in the manufacture of products for export.

B. Exemption from import duties and compensating taxes on imported machinery and equipment.

C. Tax credits on domestic capital equipment purchased equal to the amount of taxes and duties that would have been paid had the equipment been imported.

D. Reduced income tax for 5 years.

2. Various incentives for qualifying enterprises under the Investment Incentives Act (R.A. 5186), including:

A. Tax deductions of organizational and preoperating expenses.

B. Accelerated depreciation of assets with a life expectancy over 5 years.

C. Tax deductions of net operating loss carryovers.

D. Exemption from duties and compensation tax on necessary imports.

E. Tax deductions of expansion of investments.

F. Tax credit for import duties and compensatory taxes not paid if domestic machinery purchased.

G. Tax deductions of labor training expenses.

H. Tax credit for taxes withheld on loan payments made and direct-labor costs.

I. Exemption from all but income tax for new industries.

3. Special incentives granted to companies located in the Bataan export processing zone, including:

A. Accelerated depreciation rates for fixed assets.

B. The carryover as deductions from taxable income for 5 years of losses incurred during the first 5 years of operation.

C. The exemption of taxes and duties on imports of machinery and equipment used in the production of articles to be exported.

D. Financial and use of special public services.

4. Export insurance against commercial and political risks.

5. Relaxed cash deposit requirements on letters of credit opened by

"The textile items involved include those in categories 1-38, 101-110, and 200-213 of the Correlation: Textile and Apparel Categories with Tariff Schedules of the United States Annotated, as published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), and amended on December 31, 1975 (40 FR 60220), December 30, 1976 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898). In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "textile mill products" for the purposes of this notice.



Philippine importers whose importer directly or indirectly encourages local export enterprises.

The leather wearing apparel from the Philippines specified in the petition which is classifiable under item 791.7600 of the Tariff Schedules of the United States Annotated (TSUSA) is eligible for duty-free entry under the generalized system of preferences. In the event that it becomes necessary to refer this matter to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930 as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury to, or likelihood of injury to, or prevention of the establishment of an industry in the United States. That information indicates that a sharp rise in imports as a percentage of total consumption of leather wearing apparel has occurred in the United States during a recent period of time. In addition, there is information contained in the petition that employment has dropped in addition to actual man-hours expended for this industry during a recent period of time.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of the Philippines upon the manufacture, production, or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190, Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investi-

gation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

#### APPENDIX

Catalog No.	Item	TSUSA No.
<b>SUITS</b>		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.0650
237	Manmade, woven	380.0464
237	do	380.5176
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420

#### COATS AND JACKETS

49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1360
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.6110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5104
229	do	380.8415

#### TROUSERS

50	Cotton, woven	380.3922
50	do	380.3925
50	do	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6380
124	do	380.6660
222	Manmade, knit	380.0428
222	do	380.8165
236	Manmade, knit	380.0467
238	do	380.5184
238	do	380.6455

#### OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.6320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107

#### APPENDIX—Continued

Catalog No.	Item	TSUSA No.
224	Manmade, knit	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

#### SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2756
45	do	380.2759
45	do	380.2762
45	do	380.2765
45	do	380.2769
63	Cotton, woven	380.0067
46	do	380.2762
46	do	380.2765
46	do	380.2767
46	do	380.2769
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.8137
234	Manmade, woven	380.0455
234	do	380.8435
235	do	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

#### SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	Wool, knit	380.5730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.6130
117	do	380.6140
117	do	380.6150
117	do	380.6160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

#### DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

#### APPENDIX—Continued

Catalog No.	Item	TSUSA No.
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#### PAJAMAS AND OTHER NIGHTWEAR

60	Cotton, knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

#### MUFFLERS, SCARVES, AND SHAWLS

62	Cotton, knit	372.1010
62	do	372.1520
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540

#### NECKTIES

62	Cotton, knit	373.0510
62	do	373.1010
63	Cotton, woven	373.0540
63	do	373.1045
117	Wool, knit	373.0520
117	do	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0560
240	do	373.2700

#### VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3620

#### BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

#### UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0840
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0582
59	do	378.0584
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510

#### APPENDIX—Continued

Catalog No.	Item	TSUSA No.
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125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	380.0417
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.6010
239	Manmade, woven	378.0566
239	do	378.0568
239	do	378.6512
339	do	378.6518

#### WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508
—	Leather (100 pct)	705.3510
—	Leather (part)	705.3550
—	Rubber and plastics (dipped)	705.8600

#### LEATHER WEARING APPAREL

49	With cotton, woven	791.7414
50	do	791.7418
62	With cotton, knit	791.7420
63	With cotton, woven	791.7426
117	With wool, knit	791.7430
125	With wool, woven	791.7440
221	With manmade, knit	791.7456
222	do	791.7458
224	do	791.7462
224	do	791.7464
229	With manmade, woven	791.7472
238	do	791.7482
240	do	791.7484
—	With other fibers	791.7490
—	All leather apparel	791.7600

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2109 Filed 1-27-78; 8:45 am]

#### [4810-22]

#### CERTAIN TEXTILES AND TEXTILE PRODUCTS FROM URUGUAY

#### Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and that a countervailing duty investigation has been started to determine if benefits are paid by the Government of Uruguay to manufacturers or exporters of textile products which constitute the payment of a bounty or grant within the meaning of the U.S. Countervailing Duty Law. A preliminary determination will be made not later than May

7, 1978, and a final determination not later than November 7, 1978.

EFFECTIVE DATE: January 30, 1978. FOR FURTHER INFORMATION CONTACT:

Vincent P. Kane, Operations Officer, Technical Branch, Duty Assessment Division, Office of Operations, United States Customs Service, 1301 Constitution Avenue NW, Washington, D.C. 20229, 202-566-5492.

SUPPLEMENTARY INFORMATION: A petition in satisfactory form was received on November 7, 1977, alleging that benefits conferred by the Government of Uruguay upon the manufacture, production or exportation of men's and boys' apparel and textile mill products of cotton, wool, and made-made fiber from India constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

For purposes of this notice "textile mill products" include yarns, fabrics, household textiles, and miscellaneous products of textile mills made of cotton, wool, and man-made fibers, as specified in U.S. bilateral textile agreements; and "men's and boys' apparel" includes those items described in the appendix to this notice, together with their Tariff Schedule classifications.

Alleged bounties or grants as provided in the petition include the following:

1. Exemption of export earnings from the corporate income and dividends taxes.

2. Tax holidays on all earnings and concessions for new investments in export-oriented industries.

3. Rebates ("reintegros") allegedly up to 50 percent of export value that are in addition to the ordinary VAT rebate.

4. Advantageous loan rates for exports and export credit insurance.

5. Tax concessions and free services for firms located within free ports and zones.

Pursuant to section 303(a)(4) Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination as to



## NOTICES

any bounty or grant is being paid or bestowed within the meaning of that statute within 6 months of receipt, in satisfactory form, of a petition alleging the payment or bestowal of a bounty or grant. A final determination must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than May 7, 1978, as to whether or not the alleged payments or bestowals conferred by the Government of Uruguay upon the manufacture, production or exportation of the merchandise described above constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than November 7, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and § 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

HENRY C. STOCKELL, Jr.,  
Acting General Counsel  
of the Treasury.

JANUARY 19, 1978.

## APPENDIX

Catalog No.	Item	TSUSA No.
SUITS		
120	Wool, woven	380.0260
120	do	380.5146
120	do	380.6350
120	do	380.6650
237	Manmade, woven	380.0464
237	do	380.5176
237	do	380.8450
224	Manmade, knit	380.8143
224	do	380.0420
COATS AND JACKETS		
49	Cotton, woven	380.0940
49	do	380.0960
49	do	380.1240
49	do	380.1280
63	do	380.0043
116	Wool, knit	380.5710
117	do	380.8110
121	Wool, woven	380.0240
121	do	380.6310
121	do	380.6610
224	Manmade, knit	380.8103
224	do	380.0402
229	Manmade, woven	380.0443
229	do	380.5184
229	do	380.8415
TROUSERS		
50	Cotton, woven	380.3922
50	do	380.3925

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
50	Cotton, woven	380.3927
50	do	380.3929
50	do	380.3932
50	do	380.3935
50	do	380.3937
50	do	380.3939
50	do	380.5124
62	Cotton, knit	380.0033
62	do	380.0660
63	Cotton, woven	380.0070
124	Wool, woven	380.0265
124	do	380.5154
124	do	380.6360
124	do	380.6660
222	Manmade, knit	380.0428
222	do	380.8165
238	Manmade, woven	380.0467
238	do	380.5184
238	do	380.8455

## OVERCOATS AND RAINCOATS

48	Cotton, woven	380.0910
48	do	380.0920
48	do	380.1210
48	do	380.1220
49	do	380.0980
49	do	380.0990
49	do	380.1280
49	do	380.1290
62	Cotton, knit	380.0003
62	do	380.0006
62	do	380.0610
62	do	380.0615
63	Cotton, woven	380.0040
63	do	380.0046
121	Wool, woven	380.0245
121	do	380.5138
121	do	380.6320
121	do	380.6620
224	Manmade, knit	380.8101
224	do	380.8107
224	do	380.0401
224	do	380.0404
229	Manmade, woven	380.0440
229	do	380.0446
229	do	380.5168
229	do	380.8410
229	do	380.8420

## SHIRTS

43	Cotton, knit	380.0650
45	Cotton, woven	380.0061
45	do	380.0064
45	do	380.2752
45	do	380.2755
45	do	380.2759
45	do	380.2782
45	do	380.2785
45	do	380.2789
46	do	380.0067
46	do	380.2782
46	do	380.2785
46	do	380.2787
46	do	380.2789
46	do	380.2792
46	do	380.2795
46	do	380.2797
46	do	380.2799
47	do	380.2772
47	do	380.2775
47	do	380.2777
47	do	380.2778
47	do	380.2779
62	Cotton, knit	380.0027
116	Wool, knit	380.5720
117	do	380.0205
117	do	380.6120
125	Wool, woven	380.0255
125	do	380.5142
125	do	380.6340
219	Manmade, knit	380.0419
219	do	380.6137
234	Manmade, woven	380.0455
234	do	380.8435

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
235	Manmade, woven	380.0458
235	do	380.0461
235	do	380.5172
235	do	380.8440
235	do	380.8445

## SWEATERS AND CARDIGANS

44	Cotton, knit	380.0655
62	do	380.0030
62	do	380.0690
116	do	380.3730
116	do	380.5740
116	do	380.5750
117	do	380.0210
117	do	380.0215
117	do	380.0220
117	do	380.5900
117	do	380.8130
117	do	380.8140
117	do	380.6150
117	do	380.8160
117	do	380.7215
221	Manmade	380.0423
221	do	380.8147

## DRESSING GOWNS AND ROBES

55	Cotton, woven	380.0049
55	do	380.1520
55	do	380.1540
55	do	380.1820
55	do	380.1840
62	Cotton, knit	380.0009
62	do	380.0620
125	Wool, woven	380.0250
125	do	380.6330
125	do	380.6630
224	Manmade, knit	380.0408
224	do	380.8117
231	Manmade, woven	380.0449
231	do	380.8425

## PAJAMAS AND OTHER NIGHTWEAR

60	Cotton, Knit	380.0012
60	do	380.0625
60	Cotton, woven	380.2100
60	do	380.2400
60	do	380.3909
63	do	380.0052
63	do	380.0055
217	Manmade, knit	380.0411
217	do	380.8123
232	Manmade, woven	380.0452
232	do	380.8430

## MUFFLERS, SCARVES AND SHAWLS

62	Cotton, knit	372.1010
62	do	372.1620
63	Cotton, woven	372.1040
63	do	372.1540
63	do	372.1560
116	Wool, knit	372.3000
117	do	372.1020
117	do	372.3500
125	Wool, woven	372.1050
125	do	372.4500
224	Manmade, knit	372.1030
224	do	372.7000
227	Manmade, woven	372.1060
227	do	372.7520
227	do	372.7540

## NECKTIES

62	Cotton, knit	373.0510
62	do	373.1010
63	Cotton, woven	373.0340
63	do	373.1045
117	Wool, knit	373.0520

## APPENDIX—Continued

Catalog No.	Item	TSUSA No.
117	Wool, knit	373.1520
125	Wool, woven	373.0550
125	do	373.1540
224	Manmade, knit	373.0530
224	do	373.2500
240	Manmade, woven	373.0560
240	do	373.2700

## VESTS

63	Cotton, woven	380.0073
63	do	380.3320
63	do	380.3820

## BEACHWEAR

224	Manmade, knit	380.0425
224	do	380.8163
240	Manmade, woven	380.0465
240	do	380.8453

## UNDERWEAR

41	Cotton, knit	380.0635
42	do	380.0018
42	do	380.0021
42	do	380.0640
56	do	378.1014
56	do	378.1029
56	do	378.1514
56	do	378.1529
57	do	378.1016
57	do	378.1516
57	do	378.2012
57	do	378.2512
58	do	378.0521
58	do	378.0541
58	do	378.0542
58	do	378.0544
58	do	378.0546
59	Cotton, woven	378.0562
59	do	378.0564
59	do	378.2018
59	do	378.2518
113	Wool, knit	378.3510
125	Wool, woven	378.4010
125	do	378.4510
218	Manmade, knit	380.0416
218	do	380.0417
218	do	370.8133
218	do	370.8135
223	do	378.0524
223	do	378.0548
223	do	378.6010
239	do	378.0566
239	do	378.0568
239	do	378.6512
239	do	378.6518

## WORK GLOVES

39	Cotton, woven	704.4010
39	Cotton, knit	704.4502
39	do	704.4504
39	do	704.4506
39	do	704.4508

In addition, all similar products not covered by these categories because they are "certified handloomed and folklore products" are considered "men's and boys' apparel" for the purposes of this notice.

[FR Doc. 78-2110 Filed 1-27-78; 8:45 am]

## NOTICES

[4810-40]

Office of the Secretary  
(Public Debt Series No. 2-78)

TREASURY NOTES OF MAY 15, 1981

Series M-1981

JANUARY 26, 1978.

## 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,500,000,000 of U.S. securities, designated Treasury Notes of May 15, 1981, Series M-1981 (CUSIP No. 912827 HK 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of U.S. notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.

## 2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated February 15, 1978, and will bear interest from that date, payable on a semiannual basis on November 15, 1978, and each subsequent 6 months on May 15 and November 15, until the principal becomes payable. They will mature May 15, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any

possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

## 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., eastern standard time, Tuesday, January 31, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, January 30, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11 percent. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities,



may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; federally insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a  $\frac{1}{4}$  of 1 percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per 100, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

#### 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

#### 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, February 15, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing U.S. securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, February 10, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, February 9, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,  
Acting Fiscal  
Assistant Secretary.

[FR Doc. 78-2688 Filed 1-27-78; 8:45 am]

[4810-40]

(Public Debt Series—No. 3-78)

#### 8 PERCENT TREASURY NOTES OF FEBRUARY 15, 1985

Series A-1985

JANUARY 26, 1978.

#### 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty bond Act, as amended, invites tenders for approximately \$3,000,000,000 of United States securities, designated 8 percent Treasury Notes of February 15, 1985, Series A-1985 (CUSIP No. 912827 HL 9). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

#### 2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated February 15, 1978, and will bear interest from that date, payable on a semiannual basis on August 15, 1978, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 1985, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations, governing

United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

#### 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, February 1, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 31, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 98.25 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal

Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

#### 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before February 15, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which



the tender was submitted, which must be received at such institution no later than:

(a) Friday, February 10, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, February 9, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall

be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,  
Acting Fiscal  
Assistant Secretary.

(FR Doc. 78-2689 Filed 1-27-78; 8:45 am)

#### [4810-40]

[Public Debt Series—No. 4-78]

#### 8 1/4 PERCENT TREASURY BONDS OF 2000-2005 JANUARY 26, 1978.

##### 1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$1,250,000,000 of U.S. securities, designated 8 1/4 percent Treasury Bonds of 2000-2005 (CUSIP No. 912810 BU 1). The securities will be sold at auction with bidding on the basis of price. Payment will be required at the bid price of each accepted tender in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts may also be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

##### 2. DESCRIPTION OF SECURITIES

2.1. The securities offered will be identical to the 8 1/4 percent Treasury Bonds of 2000-2005 (CUSIP No. 912810 BU 1) issued under Depart-

ment of the Treasury Circular, Public Debt Series—No. 15-75, dated May 2, 1975, except that interest will accrue from February 15, 1978, and payment for the securities will be calculated on the basis of the auction price determined in accordance with this circular, plus accrued interest from November 15, 1977. With this exception, the securities are as described in the following excerpt from the above circular:

"1. The bonds will be dated May 15, 1975, and will bear interest from that date, payable semiannually on November 15, 1975, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature May 15, 2005, but may be redeemed at the option of the United States on and after May 15, 2000, in whole or in part at par and accrued interest on any interest day or days, on 4 months' notice of redemption given in such manner as the Secretary of the Treasury shall prescribe. In case of partial redemption, the bonds to be redeemed will be determined by such method as may be prescribed by the Secretary of the Treasury. From the date of redemption designated in any such notice, interest on the bonds called for redemption shall cease.

"2. The income derived from the bonds is subject to all taxes imposed under the Internal Revenue Code of 1954. The bonds are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

"3. The bonds will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

"4. Bearer bonds with interest coupons attached, and bonds registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000 and \$1,000,000. Book-entry bonds will be available to eligible bidders in multiples of those amounts. Interchanges of bonds of different denominations and of coupon and registered bonds, and the transfer of registered bonds will be permitted.

"5. The bonds will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States bonds."

##### 3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt,

On May 9, 1975, the Secretary of the Treasury announced that the interest rate on the bonds would be 8 1/4 percent per annum.

Washington, D.C. 20226, up to 1:30 p.m., eastern standard time, Thursday, February 2, 1978. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, February 1, 1978.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the price offered, expressed on the basis of 100 with two decimals, e.g., 100.00. Common fractions may not be used. Only tenders at a price more than the original issue discount limit of 93.25 will be accepted. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified price. No bidder may submit more than one noncompetitive tender, and the amount may not exceed \$1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5 percent of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and price range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the highest prices, through successively lower prices to the extent required to attain the amount offered. Tenders at the lowest accepted price will be prorated if necessary. Successful competitive bidders will be required to pay the

price that they bid. Those submitting noncompetitive tenders will pay the weighted average price in two decimals of accepted competitive tenders. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the price. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

#### 4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

#### 5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, February 15, 1978, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted, and must include accrued interest from November 15, 1977, to February 15, 1978, in the amount of \$20.96685 per \$1,000 of securities allotted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, February 10, 1978, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Thursday, February 9, 1978, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying

number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The Securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

#### 6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are au-



thorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

PAUL H. TAYLOR,  
Acting Fiscal  
Assistant Secretary.

[FR Doc. 78-2690 Filed 1-27-78; 8:45 am]

## [8320-01]

## VETERANS ADMINISTRATION

## PRIVACY ACT OF 1974

Proposed Amendment of System Notice;  
Additional Routine Uses

Notice is hereby given that the Veterans Administration is considering adding three new routine use statements to each of the following systems of VA records set forth on pages 49726-49767 of the FEDERAL REGISTER of September 27, 1977.

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA.

50VA22 Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records—VA.

58VA21/22 TARGET—Compensation, Pension, Education, and Rehabilitation Records—VA.

The first two routine use statements were previously adopted for the system of records entitled "Patient Medical Records—VA" (24VA136), and the third routine use statement was adopted for the system of records entitled "Veterans and Beneficiary Identification and Records Locator System—VA" (38VA28). Since these routine use statements allow for the release of medical record data, excluding name and address (unless furnished by the requester), for necessary and proper research purposes to epidemiological and other research facilities and allow for the release of the name(s) and address(es) of present or former personnel of the armed services and/or their dependents to Federal agencies for the purpose of conducting, directly or under Federal contract, Government research necessary in order to accomplish a statutory purpose of that agency, the Veterans Administration has determined that, in addition to the "Patient Medical Records—VA" and "Veterans and Beneficiary Identification and Records Locator System—VA", these routine uses are required in

the three additional systems listed above. Release of information for these purposes is considered a necessary and proper use of data in these systems of records and will enable the Veterans Administration to be of maximum assistance in the conduct of authorized medical studies.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before March 1, 1978, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to the VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that it is proposed to make these routine use statements effective the date of final approval by the Administrator of Veterans Affairs.

Approved: January 23, 1978.

By direction of the Administrator.

RUFUS H. WILSON,  
Deputy Administrator.

In the system identified as 49VA21, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 42 FR 49753, the following routine use statements are added to read as follows:

## System name:

Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

23. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

24. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Depart-

ment of Health, Education, and Welfare, or agency thereof, or other Federal agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

25. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

In the system identified as 50VA22 "Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA", appearing at 42 FR 49754, the following routine use statements are added to read as follows:

## System name:

Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

30. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

31. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Department of Health, Education, and Welfare, or agency thereof, or other Federal agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

32. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

In the system identified as 58VA21/22, "TARGET—Compensation, Pension, Education, and Rehabilitation Records—VA", appearing at 42 FR 49760, the following routine use statements are added to read as follows:

## System name:

TARGET—Compensation, Pension, Education, and Rehabilitation Records—VA

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

31. Disclosure of medical record data, excluding name and address (unless name and address is furnished by the requester) for research purposes determined to be necessary and proper, to epidemiological and other research facilities approved by the Chief Medical Director.

32. The name(s) and address(es) of present or former personnel of the armed services and/or their dependents may be disclosed to the Department of Health, Education, and Welfare, or agency thereof, or other Federal agency, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency.

33. Inquiry of record by research facilities to obtain data necessary to assist in medical studies on veterans for the Veterans Administration and other agencies, as approved by the Chief Medical Director, provided that the name of the veteran and other pertinent identifying data is furnished by the requester.

[FR Doc. 78-2485 Filed 1-27-78; 8:45 am]

## [7035-01]

INTERSTATE COMMERCE  
COMMISSION

[Notice No. 578]

## ASSIGNMENT OF HEARINGS

JANUARY 25, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

AB 1 (Sub 40), Chicago & Northwestern Transportation Co., abandonment between

Gillett, Oconto County, Wis., and Scott Lake, Iron County, Mich., now assigned February 28, 1978, at Rhinelander, Wis., will be held at the City Council Chambers, City Hall, 135 South Steven Street.

MC 126473 (Sub 30), Harold Dickey Transport, Inc., now assigned March 7, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 133689 (Sub 135), Overland Express, Inc., now assigned March 8, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

AB10 (Sub 6), Wabash Railroad Co. and Norfolk & Western Railway Co., abandonment between Fairbury and Clay in Livingston County, Ill., now being assigned April 17, 1978 (1 week), at Pontiac, Ill., in a hearing room to be later designated.

MC 110420 (Sub 771), Quality Carriers, Inc. and MC 124078 (Sub 726), Schwerman Trucking Co., now being assigned April 11, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 110988 (Sub 346), Schneider Truck Lines, Inc., now being assigned April 12, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 141511 (Sub 1), Robert W. Rettig, d.b.a. Protein Express, now being assigned April 13, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 102401 (Sub 22), Taylor Heavy Hauling, Inc., now being assigned April 14, 1978 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC 119619 (Sub 110), Distributors Service Co., Inc., now assigned March 9, 1978 at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 119789 (Sub 360), Caravan Refrigerated Cargo, Inc., now assigned March 13, 1978, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 51146 (Sub 501), Schneider Transport, Inc., now assigned March 14, 1978, at Chicago, Ill., will be held at Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 113678 (Sub 684), Curtis, Inc., now assigned March 16, 1978, at Chicago, Ill., will be held at Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 115496 (Sub 70), Lumber Transport, Inc., now being assigned January 31, 1978, for prehearing conference at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 13163, R. C. Van Lines, Inc.—Purchase—Trans-World Movers, Inc., Transport Clearing of Colorado, Inc., Successor in Interest, and MC 128155 (Sub 5), R. C. Van Lines, Inc., now assigned February 13, 1978, at Denver, Colo., will be held in the Courtroom, 1050 17th Street, Suite 1718.

MC 58035 (Sub 13), Trans-Western Express, Ltd., now assigned February 8, 1978, at Denver, Colo., will be held in the Courtroom, 1050 17th Street, Suite 1718.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2502 Filed 1-27-78; 8:45 am]

## [7036-01]

## FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 25, 1978.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before February 14, 1978.

FSA No. 43494, Trans-Continental Freight Bureau, Agent's No. 520, rail rates on champagne, vermouth and wine, from Modesto Colony, Calif., to Elizabeth, N.J., to be published in its tariff 2-0, I.C.C. 1947.

Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2496 Filed 1-27-78; 8:45 am]

## [7035-01]

[Notice No. 286]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 30, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77514. By application filed January 17, 1978, GEORGE KU, INC., 1480 Mount Jackson Road, New Castle, Pa. 16102, seeks temporary authority to transfer the operating rights of Bressmer Hillsville Bus Co., 310 East Liberty Street, Lowellville, Ohio 44436, under section 210a(b). The transfer to George Ku, Inc., of the operating rights of Bressmer Hillsville Bus Co., is presently pending.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2499 Filed 1-27-78; 8:45 am]

## [7035-01]

[Notice No. 287]

## MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 30, 1978.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77515. By application filed January 19, 1978, MICHAEL J. FITZGIBBON, an individual, d.b.a. FITZ FREIGHT TRANSFER, P.O. Box 1144, Miami, Okla. 74354, seeks temporary authority to transfer the operating rights of Security Bank & Trust Co., P.O. Box 880, Miami, Okla. 74354, under section 210a(b). The



transfer to Michael J. Fitzgibbon, an individual, d.b.a. Fitz Freight Transfer, of the operating rights of Security Bank & Trust Co., is presently pending.

By the Commission.

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2500 Filed 1-27-78; 8:45 am)

# [7035-01]

(Notice No. 288)

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission by March 1, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77426, filed November 23, 1977. Transferee: J. R. McGINNIS, d.b.a. ILLINOIS FILM SERVICE, 1405 Old West Main Street, Carbondale, Ill. 62901. Transferor: Madge Evelyn Chamness, d.b.a. Illinois Film Service, 1405 Old West Main Street, Carbondale, Ill. 62901. Applicant's representative: Ernest A. Brooks II, Attorney at Law, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought for purchase by transferee of

the operating rights of transferor, as set forth in Certificate No. MC-2332, issued July 18, 1967, as follows: *Motion picture films, theatre supplies, and advertising matter*, between St. Louis, Mo., on the one hand, and, on the other, Anna, Cairo, Mounds, Eldorado, Harrisburg, Carrier Mills, Johnston City, Herrin, Cartersville, Hurst, Royalton, Zeigler, Christopher, Carbondale, Murphysboro, Pinckneyville, Sparta, Marissa, and New Athens, Ill., and Cape Girardeau, Jackson, Lutesville, Ilmo, Chaffee, Oran, Sikeston, East Prairie, Charleston, Campbell, Caruthersville, Poplar Bluff, New Madrid, Dexter, and Malden, Mo. *Newspapers, periodicals, films and materials, supplies, and equipment* used in the operation of motion-picture theatres, between St. Louis, Mo., on the one hand, and, on the other, points in a specified part of Illinois. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77463 filed December 16, 1977. Transferee: FRITZ L. MENSINGER, d.b.a. MENSINGER TRUCKING, 1430 Powers, Lewiston, Idaho, 83501. Transferor: Ron Andrews, d.b.a. Ron Andrews Trucking, P.O. Box 142, Lewiston, Idaho, 83501. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Washington, 99201. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-139405 (Sub-No. 2), issued June 29, 1977, as follows: *Bananas*, from Long Beach and Wilmington, Calif., to the facilities of Pacific Gamble Robinson, doing business as Pacific Fruit and Product Co., located at Missoula and Kallispell, Mont., Pendleton, Oreg., and Lewiston, Idaho. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77466 filed December 14, 1977. Transferee: MOVING SERVICES, INC., 800 Route 44, Raynham, Mass. 02767. Transferor: W. H. Luddy & Son Moving Co., Inc., 275 North Central Street, E. Bridgewater, Mass. 02333. Transferee's attorney: Michael M. McLaughlin, 101 Charles Street, Manchester, N.H. 03105. Transferor's attorney: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-42578 issued March 19, 1975, as follows: *General commodities*, with specified exceptions, over irregular routes, between East Bridgewater, Mass., on the one hand, and, on the other, points within 10 miles of East Bridgewater; Milk and cream, between East Bridgewater, Mass., and points

within 5 miles thereof, on the one hand, and, on the other, Providence and East Providence, R.I., and Somerville, Mass.; and Household goods as defined by the Commission, between East Bridgewater, Mass., and points in Massachusetts within 25 miles of East Bridgewater, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, New York, and Rhode Island. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77469 filed December 18, 1977. Transferee: ROBERT WILLIAMS AND DANIEL R. WILLIAMS, a partnership, d.b.a. WILLIAMS BROTHERS, Ohio Street, Box 365, Wheatland, Pa. 16161. Transferor: Robert Williams and Thomas Williams, a partnership d.b.a. Williams Brothers, Address: Same as Transferee. Applicants' representative: John H. Evans, Jr., P.O. Box 949, Sharon, Pa. 16146. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC-77255 and MC-77255. (Sub-No. 1), issued December 8, 1943, and June 20, 1950, respectively, as follows: *Bulk commodities*, exempted from cargo security requirements under the provisions of the Commission's order in Ex Parte No. MC-5 entered January 23, 1942, in dump trucks, from Hillsville and Carbon, Pa., to Wheatland, Pa.; Between points and places in Mercer and Lawrence Counties, Pa., on the one hand, and, on the other, points and places in Mahoning, Trumbull, and Ashtabula Counties, Ohio; Contractors' equipment and supplies, and such commodities as are transported in dump trucks, between points and places in Crawford, Mercer, and Lawrence Counties, Pa., on the one hand, and, on the other, points and places in Ashtabula, Trumbull, and Mahoning Counties, Ohio. Materials, used in the construction of highways, between points and places in Mercer County, Pa., on the one hand, and, on the other, points and places in Mahoning, Trumbull, and Ashtabula Counties, Ohio. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77491 filed January 5, 1978. Transferee: VN TRANSPORTATION CO., INC., 37 Doctors Park, Cape Girardeau, Mo. 63701. Transferor: Marvin E. VanNoy, 2000 North 14th Street, St. Louis, Mo. 63155. Applicants' representative: Richard D. Kinder, Box 643, Cape Girardeau, Mo. 63701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC-141913, issued July 23,

1976, as follows: *Equipment, materials, and supplies* used in the operation and maintenance of hospitals from St. Louis, Mo. to points in McCracken County, Ky., Randolph, Alexander, Williamson, Jefferson, and Saline Counties, Ill., and Crawford County, Kans. and return shipments from the named counties to St. Louis, Mo. Applicant holds no Commission authority and does not seek Section 210a(b) temporary authority.

No. MC-FC-77494, filed January 9, 1978. Transferee: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, Calif. 94590. Transferor: V.W.S. MATERIALS & SUPPLY CO., 2001 Broadway, Vallejo, Calif. 94590. Applicant's representative: Daniel W. Baker, attorney at law, 100 Pine Street, San Francisco, Calif. 94111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 136644 (Sub-No. 1) and (Sub-No. 3), issued July 20, 1973, and January 9, 1978, as follows: *Gypsum wallboard and materials* used in the installation and application of gypsum wallboard, from the plantsites of Gold Bond Building Products, Division of National Gypsum Co., at or near Richmond and Long Beach, Calif., to points in Arizona, Montana, Idaho, Nevada, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. *Gypsum wallboard and materials* used in the installation and application of gypsum wallboard, from the facility of Kaiser Gypsum Co., Inc., at Antioch, Calif., to the Port of Oakland, Calif., and points in Oregon, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77500, filed January 10, 1978. Transferee: GREENWOOD TRANSFER & STORAGE CO., INC., P.O. Box 1032, Laurens Highway, Greenwood, S.C. 29673. Transferor: HERMAN C. HALEY, doing business as Haley Transport Service, 1130 Jackson Street, Anderson, S.C. 29621. Applicant's representative: Talmadge Seymour, Rt. 11, Staunton Bridge Road, Greenville, S.C. 29605. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC 134391, issued February 5, 1971, as follows: *Used passenger automobiles, and used trucks*, in truckaway service, from Buffalo, Rochester, and Syracuse, N.Y., to points in Anderson and Greenville Counties, S.C. Transferee is presently authorized to operate as a common carrier under certificate No. MC 108948 and subs thereafter. Applica-

tion has not been filed for temporary authority under section 210a(b).

No. MC-FC-77503, filed January 11, 1978. Transferee: SUN TRANSPORTATION, INC., Robinson Road, Brewster, Mass. 02631. Transferor: PHILIP J. KANE, INC., P.O. Box 987, 130 South Main Street, Fall River, Mass. 02720. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate of registration No. MC 3730 (Sub-No. 3), issued January 13, 1964, authorizing the transportation of general commodities anywhere in the Commonwealth of Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77506, filed January 12, 1978. Transferee: MOYER PACKING TRANSPORTATION CO., doing business as V. & J. Derstine, P.O. Box 395, Allentown Road, Souderton, Pa. 18964. Transferor: V & J DERSTINE, INC., 438 Derstine Road, Hatfield, Pa. 19440. Applicant's representative: Edwin L. Scherlis, attorney at law, 1315 Walnut Street, (Suite 420), Philadelphia, Pa. 19107. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in permit No. MC 142051 (Sub-No. 2), issued August 16, 1977, as follows: Over irregular routes, to transport meat, in vehicles equipped with mechanical refrigeration, from the facilities of Moyer Packing Co. at Souderton, Blooming Glen, and Bernville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Maine, Maryland, Massachusetts, Michigan, North Carolina, New Hampshire, New Jersey, New York, Ohio, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and Wisconsin, and the District of Columbia under a continuing contract or contracts with Moyer Packing Co. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,  
Acting Secretary.

(FR Doc. 78-2501 Filed 1-27-78; 8:45 am)

# [7035-01]

(ICC Order No. 43 Under Revised Service Order No. 1252)

## REROUTING TRAFFIC

To all railroads: In the opinion of Joel E. Burns, Agent, the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. is unable to transport promptly all traffic offered for movement over its lines between St. Paul,

Minn., and Tacoma-Seattle, Wash., because of blizzards and a major freight train derailment.

It is ordered, That: (a) *Rerouting traffic.* The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. being unable to transport promptly all traffic offered for movement over its lines between St. Paul, Minn., and Tacoma-Seattle, Wash., because of blizzards and a major freight train derailment, that line is authorized to divert or re-route such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:30 a.m., January 20, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 3, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.



Issued at Washington, D.C., January 20, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

[FR Doc. 78-2497 Filed 1-27-78; 8:45 am]

**[7035-01]**

[ICC Order No. 44 Under Revised Service Order No. 1252]

**REROUTING TRAFFIC**

To all railroads: In the opinion of Joel E. Burns, Agent, the Consolidated Rail Corp. is unable to transport trailer-on-flatcar and container-on-flatcar traffic over its entire line because of massive snow accumulations and has placed an embargo against such traffic.

It is ordered, That: (a) *Rerouting traffic.* The Consolidated Rail Corp. being unable to transport trailer-on-flatcar and container-on-flatcar traffic over its entire line because of massive snow accumulations and having placed an embargo against such traffic, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during

the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 5 p.m., January 20, 1978.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 25, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., January 20, 1978.

For the Interstate Commerce Commission.

JOEL E. BURNS,  
Agent.

[FR Doc. 78-2498 Filed 1-27-78; 8:45 am]

**[7035-01]**

[AB 149 (SDM)]

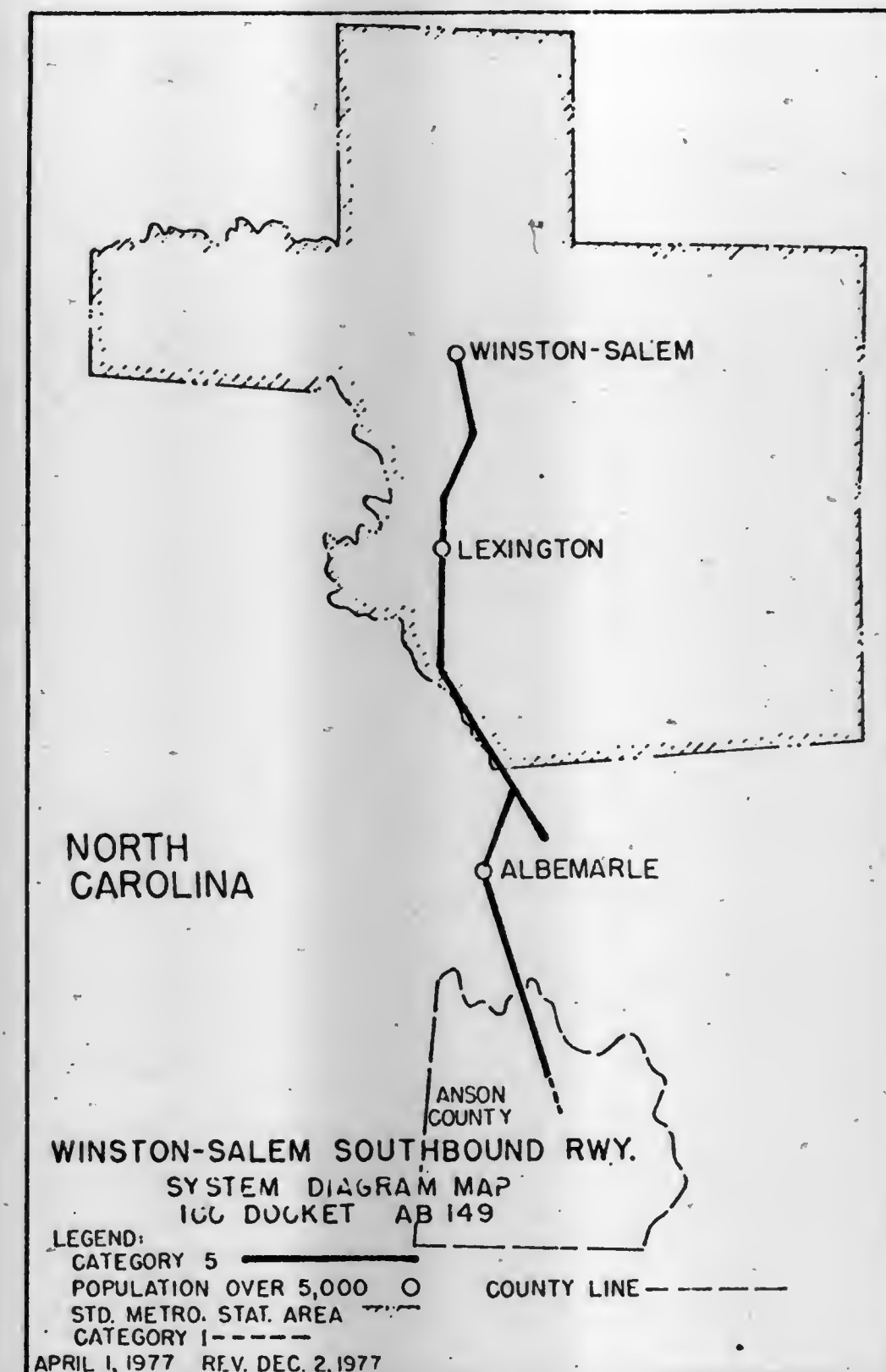
**WINSTON-SALEM SOUTHBOUND RAILWAY CO.**

**Revised System Diagram Map**

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Winston-Salem Southbound Railway Co., has filed with the Commission its revised color-coded system diagram map in Docket No. AB 149 (SDM). The maps reproduced here in black and white are reasonable reproductions of that revised system diagram map and the Commission on December 23, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the revised system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 149 (SDM).

H. G. HOMME, Jr.,  
Acting Secretary.



**WINSTON-SALEM SOUTHBOUND RAILWAY Co.**

ICC DOCKET AB-149

Description of line shown in Category 1 on System Diagram Map: This segment is the terminal 1.23 miles of

the Winston-Salem Southbound main-line located in Wadesboro, Anson County, N.C. It extends from Milepost 87.18 to Milepost 88.41. There will be no agency or non-agency stations affected by this abandonment.

[FR Doc. 78-2495 Filed 1-27-78; 8:45 am]



# sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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### [6740-02]

#### FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published January 27, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., February 1, 1978.

CHANGE IN MEETING: The following items have been added:

Item No., Docket No., and Company  
CI-7.-CI77-718. South Louisiana Production Co., Inc. (Operator), et al.  
M-2.-RM 78-2, (Formerly Ex Parte No. 308). Valuation of Common Carrier Pipelines.

Lois D. CASHELL,  
Acting Secretary.

[S-208-708 Filed 1-26-78; 2:48 pm]

### [8210-01]

#### FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Wednesday, February 1, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

#### MATTERS TO BE CONSIDERED:

1. Proposed statement to be presented to the Subcommittee on Taxation and Debt. Management of the Senate Committee on Finance regarding to Federal debt ceiling.
2. Personnel appointments within the Board's staff.
3. Any agenda items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.  
Dated: January 25, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.  
[S-205-78 Filed 1-26-78; 9:31 am]

### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, January 26, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open (Cancellation).

#### MATTERS TO BE CONSIDERED:

11:00 a.m. Discussion of FOIA Appeal for EICSB Report is Cancelled.

#### CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,  
Office of the Secretary.  
JANUARY 25, 1978.  
[S-206-78 Filed 1-26-78; 9:31 am]

### [7590-01]

#### NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, January 24, 1978.

PLACE: Commissioners Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: 3:30 p.m., approximately. Briefing on Fort St. Vrain Release of Gaseous Radioactivity, approximately 1 hour.

By a vote of 3-0 on January 24, 1978 (Commissioner Gilinsky not participating) the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and §9.107(a) of the Commission's rules that Commission business requires that this agenda item be held on less than one week's notice to the public. Prompt scheduling is required so that the Commission can be informed of a recent incident.

#### CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.  
Dated at Washington, D.C., this 24th day of January 1978.

WALTER MAGEE,  
Chief, Operations Branch.  
[S-207-78 Filed 1-26-78; 8:45 am]

### [7910-01]

#### RENEGOTIATION BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 3473, January 25, 1978.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Tuesday, January 31, 1978, 10 a.m.

CHANGE IN MEETING: Addition of Matter 10 to the previously announced agenda.

#### MATTER TO BE CONSIDERED:

10. Principles and Concepts for the Application of the Statutory Factors.

STATUS: Open to public observation.

#### CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.  
Dated: January 26, 1978.

GOODWIN CHASE,  
Chairman.  
[S-210-78 Filed 1-26-78; 2:48 pm]

### [7910-01]

#### RENEGOTIATION BOARD.

DATE AND TIME: Tuesday, February 7, 1978; 10 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

STATUS: Matters 1 through 3 are open to the public Status is not applicable to matters 4 and 5.

#### MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held January 31, 1978, and other Board meetings, if any.
2. Report of the Chairman concerning: (a) Budget; (b) case processing; (c) personnel actions; (d) organization

## SUNSHINE ACT MEETINGS

progress of the staff; (e) rulemaking and regulations.

3. Recommendation for Assignment to a Division: Bata Shoe Co., Inc., Fiscal year ended December 31, 1972.

4. Approval of agenda for meeting to be held February 22, 1978.

5. Approval of agenda for other meetings, if any.

#### CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: January 26, 1978.

GOODWIN CHASE,  
Chairman.

[S-211-78 Filed 1-26-78; 2:48 pm]

### [8120-01]

#### TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., February 6, 1978.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED: Meeting with interested parties from the Duck River area in middle Tennessee to hear their views concerning the Columbia Dam portion of TVA's Duck River Project.

#### CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Informa-

tion, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

[S-204-78 Filed 1-26-78; 9:31 am]

### [4410-01]

#### U.S. PAROLE COMMISSION.

TIME AND DATE: Tuesday, January 24, 1978, 9 a.m.

PLACE: Room 338, 320 First Street NW., Washington, D.C.

STATUS: Open.

#### CHANGES IN THE MEETING

By majority vote on January 25, 1978, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 5 U.S.C. 552b(e)(2)(1) that the date and time for the completion of the agenda of the above meeting be changed to Wednesday, January 25, at 5:30 p.m.

The Commission further determined that Commission business requires that this continuation of an open business meeting be held at the date and time designated on less than one week's notice and that no earlier announcement of the change is possible.

#### CONTACT PERSON FOR MORE INFORMATION:

M. E. Malin Foehrkolb, 202-724-3117.

[S-209-78 Filed 1-26-78; 2:48 pm]



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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

### List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of PUBLIC LAWS.

## CUMULATIVE LIST OF PARTS AFFECTED DURING JANUARY

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## rules and regulations

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## [6325-01]

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

## Department of the Treasury

NOTE.—This document originally appeared in the FEDERAL REGISTER for Monday, January 30, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Civil Service Commission.

AC: Final Rule.

SUMMARY: This amendment (1) revokes the Schedule C exception for the position of Adviser to the Secretary (Counselor to the Chairman, Economic Policy Board), Office of the Secretary, and (2) excepts from the competitive service under Schedule C one position of Assistant Secretary (Enforcement and Operations), Office of the Under Secretary, Office of the Secretary, because the position is confidential in nature.

EFFECTIVE DATE: January 30, 1978.

## FOR FURTHER INFORMATION:

On Position Authority Contact, Sallie E. West, Civil Service Commission, 202-632-3782.

On Position Content Contact, Henry DeSeguirant, Department of the Treasury, 202-566-2707.

Accordingly, 5 CFR 213.3305(a)(59) is revoked and (78) is added as set out below:

§ 213.3305 Department of the Treasury.

(a) Office of the Secretary. . . .

(59) [Revoked.]

(78) Assistant Secretary (Enforcement and Operations), Office of the Under Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

For the United States Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2601 Filed 1-27-78; 8:45 am]

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of an existing schedule C position from Confidential Secretary to Private Secretary for the purpose of more accurately describing the duties of the position; and (2) excepts under schedule C one position of Executive Assistant to the Assistant Secretary for Policy and Evaluation because it is confidential in nature.

EFFEC DATE: January 31, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(c)(2) is amended and (o)(2) is added as set out below:

§ 213.3331 Department of Energy.

(c) Federal Energy Regulatory Commission. . . .

(2) One Private Secretary to one member of the Commission and one Confidential Secretary to each of the Commission's remaining three members.

(o) Office of the Assistant Secretary for Policy and Evaluation. . . .

(2) One Executive Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2602 Filed 1-30-78; 8:45 am]

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Pennsylvania Avenue Development Corporation

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Civil Engineer (Construction Manager) with the Pennsylvania Avenue Development Corporation is excepted under schedule B because it is not practicable to hold a competitive examination for the position.

EFFECTIVE DATE: January 31, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3295 is added as set out below:

§ 213.3295 Pennsylvania Avenue Development Corporation.

(a) One position of Civil Engineer (Construction Manager).

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2603 Filed 1-30-78; 8:45 am]

## [6325-01]

## PART 213—EXCEPTED SERVICE

## Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant (Private Secretary) to the Pardon Attorney is excepted under schedule C because it is confidential in nature.

EFFECTIVE DATE: January 31, 1978.

## FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3310(y) is added as set out below:

§ 213.3310 Department of Justice.

(y) Office of the Pardon Attorney. (1) One confidential Assistant (Private Secretary) to the Pardon Attorney.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)



For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2604 Filed 1-30-78; 8:45 am]

# [6325-01]

## PART 213—EXCEPTED SERVICE Veterans Administration

AGENCY: Civil Service Commission.  
ACTION: Final rule.

SUMMARY: The schedule C exception of three positions of Confidential Assistant to the Assistant Deputy Administrator is revoked under the automatic revocation provisions because the positions have been vacant for more than 60 days. One additional position of Confidential Assistant to the Executive Assistant to the Administrator and one additional position of confidential assistant to the General Counsel are expected under schedule C because they are confidential in nature.

EFFECTIVE DATE: January 31, 1978.  
FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3327(a)(8) is revoked and (a)(7) and (a)(11) are amended as set out below:

### § 213.3327 Veterans Administration.

(a) *Office of the Administrator.* . . .  
(7) Three confidential Assistants to the Executive Assistant to the Administrator.

(8) [Revoked].

(11) Five Confidential Assistants to the General Counsel.  
(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the U.S. Civil Service Commission.

JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2605 Filed 1-30-78; 8:45 am]

# [6325-01]

## PART 213—EXCEPTED SERVICE

### Federal Deposit Insurance Corporation

AGENCY: Civil Service Commission.  
ACTION: Final rule.

SUMMARY: The position of Special Assistant for Public Affairs is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: January 31, 1978.

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### FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3333(1) is added as set out below:

### § 213.3333

Federal Deposit Insurance Corporation.

(1) One Special Assistant for Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL  
SERVICE COMMISSION,  
JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc. 78-2756 Filed 1-30-78; 8:45 am]

# [4410-01]

## Title 8—Aliens and Nationality

### CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

#### PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

##### Notice to Nonimmigrants

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations of the Immigration and Naturalization Service to require the Service to attach Form M-211 "Notice to Nonimmigrants," to the Entry-Departure documents (Forms I-94 nonimmigrant aliens entering the United States. The form tells the alien that the period of time for which he is permitted to remain in the United States is that written on his Form I-94 by the Immigration Inspector and not the period of time for which his visa is valid. The form has been created in order to eliminate confusion on the part of nonimmigrant aliens as to the length of time they may lawfully remain in the United States. The amendment is necessary to include reference to the form in the regulations.

EFFECTIVE DATE: January 31, 1978.

### FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20538, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: This final rule amends 8 CFR 235.1(f) to add a new subparagraph (1a) to include a reference to Form M-211 "Notice to Nonimmigrants," which is to be attached to the Form I-94 pre-

pared for nonimmigrants entering the United States.

In Part 235, § 235.1(f) is amended by adding a new subparagraph (1a) to read as follows:

### § 235.1 Scope of examination.

(f) *Arrival-Departure Card, Form I-94—(1)* . . .

(1a) *Notice to Nonimmigrants.* Form M-211, "Notice to Nonimmigrants" shall be attached to the original copy of each Form I-94 issued to a nonimmigrant alien under subparagraph (1) of this paragraph.

(Sec. 103 (8 U.S.C. 1103).)

This amendment is issued under the provisions of section 552 of Title 5 of the United States Code, as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is not necessary in this instance because the amendment contained in this order relates to Service procedure.

*Effective date.* This amendment becomes effective on January 31, 1978.

Dated: January 25, 1978.

LEONEL J. CASTILLO,  
Commissioner of  
Immigration and Naturalization,  
[FR Doc. 78-2569 Filed 1-30-78; 8:45 am]

# [4410-01]

## PART 238—CONTRACTS WITH TRANSPORTATION LINES

Addition of British Caledonian Airways, Ltd.  
and Korean Air Lines Co., Ltd. to Listing

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add two carriers to the list of transportation lines which have entered into agreements with the Commissioner of Immigration and Naturalization to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. These amendments are necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: January 31, 1978.

### FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20538, telephone 202-376-8373.

SUPPLEMENTARY INFORMATION: These amendments to 8 CFR 238.3 are published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendments contained in this order add transportation lines to the listing and are editorial in nature.

1. On October 28, 1977, the Commissioner of Immigration and Naturalization concluded an agreement with British Caledonian Airways Limited to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR Part 238. This agreement supersedes the agreements between the Service and two predecessor lines, British United Airlines Ltd. and Caledonian Airways (Prestwick) Ltd. Accordingly, 8 CFR 238.3 will be amended by adding in alphabetical sequence "British Caledonian Airways, Limited", and deleting "British United Airlines Ltd." and "Caledonian Airways (Prestwick) Ltd." from the listing.

2. On December 16, 1977, the Commissioner of Immigration and Naturalization concluded an agreement with Korean Air Lines Co., Ltd. to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries pursuant to section 238(d) of the Immigration and Nationality Act and 8 CFR 238.3. This agreement supersedes the agreement between the Service and its predecessor, Korean National Airlines. Accordingly, 8 CFR 238.3(b) will be further amended by adding "Korean Air Lines Co., Ltd." in alphabetical sequence and by deleting "Korean National Airlines" from the listing.

In the light of the foregoing, the following amendments are hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations.

### § 238.3 [Amended]

In § 238.3 aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) signatory lines is amended by adding in alphabetical sequence, "British Caledonian Airways Limited" and "Korean Air Lines Co., Ltd." and by deleting

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"British United Airlines Ltd.", "Caledonian Airways (Prestwick) Ltd." and "Korean National Airlines".

(Sec. 103, 238(d), (8 U.S.C. 1103, 1228(d)).)

*Effective date.* The amendments contained in this order will become effective on January 31, 1978.

Dated: January 25, 1978.

LEONEL J. CASTILLO,  
Commissioner of  
Immigration and Naturalization.  
[FR Doc. 78-2572 Filed 1-30-78; 8:45 am]

# [3128-01]

## Title 10—Energy

### CHAPTER II—FEDERAL ENERGY ADMINISTRATION<sup>1</sup>

#### PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

##### Amendments to Administrative Procedures Regarding Issuance of Remedial Orders

EDITORIAL NOTE: This document originally appeared in the FEDERAL REGISTER of Friday, January 13, 1978, at page 1930. This document is reprinted here in full text to correct typographical errors involving the capitalization of certain words and the codification of § 205.199F.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Interim Rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby amends its administrative procedures regulations regarding the manner in which Remedial Orders are issued. The purpose of the amendments is to provide a fuller administrative review of the issues raised in each Remedial Order proceeding prior to issuance of the Order in final form. Remedial Orders will be issued in proposed form and aggrieved or interested parties will be able to present evidence relevant thereto prior to issuance of the Order in final form. Evidentiary hearings will be convened where appropriate and an opportunity for oral argument provided as a matter of right. The revised procedures will also apply to Remedial Orders for Immediate compliance and Orders of Disallowance.

EFFECTIVE DATE: January 6, 1978; Comments by February 15, 1978.

ADDRESSES: Written Comments to: Department of Energy, Office of Regulations Management, Room 2214, 2000 M Street, Box QW, Washington, D.C. 20461.

<sup>1</sup>EDITORIAL NOTE: Chapter II will be renamed at a future date to reflect that it contains regulations administered by the Economic Regulatory Administration of the Department of Energy.

### FOR FURTHER INFORMATION CONTACT:

Deanna Williams (DOE Reading Room), 12th and Pennsylvania Avenue NW., Room 2107, Washington, D.C. 20461, 202-566-9161.

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202-566-9833.

Melvin Goldstein (Office of Administrative Review), 2000 M Street NW., Room 8002, Washington, D.C. 20461, 202-254-5134.

Nancy E. Williams (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461, 202-566-2454.

### SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Amendments Adopted.
- III. Comment Procedure.
- IV. Interim Requirements.
- V. Other Procedural Considerations.

#### A. BACKGROUND

The procedures which now govern the issuance of Remedial Orders pursuant to the Emergency Petroleum Allocation Act of 1973, as amended, are found in Subpart O of 10 CFR Part 205. ERA wishes to revise these procedures in order to produce a more fully developed administrative record prior to issuance of a Remedial Order. The development of a record through the hearing process described below will assist any reviewing authority in considering arguments on the appeal of a Remedial Order in an effective and efficient manner. These procedures will also give interested parties a better chance to present facts and legal arguments in support of the position they contend the ERA should adopt in the Remedial Order.

The ERA has separated the prosecutorial and adjudicatory functions which are within the jurisdiction of the Administrator. Under the amendments, the offices of the Special Counsel for Compliance and of the Assistant Administrator for Enforcement will issue Proposed Remedial Orders. Those Proposed Orders will then be subject to review by the Office of Administrative Review. In any proceeding before the Office of Administrative Review regarding a Proposed Remedial Order, the enforcement office that issued the Proposed Order will be a party to the proceeding and will submit its position in the same manner as any other party.

#### B. AMENDMENTS ADOPTED

Under the new procedures the Special Counsel for Compliance or the Assistant Administrator for Enforcement of the ERA will issue Notices of Probable Violation or Proposed Remedial Orders under Subpart O of Part 205 in



order to commence most formal compliance proceedings. If a Notice of Probable Violation is served, the person upon whom it is served will continue to have an opportunity to file a reply as now provided in § 205.191. If the enforcement office then finds that a violation exists or is about to occur, it will issue a Proposed Remedial Order. It may also eliminate the Notice of Probable Violation step and proceed immediately to the issuance of a Proposed Remedial Order. In either case, the Proposed Remedial Order will be served upon all parties to the compliance proceeding. Once the Proposed Remedial Order is issued, further proceedings in the matter will be before the Office of Administrative Review.

Any aggrieved party will have the opportunity to file briefs and other documents specifying the errors which it is believed appear in the Proposed Remedial Order. Parties will also have the opportunity to request that an evidentiary hearing be convened with respect to relevant, substantial and material issues of fact. An opportunity for oral argument will, in addition, be provided as a matter of right, and the parties to the proceeding will be afforded an opportunity to respond in a formal manner to the written submissions of any other party.

The amendments also include provisions which will permit various types of pre-hearing discovery. A prior showing will, however, have to be made that the discovery is necessary to obtain relevant and material evidence and that discovery will not unduly delay the proceeding.

After the completion of such proceedings, the Proposed Remedial Order will be considered in view of the material presented and, if appropriate, a final Remedial Order will be issued by the Office of Administrative Review.

The amendments provide that decisions with respect to the issuance of final Remedial Orders will be made solely by the Office of Administrative Review. Consequently, individuals in the Office of Administrative Review who are responsible for deciding a case will not be permitted to receive *ex parte* communications from persons outside that Office regarding matters involved in a Remedial Order proceeding.

The new procedures will apply to Remedial Orders for Immediate Compliance and Orders of Disallowance as well as to Remedial Orders.

The amendments provide that a recipient of a Remedial Order issued pursuant to a NOPV issued after October 1, 1977, may request a review of that Order by the Federal Energy Regulatory Commission, in accord with the DOE Organization Act. For purposes of the amendments, the con-

test and review of a Remedial Order as described in Section 503 of the DOE Act shall be deemed to be an Appeal, and governed by § 205.199C of the new regulations, "Appeal of Remedial Order."

Nothing in these amendments is intended to prohibit the Special Counsel for Compliance or the Assistant Administrator for Enforcement, in coordination with the Department of Justice, from initiating an appropriate civil or criminal enforcement action in court rather than utilizing the administrative procedures established in these regulations.

#### C. COMMENT PROCEDURE

No substantial issue of fact or law exists with respect to the amendments, and the amendments are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Thus, ERA will not provide opportunity for oral presentation of views, data, or arguments regarding the amendments.

You are, however, invited to submit written views, data or arguments regarding the amendments set forth in this notice. Submit comments to the address indicated in the "addresses" section of this preamble and write on the outside of the envelope the designation "Amendments to Administrative Procedures Regarding Issuance of Remedial Orders." Fifteen copies should be submitted. You may inspect all comments received by DOE in the DOE Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue, N.W., between 8:00 a.m. and 4:30 p.m., Monday through Friday, and in the Office of Administrative Review Public Docket Room, Room B-120, 2000 M Street, N.W., between 1:00 p.m. and 5:00 p.m., Monday through Friday.

#### D. INTERIM REQUIREMENTS

The amendments will be adopted immediately by the ERA for purposes of further Remedial Order proceedings, although the regulations will not be promulgated as final rules until public comment thereon has been received and analyzed. Immediate adoption of the new procedures will provide for a consistent approach with respect to Remedial Order proceedings in the period until these regulations are adopted as final rules.

The ERA also believes immediate adoption of the procedures in the amendments will aid in effectuating the intent of Congress as expressed in the Conference Report accompanying the DOE Organization Act, i.e., to guarantee a "separation of the prosecutorial and judicial functions relating to enforcement." Further, since the new procedures provide additional rights in that a greater opportunity is afforded for submission of factual

data and legal arguments in support of a party's position prior to the issuance of a final Order, the ERA believes it is appropriate, and that no party will be adversely affected thereby, to adopt the new procedures effective immediately.

Since the proposed regulations will be adopted immediately, any formal administrative remedial action which is taken by the Assistant Administrator for Enforcement or the Special Counsel for Compliance subsequent to the issuance of these amendments will be issued in the form of a Proposed Remedial Order. The procedures of the amendments will then be applicable to issuance of the Proposed Remedial Order as a final Order.

#### E. OTHER PROCEDURAL CONSIDERATIONS

These amendments do not affect the quality of the environment, and therefore the provisions of Section 7(a)(1) of the Federal Energy Administration Act of 1974, as amended, are not applicable to the amendments.

This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

In accord with Section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission was notified that the Administrator intended to adopt these amendments, and the Commission has not determined that the regulations would significantly affect any function within its jurisdiction pursuant to Section 402(a)(1), (b) and (c)(1) of that Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 205 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., January 6, 1978.

DAVID J. BARDIN,  
Administrator, Economic  
Regulatory Administration.

1. The table of contents for Part 205, Subpart O, is amended by revising the entries for Section 205.190 through 205.197 and by adding Sections 205.198 through 205.199J, as follows:

#### Subpart O—Notice of Probable Violation, Remedial Order, Notice of Proposed Disallowance, and Order of Disallowance

- Sec.  
205.190 Purpose and Scope.  
205.191 Notice of Probable Violation, Commencement of Enforcement Proceedings.  
205.192 Issuance of Proposed Remedial Order.  
205.193 Notice of Objection.  
205.194 Statement of Objections.  
205.195 Response to Statement of Objections.  
205.196 Motion for Evidentiary Hearing.  
205.197 Decision with Respect to Motion for Evidentiary Hearing.  
205.198 Discovery.  
205.199 Evidentiary Hearing.  
205.199A Hearing for the Purpose of Oral Argument Only.  
205.199B Issuance of Remedial Order.  
205.199C Appeal of Remedial Order.  
205.199D Interim Remedial Order for Immediate Compliance.  
205.199E Notice of Proposed Disallowance, Proposed Order of Disallowance, and Order of Disallowance.  
205.199F Ex Parte Communications.  
205.199G Extension of Time; Interim and Ancillary Orders.  
205.199H Actions Not Subject to Administrative Appeal.  
205.199I Remedies.  
205.199J Consent Orders.

2. Sections 205.190, 205.191, 205.192, 205.193, 205.194, 205.195, 205.196 and 205.197 are revised and §§ 205.198 through 205.199J are added as follows:

§ 205.190 Purpose and Scope; Commencement of Enforcement Proceedings.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the ERA regulations and the procedures for issuance of a Notice of Probable Violation, a Proposed Remedial Order, a Remedial Order, or a Remedial Order for Immediate Compliance, except that it shall not apply with respect to violations of Parts 209 and 213. Nothing in these regulations is intended to affect the authority of ERA enforcement officials in coordination with the Department of Justice to initiate appropriate civil or criminal enforcement actions in court without first initiating administrative proceedings pursuant to this Subpart.

(b) When any report required by the ERA or any audit or investigation discloses, or the ERA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the ERA may conduct proceedings to determine the nature and extent of the violation and may issue a Remedial Order thereafter. The ERA may commence such proceeding by serving a Notice of Probable Violation,

a Proposed Remedial Order, or an Interim Remedial Order for Immediate Compliance.

§ 205.191 Notice of Probable Violation.

(a) The ERA may begin a proceeding under this subpart by issuing a Notice of Probable Violation if the ERA has reason to believe that a violation has occurred, is continuing or is about to occur.

(b) Within 10 days of the service of a Notice of Probable Violation, the person upon whom the Notice is served may file a reply with the ERA office that issued the Notice of Probable Violation at the address provided in § 205.12. The ERA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the Notice of Probable Violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the Notice of Probable Violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a conference must conform to the requirements of § 205.171.

(f) If a person has not filed a reply with the ERA within the 10-day period provided, and the ERA has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the Notice of Probable Violation.

(g) If the ERA finds, after the 10-day period provided in § 205.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason the issuance of a Remedial Order would not be appropriate, it shall rescind the Notice of Probable

Violation and inform the person to whom the Notice was issued of the rescission.

§ 205.192 Issuance of Proposed Remedial Order.

(a) If the ERA finds, after the 10-day period provided in Section 205.191(b), that a violation has occurred, is continuing, or is about to occur, it may issue a Proposed Remedial Order, which shall set forth the relevant facts and legal basis for the conclusions reached therein.

(b) The ERA may issue a Proposed Remedial Order at any time it finds that a violation has occurred, is continuing, or is about to occur even if it has not previously issued a Notice of Probable Violation.

(c) The ERA shall serve a copy of the Proposed Remedial Order upon the person to whom it is directed and upon any other person readily identifiable by the ERA as likely to be aggrieved by issuance of the Proposed Remedial Order as a final order.

(d) A Proposed Remedial Order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

§ 205.193 Notice of Objection.

(a) Within 10 days of service of the Proposed Remedial Order any aggrieved person may file a Notice of Objection to the Order with the National Office of Administrative Review. The Notice shall briefly describe how the person would be aggrieved by issuance of the Proposed Remedial Order as a final order.

(b) Any person who fails to file a timely Notice of Objection shall be deemed to consent to the issuance of the Proposed Remedial Order as a final order.

(c) Any person who files a Notice of Objection shall serve a copy of the Notice upon each person who is readily identifiable as a person who will be aggrieved by the ERA action sought, including those persons who have been served copies of the Proposed Remedial Order, and upon the person who issued the Proposed Remedial Order.

(d) The Notice shall include a certification of compliance with the provisions of this section, the names and addresses of each person served with a copy of the Notice, and the date and manner of service.

(e) The Office of Administrative Review may issue a final Remedial Order without further proceedings if no person files a timely Notice of Objection.

(f) In order to exhaust administrative remedies with respect to a Remedial Order proceeding, a party must file a timely Notice of Objection with the Office of Administrative Review.



## § 205.194 Statement of Objections.

(a) *Filing Requirement.* A Statement of Objections to a Proposed Remedial Order must be filed within 30 days of service of the Proposed Remedial Order. A request for an extension of time for filing must be submitted in writing and may be granted for good cause shown.

(b) *Filing and Service of Statement of Objections and Related Documents.*

(1) Statements of Objections, Responses to such Statements, and any motions or other documents filed in connection with the proceeding shall be filed with the National Office of Administrative Review.

(i) Any document referred to in (b)(1) shall be filed in triplicate.

(ii) If a party claims that any portion of a document referred to in (b)(1) contains confidential information, such information should be deleted from two (2) of the copies which are filed. One copy from which confidential information has been deleted will be placed in the Public Docket Room described in § 303.13.

(2) A copy of each of the documents referred to in subsection (b)(1) shall be served upon each person who is readily identifiable as a person who will be aggrieved by the ERA action sought, including those persons who have been served copies of the Proposed Remedial Order, and upon the person who issued the Proposed Remedial Order.

(3) Any filing made under this section shall include a certification of compliance with the provisions of this section, the names and addresses of each person served, and the date and manner of service.

(c) *Contents of Statement of Objections.* The Statement of Objections shall set forth the basis for the objections to the issuance of the Proposed Remedial Order as a final order, including a specification of every issue of fact or law which the party intends to contest in any further proceeding involving the compliance matter which is the subject of the Proposed Remedial Order. The Statement shall set forth the particular findings of fact contained in the Proposed Remedial Order which are contested and the alternative findings which are sought. The Statement shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

## § 205.195 Response to Statement of Objections.

Within 20 days of receipt of a Statement of Objections any party may file a Response. The Response shall contain a full discussion of the position which the party asserts should be

adopted in the matter and a discussion of the legal and factual basis which supports that position.

## § 205.196 Motion for Evidentiary Hearing.

Any party may file a motion requesting that an evidentiary hearing be convened with respect to relevant, substantial and material issues of fact at the same time that it files a Statement of Objections. A motion requesting an evidentiary hearing may be filed by any other party within 15 days after that party is served with a Statement of Objections.

(a) *Contents of Motion for Evidentiary Hearing.* A Motion for Evidentiary Hearing shall specify the manner in which the movant proposes to establish the basis for the alternative findings it asserts in its Statement of Objections. The movant shall also describe the manner in which the issue of fact was raised in any prior administrative proceeding which led to issuance of the Proposed Remedial Order. If the movant asserts that its position can only be established through the introduction of evidence at an evidentiary hearing, the movant shall with respect to each disputed finding of fact:

(1) Identify each witness whose testimony is required;

(2) State the reasons why the testimony of the witness is necessary; and

(3) State the reasons why the asserted position can be established only through the direct questioning of witnesses at an evidentiary hearing.

(b) *Statement of Additional Factual Representations.* At the time a Motion for an Evidentiary Hearing is filed, the movant may also file a Statement of Factual Representations which are not referred to in the Proposed Remedial Order that the movant contends are material and relevant to establish that the Proposed Remedial Order is either erroneous in fact or law or is arbitrary or capricious. The Statement shall set forth the particular findings of fact which the movant asserts should be made, the reasons why such representations are relevant and material, and the manner by which the validity of the factual representations will be established. The movant shall also specify if and how the issue of fact was raised in any prior administrative proceeding which led to issuance of the Proposed Remedial Order. If the movant asserts that its position can only be established through the introduction of evidence at an evidentiary hearing, the movant shall:

(1) Identify each witness whose testimony is required;

(2) State the reasons why the testimony of the witness is necessary; and

(3) State the reasons why the asserted position can be established only through the direct questioning of witnesses at an evidentiary hearing.

(c) *Response to Motion for Evidentiary Hearing.* Within 20 days of receipt of any Motion for Evidentiary Hearing and accompanying Statements, the person who has issued the Proposed Remedial Order shall, and any aggrieved party may, file a Response with the Office of Administrative Review. A Response shall, with respect to each factual representation in the movant's Statements:

(1) Specify the particular factual representations which are accepted as correct for purposes of the proceeding;

(2) Specify the particular factual representations which are denied;

(3) Specify the particular factual representations which the movant is not in a position to accept or deny;

(4) Specify the particular factual representations which are not accepted and the responding party wishes proven by the submission of evidence; and

(5) Specify the particular factual representations which the responding party is prepared to dispute through the testimony of witnesses or the submission of verified documents.

(d) *Motions to Dismiss.* Within 20 days of receipt of any Motion for Evidentiary Hearing and accompanying Statements, any party may also file a Motion to Dismiss any factual representation put forward by the movant on the grounds of vagueness, immateriality, or irrelevance. Any party filing a Motion to Dismiss shall have 10 days following a decision on the Motion to Dismiss to file the Response referred to in (c) above.

## § 205.197 Decision With Respect to Motion for Evidentiary Hearing.

(a) After all submissions with respect to a Motion for Evidentiary Hearing are filed, the Office of Administrative Review may conduct conferences in order to resolve any differences of view and may convene a hearing for the presentation of oral argument. Any such hearing shall be convened pursuant to § 205.172. In addition, the Office of Administrative Review may adopt procedural measures which it concludes are appropriate to facilitate a resolution of the matter.

(b) After considering all relevant information received in connection with the Motion, the Office of Administrative Review shall enter an Order with respect to the Motion. If the Motion is granted in whole or in part, the Order shall specify the particular issues of fact which will be set forth for the evidentiary hearing. If the Motion is denied, the Order may nevertheless permit the movant to file affidavits or other documents in support of the particular finding of fact(s) which it asserted should be reached in the Motion.

(c) The Order of the Office of Administrative Review with respect to a

Motion for Evidentiary Hearing shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon issuance of the Remedial Order referred to in § 205.199B.

## § 205.198 Discovery.

(a) Any party may file a Motion for Discovery at the same time that it files the Statement of Objections referred to in § 205.194. A Motion for Discovery may be filed by any other party within 15 days after that party is served with a Statement of Objections.

(b) A Motion for Discovery may request that:

(1) A party produce for inspection and photocopying non-privileged written material in its possession;

(2) A party respond to written interrogatories;

(3) A party admit to the genuineness of any relevant document or the truth of any relevant fact; or

(4) The deposition of a material witness be taken.

(c) Any Motion for Discovery shall set forth in detail the reasons why the particular discovery is necessary in order to obtain relevant and material evidence.

(d) Within 10 days after a Motion for Discovery is received, any party may file a request that the Motion be denied in whole or in part, stating the reasons which support the request.

(e) Discovery may be conducted only pursuant to an Order issued by the Office of Administrative Review. A Motion for Discovery will be granted only if it is concluded that discovery is necessary for the party to obtain relevant and material evidence and that discovery will not unduly delay the proceeding. Depositions will be permitted only if a clear and convincing showing is made that the party cannot obtain the material through one of the other discovery means specified in § 205.198(b).

(f) The Director of the Office of Administrative Review or his designee may issue subpoenas in connection with the approval of a Motion for Discovery. The provisions of § 205.8 for witness fees shall apply to any such subpoena.

(g) Any direct expenses incurred by a party to produce evidence pursuant to a Motion for Discovery may be charged to the party who filed the Motion, if so ordered by the Office of Administrative Review.

(h) (1) If a party fails to comply with an Order relating to discovery, the Office of Administrative Review may take appropriate action, including but not limited to the following:

(i) Infer that the testimony, documents or other evidence sought to be discovered would have been adverse to the party;

(ii) Rule that for the purposes of the proceeding the matter or matters sought to be discovered be taken as established adversely to the party;

(iii) Rule that the party may not introduce into evidence or otherwise rely, in support of any claim or defense, upon testimony by such party or the documents or other evidence;

(iv) Rule that the party may not be heard to object to introduction and use of secondary evidence to show what the withheld testimony, documents or other evidence would have shown;

(v) Rule that a pleading, or part of a pleading, or a motion or other submission by the party, concerning which discovery was sought, be stricken, or that a decision with regard to the proceeding be rendered against the party, or both.

(2) It shall be the duty of parties to request action of the foregoing types or to request that other appropriate relief be fashioned to compensate them for the lack of withheld testimony, documents or other evidence.

(3) For purposes of subsection (h)(1), an evasive or incomplete answer will be deemed a failure to answer.

(i) Any Order issued by the Office of Administrative Review with respect to discovery shall be deemed to be an Interlocutory Order which is subject to further administrative review or appeal only upon issuance of the Remedial Order referred to in § 205.199B.

## § 205.199 Evidentiary Hearing.

(a) All evidentiary hearings convened pursuant to this section shall be conducted by the Director of the Office of Administrative Review or his designee.

(b) At any evidentiary hearing, the parties shall have the opportunity to present evidence which:

(1) Directly relates to a particular issue of fact which has been set forth for hearing; and

(2) Is material and relevant to establish the validity of the position which it is asserted the ERA should adopt.

(c) The presiding officer shall afford the right of cross examination to the extent he determines that such is necessary for a full and true disclosure of the facts.

(d) The presiding officer may administer oaths and affirmations, rule on objections to the presentation of evidence, receive relevant material, dispose of procedural requests, determine the format of the hearing, direct that written motions or briefs be provided with respect to issues raised during the course of the hearing and otherwise regulate the course of the hearing. Further, the presiding officer may take reasonable measures to exclude duplicative material from the hearing.

The presiding officer may also require that evidence be submitted through

affidavits or other documents if he concludes that the presentation of evidence through the direct testimony of witnesses will unduly delay the orderly progress of the hearing and would add little substantive value in resolving the issues involved in the hearing.

(e) The provisions of § 205.8 of this Part which relate to subpoenas and witness fees shall apply to any evidentiary hearing.

(f) Following the presentation of all evidence, the parties shall be afforded an opportunity to present oral argument. The presiding officer may direct that written memoranda, briefs or other documentary material be submitted in support of any position which a party advances or with respect to any other issue specified. If written submissions are requested, other parties shall be permitted to file responsive memoranda, briefs or documents.

## § 205.199A Hearing for the Purpose of Oral Argument Only.

(a) If an evidentiary hearing is not convened, any party may nevertheless request a hearing so that oral argument may be presented with respect to the Proposed Remedial Order.

(1) If a party does not file a Motion for Evidentiary Hearing at the time it files the Statement of Objections referred to in § 205.194, a request for oral argument shall be filed at the time a Statement of Objections is filed.

(2) If a party files a Motion for Evidentiary Hearing at the time a Statement of Objections is filed, but that Motion is subsequently denied, the party shall file a request for oral argument within 10 days of receipt of that denial.

(3) A request for a hearing for oral argument shall be filed by any other party within 10 days after that party is served with a Statement of Objections.

(b) Upon a timely request by any party or on its own initiative, the Office of Administrative Review shall conduct a hearing for the purpose of receiving oral argument. A hearing will generally be conducted only after the issues involved in the proceeding have been delineated and any written material which the Office of Administrative Review has requested as a supplement to the Statement of Objections, referred to in § 205.194, or the Response, referred to in § 205.195, has been submitted. The procedures specified in § 205.172 shall generally apply to such hearings.

(c) The provisions of § 205.199(f) above with respect to written submissions shall also apply to hearings convened pursuant to this section.

## § 205.199B Issuance of Remedial Order.

(a) After considering all information received during the proceeding, the di-



rector of the Office of Administrative Review or his designee shall issue a final Remedial Order. The Remedial Order may adopt the findings and conclusions contained in the Proposed Remedial Order or may modify or rescind any such finding or conclusion on the basis of a determination that the finding or conclusion is erroneous in fact or law or is arbitrary or capricious. The Office of Administrative Review may also reach the determination that no Remedial Order should be issued. Every determination issued pursuant to this section shall include a statement which sets forth the relevant facts and legal basis supporting the determination.

(b) The ERA shall serve a copy of any final Remedial Order upon the person to whom it is directed, any person who was served a copy of the Proposed Remedial Order, the person who issued the Proposed Remedial Order, and any other person readily identifiable by the ERA as one who is aggrieved by the Order. A copy of each Remedial Order, modified to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will also be placed on file in the Public Docket Room described in § 303.13.

(c) A Remedial Order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

#### § 205.199C Appeal of Remedial Order.

(a) An Appeal may be filed from the following Remedial Orders:

(1) Those issued prior to the effective date of these regulations and pursuant to a NOPV issued prior to October 1, 1977; and

(2) Those issued pursuant to NOPV's or Proposed Remedial Orders issued subsequent to October 1, 1977;

(b)(1) An Appeal as described in (a)(1) shall be filed with and decided by the National Office of Administrative Review in accord with Subpart H of this part. Any such Appeal must be filed within 30 days of service of the Order. In any such proceeding, the Remedial Order shall be sustained unless the appellant demonstrates that the Order was erroneous in fact or law or was arbitrary or capricious.

(2) An Appeal as described in (a)(2) shall be instituted by the recipient notifying the National Office of Administrative Review within 30 days of service of the Order that it wishes to contest the Order.

(c) The Office of Administrative Review shall immediately advise the Federal Energy Regulatory Commission of its receipt of a notice described in (b)(2).

(d) The Office of Administrative Review may, on a case by case basis, set reasonable time limits for the Federal Energy Regulatory Commission to

complete action on a proceeding referred to in (c).

(e) In order to exhaust administrative remedies with respect to a Remedial Order proceeding, a party must file a timely Appeal pursuant to the procedures set forth in this section and await an order granting or denying the Appeal.

#### § 205.199D Interim Remedial Order for Immediate Compliance.

(a) Notwithstanding the provisions of §§ 205.191 through 205.199C, the ERA may issue an Interim Remedial Order for Immediate Compliance, which shall be effective upon issuance and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 205.191 through 205.199C.

(b) An Interim Remedial Order for Immediate Compliance shall be served promptly upon the person against whom such Order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis for the Remedial Order for Immediate Compliance, including the findings required by paragraph (a) of this section.

(c) The ERA may rescind or suspend an Interim Remedial Order for Immediate Compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a Notice of Probable Violation issued under § 205.191.

(d) If at any time in the course of a proceeding commenced by a Notice of Probable Violation the criteria set forth in paragraph (a) of the section are satisfied, the ERA may issue an Interim Remedial Order for Immediate Compliance, even if the 10-day period for reply specified in § 205.191(b) has not expired.

(e) At any time after an Interim Remedial Order for Immediate Compliance has become effective, the order may be referred to the Department of Justice for appropriate action in accordance with Subpart P.

(f) Any person who is aggrieved by an Interim Remedial Order for Immediate Compliance may contest the basis for the order by filing a Notice of Objection which meets the requirements of § 205.193 within 10 days of the issuance of the Interim Order. The person objecting to the issuance

of the Interim Remedial Order for Immediate Compliance shall follow the procedures specified in §§ 205.192 through 205.199C of this subpart to establish that the Interim Order is erroneous in fact or law or is arbitrary or capricious.

(g) Any aggrieved person who fails to file a timely Notice of Objection to the issuance of an Interim Remedial Order shall be deemed to consent to issuance of the Interim Order in final form. Under those circumstances, the Interim Order shall as a matter of course be made a permanent Order of the ERA.

(h) After considering all information received during a proceeding convened pursuant to a Notice of Objection described in (f), the Director of the Office of Administrative Review or his designee shall determine whether the Interim Order should be made permanent, should be modified, or should be rescinded. The general procedures in §§ 205.192 through 205.199D of this subpart shall apply to any such determination.

(i) Any party aggrieved by an Interim Order for Immediate Compliance may file an application for a temporary stay or an application for a stay of that Order with the National Office of Administrative Review. The Office of Administrative Review shall decide on an application for a temporary stay within 48 hours of receipt of the application and on an application for stay within 10 working days of receipt of the application.

(j)(1) Any party whose application for a stay of an Interim Remedial Order is denied may appeal that denial to the Federal Energy Regulatory Commission. The Office of Administrative Review may, on a case by case basis, set reasonable time limits for the Commission to complete action on any such appeal.

(2) After reaching a decision on an appeal involving an application for stay, the Federal Energy Regulatory Commission shall refer the matter back to the Office of Administrative Review for proceedings on the merits of the Interim Remedial Order pursuant to (f) through (h) above.

(j)(1) An Appeal from a Remedial Order for Immediate Compliance issued pursuant to § 205.199D(h) must be filed within 30 days of service of the Order.

(2) If a person who receives a Remedial Order for Immediate Compliance issued pursuant to a proceeding as to which no NOPV had been issued as of October 1, 1977, or issued pursuant to a NOPV issued on or after October 1, 1977, wishes to contest the Remedial Order, that person shall so notify the National Office of Administrative Review in accordance with the procedures set forth in § 205.199C(b)(2), and the procedures of § 205.199C(c) and (d) shall apply to the Appeal.

(3) In order to exhaust administrative remedies with respect to a Remedial Order for Immediate Compliance proceeding, a party must file an Appeal pursuant to the procedures set forth in this section and await an Order granting or denying the Appeal.

#### § 205.199E Notice of Proposed Disallowance, Proposed Order of Disallowance, and Order of Disallowance.

(a) The ERA shall begin a proceeding under this section by issuing a Notice of Proposed Disallowance pursuant to the provisions of Parts 205 and 212 of this chapter.

(b) Within 10 days of service, the person upon whom the Notice of Proposed Disallowance is served may file a reply with the ERA office that issued the Notice. The ERA may extend the 10-day period for good cause shown.

(c) The reply shall set forth all relevant facts pertaining to the matter that is the subject of the Notice, and be signed by the person filing it.

(d) The reply shall include a discussion of all relevant authorities which support the position asserted, including rulings, regulations, interpretations, and previous decisions issued by DOE or its predecessor agencies.

(e) A request for a conference regarding the Notice should be included in the reply, or made as soon as possible after the reply is filed. A request for a conference must conform to the requirements of § 205.171.

(f) If a reply has not been filed with the ERA within the 10-day or extended period provided, the recipient shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the Notice of Proposed Disallowance, and the Notice shall become a Proposed Order of Disallowance.

(g) After consideration of any timely reply filed, the ERA may adopt, modify, or rescind the Notice of Proposed Disallowance and issue a Proposed Order of Disallowance. The Proposed Order shall set forth the relevant facts and legal basis for the conclusions reached therein.

(h) The procedures specified in §§ 205.192 through 205.199C shall be applicable to Proposed Orders of Disallowance, and shall govern the issuance of Orders of Disallowance and Appeals from Orders of Disallowance.

(i) An Order of Disallowance shall be effective upon issuance.

(j) An Order of Disallowance may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P.

#### § 205.199F Ex Parte Communications.

(a) No person who is not employed or otherwise supervised by the Office of Administrative Review shall submit ex parte communications to the Direc-

tor or any person employed or otherwise supervised by the Office with respect to any matter involved in Remedial Order or Order of Disallowance proceedings.

(1) Ex parte communications includes any ex parte oral or written communications relative to the merits of a Proposed Remedial Order, Interim Remedial Order for Immediate Compliance, or Proposed Order of Disallowance proceeding pending before the Office of Administrative Review. The term shall not, however, include requests for status reports, inquiries as to procedures, or the submission of statistical or technical data or reports containing proprietary or confidential information requested after notice to all parties by a person employed or otherwise supervised by the Office of Administrative Review.

(b) If any communication occurs that violates the provisions of this section, the Office of Administrative Review shall take appropriate action to mitigate the adverse impact to any party of the ex parte contact.

#### § 205.199G Extensions of Time; Interim and Ancillary Orders.

The Director of the Office of Administrative Review or his designee may permit any document or submission referred to in this subpart to be filed within a time period different from that specified. The Director or his designee may also issue any interim or ancillary Orders or make any rulings or determinations which are deemed necessary to ensure that the proceedings specified in this Subpart are conducted in an appropriate manner and are not unduly delayed.

#### § 205.199H Actions Not Subject to Administrative Appeal.

A Notice of Probable Violation, Notice of Proposed Disallowance, Proposed Remedial Order or Interim Remedial Order for Immediate Compliance issued pursuant to this subpart shall not be an action of which there may be an administrative appeal pursuant to Subpart H. In addition, a determination by the Office of Administrative Review that a Remedial Order or a Remedial Order for Immediate Compliance should not be issued shall not be appealable pursuant to Subpart H. Further, any Remedial Order which is first issued as a Proposed Remedial Order pursuant to a NOPV issued prior to October 1, 1977, or any Order of Disallowance which is first issued as a Proposed Order of Disallowance pursuant to a Notice of Proposed Disallowance issued prior to October 1, 1977, shall not be appealable pursuant to Subpart H.

#### § 205.199I Remedies.

(a) A Remedial Order, a Remedial Order for Immediate Compliance, an

Order of Disallowance, or a consent order may require the person to whom it is directed to roll back prices, to make refunds equal to the amount (plus interest) charged in excess of those amounts permitted under Part 212, to make appropriate compensation to third persons for administrative expenses of effectuating appropriate remedies, and to take such other action as the ERA determines is necessary to eliminate or to compensate for the effects of a violation or any cost disallowance pursuant to §§ 212.83 or 212.84. Such action may include a direction to the person to whom the Order is issued to make refunds directly to any purchasers of the products involved, notwithstanding that those purchasers obtained such products from an intermediate distributor of such person's products, and may require as part of the remedy that the person to whom the Order is issued maintain his prices at certain designated levels, notwithstanding the presence or absence of other regulatory controls on such person's prices.

(b) The ERA may, when appropriate, issue Orders ancillary to a Remedial Order, Remedial Order for Immediate Compliance, Order of Disallowance, or consent order requiring that a direct or indirect recipient of a refund pass through, by such means as the ERA deems appropriate, including those described in paragraph (a) of this section, all or a portion of the refund, on a pro rata basis, to those customers of the recipient who were adversely affected by the initial overcharge.

#### § 205.199J Consent Orders.

(a) Notwithstanding any other provision of this subpart, the ERA may at any time resolve an outstanding compliance investigation or proceeding, or a proceeding involving the disallowance of costs pursuant to § 205.199E of this subpart, with a consent order. A consent order shall be the exclusive administrative means, besides a Remedial Order or Order of Disallowance, for resolving compliance proceedings in which the ERA has issued a Notice of Probable Violation, a Proposed Remedial Order, a Notice of Proposed Disallowance or a Proposed Order of Disallowance, and a violation or overrecovery has been found. A consent order must be signed by the person to whom it is issued, or a duly authorized representative, and must indicate agreement to the terms contained therein. A consent order need not constitute an admission by any person that ERA regulations have been violated, nor need it constitute a finding by the ERA that such person has violated ERA regulations. A consent order shall, however, set forth the relevant facts which form the basis for the order.



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(b) A consent order is a final order of the ERA having the same force and effect as a Remedial Order issued pursuant to § 205.199B or an Order of Disallowance issued pursuant to § 205.199E, and may require one or more of the remedies authorized by § 205.199I and § 212.84(d)(3). A consent order becomes effective no sooner than 30 days after publication under paragraph (c) below, except that the ERA may make a consent order effective immediately if expressly deemed necessary in the public interest. However, all consent orders involving sums of less than \$500,000 in the aggregate, excluding penalties, will be effective when signed both by the person to whom it is issued and the ERA, and will not be subject to the provisions of paragraph (c) unless the ERA determines otherwise. A consent order shall not be appealable pursuant to the provisions of § 205.199C or § 205.199D and Subpart H, and shall contain an express waiver of such appeal or judicial review rights as might otherwise attach to a final order of the ERA.

(c) When a proposed consent order has been signed, both by the person to whom it is issued and the ERA, the ERA will publish notice of such proposed consent order in the FEDERAL REGISTER and in a press release to be issued simultaneously therewith. The FEDERAL REGISTER notice and the press release will state at a minimum the name of the company concerned, a brief summary of the consent order and other facts or allegations relevant thereto, and the address and telephone number of the ERA office at which copies of the proposed consent order will be available free of charge, the address to which comments on the proposed consent order will be received by the ERA, and the date by which such comments should be submitted, which date will not be less than 30 days from publication of the FEDERAL REGISTER notice. After the expiration of the comment period the ERA may withdraw its agreement to the consent order, attempt to negotiate a modification of the consent order, or issue the consent order as proposed. The ERA will publish in the FEDERAL REGISTER, and by press release, notice of any action taken on a proposed consent order and such explanation of the action taken as deemed appropriate. The provisions of this paragraph shall be applicable notwithstanding that a consent order may have been made immediately effective pursuant to paragraph (b) of this section (except in cases where the consent order involves sums of less than \$500,000 in the aggregate, excluding penalties).

(d) At any time and in accordance with the procedures of Subpart J, a consent order may be modified or rescinded, upon petition by the person

to whom the consent order was issued, and may be rescinded by the ERA upon discovery of new evidence which is materially inconsistent with evidence upon which the ERA's acceptance of the consent order was based. Modifications of a consent order which is subject to public comment under the provisions of paragraph (c) of this section, which in the opinion of the ERA significantly change the terms or the impact of the original order, shall be republished under the provisions of that paragraph.

(e) Notwithstanding the issuance of a consent order, the ERA may seek civil or criminal penalties or compromise civil penalties pursuant to Subpart P concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the ERA from so doing.

(f) If at any time after a consent order becomes effective it appears to the ERA that the terms of the consent order have been violated, the ERA may refer such violations to the Department of Justice for appropriate action in accordance with Subpart P.

[FR Doc. 78-958 Filed 1-10-78; 1:03 pm]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Changes in Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Change in discount rates.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit By Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodation commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3257.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under sections 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of

the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

	Rate	Effective
Federal Reserve Bank of:		
Boston .....	6½	Jan. 10, 1978.
New York .....	6½	Jan. 9, 1978.
Philadelphia .....	6½	Jan. 20, 1978.
Cleveland .....	6½	Do.
Richmond .....	6½	Jan. 13, 1978.
Atlanta .....	6½	Jan. 18, 1978.
Chicago .....	6½	Jan. 9, 1978.
St. Louis .....	6½	Jan. 13, 1978.
Minneapolis .....	6½	Jan. 10, 1978.
Kansas City .....	6½	Jan. 13, 1978.
Dallas .....	6½	Do.
San Francisco .....	6½	Do.

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

	Rate	Effective
Federal Reserve Bank of:		
Boston .....	7	Jan. 10, 1978.
New York .....	7	Jan. 9, 1978.
Philadelphia .....	7	Jan. 20, 1978.
Cleveland .....	7	Do.
Richmond .....	7	Jan. 13, 1978.
Atlanta .....	7	Jan. 18, 1978.
Chicago .....	7	Jan. 9, 1978.
St. Louis .....	7	Jan. 13, 1978.
Minneapolis .....	7	Do.
Kansas City .....	7	Do.
Dallas .....	7	Jan. 13, 1978.
San Francisco .....	7	Do.

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

	Rate	Effective
Federal Reserve Bank of:		
Boston .....	7½	Jan. 10, 1978.
New York .....	7½	Jan. 9, 1978.
Philadelphia .....	7½	Jan. 20, 1978.
Cleveland .....	7½	Do.
Richmond .....	7½	Jan. 13, 1978.
Atlanta .....	7½	Jan. 18, 1978.
Chicago .....	7½	Jan. 9, 1978.
St. Louis .....	7½	Jan. 13, 1978.
Minneapolis .....	7½	Jan. 10, 1978.
Kansas City .....	7½	Jan. 13, 1978.
Dallas .....	7½	Do.
San Francisco .....	7½	Do.

3. Section 201.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest

by, the United States or any agency thereof are:

	Rate	Effective
Federal Reserve Bank of:		
Boston .....	9½	Jan. 10, 1978.
New York .....	9½	Jan. 9, 1978.
Philadelphia .....	9½	Jan. 20, 1978.
Cleveland .....	9½	Do.
Richmond .....	9½	Jan. 13, 1978.
Atlanta .....	9½	Jan. 18, 1978.
Chicago .....	9½	Jan. 9, 1978.
St. Louis .....	9½	Jan. 13, 1978.
Minneapolis .....	9½	Jan. 10, 1978.
Kansas City .....	9½	Do.
Dallas .....	9½	Jan. 13, 1978.
San Francisco .....	9½	Do.

(12 U.S.C. 248 (i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, January 23, 1978.

GRIFFITH L. GARWOOD,  
Deputy Secretary of the Board.

[FR Doc. 78-2448 Filed 1-30-78; 8:45 am]

[7650-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket Nos. 8733-o and 8973-o]

PART 13—PROHIBITED TRADE PRACTICES AND AFFIRMATIVE CORRECTIVE ACTIONS

National Housewares, Inc., et al. and Emdeko International, Inc., et al.

AGENCY: Federal Trade Commission.

ACTION: Final Order.

SUMMARY: This order, among other things, requires a Salt Lake City, Utah distributor of household products to cease engaging in package selling, as it is defined in the order to cease encouraging, advising or assisting others to engage in package selling. Additionally, the firm is required to maintain prescribed records for a period of 5 years.

DATES: Complaints, March 13, 1967, June 21, 1974; Final Order, November 18, 1977.\*

FOR FURTHER INFORMATION CONTACT:

William A. Arbittman, Director, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Ave., San Francisco, Calif. 94102, 415-556-1270.

SUPPLEMENTARY INFORMATION: In the Matter of National Housewares, Inc., a corporation, and Edward J. Gilson, individually and as an officer of said corporation and Emdeko International, Inc., a corporation, and Anthony J. Wanlass, individually and as an officer of said corporation. The

\*Copies of the Complaint, Initial Decision, Opinion and Final Order filed with the original document.

RULES AND REGULATIONS

prohibited trade practices and/or corrective actions as codified under 16 CFR 13, are as follows:

Subpart—Aiding, Assisting and Abetting Unfair or Unlawful Act or Practice: § 13.290 Aiding, assisting and abetting unfair or unlawful act or practice.

Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-45 Maintain records; 13.533-45(c) Complaints; 13.533-45(e) Correspondence. Subpart—Furnishing Means and Instrumentalities of Misrepresentation or Deception: § 13.1055 furnishing means and instrumentalities of misrepresentation and deception. Subpart—Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1440 Identity; § 13.1513 Operations generally.—Goods: § 13.1625 Free goods or services; § 13.1663 Individual's special selection or situation; § 13.1705 Prize contests; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys.—Prices: § 13.1790 Coupons, credit vouchers, etc., of specified value.—Promotional Sales Plans; § 13.1830 Promotional sales plans. Subpart—Neglecting, Unfairly or Deceptively to Make Material Disclosure: § 13.1855 Identity; § 13.1883 Prize contests; § 13.1895 Scientific or other relevant facts. Subpart—Offering Unfair, Improper and Deceptive Inducements to Purchase or Deal: § 13.1925 Coupon, certificate, check, credit voucher, etc., deductions in price; § 13.1928 Customer connection or action; § 13.1955 Free goods; § 13.2020 Premium or premium conditions; § 13.2027 Prize contests; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents and complaint counsel from the initial decision, and upon briefs and oral argument in support thereof and opposition thereto, and the Commission for the reasons stated in the accompanying Opinion having determined to sustain the initial decision with certain modifications:

It is Ordered, That the initial decision of the administrative law judge, pages 1-74, be adopted as the Findings of Fact and Conclusions of Law of the Commission, except to the extent modified or otherwise indicated in the accompanying Opinion.

Other Findings of Fact and Conclusions of Law of the Commission are contained in the accompanying Opinion.

It is further Ordered, That the following Order to Cease and Desist be, and it hereby is, entered:

ORDER

I

For purposes of this order the following definitions shall apply:

A. "Package selling" means:

(1) Soliciting a consumer by telephone, mail, or other means of direct communication to attend a sales presentation; or

(2) Offering a gift, premium, prize, coupon, or a chance to secure any of the above, in connection with a solicitation to attend a sales presentation; or

(3) Representing that a survey or promotion is being undertaken, or that the consumer is invited to participate in an advertising or promotional program, unless no offer of sale is made to the consumer to whom such representation is made; or

(4) Using any artifice or device, to solicit a consumer for the purpose of making a sales presentation, which has a tendency or capacity to lead a consumer to conclude that there is any other reason for the contact with him; or

(5) Offering or selling three or more unrelated products for a single price.

Provided, That package selling shall not include the use of any of the above practices by regular multi-line retail establishments, such as department stores. Provided further, That use of the practices enumerated in subparagraphs (1), (2), or (5) shall not constitute package selling if each solicitation, offer or sales presentation comprehended by such practices is immediately preceded by a clear and conspicuous disclosure and if a cooling-off period is given in connection with any sale that may follow.

B. "Clear and conspicuous disclosure" means the statement "We would like the opportunity to sell our products to you," in print at least as large and prominent as the largest and most prominent used in any other portion of the written material with which it appears or, in oral presentations, in speech at least as clear and distinct as the most clear and distinct speech used in any other portion of the oral presentation with which it is given.

C. To give a "cooling-off period" means to fulfill all of the obligations established by 16 CFR Part 429 as if the sale were a door-to-door sale, as defined by that part, whether it is or not.

D. "Encouraging or advising" includes providing sales materials, guidance, advice or other similar assistance.

E. "Assisting" includes providing products by sale, consignment or any other means of transfer.



F. "Sale," in any of its grammatical forms, includes leases and all other transfers of goods and services.

## II

*It is Ordered*, That respondents Emdeko International, Inc., a corporation, its successors and assigns, and its officers; Edward J. Gilson, individually and as an officer of said corporation; and Anthony J. Wanlass, individually and as an officer of said corporation; and the agents, representatives and employees of the foregoing respondents, directly or through any corporation, subsidiary, division or other device, in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist in any manner from:

- (1) Encouraging or advising any other person to engage in package selling; or
- (2) Engaging in package selling; or
- (3) Assisting any other person to engage in package selling.

*Provided*, That it shall be a defense to a charge of assisting another in package selling in violation of this Paragraph of the Order if respondents establish that they ceased doing business for one year with a person engaged in package selling within thirty (30) days of having knowledge that such person engaged in such conduct.

## III

*It is further Ordered*, That the corporate respondent shall deliver, or cause to be delivered, a copy of this order to its divisions, distributors, dealers, retailers, and franchisees.

## IV

*It is further Ordered*, That respondents shall, for a period of five (5) years after receipt of consumer, Better Business Bureau, or consumer or law enforcement agency complaints, comments, and inquiries concerning respondents' activities or the activities of their distributors, dealers, retailers, or franchisees, retain records of all such complaints or inquiries, and copies of any written correspondence and complete summaries of telephone conversations relating thereto. These records shall be available, at their request and upon reasonable advance notice, to representatives of the Federal Trade Commission during respondents' regular business hours.

## V

*It is further Ordered*, That the corporate respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other

change in said corporations which may affect compliance obligations arising out of the order.

## VI

*It is further Ordered*, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of 10 years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

## VII

*It is further Ordered* That respondents shall within sixty (60) days after service upon them of this Order, file with the Federal Trade Commission a report in writing setting forth in detail the manner and form in which they have complied with this Order.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-2600 Filed 1-30-78; 8:45 am]

## [4110-07]

## Title 20—Employees' Benefits

## CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

## PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

## Subpart B—Eligibility

## Eligibility of Individuals Residing in Publicly Operated Community Residences Serving No More Than 16 Residents

AGENCY: Social Security Administration, HEW.

ACTION: Interim regulation.

SUMMARY: The interim regulation provides that the term "public institution" does not include publicly operated community residences which serve no more than 16 residents. The authority for this rule is section 1611(e)(1)(C) of the Social Security Act, as added by section 505(a) of Pub. L. 94-566, effective October 1, 1976. Thus, individuals who are residing in publicly operated community residences which serve no more than 16 residents, and who are otherwise qual-

fied, are eligible for supplemental security income (SSI) benefits.

This amendment to the Act encourages the development of small residential alternatives to care in large institutional settings for persons who would benefit from a living arrangement closely approximating independent living in a community setting while, at the same time receiving supportive care and some degree of supervision. These provisions are designed to acclimate residents to community living and to ease the transition into an independent living situation.

EFFECTIVE DATE: This interim regulation shall be effective on January 31, 1978.

COMMENTS: Comments must be received on or before May 1, 1978.

ADDRESSES: Prior to final adoption of the interim regulation, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

## FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: Prior to the enactment of section 505(a) of Pub. L. 94-566, Subparagraph (A) of section 1611(e)(1) of the Act provided only one exception to the general rule that no person shall be eligible to receive SSI benefits for any month throughout which the individual is an inmate of a public institution. The sole exception, subparagraph (B) of § 1611(e)(1), provides that an individual who is throughout a month in a public institution may be eligible for SSI benefits if the institution is receiving payments under a State plan approved under Title XIX (Medicaid) on his or her behalf, assuming all other SSI eligibility criteria are met. In this situation, the standard payment amount is \$25 for each full month of such institutionalization. This amount is then subject to reduction for any countable income which the individual may have. However, if the public institution is not receiving Title XIX (Medicaid) payments on his or her behalf, the individual would be ineligible for

SSI benefits. These statutory provisions are reflected in Regulations No. 16, § 416.231 of Subpart B of Title 20 of the Code of Federal Regulations.

With the enactment of section 505(a) of Pub. L. 94-566, a new subparagraph (C) is added to section 1611(e)(1) of the Act which provides a second exception to subparagraph (A). It states that as used in subparagraph (A), the term "public institution" does not include publicly operated community residences which serve no more than 16 residents. Accordingly, we have amended § 416.231 by adding new paragraph (a)(4) to state that for purposes of § 416.231 the term public institution does not include publicly operated community residences which serve no more than 16 residents.

In developing a definition for "publicly operated community residences which serve no more than 16 residents", we looked to the wording of the statute. We also considered the background materials contained in the subcommittee hearings on the Keys Amendment and the Senate Finance Committee Report on H.R. 10210. (See Hearings on H.R. 10210 Before the Subcomm. on Public Assistance of the House Comm. on Ways and Means, 94th Cong., 2nd Sess. (1976). Also see S. Rep. No. 1265, 94th Cong., 2nd Sess. 29 (1976).) The central theme in these materials is the underlying philosophy that community residences provide a desirable alternative to large institutions because they can provide not only life sustaining services of food and shelter, but also can encourage

personal independence in an atmosphere of mutual acceptance and support for emotional growth and life enrichment activities. Based on this information, the critical factors used in developing a definition were size, location, and purpose. We have also considered the problems which can arise because of fluctuating occupancy levels in this type of facility. We believe the most feasible and equitable way to meet the intent of the legislation is to look to the number of residents the facility is designed or planned to serve. This is in keeping with the intent of the statute which envisions a 16 resident capacity as an outer limit applicable to community residences. The test is whether or not community residences are designed or planned, according to their specifications, to house and provide services for no more than 16 residents.

A publicly operated community residence, while not considered a "public institution" for purposes of making residents ineligible for SSI under section 1611(e)(1)(A) of the Act, is nevertheless an institution, and as such is expected to provide some services beyond food and shelter (§ 416.231(b)(1)). Thus, a publicly operated community residence must make

available some other services such as social services, or help with personal living activities, or training in socialization and life skills. Such services may also include occasional or incidental medical or remedial care. It is intended that these services will provide the individual with the skills necessary to return to community living.

Thus, we have amended § 416.231 by adding a new paragraph (b)(6)(i) to provide the definition for the term "publicly operated community residence which serves no more than 16 residents." The definition is designed to assure that publicly operated community residences provide the desired living situation.

To further insure clarity of the definition, we have added a new paragraph (b)(6)(ii) to § 416.231. It describes those public facilities which are not considered community residences even if their accommodations are for 16 or fewer residents. Excluded are educational or vocational training institutions, correctional or holding facilities, medical treatment facilities, and residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex.

Educational and vocational training institutions are designed to provide individuals with approved, accredited, or recognized educational or training programs preparatory to gainful employment. A publicly operated community residence is designed to acclimate its residents to community living, thereby easing their transition into independent living situations. Since each differs in its primary goal, educational and vocational training institutions cannot qualify as publicly operated community residences. Even though individuals residing in educational or vocational training institutions would not be eligible for SSI benefits under this proposed rule, such individuals may be eligible for SSI benefits under § 416.231(b)(3). This is so because § 416.231(b)(3) provides that a person is not considered an "inmate of a public institution" when he or she is in a public educational or vocational training institution for purposes of securing educational or vocational training.

Correctional or holding facilities are part of the criminal justice system, and medical treatment facilities primarily focus on providing medical or remedial care. Since neither institution (described in the preceding sentence) is designed to provide the desired living arrangement envisioned by the statute, they are excluded from the definition of publicly operated community residences.

Residential facilities located on or adjacent to a larger institution or multiple purpose complex are excluded because they are an integral part of the

larger institution. Therefore, such a living arrangement would not be considered as an alternative to institutional living. Moreover, a facility so situated is really not part of the community and thus could not as readily accomplish the intended goal.

As a matter of interest, it should be noted that section 505(d) of Pub. L. 94-566 amends section 1616(e) of the Act. It provides in part that, effective October 1, 1977, each State shall establish one or more State or local authorities to establish and enforce standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of SSI beneficiaries are residing or are likely to reside. Thus, if a State determines that a publicly operated community residence houses or will house a significant number of SSI beneficiaries, such a facility may be subject to standards set by the State or local authority. This provision of the law is reflected in 45 CFR Part 229, which is published in this edition of the FEDERAL REGISTER.

Since section 505(a) of Pub. L. 94-566, was effective October 1, 1976, operating personnel have been alerted to this change and the need to process such cases under the newly enacted legislation. This action was necessary to insure prompt recognition and equitable handling of these cases, on an interim basis, until final regulations are in effect. This amendment to the regulations is being published with interim effectiveness because it is a substantive rule which provides an exclusion to the definition of public institutions as required by section 505(a) of Pub. L. 94-566. Thus, the Notice of Proposed Rule Making is being dispensed with because a delay in implementing this amendment would be impractical, unnecessary, and contrary to the public interest (5 U.S.C. 553(b)(3)).

The interim regulation is to be issued under the authority contained in sections 1102, 1611, and 1631 of the Social Security Act as amended, 49 Stat. 647, as amended, 86 Stat. 1466 and 1475; 42 U.S.C. 1302, 1382(e) and 1383(d)(1).

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB circular A-107.

Dated: January 9, 1978.

DON WORTMAN,  
Acting Commissioner  
of Social Security.

Approved: January 20, 1978.

HALE CHAMPION,



*Acting Secretary of Health,  
Education, and Welfare.*

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

Section 416.231 is amended by revising paragraph (a)(1) and adding paragraphs (a)(4), (b)(6)(i), and (b)(6)(ii) to read as follows:

§ 416.231 Limitation on eligibility due to institutional status.

(a) *General.* (1) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, no person shall be an eligible individual or eligible spouse for purposes of title XVI of the Act with respect to any month if throughout such month the person is an inmate of a public institution.

(3) [Reserved]

(4) Effective October 1, 1976, the term "public institution", as used in this section, does not include a publicly operated community residence which serves no more than 16 residents. Where it is determined that a community residence is not publicly operated such residence is not a public institution as defined in § 416.231(b)(2) and this section will not apply.

(b) *Definitions.* For purposes of this part the following definitions shall apply:

(6)(i) The term "publicly operated community residence which serves no more than 16 residents" (see § 416.231(a)(4)) means:

(a) It must be publicly operated as defined in § 416.231(b)(2); and

(b) It must be designed and planned to serve no more than 16 residents, or the plan and design was changed to serve no more than 16 residents; and

(c) It must be serving 16 or fewer residents; and

(d) It must make available some services beyond food and shelter such as social services, or help with personal living activities, or training in socialization and life skills; occasional or incidental medical or remedial care may also be provided (as defined in 45 CFR 228.1).

(ii) Excluded from the definition of "publicly operated community residences" are the following facilities, even if their accommodations are for 16 residents or less:

(a) Residential facilities located on the grounds of or immediately adjacent to any large institution or multiple-purpose complex; and

(b) Educational or vocational training institutions that primarily provide an approved or accredited or recognized program to some or all of the individuals residing within it; and

(c) Correctional or holding facilities which provide for individuals whose

personal freedom is restricted because of a court sentence to confinement (prisoners), court ordered holding (material witness, juvenile) or a pending disposition of charges or status (individuals who have been arrested or detained); and

(d) Medical treatment facilities (hospitals and skilled nursing facilities, see 42 U.S.C. 1395x and intermediate care facilities, see 42 U.S.C. 1396d) which provide medical or remedial care on an inpatient basis.

[FR Doc. 78-2461 Filed 1-30-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Amprolium

AGENCY: Food and Drug Administration

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories providing for use of a higher concentration amprolium supplement in the feed of calves.

EFFECTIVE DATE: January 31, 1978.  
FOR FURTHER INFORMATION CONTACT:

Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV-149), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck & Co., Inc., P.O. Box 2000, Rahway, N.J. 07065, filed a supplemental NADA (12-350V) increasing the upper concentration limit for amprolium permitted in calf supplements from 0.5 to 1.25 percent. The proper amount of this supplement is either top-dressed on or thoroughly mixed in the daily feed ration of calves.

This independent action has not required a reevaluation of the parent NADA and does not constitute a reaffirmation of the drug's safety and effectiveness.

In accordance with the Freedom of Information Regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 558 is amended in § 558.55 by revising the introductory text of paragraph (e)(1) and paragraph (e)(1), (i)(b) and (ii)(b), to read as follows:

§ 558.55 Amprolium.

(e) *Conditions of use.*—(1) *Calves.* It is top-dressed on or thoroughly mixed in the daily feed ration as follows:

(i) • • • • •

(b) *Limitations.* Administer from a supplement containing from 0.05 to 1.25 percent amprolium with the usual amount of feed consumed in 1 day; feed for 21 days during periods of exposure or when experience indicates that coccidiosis is likely to be a hazard, withdraw 24 hours before slaughter; as sole source of amprolium.

(ii) • • • • •

(b) *Limitations.* Administer from a supplement containing from 0.05 to 1.25 percent amprolium with the usual amount of feed consumed in 1 day; feed for 5 days; for a satisfactory diagnosis, a microscopic examination of the feces should be done by a veterinarian or diagnostic laboratory before treatment; when treating outbreaks, the drug should be administered promptly after diagnosis is determined; withdraw 24 hours before slaughter; as sole source of amprolium.

Effective date. January 31, 1978.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: January 23, 1978.

C. D. VAN HOUWELING,  
Director,  
Bureau of Veterinary Medicine.  
[FR Doc. 78-2568 Filed 1-30-78; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 77N-0433]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

Dating Periods for Specific Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations for dating periods for specific products. This amendment will explicitly provide manufacturers to establish for their products, and also label their products with extended dating periods, after approval of the Director, Bureau of Biologics.

EFFECTIVE DATE: January 31, 1978.

ADDRESS: Office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

SUPPLEMENTARY INFORMATION: The biologics regulations, under § 610.53 (21 CFR 610.53), prescribe dating periods for all licensed biological products. The times prescribed in the regulation apply to types of licensed products, rather than each manufacturer's brand of each product. The dating period for a particular product type is the period during which all products of that type are expected to yield their specific results and retain their safety, purity, potency, and effectiveness. Under §§ 610.60(a)(4) and 610.61(d) (21 CFR 610.60(a)(4) and 610.61(d)), the labeling for all biological products includes a statement of their expiration date.

However, a manufacturer may submit to the Bureau of Biologics stability data for its particular brand and seek an amendment to its product license to permit an exemption or modification of the requirements for that product prescribed under § 610.53.

For example, Merck Sharp & Dohme, Division of Merck & Co., Inc., citing improvements in manufacturing, has submitted stability data collected at various temperatures and has applied for an amendment to its product license for Measles Virus Vaccine, Live, Attenuated to permit a 2-year dating period. The Commissioner of Food and Drugs finds that the data submitted by Merck support the requested extension. Measles Virus Vaccine, Live, Attenuated produced by other licensed manufacturers shall continue to provide for a maximum of 1 year of storage at the prescribed temperature after issuance, in accordance with § 610.53. Vaccine produced by Merck Sharp & Dohme under an amended license will be labeled with the 2-year period. A summary of the Merck data supporting an extended dating period is on public display in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The Commissioner is amending § 610.53 to explicitly provide for such exemptions or modifications, with the approval of the Director of the Bureau of Biologics in the form of an approved license amendment. A similar provision for modification of shipping temperatures is currently provided in § 600.15 (21 CFR 600.15).

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 610 is amended in § 610.53 by designating the existing text as paragraph (a) *General* and adding new paragraph (b) to read as follows:

§ 610.53 Dating periods for specific products.

(a) *General.* • • • • •

(b) *Exemptions.* Exemptions or modifications shall be made only upon written approval, in the form of an amendment of the product license, issued by the Director, Bureau of Biologics.

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner finds that notice, public procedure, and delayed effective date are unnecessary for this amendment of § 610.53 because it does not impose an additional duty or burden on any person, but rather relieves an unnecessary restriction and permits published regulations to remain consistent with approved license provisions.

Effective date: This amendment shall be effective on January 31, 1978. (Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

JANUARY 25, 1978.

[FR Doc. 78-2588 Filed 1-30-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-77-109]

PART 1931—PURCHASE OF INSURANCE AND ADJUSTMENT OF CLAIMS

PART 1932—PROTECTIVE DEVICE REQUIREMENTS

Reduction of Certain Requirements

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This rule amends current regulations pertaining to protective device requirements under Federal Crime Insurance Program. The amendments provide more flexible standards for compliance at less cost to applicants, authorize pro rata return of premiums under certain conditions, and modify inspection requirements in order to serve better the needs of small businesses.

EFFECTIVE DATE: March 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator for Urban Property Insurance—Riot and Crime, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6555.

SUPPLEMENTARY INFORMATION: On May 5, 1977, the Department published a proposed rule (42 FR 22900) to amend the protective device requirements set forth in 24 CFR Part 1932. The amendments grew out of the GAO report, "The Federal Crime Insurance Program: How it Can be Made More Effective" and the Department's reevaluation of the program.

Since publication of the proposed rule, the Department has received comments noting that the provisions of § 1931.7 frustrate the objectives of the proposed amendments to Part 1932. Section 1931.7(c) imposes a penalty on an insured who wishes to change insurance coverage on a date other than an anniversary date. Section 1931.7(c) is amended, therefore, to permit changes in the coverage or limits of a policy at any time and to provide for a pro rata return of a premium whenever a policy is cancelled to change its coverage or limits. Additionally, § 1931.2 is amended so that it conforms with the new provisions of Part 1932. The Agency for the reasons stated finds that notice and public procedure thereon are impractical, unnecessary, or contrary to the public interest and has decided to publish the amendments to §§ 1931.7 and 1931.2 as a final regulation.

Several errors of a nonsubstantive nature were discovered after publication of the proposed rule and are corrected now. The amendment of § 1932.4 was set forth in the regulation but was not discussed in the Preamble. Paragraph (h) of § 1932.5 was labeled incorrectly and should read § 1932.5(g).

All comments were considered carefully in the development of the final rule. A discussion of the comments and the action taken by the Department is presented.

DISCUSSION OF COMMENTS

It was suggested that changes in protective device requirements be made applicable to applicants with annual gross receipts up to \$500,000 rather than those to \$300,000. The purpose of the amendment is to increase the affordability of commercial crime insurance for those whose relatively low gross receipts have made compliance with existing requirements difficult and inordinately costly. Approximately three-fourths of the current commercial insureds will benefit from these regulations and the Department believes that at the present time the \$300,000 limit adequately addresses the issue of affordability. Therefore, the suggestion was not adopted.

It was noted that, because applicants for commercial burglary insurance



now receive policies upon the basis of a mandatory preinspection to determine compliance with protective device requirements, there is no longer a need for applicants to certify that their premises meet the protective device standards. Therefore, § 1931.2, paragraph (a)(2) has been deleted and the remaining paragraphs renumbered. This change reflects previous program changes and makes the regulations consistent both as to commercial and residential crime insurance policies.

It was noted that some existing commercial insureds whose business has prospered under the protection of the Federal Crime Insurance Program are from time to time compelled to move to new premises in order to accommodate their supplies of merchandise or to improve their facilities. It is necessary for such insureds to be able to make such moves without having their insurance coverage interrupted at such critical times. It is not always possible for the new premises to be inspected prior to the move, and, in any event, there would not always be adequate time for an insured to correct deficiencies revealed in the inspection. Therefore, there has been added to the proposed regulation an additional paragraph (h) at the end of § 1932.5 which gives a newly moved insured 30 days from the date on which he is notified of a protection device deficiency to make the necessary changes to his security devices, thus enabling him to avoid an interruption in coverage.

Editorial changes have been made to improve clarity, readability, and organization.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 7th Street SW., Washington, D.C. 20410.

NOTE: It is also certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, Subchapter C of Chapter X of Title 24 is amended as follows:

#### § 1931.2 [Amended]

1. Present § 1931.2 is amended to delete paragraph (a)(2) thereof and paragraphs (a) (3), (4), and (5) are renumbered to read paragraphs (a) (2), (3), and (4).

2. Present § 1931.7, paragraph (c), is amended to read as follows:

§ 1931.7 Cancellations, modifications, and renewals of coverage.

(c) Changes in coverage and limits of coverage may be made at any time

upon the submission of a new application with the applicable semiannual premium. Return of premium on the superseded canceled policy shall be on a pro rata basis when such cancellation is made for the purpose of changing address or coverage or limits of coverage. Short-rate cancellation procedures shall be applicable to any other cancellation during the term of any policy.

3. Present §§ 1932.3a, 1932.3b, and 1932.3c are deleted and § 1932.5 is added to read as follows:

#### §§ 1932.3a, 1932.3b and 1932.3c [Deleted]

#### § 1932.5 Inspection of Commercial Premises.

(a) All premises for which an application for commercial crime insurance against burglary losses is submitted shall be inspected by the servicing company to determine whether the premises comply with the applicable protective device requirements.

(b) Coverage under a commercial crime insurance policy indemnifying against burglary losses shall not commence unless it is determined that the premises sought to be insured comply with all applicable protective device requirements. *Provided*, That all commercial premises whose exterior doors and accessible openings are found upon inspection to be protected by central station supervised service alarm systems or silent alarm systems (as those systems are defined in paragraphs (b) and (h) of § 1932.1) shall not be required to comply with the provisions of paragraphs (c) and (e) of § 1932.31 pertaining to the protection of those exterior doors and accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision, therefore, applies also to commercial premises which, because of their particularly high risk inventories of merchandise, continue to be required by paragraph (f) (1) and (2) of § 1932.31 to have exterior doors and accessible openings protected by specified types of alarm systems, namely, supervised service alarm systems for the highest risk inventories and silent alarm systems for less high risk inventories.

(c) All commercial premises with annual gross receipts under \$300,000 whose exterior doors and accessible openings are found upon inspection to be protected by local alarm systems (as defined in paragraph (g) of § 1932.1) which are designed to signal loudly at the premises, shall not be required to comply with the provisions of paragraphs (c) and (e) of § 1932.31 pertaining to the protection of those accessible openings by such devices as bars, grillwork, and other physical barriers. The benefit of this provision ap-

plies also to commercial premises whose high risk inventories are referred to in paragraph (f) (1) and (2) of § 1932.31 and such premises shall not be required to be protected by supervised service alarm systems and silent alarm systems if the premises is equipped with a local alarm system designed to signal loudly at the premises.

(d) If upon any renewal of any policy the insured's statement of annual gross receipts shows that the annual gross receipts total \$300,000 or more the insured will be notified that his premises must be brought into complete compliance with all applicable protective device requirements no later than the expiration of that renewal term. Prior to the issuance of any subsequent renewal policy, the Administrator shall cause an inspection to be made, at a time agreed upon with the insured, and no such subsequent renewal policy shall be issued unless the insured is found to be in compliance.

(e) The Administrator may in his discretion waive one or more protective device requirements with respect to any policy where he determines that compliance would be impractical and would impose a cost not reasonably commensurate with the protection derived. However, in the event of any loss contributed to in whole or in part by any such waiver, the Administrator may withdraw such waiver upon mailing to the insured thirty days written notice of withdrawal. Any loss occurring after thirty days from the day of the mailing of said notice shall not be paid unless the insured's premises shall be in compliance with the previously waived protective device requirement at the time of such loss. The Administrator may also in his discretion determine that the frequency and/or severity of occurrences of loss experienced under any policy issued under the provisions of paragraphs (b) and (c) of this section, requires that as a condition of renewal of such policy, the premises insured thereunder be protected by one or more of the protective devices described in paragraphs (a), (b), (c), (d), (e), and (f)(1), (f)(2), and (f)(3) of § 1932.31.

(f) If, during the course of adjusting a claim submitted by an insured, an adjuster or other investigator discovers a protective device deficiency, not previously discovered and noted by an investigator, with respect to a device, described in any of paragraphs (a), (b), (c), (d), (e), and (f) of § 1932.31, which the insured was required to have installed as a condition of eligibility for insurance coverage, the deficiency shall be made known to the insured who will be given thirty days after his receipt of such written notice within which to remedy the deficiency. During that thirty-day period, burglary losses covered by the terms of

the policy will be paid irrespective of the deficiency. Burglary losses occurring more than thirty days after the date on which an insured is notified of the deficiency will be paid only if it is determined that the deficiency was corrected prior to the loss. However, no loss shall be payable at any time if caused in whole or in part by a protective device deficiency with respect to any device which the insured was required to have installed as a condition of eligibility, and which device was found to be present at the time of a previous investigation, if the deficiency resulted from the inoperability, alteration, removal or disconnection of said required protective device by or with the knowledge of the insured, subsequent to the previous inspection of the premises.

(g) An insured who has knowledge of an inoperability or other malfunction of a protective device which the insured was required to have installed as a condition of eligibility for insurance coverage shall immediately notify the Administrator of such deficiency in writing, or by use of the servicing company's toll-free telephone number 800-638-8780. If the insured complies with such emergency protective measures as the Administrator may specify following receipt of such notice, and if the deficiency is corrected within the time specified by the Administrator, no loss of coverage will result during the period of inoperability or malfunction.

(h) If, an insured cancels a commercial policy because of a move to a new premises and applies for insurance at the new premises, there shall be a mandatory inspection to determine compliance with protective device requirements at the new location. However, protective device requirements shall not be applicable to the new premises until 30 days after the insured's receipt of written notice of either compliance or of a deficiency, thus giving the insured time in which to remedy the deficiency. Burglary losses occurring more than 30 days after the date on which the insured received notice of a deficiency will be paid only if it is determined that the deficiency was corrected prior to the loss.

4. Section 1932.4 is revised to read as follows:

#### § 1932.4 Inspection of Residential Premises Following Losses.

(a) Each residential applicant applying for Federal Crime Insurance shall be responsible for meeting the protective device requirements applicable to his premises. Any person who is doubtful as to whether the protective devices existing on his premises at the time of application meet such requirements should examine the descriptive materials and illustrations available

from the servicing company and direct any specific questions to the servicing company.

(b) In addition insurance agents and brokers are expected to assist and advise prospective insureds concerning the protective device requirements for residential premises. However, no agent or broker shall be authorized to approve or disapprove on behalf of the insurer the adequacy of any required protective devices, and any representation to the contrary is false and shall be void.

(c) Upon receiving any notice of loss from an insured, the Administrator shall cause an inspection of the insured residential premises to be made in the course of the adjustment of the claim in order to determine whether the premises meets the protective device requirements of the program. If no inspection of the premises has previously been made and if the first such inspection reveals that the insured premises does not comply with the applicable protective device requirements, any first loss covered by the terms of the insurance policy, involving robbery or a burglary evidenced by visible marks of forcible entry, will be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. However, the insured will be given thirty days from the date on which he is notified in writing of any deficiencies to correct such deficiencies. During that thirty day period, robbery or burglary losses covered by the terms of the insurance policy will continue to be paid irrespective of any deficiencies in the insured's compliance with the protective device requirements. Losses occurring more than thirty days after the date on which the insured has been notified in writing of the results of the inspection will be paid only if it is determined that a loss, covered by the terms of the insurance policy, did not result in whole or in part from a protective device deficiency of which the insured was previously placed on written notice.

(Sec. 7(d), 79 Stat. 670; (42 U.S.C. 3535(d)); sec. 1103, 82 Stat. 566, (12 U.S.C. 1749bbb-17))

Issued at Washington, D.C., January 5, 1978.

JAY JANIS,  
Acting Secretary, Housing and  
Urban Development.

(FR Doc. 78-2581 Filed 1-30-78; 8:45 am)

[3810-70]

Title 32—National Defense

#### CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS  
(DOD Directive 4120.18)

#### PART 209—USE OF THE METRIC SYSTEM OF MEASUREMENT

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense policies for the use of the metric system of measurement.

EFFECTIVE DATE: December 10, 1976.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Mitchell, Defense Materiel Specifications and Standards Office, Under Secretary of Defense (Research and Engineering), Cameron Station, Alexandria, Va. 22314, telephone 202-274-6337.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives, Washington Headquarters Services, Department  
of Defense.

JANUARY 23, 1978.

Accordingly, Part 209 reads as follows:

Sec.  
§ 209.1 Purpose.  
§ 209.2 Applicability.  
§ 209.3 Background and objectives.  
§ 209.4 Policies.  
§ 209.5 Responsibilities.

AUTHORITY.—This rule is issued under 15 U.S.C. 205a-k (Pub. L. 94-168).

#### § 209.1 Purpose.

This Part establishes policies for the use of the metric system of measurement within the Department of Defense.

#### § 209.2 Applicability.

The provisions of this Part apply to the Office of the Secretary of Defense, the Joint Chiefs of Staff, the Military Departments, and Defense Agencies (hereinafter referred to collectively as "DoD Components").

#### § 209.3 Background and objectives.

(a) 15 U.S.C. 205a-k (Pub. L. 94-168), establishes a national policy of coordinating the increasing use of the metric system in the United States. Many Defense-related industries have converted or are planning conversion from U.S. customary inch-pound measurement system to metric measurements. The Department of Defense must be able to accept such conversion with minimum cost and disruption of operations.



(b) Use of the metric system will help foster standardization with our allies and thus promote interchangeability and interoperability, facilitate joint military production programs, and simplify supply operations.

(c) Consideration of metric usage is especially appropriate in the design of new Department of Defense Materiel where metric products are expected to be in common use at the time of production release.

(d) Generally, it is recognized that industry will take the lead in the changeover and the DOD Components will keep pace by adopting commercially available metric items wherever economically and technically practicable.

#### § 209.4 Policies.

(a) The Department of Defense will consider the use of the metric system in all of its activities consistent with operational, economical, technical, and safety requirements.

(b) The metric system will be considered for use in all new designs. When it is deemed not to be in the best interest of the DOD to provide metric design, justification shall be provided. Further, it will be considered in the procurement of all supplies and services. In general, the metric system will be adopted for the following:

(1) Where there is a specific military need such as for materiel to be used jointly with NATO and other allied nations.

(2) Military materiel which has potential for significant foreign sales or joint production programs.

(3) Areas where industry has made significant progress in metric conversion and production facilities are available.

(4) Areas where defense industry preparedness or defense production readiness may be enhanced.

(5) Other areas which offer an economic, operational, or other advantage or when no disadvantage is incurred.

(c) Physical and operational interfaces between metric items and U.S. customary items will be designed to assure that interchangeability and interoperability will not be adversely affected.

(d) Existing designs dimensioned in U.S. customary units will be converted to metric units only if determined to be necessary or advantageous. Unnecessary retrofit of existing systems with new metric components will be avoided where both the new metric and existing units are interchangeable and interoperable. Normally, the system of measurement in which an item is originally designed will be retained for the life of the item.

(e) During the metric transition phase hybrid metric and U.S. customary designs will be necessary and acceptable. Materiel components, parts,

subassemblies, and semifabricated materials which are of commercial design will be specified in metric units only when economically available and technically adequate or when it is otherwise specifically determined to be in the best interest of the Department of Defense. Bulk materials will be specified and accepted in metric units when it is expedient or economic to do so.

(f) Defense Systems Acquisition Review Council (DSARC) reviews and associated Decision Coordinating Papers will address the use of metric units of measurement or reasons for their nonuse (DOD Instruction 5000.2<sup>1</sup>).

(g) Technical reports, studies, and position papers (except those pertaining to items dimensioned in U.S. customary units) will include metric units of measurement in addition to or in lieu of U.S. customary units. With respect to existing contracts, this requirement applies only if such documentation can be obtained without an increase in contract costs.

(h) Programing and budgeting actions will include resources required to support the DOD effort in converting to the use of metric units. Use of the metric system will be identified and planned so that costs can be included in the budget cycle on an orderly basis.

(i) The International System of Units (SI) will be the metric system used by the DOD.

(j) Representatives of the Department of Defense will participate in the development of national and international standards using the metric system, to the extent indicated by DOD interest. NATO and other international metric standards will be used to the maximum practical extent. However, if a U.S. Standard is established with greater definition and restriction than a prevailing international standard, the U.S. Standard will apply.

(k) Emphasis will be placed on keeping pace with the conversion or development of specifications, standards, and other general purpose technical data. When the item in question is a military item without a commercial counterpart, the Preparing Activity will assume a leadership role in development of the applicable metric document as the need arises.

(l) When purchasing new equipment, DOD Components are encouraged to specify features which will allow direct measurement in terms of SI units or both SI and U.S. customary units. Use of conversion kits is also encouraged.

(m) Training in metric practices and usage will be provided to those person-

<sup>1</sup> Filed as part of original. Copies may be obtained if needed from the U.S. Naval Publications and Forms Center, 5801 Tabor Ave., Philadelphia, Pa. 19120 Attention: Code 301.

nel whose duties require such knowledge.

(n) Use of dual dimensions (i.e., both metric and U.S. customary dimensions) on drawings will be avoided unless it is determined in specific instances that such usage will be beneficial. However, the use of tables on the document to translate dimensions from one system of measurement to the other is acceptable.

#### § 209.5 Responsibilities.

(a) The Under Secretary of Defense for Research and Engineering and the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), will provide policy and any necessary procedural guidance related to this Part.

(b) The Military Departments and Defense Agencies will appoint a person or establish an office to coordinate metric activities and provide advice on metric conversion within the DOD Component concerned.

[FR Doc. 78-2571 Filed 1-30-78 8:45 am]

#### [7910-01]

#### Title 32—National Defense CHAPTER XIV—RENEGOTIATION BOARD SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

#### PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

#### Renegotiability of Foreign Military Sales Contracts and Subcontracts

#### AGENCY: The Renegotiation Board.

#### ACTION: Final rule.

**SUMMARY:** The Renegotiation Board is amending its regulations concerning contracts that do not have a direct or immediate connection with the national defense to make it clear that contracts awarded pursuant to the Foreign Military Sales Act of 1968 (now the Arms Export Control Act) are not exempt from renegotiation. This amendment is necessitated by reason of a change in the interpretation of this section of the Board's regulations. The amendment also deletes a "Note" to the same section of the Board's regulations concerning the responsibility of the procuring Departments to inform contractors of the exempt status of contracts. The "Note" is being deleted because it is, with the publication of this regulation, obsolete.

**EFFECTIVE DATE:** Immediately.

#### FOR FURTHER INFORMATION CONTACT:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

**SUPPLEMENTARY INFORMATION:** Section 102(a) of the Renegotiation

Act of 1951, as amended (50 U.S.C. App. 1212(a)) (the Act), provides that all contracts with Departments named in, or designated by the President under, section 103(a) of the Act (50 U.S.C. App. 1213(a)), and related subcontracts, are subject to renegotiation. Thus, all contracts with a named Department, including those awarded pursuant to the Arms Export Control Act, or, prior to change of name, the Foreign Military Sales Act of 1968 (22 U.S.C. §§ 2751-2794), and related subcontracts are renegotiable unless specifically exempted in the Act or by the Renegotiation Board pursuant to provisions of the Act.

Section 106(a)(6) of the Act (50 U.S.C. App. 1216(a)(6)), which, in the Board's opinion, affords the only possible basis for exemption of foreign military sales contracts, exempts from renegotiation any contract which the Board determines does not have a direct and immediate connection with the national defense. This provision also states that "The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt . . ." Pursuant to this statutory directive, the Board has determined in § 1453.5(b)(3)(i) of its regulations that contracts with named Departments are exempt from renegotiation to the extent that (1) they obligate funds of an agency other than a named Department, or (2) the contracting Department is to be reimbursed by such agency or other person. In § 1453.5(b)(3)(ii) the Board has excluded from this exemption contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs for military assistance.

The exemption, as originally promulgated on March 25, 1952, did not contain any limitation or exclusion. However, after it was published, it was pointed out to the Board that the class exemption would apply to military assistance contracts authorized under the Mutual Security Act since the Department of Defense, in procuring military items for the Mutual Security Agency, would obligate funds appropriated to the President and allocated to the Department of Defense. As a result, the regulation was amended on April 25, 1952 to specifically exclude from the exemption those types of contracts, by adding the following limitation:

(ii) Contracts which obligate funds appropriated under the Mutual Security Act of 1951 (65 Stat. 373) or under earlier foreign aid programs, insofar as such funds are obligated for military assistance, are not exempt under this subparagraph (3).

In 1960 this limitation was amended "to bring up to date the reference to foreign aid programs [then] contained in paragraph (b)(3)(ii)."

In a memorandum to the Board dated May 26, 1960 recommending the

language contained in the present subdivision (ii), the General Counsel noted that:

Funds appropriated to carry out the provisions of Mutual Security legislation, insofar as they are allocated to military rather than economic assistance, are expressly characterized in the appropriation statutes as relating to our own national defense as well as that of the beneficiary countries. Accordingly, contracts entered into pursuant to any such program may not be said to have no direct and immediate connection with the national defense. It follows that such contracts, when entered into by a named Department, should be excepted from the exemption referred to above.

Prior to early 1976, when the Board changed its policy, culminating in its adoption of Interpretation No. 80 on September 1, 1976, the Board had consistently excluded from this exemption contracts which obligated military assistance funds. Further, prior to the issuance of Interpretation No. 80, the Board had expressly held that contracts awarded under the Foreign Military Sales Act of 1968 (now the Arms Export Control Act), were excluded from the exemption by § 1453.5(b)(3)(ii) and therefore were subject to renegotiation. On June 20, 1977, the Board rescinded Interpretation No. 80 (42 F.R. 32339, June 24, 1977), and as soon as practicable thereafter, published for comments a proposed amendment to § 1453.5(b) (2) and (b)(3) of its regulations (42 FR 37424, July 21, 1977). Thus, contrary to the position taken by some commenters, the Board had not always held foreign military sales contracts to be exempt from renegotiation. Actually, such a formal position prevailed only during the period September 1, 1976 to June 21, 1977 when Interpretation No. 80 was in effect, and with the adoption and publishing of the amended regulation, the Board is merely reverting to the position consistently held in the past.

The basis for the amended regulation is clear. The Act provides that all contracts with Departments named in the Act and related subcontracts are subject to renegotiation unless otherwise exempt, and the Board believes there is not basis under the Act for exempting foreign military sales contracts or subcontracts, either individually or as a class of contracts. With reference to the policy objectives of the Arms Export Control Act (formerly the Foreign Military Sales Act of 1968) it is stated in pertinent part, as follows:

"The Congress recognizes, however, that the United States and other . . . countries continue to have valid requirements for effective and mutually beneficial defense relationships in order to maintain . . . international peace and security . . . The need for international defense cooperation among the United States and those friendly countries [allies] is especially important . . ."

Accordingly, it remains the policy of the United States to facilitate the common defense by entering into international arrangements with friendly countries . . . to achieve specific national defense requirements and objectives of mutual concern. (Emphasis supplied.) (22 U.S.C. 2751.)

Further, no foreign military sales agreements can be made unless: "(1) the President finds that the furnishing of defense articles and defense services to such country . . . will strengthen the security of the United States and promote world peace . . ." (22 U.S.C. 2753.)

The Board further notes that the standard form of contract (with the usual contractual liabilities running to the parties) is employed in procuring items for resale to foreign countries. Such contracts when made by the Department of Defense are entered into by Procurement Contracting Officers acting under authority delegated to them by the Secretary of Defense, with the aid of the full range of departmental services available to the PCO. The executed contracts are administered by the Administrative Contracting Officer organizations, including use of the full range of departmental services available to ACO's. Finally, such contracts are subject to price analysis by the Defense Contract Audit Agency prior to their execution and to the full range of audit and recommendations by DCAA after the contracts have been entered into. Thus, the negotiation, administration, and audit of these contracts is in all essential respects indistinguishable from the negotiation, administration and audit of contracts made by the Department of Defense for supplies and services for its own use. Since foreign military sales procurement is an essential part of defense contracting, it is thus among the procurement activities that the Congress intended the Board to review. Accordingly, the Board does not agree with some comments that the method of contracting is irrelevant to the issue.

Under the circumstances, there is no basis for a Board determination that foreign military sales contracts "[do] not have a direct and immediate connection with the national defense" a prerequisite for the exemption under section 106(a)(6) of the Act (50 U.S.C. App. 1216(a)(6)). Consequently, there are no significant differences between the final rule being published herein and the proposed rule published for comment in the July 21, 1977 FEDERAL REGISTER (42 FR 37424).

#### DISCUSSION OF MAJOR COMMENTS

The Board appreciates the interest shown by the large number of contractors, firms, associations, Government agencies, and individuals who commented on the proposed amendment, and all comments, including many that were received after the August 29, 1977 closing date, were carefully



considered by the Board in adopting and publishing this final rule.

Approximately two-thirds of the comments were brief telegraphic communications, substantially identical in form, opposing the amendment on the ground that the General Accounting Office had ruled that "it had no jurisdiction over bid protests on foreign military sales because appropriated funds are not involved." The Comptroller General's Decisions, apparently referred to by these commenters and cited and discussed in more detail by several others (e.g., *Consolidated Diesel Electric Co.*, B-177450, January 6, 1977, 77-1 CPD 7, *Verne Corp.*, Comp. Gen. Dec. B-188332, June 2, 1977, and others) involved instances where the Comptroller General either denied or declined jurisdiction essentially because the foreign purchaser either borrowed funds from the United States, agreed to reimburse the United States, or there was only "incidental or temporary" use of appropriated funds. While the Comptroller General may consider that, under 42 Stat. 24, 31 U.S.C. 71, he has no jurisdiction to handle bid protests on foreign military sales contract awards, the Board's statutory authority to renegotiate foreign military sales contracts with a named Department is clearly provided in the Act and is distinguishable from the Comptroller General's opinion of his bid protest jurisdiction.

Somewhat along the same line, several commenters argued that the preamble to the Act, Section 101 *Declaration of Policy* (50 U.S.C. App. 1211) prescribed the extent of the Board's authority, namely the renegotiation of national defense contracts financed by United States appropriated funds. Since the United States tax payer is not out-of-pocket on foreign military sales contracts, some commenters argued, the Board has no jurisdiction. In this connection, they cited the "pay-in-advance" requirements where no appropriated funds are involved, or reimbursement by the foreign purchaser in 120 days, or up to 12 years in credit sales, together with the "dependable undertaking" on the part of the foreign purchaser to make the United States Government "whole"—the recovery of its "full costs," plus a percentage administration fee. The Tax Court decision in *W. Tip Davis Co. v. Patterson* (12 T.C. 335, 339-40 (1949)) was cited for the principle that only contracts utilizing appropriated funds are subject to renegotiation. *W. Tip Davis* was a renegotiation proceeding under the 1942 Act wherein the court held that direct sales to Army Post Exchanges which "buy with their own funds" and "belong to the shareholding units" were not subject to renegotiation. Although the court said that "[t]his matter of the source and

ownership of funds used to purchase the goods is vital in renegotiation," it also stated that "the statutes providing for renegotiation were not intended to prevent excessive profits from contracts on which the Government was not obligated." Certain commenters also pointed out that the 1942 Act renegotiating authority had excluded from renegotiation post exchange-type contracts, involving non-appropriated funds, both contracts direct with the exchanges and those on their behalf by the Quartermaster General (J.R.M. 332.5 and 8); and that the Board in §1453.5(b)(17), had exempted such contracts "with organizations using nonappropriated funds." However, the Board notes that §332.6 of the 1943 Act Regulations, contrary to regulations under the 1942 Act, excluded from renegotiation direct sales to post exchanges and similar organizations, but held that contracts with the Quartermaster Corps or a similar unit of a named Department, were subject to renegotiation even though articles purchased were assigned or resold to a post exchange (R.R. §332.6). Under the 1951 Act, the Board has consistently held that sales to military exchanges and similar organizations are subject to renegotiation, but they have been exempted under §1453.5(b)(17). The point that distinguishes *W. Tip Davis* and the other examples from the foreign military sales situation, is that the latter contracts are with named Departments, fully obligate the United States, and are subject to renegotiation, unless otherwise exempt under the Act. The Board believes that the latter statement properly describes the Board's jurisdiction and that the statements in the preamble of the Act about the Congress having made available "extensive funds, by appropriation, or otherwise" are entirely consistent with this interpretation.

Even if the source of funds were relevant to the scope of the Board's jurisdiction, the Board notes that the Arms Export Control Act authorizes the use of any appropriated funds, albeit subject to reimbursement, including funds necessary to cover credit sales up to 12 years, or 20 years in the case of one country. There is always the possibility of default, dilatory payments (for which the procuring Department is authorized to charge interest), as well as, payments within 120 days after delivery for cash sales and other widespread actual or contingent involvement of appropriated monies.

Some of the commenters contended that foreign military sales contracts are not "contracts" with "Departments" named in section 103(a) of the Act (50 U.S.C. App. 1213(a)), because the United States is acting as an intermediary or an agent on behalf of the foreign government, as a disclosed

principal, in procuring items under the Arms Export Control Act (formerly the Foreign Military Sales Act of 1968). One commenter went so far as to say that if it were strictly a commercial transaction, the Board's interference in the principal-agency relationship would be considered fraud. In response, the offer and acceptance (DD Form 1513) between the United States and the foreign country does not contain the elements necessary to establish an agency relationship, but rather is a two-country contract where the United States agrees to sell certain items from stock or to contract independently with a defense contractor for the items desired and then to resell them to the foreign purchaser. The United States obtains title and assumes liability on the contract, subject only to an independent reimbursement of total costs.

Further, on the question of Congressional intent which was a subject treated by some commenters, an examination of the legislative history of the 1951 Act reveals that the intended scope of renegotiation was broad enough to encompass the foreign military sales program established by the later enacted Foreign Military Sales Act of 1968 and the Arms Export Control Act (1976 amendment).

The *Declaration of Policy* of the Act (section 101, 50 U.S.C. App. 1211), speaks of Congress having "made available for the execution of the national defense program extensive funds, by appropriation and otherwise . . ." and speaks also of the "elimination of excessive profits from contracts made with the United States, and from related subcontracts, in the course of [the national defense] program." Section 101 was introduced by Representative Daughton, Chairman of the House Ways and Means Committee as part of H.R. 1724. The term "contracts made with the United States" is further defined in section 102(a) of the Act as "all contracts with the Departments specifically named in section 103(a). . . ." During the course of consideration of the 1951 Act, this last quoted language became a source of contention. Senator McClellan offered an amendment which would have changed the language of section 102(a) to read:

(a) *In General.*—The provisions of this title shall be applicable to all contracts (1) having a direct and immediate connection with the national defense, with the Departments specifically named in section 103(a) . . . and (2) to all contracts, having a direct and immediate connection with the national defense, with the Departments designated by the President under section 103(a). Cong. Rec. 1381 (daily ed. Feb. 19, 1951).

This language became part of the Senate version of the bill. However, it was eliminated in conference. At the same time, the conferees formulated

the language which forms the basis for the present section 106(a)(6) exemption. The specific rationale for resting the ultimate determination in the Board was the difficulty of framing the statutory standard. Cong. Rec. 2323 (daily ed. March 12, 1951); H.R. Rep. No. 353, 82d Cong., 1st Sess. 6 and 11 (1951). The statement of the House Managers is particularly illuminating in the narrowness of the exemption as envisioned by Congress. H.R. Rep. No. 213, 82d Cong., 1st Sess. 6 and 11 (1951). "In administering this exemption, the Board's determinations are not to be circumscribed by a narrow definition of the words 'direct' and 'immediate.' The Board is not to determine that a contract does not have direct and immediate connection with the national defense if the purpose of the contract is essential to the national defense, or is clearly connected with the national defense, irrespective of the fact that there may appear to be intervening mediums between the purposes of the contract and the ultimate national defense."

The Board believes this legislative history is wholly consistent with its conclusion that foreign military sales contracts cannot be said to have no direct and immediate connection with the national defense.

The 1951 Act, unlike the predecessor renegotiation statutes, was not an amendment to an appropriations measure, but an act creating an independent agency with an apparently broader authority to remove "excessive profits from contracts made with the United States, and from related subcontracts, in the course of [the national defense] program. . . ." (Section 101 of the Act, 50 U.S.C. App. 1211.) The nature of the foreign military sales program and its involvement with, and impact on, the whole Department of Defense procurement system, and the actual use of appropriated funds (temporarily at least), is manifest in the Comptroller General's August 19, 1977 audit report (Digest of opinion, B-165731), wherein it was found that the Department of Defense may be undercharging foreign purchasers upwards of \$71 million a year, or more, in accessorial and transportation costs. The Comptroller General reported to Congress that foreign military sales have increased from \$952 million in 1970 to \$8.7 billion in 1976, and that about 50 percent of the Army's procurement activities were for the support of foreign sales.

Apparently, the boom in U.S. foreign military sales began in 1973, at which time, "sales" were reported at about \$10 billion a year or more for 1974 and 1975, but these referred to contracts to purchase, not deliveries. The United States, as of November 1975, reported cumulative foreign military sales orders totaling \$44 billion, with cumu-

lative deliveries in the amount of \$19.6 billion (including \$9.5 billion orders and \$3.4 billion deliveries in 1975). (Foreign Military Sales and Military Assistance Facts, DOD, Nov. 1975, p. 8.) Thus, more than likely, actual deliveries under these orders will be occurring in the early and mid 1980's. The Board does not believe, as has been suggested by one commenter, that the Board's fiscal year review of foreign military sales, costs and profits of a particular defense contractor, along with the contractor's other renegotiable business, will interfere with the administration of foreign military sales contracts. It was also pointed out by this commenter that if FMS contracts are subjected to renegotiation, it will delay the DOD's computation of the final total costs (to the Government) of a particular contract and determination of the amount of refund to the foreign customer, until renegotiation proceedings (at the Board and in the courts) is completed, whereas the refund can now be determined when final delivery is made. Although the Board does not believe any substantial additional expense will be incurred by the Government in renegotiating the foreign military sales contract portion of a contractor's business, it is doubtful the Government would seriously consider charging the foreign purchaser with renegotiation costs any more than it would charge for the Department of Labor's administration of the various labor statutes made applicable to the contracts. If completion of renegotiation becomes a problem, suitable arrangements could be worked out as in the case of price redetermination contracts, unsettled at the Departmental level, at the time renegotiation is being completed.

The same commenter, as well as certain other commenters, objected to the proposed amendment because, if the Board determined excessive profits in a case involving receipts under a foreign military sales contract, any amount of excessive profits recovered from the contractor, after income tax credits, is required, under section 105(b)(7) of the Act, to be covered into the U.S. Treasury as miscellaneous receipts. It was contended that such refund, if any, should go to the foreign purchaser, and that there is no existent legal authority to refund such excessive profits to the foreign purchaser. Another commenter also contended that, if the excessive profits were to be refunded to the foreign government, the gross amount should be refunded, rather than the net after Federal income tax credits under §1481 of the Internal Revenue Code of 1954, as in the case of a refund by the contractor to the United States. Yet, the contractor would be entitled to the tax credit which would be a detrimental loss of tax revenues. The Board recognizes

this problem, but considers that it has a statutory responsibility to renegotiate FMS contracts. Further, since the Government agrees in DOD Form 1513 to make such contracts subject to all the ASPR's, it should afford the foreign government the protection of renegotiation so that U.S. defense contractors would not be realizing excessive profits in such transactions.

Moreover, most of those who commented on this point seemed to assume that a foreign military sales contract could be isolated from a contractor's defense contracting business in a particular year. This is presumably why these persons commented on the pro's and con's of refunding to the ultimate purchaser the excessive profits which they deemed would arise from a particular FMS contract. To the contrary, the Board's experience indicates that FMS contracts are typically performed by companies which are simultaneously performing a great number of other renegotiable contracts and subcontracts for products or services. It might well be said that the excessive profits arose out of the entire complex of renegotiable business, and not out of any particular contract.

Additionally, the Board notes that the excessive profits realized by a contractor in any particular year are not refunded to the United States departments or agencies which made the contracts being performed in that year. Instead, the excessive profits are paid into the miscellaneous receipts of the Treasury, where they are of course not available to be restored to the appropriations which gave rise to them.

If it had been the intent of the Congress in passing and amending the Act, to restore amounts paid as excessive profits to the purchasers under contracts where the excessive profits arose, the Act would have contained different provisions than it now does, respecting both fiscal year renegotiation and also the treatment of recoveries.

As stated above, this final regulation is being made effective immediately. Thus, in accordance with §§1451.1 and 1451.2 of the Board's regulations, it will apply to all fiscal years of contractors and subcontractors pending before the Renegotiation Board or a Regional Renegotiation Board; and to all fiscal years of contractors and subcontractors for which renegotiation filings are due but have not been submitted to the Renegotiation Board. However, as provided in §1451.2 of the Board's regulations, the adoption and promulgation of this amended regulation will not affect the validity of any formal action heretofore taken by the Renegotiation Board determining that a specific foreign military sales contract or subcontract is exempt from renegotiation in accordance with prior regulations.



Some commenters argued against making the regulation effective with respect to all filings not yet finally acted upon because: (1) It would discriminate against contractors who had been cleared and against those who would have to refile; (2) the Board had always held foreign military sales contracts to be exempt (a contention that is contrary to the fact); and (3) that the Board lacked the authority to promulgate a "retroactive" regulation. One commenter contended it would be discriminatory and a violation of §1451.2 of the Board's regulations to make the amended regulation retroactive, and "illegal" to make it prospective. Others contended that since the Act "expired" on September 30, 1976, the Board no longer had the authority to promulgate rules and regulations, or, considering the status of pending legislation affecting the Board, the Board should not make any substantive rule changes. It was suggested that the Board was seeking to enlarge its jurisdiction at a time when the future of renegotiation is in question.

Although the "termination date" of renegotiation coverage in section 102(c)(1) of the Act (50 U.S.C. App. 1212(c)(1)) expired on September 30, 1976 and has not yet been extended, and the Board's authority to renegotiate presently extends only to receipts or accruals under renegotiable contracts and subcontracts attributable to performance prior to October 1, 1976, the Board's authority and responsibility under all other sections of the Act, including its authority to make rules and regulations under section 109 of the Act (50 U.S.C. App. 1219), remain fully intact. Full authority also exists to provide retroactive effect to its regulations with respect to all open cases or unfilled renegotiation reports. (See §1451.2 of the board's regulations.) The Supreme Court upheld the retroactive effect of renegotiation of war contracts entered into before the enactment of a predecessor Renegotiation Act. (*Lichter v. United States*, 334 U.S. 742, 789 (1948).) As stated above, except for the period from early 1976 to June 21, 1977, when the Interpretation No. 80 policy change was in effect, the Board, from the inception of the Act, had held foreign military assistance contracts to be subject to renegotiation and had also held foreign military sales contracts to be renegotiable. Further, it cannot make the finding that formed the basis of Interpretation No. 80. Consequently, it has made this amended regulation apply to all open and unfilled cases where no previous formal Board action has been taken. This is a practice consistently followed since the inception of the Act. Although additional information will be required in most cases, the board does not believe that any refilings will be necessary. Con-

tractors will merely have to identify the sales, costs and profits relating to foreign military sales contracts appearing in the filing for each fiscal year so that the Board can incorporate such figures in the renegotiable business portion of the filings. Since detailed records are required under foreign military sales contracts, this should pose no undue burden or expense.

Finally, several contractors contended that the board was obligated, under Executive Order 11949 and OMB Circular A-107, to file an economic impact statement at the time of the Notice of Proposed Rulemaking. The Board believes that no such statement was necessary in this instance, and its certification to that effect was published with the proposed rule in full compliance with the Executive Order.

In view of the numerous and detailed comments submitted by individuals, firms and associations—representative of a major portion of industry affected by renegotiation, and the additional billions of dollars annually that will be subjected to renegotiation under this final regulation, the Board felt that this detailed response was appropriate.

In consideration of the foregoing, Chapter XIV of 32 CFR is amended as set forth below.

Dated: January 26, 1978.

GOODWIN CHASE,  
Chairman.

This part is amended in the following respects:

1. 32 CFR 1453.5(b)(3)(ii) is revised to read as follows:

§1453.5 Contracts that do not have a direct and immediate connection with the national defense.

(b) . . .

(3) . . .

(ii) Contracts which obligate funds appropriated under or to carry out the purposes of foreign aid programs, insofar as such funds are obligated for military assistance, and contracts awarded pursuant to the Foreign Military Sales Act of 1968, or by name change in 1976, the Arms Export Control Act (22 U.S.C. §§ 2751-2794), are not exempt under paragraph (b)(3) of this section.

2. The "Note" to 32 CFR 1453.5(b)(2) and (b)(3) is deleted.

(Sec. 109, 65 Stat. 22; 50 U.S.C. App. Sec. 1219.)

[FR Doc. 78-2631 Filed 1-26-78; 3:45 pm]

[3510-16]

Title 37—Patents, Trademarks and Copyrights

CHAPTER I—PATENT AND TRADEMARK  
OFFICE, DEPARTMENT OF COMMERCE  
PART I—RULES OF PRACTICE IN PATENT  
CASES

Rule Promulgation Relating to Multiple  
Dependent Claims and Drawing Requirements

AGENCY: Patent and Trademark  
Office, Commerce.

ACTION: Final rule.

SUMMARY: This notice adopts rule changes which permit the use of multiple dependent claims and prescribe when, and in what circumstances, drawings or additional drawings need to be furnished. These rule changes are necessary because of amendments to sections 41, 112 and 113, Title 35 United States Code, which become effective on January 24, 1978. The rule changes are intended to carry into effect the changes made by the amendments to the noted sections.

DATES: Effective date, January 24, 1978. The amended rules apply to applications filed on and after the effective date, even though such applications may be entitled to the benefit of an earlier filing date.

FOR FURTHER INFORMATION CONTACT: Mr. Louis O. Maassel by telephone at 703-557-3070, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This notice changes several rules to conform with 35 U.S.C. sections 41, 112 and 113 as amended by Pub. L. 94-131, effective January 24, 1978, the date of entry into force of the Patent Cooperation Treaty. Notice was given on January 12, 1977 in the FEDERAL REGISTER (42 FR 2632-2644) and on February 8, 1977 in the Official Gazette (955 O.G. 350-363) of a proposal to amend Title 37 of the Code of Federal Regulations due to the entry into force of the Patent Cooperation Treaty and Pub. L. 94-131 (94th Congress; 89 Stat. 658). Interested persons were invited to comment on the proposal on or before May 26, 1977, on which date a public hearing was held. The time for submitting written comments was extended until August 31, 1977 by a notice published on June 23, 1977 in the FEDERAL REGISTER (42 FR 31812) and on July 12, 1977 in the Official Gazette (960 O.G. 8). Comments relevant to the rule changes being promulgated were submitted by only two persons. These comments have been substantially adopted. A transcript of the hearing, the letters and written statements received, and a summary and analysis of the comments are available for public inspection in Room 11E10 of Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Arlington, Va. These changes provide for the filing of multiple dependent claims and for later submission of drawings in applications where such drawings are not necessary for the understanding of the subject matter sought to be patented. This rule change promulgation is directed to only those portions of the proposed rule changes relating to §§ 1.75, 1.81 and 1.83 which are required on January 24, 1978, due to the coming into force of Pub. L. 94-131. The other proposed rules relating to implementation of the Patent Cooperation Treaty will be promulgated later. Good cause is found for the publication of this notice less than 30 days before the effective date of these rules, since it would be in the public interest for the amended rules to take effect on the same date as the statute. Paragraph (c) of § 1.75 differs from the proposal in that two additional sentences have been added indicating how fees will be calculated for multiple dependent claims and claims depending therefrom. No comments were received concerning this rule as originally proposed. Paragraph (c) of § 1.81 has been rewritten to adopt a revision suggested by one of the two persons who submitted comments. Paragraph (d) is a quote from revised 35 U.S.C. 113 and is added to include the restrictions relating to additional drawings. The proposed amendments to paragraphs (a) and (b) of § 1.83 were opposed by both persons who commented and they have not been adopted, but a new paragraph (c) is added in view of those comments. Accordingly, 37 CFR Part 1 is amended as follows:

1. By amending § 1.75 by revising paragraph (c) and adding paragraphs (f) and (g) to read as follows:

§ 1.75 Claims(s).

(c) One or more claims may be presented in dependent form, referring back to and further limiting another claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes, also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. Claims in dependent form shall be construed to include all the limitations of the claim incorpo-

lated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

(f) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(g) All dependent claims should be grouped together with the claim or claims to which they refer to the extent possible.

2. By revising § 1.81 to read as follows:

§ 1.81 Drawings required.

(a) The applicant for a patent is required to furnish a drawing of his invention where necessary for the understanding of the subject matter sought to be patented; this drawing must be filed with the application.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).

(c) Whenever the nature of the subject matter sought to be patented admits of illustration by a drawing without its being necessary for the understanding of the subject matter and the applicant has not furnished such a drawing, the examiner will require its submission within a time period of not less than two months from the date of the sending of a notice thereof.

(d) Drawings submitted after the filing date of the application may not be used to overcome any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

3. By adding a new paragraph (c) to § 1.83 to read as follows:

§ 1.83 Content of drawing.

(c) Where the drawings do not comply with the requirements of paragraphs (a) and (b) of this section, the examiner shall require such additional illustration within a time period of not less than two months from the date of the sending of a notice thereof. Such corrections are subject to the requirements of section 1.81(d).

NOTE.—The Patent and Trademark Office has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: January 12, 1978.

LUTRELLE F. PARKER,  
Acting Commissioner of  
Patents and Trademarks.

Approved:

JORDAN J. BARUCH,  
Assistant Secretary for  
Science and Technology.

[FR Doc. 78-2607 Filed 1-30-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION  
AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION  
OF IMPLEMENTATION PLANS

Revision to the Virgin Islands Implementation  
Plan

AGENCY: Environmental Protection  
Agency.

ACTION: Final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the Virgin Islands Implementation Plan. This approval action has the effect of allowing relaxation of the sulfur-in-fuel-oil limitation applicable to the Virgin Islands Water and Power Authority's Christiansted Power Plant on the island of St. Croix. Prior to this action, this facility was limited under the Implementation Plan to the use of oil with a sulfur content of 0.5 percent, by weight. This relaxation will permit the use of oil with a sulfur content of 1.5 percent, by weight. Receipt of a revision request from the Virgin Islands was announced in the FEDERAL REGISTER on November 9, 1977, at 42 FR 58415, where a full description of the proposed revision is contained.

EFFECTIVE DATE: January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, N.Y. 10007, 212-264-2517.

SUPPLEMENTAL INFORMATION: On January 19, 1976, the Virgin Islands adopted a revision to 12 V.I.R. & R. 9:204-26, an air pollution control regulation dealing with "Sulfur Compounds Emission Control." This revised regulation was submitted to the Environmental Protection Agency (EPA) for approval as a part of the Virgin Islands Implementation Plan (SIP) on January 21, 1976. In a series of actions appearing in the FEDERAL REGISTER, EPA approved the revised regulation with the exception of a part concerning a revision to the sulfur content of oil allowable for use on the



island of St. Croix. On August 29, 1977, the Virgin Islands again submitted the revised regulation with a request that it be approved only to the extent as it applies to one source on St. Croix. Approval of this proposal therefore has the effect of relaxing the allowable sulfur-in-fuel-oil limitation for the Virgin Islands Water and Power Authority's Christiansted Power Plant from 0.5 percent to a maximum of 1.5 percent, by weight. The sulfur-in-fuel-oil limitation for other sources on St. Croix remains at 0.5 percent.

The revision request was submitted in accordance with all applicable EPA requirements under 40 CFR Part 51, including public hearings which were held on June 21, 24, and 25, 1974. The proposed revision to the SIP was announced in the *FEDERAL REGISTER* on November 9, 1977 (42 FR 58415), where a detailed description of the revision was provided. In this announcement EPA advised the public that comments would be accepted as to whether the proposed revision to the Virgin Islands Implementation Plan should be approved or disapproved. No comments were received.

EPA has reviewed the Virgin Islands control strategy demonstration and is in agreement with its conclusion that, if implemented, the proposed plan revision would not be expected to cause or exacerbate contraventions of any national ambient air quality standard on St. Croix. Thus, EPA approves this revision to the Virgin Islands Implementation Plan. In addition, this action is effective immediately because it imposes no hardship on the affected source, and no purpose is served by delaying the effective date.

Dated: January 26, 1978.

DOUGLAS M. COSTLE,  
Administrator, Environmental  
Protection Agency.

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

**Subpart CCC—Virgin Islands**

1. In § 52.2770, paragraph (c) is amended by adding new subparagraph (9) as follows:

§ 52.2770 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.

(9) Revision submitted on August 29, 1977, by the Governor of the Virgin Islands which allows, under provisions of 12 V.I.R. & R. 9:204-26, the relaxation of the sulfur-in-fuel-oil limitation to 1.5 percent, by weight, for the Virgin Islands Water and Power Authority's Christiansted Power Plant.

2. In § 52.2780, paragraph (b) is revised as follows:

§ 52.2780 Control strategy for sulfur oxides.

(b) The following parts of regulation 12 V.I.R. & R. 9:204-26, "Sulfur Compounds Emission Control," as submitted to EPA on January 21, 1976 and as amended and resubmitted to EPA on June 3, 1976 are approved:

(1) The entire regulation as it applies to the islands of St. Thomas and St. John.

(2) The entire regulation as it applies to the Virgin Islands Water and Power Authority's Christiansted Power Plant on the island of St. Croix.

(3) The entire regulation excluding subsection (a)(2) as it applies to the remaining sources on the island of St. Croix.

Subsection (a)(2) of the regulation is not approved as it applies to the remaining sources on St. Croix because of the inadequacy of the control strategy demonstration noted in paragraph (a) of this section. Accordingly, all sources on St. Croix with the exception of the Virgin Islands Water and Power Authority's Christiansted Power Plant are required to conform to the sulfur-in-fuel-oil limitations contained in 12 V.I.R. & R. 9:204-26 as originally submitted to EPA on January 31, 1976.

(Secs. 110 and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).)

(FR Doc. 78-2700 Filed 1-30-78; 8:45 am)

**[4110-12]**

**Title 45—Public Welfare**

**CHAPTER II—SOCIAL AND REHABILITATION SERVICE, (ASSISTANCE PROGRAMS) DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

**PART 228—SOCIAL SERVICES PROGRAMS FOR INDIVIDUALS AND FAMILIES, TITLE XX**

**PART 229—STANDARD SETTING REQUIREMENTS FOR MEDICAL AND NONMEDICAL FACILITIES WHERE SSI RECIPIENTS RESIDE**

**Publication of Materials on These Standards in the State's Proposed and Final Services Plans**

AGENCY: Administration for Public Services (APS), Office of Human Development Services (OHDS), Department of Health, Education, and Welfare.

ACTION: Final regulations.

SUMMARY: These regulations: (1) Require States to designate one or more State or local authorities to establish and enforce standards for residential facilities where significant numbers of SSI recipients reside or are likely to reside. (An SSI recipient who resides in such a facility that is found

in violation of the standards is subject to a reduction in his SSI payment by the Social Security Administration to the extent, if any, that a State supplementary payment or other State payment is made for medical or remedial care provided to him by the facility); and (2) Require that the title XX agency in each State make available for public review, certain information about the standards and their enforcement in the State's proposed and final annual services plans.

The basis for the amendments to Part 228 and the new Part 229 are the provisions of section 505(d) of Pub. L. 94-566, enacted October 20, 1976. In addition to codifying the statutory requirements of the law (which amends title XVI (SSI) of the Social Security Act), the purposes of the proposed regulations are: (a) To encourage development of safe and appropriate residential settings as an alternative to institutional living for appropriate elderly individuals and handicapped children and adults; (b) to limit the use of SSI funds for substandard facilities for such persons; and (c) to publicize the standards and their enforcement procedures through the public review process of the title XX annual services plan.

DATES: October 1, 1977 is the effective date for Part 229. Under the amended Part 228, publication dates for the title XX proposed and final services plans are those specified by the title XX statute, relative to the first title XX program year of each State commencing after October 1, 1977. The Department finds that there is good cause to dispense with Notice of Proposed Rulemaking since the law is already in effect and the time period required for the Notice of Proposed Rulemaking would further delay the prompt and complete implementation of the law in some States. Accordingly, in light of the immediacy and urgency of the situation, these regulations take effect immediately. However, comments will be considered within a 90-day comment period and any changes found necessary will be made. Consideration will be given to written comments or suggestions received on or before May 1, 1978. When commenting please refer to APS-1. Agencies and organizations are requested to submit their comments in duplicate.

ADDRESS: Address comments to: Commissioner, Administration for Public Services, Department of Health, Education, and Welfare, P.O. Box 1923, Washington, D.C. 20013. Comments will be available for public inspection, beginning approximately two weeks after publication, in room 2225 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each

week from 8:30 a.m. to 5 p.m. (area code 202-245-9415).

FOR FURTHER INFORMATION, CONTACT:

Mrs. Johnnie U. Brooks, 202-245-9415.

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

These regulations implement section 505(d) (the "Keys Amendment") of Pub. L. 94-566, "The Unemployment Compensation Amendments of 1976." Section 505(a) of the same amendment provides that, as of October 1, 1976, the prohibition against SSI payments to persons in public institutions would not be applicable in the case of publicly operated community residences which serve no more than 16 residents. The Social Security Administration has the responsibility for defining these community residences.

The legislative history of section 505(d) indicates that Congress did not want States and localities to be discouraged from creating and subsidizing residential facilities for individuals who need a place to live but do not need the kind of care which is provided in a Medicaid institution. But at the same time, the Congress was concerned that the SSI program not become a source for funding substandard facilities, especially those which are not certified to participate in the Medicaid program but do provide medical care. Therefore, it added section 505(d) to require establishment and enforcement of standards for all types of facilities where SSI recipients reside. Congress then utilized the mechanism of the title XX public review process (publication of proposed and final services plans) to inform and involve the public with the standard-setting authorities in the setting and enforcement of standards.

**INPUT FROM INTERESTED PARTIES**

In the development of these proposed regulations, the Administration for Public Services has consulted with advocacy groups, State directors of human services, the National Governors Conference and various bureaus in the Department including the Social Security Administration, the Administration on Aging, the Medical Services Administration, the Children's Bureau, the Developmental Disabilities Office, and the President's Committee on Mental Retardation. Discussions were also held with Congressional staff who had been involved in preparation of the legislation. In the course of this communication with interested parties, the following points were clarified:

1. *How define "significant numbers" of recipients.* The law requires that standards be established and enforced for "any category of institutions,

foster home, or group living arrangements in which (as determined by the State) a significant number of recipients of supplementary security income benefits is residing or is likely to reside." The Department is interpreting this to mean that standards must be set for the "kinds of facilities" in which a significant number of SSI recipients lives or is expected to live. The number of SSI recipients living in a facility at any one time is not the determining factor. The rationale for this interpretation is that the Department believes that this is the only way to insure that standards are established for the smallest kind of group living arrangement specified in the legislation—foster homes. As few as one or two SSI residents may live in a foster home but there may be hundreds of such homes in the State housing SSI recipients.

2. *Requirement to publish summary of standards.* Section 505(d) specifically requires publication of a summary of each standard in the title XX services plans. (This requirement is set forth in the regulation under § 228.29(b)(4).) Accordingly, even though States have already published standards for some or all of the facilities covered by this law in accordance with the administrative procedures in their States and have accepted public comment on them, a summary of each standard would still have to be published in their title XX services plans.

Since interested persons may secure a copy of a full standard from the standard-setting authority upon request, the "summary of each standard" published in the title XX services plan need be no more than a listing of the items that comprise the standard. For instance, some of the items for standards for foster care homes for children might be health of the caretaker, numbers and ages of children, space, safety, etc.

3. *Kinds of facilities requiring standards.* Discussion took place about the "kinds" of residential facilities States are required to set standards for under the law. The law speaks to establishing and enforcing standards for "any category of institutions, foster homes, or group living arrangements"; and instructs the Social Security Administration to reduce the amount of an SSI benefit to an SSI recipient living in a facility to the extent, if any, of a State payment made for medical or remedial care provided by that facility to the SSI recipient "as a resident or inpatient of such institution if such institution is not approved as meeting the (required) standards . . ."

In light of this language, questions arose as to (1) whether, instead of reducing an SSI recipient's benefits, some other sanction could be applied when a facility is determined to be substandard; (2) whether standards

had to be established for all institutions, including those that provide medical care; and if so (3) whether this would also include those that have been certified under Medicaid (i.e., title XIX of the Social Security Act).

With respect to question (1) the answer is no. The law and its legislative history is clear. The sole sanction provided is to reduce the SSI recipient's benefits to the extent, if any, that a State supplementary payment or other State payment is made for medical or remedial care provided to him by a facility that is found to be in violation of the established standards.

However, it should be noted that the Department recognizes the inequity of penalizing a recipient for the failings of the facility, and therefore intends to explore with Congress the possibility of amending the prescribed sanction. Comments are particularly welcome on the sanction itself and the Department's intention to seek to have it changed.

With respect to question (2) the answer is yes. Since the law literally requires standards to be established for "any category of institutions," and since an individual's SSI benefits would be reduced to the extent that a State makes a payment to a facility for the provision of medical care if that facility does not meet the established standards, the Department believes that Congress expressed a clear desire to have standards established for facilities that provide medical care, as well as any other category of institution. Nothing to the contrary is contained in the legislative history.

With respect to question (3), however, the answer is no; although standards have to be established for institutions that provide medical care, the Department believes that this requirement does not extend to those that have been certified under Medicaid or Medicare. The basis for this belief is the legislative history surrounding the establishment of these standards. It provides that:

" . . . the committee is concerned that some of the Federal Medicaid standards . . . may be inappropriate for some of the institutions (for which standards need to be established). The committee continues to be concerned, however, that the SSI program not become a source for funding substandard institutions. Therefore, the committee bill adds a provision which would require each State to establish . . . standards for any category of institutions . . . in which . . . a significant number of SSI recipients is residing . . ." (Emphasis supplied.) (S. Rep. No. 1265, 94th Cong., 2d Sess. 29)

In the Department's view, this legislative history indicates a desire on the part of Congress to regulate substandard facilities by establishing standards for all categories of institutions not currently subject to Federal standards; namely, those that have not been certified under Medicaid (or for



that matter, those that have not been certified under Medicare).

The Department recognizes, however, that its view could be said to conflict with the literal requirement of the law itself—to establish standards for "any category of institutions." Accordingly, the Department would particularly welcome comments on the above interpretation.

4. *Facilities with more than room and board.* Discussions also took place on the question of whether standards had to be established for facilities that merely provide room and board. The answer is no. The Department simply does not believe that the kinds of facilities for which Congress required standards to be established include those that do not provide some type of care and/or protective oversight. If it were otherwise, standards would have to be established for every conceivable type of facility which houses SSI recipients, including their own homes and apartments.

Accordingly, with the exception of facilities certified under the Medicaid or Medicare programs, standards must be established and enforced for all kinds of medical and non-medical facilities which provide more than room or board. These may range from social care type facilities for ambulatory individuals who are capable of either beginning again to prepare for independent living or whose condition is so stabilized that they can leave a highly structured setting for one which approximates independent living, to a facility which provides on-site medical or remedial care. The variety in between is seemingly infinite, but the residential facilities for which standards have to be established have the common characteristics of providing room and board and protective oversight to the degree needed by each resident. The statute permits such facilities to be operated publicly, by a private, non-profit agency, or by a private for-profit agency. Any category of SSI recipient may be served—the aged, mentally retarded, drug or alcohol abusers, and physically handicapped children or adults.

These residential facilities are known by variety of names such as foster care homes, board and care homes, domiciliary care facilities, congregate care facilities, "unlicensed nursing homes," halfway houses, personal care homes, shelter care, and the like.

"Protective oversight" embodies such things as daily awareness of the resident's functioning, his or her whereabouts, the ability to intervene if a crisis arises for a resident, supervision in areas like nutrition or medication or actual provision of medical care, and a 24-hour responsibility for the welfare of the resident.

Services needed by the residents may be provided by the facility or be secured from community resources.

In sum, standards need not be established for facilities which provide room and board only. Nor need they be established for living units such as apartments, single dwellings or cooperative housing where the residents lead essentially independent lives, housing and feeding themselves. Even if an agency sends a worker to "look in" or even to provide services to individuals living in such housing, the "residential unit itself" does not meet the conditions of providing the resident with both room and board and protective oversight; and therefore standards need not be established for such a facility.

5. *Range of standards.* Questions arose as to whether the list of standards provided in the law—for admission policies, safety, sanitation, and protection of civil rights—is the exclusive list. The answer is no; that list is merely exemplary. The rest of the legislation concerning standard-setting cannot be ignored: "Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved . . ." There might well be other standards that the States feel should be established so long as the standards are appropriate to the needs of the SSI residents or to the character of particular facilities. For instance, standards may be established to require ramps, hallways and doors wide enough to accommodate wheelchairs; grabrails in the bathroom, in corridors, or on stairs for the frail and handicapped; suitable playing space for handicapped children; or medical and other standards in relation to the provision of or supervision of medical care. In short, nothing in section 505(d) should be construed to mean that if a State already has standards for various kinds of facilities or is developing standards for them, that the scope of the standards should be limited to admission policies, safety, sanitation and the protection of civil rights.

6. *Waiver of standards.* The legislation permits standards to be waived upon proper justification by the State. Therefore, if the State has standards which it believes may be waived under certain circumstances, it must develop criteria for such waiver and, upon request by interested individuals, must provide them with the names and addresses of facilities to which it has granted waivers and the particulars of the waiver of a standard.

7. *Initial publication of standards in the services plans.* With regard to when title XX agencies would be required to make the initial publication of the required summary of standards in their proposed and final services plans (as required under § 228.29-a), several factors had to be considered:

First, the title XX legislation specifically states that the proposed services

plan must be published at least 90 days before the beginning of a State's program year. The public must have at least 45 days to comment on the plan. The final services plan must be published no earlier than 45 days after publication of the proposed plan and prior to the beginning of the State's program year. Moreover, amendments to the final services plan must be published in proposed and final form with a 30-day comment period on the proposed amendment.

Second, States vary in the timing of their program years because they may use either the Federal fiscal year (October 1-September 30) or the State fiscal year, as their title XX program year. Therefore, publication scheduling of their services plans is not uniform nationwide. Over half the States use the State fiscal year and must publish their proposed plans by April 1, and their final plans by June 30 for a July 1-June 30 program year. Other States using the Federal fiscal year must publish their proposed plans by July 1 and their final plans by September 30.

Third, there could be great disparity among the States in the amount of time needed to establish or perfect a system for setting and enforcing standards and reporting violations to the Social Security Administration.

Fourth, the legislation provides no new funding to any State agency for the activities required by the law, including publication of the standards materials by the title XX agency. This material might be rather lengthy and so would increase the cost of producing and mailing the proposed and final services plans. Another added expense would be amending the final services plan to incorporate this material instead of including it in the services plans as they are published on their regular schedule.

Fifth, the legislation amends title XVI (SSI) of the Social Security Act with respect to standard-setting and enforcement, effective as of October 1, 1977.

The regulation has attempted to provide a realistic reconciliation of the problems described by requiring title XX agencies to publish the summary of standards in their proposed and final services plans "for their first title XX program year commencing after October 1, 1977." However, States and standard-setting authorities must proceed, as of October 1, 1977, to carry out their responsibilities as set forth in Part 229. Title XX agencies are not precluded from publishing the required material in their services plans before the dates in the regulation if they so choose. But with respect to orderly planning and efficient use of title XX funds, no justification could be found for requiring States to assume the added expense of amend-

ing their present plans solely to provide the information on standards.

8. *How to implement Part 229.* The law is not specific on several important organizing and operational responsibilities integral to implementing Part 229. It merely requires "each State" to do the following:

Determine which kinds of facilities house or will house a significant number of SSI recipients;

Designate State or local authorities to establish and enforce standards;

Send information on violations to the Social Security Administration; and

Certify to the Secretary of HEW that all the requirements of section 505(d) have been met.

It should be remembered that in these respects the law is amending title XVI (SSI) of the Social Security Act, not title XX. If title XX were being amended, the lines of responsibility would be clear.

During the discussions with interested parties, referred to earlier, several solutions were proposed:

Determination of the kinds of facilities which should be subject to the standards might be made by those agencies in the State that have an interest in deinstitutionalizing individuals who might then be eligible for SSI payments. District Offices of the Social Security Administration with their knowledge of where SSI recipients now live could be regarded as a resource.

Standard-setting agencies of various kinds already exist in all States. For instance, under its administrative State plan, the title XX State agency is required to designate or create State or local agencies to establish and enforce standards for institutions or foster homes where "recipients of title XX services" live. Other State agencies have standards for community based living facilities, and it is expected that advocates for various groups of old or handicapped persons will be active in urging relevant agencies to set and enforce standards in the interests of deinstitutionalization and eligibility for SSI. Existing agencies with expertise, such as the State Agencies on Aging, can be an invaluable resource in setting standards for housing of the elderly. And a State may wish to deem as meeting the standards required by the Keys Amendment, those medical (not certified for Medicaid) and non-medical residential facilities which are accredited by the Accreditation Council for Facilities for the Mentally Retarded and other Developmentally Disabled Individuals of the Joint Commission on Accreditation of Hospitals.

In Departmental consultations, the Social Security Administration decided that information on violations of the standards should be sent to their

Regional Offices. SSA also expressed the hope that some kind of mechanism would be set up in each State to coordinate the results of monitoring, particularly in regard to violations.

In January 1977, the Department sent a letter with information on the Keys Amendment to all Governors, the National Governors Conference and the Association of State Legislators. It was the Department's intent that this communication would result in the State executive office providing the needed coordination or designating an individual or an agency to perform this function.

The regulation specifies that the Governor of each State or his designee will certify to the HEW Secretary that the requirements of § 229.30 have been met. The certification is to be sent to the HEW official in the Regional Office who receives title XX plans. This is the same procedure used under the title XX program to transmit plans from the State to the Regional Offices.

9. *Standard-setting and licensing.* During the various group meetings held by the Department on developing the regulations, the question arose about whether licensing could be construed as meaning setting and enforcing standards within the meaning of section 505(d). The word "licensing" is not used in the regulation, but if a State's licensing system is congruent with standard-setting and enforcement as required by section 505(d), that system may be used in the State.

10. *"Warning System."* Great concern was expressed that SSI recipients were the ones penalized (by a reduction in their SSI benefits equal to State payments for medical care provided by the facility) if they reside in a facility that is found not to meet the required standards. This concern, plus apprehension that the residents might also be in danger because of a standard not being observed, led to the requirement for a "warning system" in the enforcement procedure. The warning system encompasses a time period during which: (a) A deficient facility is given the opportunity to correct a violation by a certain date; and (b) if the facility fails to make the correction, the standard-setting authority must arrange to inform all residents in writing of the standard not being met; provide residents with a list of approved facilities and agencies which will help them to move; and give all the residents a period of time to relocate if they wish before the standard-setting authority reports the deficient facility to the Social Security Administration. The purpose is to warn residents that they do not have the protection of the standard and to give them time to move if the absence of the standard endangers them or penalizes their SSI benefits. It will be noticed that all (not

just SSI) residents are warned of the deficiency and given the opportunity to move, in the interests of equity. Many States undoubtedly already have such warning mechanisms built into their enforcement procedures. However, they will have to compile a list of approved facilities and enlist the aid of advocates in helping persons in deficient facilities to relocate if they want to.

1. 45 CFR 228.29 is amended by revising paragraphs (a) and (b) and adding a § 228.29-a, to read as follows:

§ 228.29 Program coordination and utilization.

The services plan shall describe:

- (a) How the planning and the provision of services under the program will be coordinated with and utilize the following programs:
- (1) Under the Social Security Act:
- (i) Title IV-A, AFDC (including WIN);
- (ii) Title IV-B, Child Welfare Services;
- (iii) Title XVI, SSI; (see paragraph (b)(4) of this section regarding State services plan content on standards for facilities housing SSI recipients); and
- (iv) Title XIX, Medical Assistance (Medicaid); and

(2) Other appropriate programs for the provision of related human services within the State—for example, programs for the aging, children, developmentally disabled, alcohol and drug abusers; programs in corrections, public education, vocational rehabilitation, mental health, housing, medical and public health, employment and manpower.

(b) The service plan shall contain:

(1) A general description of the steps taken to assure maximum feasible utilization of services under these programs to meet the needs of the low income population; and

(2) A general description of the steps taken to assure public participation in the development of the services program, including contacts with public and private organizations, officials of county and local general purpose government units, and citizen groups and individuals, including recipients of services.

(3) A description of the extent to which the title XX agency utilizes grants and otherwise encourages child day care providers under contract to employ AFDC recipients; and

(4) Information on standards established by designated standard-setting authorities for residential facilities for SSI recipients, as follows:

(i) A summary (listing of the items) of each standard established for each type of facility in which the State has determined that a significant number of SSI recipients reside or will reside, in accordance with § 229.20(a) of this chapter; and



(ii) The name and address of each standard-setting agency designated in accordance with § 229.10 of this chapter, and a statement that interested individuals may obtain from such agencies without charge a single copy of:

(A) A complete set of standards for each type of facility;

(B) The procedures used in the State to ensure the enforcement of each standard;

(C) The criteria for waiving each standard and a list of the names and addresses of facilities and the standards for which they have been granted waivers; and

(D) The list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

§ 228.29-a Timing for initial publication of standards for residential facilities for SSI recipients.

States shall publish the information about standards required under § 228.29(b)(4) no later than the publication dates of their services plans for their first title XX program year starting after October 1, 1977.

(a) States with a program year starting in July shall publish this material no later than April 1, 1978 (proposed services plan), and June 30, 1978 (final services plan).

(b) States with a program year starting in October shall publish this material no later than July 1, 1978 (proposed services plan), and September 30, 1978 (final services plan).

3. 45 CFR 228.33 is amended by revising paragraphs (g), (h), and (i) to read as follows:

§ 228.33 The public review process.

(g) Display advertisement for the proposed plan. A display advertisement shall at least:

(9) Include a statement that the plan includes information on standards for non-medical and medical (other than those certified for Medicaid or Medicare) residential facilities for SSI recipients; a system for enforcing the standards; and the names and addresses of standard-setting authorities who will respond to requests for information on standards, their enforcement, waivers, and the identity of deficient facilities.

(h) Summary of proposed services plan. If the State publishes a services plan summary (to be provided free in lieu of a free copy of the entire services plan), it shall contain at least the following information:

(10) A listing of the items that comprise each standard established for

each type of residential facility where a significant number of SSI recipients resides or is likely to reside, and the name and address of each standard-setting authority from which interested individuals may obtain, without charge:

(i) A full copy of each standard,

(ii) A copy of the procedures used in the State to insure enforcement of the standards;

(iii) A copy of the criteria for waiving each standard and a copy of the list giving the names and addresses of facilities granted waivers; and

(iv) A copy of the list giving the names and addresses of facilities in violation of a standard, and the details of each violation.

(i) Display advertisement of the final services plan. The display advertisement of the final services plan shall contain at least:

(1) A statement that the final services plan has been published and is available for review by the public;

(2) An explanation of any differences between the proposed and final services plans and the reasons therefor (including any differences in the standards for residential facilities for SSI recipients, or facts about the standard-setting authorities);

2. A new Part 229 is added to Chapter II to read as follows:

Sec. 229.0 Scope.

229.1 Definitions.

229.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

229.20 Responsibilities of designated standard-setting authorities.

229.30 State certification to the Department of Health, Education, and Welfare.

AUTHORITY: Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).

229.0 Scope.

This part requires States, effective October 1, 1977, to create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which, as determined by the State, a significant number of recipients of Supplemental Security Income (SSI) benefits resides or is likely to reside. SSI residents who live in relevant facilities which violate any of the standards will be subject to a reduction in their SSI payments by the Social Security Administration. The reduction will be in an amount equal to any State supplementary benefit or other payment made by the State for any medical or remedial care provided them by the facility.

229.1 Definitions.

For purposes of this part:

(a) Any category of institutions, foster homes, and group living ar-

rangements means residential facilities which provide both room and board and continuous protective oversight to the residents and are:

(1) Non-medical or medical facilities of any size (other than those certified for participation in the Medicaid or Medicare programs) which are publicly or privately operated on a non-profit or for-profit basis.

(b) Medical or remedial care means care directed toward the correction or amelioration of a medical condition which has been diagnosed as such by a licensed medical practitioner operating within the scope of medical practice as defined by State law, and the care is provided by or under the direct supervision of a medical practitioner or other health professional licensed by the State or credentialed by the appropriate professional organization.

229.10 Responsibilities of States in identifying facilities and designating standard-setting authorities, effective October 1, 1977.

(a) Each State shall determine the kinds of residential facilities (as defined under § 229.1) in which a significant number of SSI recipients resides or is likely to reside.

(b) Each State shall create or designate one or more State or local authorities to establish, maintain, and ensure the enforcement of any standards for the residential facilities identified in accordance with paragraph (a) of this section.

§ 229.20 Responsibilities of designated standard-setting authorities.

Each standard-setting authority shall, effective October 1, 1977:

(a) Establish standards. (1) The standards shall be appropriate to the needs of the SSI recipients residing in the facilities and to the character of the facilities involved. In addition, they shall govern such matters as:

(i) Admission policies (including a continuous needs assessment and referral to appropriate resources);

(ii) Safety;

(iii) Sanitation (cleanliness and hygienic procedures); and

(iv) Protection of civil rights (under the United States Constitution, the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws).

If a standard-setting authority has standards already in place, including those listed in subparagraphs (i) through (iv) of paragraph (a)(1) of this section, the standards meet the requirement.

(2) Under this requirement, the authority may provide for waivers of a standard under specified criteria.

(3) The authority shall notify the public and providers about the need

for affected facilities to meet its standards.

(4) The authority shall provide the State's title XX agency, annually (as arranged with that agency), with a summary of each standard for each kind of facility, for publication in the title XX services plans.

(b) Establish procedures for enforcing the standards. The enforcement procedures shall include:

(1) Periodic inspection of facilities;

(2) Provision of technical assistance; and

(3) Use of a warning system which provides for an opportunity for a deficient facility to comply and for the residents to move out if the facility fails to do so. The standard-setting authority shall establish specific time periods:

(i) For a deficient facility to carry out a plan approved by the standard-setting authority to correct any violation of a standard which cannot be waived; and

(ii) For the standard-setting authority, if the facility fails to comply, to arrange for informing in writing all residents of the facility (including, where appropriate, the families, guardians, or representative payees of SSI residents) of the standard which the facility does not meet, and of the time period during which residents may relocate if they wish before the authority reports the deficient facility to the Social Security Administration. The standard-setting authority shall also provide all residents with a list of approved facilities and agencies which will help them move if they wish. The purpose is to let the residents know they do not have the protection of the standard, and to give them time and assistance to move if the absence of the standard endangers them or penalizes their SSI benefit.

(c) Report deficient facilities to the Social Security Administration. (1) At the conclusion of the relevant time period(s) given a deficient facility to correct violation of a standard or for residents to move out of a facility, as described in paragraph (b)(3) of this section, each designated standard-setting authority shall report to the appropriate Regional Office of the Social Security Administration the name and address of any facility which no longer meets the standards and the effective date of the violation. The purpose is to enable the Social Security Administration to reduce SSI benefits to SSI residents living in a facility in violation of standards, in accordance with the requirements of Section 505 of Pub. L. 94-566, "The Unemployment Compensation Amendments of 1976."

(2) If and when a deficient facility again meets the standards, the standard-setting authority shall notify the Social Security Administration of the effective date of its approval of the facility.

(d) Maintain and make records available.—(1) Maintenance of records. Each authority shall:

(i) Keep a record of the details of each violation of a standard by a facility; and

(ii) If a standard is waived, maintain a record including the name and address of each facility granted a waiver, the standard waived, and the justification for waiving it.

(2) Availability of records to the public. Each authority shall make available without charge to interested individuals a single copy of:

(i) A complete set of standards for each type of facility;

(ii) The procedures used in the State to insure the enforcement of standards;

(iii) The list of facilities (name and address) that have been granted waivers of each standard, including the justification for the waiver; and

(iv) The list of facilities (name and address) found in violation of a standard, including the details of each violation.

§ 229.30 State certification to the Department of Health, Education, and Welfare.

(a) Each State shall certify annually to the HEW official in the Regional Office who receives title XX plans, that:

(1) It has created or designated an authority or authorities to establish, maintain, and insure the enforcement of standards, in accordance with § 229.10;

(2) It has made available, without charge, information about full standards, enforcement procedures, and, where applicable, waivers of standards, and violations of standards by specific facilities, as required under § 229.20(d)(2);

(3) It has published in the State's title XX proposed and final annual services plans:

(i) A summary of the content of each standard established for each type of facility, in accordance with § 229.20(a); and

(ii) The name and address of each designated standard-setting authority from which interested individuals may obtain, without charge, the information about full standards, enforcement procedures, waivers of standards, and violations, in accordance with § 229.20(d); and

(4) Each standard-setting authority has reported to the relevant Social Security Administration Regional Office the names and addresses of facilities which are in violation of standards, in accordance with § 229.20(c).

(b) The certification shall be in the form of a factual statement signed by the Chief Executive of the State or his designee and submitted within the first quarter following the beginning of a State's title XX program year.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.771, Social Services for Low Income and Public Assistance Recipients.)

NOTE.—The Administration for Public Services has determined that this document does not require preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Dated: September 13, 1977.

ARABELLA MARTINEZ,  
Assistant Secretary for  
Human Development Services.

Approved: January 20, 1978.

HALE CHAMPION,  
Acting Secretary.

(FR Doc. 78-2598 Filed 1-30-78; 8:45 am)

[6712-01]

Title 47—Telecommunication  
CHAPTER I—FEDERAL COMMUNICATIONS  
COMMISSION

PART 73—RADIO BROADCAST SERVICES  
Reregulation of Radio and Television  
Broadcasting

AGENCY: Federal Communications  
Commission.

ACTION: Order.

SUMMARY: This Order corrects erroneous cross references in certain rules to other rules and is editorial in nature only.

EFFECTIVE DATE: February 10, 1978.

ADDRESS: Federal Communications  
Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau,  
202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: January 23, 1978.

Released: January 25, 1978.

Order. In the matter of reregulation of Radio and Television Broadcasting—Editorial Amendments.

1. As a result of the continuous study of the broadcast rules by the Reregulation Staff of the Broadcast Bureau, several errors have been noted in certain rules which contain cross references to other rules. The existing erroneous cross references are misleading and confusing to users of the rules and by this 20th Reregulation Order are being editorially corrected.

2. We conclude that adoption of the editorial amendments shown in the attached appendix will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provi-



sions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

3. Therefore, it is ordered, That pursuant to sections 4(i), 303(r) and 5(a)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules and regulations is amended as set forth below, effective February 10, 1978.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082 (47 U.S.C. 154, 155, 303).)

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

Part 73 of Title 47 CFR is amended to read as follows:

§ 73.50 [Amended]

1. In paragraph (a)(2) of § 73.50, the term "Subpart F" is corrected to read "Subpart J."

§ 73.69 [Amended]

2. In the first sentence of § 73.69, paragraph (d)(3), the reference "(c)(2)" is corrected to read "(d)(2)."

3. In the last sentence of § 73.69, paragraph (d)(5), the reference "(c)" is corrected to read "(d)."

§ 73.689 [Amended]

4. In the first sentence of § 73.689(a)(2)(iii)(A), the reference to paragraph "(a)(1)" is corrected to read "(a)(2)(i)."

[FR Doc. 78-2628 Filed 1-30-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE,  
DEPARTMENT OF THE INTERIOR

PART 17—ENDANGERED AND THREATENED  
WILDLIFE AND PLANTS

Determination of Critical Habitat for the  
Houston Toad

AGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Final rule.

SUMMARY: The Service determines critical habitat for the Houston toad (*Bufo houstonensis*) in a portion of its range. This rule requires all Federal agencies to insure that actions authorized, funded, or carried out by them do not adversely affect this Critical Habitat. The areas determined as critical habitat are located in Bastrop and Burleson Counties, Tex.

DATE: This rule becomes effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director-Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In the FEDERAL REGISTER of May 26, 1977 (42 FR 27009-27011), the Fish and Wildlife Service published a proposed determination of critical habitat for the Houston toad (*Bufo houstonensis*). This critical habitat was described as:

(A) *Bastrop County*. From the junction of a line corresponding to 30°12'00" N. and Texas State Highway 95 east along a line corresponding to 39°12'00" N. to where it intersects a line corresponding to 97°7'30" W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the city limits of Bastrop, and north through Bastrop along Texas State Highway 95 to where it intersects a line corresponding to 30°12'00" N.

(B) *Burleson County*. A circular area with a one mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.

(C) *Harris County*. At the northwest corner of Houston, Tex., from the junction of Tanner and Brittmoore Roads east on Tanner Road to its junction with Gessner Road, south on Gessner Road to its junction with Clay Road, west on Clay Road to its junction with Brittmoore Road, and north on Brittmoore Road to its junction with Tanner Road.

(D) *Harris County*. Six areas in south Houston and Pasadena, Tex. (1) From the junction of Harwin Drive and Fondren Road east on Harwin Drive to its junction with the Southwest Freeway, southwest on the Southwest Freeway to its junction with Fondren Road, and north on Fondren Road to its junction with Harwin Drive.

(2) From the junction of Hillcroft Avenue and South Main Street northeast on South Main Street to its junction with Holmes Road, northeast on Holmes Road to its junction with Knight Road, south on Knight Road to its junction with Alameda Road, northwest on Alameda Road to its junction with West Orem Drive, west on West Orem Drive to its junction with South Post Oak, south on South Post Oak to its junction with Sims Bayou, west along the north bank of Sims Bayou to where it crosses Hillcroft Avenue, and north on Hillcroft Avenue to its junction with South Main Street.

(3) From the junction of the Gulf Freeway and Shawnee Drive east on Shawnee Drive to its junction with Rodney, south on Rodney to its junction with Edgebrook Drive, southwest

on Edgebrook Drive to its junction with the Gulf Freeway, and northwest on the Gulf Freeway to its junction with Shawnee Drive.

(4) From the junction of Vista Road and Maple east on Vista Road to its junction with Watters Road, south on Watters Road to its junction with Crenshaw Road, west on Crenshaw Road to its junction with Young, north on Young to its junction with Snodden Avenue, east on Snodden Avenue to its junction with Maple, and north on Maple to its junction with Vista Road.

(5) From the junction of Carson and Martindale south on Martindale to its junction with Alameda-Genoa Road, east on Alameda-Genoa Road to its junction with Mykawa Road, south on Mykawa Road to its junction with Clear Creek, east along the north bank of Clear Creek to where it crosses Telephone Road, north on Telephone Road to its junction with Fuqua, east on Fuqua to its junction with the Gulf Freeway, northwest on the Gulf Freeway to its junction with Meldrum, west on Meldrum to its junction with Monroe Road, south on Monroe Road to its junction with Lanham, west on Lanham to its junction with Telephone Road, north on Telephone Road to its junction with Brisbane, west on Brisbane until it ends, then continuing due west on a line which would intersect Mykawa Road near its junction with Selinsky Road, south on Mykawa Road to its junction with Carson, and west on Carson to its junction with Martindale.

(6) From the point at which Horsepen Bayou crosses Bayarea Boulevard, northeast on Bayarea Boulevard to the point at which it begins to form the southeastern boundary of the city of Pasadena north and northwest along the western Pasadena city boundary to where it contacts the Houston City boundary, west along the southern boundary of Houston to where it crosses Horsepen Bayou, and southeast along the north bank of Horsepen Bayou to where it crosses Bayarea Boulevard.

In the May 26, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 27009-27011) and associated May 27, 1977, press release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period May 26, 1977, to December 2, 1977, were considered.

SUMMARY OF COMMENTS AND  
RECOMMENDATIONS

Comments were received from 26 individuals and organizations. Of these, 16 were in favor of all or most parts of the proposal, seven were opposed to all

or parts of the proposal, and three expressed no direct opinion on the proposal but added information relating to their specific organization or agency.

Congressman Bob Gammage (22nd District, Texas) expressed concern that, should the proposed Critical Habitat area remain unchanged, development in Harris County could be frozen. He also stated that he had been informed that the boundaries were scientifically unsubstantiated and that the lines for the boundaries were arbitrarily drawn. He suggested that public lands be evaluated, such as Clear Creek and Armand Bayou, since these areas would not be likely to be encroached on by private interests. This would be of great value to the orderly development of Harris County, according to Congressman Gammage. Finally, he felt a compromise could be reached that would allow development in Harris County and will prevent intrusion on the habitat of the Houston toad.

Ted L. Clark (Director, Wildlife Division, Texas Parks and Wildlife Department) concurred with six of the proposed areas, recommended the deletion of one, and expansion of the remaining two. Specific recommendations of that Department were:

A. The Department concurs with the Bastrop County area as defined in the proposed rules since Department personnel have observed this species there in moderate numbers in each of the last four years (1974-1977).

B. The Department also concurs with the area proposed as Critical Habitat in Burleson County since Dr. Robert A. Thomas, Texas A & M University, has found the Houston toad there in low numbers in each of the last four years (1974-1977).

C. The Department recommends that the northwest corner of Houston, Tex., be modified to include that portion of Addicks Reservoir southwest of the reservoir levee east of Longitude 90°35'23" and north of Latitude 29°50'35". Although Houston toads have not been reported from the Addicks Reservoir area, the habitat there is almost identical to that of the type locality a short distance away.

D. Harris County, six areas in South Houston and Pasadena. Based on the information furnished by Mr. William L. McClure, Texas Department of Highways and Public Transportation, in conjunction with our research and others, the Texas Parks and Wildlife Department recommends the following:

1. That the triangle between Harwin, Fondren and the Southwest Freeway be deleted since practically all of the land surface is covered with commercial, industrial, or residential development and is drained by underground storm sewers. Therefore, the area

cannot be considered Houston toad habitat.

2. That the area as defined in the proposed rules by junction of Hillcroft Avenue-South Main-Holmes Road-Knight Road-Alameda Road-West Orem Drive-South Post Oak-Sims Bayou-Hillcroft Avenue be designated as critical habitat. Although no recent Houston toad observations have been recorded for the area which has been approximately one-third developed, it does contain suitable habitat and the Houston toad might reasonably be expected to exist there.

3. That the area bounded by the Gulf Freeway, Shawnee Drive, Rodney, and Edgebrook Drive be considered as critical habitat since Houston toads were observed in this area in 1975 and 1976.

4. That the area bounded by Vista Road, Watters Road, Crenshaw Road, Young, Snodden Avenue, and Maple Road be designated as critical habitat since Houston toads were observed in this area in 1976.

5. That the area bounded by Carson, Martindale, Alameda-Genoa Road, Mykawa Road, Clear Creek, Telephone Road, Fuqua, Gulf Freeway, Meldrum, Monroe Road, Lanham, Telephone Road, Brisbane, Mykawa, and Carson Road be considered as critical habitat since historically, Houston toads have been previously recorded there in good numbers, though none have been recently observed.

6. That the area near Horsepen Bayou be expanded as follows: "Horsepen Bayou intersection with Bay Area Boulevard, northwest along the west bank of Armand Bayou to Genoa-Red Bluff Road, west along Genoa-Red Bluff Road to a projected extension of the easternmost north-south runway of Ellington Air Force Base, south along the extended line of such runway to its intersection with Horsepen Bayou, and easterly along the north bank of Horsepen Bayou to Bay Area Boulevard. This expansion would include additional suitable habitat in which the Houston toad was observed in good numbers in previous years, though none recently. The habitat where these observations were made has remained relatively unchanged, particularly on Ellington Air Force Base."

Finally, Mr. Clark stated that the Texas Parks and Wildlife Department will continue to monitor areas of known and potential Houston toad habitat in an effort to better delineate the distribution of this Endangered species.

Lauren E. Brown (Illinois State University) stated that he had reviewed all areas of critical habitat and could make no additional alterations. He reviewed his past interest in *B. houstonensis* (research and recommendations

for Endangered status in 1968) and indicated that all of Harris County is potentially critical habitat. He urged the Department of the Interior to resist at all costs any attempts by the City of Houston, the State of Texas, Harris County, or any other private or public special interest groups that pressure the Service to abandoning proposals for critical habitat in the Houston area.

Dr. Brown reiterated that little State, Federal, or local money had been spent on the species in spite of its very critically Endangered status. He states that this is in direct contrast with species such as the whooping crane and California condor. He points out that the Houston toad, with probably not more than 300 individuals in existence, has been repeatedly mentioned by various authors as a species which should have a high priority for protection and rehabilitation. Nevertheless, according to Dr. Brown, this species has been totally neglected. He states that the proposal of critical habitat represents a positive step forward if the Service would pay more attention to conserving this species. He concludes that the Houston toad has a high potential for being saved.

James M. Scott, Jr. (Houston, Tex.) suggested that the area called Sharpstown be deleted as critical habitat but that less developed areas in Harris County in sandy soil be considered. He further suggested some government-owned lands (Ellington Air Force Base, Hobby Airport, Clear Creek, Sims Bayou, Addicks Reservoir, Barker Reservoir, Texas state prison farm near Sugarland and Rosharon, and the 100-year flood plain areas of Oyster Creek and the Brazos River near Houston) be considered. He also recommended an area in Fort Bend County bounded by the Brazos River, Route 723 north of Rosenberg, Oyster Creek downstream past Sugarland, Dewalt to Juliff or the Brazoria County line be designated as critical habitat. He also stressed a critical habitat designation solely on biological grounds and that, although toads can't vote, we must protect such Endangered animals.

W. L. McClure (Houston, Tex.) recommended deletion of area D(1) and that the southern parts of areas D(2) and D(5) should also be deleted from any final rulemaking. Mr. McClure commented on development in Harris County and stated that government-owned areas, such as Ellington Air Force Base and Barker and Addicks Reservoir, should be preserved as a sanctuary for the Houston toad. He stated that land preserves and a captive breeding program are really the only ways to ensure the survival of the species in Harris County.

James Dixon (Texas A & M University) found the evaluation of habitat



in the proposal as adequate but recommended the deletion of the Sharpstown area. He also suggested including Ellington Air Force Base since the Houston toad and Attwater's prairie chicken are there. He recommended the purchase of the Burleson County area and highly recommended the other proposed sites, especially the Bastrop County site, be included in a final rulemaking.

The following individuals endorsed the proposal in its entirety, or with the deletion of the Sharpstown area. In addition, several individuals also requested that the Ellington Air Force Base be included in future considerations of critical habitat: Robert A. Thomas (Louisiana State University Medical Center), William A. Butler (Environmental Defense Fund), Eugene I. Majerowicz (Los Angeles, Calif.), D. Marrack (Bellaire, Tex.), J. A. Rochelle (Francis and Francis, Dallas, Tex.), J. W. Akers (Sierra Club, Houston Regional Group), Raymond H. McDavid (Outdoor Nature Club of Houston), Morton Rich (Houston, Tex.), W. F. Blair (University of Texas at Austin), and Stanley McBee (Houston, Tex.).

R. L. Lewis (Chief Engineer of Highway Design, State Department of Highways and Public Transportation) listed a series of roads in Bastrop, Burleson, and Harris Counties which would probably be affected by the proposed Critical Habitat determination.

Mr. Lewis stated that it is doubtful the areas proposed as Critical Habitat by the Service will lead to ensuring the survival or recovery of the Houston toad because:

1. Within Critical Habitats, it appears that only those proposed actions with Federal involvement are covered; private actions are not. Very little of the proposed Critical Habitat is under Federal control.

2. The Critical Habitats proposed for Harris County in some cases are already developed urban areas; in others, they fall directly in the path of current urban growth. Even if the proposed Critical Habitats are adopted, the enormous growth pressures for industrial, commercial, and residential development in the rapidly growing Houston metropolitan area will most likely result in the alteration of such areas by privately financed ventures.

3. One reason for diminished Houston toad population is loss of habitat—which Critical Habitat determination may or may not deter. Another probably more significant factor is interspecies hybridization and competition with the Gulf Coast toad (*Bufo valliceps*). This species apparently readily adjusts to the changing environment in the Houston area while the Houston toad does not. Accordingly, even if the proposed Critical Habitats could in some way preserve the status quo

within such areas, the drainage and other developmental alterations taking place in the areas surrounding the Critical Habitats would not limit this more dominant species—nor its competition and hybridization with whatever Houston toad populations might possibly be present in the Critical Habitat areas.

Accordingly, Mr. Lewis suggested as an alternative to include Addick and Barker Flood Protection Reservoirs, Ellington Air Force Base, and Armand Bayou Park as areas which could be Critical Habitat. In view of the scarcity of the toad in Harris County, appropriate agencies should obtain specimens which could be established in those areas, according to Mr. Lewis.

L. Diane Schenke, representing Vinson and Elkins, Attorneys at Law, submitted three lengthy letters on behalf of clients of her firm. She objected to several of the areas in Harris County being included as Critical Habitat saying that: (1) The proposal is not biologically justified because of soil types; (2) the designation is arbitrary and capricious because the final report on a Houston toad study contracted by the Service had not been received at the time the proposal was published in the FEDERAL REGISTER; (3) the Houston toad has a tendency to hybridize in the areas of proposed Critical Habitat and that there are other more appropriate habitats available; and (4) the Service has not fulfilled the obligations of § 102(C) of the National Environmental Policy Act. In addition, comments were made on the degree of development in some areas, as in Sharpstown, which she stated would preclude the presence of the toad in that area.

All Ms. Schenke's letters contained comments on the general life history of *Bufo houstonensis*; most of her statements were based on papers published in the early 1970's. She also doubted the validity of *B. houstonensis* as a species because it was separated from other species only on morphological grounds. Each of her main points were elaborated on, and she included appropriate maps with each of her letters.

W. A. Sweitzer (Johnson-Loggins, Inc.) commented on only one of the six proposed areas in Harris County—the area D-2 of the proposal. Mr. Sweitzer reviewed development in this area and enclosed a report by W. L. McClure, a consultant, which indicated for the most part that conditions do not support biological reasons to classify this particular area as Critical Habitat. Mr. Sweitzer concluded that the Service should not include this area in a final rulemaking without specific biological study.

David S. Wolff (Wolff, Morgan and Company) commented on the proposed area in northwestern Harris

County. Mr. Wolff referred extensively to a 1975 report (Federal Aid Project No. W-103-R-5) which did not mention Houston toads in Harris County since 1967, and which stated that landowners had been contacted. Mr. Wolff mentioned that habitat modification is continuing to occur in the area in northwest Houston, and that there was little reason to suspect that *B. houstonensis* still exists in this area. Mr. Wolff questioned why private property should be designated Critical Habitat while 1,000 feet to the west, Addicks Reservoir, a 14,000 acre public property, should not be so designated. Mr. Wolff also stated that he had never been contacted by anyone about Houston toads.

Errol J. Donahue (Houston, Tex.) stated humans should not be displaced because of toads.

Colonel Luis F. Dominguez (Chief, Environmental Planning Division, U.S. Air Force) requested a threshold examination with regard to this species for areas on Ellington Air Force Base. Richard Broun (Office of Environmental Quality, Department of Housing and Urban Development) commented that the Regional Office in Dallas had several recently approved or pending applications for funding assistance, and that the applicants have been informed of the Critical Habitat proposal. Each project would have to be reviewed in light of circumstances existing at that time. John R. Hill, Jr. (Corps of Engineers, U.S. Army) submitted information on the biology of the Houston toad and listed a series of projects which might be affected by a Critical Habitat designation and suggests specific methods be developed to insure the preservation of Critical Habitat.

Finally, the week of October 17-21, 1977, a review team consisting of Fish and Wildlife Service personnel, consultants to the Service, and a representative of the Texas Parks and Wildlife Department met in Houston and reviewed all areas proposed as Critical Habitat in Bastrop, Burleson, and Harris Counties.

#### CONCLUSION

**Bastrop County.** The Service believes this is the best locality presently known for the Houston toad. The only problem with the FEDERAL REGISTER proposal for this site was the boundary around the town of Bastrop. The proposal reads "... west and northwest along the north bank of the Colorado River to the city limits of Bastrop, and north through Bastrop along Texas State Highway 95 ...". This is hereby changed to "... west and northwest along the north bank of the Colorado River to the due southward extension of Texas State Highway 95, and north along that extension and Texas State Highway 95 ...". The

demarkation line for soils in this area is a high ridge east of Bastrop. This new boundary eliminates unsuitable portions and utilizes firmer landmarks than city limits, which are subject to change.

**Burleson County.** The one mile radius circle around Woodrow Lake includes all known Houston toad localities in Burleson County, the soil type (sand) conforms to the weak burrowing habitats suggested for this species, and both temporary and permanent ponds are found throughout the proposed area. The Service feels that one mile is a reasonable distance for dispersal from the center of activity.

After a thorough review and consideration of all comments and recommendations received, the Director has decided to proceed with a final rulemaking to list those areas in Bastrop and Burleson Counties as Critical Habitat for the Houston toad, with slight modifications which will provide a clearer more stable boundary around the town of Bastrop.

The Director further has determined that proposed areas D-1 and D-2 of Harris County do not contain habitat nor records of Houston toads and should no longer be considered as Critical Habitat for the species.

Finally, the Director has determined that there is insufficient data at present on which to base a Critical Habitat designation for those remaining areas in Harris County. Therefore, these areas will not be acted on in this final rulemaking. However, should future studies indicate that these areas are critical to the survival of the Houston toad, then a final determination of Critical Habitat can be made at the appropriate time.

#### EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with section 7 of the Act, which states:

"The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical."

An interpretation of the term "Critical Habitat" was published by the Fish

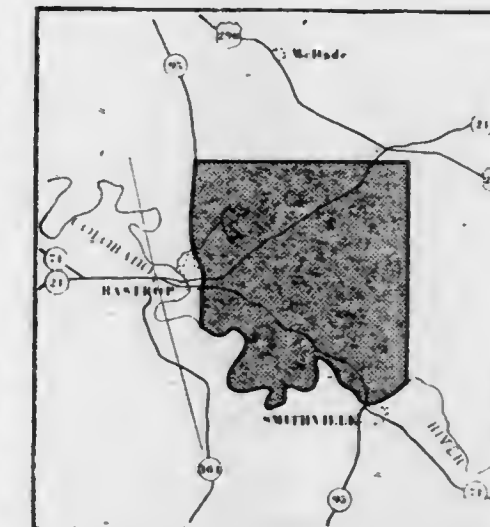
#### HOUSTON TOAD

(*Bufo houstonensis*)

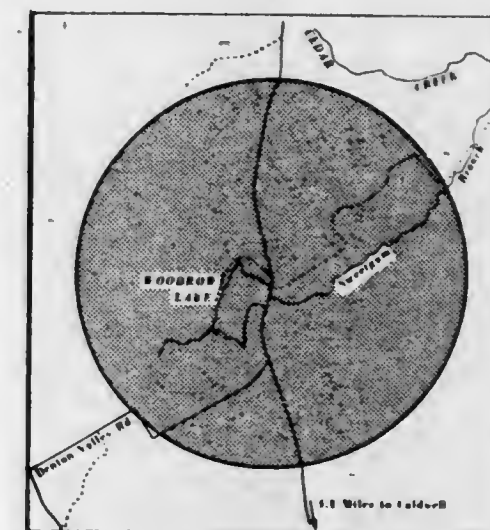
Texas—Areas of land, water, and airspace as follows:

(1) **Bastrop County.** From the junction of a line corresponding to 30°12'00" N. and Texas State Highway 95 east along a line corresponding to 30°12'00" N. to where it intersects a line corresponding to 97°7'30" W. and south along a line corresponding to 97°7'30" W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the due southward extension of Texas State Highway 95, and north along that extension and Texas State Highway 95 to where it intersects a line corresponding to 30°12'00" N.

HOUSTON TOAD  
Bastrop County, TEXAS



Critical Habitat for the Houston toad.  
(2) **Burleson County.** A circular area with a 1-mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.



and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof; if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting critical habitat of a species would not conform with section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out within the Critical Habitat of a species which would not be expected to adversely affect that species.

Any Federal agency which feels its actions might affect the survival or the continued existence of this species should enter into consultation with the Director. Proposed provisions for interagency cooperation have been published in the January 26, 1977, FEDERAL REGISTER (42 FR 4868-4875) to assist Federal agencies in complying with section 7.

#### NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C. 20240, and may be examined during regular business hours or obtained by mail. The assessment is the basis for a decision that the determinations of this rulemaking are not major Federal actions which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this rulemaking is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, U.S. Fish and Wildlife Service 202-343-7814.

#### REGULATION PROMULGATION

Accordingly, 50 CFR 17.95(d) is amended by adding critical habitat of the Houston toad before that of the Florida Pine Barrens treefrog as follows:

§ 17.95 Critical Habitat—Fish and Wildlife.

• • • • •  
(d) Amphibians.

• • • • •



## Critical Habitat for the Houston toad.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 18, 1978.

KEITH M. SCHREINER,  
Acting Director,  
Fish and Wildlife Service.  
(FR Doc. 78-2490 Filed 1-30-78; 8:45 am)

[4310-55]

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

## Listing of the Eastern Indigo Snake as a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the eastern indigo snake (*Drymarchon corais couperi*) to be a Threatened species. This action is being taken because of the threats of habitat modification, collection for the pet trade, and gassing while in gopher tortoise burrows, and provides Federal protection for the species. The eastern indigo snake is known only from Florida and Georgia. Historically, the species has been recorded in Alabama, Mississippi, and South Carolina.

DATE: This rule becomes effective on March 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director, Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On August 1, 1977, the Service published a proposed rulemaking in the FEDERAL REGISTER (42 FR 38921-38924) advising that sufficient evidence was on file to support a determination that the eastern indigo snake was a Threatened species pursuant to the Endangered Species Act of 1973, 16 U.S.C. 1531 et seq. That proposal summarized the factors thought to be contributing to the likelihood that this snake could become Endangered within the foreseeable future, specified the prohibitions which would be applicable if such a determination were made, and solicited comments, suggestions, objections and factual information from any interested person. Section 4(b)(1)(A) of the Act requires that the Governor of each State or Territory, within which a resident species of wildlife is known to occur, be notified and provided 90 days to comment

before any such species is determined to be a Threatened species or an Endangered species. A letter was sent to the Governors of the States of Florida, Georgia, Alabama, Mississippi, and South Carolina on August 5, 1977, notifying them of the proposed rulemaking for the eastern indigo snake. On this same date, a memorandum was sent to the Service Directorate and affected Regional personnel, and letters were sent to other interested parties.

Official comments were received from Governor Reubin O'D. Askew of Florida, Governor George Wallace of Alabama, and Governor Cliff Finch of Mississippi.

Governor Askew referred the letter concerning the proposed rulemaking to Colonel Robert Brantly, Director of the Florida Game and Fresh Water Fish Commission, for appropriate response. Lt. Col. Brantley Goodson, Director of the Division of Law Enforcement of the Florida Game and Fresh Water Fish Commission, replied. Lt. Col. Goodson detailed the problems encountered by the State in enforcing their law concerning protection of the eastern indigo snake. A rather sizable black market is continuing to deplete populations in the State for export to commercial markets, especially in the North. Not only are individuals involved, but large scale reptile wholesaling companies as well. According to Lt. Col. Goodson, these individuals are aware that the indigo is protected in Florida and will admit that Florida is the source of their supply. Lt. Col. Goodson noted that Florida is continuing to prosecute violations of their protected species laws and has cooperated with Fish and Wildlife Service agents in efforts to halt illegal trade in reptiles. He stressed the need for continued cooperation and solicited the Service's support in dealing with the indigo snake trade situation.

Governor Wallace indicated that while Alabama no longer supports known populations of eastern indigo snakes, the Alabama Cooperative Wildlife Research Unit is conducting research on this species. Some snakes may be released in Alabama in good habitat where protection can be provided, according to Governor Wallace. He supported a Threatened status.

Governor Finch noted that the eastern indigo snake is officially protected in the State of Mississippi and enclosed a copy of the regulations regarding such protection with his comments. Governor Finch stated that while no confirmations of the indigo snake have been made since the 1950's, a reported sighting occurred in Stone County in 1977 and that indigo snakes may still be present in South Mississippi in longleaf pine areas where gopher tortoises occur. The Governor supported the listing of this species as Threatened.

## SUMMARY OF COMMENTS AND RECOMMENDATIONS

Section 4(b)(1)(C) of the Act requires that a summary of all comments and recommendations received be published in the FEDERAL REGISTER prior to adding any species to the list of Endangered and Threatened Wildlife and Plants.

In the August 1, 1977, FEDERAL REGISTER proposed rulemaking (42 FR 38921-38924) and associated August 1, 1977, Press Release, all interested parties were invited to submit factual reports or information which might contribute to the formulation of a final rulemaking.

All public comments received during the period August 1, 1977, to November 29, 1977, were considered.

In addition to the comments received from the Governors of Florida, Alabama, and Mississippi, comments were received from 26 individuals and representatives of various organizations.

Mr. Jack A. Crockford, Director of the Georgia Department of Natural Resources, supported the proposed listing and included a copy of the recommendation to add this species to the Georgia protected species list.

Howard Lawler (Atlanta Zoological Park) submitted two letters in support of the proposed listing. The first (September 28, 1977) supported the listing and added additional information on the presence of pesticides in indigo fat samples from a paper in press in Herpetological Review. In the second (October 24, 1977), Dr. Lawler expressed concern because some individuals may feel the indigo snake is not Threatened because certain populations are doing well. Dr. Lawler emphasized that continued and uncontrolled "non-commercial" collecting without regulation would endanger populations in most parts of the range. He restated his support for the proposal. R. H. Hunt (Curator of Reptiles, Atlanta Zoological Park) also supported the proposal and mentioned habitat modification, pesticides, and commercial trade as being involved in the species' decline.

Bob Truett (Birmingham Zoo) supported the proposed rulemaking, again singling out overcollection for pets as a main cause of the decline in indigos. However, Mr. Truett feels that the Texas indigo snake should also be included as a Threatened species since protection for only eastern indigo snakes may cause harm to the other subspecies. Mr. Truett also commented extensively on the detrimental influences of "Rattlesnake Roundups" on native fauna, including indigo snakes, in parts of the Southeast. Mr. Truett continues that no protection for the indigo snake will be effective until it controls or eliminates the Rattlesnake Roundups throughout the range of

the snake. Finally, Mr. Truett indicates that off-road vehicles may become a serious problem to the indigo snake, as their use is increasing in many areas. Robert Mount (Auburn University) also commented on Rattlesnake Roundups and their detrimental impact on the eastern indigo snake and supported the proposed Threatened status.

Rattlesnake Roundups generally employ gasoline dumped down the burrows of gopher tortoises to cause the snakes to vacate and thus be captured. However, many snakes, including indigo snakes, are killed by this practice. Jane Risk (Animal Protection Institute) and Mark Stahle (New Cumberland, Pa.) commented on this practice and supported the proposed rulemaking. Mr. Stahle and Ms. Risk also commented on overcollection as a threat to the species.

Richard M. Blaney (West Virginia State College) supported the proposal, citing increases in price for this species from \$17 in 1965 to over \$200 presently. He further stated that regulations should prohibit the sale of all native fauna except by licensed dealers to permitted institutions or individuals; private possession or collection should not be restricted.

The following individuals supported the proposal for the reasons listed in the proposed rulemaking: Bette Bechtel (Valdosta State College), Howard Campbell (National Fish and Wildlife Laboratory), Steven Christman (National Fish and Wildlife Laboratory), James A. Timmerman (South Carolina Wildlife and Marine Resources Department), Sherrard Coleman (Environmental Defense Fund), Donna Ripley (Whittier, California), W. Troy Allen (Massachusetts Herpetological Society), Audrey Jackson (Tarpon Springs, Florida), W. A. Black (Cahaba Heights, Alabama), and Delano Deen (Hurricane Creek Protective Society). No new data were supplied.

Joseph W. Jacob, Jr. (Mississippi Natural Heritage Program) provided updated information on the distribution of the eastern indigo snake in Mississippi. Daniel Tobin (Associate Director, National Park Service) supported the designation as threatened on behalf of the National Park Service. He indicated that if finalized, the Park Service would propose to study areas in three Parks in its jurisdiction for suitability for designation as Critical Habitat. He further suggested that consideration be given to acquiring lands adjacent to De Soto National Memorial that might qualify as Critical Habitat. Mr. Tobin also expressed interest in developing a cooperative management agreement under which staff of De Soto National Memorial would provide protection, interpretation, or other activities required for proper management of the land acquired as Critical Habitat.

Daniel K. Tabberer (NSTL Station, Mississippi) indicated that he had talked with E. D. Keiser (University of Mississippi) who felt that the species should not be listed because of lack of controls; Dr. Keiser apparently feels the proposal is a case of overreaction to a problem, and that habitat preservation is the best way to insure the preservation of individual species. Mr. Tabberer recommended no listing for Arkansas, Louisiana, and Mississippi. Thomas C. Nelson (Deputy Chief, Forest Service) replied that while the Forest Service had no substantive information, informal contacts with herpetologists familiar with the species supports the hypothesis of widespread decline.

Louis Porras (The Shed, Miami, Florida) agreed that the indigo snake needed some form of protection, but doubted whether listing it as Threatened reflected its biological status, at least in south Florida, and that such a listing would not prevent continued habitat destruction. He suggested that a new list be created to protect species from commercial exploitation and that the indigo snake be placed in this category. Mr. Porras also provided information on the habits and habitats of the eastern indigo snake in south Florida.

Dick Flood (Okefenokee Swamp Park) expressed his desire to see the indigo snake protected, but felt that information the Fish and Wildlife Service has received may be false, biased, and incomplete. He felt that more studies are necessary before a decision is made on the species' status so that it may be properly protected.

Sterling R. Williamson (Norfolk, Virginia) indicated that, in his opinion, placing this species on the List of Endangered and Threatened Wildlife and Plants would not offer the needed protection that this species may deserve. He feels that unless adequate measures are taken for public education and prevention of habitat destruction, adding it to another list would not be of any benefit.

J. D. Parrott (National Association for Sound Wildlife Programs) did not feel the species is Threatened because he feels that substitute habitat is available to compensate for past habitat destruction. This substitute habitat includes areas with Australian pine trees and orange groves. Dr. Parrott noted that indigo populations are declining in Georgia where no substitute habitat is available and that both Georgia and Florida protect this species. He stated that Federal protection will not insure protection since the species is already adequately protected by the States and that, in his opinion, the Lacy Act prohibitions are sufficient to regulate illegal traffic in these snakes. He also felt that such a listing would hamper research on this spe-

cies. On behalf of the Association, Dr. Parrott recommended the prohibition of sales of products produced from snakes collected in rattlesnake roundups. This he felt would help prevent the gassing of gopher tortoise burrows.

## CONCLUSION

While the large majority of individuals who responded to the proposed rulemaking were in favor of the status proposed and agreed with those factors thought to be contributing to the decline of the species, a few individuals expressed doubts that a listing would protect the species. A Threatened status would protect the species from commercial exploitation by allowing protection throughout the historical range, not just in Georgia and Florida. As such, there would not be any doubt about whether existing laws protected a particular specimen in question; no longer could it be claimed that a specimen came from outside Georgia and Florida, a problem encountered with enforcement of the Lacy Act.

When considered throughout its range, the eastern indigo snake is Threatened. However, this does not imply that every local population within a geographical area is Threatened. As such, the Service recognizes that some populations of indigo snakes in South Florida are doing well. However, it would be best to consider this species as an entity because of continuous distribution. At this time, there is no evidence that Texas indigo snakes are either Threatened or Endangered. Should the Service receive such information in the future, the Service will act accordingly.

While it is true that no action by the Fish and Wildlife Service can forestall habitat destruction in all areas of the range, even if Critical Habitat was determined, the final action will make other prohibitions available to insure the survival of this species. Management programs can now be formulated and money from the Land and Water Conservation Fund would be available for habitat acquisition. By listing this species, the prohibitions of the Endangered Species Act of 1973 would be brought into force; this action is not simply adding this species to another "protected" list.

Before Critical Habitat can be determined, precise limits of the distribution of the main populations will have to be assembled. As such, more information will have to be obtained. However, there is more than enough reliable data to make an assessment as to the status of this species. The Service does not feel this information is false or biased.

Finally, the Service does not have the power to prohibit Rattlesnake Roundups in areas where the eastern



indigo snake occurs. Nor would prohibition of products of these roundups insure that they would no longer be conducted. The Service does not condone the wanton destruction of many forms of wildlife as a result of the gassing of dens and burrows, but does feel that this is a practice best left to the States to regulate.

After a thorough review and consideration of all the information available, the Director has determined that the eastern indigo snake is threatened with becoming Endangered throughout all or a significant portion of its range due to one or more of the factors described in section 4(a) of the Act. This review amplifies and substantiates the description of those factors and are described as follows:

1. *The present or threatened destruction, modification, or curtailment of its habitat or range.*—The eastern indigo snake inhabits a region that is experiencing rapid development resulting in considerable loss of available habitat. A favorable characteristic of its habitat includes well drained soils which are ideal for human settlement, resulting in a serious decline in the populations of eastern indigo snakes in many areas.

2. *Overutilization for commercial, sporting, scientific, or educational purposes.*—The eastern indigo snake is in great demand by the pet trade with prime specimens selling for as much as \$200-\$250. The extremely docile nature of the snake and its large size make it highly desirable as a pet and, therefore, avidly sought by dealers. Commercial trade is probably the main cause for the decline of this species throughout its range.

3. *Disease or predation.*—Unknown.  
4. *The inadequacy of existing regulatory mechanisms.*—The eastern indigo snake is strictly protected in Georgia, Florida, and Mississippi. However, these States cannot effectively control the trade in snakes once they leave the State. If a species is taken in violation of a State's law and moved illegally across a State line, such action becomes a violation of the Lacey Act. However, it has been a common practice to claim that the indigos in trade came from Alabama or South Carolina, where the snake has not been taken by experienced herpetologists in many years. This claim is virtually impossible to completely refute. Therefore, trade in illegally taken indigo snakes can continue in spite of strong State laws. There are no laws to protect the eastern indigo snake in Alabama or South Carolina.

5. *Other natural or manmade factors affecting its continued existence.*—In many areas in the Southeast, burrows of the gopher tortoise are gassed in order to drive out rattlesnakes which use the tortoise burrows. Indigo snakes also use gopher tortoise bur-

rows and recent research has indicated that eastern indigo snakes are harmed or killed by this practice.

#### EFFECT OF THE RULEMAKING

Section 7 of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of Endangered species and Threatened species listed pursuant to section 4 of the Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such Endangered species and Threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

The Director has prepared, in consultation with an ad hoc interagency committee, guidelines for Federal agencies for the application of section 7 of the Act. In addition, provisions for Interagency Cooperation were published on January 4, 1978 (43 FR 869-876), codified at 50 CFR 402.

Although no Critical Habitat has yet been determined for this species, the other provisions of section 7 are applicable.

Endangered species regulations already published in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all Endangered and Threatened species. The regulations referred to above, which pertain to Endangered and Threatened species, are found at §§ 17.21 and 17.31 of Title 50 and are summarized below.

With respect to the eastern indigo snake in the United States, all prohibitions of section 9(a)(1) of the Act, as implemented by 50 CFR Part 17.21, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce this species. It also would be illegal to possess, sell, deliver, carry, transport, or ship any such

wildlife which was illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

Regulations published in the FEDERAL REGISTER of September 26, 1975 (40 FR 44412), codified in 50 CFR Part 17, provided for the issuance of permits to carry out otherwise prohibited activities involving Endangered or Threatened species under certain circumstances. Such permits involving Endangered species are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available.

#### EFFECT INTERNATIONALLY

In addition to the protection provided by the Act, the Service will review the eastern indigo snake to determine whether it should be proposed to the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora for placement upon the appropriate Appendix(ices) to that Convention or whether it should be considered under other, appropriate international agreements.

#### NATIONAL ENVIRONMENTAL POLICY ACT

An environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. It addresses this action as it involves the eastern indigo snake. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969.

The primary author of this rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

#### REGULATION PROMULGATION

Accordingly, § 17.11 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended by adding the eastern indigo snake to the list, alphabetically under "Reptiles," as follows:

§ 17.11 Endangered and threatened wildlife.

Species			Range		Status	When listed	Special rules
Common name	Scientific name	Population	Known distribution	Portion endangered			
Reptiles: Snake, eastern indigo.	Drymarchon corais couperi.	NA.....	U.S.A. (Florida, Georgia, Mississippi, South Carolina, Alabama).	Entire...	T.....	32	NA.

NOTE.—The Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: January 24, 1978.

LYNN A. GREENWALT,  
Director,  
Fish and Wildlife Service.

(FR Doc. 78-2588 Filed 1-30-78; 8:45 am)

[3510-12]

#### CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

##### PART 652—SURF CLAM AND OCEAN QUAHOG FISHERIES

###### Notice and Reduction of Fishing Time

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Emergency amendment to regulations.

SUMMARY: This amendment contains notice that 50 percent of the quota of surf clams has been taken and consequently, beginning January 30, 1978, all vessels engaging the surf clam fishery in the fishery conservation zone shall be restricted to fishing 2 days per week until February 15, 1978.

EFFECTIVE DATE: January 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Emergency regulations were published on November 22, 1977 (42 FR 59948) and republished on December 30, 1977 (42 FR 6518) implementing the surf clam and ocean quahog fisheries management plan. Section 652.6(b) of these regulations provide that when the Regional Director determines that 50 percent of the allowable quota of surf clams has been taken, a notice to that effect shall be published in the FEDERAL REGISTER together with a determination of the appropriate action which is necessary under the circumstances. Accordingly, notice is hereby given that available information indicates that 50 percent (87,500 bushels) of the surf clam quota of 175,000 bushels established by § 652.6(a) of the regulations implementing that plan were

taken by the end of the fishing day on January 19, 1978. It is anticipated that the quota of 175,000 bushels established for surf clams landed from the fishery conservation zone (FCZ) during the emergency regulation period (January 1 to February 14, 1978) will be exceeded if the present level of effort continues for the remainder of the emergency period. To reduce the likelihood that the quota will be exceeded during this period, vessels harvesting surf clams from the fishery conservation zone will be permitted to fish for surf clams only two days per week beginning 12:01 a.m. January 30, 1978. The permitted fishing days for surf clams for each vessel will be those two designated fishing days on which the vessel elected to fish for surf clams during December, 1977, or which shows on the vessel permit if the vessel did not fish during December, 1977.

The conservation needs of this resource and the fact that the Secretary determines that an emergency exists, dictate that notice and public procedure on this amendment is impractical, unnecessary, and contrary to the public interest.

Signed at Washington, D.C., on this 25th day of January 1978 on behalf of the Regional Director.

WINFRED H. MEIBOHM,  
Associate Director, National  
Marine Fisheries Service.

Section 652.8(a) is hereby revised to read as follows:

§ 652.8 Effort restrictions.

(a) *Surf Clams.* Fishing for surf clams shall be permitted during four days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday, except as adjusted under § 652.6(b). However, no fishing vessel shall engage in fishing for surf clams on more than two days in any week. For the period from January 30, 1978, through February 14, 1978, inclusive, the authorized fishing days for surf clams for each vessel shall be the two days (among Monday, Tuesday, Wednesday, Thursday) on which the owner or operator of the vessel elected to fish pursuant to the earlier version of this § 652.8(a) which appeared at 42 FR 59948 on Tuesday, November 22, 1977. Fishing for any part of a day will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

(FR Doc. 78-2729 Filed 1-30-78; 8:45 am)

[3410-30]

#### Title 7—Agriculture

##### CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

###### SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

##### PART 250—DONATION OF FOOD FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

###### Correction

AGENCY: Food and Nutrition Service.  
ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule which appeared at 42 FR 59880-1 on November 22, 1977.

EFFECTIVE DATE: amendment published on November 22, 1977, was effective on October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Juan del Castillo, director, Food Distribution Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250, 202-447-8371.

On page 59881, paragraph (f)(3)(iv) of § 250.10 is corrected to read as follows:

§ 250.10 Miscellaneous provisions.

(f) *Cash in lieu of commodities for nutrition programs for the elderly.* . . . (3) . . .

(iv) permit representatives of the Department and of the General Accounting Office of the United States to inspect, audit, and copy such records at any reasonable time.

Dated: January 26, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary.

(FR Doc. 78-2697 Filed 1-30-78; 8:45 am)

[3410-16]

##### CHAPTER VI—SOIL CONSERVATION SERVICE, DEPARTMENT OF AGRICULTURE

##### PART 622—WATERSHED PROJECTS DEAUTHORIZATION OF PUBL. L. 83-566 WATERSHED PROJECTS

###### General Guidelines

AGENCY: U.S. Department of Agriculture, Soil Conservation Service (SCS).

ACTION: Final rule.

SUMMARY: This section will provide a way to deauthorize and delete watershed projects in which no construction has started within eight (8) years after



approval for operations and other watershed projects selected for deauthorization by the State Conservationist where it is unlikely that planned measures will be installed. The deauthorization of funding will remove the projects from consideration for funds, staff assistance, and other resource demands. The released resources will be available for concentration on high priority projects which can be installed in a more efficient way.

**DATES:** Effective date: February 7, 1978.

#### FOR FURTHER INFORMATION CONTACT:

J. W. Mitchell, Director, Watersheds Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, 202-447-3527.

**SUPPLEMENTARY INFORMATION:** On Tuesday, December 6, 1977, the Soil Conservation Service published proposed rulemaking permitting administrative actions to deauthorize watershed projects.

**DISCUSSION OF MAJOR COMMENTS:** There was only one comment received. The respondent was concerned about the deauthorization of watershed projects included in an overall plan with downstream works by the Corps of Engineers where the timing of construction for Corps of Engineers projects had not kept up with those of the watershed projects. The respondent would be satisfied if the proposal would permit the delaying of watershed construction starts beyond the eight (8) years for coordination with Corps of Engineers projects. Section 622.55(a) states in part, "If, after agreement with sponsors, the State Conservationist determines it unlikely that planned measures will be installed, he will initiate project deauthorization action, as provided in paragraph (b) of this section. State Conservationists may elect to begin deauthorization sooner where it is unlikely that planned measures will be installed and sponsors concur in the deauthorization." The determination to deauthorize is keyed to a decision that planned measures will not be installed. The delaying of a construction start beyond the eight (8) years is permitted if there are adequate assurances that the planned measure will be installed. Therefore, section 622.55 is published as final rules as follows:

#### Section 622.55—Deauthorization of projects

(a) By February 1, each calendar year, the State Conservationist shall examine watershed projects for which he is responsible in which no structural measures have been installed for eight (8) years after approval for installation of works of improvement

(See section 622.40). If, after agreement with sponsors, the State Conservationist determines it unlikely that planned measures will be installed, he will initiate project deauthorization action, as provided in subsection (b) of this section. State Conservationists may elect to begin deauthorization sooner where it is unlikely that planned measures will be installed and sponsors concur in the deauthorization.

(b) The State Conservationist will notify the Administrator of the Soil Conservation Service and concerned State and other agencies, which had been notified that the project was approved for installation of works of improvements, of the proposed deauthorization. The environmental consequences of deauthorization will be documented by an appropriate Environmental Assessment and other steps, as required by SCS procedure (7 CFR 650). If authorization for funding by the Administrator of the Soil Conservation Service is subject to approval by resolution by a committee of Congress, the appropriate committee will be given written notice of the proposed deauthorization sixty (60) days before final deauthorization action is taken. Projects approved administratively will be deauthorized by State Conservationists after notification of the Administrator of the Soil Conservation Service. Notice of all project deauthorization will be published in the *FEDERAL REGISTER* by the State Conservationist. The State Conservationist will notify sponsors and concerned Federal, State, and local agencies of final action. Deauthorization proceedings may be canceled by the State Conservationist based upon public, Congressional, or sponsor action at any time before the notice is published.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. (1001-1008).)

Dated: January 24, 1978.

R. M. DAVIS,  
Administrator, Soil Conservation  
Service, U.S. Department  
of Agriculture.

[FR Doc. 78-2599 Filed 1-30-78; 8:45 am]

#### [3410-16]

##### SUBCHAPTER F—SUPPORT ACTIVITIES

#### PART 657—PRIME AND UNIQUE FARMLANDS

##### Subpart A—Important Farmlands Inventory

**AGENCY:** U.S. Department of Agriculture, Soil Conservation Service (SCS).

**ACTION:** Final rule.

**SUMMARY:** This rule prescribes general guidelines for a national program

of inventorying prime and unique farmland, as well as other farmlands of statewide or local importance. It includes specific criteria for the definition of prime farmland. This rule is necessary because the Nation needs to know the extent and location of the best land for producing food, feed, fiber, forage, and oilseed crops.

**EFFECTIVE DATE:** January 31, 1978.

#### FOR FURTHER INFORMATION CONTACT:

R. I. Dideriksen, Director, Inventory and Monitoring Division, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, telephone 202-447-5424.

**SUPPLEMENTARY INFORMATION:** On August 23, 1977, the Soil Conservation Service published in the *FEDERAL REGISTER* (42 FR 42359) proposed rules for the conduct of its Important Farmlands Inventory. During the 30-day commenting period, 16 letters were received from 4 Federal agencies, 5 State and Commonwealth agencies, 6 private firms associated with coal production, and 1 State Chamber of Commerce.

All written comments were given consideration in developing the final rule.

The full text of all comments received is on file and available for public inspection in: Room 5214, South Agriculture Building, Inventory and Monitoring Division, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013.

#### DISCUSSION OF MAJOR COMMENTS

##### DEFINITION OF PRIME FARMLAND

One agency asked that SCS change the prime farmland definition to include land that would qualify as prime farmland after irrigation is provided. SCS has determined that this would change the intent of the inventory. The prime farmland definition includes areas that currently are irrigated or have proper drainage to provide the necessary water regime to meet the criteria. The inventory is to be kept current, as stated in § 657.2.

A Federal agency asked that SCS add the following words to § 657.5(a)(2)(vi) "or are flooded only under controlled conditions for irrigated farming." SCS has determined that the criteria for irrigation are adequately covered in § 657.5(a)(2)(i). Irrigation, regardless of the type used, is not commonly perceived as flooding and the statements should be clearly understood.

Another commenter proposed that the entire frigid temperature regime include some soils too cold for normal farming practices. SCS recognizes this problem, but is aware also that there are soils within the frigid temperature

regime that are high yielding and need to be included in the prime farmland definition. Many of the soils that are too cold for normal farming practices also have other features that will eliminate them from the prime farmland classification. Based on data available at this time the entire frigid temperature regime is included, provided all the other criteria are satisfied.

A private industry commenter suggests that an additional criterion be added to require that prime farmland soils have an A horizon with an accumulation of humified organic matter of not less than 0.8 percent associated with the mineral fraction. SCS agrees that organic matter content is a very important criterion for explaining the behavior of soils. However, SCS does not agree that an organic matter criterion is needed in the rules. Adding such a requirement would disqualify thousands of acres of highly productive irrigated soils that have low organic matter content. These are among the most productive soils of the Nation when treated with acceptable management techniques.

Another commenter suggests that the permeability rate be changed from 0.05 inch to 0.2 inch per hour in all soil horizons. SCS does not agree. Such a change would delete millions of acres of highly productive soils in the Mississippi Delta and other areas of the Western and Southeastern United States. Such soils require careful management techniques. However, these soils are some of the Nation's most productive lands.

A private company suggests that the criteria in § 657.5(a)(2)(i) be expanded to include the concept of cultivated crops adapted to the region and to define both cultivated crops and root zones. SCS agrees and has added the definitions as requested.

Several people expressed concern that the proposed definition of prime farmland was too rigid for individual States that might want to modify certain parameters to adequately reflect prime farmland. SCS agrees and has changed § 657.4(a)(2) to allow flexibility in application of the permeability criterion or permit the restricting of other specific criteria to assure that the most accurate identification of prime farmlands is made for each State. The national criteria will not change, but this flexibility permits State Conservationists, in cooperation with others, to identify soil mapping units that include a portion of both prime and nonprime farmlands or that have chemical and physical properties that cannot be determined accurately enough to clearly place the soil in or out of the criteria.

#### CONCERN FOR WETLANDS

A Federal agency was concerned that the definition of prime farmlands

may include wetlands. SCS does not intend that the definition of prime farmland include areas that currently qualify as wetlands. They are eliminated from the criteria on the basis of § 657.5(a)(2)(iv).

#### CATEGORIES OF THE INVENTORY

Several private industry commenters objected to the inclusion of unique farmlands, farmlands of statewide importance, and farmlands of local importance in the inventory, arguing that they extend the intent of Congress as expressed in Pub. L. 95-87 which speaks only to the term prime farmland as it relates to the surface mining of coal. They argue the proposed definition does not conform to the definition set forth on page S8101 of the Congressional Record for May 20, 1977. SCS has determined that the specific definition for prime farmlands contained in § 657.5(a) is exactly the same as that which appeared on page S8101 of the Congressional Record for May 20, 1977, in all technical aspects. Minor changes were made from the wording in order to remove procedural guidelines and other sentences that did not relate specifically to scientific criteria for prime farmland. SCS rules (7 CFR Part 657), are not intended to be utilized only for the purposes of implementing Pub. L. 95-87. It establishes an important farmland inventory that covers four categories of important farmlands. Only one category, prime farmland, has applicability to the implementation of Pub. L. 95-87.

#### INVENTORY MAP SCALE

A Federal agency encourages the overall use of 1:100,000-scale base maps to provide uniformity among county maps and to assist in making comparisons among the national farmlands inventory and the national wetlands inventory. SCS concurs with the goal of keeping all maps to a consistent map accuracy and utilizing common scales wherever possible. However, in some counties with complex patterns, larger maps are needed. In those areas or where other demands dictate, State Conservationists may utilize base maps of other scales.

#### INVENTORY PROCEDURES

A State agency suggests that provisions should be made for addition or deletion of lands whose status has changed in regard to the prime farmland criteria. SCS will keep these inventories current and acreage will be deleted when it fails to meet the criteria for prime farmland.

A public service agency asked that SCS not proceed with the identification of important farmland until their State had the opportunity to test and modify definitions and ultimately pass State legislation to define the agricul-

tural lands of concern in the State. SCS has determined that the system as proposed allows States to develop statewide definitions either by legislation or other policy. Definitions for unique farmland, farmland of statewide importance, and additional farmland of local importance are intentionally left broad enough to be defined appropriately at each State level. The definition of prime farmland must be uniformly applied in all States to provide a basis for national policy actions.

In accordance with these determinations, 7 CFR Part 657 is published as final rules.

(Catalog of Federal Domestic Assistance programs numbered 10.900 (Great Plains), 10.901 (Resource Conservation and Development), 10.902 (Soil and Water Conservation), 10.904 (Watershed Protection and Flood Prevention), and 10.905 (Plant Materials).)

Dated: January 23, 1978.

R. M. DAVIS,  
Administrator,  
Soil Conservation Service.

#### Subpart A—Important Farmlands Inventory

Sec.  
657.1 Purpose.  
657.2 Policy.  
657.3 Applicability.  
657.4 SCS Responsibilities.  
657.5 Identification of important farmlands.

**AUTHORITY:** 16 U.S.C. 590a-f, q; 7 CFR 2.62; Pub. L. 95-87; 42 U.S.C. 4321 et seq.

#### Subpart A—Important Farmlands Inventory

##### § 657.1 Purpose.

SCS is concerned about any action that tends to impair the productive capacity of American agriculture. The Nation needs to know the extent and location of the best land for producing food, feed, fiber, forage, and oilseed crops. In addition to prime and unique farmlands, farmlands that are of statewide and local importance for producing these crops also need to be identified.

##### § 657.2 Policy.

It is SCS policy to make and keep current an inventory of the prime farmland and unique farmland of the Nation. This inventory is to be carried out in cooperation with other interested agencies at the national, State, and local levels of government. The objective of the inventory is to identify the extent and location of important rural lands needed to produce food, feed, fiber, forage, and oilseed crops.

##### § 657.3 Applicability.

Inventories made under this memorandum do not constitute a designation of any land area to a specific land use. Such designations are the responsibility of appropriate local and State officials.



## § 657.4 SCS Responsibilities.

(a) *State Conservationist.* Each SCS State Conservationist is to:

(1) Provide leadership for inventories of important farmlands for the State, county, or other subdivision of the State. Each is to work with appropriate agencies of State government and others to establish priorities for making these inventories.

(2) Identify the soil mapping units within the State that qualify as prime. In doing this, State Conservationists, in consultation with the cooperators of the National Cooperative Soil Survey, have the flexibility to make local deviation from the permeability criterion or to be more restrictive for other specific criteria in order to assure the most accurate identification of prime farmlands for a State. Each is to invite representatives of the Governor's office, agencies of the State government, and others to identify farmlands of statewide importance and unique farmlands that are to be inventoried within the framework of this memorandum.

(3) Prepare a statewide list of:

(i) Soil mapping units that meet the criteria for prime farmland;

(ii) Soil mapping units that are farmlands of statewide importance if the criteria used were based on soil information; and

(iii) Specific high-value food and fiber crops that are grown and, when combined with other favorable factors, qualify lands to meet the criteria for unique farmlands. Copies are to be furnished to SCS Field Offices and to SCS Technical Service Centers (TSC's). (See 7 CFR 600.3, 600.6.)

(4) Coordinate soil mapping units that qualify as prime farmlands with adjacent States, including the States responsible for the soil series. Since farmlands of statewide importance and unique farmlands are designated by others at the State level, the soil mapping units and areas identified need not be coordinated among States.

(5) Instruct SCS District Conservationists to arrange local review of lands identified as prime, unique, and additional farmlands of statewide importance by Conservation Districts and representatives of local agencies. This review is to determine if additional farmland should be identified to meet local decisionmaking needs.

(6) Make and publish each important farmland inventory on a base map of national map accuracy at an intermediate scale of 1:50,000 or 1:100,000. State Conservationists who need base maps of other scales are to submit their requests with justification to the Administrator for consideration.

(b) *Technical Service Centers.* Field representatives are to provide requested technical assistance to State Conservationists in inventorying prime

and unique farmlands (see 7 CFR 600.2). This includes reviewing statewide lists of soil mapping units that meet the criteria for prime farmlands and resolving coordination problems that may occur among States for specific soil series or soil mapping units.

(c) *National Office.* The Assistant Administrator for Field Services (see 7 CFR 600.2) is to provide national leadership in preparing guidelines for inventorying prime farmlands and for national statistics and reports of prime farmlands.

## § 657.5 Identification of important farmlands.

(a) *Prime farmlands—(1) General.* Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding. Examples of soils that qualify as prime farmland are Palouse silt loam, 0 to 7 percent slopes; Brookston silty clay loam, drained; and Tama silty clay loam, 0 to 5 percent slopes.

(2) *Specific criteria.* Prime farmlands meet all the following criteria: Terms used in this section are defined in USDA publications: "Soil Taxonomy, Agriculture Handbook 436"; "Soil Survey Manual, Agriculture Handbook 18"; "Rainfall-erosion Losses From Cropland, Agriculture Handbook 282"; "Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss, Agriculture Handbook 346"; and "Saline and Alkali Soils, Agriculture Handbook 60."

(i) The soils have:

(A) Aquic, udic, ustic, or xeric moisture regimes and sufficient available water capacity within a depth of 40 inches (1 meter), or in the root zone (root zone is the part of the soil that is penetrated or can be penetrated by plant roots) if the root zone is less than 40 inches deep, to produce the

commonly grown cultivated crops (cultivated crops include, but are not limited to, grain, forage, fiber, oilseed, sugar beets, sugarcane, vegetables, tobacco, orchard, vineyard, and bush fruit crops) adapted to the region in 7 or more years out of 10; or

(B) Xeric or ustic moisture regimes in which the available water capacity is limited, but the area has a developed irrigation water supply that is dependable (a dependable water supply is one in which enough water is available for irrigation in 8 out of 10 years for the crops commonly grown) and of adequate quality; or

(C) Aridic or torric moisture regimes and the area has a developed irrigation water supply that is dependable and of adequate quality; and

(ii) The soils have a temperature regime that is frigid, mesic, thermic, or hyperthermic (pergelic and cryic regimes are excluded). These are soils that, at a depth of 20 inches (50 cm), have a mean annual temperature higher than 32° F (0° C). In addition, the mean summer temperature at this depth in soils with an O horizon is higher than 47° F (8° C); in soils that have no O horizon, the mean summer temperature is higher than 59° F (15° C); and

(iii) The soils have a pH between 4.5 and 8.4 in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep; and

(iv) The soils either have no water table or have a water table that is maintained at a sufficient depth during the cropping season to allow cultivated crops common to the area to be grown; and

(v) The soils can be managed so that, in all horizons within a depth of 40 inches (1 meter) or in the root zone if the root zone is less than 40 inches deep, during part of each year the conductivity of the saturation extract is less than 4 mmhos/cm and the exchangeable sodium percentage (ESP) is less than 15; and

(vi) The soils are not flooded frequently during the growing season (less often than once in 2 years); and

(vii) The product of K (erodibility factor) x percent slope is less than 2.0, and the product of I (soils erodibility) x C (climatic factor) does not exceed 60; and

(viii) The soils have a permeability rate of at least 0.06 inch (0.15 cm) per hour in the upper 20 inches (50 cm) and the mean annual soil temperature at a depth of 20 inches (50 cm) is less than 59° F (15° C); the permeability rate is not a limiting factor if the mean annual soil temperature is 59° F (15° C) or higher; and

(ix) Less than 10 percent of the surface layer (upper 6 inches) in these soils consists of rock fragments coarser than 3 inches (7.6 cm).

(b) *Unique farmland—(1) General.* Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop when treated and managed according to acceptable farming methods. Examples of such crops are citrus, tree nuts, olives, cranberries, fruit, and vegetables.

(2) *Specific Characteristics of unique farmland.* (i) Is used for a specific high-value food or fiber crop; (ii) Has a moisture supply that is adequate for the specific crop; the supply is from stored moisture, precipitation, or a developed irrigation system; (iii) Combines favorable factors of soil quality, growing season, temperature, humidity, air drainage, elevation, aspect, or other conditions, such as nearness to market, that favor the growth of a specific food or fiber crop.

(c) *Additional farmland of statewide importance.* This is land, in addition to prime and unique farmlands, that is of statewide importance for the production of food, feed, fiber, forage, and oilseed crops. Criteria for defining and delineating this land are to be determined by the appropriate State agency or agencies. Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable. In some States, additional farmlands of statewide importance may include tracts of land that have been designated for agriculture by State law.

(d) *Additional farmland of local importance.* In some local areas there is concern for certain additional farmlands for the production of food, feed, fiber, forage, and oilseed crops, even though these lands are not identified as having national or statewide importance. Where appropriate, these lands are to be identified by the local agency or agencies concerned. In places, additional farmlands of local importance may include tracts of land that have been designated for agriculture by local ordinance.

[FR Doc. 78-2573 Filed 1-30-78; 8:45 am]

## [3410-02]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Orange and Grapefruit Reg. 29, Amdt. 1]

## PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

## Amendment of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action lowers the minimum size requirement to 3½ inches for U.S. No. 1 grade Texas grapefruit that may be shipped to fresh market for the balance of the 1977-78 season. Such action is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: February 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Texas Valley Citrus Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of grapefruit, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on January 23, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended that the minimum size requirement be lowered to 3½ inches (size 112's) for U.S. No. 1 grade grapefruit. Currently, such grapefruit are required to be at least 3¾ inches in diameter and at least U.S. No. 2 grade. The committee reports that it anticipates a good market demand for high quality 112 size grapefruit; that the grapefruit has not grown as much as anticipated earlier and as a result a large percentage of the remaining fruit on the trees consists of smaller sizes; and prices for grapefruit for processing are very low at this time and the processed products market is a poor alternative for small sized fruit.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until March 2,

1978 (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Paragraph (a)(4) in § 906.360 Orange and Grapefruit Regulation 29 (42 FR 57299), is hereby amended to read:

§ 906.360 Orange and Grapefruit Regulation 29.

Order. (a) \* \* \*

(4) Such grapefruit are at least pack size 96, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3½ inches: *Provided*, That during the period February 1, 1978, through November 5, 1978, any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3½ inches.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: January 26, 1978.

CHARLES R. BRADER,  
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 78-2730 Filed 1-30-78; 8:45 am]

## [3410-05]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

## Subchapter C—Export Programs [GSM-101]

## PART 1487—NON-COMMERCIAL RISK ASSURANCE PROGRAM

Subpart—Assuring Against Defaults Caused by Non-Commercial Risk Occurrences

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule sets forth the terms and conditions of Commodity



Credit Corporation's (CCC) Non-Commercial Risk Assurance Program (GSM-101) which is intended to encourage and increase commercial exports of agricultural commodities by U.S. exporters. U.S. private banking institutions have indicated that they would make additional financing available for export sales of agricultural commodities on credit if they could be protected against non-commercial risks such as insurrections, warfare, expropriation, governmental order or regulation, or an inability to transfer local currency into U.S. dollars. The rule authorizes CCC to enter into assurance agreements with U.S. exporters who sell on credit terms for periods up to three years to protect them against defaults in payments caused by the occurrence of non-commercial risks. The exporter may assign this protection to any U.S. bank which finances the export sales transaction. More specifically, the assurance provided by CCC protects the exporter (or the assignee U.S. bank) against loss from non-commercial risk defaults in payments by a foreign bank, under the letter of credit issued by the foreign bank to secure payments called for by the export credit sales agreement, or under a related obligation derived from the foreign bank's letter of credit.

EFFECTIVE DATE: January 31, 1978.  
FOR FURTHER INFORMATION CONTACT:

L. T. McElvain or Francis A. Woodling, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250. Telephone (202) 447-3224 or 447-3573.

**SUPPLEMENTARY INFORMATION:** On October 3, 1977, there was published in the FEDERAL REGISTER (42 FR 53628) a notice of proposed rulemaking setting forth the proposed Non-Commercial Risk Assurance Program (GSM-101) regulations. Written comments were received from eight commentators. Other comments were received orally during the comment period, primarily at public meetings held by CCC officials with trade and banking officials at Atlanta, Memphis, Dallas, and Fresno. Although a number of questions and suggestions were received, practically all of the comments agreed with the principle of the proposal.

#### DISCUSSION OF MAJOR COMMENTS

1. One commentator objected to the proposed program on the ground that taxpayer's money should not be exposed to non-commercial risks since they are risks which everyone dealing in the export business must assume.

CCC is aware of the possibility of loss arising from the occurrence of

non-commercial risks in all foreign trade transactions. However, the reason for the rule is much broader than the protection of the exporter or his assignee against losses.

Exports of agricultural commodities are one of the principal foreign exchange and dollar earners for the U.S. If exports of farm products are increased, U.S. foreign exchange and dollar earnings will be increased. Additional exchange earnings will make the U.S. better able to liquidate its foreign debts and pay for the numerous materials and products it must buy currently from abroad because it does not produce enough of them at home to meet its domestic requirements. Based upon an extensive survey of the export trade and its financing institutions, it appears to CCC that farm exports can be significantly increased if private capital is induced to finance such exports on short term credit. Private capital sources have indicated it would provide such financing if afforded protection against non-commercial risks of payment over which it has no control.

Although Government funds will be expended if a loss occurs, the exporter pays for the protection being afforded the exporter or the assignee by GSM-101, and the sums thus obtained will minimize, if not fully offset, possible losses.

2. Several comments were received raising objections to the inference that only defaults in payments under foreign bank deferred payment letters of credit were intended to be protected under the proposed rule. It was said that such letters of credit, being issued in favor of the exporter, would restrict his ability to discount the paper representing his receivable with U.S. banks. Further, the commentators believed that the rule did not contemplate the use of the more commonly used letter of credit in deferred payment transactions where the exporter is authorized to draw time drafts on a U.S. bank which could be freely negotiated by the exporter after it has been accepted by the U.S. bank. In such cases, the obligation of the foreign bank to make payment would run directly to the accepting U.S. bank rather than to the exporter.

In order to clarify the objective of the rule and in line with these comments, modifications were made in §§ 1487.1(a), 1487.2 (c) and (k), 1487.8 (a) and (b), and 1487.9(c). In those cases where a U.S. bank accepts the exporter's drafts, the exporter may assign the proceeds of his assurance agreement to the accepting U.S. bank.

3. Section 1487.2 Definition of Terms—Two similar comments suggested that the definition of "Non-Commercial Risk" be broadened to include the failure of a government owned or controlled foreign bank to

make payments when due, whatever the cause. The commentators believed that: (1) it is very difficult to differentiate non-commercial risks from commercial risks when a government controlled foreign bank defaults; and that (2) government control of a bank implies that the full faith and credit of the government guarantees payment of the bank's obligations. Hence, any default by the bank is to be imputed to the government which controls it.

This suggestion was not accepted. CCC believes that it would be very unlikely that a government would fail to rescue a financially ailing bank owned or controlled by the government. Nevertheless, CCC feels that the failure of a government owned or controlled bank which is clearly attributable to poor business and management practices is a commercial risk outside the purview of the rule. If this suggestion is adopted, CCC would be guaranteeing the payment of obligations of such a bank, regardless of the reason for default, without any risk whatsoever to U.S. banks participating in the financing. The result of such a guarantee would be the refusal by U.S. banks to purchase the exporter's account receivables unless they were secured by obligations of government owned or controlled foreign banks. It is believed this result would not comport with the program objective of increasing U.S. agricultural exports.

4. Section 1487.3 Application for Assurance Agreement—One comment contains the suggestion that CCC should issue an approval upon receipt of an assurance application. The proposed rule provides for an assurance agreement to be issued by CCC for each shipment in the export sale just prior to the loading of each shipment. This suggestion is directed particularly to those large export sales calling for a number of separate shipments. The commentator states that in these cases, a buyer often provides a different letter of credit issued by a different foreign bank for each shipment.

This suggestion was not accepted. We understand that in the case of export sales involving multiple shipments, the exporter frequently will not know until shortly before shipment whether or not the buyer desires credit terms for that particular shipment. It is only where credit terms are requested by the buyer that an assurance agreement serves any purpose. Thus, the rule provides that the exporter may apply for an assurance agreement just prior to shipment.

Further, the authority of CCC to enter into assurance agreements is limited to a total dollar amount of coverage. Were this suggestion adopted, it would be necessary to earmark a part of the limited dollar authority sufficient to cover all assurance agreements which could possibly be request-

ed pursuant to a particular approval. This could permit an exporter with one or more large multiple shipment export sales to preempt a large part of the dollar authority to the detriment of other exporters without any certainty that all or any of the amount of the approval would be used by the exporter.

5. Section 1487.6 (a) and (b). Assurance Fees and Rates—(a) One commentator objected to the limitation of interest to 6 percent per annum which CCC will include in its coverage of an export credit sale. The commentator reasoned that 6 percent may be less than the rate of interest to which a seller on credit is entitled and wants. He suggested that CCC adopt the formula used by Export-Import Bank or a similar formula to determine the amount of interest on loans which it will guarantee, namely: The lesser of (a) the rate specified in the loan agreement and (b) one percent over the U.S. Treasury rate for comparable maturities.

After careful consideration of this suggestion, it was not accepted. Until experience with the program suggests otherwise, it is believed that certainty as to the rate which will be covered is more important than the rate itself. The question of interest coverage, however, will be reviewed at an appropriate time in the light of experience gained in administering the program.

(b) No serious objection was raised concerning the requirement that fees be paid at the time an application for an assurance agreement is made. However, a question was raised about the computation of the fee in the case of "call sales". A "call sale" is one in which the price (upon which the fee is based) to be paid by the buyer is to be fixed at future time in accordance with a formula. Such a formula, for example, might provide that the selling price will be an agreed number of points above or below a particular futures trading position on a selected day (the "call day") in the future.

The precise amount of an assurance fee cannot be determined prior to the time the f.o.b. price itself is determined. In such cases under the rule, the exporter could wait until the f.o.b. price is determined before applying for an assurance agreement. Alternatively, the exporter could apply for an assurance agreement based upon a conservative estimate of what the price will be when it is determined. In the latter situation, the exporter could apply later for an increase in his assurance agreement coverage should that be necessary. However, because the total dollar amount of all assurance agreements which can be in effect at any one time will be limited, there is no certainty that full coverage can be obtained by the exporter when it is requested under either alternative.

6. Section 1487.8 Notice of Default—Two commentators suggested that the documentation required to be submitted after default be submitted, instead, as a part of the evidence of export required by § 1487.7. The reasoning supporting this suggestion is that when a default occurs after the export has taken place (possibly some appreciable time after export), the exporter might not then be in business and the documents required might otherwise be unavailable. This suggestion would guard against such eventuality.

On balance, it was determined that adoption of the suggestion would place an unjustifiable burden on the exporter and indeed, upon CCC. Accordingly, the suggestion was rejected. It does not appear reasonable to assume that defaults in payments will occur for many of the export sales covered by the program.

Most exporters, it is thought, will not finance their credit sales themselves, but will obtain financing from U.S. banks, to which proceeds of assurance agreements will be assigned. Banks which finance these sales can protect themselves against the eventuality cited, if they care to do so, by requiring the exporter to provide them with default documentation at the time they provide financing to the exporter.

7. Section 1487.11 Assignment—One commentator suggested the removal of the limitation on the assignment of assurance agreement proceeds to only U.S. banks and U.S. financing institutions. It was proposed that the protection being provided under the assurance agreement should run to any holder in due course of the instrument representing the future payment obligation. Also, it was theorized that the exporter, in whose favor the payment instrument would be issued could thus be able to endorse it to any buyer anywhere without recourse. The "paper" representing the undertaking to pay at a future time for agricultural commodities delivered now can often be "sold", i.e., discounted, by the exporter on much more favorable terms in foreign money markets than the United States.

CCC believes that the suggestion, if adopted would be useful primarily to very large exporters and not to the majority of the export trade. It further feels that such large exporters could, even if the suggestion is not adopted, still participate in the program although at some loss in flexibility in the customary handling of their financing operations. Also, it was felt that administration of the program by CCC would be much more difficult, especially when defaults occurred, if it were necessary to deal with previously unidentified assignees outside the United States. For the foregoing rea-

sons, CCC has determined not to adopt this suggestion at this time.

8. Section 1487.13 Shipment of Commodities on Vessels Calling at North Vietnamese Ports—This provision in the proposed rule has been omitted because the National Security Council on June 10, 1977, rescinded its prohibition on the shipment of U.S. financed cargoes from the United States on foreign flag vessels which have called at North Vietnam ports.

Accordingly, with these changes and additions, the proposed rule (7 CFR Part 1487) is adopted.

NOTE—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Issued at Washington, D.C., this 27th day of January 1978.

GEORGE S. SHANKLIN,  
Acting Vice President and General Sales Manager, Commodity Credit Corporation.

Support—Assuring Against Defaults Caused By Noncommercial Risk Occurrences

#### GENERAL

Sec.  
1487.1 General statement.  
1487.2 Definition of terms.

#### ASSURANCE AGAINST NONCOMMERCIAL RISK DEFAULTS

1487.3 Application for assurance agreement.  
1487.4 Assurance agreement.

#### ASSURANCE RATES AND FEES

1487.5 Assurance rates.  
1487.6 Assurance fees.

#### DOCUMENTS REQUIRED AFTER EXPORT

1487.7 Evidence of export.

#### LOSSES CAUSED BY NONCOMMERCIAL RISK DEFAULTS

1487.8 Notice of default.  
1487.9 Payment of losses.  
1487.10 Recovery of losses.

#### MISCELLANEOUS PROVISIONS

1487.11 Assignment.  
1487.12 Covenant against contingent fees.  
1487.13 Officials not to benefit.  
1487.14 Exporter's records and accounts.  
1487.15 Communications.

AUTHORITY: Sec. 5(f), 62 Stat. 1072 (7 U.S.C. 714c (f)).

Support—Assuring Against Defaults Caused By Noncommercial Risk Occurrences

#### GENERAL

§ 1487.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation noncommercial risk assurance program, also referred to herein as "GSM-101." Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold



## RULES AND REGULATIONS

on a deferred payment basis. The guarantee may be in form of an irrevocable foreign bank letter of credit in favor of the exporter who may draw drafts for the deferred payments to be presented to the foreign bank as such payments become due. Or the foreign bank letter of credit may authorize the exporter to draw drafts on and for acceptance by a U.S. correspondent bank of the foreign bank. In either case, the exporter may discount the receivable with a U.S. bank or financial institution so that he may realize the proceeds of his sale prior to the deferred payment dates. GSM-101 is designed to protect the exporter or his assignee against loss from noncommercial risk defaults in payments by a foreign bank under the letter of credit issued by the foreign bank to secure payments called for by the export credit sales agreement, or under a related obligation arising from the foreign bank's letter of credit. By transferring the noncommercial risk of loss from exporters and their financing institutions to CCC, GSM-101 is intended to: (1) Facilitate exportation, (2) forestall or limit declines in exports, (3) permit exporters to meet competition from other countries, and (4) increase commercial exports of U.S. agricultural commodities.

(b) GSM-101 will be administered by the Office of the General Sales Manager, U.S. Department of Agriculture. (c) The provisions of Pub. L. 83-664 (Cargo Preference Act) are not applicable to shipment of commodities assured as to noncommercial risks under GSM-101.

(d) GSM-101 will be supplemented by USDA announcements.

## § 1487.2 Definition of terms.

(a) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, or his designee.

(b) "Assured value" means the maximum amount CCC agrees to pay the exporter under the assurance agreement. The assured value shall not exceed the unpaid balance of the port value of the commodity prior to shipment plus interest as indicated in the export credit sale but not more than 6 percent per annum on such unpaid balance to the date(s) payment is due.

(c) "Assurance agreement" means the written agreement under which CCC undertakes, for a period not exceeding 3 years after export, to protect the exporter or assignee from defaults by a foreign bank caused by noncommercial risks under the foreign bank's letter of credit supporting the exporter's export credit sales contract or under the foreign bank's related obligation under its letter of credit to the exporter.

(d) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) "Date of export" means the on-board date of an ocean bill of lading or onboard ocean carrier date of an intermodal bill of lading.

(f) "Date of sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the importer under which a firm dollar-and-cent price has been established or a mechanism to establish the price has been agreed upon.

(g) "Export credit sale" means an agreement by an exporter to sell eligible U.S. agricultural commodities for U.S. dollars to an importer. The agreement shall provide for export of the commodities from the United States to eligible countries within 12 months from the contract date and for payment by the importer on a deferred payment basis not exceeding 36 months from the date(s) of export.

(h) "Exporter" means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity: (1) That is financially responsible, (2) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has someone on whom service of judicial process may be had within the United States, and (3) not suspended or debarred from contracting with or participating in any program administered by CCC on the date of issuance of the assurance agreement.

(i) "Foreign bank letter of credit" means an irrevocable commercial letter of credit issued in favor of the exporter by a banking institution in the destination country pursuant to an export credit sale, which provides for deferred payments in U.S. dollars.

(j) "Importer" means a foreign buyer who enters into an export credit sale contract on a deferred payment basis with a U.S. exporter.

(k) "Noncommercial risk" means the risk of loss as a result of failure by the foreign bank, through no fault of its own, to make remittances pursuant to its letter of credit or related obligation arising out of the letter of credit because of: (1) War, hostilities, civil war, rebellion, insurrection, or civil commotion; or (2) expropriation, confiscation, or like action by government; or (3) the imposition by governmental authority of any order, decree, or regulation of general applicability having the force of law; or (4) the failure of the central exchange authority to transfer local currency into dollars.

(l) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. ports. Such value shall include the value of the upward load-

ing tolerances, if any, as provided for by the export credit sales contract.

(n) "USDA announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

## ASSURANCE AGAINST NONCOMMERCIAL RISK DEFAULTS

## § 1487.3 Application for assurance agreement.

(a) An exporter shall submit a written application for an assurance agreement to the office specified in § 1487.15. An application may be made by telephone, but it must be confirmed in writing. An application shall include the full business name and address of the exporter and the following:

- (1) Name of the destination country.
- (2) Name and address of importer.
- (3) Date of sale.
- (4) Exporter's sale number.
- (5) Delivery period.
- (6) Kind and description of the commodity.
- (7) Quantity.
- (8) Port value.
- (9) Assured value.
- (10) Estimated payment schedule(s) for each shipment to be made under the assurance agreement showing the estimated payment due dates and estimated amounts due separately for both principal and interest.

(b) An application for an assurance agreement may be rejected, approved with modifications, or approved as submitted by the Assistant Sales Manager. In the event the application is approved, the Assistant Sales Manager shall cause an assurance agreement to be issued in favor of the U.S. exporter.

(c) The assurance agreement shall provide that CCC will pay the U.S. exporter or his assignee in U.S. dollars for losses resulting from the failure of the foreign bank which issues the bank letter of credit securing the export credit sale to honor drafts drawn upon it or otherwise to remit amounts properly due the exporter or the assignee, when such defaults are caused by the occurrence of noncommercial risks arising after export.

## § 1487.4 Assurance agreement.

(a) The assurance agreement shall provide that CCC will pay the U.S. exporter or his assignee in U.S. dollars for losses resulting from the failure of the foreign bank which issues the bank letter of credit securing the export credit sale to honor drafts drawn upon it or otherwise to remit amounts properly due the exporter or the assignee, when such defaults are caused by the occurrence of noncommercial risks arising after export.

(b) The assurance coverage shall become effective on the date(s) of export(s) and continue in force for the period covered by the payment schedule not exceeding 36 months from the dates of such export(s). Exports made prior to receipt by CCC of a telephonic or written application for an assurance agreement or exports made after the final date for export shown on the assurance agreement or amendment

thereof are ineligible for assurance coverage, except where it is determined to be in the interest of CCC.

(c) The assurance agreement may contain such terms, conditions, and limitations not inconsistent with GSM-101 as are deemed necessary or desirable by the Assistant Sales Manager.

(d) The assurance agreement may be amended by the parties thereto provided such amendment is in conformity with GSM-101 at the time of amendment. Amendments may include a change in the credit period or an extension of time to export. Any amendment of the assurance agreement may be subject to an increase in the assurance fee. Any amendment shall indicate its effective date and shall apply only to exports made on or after that date.

## ASSURANCE RATES AND FEES

## § 1487.5 Assurance rates.

The assurance rates will be based upon the length of the payment terms provided by the export credit sale contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Assurance rates charged by CCC under GSM-101 will be available upon request from the office specified in § 1487.15.

## § 1487.6 Assurance fees.

(a) The assurance fee will be computed on the basis of the assurance rate and the assured value.

(b) The exporter shall remit, with his written application, the full amount of the fee based on the applicable rate. If the application is submitted by telephone, telex, or TWX, final approval of the application will not be given until the fee has been received by CCC. Approval of the application will be final and refund of the assurance fee will not be made after approval unless the Assistant Sales Manager determines that such a refund will be in the interest of Commodity Credit Corporation.

(c) If the application for an assurance agreement is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The assurance fee shall be made payable to CCC and mailed to the office specified in § 1487.15.

## DOCUMENTS REQUIRED AFTER EXPORT

## § 1487.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1487.15 within 20 days following each export covered under the assurance agreement. This report shall include the following:

- (1) Assurance agreement number.
- (2) Date of export.

## RULES AND REGULATIONS

(3) Exporter's sale number.

(4) Port value exported.

(5) Kind, quantity, and description of the commodity exported.

(6) Statement that the agricultural commodities of the grade, quality, and quantity called for in his sales contract with the foreign importer have been exported.

(7) A statement that he has in his files documents evidencing the obligation of the foreign importer and that he will retain such documents in his files until three years after maturity of the related assurance agreement.

(8) A statement that a letter of credit has been opened in favor of the exporter to cover the port value of the commodity exported.

(9) A payment schedule showing the payment due dates and amounts due separately for both principal and interest for which credit has been extended to the importer.

(b) If the report required by paragraph (a) of this section is not received by CCC within 20 days after the date of the export, the assurance agreement shall become null and void with respect to defaults in payments applicable to such export. This provision may be waived by the Assistant Sales Manager for good cause shown.

## LOSSES CAUSED BY NONCOMMERCIAL RISK DEFAULTS

## § 1487.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to make a remittance pursuant to the terms of the letter of credit or a related obligation arising under the letter of credit and such default appears to be attributable to the occurrence of a noncommercial risk, the exporter or the assignee shall promptly furnish a written notice of default to the Treasurer, CCC at the address indicated in § 1487.11(b). The notice shall include the assurance agreement number, the amount due, the date of refusal to pay, and reason for the default.

(b) Within 30 days after the notice of default, the exporter or the assignee shall furnish a claim for loss with the following information and documents to the Treasurer, CCC:

- (1) Assurance agreement number.
- (2) A certification that the scheduled payment has not been received.
- (3) A copy, certified as true and correct by the exporter, of each of the following:

- (i) Foreign bank letter of credit securing the export credit sale or the related obligation of the foreign bank under its letter of credit.
- (ii) Export credit sales contract.
- (iii) Ocean carrier or intermodal bill(s) of lading with onboard ocean carrier date for each shipment.
- (iv) Invoice(s) showing the port value of the commodities exported.

(c) A claim for a loss by the exporter or assignee shall not be honored if it is not made in writing to the Treasurer, CCC prior to the expiration of six months from the date of default of the scheduled payment.

## § 1487.9 Payment of loss.

(a) Upon receipt of the information required under § 1487.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by the occurrence of a noncommercial risk default, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable assurance agreement and these regulations. CCC will promptly notify the exporter of its determination.

(b) CCC's maximum liability will be limited to the assured value as shown in the assurance agreement. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage compensation for such loss. If the assured value covers only a percentage of the port value of an export credit sale, the liability of CCC shall be limited to such percentage of the loss.

(c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claims for amounts due under an accelerated payment clause in the export credit sales contract or the letter of credit or any related obligation under the letter of credit unless it is determined to be in the interest of CCC by the Assistant Sales Manager.

(d) If CCC determines that it is liable to the exporter and/or his assignee, the exporter and/or his assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC their respective rights for the amount of payment in default under the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit the amount of the loss plus interest, at the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC.

(e) Upon payment of a claim to the exporter or his assignee, the exporter or his assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

## § 1487.10 Recovery of losses.

(a) Upon payment of loss to the exporter or his assignee, CCC will notify the importer and/or the foreign bank of its rights under the subrogation agreement to recover all monies in default.

(b) In the event monies for the defaulted payment are received by the exporter or the assignee from the im-



porter, foreign bank, or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.

(c) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or assignee or any other source shall be allocated by CCC to the exporter or assignee and CCC on a pro rata basis as their respective interest may appear.

(d) Notwithstanding any other terms of the assurance agreement, the exporter shall be liable to CCC for any amounts paid by CCC under the assurance agreement when and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by him for the purpose of obtaining the assurance agreement.

#### MISCELLANEOUS PROVISIONS

##### § 1487.11 Assignment.

(a) The exporter may make an assignment of proceeds payable by CCC under the assurance agreement to only a bank or other financing institutions in the United States. The assignment shall cover all amounts payable under the assurance agreement not already paid and shall not be made to more than one party.

(b) An original and two copies of the written notice of each assignment of monies that may be due or come due from CCC together with one signed copy of the instrument of assignment, which shall be a true copy of the original, must be filed by the assignee with the Treasurer, CCC, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

(c) Receipt of the notice of assignment shall be acknowledged by an official of CCC.

##### § 1487.12 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the assurance agreement, or that there is any agreement or understanding for commission, percentage, brokerage, or contingent fee, except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of his warranty, CCC shall have the right, without limitation of any other rights it may have, to annul the assurance agreement without liability to CCC.

##### § 1487.13 Officials not to benefit.

No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of

the assurance agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the assurance agreement if made with a corporation for its general benefit.

##### § 1487.14 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the right to examine any pertinent books, documents, papers, and records of the exporter and/or the assignee involving transactions related to the export credit sale covered by the assurance agreement until 3 years after expiration of the coverage of the related assurance agreement.

##### § 1487.15 Communications

Unless otherwise provided, written requests, notifications, or communications concerning the assurance agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

NOTE.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[FR Doc. 78-2751 Filed 1-30-78; 8:45 am]

#### [3410-30]

#### CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

##### SUBCHAPTER A—CHILD NUTRITION PROGRAMS

##### PART 225—SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

##### Interim Regulations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: The Department is issuing interim regulations for the Summer Food Service Program for Children in the areas of definitions, State agency responsibilities, the Program management and administration plan, State administrative funds, Program funds and Program payments. Publication of proposed regulations dealing with these areas is deemed to be impracticable and contrary to the public interest since the related Program responsibilities and functions require specific guidance and attention as soon as possible in order to implement the Program for the coming summer.

DATE: Effective February 1, 1978.

ADDRESS: Comments should be sent to Mr. Henry S. Rodriguez, Acting Director, Child Care and Summer Pro-

grams Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John M. Heslin, Child Care and Summer Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20205, 202-447-9072.

#### SUPPLEMENTARY INFORMATION:

The Summer Food Service Program for Children was created by amending section 13 of the National School Lunch Act (42 U.S.C. 1761), on October 7, 1975. That amendment provided for a Program of a two-year duration, to operate through fiscal year 1977. With the enactment of Pub. L. 95-166 on November 10, 1977, the Program was extended for an additional three years. The current law requires that the Department issue proposed regulations by November 1 of each fiscal year and final regulations by January 1 of each year. These timeframes could not be met for the current fiscal year because the law itself was not signed by the President until November 10, 1977, and because the law contained a number of new provisions which required considerable groundwork prior to the issuance of rulemaking. However, in order to ensure that the Program for the coming summer is implemented in accordance with the new legislation, certain parts of the regulations, as described below, must become effective immediately. Therefore, it is deemed to be impracticable and contrary to the public interest to issue proposed rules regarding these parts. Proposed regulations to implement the remaining areas unaffected by the interim regulations will be issued immediately following the publication of these interim regulations. It is, therefore, recommended that these interim regulations be reviewed in conjunction with the proposed regulations. The Department welcomes written comments on these regulations and will consider in the promulgation of final regulations all such comments, as well as those received on the proposed portion. To be assured of this consideration, comments on these interim regulations must be received on or before February 21, 1978. Final regulations will incorporate the parts affected by the interim and the proposed rules into one package. All reserved sections in these interim regulations will be found in the proposed regulations. Written comments will be available for public inspection during normal business hours in room 3300B Auditor's Building, 14th Street and Independence Avenue SW., Washington, D.C. The following are the changes in Program regulations effectuated by these interim regulations:

#### DEFINITIONS

The definition of "areas in which poor economic conditions exist" is expanded to include enrolled groups of children, one-third of whom are individually documented as being eligible for free or reduced price school meals. This expanded definition is in section 13(a)(1)(C) of the Act and incorporates a concept set forth in previous regulations.

"Camps" is defined to include nonresidential sponsors which serve four meals per day. Residential camps would be allowed to serve up to four meals per day. All camps would be required to collect family size and income information on individual enrolled children, and would be able to claim reimbursement for only those meals served to children eligible for free or reduced price school meals. For the first time the Act defines eligible children, describing them as persons eighteen years of age and under, or as individuals older than eighteen who are: (1) Determined to be mentally or physically handicapped, and (2) participating in a public school program established for the mentally or physically handicapped. The Department recognizes that these regulations might be simplified through the elimination or consolidation of some definitions, particularly those dealing with Program funding. Suggestions in this regard are welcome.

#### RESPONSIBILITIES OF STATE AGENCIES

In response to the statutory directive to establish standards and dates for efficient and effective Program administration (section 13(k)(2) of the Act), State agency personnel must be employed and available by specific dates which will be established by the State agency. This requirement reflects an awareness of the numerous duties which State agencies must carry out prior to the beginning of Program operations and is intended to ensure that personnel are available to perform these tasks in a timely and effective manner. These dates would be the latest dates for action; many State agencies will see and respond to the need to hire and assign personnel far in advance of these dates as well as subsequent to these dates should the need to do so arise.

State agency assistance to sponsors is modified somewhat from that required in prior years. Pre-approval visits to sites proposing to serve 300 or more children will not have to be conducted if the State agency has evidence on file to support the capability of the site. Site reviews will be conducted on a State-wide average basis rather than by a per-sponsor percentage (e.g., State agencies will be required to visit an average of 15 percent of the sites of a number of sponsors rather than 15 percent of the sites of

each sponsor). The intention is to provide for flexibility by allowing a State to use its resources where it determines there is the greatest need.

State agencies will be required to announce the availability of the Program in all areas of the State. Pursuant to the mandate in the Act (section 13(a)(4)), States are required to seek out and assist potential sponsors in rural areas so that those areas will be served by the Program. The Department is aware that there are problems running the Program in rural areas (e.g., abnormal administrative costs, logistical problems bringing children to sites, etc.) and welcomes comments and suggestions as to how the Program might effectively reach rural areas. In addition, the Department intends to closely monitor State agency outreach outlined in the management and administration plan and will utilize information media already directed at rural residents. The Department also plans to conduct pilot projects in rural areas in order to evaluate the delivery of Program services in those areas and expects to solicit the cooperation of State agencies in this effort.

Under meal service restrictions (§ 225.5(j)) the meal limitations are described. Camps may be reimbursed for up to four meals per eligible child per day provided that one of the meals is a supplement. Other sponsors may be reimbursed for up to three meals per day per child with at least one supplement included in the three meal service. In either case, sponsors must demonstrate ability to handle the meal service proposed.

State agencies are required to plan for and carry out sponsor training based on the known needs of each sponsor. Since sponsors must attend this training in order to participate in the Program, the State agency will have to provide potential sponsors with every reasonable opportunity to attend.

State agencies must provide for audits of at least one-half of all sponsors annually in order to comply with the Office of Management and Budget Circulars A-102 and A-110. CPA audits required of all sponsors which will earn more than \$50,000 in Program payments may be counted by the State in meeting this requirement. State agencies must, with the assistance of the Department, develop model food specifications and model meal quality standards. The individual food item specifications should address quantity and applicable quality characteristics such as grade, fat, seasonings, etc., of ingredients. The model meal quality standards should incorporate the individual food items in guidelines which would provide for acceptable meals including a wide variety of foods and adequate amounts of vitamins, minerals, etc., over a given

period of time. Such specifications and standards must be made available to all sponsors and reflected in the State agency's standard form of sponsor and food service management company contract.

Each State agency will be provided with an amount of money for health inspections which is equal to one percent of the estimate in the State's approved management and administration plan of the amount of funds it needs to make payments to sponsors for their net Program costs and administrative costs. These funds will be made available to the States by April 15. The Department intends this money be used to provide for more extensive coverage (i.e., over and above that normally provided) by State and local health departments of Program related food preparation facilities and sites. State agencies should determine the best method or methods of obtaining this coverage and coordinate this activity with the agency or agencies chosen to carry out these inspections. The Department recognizes that methods for using these funds will vary from State to State and gives the State an opportunity to set out its methods in the State's plan. State agencies should begin their planning early, since, in many cases, this work would require health departments to hire additional staff personnel and do additional planning. Since this is a new area of Program operations, the Department is seeking comments and suggestions on how to utilize these funds most effectively.

Section 13(l) of the Act provides that food service management companies that wish to participate in the Program in any State must register with the State agency in that State. It also requires that the registration process include submission of specific information. These regulations require several items in addition to those required by the Act, including information regarding non-Program-related contract terminations and code violations, and certification as to knowledge of the content of Program regulations. These additional requirements are viewed as essential to the integrity and validity of the registration process. A timetable is set out by which this process is to be administered, with an exception only for food service management companies which will serve an area which might not otherwise be able to have a food service program. An opportunity for a hearing will be available for food service management companies whose application has been denied. Finally, it should be noted that food service management company registration will make the company eligible to participate in the Program only in the State or States in which it is registered. It is not a guarantee of participation in any State nor



should it be construed in any way as a USDA or State agency "seal of approval" or endorsement for anything other than Program eligibility.

#### PROGRAM MANAGEMENT AND ADMINISTRATION PLAN

The requirements for the Program management and administration plan differ from those in previous Program regulations primarily in that they incorporate new provisions found in the Act (section 13(n)). These include the State's plan for disbursing administrative payments to sponsors, for monitoring and inspecting sponsors and food service management companies, for submission and approval of sponsor applications, and for conducting hearing procedures. An additional provision is included which requires the plan submitted to have the original signature of the responsible official in the State agency.

#### STATE ADMINISTRATIVE FUNDS

As prescribed in the act (section 13(k)), the formula for allocating State administrative funds has been changed. Each State will receive, where applicable, 20 percent of the first \$50,000 in Program funds (i.e., funds used to reimburse sponsors for their operating and administrative costs) which the State expended or obligated in the prior year; 10 percent of the next \$50,000; 5 percent of the next \$100,000 and 2 percent of the remainder. The payments would be made in three installments each fiscal year: On October 1, after approval of the management and administration plan, and on July 15. The first will be based on prior year expenditures; the other two on estimates in the approved plan. FNS Regional Offices will monitor each State's program on an ongoing basis, including two required reviews, to determine its actual size and to compare it with the State's management plan and Program regulations. Upward adjustments will be made if participation data so warrant. Downward adjustments may be made if a State's program failed to reach projected levels. In this regard, however, downward adjustment need not be made if the Regional Office determines that a State has acted in good faith and in accordance with its projected plan. A final reconciliation and any necessary adjustments would be made for the fiscal year prior to February 15 of the following fiscal year.

#### PAYMENTS TO STATE AGENCIES AND USE OF PROGRAM FUNDS

The act (section 13(d)) sets out specific dates (April 15, May 15, and July 1) by which funds must be made available to States to meet requests for advance payments. Each payment will be 65 percent of that which the State ex-

pects to expend for net Program payments (i.e., payments to sponsors for their operating costs, excluding administrative costs) in each month. By the same dates, funds to be used for sponsor administrative costs payments would also be provided to the State agencies. These payments would each be one-third of that needed for sponsor payments, determined by multiplying the number of meals by type, i.e., breakfast, lunch, supper and supplemental food, estimated to be served in the State during the period of Program operations by 3.75, 7.25, 7.25, and 2.00 cents, respectively.

#### PROGRAM PAYMENTS

Start-up funds are available to State agencies and may be provided to sponsors. State agencies which provide start-up payments must include a section on their Program application form with which they can be requested. These payments may not be more than 20 percent of a sponsor's administrative budget.

As required under the Act (section 13(b)(1)), the maximum per-meal rates payable for net program costs (i.e., all allowable sponsor's costs except for administrative costs) have been adjusted to reflect changes in the series for food away from home of the Consumer Price Index for the year ending November 30, 1977. The Department is conducting the mandated study of food service operations. Based on the preliminary data currently available, sufficient reliable information is not obtainable in time to further adjust these rates. The conduct of the study will continue through the upcoming summer and any resulting adjustments will be made for use in fiscal year 1979.

Advance payments to sponsors for operating costs must be made available in accordance with the formula set out in the Act (section 13(e)(2)). The formula makes a distinction between sponsors which prepare their own meals and those which use a food service management company. The former may be advanced up to 65 percent of State agency estimates; the latter up to 50 percent. There is a further per-sponsor limit of \$40,000 per month for both operating and administrative costs which a State agency may waive if there is a demonstrable need and the sponsor's administrative capability to handle larger Program payments is evident. All State agencies must include on Program application forms a section allowing sponsors to request the first advance payment.

Administrative costs payments to sponsors are payable on June 1, July 15, and at the time of the payment of the final Claim for Reimbursement. Assuming that a sponsor operates at the level set forth in its approved administrative budget, each payment

would be one-third of that budget. The timing and the amounts of these payments are affected by provisions which (1) limit them to months in which a sponsor operates for more than 10 days, (2) require a request for them at least 30 days prior to their payment, (3) require certifications by the sponsor as to actual levels of operation, and (4) limit them to actual expenditures when actual expenditures fall short of projected, approved budget expenditures. The intent of these provisions is to make administrative costs payments available to sponsors in a manner which ensures appropriate levels of administrative control and at the same time meets the needs of sponsors.

The Act (sections 13(b)(3) and (b)(4) (B) and (C)) provides that each sponsor submit a complete administrative budget for approval by the State agency and that sponsors be paid for all allowable administrative costs contained in the budget as long as the total of those costs did not exceed maximum levels set by the Department. The Department is required to conduct a study of administrative costs to determine these levels. The conduct of the study is underway but the Department believes that it will not be completed in time to set the levels to be used this summer. Accordingly, the per-meal rates found in § 225.8(c) will be used. Thus, a sponsor's administrative costs payments will be the lesser of the approved budget, actual allowable administrative expenditures or meals by type times rates.

Accordingly, the Department is issuing interim regulations to read as follows:

#### Subpart A—General

- Sec.  
225.1 [Reserved]  
225.2 Definitions.  
225.3 [Reserved]

#### Subpart B—State Agency Provisions

- 225.4 [Reserved]  
225.5 Responsibilities of State agencies.  
225.6 Program management and administration plan.  
225.7 Payment and use of State administrative funds.  
225.8 Payments to State agencies and use of Program funds.

#### Subpart C—Sponsor Provisions

- 225.9 Requirements for participation.  
225.10-11 [Reserved]  
225.12 Program payments.  
225.13 Program payment procedures.  
225.14 [Reserved]

#### Subpart D—[Reserved]

AUTHORITY: Sec. 2, Pub. L. 95-166, 91 Stat. 1325 (42 U.S.C. 1761) sec. 7, Pub. L. 91-248, 84 Stat. 211, (42 U.S.C. 1759a)

#### Subpart A—General

- § 225.1 [Reserved]

#### § 225.2 Definitions.

(a) "Act" means the National School Lunch Act, as amended.

(b) "Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program (excluding interest costs).

(c) "Administrative costs payment" means financial assistance paid to a sponsor for its administrative costs.

(d) "Advance payments" means financial assistance made available to a sponsor for its net Program costs or administrative costs prior to the month in which such costs are incurred.

(e) "Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 33 1/4 percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced priced lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or from other appropriate sources, and (2) an enrollment program in which at least 33 1/4 percent of the children are eligible for free or reduced price school meals as determined by statements of eligibility based on the size and incomes of the families of the children enrolled.

(f) "Camps" means residential summer camps which offer a regularly scheduled food service as part of an organized program for enrolled children, and nonresidential programs which offer a regularly scheduled organized cultural or recreational program for enrolled children and which serve such children four meals a day.

(g) "CCSPD" means the Director of the Child Care and Summer Programs Division of the Food and Nutrition Service of the Department.

(h) "Children" means (1) persons 18 years of age and under and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public school program established for the mentally or physically handicapped.

(i) "Costs of obtaining food" means costs related to obtaining agricultural commodities and other food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, dis-

tributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

(j) "Continuous school calendar" means a situation in which all or part of the student body of a school are on a vacation for periods of 15 continuous school days or more during the period October through April.

(k) "Department" means the Secretary of the U.S. Department of Agriculture.

(l) "Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

(m) "FNS" means the Administrator of the Food and Nutrition Service of the Department.

(n) "FNSRO" means the Regional Administrator of the appropriate FNS Regional Office.

(o) "Food service management company" means a commercial enterprise which is, or may be, under contract with a sponsor to manage, or to prepare, or to deliver, or to serve, or any combination thereof, unutilized meals, with or without milk, for children.

(p) "Income accruing to the Program" means all monies (other than Program payments) received by a sponsor for use in its food service program from Federal, State, or local governments; from food sales and from any other source, including cash donations or grants.

(q) "Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

(r) "Milk" means fluid types of pasteurized flavored or unflavored whole milk, lowfat milk, skim milk, or cultured buttermilk which meet State and local standards for such milk. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Marianas Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain vitamins A and D at the levels specified by the Food and Drug Administration and consistent with State and local standards for such milk.

(s) "Needy children" means children from families whose income is not above the applicable Secretary's income poverty guideline.

(t) "Net Program costs" means the cost of operating a food service under the Program, including (1) cost of obtaining food, (2) labor directly involved in the preparation and service of food, (3) cost of nonfood supplies, and (4) rental and use allowances of equipment and space, but excluding (1) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings,

(iii) interest costs, (iv) the value of in-kind donations and (v) administrative costs; less income accruing to the Program.

(u) "Net Program payments" means financial assistance paid to a sponsor for its net Program costs.

(v) "OIG" means the Office of the Inspector General of the Department.

(w) "Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

(x) "Program" means the Summer Food Service Program for Children authorized by section 13 of the Act.

(y) "Program funds" means financial assistance made available to State agencies for the purpose of making Program payments.

(z) "Program payments" means financial assistance in the form of start-up payments or advance payments or reimbursement paid or payable to sponsors for net Program costs and administrative costs.

(aa) "Secretary" means the Secretary of Agriculture.

(bb) "Session" means a specified period of time during which an enrolled group of children attend a camp.

(cc) "Site" means a physical location at which a sponsor provides or will provide a food service for children and at which children consume meals in a supervised setting.

(dd) "Sponsors" means nonresidential public or private nonprofit institutions and public or private nonprofit camps that develop special summer or school vacation programs providing food service similar to that available to children during the school year under the National School Lunch and School Breakfast Programs (sponsors are referred to in the Act as "service institutions").

(ee) "Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a food service under this part and to establish efficient management procedures therefor.

(ff) "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

(gg) "State agency" means the State educational agency or any other State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program within the State.



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## § 225.3 [Reserved]

## Subpart B—State Agency Provisions

## § 225.4 [Reserved]

## § 225.5 Responsibilities of State agencies.

(a) *State agency personnel.* Each State agency shall provide sufficient qualified consultative, technical and managerial personnel to administer the Program and monitor performance and to measure progress toward achieving Program goals. The State agency shall assign specific Program responsibilities to such personnel so as to ensure that all applicable requirements under this part are met. All administrative personnel shall be employed and available for Program duties at least 30 days prior to the State agency's application deadline date and all field staff personnel shall be employed and available at least 15 days prior to the beginning of Program operations: *Provided, however,* That the State agency shall hire additional personnel subsequent to these dates if, due to unanticipated Program growth or Program irregularities, additional personnel are needed.

(b) *Program assistance.* Each State agency shall provide Program assistance as follows:

(1) Each State agency shall visit, prior to the approval of the application, all applicant sponsors which have not previously participated in the Program and all applicant sponsors who are expected to receive more than \$50,000 in Program payments. These visits shall be made for the purposes of further assessing the applicant sponsor's potential for successful Program operations, assessing information submitted on its application, and assuring the State agency that the applicant sponsor is aware of its responsibilities under the Program.

(2) Each State agency shall, prior to approval, visit each new proposed non-school site located in cities whose total elementary and secondary public school enrollment exceeds 75,000 for the purpose of evaluating its suitability for the food service proposed.

(3) Each State agency shall, prior to approval of any site with a proposed average daily attendance of more than 300 children, visit each such site to evaluate its capability of serving the number of children expected: *Provided, however,* That the State agency may elect not to carry out such a pre-approval evaluation if the site has been used under the Program in a prior year and the State agency has documentation on file which supports the capability of the site and gives evidence of successful prior Program operations at the site.

(4) Each State agency shall review during the first 4 weeks of operations, all sponsors which operate 10 or more sites, and, at a minimum, an average

of 15 percent of the sites of such sponsors, to ensure compliance with Program regulations and with the Department's nondiscrimination regulations (Part 15 of this title) and other applicable instructions as issued by the Department.

(5) In addition to the review requirements described in § 225.5(b)(4) of this section, each State agency which expects to receive more than \$250,000 in State administrative funds shall, during the first 4 weeks of operation, conduct reviews of an average of 75 percent of non-school sites, and 25 percent of school sites, of all sponsors which operate 10 or more sites and which are located in cities whose total elementary and secondary public school enrollment exceeds 75,000. In determining which sites shall be reviewed under this paragraph and under § 225.5(b)(4) of this section, the State agency shall consider, at a minimum, whether or not the site has been used in prior years, the performance of the site in prior years, the performance of other sites operated by the same sponsor in both prior years and the current year and the performance of the applicable sponsor in prior years and in the current year.

(6) Each State agency shall, in addition, review 80 percent of the remaining sponsors, and an average of 10 percent of the remaining sites of such sponsors, at least once during the period of Program operations.

(7) Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(c) *Program availability.* Each State agency shall, by March 15 of each fiscal year, announce the purpose, eligibility criteria and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall identify rural areas which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas.

(d)-(g) [Reserved]

(h) *Use of on-site facilities or school food service facilities.* State agencies shall make a positive effort to encourage sponsors to use the sponsors' own facilities or the facilities of public or nonprofit private schools to the maximum extent feasible, in the preparation, service and delivery of meals under the Program.

(i) *Application deadline date.* Each State agency shall establish a date by which all applicant sponsors wishing to participate in the Program shall submit a written application: *Provided, however,* That State agencies shall approve the application of an otherwise eligible applicant sponsor submitted after the date established by the State agency, when the failure to do so would deny the Program to an

area in which poor economic conditions exist or a significant number of needy children will not have reasonable access to the Program. The State agency shall inform potential sponsors inquiring after the application deadline date of the possibility of approval if the sponsor qualifies under these terms. The State agency must approve all applications within 30 days after the application deadline date: *Provided, however,* That the 30 days may be extended upon approval by FNS. In the case of applicant sponsors which apply after the deadline date and qualify in accordance with the terms of this paragraph, the State agency shall approve such application as soon as possible after receipt.

(j) *Meal service restriction.* (1) A State agency shall restrict to one meal service per day (i) any site determined to be in violation of the meal service requirements as set forth in this paragraph and (ii) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the meal service requirements as set forth in this paragraph. If such action results in children not receiving any meals under the Program, the State agency shall make every reasonable effort to locate another source of meal service for such children. In addition, the State agency shall not approve the service of more than one meal per day at any site unless each type of meal is delivered separately within one hour of the beginning of the meal service or facilities capable of holding hot or cold meals within the temperatures required by State or local health regulations are available at the site.

(2) Meals which may be served under the Program shall be breakfast, lunch, supper and supplemental food served between such other meals, except that supplemental food shall not be approved if the sponsor also participates in the Special Milk Program (7 CFR Part 215). Sponsors shall be approved to serve only up to three meals a day at each site, provided that at least one of the three meals is a supplement, except for camps, which shall be approved to serve up to four meals a day, provided that the camp has the administrative capability and the food preparation and holding facilities, and provided that the service period of different meals does not coincide or overlap. No sponsor shall be reimbursed for meals served outside of the meal service limitations contained in this subparagraph. No sponsor shall be approved for more than two supplements a day.

(3) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement

is served between lunch and supper. The service of supper shall begin no later than 6 p.m. None of the preceding time restrictions of this subparagraph shall apply to residential camps. The duration of the meal service shall be limited to 2 hours for lunch or supper and 1 hour for all other meals. Meals served outside of the period of approved meal service shall not be eligible for Program payments. Each sponsor shall serve only the type or types of meals for which it is approved in its agreement with the State agency.

(k)-(n) [Reserved]

(o) *Sponsor training.* Each State agency shall plan for and carry out Program training sessions for the supervisory personnel of all sponsors. Such training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training and to ensure that training is available to each sponsor at locations convenient to its area of operations at an appropriate time. A State agency shall deny participation to a sponsor whose personnel have not attended such training sessions.

(p) and (q) [Reserved]

(r) *Management evaluations and audits.* (1) Each State agency shall ensure that the requirements of this part are met and, upon approval of applicant sponsors' applications whose total Claims for Reimbursement are expected to exceed \$50,000 shall provide the sponsors with an audit guide to be used in the conduct of the audit required by § 225.9(j) and any other guidance necessary to enable them to comply with the requirements set out in § 225.9(j). The audit guide developed by the State agency shall, at a minimum, contain the standards set forth in the audit guide issued by the Department.

(2) Each State agency shall for each fiscal year provide for audits of at least one-half of all sponsors participating in the Program during that fiscal year. Such audits may be made by State agency internal auditors, State Auditors General, State Comptrollers, or other comparable audit groups, or by certified public accountants. Audits conducted in accordance with the requirements in § 225.9(j) may be counted toward meeting this requirement.

(3) Each State agency shall coordinate its monitoring review findings under § 225.5(b) and the audit reports provided for under § 225.9(j). Each State agency shall ensure that monitoring is conducted to result in a representative review of the sponsor's operations under the Program.

(4) While OIG shall rely to the fullest extent feasible upon State-sponsored audits, it shall, whenever it considers necessary, (i) make audits on

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a Statewide basis, (ii) perform on-site test audits, and (iii) review audit reports and related working papers of audits performed by or for State agencies.

(5) State agencies shall provide FNS and OIG with full opportunity to conduct management evaluations (including visits to sponsors) and audits of all operations of the State agency. Each State agency shall make available its records, including records of the receipt and expenditure of funds upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any sponsor.

(6) Use of audit guides available from OIG is encouraged. When these guides are utilized, OIG will coordinate its audits with State-sponsored audits to form a network of intergovernmental audit systems.

(7) In making management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard any overpayment which does not exceed \$35 or, in the case of State agency administered programs, does not exceed the amount established under State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, where there are unpaid claims for the same fiscal year, from which the overpayment can be deducted, or where there is substantial evidence of violation of criminal law or civil fraud statutes.

(s) *Food specifications and meal quality standards.* Each State agency shall, with the assistance of the Department, develop and make available to all sponsors, model food specifications and model meal quality standards which shall become part of the contract between sponsors and food service management companies.

(t) *Food quality and preparation facility inspections procedures.* Each State agency shall, with the funds authorized in § 225.8(i), establish a procedure for periodic inspections of the facilities of food service management companies as required in § 225.5(u)(3), and of sites participating in the Program. The procedures for carrying out such inspections and any testing or other related work shall be consistent with procedures used by local health authorities.

(u) *Food service management company registration.* (1) Each State agency shall, by February 1 of each year, provide written notice to all food service management companies which participated in the Program in either of the prior 2 years in that State a notification of mandatory food service management company registration. Such notification shall contain at a minimum (i) a statement of the requirement for food service manage-

ment company registration with the State agency as a prerequisite to food service management company participation in the Program during the applicable fiscal year, (ii) a summary of those items which are required to be submitted in the application for registration as set forth in paragraph (u)(2) of this section, (iii) an enumeration of the specific criteria developed by the State agency upon which registrant eligibility shall be based, and (iv) other relevant information necessary to make application for registration. In addition, each State agency shall, by the same date, issue through the appropriate media a notification of mandatory food service management company registration and information necessary to make application for registration.

(2) By March 15 of each fiscal year, each food service management company which desires to participate in the Program within the State during such fiscal year shall submit an application for registration to the State agency. At a minimum, registration of food service management companies shall require (i) submission of each food service management company's name and mailing address and any other names under which such food service management company presently or in the past two years has marketed its services, (ii) a certification that the food service management company meets applicable State and local health, safety and sanitation standards, (iii) disclosure of past and present company owners, directors and officers, and their relationship, if any, to any sponsor or food service management company which participated in the Program in the past two years, (iv) records of contract terminations, disallowances, and health, safety, and sanitary code violations related to prior Program participation, (v) records of any other contract terminations and health, safety and sanitation code violations during the past two years, (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of such facilities, (vii) the number of meals the distribution facility is able to prepare in a twenty-four hour period for use in the Program, (viii) a certification that the food service management company will operate in accordance with current Program regulations and (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites or for meals which are delivered to approved sites outside of the agreed upon delivery time or meals that do not meet the meal requirements and food specifications contained in the sponsor and food service management company contract.



(3) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it has been seriously deficient in its Program participation in prior fiscal years. The State agency shall provide for inspections of all food service management companies' food preparation facilities which each food service management company has listed on its application for registration. Such inspections shall be carried out prior to registration to determine each facility's suitability for preparation of meals for use in the Program. The State agency shall register only those facilities of a food service management company which have been inspected and have been determined to be suitable: Provided, however, That the State agency may elect not to inspect a food service management company's facility if such facility is located outside of the State in which the registration is being made. Prior to the registration of any out of State facility, the State agency shall promptly notify FNSRO of the name and location of the facility.

(4) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within a reasonable time. The State agency shall inform any food service management company whose application for registration has been denied of the procedures to request a review of the denial as provided for in § 225.5(x). The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(5) By April 15 of each fiscal year, each State agency shall forward to the Department, on a form provided by FNS, information on all food service management companies which applied for registration to the State agency and their registration status. The Department shall allow any food service management company to review any information concerning that company which was submitted to FNS as required by this paragraph.

(6) A State agency shall consider a food service management company's application for registration submitted after March 15, if the State agency determines that the lack of registration could result in an area in which poor economic conditions exist not being served or a significant number of needy children not having reasonable access to the Program.

(7) Each State agency shall require food service management companies submitting applications for registration to certify that the information

submitted on the form is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(v) and (w) [Reserved]

(x) *Sponsor and food service management company hearing procedures.*

(1) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an applicant sponsor's application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a denial of a sponsor's site or a denial of a food service management company's registration.

(2) At a minimum the procedure shall provide that:

(i) The denied applicant be advised in writing of the grounds upon which the State agency based the denial;

(ii) The denied applicant be advised in writing that the request for review must be made within a specified time. The State agency may establish this period of time at not less than one week nor more than two weeks from the date of receipt of the letter of denial;

(iii) The denied applicant be afforded the opportunity to review any information upon which the denial was based;

(iv) The hearing official be an official other than the one directly responsible for the original determination;

(v) The review be held within 2 weeks of the date of the receipt of the request for review;

(vi) The applicant may refute the charges contained in the letter of denial either in person or by mailing written documentation to the reviewing official. The applicant may retain legal counsel, or may be represented by another person;

(vii) Within 3 days after the applicant's hearing, or within 3 days after receipt of written documentation, the reviewing official must make a determination based on a full review of the administrative record;

(viii) The State agency must inform the applicant of the determination of the review by certified mail, return receipt requested. The determination by the State reviewing official is the final administrative determination to be accorded an applicant.

(y) and (z) [Reserved].

#### § 225.6 Program management and administration plan.

(a) Not later than February 15 of each fiscal year, each State agency shall submit to FNSRO a Program management and administration plan for that fiscal year. Approval of the plan by FNS shall be a prerequisite to the payment of Program funds, or to

the donation by the Department of any commodities for use in the Program. The plan shall include the following information at a minimum:

(1) How the State plans to use Program funds and funds from within the State to the maximum extent practicable to reach needy children, including needy children in rural areas. The State's methods for assessing need, and its plans and schedule for informing potential sponsors of the availability of the Program should be clearly defined.

(2) Estimated number and type of sponsors expected to participate and estimated number of sites and average daily attendance, and a description of the estimating methods used. Include data on the number of sponsors which participated in the prior year.

(3) Estimated number of sponsors which will receive \$50,000 in Program payments and average daily attendance.

(4) Estimated amount of Program funds, by month, needed for net Program payments to sponsors.

(5) Estimated amount of Program funds, by month, needed for administrative cost payments to sponsors.

(6) The State's plans and schedule for providing technical assistance and training for sponsors including number of sponsor training sessions planned and number of reviews planned. Include data on the number of reviews conducted in the prior fiscal year.

(7) The State agency budget, by month, on the use of Program funds and State administrative funds by function available under the Program including, but not limited to, staffing (part-time and full-time), salaries, travel and per diem.

(8) The State's plan to comply with the Department's standards for disbursing administrative payments to sponsors.

(9) The actions to be taken by the State agency to maximize the use of on-site meal preparation and the use of school food service facilities.

(10) The actions to be taken by the State to ensure that sites not operated by camps at which a Program food service is planned serve areas where poor economic conditions exist.

(11) The actions to be taken by the State to ensure compliance with the requirements of the Department's regulations respecting nondiscrimination (7 CFR Part 15).

(12) The State's plan for monitoring and inspecting sponsors, sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently.

(13) The State's plan for timely and effective action on Program violations.

(14) The State's plan and schedule for submission and approval of sponsor applications.

(15) The number of needy children being reached by the Program.

(16) The State's plan for determining the amounts and timing of Program payments to sponsors and for disbursing such payments.

(17) The State's plan for ensuring fiscal integrity by auditing sponsors as provided under § 225.5(r), including data on the number of audits performed in the prior fiscal year.

(18) The State's plan and procedure for registering food service management companies.

(19) The State's procedures for granting a hearing and prompt determination to any sponsor wishing to appeal a State's ruling denying its application for Program participation, its site participation, Program advance payments, or Program reimbursement and the State's procedure for granting a hearing and prompt determination to any food service management company wishing to appeal a State's ruling denying the food service management company registration in the State.

(20) The State's plan for utilizing the funds provided for under § 225.8(i) to provide for health inspections and meal quality tests, including the estimated number and frequency of such inspections and tests and a description of the arrangements made by the State with the agencies which will perform these services.

(21) The amount of non-Federal funds made available to the State through direct State appropriations for the Program.

(22) An explanation of significant deviations in last year's actual Program operations and administration from that proposed in the prior year's plan.

(b) The State agency shall give the Governor, or his delegated agency, the opportunity to comment on the relationship of the Program management and administration plan to comprehensive and other State plans and programs and to those of affected areawide or local jurisdictions. A period of 45 days from the date of receipt of the Program management and administration plan shall be afforded to make such comments.

(c) Significant changes in any portion of a Program management and administration plan shall be submitted for approval to FNS in the form of an amendment to the Program management and administration plan. An amendment need not be submitted to the Governor for his comments unless required by the State.

(d) The final plan submitted shall have the original signature of the appropriate State agency official.

#### § 225.7 Payment and use of State administrative funds.

(a) For each fiscal year, the Secretary shall pay to each State agency for

administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first \$50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next \$50,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next \$100,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2 percent of any remaining funds properly payable to the State in the preceding fiscal year: *Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any amendments to such plan as approved by FNS and any other information available to FNS.*

(b) State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative expenses as set forth in their approved Program management and administration plan.

(c) Not later than October 1 of each fiscal year, the Secretary shall make available to each State agency by Letter of Credit an initial allocation of State administrative funds for use in the fiscal year beginning on that October 1 in an amount not to exceed one-third of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. For States which did not receive any Program funds during the fiscal year immediately preceding the fiscal year for which the initial allocation is being made, the amount to be made available by October 1 of each fiscal year shall be determined by the Department.

(d) An additional amount of State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed three-fourths of the State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section.

(e) Within 30 days after the State's application deadline date, FNS shall conduct an initial evaluation in the State for the purposes of determining whether an adjustment is necessary in the approved funding levels for State administrative costs. Such a determi-

nation shall be based on the participation levels contained in the applications submitted to the State including, but not limited to, numbers of sponsors and numbers of proposed sites, children to be reached and meals served compared with the estimated levels contained in the State's Program management and administration plan, the State's performance in accordance with the plan and the State's compliance with the requirements contained in this part. Any adjustments determined to be necessary based on this initial evaluation shall be reflected in an amendment to the State's Program management and administration plan.

(f) The balance of the State administrative funds shall be paid to the State not later than each July 15. This payment plus payments made under paragraph (c) and (d) of this section, shall not exceed the amount of State administrative funds which are determined in accordance with the formula set forth in paragraph (a) of this section. FNS may adjust the amount of State administrative funds payable to a State on the basis of a midprogram evaluation of the State's actual program size, and the State's performance in accordance with the approved Program management and administration plan and any other State agency responsibilities contained in this part. In the conduct of these midprogram evaluations and in the making of these adjustments, FNS shall not decrease the amount of funds to any State which will not reach the estimated levels of participation contained in the approved plan, and any amendments thereto, if FNS determines that the State has made every reasonable effort to meet its responsibilities under the plan and the requirements set forth in this part.

(g) In no event may the sum of the payments made for a fiscal year under paragraphs (c), (d), and (e) of this section exceed the total amount of expenditures incurred by the State for its administrative costs for that fiscal year. Each State agency shall report to FNS information on the use in the prior fiscal year of Program funds and State administrative funds, on a form provided by FNS, not later than November 30 of each fiscal year. FNS shall make, prior to February 15 of each fiscal year, any adjustments necessary in the Letter of Credit to reflect actual expenditures in the prior fiscal year.

#### § 225.8 Payments to State agencies and use of Program funds.

(a) Upon approval of the State's Program management and administration plan, the Secretary shall make available by Letter of Credit to the State agency Program funds to be used to make start-up payments, where appli-



cable, to sponsors as provided for in § 225.12(c).

(b) Not later than April 15, May 15, and July 1 of each fiscal year the Secretary shall make available to each State agency by Letter of Credit Program funds to be used by the State agency to make advance net Program payments to sponsors in the months for which such Letter of Credit is issued. The amount of each of these payments shall be equal to 65 percent of the amount derived by multiplying the number of operating days in the month times the average daily attendance by meal type as estimated in the State's approved Program management and administration plan times the maximum allowable rates payable to sponsors for net Program payments as set forth in § 225.12(e).

(c) Not later than April 15, May 15, and July 1 of each fiscal year, the Secretary shall make available by Letter of Credit Program funds to be used by the State agency to make advance administrative cost payments to sponsors. The amount of each of these payments shall be equal to one-third of the sum of the products obtained by multiplying:

(1) The estimated number of operating days times estimated average daily attendance for breakfasts times 3.75 cents;

(2) The estimated number of operating days times estimated average daily attendance for lunches times 7.25 cents;

(3) The estimated number of operating days times estimated average daily attendance for suppers times 7.25 cents;

(4) The estimated number of operating days times estimated average daily attendance for supplemental foods times 2 cents. The estimates referred to in this paragraph shall be those which are contained in the approved Program management and administration plan.

(d) For sponsors who operate under a continuous school calendar, the Secretary shall make available Program funds by Letter of Credit to the State agencies to make advance payments to sponsors in an amount equal to the amount needed by the State agencies to make advance net Program payments and advance administrative cost payments to such sponsors as set forth in the State's approved Program management and administration plan, on the first day of the month prior to the month during which the food service will be conducted.

(e) The Secretary shall make available any remaining Program funds due no later than 60 days following receipt of valid claims from sponsors by the State agency. Any funds advanced to a State agency for which valid claims have not been established within 180 days after the sponsor's op-

eration shall be deducted from the next monthly payment to the State.

(f) Program funds shall be used by State agencies to make Program payments to sponsors in connection with meals served to children in accordance with the provisions of this part.

(g) Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(h) The State agency may use in carrying out special developmental projects an amount up to 1 percent of Program payments made in any fiscal year: *Provided, however*, That such projects have been included in the State's Program management and administration plan and have been approved in writing by FNS.

(i) By April 15 of each fiscal year the Secretary shall make available by Letter of Credit to each State agency an additional amount equal to 1 percent of Program funds estimated to be needed by the State agency for Program payments in the State's approved Program management and administration plan and any amendments thereto for the current fiscal year. These funds shall be used to provide for State or local health departments or other governmental agencies charged with health inspection functions, solely to carry out health inspections and meal quality tests: *Provided, however*, That if such agencies cannot perform such inspections or tests, the State agency may contract with an independent agency to conduct either the inspection or the meal quality tests or both. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.7(e) if such an adjustment is warranted. Program funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

#### Subpart C—Sponsor Provisions

##### § 225.9 Requirements for participation.

(a)-(i) [Reserved]

(j) Each sponsor whose total Program payments under any Program agreement are expected to exceed \$50,000 shall have an audit conducted of its Program claims and the supporting documentation for those claims by an independent certified public accountant or an independent State or local government accountant and shall submit to the State agency a copy of the letter of engagement with the accounting firm or individual which is to conduct the audit. The sponsor's final

Claim for Reimbursement under the agreement shall not be eligible for payment until the audit has been completed and the results have been reviewed by the State agency. The cost of the audit may be considered an administrative cost. All such audits shall be subject to review by the Department.

(k)-(m) [Reserved]

##### § 225.10-11 [Reserved]

##### § 225.12 Program payments.

(a) and (b) [Reserved]

(c) Sponsors which have executed an agreement may, at the discretion of the State agency, receive start-up payments not earlier than 2 months before beginning food service operations. Start-up payments shall not exceed 20 percent of the amount estimated by the State agency to be needed by a sponsor to administer the Program as contained in the sponsor's administrative budget which shall be submitted to the State agency for approval provided for under § 225.9(e) [see proposed regulations]. Start-up payments shall be deducted from the first payment made to a sponsor for allowable administrative costs.

(d) [Reserved]

(e) Payment to a sponsor for net Program costs shall not exceed 92.75 cents for each lunch or supper, 51.50 cents for a breakfast and 24.25 cents for supplemental food: *Provided, however*, That the total Program payments paid to a sponsor for net Program cost do not exceed the lesser of: (1) the above rates times the meals by type actually served to eligible children during the Program operation, or (2) the actual net Program costs.

(f)-(h) [Reserved]

##### § 225.13 Program payment procedures.

(a) and (b) [Reserved]

(c) Not later than June 1, July 15, and August 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance net Program payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however*, That the State agency shall not release the second month's advance net Program payment to any sponsor which has not certified that it has held training sessions for its own personnel, including site personnel, with regard to Program duties and responsibilities. And *provided, further*, That no advance net Program payment shall be made for any month in which the sponsor will serve meals under the Program for less than 10 days. Requests by sponsors for advance net Program payments received less than

30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(d) Each month's advance net Program payment to any sponsor shall be in an amount equal to: (1) the total net Program payment for meals served by such sponsor in the same calendar month of the preceding calendar year, or (2) 50 percent of the amount determined by the State agency to be needed by the sponsor for meals, if the sponsor contracts with a food service management company, or (3) 65 percent of the amount determined by the State agency to be needed by the sponsor for meals for that month, if the sponsor prepares its own meals, whichever amount is greater: *Provided, however*, That the advance net Program payment may not exceed the total amount estimated by the State agency to be needed by the sponsor for meals to be served in the month for which the advance net Program payment is made.

(e) Not later than June 1 and July 15 of each fiscal year, or in the case of sponsors which operate under a continuous school calendar, the first day of each month of operation, the State agency shall forward advance administrative costs payments to each sponsor if a request for such payment was received from the sponsor no later than 30 days prior to the date for each such payment: *Provided, however*, That (1) the State agency shall not release the second month's advance administrative cost payment to any sponsor until the sponsor has certified that it is operating the number of sites for which the administrative budget was approved, and that there has been no significant change in its projected administrative costs since approval of the administrative budget, (2) no advance administrative costs payment shall be made for any month in which the sponsor will operate under the program for less than 10 days, and (3) in the case of a sponsor that operates less than ten (10) days in June but at least ten (10) days in August, the second month's advance administrative costs payment shall be made on August 15. Requests by sponsors for advance administrative cost payments received less than 30 days preceding the applicable payment date shall be paid by the State agency within 30 days of receipt.

(f) Each sponsor's first month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. Each sponsor's second month's advance administrative costs payment shall be in an amount equal to one-third of the amount established by the State agency to be needed by the sponsor to administer the Program. In



## RULES AND REGULATIONS

the case of sponsors which will operate ten (10) days or more in only one month and thereby will qualify for only one advance administrative costs payment the State agency shall provide an advance administrative costs payment of no less than one-half and no more than two-thirds of the amount established by the State agency to be needed by the sponsor as indicated in its approved administrative budget. The State agency shall forward any remaining payment due to a sponsor no later than 45 days following receipt of valid claims: *Provided, however*, That the State agency shall not pay any sponsor for its final claim until the sponsor has certified that it did operate all sites approved in the administrative budget and that there has been no significant change in the projected administrative costs since the preceding claim or, in the case of sponsors which will receive only one month's advance, that there has been no significant change in the projected administrative costs since payment of the initial advance administrative costs payment. The total Program payment paid to a sponsor for administrative costs shall not exceed the lesser of: (1) the approved administrative budget and any amendments thereto, or (2) actual expenditures incurred for administrative costs, or (3) the per-meal administrative rates con-

tained in § 225.8(c) times meals by type actually served to eligible children.

(g) The total of the advance net Program payment to any sponsor for a given month and the advance administrative costs payment to the same sponsor for the same month shall not exceed \$40,000: *Provided, however*, That a State agency may make advance payments totalling more than \$40,000 to a sponsor for a given month if the State determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and management capability to justify a larger payment.

(h)-(i) [Reserved]

§ 225.14-19 [Reserved]

Subpart D—[Reserved]

(Catalog of Federal Domestic Assistance Program No. 10.559.)

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Dated: January 27, 1978.

CAROL TUCKER FOREMAN,  
Assistant Secretary.  
[FR Doc. 78-2814 Filed 1-30-78; 9:14am]

## proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

## DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 790]

## INCOMPLETE PERFORMANCE BASED UPON ACTION OR ADVICE OF AN AUTHORIZED REPRESENTATIVE OF THE SECRETARY

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: It is proposed that § 790.3 of 7 CFR Part 790 be amended to increase the authority of State ASC committees to approve payment for all cases where a producer acted in good faith based upon the action or advice of a representative of the Secretary and the program payments to the producers amounted to \$1,000 or less. This delegation would eliminate the expense involved in processing such cases at the National level and give States more responsibility in handling State and local matters.

DATES: Comments must be received on or before March 2, 1978.

ADDRESS: Mail comments or objections regarding the proposed change to the Acting Director, Program Appeals Staff, Agricultural Stabilization and Conservation Service, Room 4721, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Arthur Reynolds, Program Appeals Staff, 202-447-6362.

It is proposed that 7 CFR section 790.3 be amended to read as follows:

## § 790.3 Delegation of authority.

The State committee may, in accordance with instructions issued by the Deputy Administrator, State and County Operations, ASCS, exercise the authority provided in this part in programs administered by the ASCS, in cases where the total of any payments and price support extended under this part does not exceed \$1,000.

Signed at Washington, D.C. on January 17, 1978.

WELDON B. DENNY,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-2510 Filed 1-30-78; 8:45 am]

[3410-05]

[7 CFR Part 791]

## AUTHORITY TO MAKE PAYMENTS WHEN THERE HAS BEEN A FAILURE TO FULLY COMPLY WITH THE PROGRAM

AGENCY: Agriculture Stabilization and Conservation Service, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: It is proposed that § 791.3 of 7 CFR Part 791 be amended to delegate to State ASC committees the authority to approve program payments not exceeding \$1,000 in program benefits involving a failure to fully comply with the provisions of a program and classified under 7 CFR Part 791.

Experience has shown that in most failure to fully comply program cases where the Deputy Administrator determined that a producer acted in good faith and was entitled to some program payment, payments to producers amounted to \$1,000 or less. To delegate to State committees the authority to authorize relief in such cases (classified under Part 791) would eliminate the expense involved in processing such cases at the National level and give States more responsibility in handling State and local matters.

DATES: Comments must be received on or before March 2, 1978.

ADDRESS: Mail comments or objections regarding the proposed change to the Acting Director, Program Appeals Staff, Agricultural Stabilization and Conservation Service, Room 4721, South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Arthur Reynolds, Program Appeals Staff, 202-447-6362.

It is proposed that 7 CFR § 791.3 be amended to read as follows:

## § 791.3 Delegation of authority.

The State committee may, in accordance with instructions issued by the Deputy Administrator, State and County Operations, ASCS, exercise the authority provided in this part in programs administered by ASCS, in failure to fully comply cases where the total of any payments and price support extended under this part does not exceed \$1,000.

Signed at Washington, D.C. on January 18, 1978.

WELDON B. DENNY,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 78-2509 Filed 1-30-78; 8:45 am]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1430]

## PRICE SUPPORT PROGRAM FOR MILK

Terms and Conditions of 1977-78 Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal announces that the Secretary of Agriculture is considering the semiannual adjustment in the support price for milk. This proposed rule is being issued pursuant to the requirement in the Food and Agriculture Act of 1977 that the support price for milk shall be adjusted semiannually to reflect any estimated change in the parity index during such semiannual period. The Secretary may also consider other matters pertaining to the milk support program.

DATE: Comments must be received on or before March 2, 1978, to be sure of consideration.

ADDRESS: Director, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Sidney Cohen (ASCS), 202-447-4037.

SUPPLEMENTARY INFORMATION: Section 201(c) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, provides as follows: "The price of milk shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply of pure and wholesome milk to meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet antici-



## PROPOSED RULES

pated future needs. Notwithstanding the foregoing, effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1979, the price of milk shall be supported at not less than 80 per centum of the parity price therefor. Such price support shall be provided through purchases of milk and the products of milk."

Section 201(d) of the act provides as follows: "Effective for the period beginning on the effective date of the Food and Agriculture Act of 1977 and ending March 31, 1981, the support price of milk shall be adjusted by the Secretary at the beginning of each semiannual period after the beginning of the marketing year to reflect any estimated change in the parity index during such semiannual period. . . . Any adjustment under this subsection shall be announced by the Secretary not more than thirty days prior to the beginning of the period to which it is applicable."

Therefore, the adjustment is estimated to require an increase in the support price to about \$9.30 per hundredweight for manufacturing milk beginning April 1, 1978. The support price is for milk of national average milkfat content of 3.67 percent, or \$9.09 for 3.5 milk.

In the October-December quarter, the first 3 months of the 1977-78 marketing year, milk production was 29.2 billion pounds, 2.4 percent more than 1 year ago. Purchases of dairy products by Commodity Credit Corporation (CCC) under the support program between October 1 and December 31 were 12.7 million pounds of butter, 2.1 million pounds of cheese and 68.7 million pounds of nonfat dry milk compared to 39.0 million pounds of butter, 27.1 million pounds of cheese and 45.9 million pounds of nonfat dry milk during the same period a year earlier.

Dairy products acquired under the program are made available for sale or for donation to various domestic and foreign food distribution programs.

## PROPOSED RULE

Notice is hereby given that the Secretary of Agriculture is considering the semiannual adjustment in the level of the support price for milk as required by law, and the prices and terms of purchase by CCC of butter, cheese, and nonfat dry milk.

Prior to making any of the foregoing determinations, consideration will be given to any data, views and recommendations with regard to the determinations which are submitted in writing to the Director, Procurement and Sales Division. In order to be assured of consideration, all submissions must be received by the Director not later than March 2, 1978. All written submissions made pursuant to this notice will be made available for public in-

spection at the Office of the Director, room 5741, South Building, during regular business hours (8:15 a.m.-4:45 p.m.).

This notice of proposed rulemaking is issued under authority of section 201(c) and (d) of the Agricultural Act of 1949, as amended, (63 Stat. 1051, as amended; 7 U.S.C. 1446); and sections 4 and 5 of the Commodity Credit Corporation Act, as amended (62 Stat. 1070, as amended; 15 U.S.C. 714b and 714c).

Signed at Washington, D.C., on January 25, 1978.

RAY FITZGERALD,  
Executive Vice President,  
Commodity Credit Corporation.

(FR Doc 78-2578 Filed 1-30-78; 8:45 am)

## [3410-37]

## Food Safety and Quality Service

(9 CFR Parts 317, 381)

## NET WEIGHT LABELING

## Public Hearing—Correction in Room Number

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of Public Hearing—Correction.

SUMMARY: This document corrects the room number for the public hearing on net weight labeling to be held on February 9, 1978, beginning at 10 a.m.

DATE: The hearing will be held on February 9, 1978.

ADDRESS: Public hearing to be held in Conference Room B, Interdepartmental Auditorium, 1301 Constitution Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Dr. W. J. Minor, Chief Staff Officer, Issuance Coordination Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-6189.

SUPPLEMENTARY INFORMATION: On January 20, 1978, a notice was published in the FEDERAL REGISTER (43 FR 2881) announcing a public hearing to be held concerning proposed amendments to the Federal Meat and Poultry Inspection Regulations on uniform labeling, requirements and uniform procedures for determining compliance with label statements of net contents of containers of meat or poultry products. This notice corrects the room number in which the public hearing will be held to Conference Room B, Interdepartmental Auditorium, 1301 Constitution Avenue NW., Washington, D.C. All other informa-

tion stated in the January 20 notice remains the same.

Done at Washington, D.C., on January 26, 1978.

DONALD L. HOUSTON,  
Acting Administrator,  
Food Safety and Quality Service.  
(FR Doc. 78-2732 Filed 1-30-78; 8:45 am)

## [7590-01]

## NUCLEAR REGULATORY COMMISSION

[10 CFR Part 50]

## CODES AND STANDARDS FOR NUCLEAR POWER PLANTS

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulation, "Codes and Standards," to incorporate by reference a new edition and addenda of a national code that provides rules for the construction of nuclear power plant components. This amendment would provide for the use of updated methods in nuclear power plant construction.

DATES: Comment period expires March 2, 1978.

ADDRESSES: Written comments should be submitted to the Secretary of the Commission, Washington, D.C., 20555, attention: Docketing and Service Section.

FOR FURTHER INFORMATION CONTACT:

Mr. G. C. Millman, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, 301-443-6927.

SUPPLEMENTARY INFORMATION: On July 18, 1977 the Nuclear Regulatory Commission published in the FEDERAL REGISTER (42 FR 36803) an amendment to § 50.55a which provided that the editions of Section III whose requirements must be met included those addenda through the Winter 1976 Addenda.

The 1977 Edition of the referenced American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code has since been issued as has the Summer 1977 Addenda. The Commission proposes to amend § 50.55a to incorporate by reference the 1977 Edition and the Summer 1977 Addenda of Section III of the ASME Boiler and Pressure Vessel Code. The 1977 Edition of Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," of the ASME Code and Section XI addenda since the Summer 1975 Addenda are still being evaluated by the staff and are expected to be referenced with modifi-

cations in a subsequent amendment to the regulations.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendment to 10 CFR Part 50 is contemplated. All interested persons who wish to submit written comments or suggestions in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section by March 2, 1978. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

In § 50.55a of 10 CFR Part 50, paragraph (b) is revised to read as follows:

## § 50.55a Codes and Standards.

Each operating license for a boiling or pressurized water-cooled nuclear power facility shall be subject to the conditions in paragraph (g) and each construction permit for a utilization facility shall be subject to the following conditions in addition to those specified in § 50.55:

(b)(1) As used in this section, references to Section III of the ASME Boiler and Pressure Vessel Code refer to Section III, Division 1, and include editions through the 1977 Edition and addenda through the Summer 1977 Addenda.

(2) As used in this section, references to Section XI of the ASME Boiler and Pressure Vessel Code include editions of Section XI only through the 1974 Edition and addenda only through the Summer 1975 Addenda.

(Secs. 103, 104, 161i, Pub. L. 83-703; 68 Stat. 936, 937, 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2133, 2134, 2201(i), 5841).)

Dated at Bethesda, Md., this 19th day of January 1978.

These incorporations by reference provisions were approved by the Director of the Federal Register on March 17, 1972 and May 4, 1973.

## PROPOSED RULES

For the Nuclear Regulatory Commission.

LEE V. GOSSICK,  
Executive Director for Operations.  
(FR Doc. 78-2621 Filed 1-30-78; 8:45 am)

## [6714-01]

## FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 337]

## UNSAFE AND UNSOUND BANKING PRACTICES

## Insider Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed amendments to regulation.

SUMMARY: The FDIC proposes to amend its regulation dealing with "insider transactions" of insured State nonmember banks to: (1) Specify the circumstances under which the FDIC considers an insider transaction to be an unsafe or unsound banking practice; (2) make clear that the FDIC will take appropriate supervisory action when it determines that an insider transaction is an unsafe or unsound banking practice; (3) clarify what transactions are subject to the regulation's requirements; (4) clarify the regulation's recordkeeping requirements; and (5) prescribe specific reporting and review requirements with respect to correspondent accounts and certain bank stock loans. The proposed amendments are generally designed to clarify the FDIC's policy with respect to insider transactions and to respond to questions that have been raised since the FDIC's insider transaction regulation took effect on May 1, 1976.

DATE: Comments must be received on or before March 10, 1978.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments submitted will be made available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT:

Alan J. Kaplan, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, telephone 202-389-4433.

SUPPLEMENTARY INFORMATION: The FDIC's insider transaction regulation (12 CFR 337.3) took effect on May 1, 1976. As was stated at the time of its proposals and adoption, the regulation is aimed at minimizing abusive self-dealing by "insiders" of insured State nonmember banks through the

establishment of procedures designed: (1) To ensure that bank boards of directors supervise insider transactions effectively, and (2) to better enable FDIC examiners to identify and analyze such transactions. The regulation seeks to achieve these goals by prescribing review, approval, and record-keeping requirements with respect to certain transactions which are defined in the regulation as "insider transactions."

In addition, the regulation currently in effect states that, notwithstanding compliance with the prescribed review and approval requirements, the FDIC will take appropriate supervisory action (including, in an appropriate case, the institution of formal proceedings under section 8 of the Federal Deposit Insurance Act) against the bank, its officers, directors, or trustees if the FDIC determines that an insider transaction is indicative of unsafe or unsound practices. The regulation lists several factors which the FDIC will consider in determining the presence of unsafe or unsound banking practices involving insider transactions, but does not specifically describe the circumstances under which an insider transaction will be considered an unsafe or unsound banking practice.

Since the regulation took effect, questions have been raised from time to time as to the proper interpretation of various provisions and as to the FDIC enforcement policy with respect to those insider transactions that may involve abusive self-dealing. Accordingly, the FDIC has reviewed the regulation in light of the purposes it was designed to serve and now proposes to amend the regulation to better achieve those purposes and to promote greater clarity and understanding.

Numerous provisions of the regulation have been rewritten for purposes of clarity and readability, without affecting the substance of the regulation. However, a number of substantive amendments are also proposed, the most significant of which are described as follows:

1. A new definition would be added, defining the term "preferential" as it is applied to insider transactions. Under this definition, an insider transaction is preferential if, in light of all the circumstances, an insider or person related to an insider obtains a benefit or advantage which would not be afforded in a comparable arm's length transaction to a noninsider of comparable creditworthiness or otherwise similarly situated.

2. A new provision would be added to specify those circumstances under which the FDIC considers an insider transaction to be an unsafe or unsound banking practice. Under this provision, an insider transaction is an unsafe or unsound banking practice if the transaction is preferential and re-



suits in, or is likely to result in, loan loss, excessive cost, undue risk, or other economic detriment to the bank. The regulation would also make clear that the FDIC will take appropriate supervisory action against a bank whose insider transactions are found to be unsafe or unsound. Depending on the nature of the transaction and the circumstances involved, such supervisory action may range from informal efforts to obtain voluntary correction to, in an appropriate case, institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Technical compliance with the regulation's review, approval, and recordkeeping requirements would not be considered justification for an insider transaction which is an unsafe or unsound banking practice.

Thus, in order to dispel any confusion that may exist with respect to the current regulation, the proposed amendments would make it clear that the FDIC will not tolerate any insider transaction that affords preferential treatment to an insider or a person related to an insider and results in, or is likely to result in, economic detriment to the bank. Insured State nonmember banks can and should expect such transactions; should they occur, to be the subject of examiner comment and FDIC supervisory action.

With reference to the factors enumerated in subsection (g) of the current regulation which the FDIC will consider in determining the presence of unsafe or unsound banking practices involving insider transactions, two of those factors have been deleted in the proposed amendments in favor of a revised single standard. It should be emphasized, however, that the revised single standard is not intended to be narrower in scope than the three factors enumerated in present subsection (g).

It should also be emphasized that any insider transaction that meets the stated criteria will be considered an unsafe or unsound banking practice, regardless of the dollar amount of the transaction. The inclusion in the regulation of a schedule of minimum dollar amounts which "trigger" the regulation's review, approval, and recordkeeping requirements in no way limits the FDIC's ability to take supervisory action against a bank that enters into an insider transaction which is an unsafe or unsound banking practice, even if the dollar amount of the transaction falls below the applicable "triggering amount."

3. A new provision would be added relating specifically to correspondent accounts. It would require each insider to report in writing to the bank's board of directors all loans or other extensions of credit that are both: (a) Made by a financial institution with which the bank maintains a correspon-

dent account, and (b) made for the purpose of enabling the insider, the insider's spouse, or any relative of the insider who lives in the insider's home to purchase, carry, or own a beneficial interest in securities issued by the bank, its holding company, or any other insured bank or holding company of an insured bank. The report would state the terms and conditions of the loan, including certain specified information, and would be kept with the bank's insider transaction records.

The bank's board of directors would be required to review at least annually, all of the bank's correspondent accounts with other financial institutions. The purpose of the review would be to ensure that such accounts are fair to and in the best interests of the bank. In making the review, the board would be required to consider all relevant facts, including the bank stock loans reported by insiders.

In addition to this specific provision, any deposit placed by a bank in another financial institution to compensate that institution for making a loan to an insider of the bank would be considered an "insider transaction" under amended paragraph (a)(8)(iii) and would therefore be subject to the regulation's review, approval, and recordkeeping requirements.

4. The definition of "person related to an insider" would be expanded to include certain relatives of an insider not covered by the present regulation (e.g., brothers, sisters, spouse's parents).

5. The definition of "business transactions" would be substantially revised. Instead of listing certain examples of such transactions, as the present regulation does, the revised regulation would simply define "business transaction" to mean "any arrangement, activity, or transaction," except those specifically excluded. The "exceptions" relating to trust activities and activities undertaken in the capacity of securities transfer agent or municipal securities dealer would be deleted. In addition, the exception for "credit card transactions" would be restricted to those which are "pursuant to standard credit provisions applied and enforced equally as to all credit card customers of the bank," and the exception for "deposit account activities" would be restricted to those "involving the bank as depository (other than payment by the bank of interest on time deposits of \$100,000 or more)."

6. The definition of "series of related business transactions," currently in a footnote, would be placed in the main text.

7. In the definition of "insider transaction," the phrase "inures to the tangible economic benefit of" would be changed to "results in economic benefit to." It is believed that the new language would be more easily understood.

8. The bank's board of directors would be required to review and approve an insider transaction prior to consummation of the transaction, unless prior review and approval are clearly impractical, in which case review and approval would be required to occur no later than the next regularly scheduled board meeting following consummation of the transaction. In those cases in which approval is given following consummation of the transaction, the board's minutes would be required to include a statement of the reasons why the board found prior review and approval to be clearly impractical.

9. The following additional amendments to the regulation's review and approval requirements are proposed:

(a) The phrase "[an insider transaction] involving assets or services having a fair market value amounting to more than" would be replaced by the phrase "[an insider transaction that] involves an amount greater than," along with a clarifying footnote; (b) the minutes of the meeting at which approval is given would be required to expressly indicate that the board recognized the transaction to be an insider transaction; and (c) review and approval of a "series of related business transaction" would be required to occur at least annually.

10. The regulation's recordkeeping provisions would be amended in the following respects: (a) Each file containing documents or information relating to an insider transaction would have to be conspicuously marked as such and would have to be cross-referenced to the minutes of the meeting at which the board approved the transaction; and (b) each such file would be required to include sufficient information and documentation to enable the board to make an informed decision as to approval or disapproval, including such information and documentation as the bank would require of a noninsider in a comparable transaction.

11. The existing provision relating to the discovery by the bank of an insider relationship after entering into a transaction requiring review and approval would be deleted.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation hereby proposes to amend 12 CFR Part 337 by revising § 337.3 to read as follows:

#### § 337.3 Insider transactions.

(a) *Definitions.*—(1) *Bank.* The term "bank" means an insured State nonmember commercial or mutual savings bank and any majority-owned subsidiary of such bank.

(2) *Person.* The term "person" means a corporation, partnership, association, or other business entity; a trust; or a natural person.

(3) *Control.* The term "control" (including the terms "controlling," "con-

trolled by," and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities, by proxy to vote such securities, by contract, or otherwise.

(4) *Insider.* The term "insider" means:

(i) Any director or trustee of a bank;

(ii) Any officer or employee of a bank who participates or has authority to participate in major policymaking functions of the bank;

(iii) Any person who has direct or indirect control over the voting rights of ten percent or more of the shares of any class of voting stock of a bank; or

(iv) Any person who otherwise controls a bank.

(5) *Person related to an insider.* The term "person related to an insider" means:

(i) A corporation, partnership, association, other business entity, or trust which controls, is controlled by, or is under common control with an insider; and

(ii) A natural person who is:

(A) An insider's spouse (except where legally separated);

(B) A parent or stepparent of an insider's spouse;

(C) An insider's parent, stepparent, child, stepchild, brother, stepbrother, half-brother, sister, stepsister, or half-sister; or

(D) Any other relative of an insider who lives in the insider's home.

(6) *Business transaction.* The term "business transaction" means any arrangement, activity, or transaction, except: charitable transactions; deposit account activities involving the bank as depository (other than payment by the bank of interest on time deposits of \$100,000 or more); safekeeping transactions; and credit card transactions pursuant to standard credit provisions applied and enforced equally as to all credit card customers of the bank.

(7) *Series of related business transactions.* The phrase "series of related business transactions" includes business transactions which are in substance part of an integrated business arrangement or relationship, such as borrowings under a single line of credit, law firm billings, or recurring transactions of a similar nature within a holding company system.

(8) *Insider transaction.* The term "insider transaction" means any business transaction or series of related business transactions between a bank and:

(i) An insider of the bank;

(ii) A person related to an insider of the bank;

(iii) Any other person where the transaction results in economic benefit

to an insider of the bank or a person related to an insider of the bank; or

(iv) Any other person where the transaction is engaged in or made in contemplation of such person becoming an insider of the bank.

(9) *Preferential.* An insider transaction is "preferential" if, in light of all the circumstances, an insider or person related to an insider obtains a benefit or advantage which would not be afforded in a comparable arm's length transaction to a noninsider of comparable creditworthiness or otherwise similarly situated.

(b) *Unsafe or unsound banking practices involving insider transactions; supervisory action.* (1) An insider transaction is an unsafe or unsound banking practice if the transaction is preferential and results in, or is likely to result in, loan loss, excessive cost, undue risk, or other economic detriment to the bank.

(2) The Corporation will take appropriate supervisory action against a bank, its officers, or its directors or trustees when the Corporation determines that an insider transaction, alone or when aggregated with other insider transactions, is an unsafe or unsound banking practice. Such supervisory action may consist of informal efforts to obtain voluntary correction of the unsafe or unsound banking practice or, in an appropriate case, may involve institution of formal proceedings under section 8 of the Federal Deposit Insurance Act. Compliance with the review, approval, and recordkeeping requirements of this section will not relieve the officers, directors, or trustees of a bank of their duties to conduct the bank's operations in a safe and sound manner, and will not be considered justification for an insider transaction which is found to be an unsafe or unsound banking practice.

(c) *Review and approval of certain insider transactions.* (1) A bank's board of directors or board of trustees shall specifically review and approve each insider transaction that, either alone or when aggregated in accordance with paragraph (d) of this section, involves an amount greater than:

(i) \$20,000, if the bank has not more than \$100,000,000 in total assets;

(ii) \$50,000, if the bank has more than \$100,000,000 but not more than \$500,000,000 in total assets; or

\*If the transaction involves a disbursement of funds or an obligation to disburse funds by the bank, then the "amount" referred to in the text is the amount disbursed or the maximum amount which the bank is obligated to disburse. If the transaction involves payment by the bank of interest on time deposits of \$100,000 or more, then the "amount" referred to in the text is the principal amount of the time deposit.

(iii) \$100,000, if the bank has more than \$500,000,000 in total assets.

Such review and approval shall occur prior to consummation of the transaction, unless prior review and approval are clearly impractical, in which case review and approval shall occur no later than the next regularly scheduled meeting of the bank's board of directors or board of trustees following consummation of the transaction.

(2) When an insider transaction is part of a series of related business transactions involving the same insider, approval of each separate transaction is not required so long as the bank's board of directors or board of trustees has reviewed and approved the entire series of related transactions and the terms and conditions under which such transactions may take place. Any series of related business transactions shall be reviewed and approved at least annually.

(3) The minutes of the meeting at which approval is given shall (i) indicate the nature of the transaction and the parties thereto, (ii) expressly indicate that the board recognized the transaction to be an insider transaction, that review was undertaken, and that the transaction was approved or disapproved, and (iii) state the names of each director or trustee who voted to approve or disapprove the transaction or abstained from voting. In the case of negative votes, a brief statement of each dissenting director's or trustee's reason for voting to disapprove the proposed insider transaction shall be included in the minutes if its inclusion is requested by the dissenting director or trustee. In those cases in which approval is given following consummation of the transaction, the minutes shall also include a statement of the reasons why the board found prior review and approval to be clearly impractical.

(d) *Aggregation of insider transactions.* For purposes of subsection (c) of this section, any loan or extension of credit involving an insider shall be aggregated with the outstanding balances of all other loans or extensions of credit involving that insider. A loan or extension of credit involves a specific insider when the loan or extension of credit is made to that insider, to a person related to that insider, or to any other person where the loan or extension of credit results in economic benefit to that insider or a person related to that insider.

(e) *Records and information pertaining to insider transactions.* (1) Each bank shall maintain a record of, and information pertaining to, insider transactions requiring review and approval under this section. To facilitate examiner review, such records and information shall (i) be readily accessible to examiners, (ii) be kept in a



## PROPOSED RULES

manner and form that will enable examiners to readily identify all insider transactions which require review and approval under this section, and (iii) be cross-referenced to the minutes of the board of directors' or board of trustees' meeting at which the insider transaction was approved. Each file containing documents or other information relating to an insider transaction shall be clearly and conspicuously marked as such.

(2) The records and information relating to insider transactions shall describe fully and accurately all insider transactions requiring review and approval under this section, and shall include all documents and other material relied upon by the board in approving each such transaction, including the name of the insider, the insider's position or relationship that causes him to be considered an insider, the date on which the transaction was approved by the board, the type of insider transaction, and the relevant terms of the transaction. The file relating to each such transaction shall include sufficient information and documentation to enable the board to make an informed decision as to approval or disapproval, including such information and documentation as the bank would require of a noninsider in a comparable transaction.

(f) *Disclosure of proposed insider transactions.* Any insider having knowledge of an insider transaction or a proposed insider transaction involving that insider or a person related to that insider shall give timely notice of such transaction to the bank's board of directors or board of trustees.

(g) *Correspondent accounts.* (1) A bank's board of directors or board of trustees shall periodically review (at least annually) all of the bank's correspondent accounts with other financial institutions to ensure that such accounts are fair to and in the best interests of the bank. In making the review, the board shall consider all relevant facts and circumstances, including the loans and other extensions of credit reported under paragraph (2) of this subsection (g). The board's minutes shall recite the details and findings of the review.

(2) Each insider shall report in writing to the board of directors or board of trustees of the bank all loans or other extensions of credit that are both (i) made by a financial institution with which the bank maintains a correspondent account and (ii) made for the purpose of enabling the insider, the insider's spouse, or any relative of

\*Compliance with the provisions of this subsection (g), or of §337.3 generally, should not be construed to affect in any manner the liability of any person under 18 U.S.C. 656 for willful misapplication of bank funds.

the insider who lives in the insider's home to purchase, carry, or own a beneficial interest in securities issued by the bank, its holding company, or any other insured bank or holding company of an insured bank.<sup>2</sup> The report shall be kept with the records maintained by the bank with respect to insider transactions and shall state the terms and conditions of each loan or extension of credit, including the following information:

(A) A brief description of the loan or other extension of credit;

(B) The parties thereto or affected thereby;

(C) The identity and relation to the bank of the insider involved; and

(D) The principal terms and conditions of the loan or other extension of credit (in the case of a loan, these would include the principal amount; term or maturity; interest rate; description and valuation of collateral pledged; purpose of loan; repayment schedule; and source of repayment).

(Sec. 218), Pub. L. 797, 64 Stat. 879, as amended, Pub. L. 89-895, 80 Stat. 1046 (12 U.S.C. 1818); sec. 2191, Pub. L. 797, 64 Stat. 881-82 (12 U.S.C. 1819).)

By order of the Board of Directors dated January 25, 1978.

For the Federal Deposit Insurance Corporation.

ALAN R. MILLER,  
Executive Secretary.

[FR Doc. 78-2589 Filed 1-30-78; 8:45 am]

[6750-01]

## FEDERAL TRADE COMMISSION

[16 CFR Part 704]

## CALCULATION OF DEPRECIATION DEDUCTION FOR REFUNDS UNDER FULL WARRANTIES ON CONSUMER PRODUCTS

Termination of Rulemaking Proceeding and Statement of Reason

AGENCY: Federal Trade Commission.  
ACTION: Termination of Rulemaking Proceeding.

SUMMARY: On June 1, 1976, the Commission published for comment a proposed Rule implementing section 101(12) of Title 1 of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, Pub. L. 93-637 (15 U.S.C. 2301 et seq.) ("the Act"). The proposed Rule would permit a warrantor of a consumer product with a full warranty to make a deduction for depreciation based on actual use when fulfilling its duty to refund the actual purchase price under the Act. The Commission has

<sup>2</sup> As used in this sentence, the term "insured bank" includes any national bank, State member bank, or insured State non-member bank.

analyzed the comments received and has concluded that promulgation of a final Rule would not be in the public interest. The Commission has also decided that its action with respect to the proposed Rule does not foreclose the opportunity for future rulemaking to implement section 101(12) of the Act. The Commission has therefore determined that further proceedings may be initiated pursuant to petition filed by any interested person or group as provided by section 1.25 of the Commission's Rules of Practice and Procedure.

DATES: Effective immediately.

ADDRESSES: Petitions for rulemaking should be addressed to: Secretary, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Deirdre Shanahan, Division of Special Statutes, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

## HISTORY OF THE PROCEEDING

Pursuant to sections 101(12) and 109 of the Act, the Commission conducted a proceeding for the promulgation of a Rule permitting a warrantor of a consumer product with a full warranty to make a deduction for depreciation based on actual use when fulfilling its duty to refund the actual purchase price of a consumer product under Section 104(a) of the Act.

Notice of this proceeding, including a proposed Rule, was published in the FEDERAL REGISTER on June 1, 1976 (41 FR 22099). The Notice urged all interested parties to express their approval or disapproval of the proposed Rule, or to recommend revisions thereof and to give a full statement of their views, supplemented by all appropriate documentation. In addition, the Notice solicited comment on specific issues or provisions of the proposed Rule which were deemed important in the establishment or operation of a mechanism for calculating a depreciation deduction. The documents supporting the proposed Rule, and a report of the Commission staff discussing the proposed Rule and the supporting documentation were placed on the public record and made available for examination and copying.

Interested parties were afforded the opportunity to participate in the proceeding through the submission of written data, views, and arguments, and to appear and express their views orally at a public hearing scheduled to commence on August 9, 1976 in Washington, D.C. A period of 60 days was allowed for submission of written comments on the proposed Rule. The public hearing was cancelled due to

the lack of requests to make an oral presentation. Notice of the cancellation was published in the FEDERAL REGISTER on August 6, 1976 (41 FR 32911). The public record remained open for 30 days following the cancellation of the public hearing for receipt of any other written data, views, or arguments.

Upon careful analysis and review of the written comments, the Commission has concluded that promulgation of a final Rule would not be in the public interest. The proposed Rule, the record, and the rationale for termination of this proceeding are discussed below. The termination of this rulemaking proceeding is within the Commission's administrative discretion and is supported by substantial evidence on the record of this proceeding.

## STATEMENT OF REASON FOR TERMINATION OF RULEMAKING PROCEEDING

## I. BACKGROUND OF THE PROPOSED RULE

Section 104 of the Act establishes Federal minimum standards for full warranties. Section 104(a) sets forth the minimum duties that a warrantor must assume under a full warranty on a consumer product. These duties include, inter alia, the following:

(1) Such warrantor must as a minimum remedy such consumer product within a reasonable time and without charge, in the case of a defect, malfunction, or failure to conform with such written warranty; . . .  
(4) If the product (or a component part thereof) contains a defect or malfunction after a reasonable number of attempts by the warrantor to remedy defects or malfunctions in such product, such warrantor must permit the consumer to elect either a refund for, or replacement without charge of, such product or part (as the case may be).

The term "remedy" as defined in section 101 (10) allows the warrantor to elect repair, replacement, or refund "except that the warrantor may not elect refund unless: (i) the warrantor is unable to provide replacement and repair is not commercially practicable or cannot be timely made or (ii) the consumer is willing to accept such refund." Thus, a duty to refund may arise in three situations: the two specified in the definition of "remedy" and, under section 104(a) (4), where the warrantor is unable to remedy defects or malfunctions in a product after a reasonable number of attempts.

The term "refund" is defined in section 101(12) as "refunding the actual purchase price (less reasonable depreciation based on actual use where permitted by rules of the Commission)." This provision and section 109 of the Act provided the authority for promulgating the proposed Trade Regulation Rule.

The purpose of the proposed Rule is illuminated by the legislative history

## PROPOSED RULES

of section 101(12). As indicated in the Conference Report,<sup>1</sup> the Senate bill required a warrantor to refund in full the actual purchase price of a consumer product. The House amendment inserted a substitute text which allowed a warrantor to make a deduction from the actual purchase price for depreciation based on actual use.<sup>2</sup> The substitute agreed to in conference modified the House amendment and provided that a warrantor may make a deduction for reasonable depreciation based on actual use, where that deduction is permitted by rules of the Federal Trade Commission.<sup>3</sup> The intent behind the conference substitute was to eliminate any possible inequities resulting from the refund requirement under Section 104(a) of the Act based on the rationale that a full refund might constitute unjust enrichment of a consumer where the product has performed as warranted prior to refund.<sup>4</sup>

The Commission stated its intent to promulgate a Rule permitting a deduction for depreciation in its policy statement regarding the implementation and enforcement of the Act.<sup>5</sup>

In addition, the Commission considers rulemaking under Section 101(12) regarding depreciation for purposes of refunds under the Act a priority matter. Although this rule is not mandatory, the Commission had directed the staff to prepare such a rule for publication at the earliest possible date.<sup>6</sup>

## II. GENERAL BASIS FOR THE PROPOSED RULE

Aside from the statutory language contained in section 101(12) of the Act, Congress enunciated no standards or requirements for the form and conduct of the proposed Rule.<sup>7</sup> The statutory language imposes two constraints

<sup>1</sup>R1-2, 4, Conference report on S. 356 (H. Rept. 93-1606) (herein-12058 (daily ed. Dec. 16, 1974)). (Note: References to the public record of this proceeding, FTC File 215-57, are hereinafter designated by the prefix "R." R1-2, 4, and similar designations in this statement refer to the volume number (1-2) and document number (4).)

<sup>2</sup>Section 101(7) of the House amendments to the bill defines the term, refund, as "refunding the actual purchase price (less depreciation based on actual use)." See R1-2, 5, 120 Cong. Rec. H9409 (daily ed.) Sept. 19, 1974.

<sup>3</sup>R1-2, 4, Section 101(12), conference report, H12052.

<sup>4</sup>R1-2, 6, 120 Cong. Rec. H12348 (daily ed.) Dec. 19, 1974.

<sup>5</sup>R1-2, 7, "Consumer Product Warranties Statement of Implementation and Enforcement Policy" 40 FR-25721 (June 18, 1975).  
<sup>6</sup>Id., at 25724.

<sup>7</sup>The House amendment allowing a deduction for depreciation was based on the substitute text of H.R. 7917. However, the legislative history of this bill sheds no light on section 101(12).

on the proposed Rule. The deduction permitted by the Act must represent depreciation which is "reasonable" and "based on actual use". The implications for the proposed Rule are presented below.

## (A) Depreciation

Four basic meanings are attributed to the term "depreciation".<sup>8</sup> The first meaning, "impaired serviceability", is the engineering concept of depreciation and refers to the value of an asset measured by its functional efficiency. The second, "difference in value between an existing old asset and a hypothetical new asset", represents the appraisal concept of depreciation and reflects the value inferiority at the date of the appraisal of one asset, the existing old one being appraised, to another asset, a hypothetical new one used as the basis of valuation. The third, "decrease in value", is commonly referred to as the economic concept of depreciation and is based on the computation of the value of an asset at two different dates. The fourth, "amortized cost", is the accounting concept of depreciation and constitutes a process of allocation rather than valuation; the cost or other basis of the asset is allocated over its estimated useful life in proportion to the expiration of benefits derived from its use.

Each of these four concepts was evaluated in terms of its suitability as the basis of the proposed Rule.<sup>9</sup> The first three concepts listed above were rejected on two grounds. First, each of these concepts failed to comply with the statutory language of section 101(12), "reasonable depreciation based on actual use".<sup>10</sup> Additionally, use of the engineering concept would be incompatible with the purpose of refund, a remedy for a defective consumer product, since the depreciation deduction would represent the decrease in value resulting from the impaired serviceability. Second, none of these concepts constituted a viable method of computing depreciation for the purposes of the proposed Rule. The unavailability of satisfactory sources of current market value data necessary to calculate economic depreciation<sup>11</sup> and the complex and subjective valuations entailed in determining appraisal and engineering depreciation<sup>12</sup> negated the possibility of adopting these concepts as the basis of the proposed Rule.

<sup>8</sup>R1-2, 84, E. Grant and P. Norton Jr., Depreciation, at 11-14 (1949) (hereinafter referred to as "Grant and Norton").

<sup>9</sup>See R1-2, 2, staff report, at 7-17.

<sup>10</sup>See id., at 9-14.

<sup>11</sup>See id., at 14-17.

<sup>12</sup>See id., at 9-12.



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The fourth concept, accounting depreciation, however, satisfied both criteria.<sup>10</sup> This concept complied with the statutory language of Section 101(12) insofar as it would be possible to apportion the actual purchase price to the period during which the product performed as warranted and thereby determine the value of the use derived from the product prior to refund. In addition, computation of depreciation under this concept would be feasible. Depreciation is determined by two factors, the method of allocation and useful life.<sup>11</sup> Computation of depreciation requires only a selection of one of the methods of allocation recognized in the accounting field and a "reasonably accurate estimate"<sup>12</sup> of the useful life. For these reasons, the accounting concept was adopted as the basis of the proposed Rule.

## (B) Method of Allocation

The formulation of a proposed Rule based on an accounting concept of depreciation requires a determination of the method of allocation to be employed in computing the depreciation charge. The most commonly used depreciation methods are grouped into two main categories: depreciation as a function of use and depreciation as a function of time.

Depreciation as a function of use allocates the cost of the asset in proportion to its actual use. Although this method is consistent with the purposes of the Rule, practical considerations militated against its adoption. Under this method, the life of an asset is estimated in terms of hours of use, or in the case of transportation equipment, miles of use. However, since consumer products other than automobiles are not marketed with a device which will measure the amount of use,<sup>13</sup> there would be no reliable means of estimating either the useful life or actual use of the product. The selection of the method of allocation was therefore restricted to the alternatives under the second category, depreciation as a function of time.

The methods of calculating depreciation as a function of time are subdivided into the straight-line method

and accelerated methods.<sup>14</sup> The basic difference between these two methods is that under straight-line, the charge for depreciation is the same in the first years of the useful life of an asset as in the last years. Under accelerated methods, the charges for depreciation decrease over the useful life.

These two methods were evaluated from the standpoint of both theory and industry practice.<sup>15</sup> The straight-line method was selected for two reasons. First, under accounting theory, use of an accelerated method is justified on the grounds that the straight-line method does not compensate for the decreased efficiency and increased maintenance costs in the latter years of the product's life<sup>16</sup> and assumes that the process of physical deterioration occurs uniformly over time.<sup>17</sup> However, use of an accelerated method can be equally arbitrary since the service value of a product does not necessarily decline in the ratio assumed by such method.<sup>18</sup> Further, in the absence of concrete information on the probable rate of actual depreciation in the future, the straight-line method has the advantage of simplicity.<sup>19</sup> Second, selection of the straight-line method has been widely used over a considerable period of years for income tax and accounting purposes by the business community.<sup>20</sup> Warrantors, therefore, have had the benefit of long-term experience with this method. More importantly, the straight-line method is currently employed by the retail sector in calculating refunds for products that cannot be repaired or serviced<sup>21</sup> and in computing the ownership charge under pro rata warranties.<sup>22</sup> Further, guidelines on property depreciation used by the insurance industry and others in connection with casualty/loss adjustments are based on the straight-line method,<sup>23</sup> indicating that this method is appropriate for the majority of consumer products.

In the absence of any theoretical justification for an accelerated

<sup>10</sup>See R1-2, 82, Davidson, at 18-11.

<sup>11</sup>See R1-2, 2, staff report, at 20-22.

<sup>12</sup>This argument has greater relevancy to depreciation for tax purposes where the taxpayer is recovering his/her cost in the property. This would not be the case where a consumer purchases a product for personal, family or household use.

<sup>13</sup>R1-2, 83, Bernstein, at 196-197.

<sup>14</sup>R1-2, 12, interview with David Painter, Accountant, Bureau of Economics, Federal Trade Commission, Washington, D.C.

<sup>15</sup>R1-2, Bernstein, at 196.

<sup>16</sup>R1-2, 85, J. Chommie, Federal Income Taxation, at 179 (1973). See also R1-2, 89, Grant and Norton, at 87, 91.

<sup>17</sup>R1-2, 40 telephone interview with R. E. Cofran, chief, product servicing and quality control division, Sears, Roebuck and Co., Chicago, Ill.

<sup>18</sup>Id.

<sup>19</sup>See R1-2, 2, staff report, at 16-17, 24.

method, therefore, both industry practice and ease of calculation furnished compelling reasons for the selection of the straight-line method.

## (C) Useful Life

Under the accounting concept, the integrity of the depreciation charge is dependent on a reasonably accurate estimate of useful life.<sup>24</sup> The possibility of specifying in the proposed Rule the useful life estimates which would be used in calculating the deduction for depreciation was explored. This approach was rejected for two reasons: (1) available useful life figures are not suitable for our purposes; (2) certain policy considerations suggest that the warrantor should be allowed to prescribe the useful life of consumer products.

1. Possible sources of useful life figures. In computing depreciation for accounting purposes, most firms use the lives designated by the Internal Revenue Service.<sup>25</sup> These lives presumably reflect the average life of products in commercial use.<sup>26</sup> The statutory language, "depreciation based on actual use", refers to consumer use. Since a product in consumer use would normally have a longer useful life than one in commercial use,<sup>27</sup> Internal Revenue Service's lives would not be suitable as useful life figures for the proposed Rule. Inquiries to possible sources of information on the useful life of consumer products<sup>28</sup> disclosed that there is little data on the estimated useful life of products in consumer use. Manufacturers were not a fruitful source of useful life figures.

Aside from a few isolated market surveys,<sup>29</sup> manufacturers generally do not collect product information beyond the warranty period.<sup>30</sup> Although life testing of consumer products is conducted, there is no satisfactory technique for translating the findings from such studies into estimates of useful life under conditions

<sup>24</sup>See note 15 supra.

<sup>25</sup>R1-2, 82, Davidson, Ch. 18, at 18-5 through 18-18.

<sup>26</sup>See R1-2, 2, staff report, note 52, at 23.

<sup>27</sup>R1-2, 28, telephone interview with Marilyn Ruffin, Home Economist, Consumer Food and Economic Research Institute, Agricultural Research Service, U.S. Department of Agriculture, Rockville, Md. R1-2, 34, telephone interview with Sheldon Lee, manager of marketing planning, Whirlpool Corp., Benton Harbor, Mich.

<sup>28</sup>See R1-2, 2, staff report, note 54, at 23.

<sup>29</sup>See R1-2, 23, telephone interview with J.B. DeWolf, section chief, Charles Stark Draper Laboratory, Inc., Cambridge, Mass.

<sup>30</sup>See R1-2, 2, staff report, at 25-34.

<sup>31</sup>See R1-2, 23, J.B. DeWolf.

of consumer use.<sup>31</sup> The lack of data on the useful life of products may be attributable to the fact that manufacturers are reluctant to gather information on the useful lives of their products due to the potential risk of misinterpretation by consumers. The manufacturers' concern is that a useful life figure be misconstrued as a warranty.<sup>32</sup>

The estimates of useful life which were obtained were derived from the following sources: the insurance industry, Massachusetts Institute of Technology, Whirlpool Corporation, and the Federal Government, including the Department of Transportation, the Department of Agriculture, and the General Services Administration. The basis of the estimates derived from each source was analyzed to determine whether such estimates would be suitable as mandatory useful life figures for the proposed Rule.<sup>33</sup> All of the estimates were found to be unacceptable for two reasons. First, with the exception of the estimates obtained from the Department of Agriculture, the validity of these estimates was susceptible to challenge due to deficiencies in the methodology employed to measure useful life.<sup>34</sup> Second, none of the estimates were based on a definition of useful life which was appropriate and meaningful for the purposes of the proposed Rule.<sup>35</sup> In most instances, adoption of an estimate based on these definitions could have the inequitable effect of limiting the duty to refund to a period of time shorter than the duration of the warranty. These two limitations therefore negated the utility of the available useful life estimates as mandatory useful life figures to be used in calculating the deduction for depreciation under the proposed Rule.

2. Policy considerations. Since the rationale underlying section 101(12) is that a refund requirement which does not allow a deduction for depreciation may be inequitable in many circumstances, the Commission initially determined that a comprehensive rule which permits warrantors of all consumer products to make such a deduction would be the fairest approach for implementing the Act. However, a comprehensive rule is feasible at present only if the warrantor rather than

<sup>32</sup>See R1-2, 79, J. Pennock and C. Jaeger, "Estimating the Service Life of Household Goods by Agricultural methods" 52 *Amer. Stat. Assoc. J.* 175 (1957); R1-2, 87, Ruffin and Tippett, at 162-163.

<sup>33</sup>R1-2, 20, telephone interview with Norman Pugh, Government and technical liaison, product testing laboratory, Sears, Roebuck and Co., Chicago, Ill. R1-2, 37, telephone interview with Robert Lund, senior research associate, center for policy alternatives, Massachusetts Institute of Technology, Cambridge, Mass.

<sup>34</sup>See R1-2, 2, staff report at 25-34.

<sup>35</sup>See R1-2, 25, 28-32.

<sup>36</sup>See R1-2, 23, 29-31, 33-34.

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the Commission establishes the useful life figure upon which the deduction would be calculated.

Assuming arguendo that the estimates set forth in the preceding section would be suitable for incorporation into the proposed Rule, the sources of these estimates would furnish useful life figures for only a portion of the consumer products covered by the proposed Rule. The cost of developing useful life figures negates the possibility of the Commission expending its limited resources to develop useful life figures.<sup>36</sup> Although use of an offeror procedure<sup>37</sup> would eliminate the problem of cost to the Commission, this would be a lengthy process. In view of the Congressional directive to issue a rule "in the near future", this was not a viable alternative. A comprehensive rule therefore dictated the establishment of useful life figures by the warrantor.

## (D) Useful Life Figure and Substantiation Requirement

The Commission determined that a Rule which would allow a warrantor to adopt a useful life figure which lacks a reasonable basis would be unfair to both consumers and competitors. In the absence of a substantiation requirement, a warrantor could minimize its refund obligation by adopting a figure which is less than the useful life of the product.<sup>38</sup> The impact on consumers would be to deprive them of their full rights under the warranty. In addition, competition would be adversely affected since the resultant savings would give such warrantor an unfair advantage over its competitors. Accordingly, a provision requiring the warrantor to have a reasonable basis for its useful life figure was needed to ensure the integrity of the depreciation deduction.

Under Commission law, the precise formulation of the reasonable basis standard is determined inter alia by "the type, and accessibility, of evidence adequate to form a reasonable basis."<sup>39</sup> In recognition of the fact

<sup>37</sup>The cost of the Department of Agriculture Study which established life estimates for only eight products was \$100,000. See R1-2, 32, Marilyn Ruffin.

<sup>38</sup>Under an offeror procedure, outside parties would conduct such studies at their own expense.

<sup>39</sup>Under the proposed straight-line method of calculating depreciation, the amount of the deduction from the refund amount is inversely proportional to the useful life figure. As a result, the amount of the deduction increases as the useful life figure decreases.

<sup>40</sup>*Pfizer, Inc.*, 81 *FTC* 23, 64 (1972). Other considerations which would be relevant to the question of what constitutes a reasonable basis are: the type and specificity of the claim made; the type of product; the possible consequences of a false claim; and the degree of reliance by consumers on the claims.

there is little hard data on the useful lives of consumer products, the substantiation required by the proposed Rule was keyed to the evolving state of the art to avoid placing an unreasonable burden on the warrantor. Such a requirement would permit warrantors to adopt useful life figures which can be substantiated by presently available evidence.<sup>40</sup> It would also require the warrantor to upgrade substantiation as the state of the art of measuring useful life advances.

Regarding the useful life figure itself, the Commission determined that the proposed Rule should allow the warrantor to adopt any figure which is not less than the useful life of the product. The intent is to further alleviate any burden resulting from the substantiation requirement without compromising the integrity of the depreciation deduction. Since the purpose of the substantiation requirement is to preclude a warrantor from minimizing its refund obligation, any useful life figure which is not less than the useful life of the product would be adequate for the purposes of the Rule. The burden of substantiation would be substantially reduced by allowing a warrantor to adopt any useful life figure which is sufficiently high to ensure that it would not be less than the useful life of its product.

## III. ANALYSIS OF THE PUBLIC RECORD

## A. Opposition to the Proposed Rule

The Public Record of this proceeding<sup>41</sup> reflects substantial opposition to the proposed Rule. The majority of the comments were directed at the proposal as a whole, and expressed a general objection to the principle of allowing a deduction for depreciation. Specific comments in opposition to the proposed Rule focused on the method of calculating the deduction in particular, the provision relating to the determination of useful life figure. This section will discuss and evaluate the opposition to the proposed Rule.

"The sources of useful life figures which were discussed in § II(C)(1) above, were evaluated from the standpoint of adopting those estimates as mandatory useful life figures under the proposed Rule. However, the above evaluation is not intended to negate these sources as the type of evidence which could provide a reasonable basis for the useful life figure to the extent that the source is recognized as probative.

"As stated in the foregoing section entitled "History of the Proceeding", the public hearings on the proposed Rule were cancelled. The public record consists of written comments; the total by category is: Manufacturers-11, Retailers-4, Trade Associations-4, Government Agencies-6, Consumer Organizations-6, Consumers-163, and Miscellaneous-2.



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1. *Opposition to a deduction for depreciation from the refund.* Substantial comment was received from consumers, consumer representatives, retailers, and a member of Congress urging the Commission not to promulgate a Rule which would allow a warrantor who offers a full warranty to make a deduction for depreciation from the refund amount. The comments reflect three basic arguments for prohibiting a deduction for depreciation.

The primary argument advanced by opponents disputes the underlying rationale of the proposed rule. The majority of consumers, one retailer, and the National Consumer Law Center (NCLC), and others argue that a full refund does not constitute unjust enrichment where the consumer has enjoyed the use of the product prior to refund. Two reasons were given in support of this argument. First, any use or enjoyment which the consumer derives from the product prior to the breach of warranty is offset by the subsequent inconveniences and frustrations suffered by the consumer in both coping with the defective product until a refund is deemed appropriate and in enforcing the warranty. Second, any financial gain to the consumer from using a product for which the purchase price is refunded is outweighed by the monetary losses which the consumer may sustain as a result of the breach of warranty; these include incidental damages, consequential damages, in-

creased cost of purchasing a replacement, and loss of investment income on the purchase money. The consumer who purchases on credit incurs additional losses such as the nonrefundable portion of the finance charge and other charges, including credit insurance costs and the money lost when refunds of such charges are calculated by the Rule of 78's. It is therefore asserted that the proposed depreciation would enhance the consumer's losses.

Furthermore, several comments include a counterargument that the proposed depreciation deduction is inequitable and could, in fact, unjustly enrich the warrantor. NCLC wrote:

Now the Commission proposed to change law by allowing the warrantor who sold a defective product in breach of contract and has been able to use and invest the consumer's money at a profit to benefit from the transaction at the expense of the innocent consumer by failing to refund the full purchase price. Such a proposed financial award to the warrantor is in addition to the finance charge and other charges which the warrantor (or retailer) may claim he is entitled to retain inasmuch as his obligation is to refund only the purchase price, not the full transactional amount. See § 2301(12). It is also in addition to the consumer's incidental and consequential damages which the warrantor certainly will not pay for without litigation, a remote prospect.

The warrantor, then, controls the process and the money at every step, is the party at fault, benefits financially from the consumer's inability and/or reluctance to pursue full monetary redress and from the use of the consumer's money, and, under the proposed rule, can be rewarded, by a depreciation deduction, for selling defective goods.

Another argument propounded by individual consumers and others was that the proposed rule would render the designation misleading and will create confusion as to warranty rights. The comments establish that consumers have developed an understanding that all warranties designated

water damage to a house caused by a defective clothes washer (see R1-7, 123, consumer letter), and food ruined by malfunctioning freezer or refrigerator (see, e.g., R1-7, 16, consumer letter).

See, e.g., R1-8, 6, NCLC; R1-8, 1, Schactman; R1-9, 3, Elinor Guggenheimer, Commissioner, Dept. of Consumer Affairs, New York, N.Y. (hereinafter "Guggenheimer"); R1-7, 163, consumer letter.

See, e.g., R1-7, 125 and R1-76, 86, consumer letters and R1-8, 6, NCLC.

R1-8, 6, NCLC; R1-8, 1, Schactman.

R1-11, 1, Temple; R1-8, 6, NCLC.

See, e.g., R1-7, 124, consumer letter.

R1-8, 6.

See, e.g., R1-7, 10, R1-7, 41 and R1-7, 80, consumer letters.

R1-9, 5, Gary A. Meyers, Member of Congress, U.S. House of Representatives, Washington, D.C.; R1-9, 1, E. McGee, Jr., Asst. State Attorney, Ft. Lauderdale, Fla. (hereinafter "E. McGee").

R1-8, 4, David W. Raymond, Sears, Roebuck and Co., Chicago, Ill. (hereinafter "Sears").

"full" connote a full refund, and that, as a result, a revision of the full warranty to permit an alternative of a depreciation deduction is inherently misleading.

A third argument which was raised by NCLC as an alternative reason for opposing a depreciation deduction was that the proposal is contradictory to existing law under the Uniform Commercial Code (UCC). NCLC commented that the vast majority of cases under the UCC have allowed the buyer who rejects defective goods or revokes his acceptance a full recovery of the purchase price even though the consumer may have possessed and used the product for a significant time. In addition, the courts have frequently awarded significant additional damages, plus interest from the date of purchase. NCLC therefore argued that since state law is not preempted by the Act and affords greater protection to the buyer in terms of a remedy, "the net effect of the deduction would be to deter consumers from pursuing their rights under the Act, clearly contrary to the Act's purpose of providing more workable remedies for warranty problems."

Although the foregoing arguments are persuasive, none would justify a decision not to promulgate a Rule implementing Section 101(12). The first argument does not absolutely refute the premise of the depreciation deduction but merely demonstrates that the instances in which a full refund would constitute unjust enrichment are limited. The second argument appears to be mooted by the Congressional intent to redefine the meaning of "full warranty" to allow warrantors to make depreciation deductions. Finally, the validity of the third argument will be limited to those situations in which rejection or revocation of acceptance, as provided in the UCC, is appropriate and the monetary amount involved justifies legal action.

2. *Opposition Based on Useful Life Figure Requirement.* The comments indicate that the most problematic provision of the proposed Rule would be the determination of the useful life figure upon which the deduction for depreciation will be calculated. Under Section 704.3(b), a warrantor would be required to adopt a useful life figure which is no less than the useful life of its product and to substantiate such figure in accordance with the requirements set forth in subparagraph (2).

Comments submitted by several manufacturers of such consumer products as automobiles, furniture, carpets,

"One comment received from a private attorney also asserted that "there is a whole body of case law over hundreds of years that would reject the proposal on its face."

R1-7, 108.

R1-8, 6.

resilient flooring, home entertainment equipment, and garden tractors, and one trade association of automobile dealers evidenced strong opposition to this provision. Their basic position was that an objective and relevant calculation of the useful life of a consumer product is impossible since such variables as the type and amount of use, nature and extent of care and maintenance, replacement or reconditioning of parts, components and systems, geographic location, and other factors will inevitably affect the life of the product. Additionally, some manufacturers contended that the problem of establishing a useful life figure is further compounded by the nature of their products. In the case of such consumer products as carpets and furniture, it was asserted that the useful life would vary depending upon the product type or grade selected by the consumer. Newly developed products were also cited as particularly problematic since the data necessary to determine a useful life figure would not be obtainable until the product is well established. Manufacturers therefore argued that the useful life of their products was either "highly speculative" or "unworkable and unrealistic and incapable of definition."

The validity of industry's position is supported by a study conducted by the National Bureau of Standards. Stanley Warshaw, Director of Product Technology, submitted the following comment:

At the present time some members of our staff are involved in a project to demonstrate the applicability of life cycle costing principles to consumer products. Necessarily, such a demonstration will at some time involve our researchers with the problem of ascertaining the useful life of the products under study. After a one-year study of the general subject, we are convinced of the serious difficulty of attaching a reliable quantitative estimate to this concept.

R1-4, 10, Neil Hitz, American Motors Corp., Southfield, Mich. (hereinafter "AMC"); R1-4, 3, Richard Lange, Mohasco Corp., Amsterdam, N.Y. (hereinafter, "Mohasco"); R1-6, 3, Lawrence Merthan, Carpet and Rug Institute, Washington, D.C. (hereinafter "CRI"); R1-4, 2, Lawrence Hodges, J. I. Case Co., Racine, Wis. (hereinafter "J. I. Case"); R1-8, 4, John Pohanka, National Automobile Dealers Assoc., McLean, Va. (hereinafter "NADA").

R1-4, 3, Mohasco; R1-6, 3, CRI; R1-4, 10, AMC.

R1-4, 10, AMC; R1-6, 3, CRI.

See R1-6, 3, CRI.

R1-4, 3, Mohasco and R1, 6, 3, CRI.

R1-4, 10, AMC; R1-4, 9, Sherwin Greenbalt, Bose Corp., Framingham, Mass. (hereinafter "Bose").

R1-4, 3, Mohasco. See also R1-6, 3 and R1-4, 10, CRI and AMC.

See R1-4, 10, AMC.

R1-9, Stanley I. Warshaw, Center for Consumer Product Technology, U.S. Dept.

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of Commerce, National Bureau of Standards, Washington, D.C.

The corollary argument advanced by industry in opposition to this provision was that the substantiation requirement would be either an impossible or unreasonable burden. Mohasco commented that this provision was "unduly restrictive in its apparent requirement that substantiation for a 'useful life' estimate should be more stringent than would appear to be feasible for most consumer products" and that "the availability of a deduction for depreciation will be largely illusory except for a limited number of products for which acceptable data can be obtained." Others such as the National Association of Manufacturers (NAM) and Bose emphasized the prohibitive cost and complexity of obtaining data which would provide substantiation for the useful life figure.

In addition to industry's claims of undue burden, concurring comments were submitted on this issue from an authoritative nonindustry source. Members of the Center for Policy Alternatives at Massachusetts Institutes of Technology, (MIT) a group which completed a study on consumer durable products involving the issue of useful life and is currently conducting a study on warranties for the National Science Foundation, stated that this requirement "will impose undue and unreasonable costs" on warrantors and predicted that "the high costs of such studies will dissuade warrantors from offering long full warranties."

Consumer organizations and other non-industry representatives also opposed the useful life figure requirement on the ground that the proposed procedure for determining the useful life figure invites abuse at the consumer's expense by self-interested warrantors. The major criticism of the proposed procedure was the failure of the substantiation requirement to ensure reasonably accurate estimates of useful life. NCLC, Fairfax Leary of Temple University School of Law and others argued that the substantiation requirement provided too much latitude as to permissible sources of substantiation and therefore would not effectively operate to restrain warrantors from adopting advantageous useful life figures.

See R1-6, 3, CRI; R1-4, 2, J. I. Case.

R1-4, 3.

R1-6, 2, James P. Carty, National Association of Manufacturers, Washington, D.C.; R1-4, 9, Bose. See also R1-5, 5, Sears.

R1-11, 2, Robert Lund, George Heaton, Steward Butler, Center for Policy Alternatives, Massachusetts Institute of Technology, Cambridge, Mass. (hereinafter "MIT").

The study was discussed as a possible source of useful life figures in the Staff Report. See R1-2 at 28-30.

R1-11, 2, MIT.

tors from adopting advantageous useful life figures.

These comments manifest substantial opposition by both industry and non-industry representatives to the proposed useful life figure requirement and indicate that promulgation of a final Rule which calculates depreciation on this basis would be appropriate only with respect to those classes of consumer products for which reliable useful life figures either are presently or may in the future become available. Otherwise, until the state of the art of measuring useful life advances, a final Rule incorporating the proposed useful life figure requirements could not be justified in view of the burden of compliance.

### B. Revisions and Alternatives to the Proposed Rule

Comments were submitted which recommended revisions of varying magnitude, including alternative methods of calculating the depreciation deduction. Most of the comments were in response to specific issues on which the Commission solicited comment in the notice of the proposal. This section will discuss and evaluate those major revisions for which there is substantial support in the record.

1. *Alternative Methods of Measuring "reasonable depreciation based on actual use."* The Commission solicited comment on the issue of whether there were alternative methods of defining and measuring "reasonable depreciation based on actual use." In response, alternative methods were submitted by only four manufacturers. The proposals fall into two categories.

The first category would allow the warrantor to impose a "reasonable depreciation" charge. Mohasco recommended as an alternative to the proposed method a contractual usage charge, proffering a formula used in its industry, "\$1 per square foot, pro rata, for each year of use after installation." J. I. Case did not propose any specific method but rather recommended that warrantors be allowed "to continue their past practices of charging what they consider to be 'reasonable depreciation' when consumer products are recalled and a refund is made." The major deficiency of both of these proposals is that neither conforms to the statutory requirement of "depreciation based on actual use." Further, an objective determination of whether the particular

See R1-8, 6, NCLC; R1-11, 1, Temple; R1-8, 1, Schactman; R1-8, 5, Carol Foreman, Consumer Federation of America; Washington, D.C. (hereinafter "CFA").

41 Fed. Reg. 22,099, 22,100 (June 1, 1976).

R1-4, 3.

R1-4, 2.



method of depreciation chosen by a warrantor is "reasonable" would be impracticable, thereby nullifying any effective enforcement of such a provision.

The second category represents versions of accelerated depreciation. Corning submitted a scheduled based on the useful lives of its products which arranged the depreciation factor in a manner which was intended "to put the burden on the consumer to have the defects corrected in the first 3 months or get a full refund."<sup>10</sup> The AMC proposal was purported to reflect the "trend in retail prices of used automobiles."<sup>11</sup>

These problems also fall to comport with the statutory language. The alternative recommended by Corning reflects an arbitrary rate of depreciation which is not intended to have any relation to actual use. Likewise, the method suggested by AMC is unacceptable since usage is only one of the various factors which determines the retail prices of used automobiles.<sup>12</sup>

Additionally, comments were submitted which set forth cogent arguments against the adoption of an accelerated method in calculating the depreciation deduction. Both Fairfax Leary<sup>13</sup> and NCLC<sup>14</sup> asserted that use of an accelerated method of depreciation would be improper since it does not comport with "depreciation based on actual use" and, more importantly, would operate as a penalty against the consumer rather than prevent unjust enrichment. With respect to the penalty aspect of an accelerated method, NCLC noted that "[a]llowing an accelerated type of depreciation would shift improperly to the consumer the risks of an inefficient resale market, rapid deterioration of goods, and planned obsolescence."<sup>15</sup> Sears focused on the problem of implementation, contending that an accelerated method "would complicate the calculation and unduly burden the people on the salesfloor who would have to determine the amount of deduction."<sup>16</sup> These comments therefore indicate that a proposed Rule based on an accelerated depreciation would both contradict the statutory language of section 101(12) and the equitable principles underlying the depreciation deduction and would be impractical in application.

<sup>10</sup>R1-4, 3, Robert Cleary, Corning Glass Works, Corning, N.Y.

<sup>11</sup>R1-4, 10.

<sup>12</sup>See discussion of economic depreciation in the staff report, R1-2, at 10-11.

<sup>13</sup>R1-11, 1, Temple.

<sup>14</sup>R1-8, 6.

<sup>15</sup>Id.

<sup>16</sup>R1-5, 4.

Accordingly, this proceeding failed to elicit an alternative method for calculating "reasonable" depreciation based on actual use which would be suitable for the purposes of the proposed Rule.

2. *Revision of useful life figure requirement.* Manufacturers and others who opposed the requirement that the depreciation deduction be calculated on the basis of a useful life figure adopted by the warrantor submitted suggested revisions.

Bose and CRI both recommended that the proposed depreciation formula be based on the warranty period in lieu of the useful life figure.<sup>17</sup> The duration of most full warranties currently being offered represents only a fraction of the apparent useful life of the consumer product.<sup>18</sup> Therefore, substituting the warranty period for the useful life figure would result in a severe rate of depreciation which is not correlated to actual use. This recommendation not only fails to comply with the statutory language but, more importantly, contradicts the purpose of the depreciation deduction, namely an equitable balancing of consumer and warrantor interests.

Sears suggested that the depreciation deduction be calculated on the basis of "any reasonable period of time (or use)."<sup>19</sup> Under Sears' proposal, the Commission would cite in the rule examples of sources which would provide reasonable figures. The Commission's staff report, however, establishes that the sources of such figures are available for only a fraction of the products covered by the proposed rule.<sup>20</sup> Consequently, in those numerous instances, in which the Commission could not cite a source of reasonable figures, such a provision would result in subjective determinations by warrantors.<sup>21</sup> Aside from the inherent problems of enforcement, the potential for abuse by warrantors, the basis of opposition by nonindustry representatives to the useful life figure requirement, would be enhanced.

Only two of the comments submitted by non-industry representatives

<sup>17</sup>R1-4, 9; R1-6, 3.

<sup>18</sup>See A. Consdorf, "The 'Lemon Law'—Right Name for the Wrong Reason?", *Appliance Manufacturer*, vol. 23, No. 10, at 46 (1975), which contains the results of a telephone survey conducted by Appliance Manufacturer on the type of warranties being offered by companies.

<sup>19</sup>R1-5, 4.

<sup>20</sup>See discussion at 17 above and discussion of sources of useful life figures in the staff report, R1-2, at 22-26.

<sup>21</sup>See the discussion of industry's position regarding a determination of the useful life of a consumer product, at 24-26 above.

recommended alternatives to the proposed useful life figure requirement.<sup>22</sup> Both proposals would shift the responsibility of establishing useful life figures from the warrantor to the Commission. The major deficiency of these proposals is that neither would provide a viable means of establishing a comprehensive rule. As discussed above, the Commission investigated the possibility of specifying useful life figures in the proposed rule and concluded that for many consumer products a source of such figures is not available.<sup>23</sup>

Although one proposal recommended a procedure for supplementing available figures which would allow warrantor to adopt a "reasonable" useful life figure subject to prior approval by the Commission, such procedure is impracticable. The record contains substantial evidence that an objective determination of useful life is either impossible or unduly burdensome in terms of cost. As a result, the basis for any "reasonable" useful life figure submitted would in most cases, amount to no more than mere speculation.<sup>24</sup> An evaluation of the "reasonableness" of the submissions by the Commission would therefore be impossible.

The foregoing discussion therefore demonstrates that none of the revisions suggested in the comments constitute viable alternatives to the proposed useful life figure requirement.

3. *Offset of incidental and consequential damages.* Comments were submitted by several consumers and others which recommended that the method for calculating the depreciation deduction be revised to allow an offset against the deduction for inci-

<sup>22</sup>R1-11, 2, MIT and R1-11, 1, Temple. The comments submitted by CFA merely suggested a modification of the proposed rule to require submission of the substantiation prior to the use of the useful life figure. R1-8, 5. This approach is not only contrary to Commission procedure but also based on the erroneous assumption that disclosure of the useful life figure is required by the proposed Rule.

<sup>23</sup>See staff report, R1-2, at 35. Although the Internal Revenue Service was rejected as a source primarily on the ground that the estimates reflect the life of a product in commercial use which is normally shorter than that of a product in consumer use, examination of both new and old guidelines revealed that, this source would furnish useful life figures for only a small portion of the consumer products covered by the proposed rule. See 1 CCH, *Fed. Tax Guide* §3013N, *Asset Depreciation Range* (1976); R1-2, 88, Department of the Treasury, *Internal Revenue Service, Bulletin "F"* (revised January 1942).

<sup>24</sup>See discussion of industry opposition to the useful life figure requirement at 25-26 above.

dental expenses and/or losses incurred as a result of the breach of warranty.<sup>25</sup>

The Commission has received substantial evidence that consumers may often incur considerable monetary losses as a result of a breach of warranty.<sup>26</sup> Although a provision for a reduction of the depreciation deduction by any incidental or consequential damages suffered by the consumer would be consistent with the equitable principles underlying the proposed rule, the practical and policy considerations which militate against such a provision are far more persuasive.

Under the Act, a warrantor is not required to reimburse a consumer for incidental<sup>27</sup> and consequential damages (other than personal injury) and is given the power under section 104(a)(3) of the Act to avoid liability for such damages. Accordingly, as a practical matter, the utility of including such a provision is dubious since the warrantor could invoke its right to exclude such damages from the warranty coverage and thereby render the provision ineffective. In view of the costs and difficulties of administering this provision, the possibility of such a result is not remote. Furthermore, enforcement of such a provision could only complicate and delay refunds, as the statute leaves unanswered a number of questions as to precisely what expenses are covered and what proof is needed.

4. *Date of first use.* Under the proposed rule, use of the consumer product will be measured from the date of delivery or date of installation, whichever is later.<sup>28</sup> Comment was requested on the issue of whether the consumer should be allowed to present evidence to show that actual use of the product began at a later date.

Industry comment on this issue was limited to submissions by four manufacturers. Exxon Co., Armstrong Cork Co., and Mohasco opposed such a proposal, emphasizing the administrative problems inherent in verifying the date upon which actual use commenced.<sup>29</sup> It was asserted that such a provision would be inequitable to war-

<sup>25</sup>See, e.g., R1-7, 4, R1-7, 35, R1-7, 88, consumer letters and R1-11, 1 Temple. See also R1-8, 6, NCLC and R1-8, 5, CFA (interest on money paid).

<sup>26</sup>See discussion at 20-21 above.

<sup>27</sup>Under §104(d) of the Act, a consumer would be entitled to incidental expenses only if incurred, because the remedy is not made within a reasonable time or because the warrantor imposed an unreasonable burden on the consumer as a condition of securing a remedy.

<sup>28</sup>16 CFR §704.1(f).

<sup>29</sup>R1-4, 7, Duval Didsley, Exxon Co., Houston, Tex. (hereinafter "Exxon"); R1-4, 6, Joseph Burke, Armstrong Cork Co., Lancaster, Pa. (hereinafter "Armstrong"); R1-4, 3, Mohasco.

rants since it would complicate and delay claims resolutions relating to refunds<sup>30</sup> and encourage many specious claims.<sup>31</sup> J. I. Case, on the other hand, did not wholly oppose such a provision, but only commented that its propriety would vary with the type of product and further pointed out that "to allow a consumer to establish his own date of first use may result in high selling prices to the consumer."<sup>32</sup>

Comments submitted by four consumer organizations<sup>33</sup> uniformly supported such a proposal on the ground that calculation of the depreciation deduction from the date of delivery or installation, as provided in the proposed rule, would penalize the consumer in situations where the initial use does not coincide with delivery or installation. Examples which were cited included those situations where consumer products are purchased as gifts<sup>34</sup> or off-season.<sup>35</sup> Comments received from individual consumers who opposed the proposed method of measuring use also cited purchases made for home inventories as another situation in which an inequitable result would be obtained.<sup>36</sup>

The arguments advanced by opponents and proponents are equally valid and present conflicting considerations. As a practical matter, however, the benefits to be achieved by such a provision would be vastly outweighed by the resultant burdens which would be imposed on consumers. The record contains substantial evidence concerning the difficulties encountered by consumers enforcing a warranty.<sup>37</sup> An additional requirement of establishing the date of first use will render this procedure even more complex and burdensome in view of the inherent problems of proof.<sup>38</sup> Furthermore, as the comments indicate, the costs of administering such a provision will be passed

on to the consumer in the form of higher selling prices.<sup>39</sup>

The countervailing benefits are not substantial in comparison. The instances in which an inequitable result would be obtained are limited by two factors. First, under the Act the refund situation will arise only where repair and replacement are not feasible or if the consumer is willing to accept a refund.<sup>40</sup> Second, the comments submitted by consumers indicate that in the majority of cases, the consumer is not precluded from using the product upon delivery or installation to determine if it is defective.

The foregoing analysis therefore indicates that revision of the proposed rule to include such a provision would not be justifiable.

5. *Full Refund Period.* Comment was solicited on the issue of whether the rule should be revised to include a provision for a full refund if the product proves defective at or shortly after delivery. Industry's position on this issue was divided. Comments were submitted by six manufacturers and two trade associations. Exxon Co., Reynolds Aluminum Metal Co., and Corning supported such a provision but differed as to the time limit during which a consumer would be entitled to a full refund.<sup>41</sup> Armstrong, J. I. Case, Mohasco, CRI, and the National Automobile Dealers Association (NADA) opposed a provision for a full refund. However, the underlying arguments were either specious<sup>42</sup> or reflected a lack of understanding of the Act<sup>43</sup> or the underlying purpose of Section 101(12).<sup>44</sup>

Comments from consumers,<sup>45</sup> consumer organizations,<sup>46</sup> and others<sup>47</sup> uniformly supported a revision of the proposed Rule to provide for a mini-

<sup>30</sup>R1-4, 2, J. I. Case; see also R1-4, 1, Corning ("Whatever system is used, it will, of course, be reflected in the selling price of the product.")

<sup>31</sup>See §101(10) and 104(d) of the Act.

<sup>32</sup>R1-4, 8, Edwin Harper, Reynolds Aluminum Metals Co., Richmond, Va. ("at the time of delivery or installation") R1-4, 7, Exxon (no more than 30 days after purchase or installation); R1-4, 11, Corning (a 3-month period).

<sup>33</sup>See R1-4, 6, Armstrong; R1-8, 3, CRI.

<sup>34</sup>See R1-4, 3, Mohasco; R1-4, 2, J. I. Case.

<sup>35</sup>See R1-6, 4, NADA.

<sup>36</sup>As discussed above, the majority of consumers opposed the principle of a deduction for depreciation on the ground that a full refund would not unjustly enrich the consumer. However, several consumers expressed qualified support for a revised rule which would require a full refund for some minimum period. See, e.g., R1-7, 1, R1-7, 148, R1-7, 106, consumer letters.

<sup>37</sup>R1-8, 6, NCLC, R1-8, 5, CFA, R1-9, 3, Guggenheimer.

<sup>38</sup>R1-9, 1, E. McGee, Jr.

<sup>39</sup>R1-4, 3, Mohasco.

<sup>40</sup>R1-4, 6, Armstrong.

<sup>41</sup>R1-4, 2; see also R1-4, 7, Exxon (increased administrative costs).

<sup>42</sup>R1-8, 4, Virginia Knauer, Director, Office of Consumer Affairs, Department of Health, Education, and Welfare, Washington, D.C. (hereinafter "Knauer"); R1-9, 3, Guggenheimer; R1-8, 5, CFA; R1-8, 6, NCLC.

<sup>43</sup>R1-9, 3, Guggenheimer.

<sup>44</sup>R1-8, 5, CFA, R1-8, 6, NCLC, R1-8, 4, Knauer.

<sup>45</sup>R1-7, 17, consumer letter.

<sup>46</sup>See, e.g., R1-7, 25 and R1-7, 124, consumer letters; R1-8, 6, NCLC; and R1-4, 3, Mohasco.

<sup>47</sup>In addition to the foregoing comments by manufacturers, see, e.g., R1-7, 102, consumer letter. ("I foresee many hassles for consumers about just how long said product was used. Many products are not put into use right after purchase.")



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num period during which a full refund would be given. The arguments were based on both equitable and practical considerations. Most contended that a product must be used to determine if it is defective and therefore the purchaser should be allowed a "reasonable" trial period before the deduction is allowed.<sup>122</sup> Others asserted that a depreciation deduction would be illogical and unfair unless the consumer received satisfactory service from the product for some minimal period.<sup>123</sup> CFA alone offered an economic justification for a full refund period, commenting that the costs of calculation and recordkeeping could otherwise exceed the amount of the deduction. Most of the comments did not recommend a specified time period for a full refund provision. The few proposals which were submitted ranged from 1 to 6 months.<sup>124</sup>

The record therefore demonstrates that a full refund period is necessary to eliminate the aforementioned inequities resulting from the lack of such a provision and is supported by substantial evidence. However, with respect to the length of the full refund period, the disparity of recommendations indicate that a final resolution of this issue would necessitate additional comment.

## IV. CONCLUSIONS

Having reviewed and evaluated the record developed in this rulemaking proceeding, the Commission has concluded that promulgation of a final Rule would not be in the public interest.

The legislative history of Section 101(12) manifests that the depreciation deduction is premised on the assumption that a full refund of the actual purchase price as a remedy under the Federal minimum standards for full warranties could unjustly enrich the consumer who has enjoyed the use of the product prior to obtaining a refund. The depreciation deduction was intended to prevent any unjust enrichment by apportioning, in an equitable manner, the economic burden of the warrantor's duty to refund. The record, however, establishes that a comprehensive Rule implementing Section 101(12) could not be formulated which would be both practicable and consistent with the statute.

<sup>122</sup>See, e.g., R1-7, 148 and R1-7, 106, consumer letters.

<sup>123</sup>See, e.g., R1-7, 64 and R1-7, 70, consumer letters and R1-9, 3, Guggenheimer; see also R1-7, 6, NCLC.

<sup>124</sup>See, e.g., R1-7, 27, R1-7, 79, R1-7, 103, R1-7, 127, consumer letters; R1-8, 5, CFA; R1-8, 6, NCLC.

The relatively few comments which were submitted evidence substantial opposition by both consumers and industry to the proposed method of calculating "reasonable depreciation based on actual use." The arguments were basically twofold. Consumers and consumer representatives contended that the proposed method does not achieve an equitable balance of consumer and warrantor interests and operates to penalize the consumer rather than prevent unjust enrichment. Much of the criticism was directed at the proposal for measuring "actual use" of the product<sup>125</sup> and the absence of a provision for an offset of monetary losses sustained as a result of the breach of warranty.<sup>126</sup> Industry, on the other hand, argued that the requirement of calculating the deduction on the basis of a useful life figure adopted and substantiated by the warrantor was infeasible. The comments asserted that the establishment of a substantiated useful life figure would either be impossible or, at minimum, unduly burdensome in terms of the cost and complexity of conducting such a study.<sup>127</sup>

Our analysis of recommended revisions and alternatives<sup>128</sup> has failed to uncover an approach to the rule which would be both practicable and in keeping with the law. Most of the revisions suggested were not viable because of the costs and difficulties of administration and enforcement.<sup>129</sup> With respect to the recommended revisions and alternatives to the useful life figure requirement, none met the statutory standard at Section 101(12), "reasonable depreciation based on actual use."<sup>130</sup>

In addition to the opposition to the proposed Rule, termination of this rulemaking proceeding is justified on the ground that the lack of a final Rule will have little impact on warranty practices. Many companies have been offering full warranties since July 1975. The general disinterest displayed by industry indicates that any inequity which might result from the present refund requirement is not a significant concern of warrantors. Furthermore, evidence in the record supports this conclusion. Sears, Roebuck & Co. commented that it would continue to offer a full refund under its full warranties even if the proposed Rule were promulgated, and predicted that other warrantors who have been

<sup>125</sup>See the discussion of comments at 37, 39-40 above.

<sup>126</sup>See the discussion of comments at 34-35 above.

<sup>127</sup>See § III(A)(2) above.

<sup>128</sup>See generally § III(B) above.

<sup>129</sup>See §§ III(B)(3) and III(B)(4) above.

<sup>130</sup>See §§ III(A)(1) and III(A)(2) above.

offering full warranties would do the same.<sup>131</sup> Another retailer submitted a similar observation.<sup>132</sup>

For the foregoing reasons, the Commission has determined that promulgation of a final Rule would not be in the public interest and is exercising the discretion granted by the Act to eliminate the rulemaking proceeding on the proposed Rule.

The Commission's action with respect to the proposed Rule does not foreclose future rulemaking to implement Section 101(12) of the Act.<sup>133</sup> The Commission hereby gives notice that further rulemaking proceedings may be initiated pursuant to petition filed in accordance with the procedure provided by Section 1.25 of the Commission's Rules of Practice and Procedure. The Commission will consider petitions submitted by any interested person or group who wishes to propose a rule for a specific product or product class or a comprehensive rule covering all consumer products. A petition which will be deemed sufficient to warrant the holding of a rulemaking proceeding should propose a depreciation schedule which reflects "actual use" by the consumer, as required by Section 101(12). The record of this rulemaking proceeding and, in particular, this Statement should furnish guidance to a petitioner in formulating an appropriate proposal.

Issued: January 5, 1978.

By the direction of the Commission.

CAROL M. THOMAS,  
Secretary.

(FR Doc. 78-2606 Filed 1-30-78; 8:45 am)

[4110-03]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 182, 184]

[Docket No. 77N-0311]

## BILE SALTS AND OX BILE EXTRACT

GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

<sup>131</sup>R1-5, 4.

<sup>132</sup>R1-5, 3, Rolfe Brokerage.

<sup>133</sup>Although the statutory language of § 101(12) does not mandate rulemaking, the legislative history manifests a congressional intent that the Commission promulgate a rule or rules implementing this section. (See 120 Cong. Rec. H12348 (daily ed.) Dec. 19, 1975.) Accordingly, notwithstanding the Commission's decision to terminate the proceeding on the proposed rule, the door will be left open to petitions for further rulemaking proceedings which demonstrate potentially viable means to satisfy this intent.

## PROPOSED RULES

**SUMMARY:** The Commissioner of Food and Drugs is proposing to affirm the generally recognized as safe (GRAS) status of ox bile extract as a direct human food ingredient. He is also proposing to remove cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid, and the sodium salt of taurocholic acid from GRAS status. The safety of the ingredients has been evaluated pursuant to the comprehensive safety review being conducted by the agency.

**DATES:** Comments by April 3, 1978.

**ADDRESS:** Written comments (preferably four copies) on this proposal may be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION  
CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

**SUPPLEMENTARY INFORMATION:** The Food and Drug Administration is conducting a comprehensive safety review of direct and indirect human food ingredients classified as generally recognized as safe (GRAS) or subject to a prior sanction. The Commissioner of Food and Drugs has issued several notices and proposed regulations, published in the FEDERAL REGISTER of July 26, 1973 (38 FR 20040), initiating this review. Pursuant to this review, the safety of some bile salts and ox bile extract has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35), the Commissioner proposes to affirm the GRAS status of ox bile extract and to remove cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid, and the sodium salt of taurocholic acid from the GRAS list.

Ox bile extract, also known as purified oxgall and sodium choleate, is a mixture of varying amounts of the salts of bile acids, lipid material such as cholesterol and lecithin, choline compounds, glycerol and other substances. It is obtained by evaporating the alcohol extract of concentrated bile. The bile acids, which occur as sodium salts in the bile of most vertebrates, are derivatives of the steroid cholic acid.

Bile salts and hence bile extract are useful in some food because of their emulsifying properties. Cholic acid (§ 182.4029), desoxycholic acid

(§ 182.4037), glycocholic acid (§ 182.4053), taurocholic acid (or its sodium salt) (§ 182.4105) and ox bile extract (§ 182.4560) are listed as GRAS when used as emulsifying agents in dried egg whites at a level not exceeding 0.1 percent, pursuant to regulations published in the FEDERAL REGISTER of November 20, 1959 (24 FR 9368).

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which bile salts and ox bile extract were used and the levels of usage. Information from surveys of consumer consumption was obtained and combined with the manufacturing information to obtain an estimate of consumer exposure to this substance. It was reported that the amount of ox bile extract used in food in 1970 was 783 pounds. There were no reports on the uses of individual bile acids or their salts in foods.

Bile salts and ox bile extract have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 910 abstracts was reviewed, and 78 particularly pertinent reports have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (hereinafter referred to as the Select Committee), selected by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Bile acids formed in the liver from cholesterol, conjugated with taurine and glycine, excreted in bile, and deconjugated by intestinal flora; 90-95 percent are reabsorbed via the portal circulation. Bile acids are absorbed in the cecum of rats, lower small intestine of guinea pigs and man, and the large bowel of man. The enterohepatic circulation conserves most of the bile acids secreted. Bile acids are excreted only in the feces.

The reported mean half-life of cholic acid in man on a regular diet, based on feeding cholic acid-24-C, was estimated to be 2.8 days. The half-life and the size of the cholic acid pool were found to be dependent on the amount of fat in the diet. In later studies, conducted on a single subject, cholic acid half-life was found to be 8.8 days on a butterfat diet, 3.7 days on a corn oil diet and 4.2

days on a fat-free diet. The cholic acid pool sizes were 1.67 g, 1.49 g, and 1.59 g, respectively.

The bile acids are strongly bound to plasma albumin, cholic acid being more avidly bound than its taurine conjugate. There is reported to be one primary binding site per albumin molecule and several sites of weaker affinity. In diets rich in cholesterol, cholic acid, or glycocholic acid, but not desoxycholic acid, enhances the absorption of the cholesterol in rabbits. This results in a hypercholesterolemia. Although the precise mechanism is unknown, cholic acid stimulation of the esterification of cholesterol in the gut wall was suggested.

From a summary of some of the acute toxicity data on cholic acid and its derivatives, desoxycholic acid appears to be comparatively more toxic than cholic acid, although the oral LD<sub>50</sub> is greater than 1 g per kg for both. The signs of intoxication produced by cholic acid and its derivatives are similar. Bronchoconstriction, probable related to histamine release, was most prominent following the intravenous administration of desoxycholic acid to cats, glycocholic acid to guinea pigs and cats, and taurocholic acid to cats.

Chicks fed 0.34 percent cholic acid in the diet (estimated to be about 400 mg per kg body weight per day) for 14 days exhibited a slightly greater weight gain than control animals. A level of 0.2 percent cholic acid in the diet of chicks for four weeks caused no adverse effects other than a slight increase in fat absorption. There was a temporary decrease in egg production after feeding 0.2 percent cholic acid to laying hens.

Lithocholic acid (3-hydroxycholic acid) increased liver size and raised plasma cholesterol when fed as a hypercholesterolemic agent at a level of 0.2 percent in the diet (about 250 mg per kg of body weight) to growing chicks. These effects were partially reversed when cholic acid was fed.

Cholic acid fed to female mice at levels up to 1.0 percent (up to about 1,500 mg per kg of body weight) for 8 months caused cholesterol stones and gall bladder lesions. The effects appeared to be dose related.

Male Gofmoor rats fed cholic acid at a level of about 250 mg per kg of body weight for 26 days had smaller body weights and exhibited, at autopsy, increased heart weight and decreased liver weight per 100 g body weight. Weanling male Holtzman rats fed 0.1 and 2.0 percent of sodium cholate (about 100 and 2,000 mg per kg of body weight, respectively) for periods up to 28 days developed diarrhea. Rats at the 0.1 percent level showed no growth depression. However, rats fed at the 2 percent level had a high mortality (none survived longer than 21 days) and at autopsy, hyperemia of the distal small intestine was observed.

Chicks fed up to 0.2 percent desoxycholic acid (about 200 mg per kg of body weight per day) in the diet for as long as 21 days did not present adverse signs and the chicks fed 0.1 percent showed a slightly greater weight gain than control animals.

Holtzman-Rolfsmeier male and female rats fed 100 mg of desoxycholic acid per rat per day (about 1 g per kg of body weight) for one to four weeks achieved higher serum cholesterol levels than did control animals. Desoxycholic acid was found to be much more toxic for male rats than for females.



PROPOSED RULES

In other studies, male rats received 0.15 percent desoxycholic acid in the diet (about 150 mg per kg of body weight per day) for up to four weeks without adverse effects. In a longer term study, male Wistar rats were fed diets containing 0.005, 0.025, or 0.125 percent desoxycholic acid (about 3 to 80 mg per kg of body weight) for 20 months without adverse effects.

Growth of male Wistar rats on an essential fatty acid-deficient diet was impaired (about 66 percent of the controls) when 1.0 percent of sodium glycocholate (about 1 g per kg of body weight per day) was added to the diet for five weeks.

Male Holtzman rats received 0.1 and 2.0 percent of sodium taurocholate in their diets for 28 days. The 0.1 percent level diet (about 200 mg per kg of body weight) appeared to stimulate growth, whereas the 2.0 percent level depressed growth.

Male Holtzman rats were administered 0.5 and 1.0 percent ox bile in their diet for 28 days to study the effects on efficiency of food utilization. Weight gain was about 70 percent of the controls at the 0.5 percent level, and about 50 percent of the controls at the 1.0 percent level. The mechanisms responsible for the growth depression were not reported; the authors did not suggest that ox bile was toxic at these levels.

Cholic acid fed to rats at a level of 2.0 percent (about 1 g per kg of body weight) for 8 months was not tumorigenic. Cholic acid or desoxycholic acid fed to rabbits at a level of 100 mg per animal daily (about 50 mg per kg of body weight) for 90-120 days and to mice at a level of 20 mg daily (about 1 g per kg of body weight) for 84 days produced no evidence of tumorigenicity. Desoxycholic acid (a total of 70 mg in 15 injections in 300 days) injected intramuscularly in sesame oil resulted in malignant tumor development in mice. However, male Wistar rats fed up to 0.125 percent desoxycholic acid in the diet (about 80 mg per kg of body weight) for 20 months did not develop malignant tumors nor did the rats or C3H mice receiving subcutaneous implants of pellets averaging 18.5 mg of desoxycholic acid. Chicks fed 0.25 percent cholic acid (about 300 mg per kg of body weight) in their diet for 18 days developed three times as many tumors as control chicks following the injection of Rous sarcoma virus. In these experiments tumor response was also stimulated by folic acid, nicotinamide, pantothenate, and riboflavin in the diet, and the significance of these data with respect to the possible carcinogenicity of cholic acid is not clearly demonstrated.

Male rats fed a diet containing 5 percent cholesterol and 2 percent sodium cholate (about 2 g of sodium cholate per kg of body weight) for 35 weeks developed hypertension and hyperlipemia. Occurrence of multiple thrombi in small vessels of the heart and aorta, and nephrotic lesions were considerably increased in comparison with controls receiving no added cholesterol or cholate. Young weanling rats fed a diet containing 1 percent cholesterol and 0.3 percent cholic acid (about 300 mg of cholic acid per kg of body weight) for 28 days showed a decreased weight gain compared with control rats. At autopsy, these rats exhibited sudanophilia of the left ventricular valves and aorta and edematous kidneys. The sudanophilia was believed to reflect a condition where entrapped leukocytes contained minute fat droplets that stained red with the Sudan IV tissue stain.

Cebus monkeys fed casein diets containing 5 percent cholesterol and 1 percent sodium

cholate (about 500 mg per kg of body weight) for a year lost weight and developed hypercholesterolemia and aortic atherosclerosis. However, in these experiments other animals, consuming diets containing other proteins, also became hypercholesterolemic and atherosclerotic whether or not cholic acid was fed. Mice fed a diet containing 1 percent cholesterol and 0.5 percent desoxycholic acid and/or 0.5 percent cholic acid for 4 months, developed cholesterol gallstones, fatty degeneration of the liver and increased liver and serum cholesterol levels. Apparently, control animals on diets without added bile acids were not studied. Similar findings were later reported for the mongolian gerbil.

Tepperman et al. fed mice that had previously received a single intraperitoneal injection of 0.8 mg of aurothiogluconate, on a diet containing 1 percent cholesterol and 0.5 percent cholic acid for 9 months. These animals developed gallstones and fatty livers. Gallstones developed only under the following conditions: cholesterol and cholic acid had to be fed simultaneously, food intake had to be sufficiently high and liver function had to be impaired.

Male Wistar rats on a diet containing 1 percent cholesterol and 0.4 percent cholic acid (about 180 mg per kg of body weight) for 11 weeks developed yellow livers, hypercholesterolemia, and adrenal enlargement at 5 weeks. In another study, Wistar rats fed a 1.29 percent cholesterol-1.0 percent cholic acid diet (about 500 mg per kg of body weight) for 10 weeks developed hypercholesterolemia and elevated liver lipid levels.

The feeding of a 1 percent cholesterol-0.5 percent cholic acid diet to hamsters for 4 months produced fatty livers, gallstones, enlarged spleens, fatty renal changes, and cholesterol crystals in the adrenal cortex, lung, spleen, and lymph nodes.

Cholic acid in doses of 0.25 g three times a day for one week served as an effective cathartic in four of five female patients in a controlled, single-blind study. The fifth patient did not respond to this dose but obtained a cathartic effect at a total dose of 2.25 g per day. With human subjects it was estimated that the effective dose is 20 mg per kg per day, which is approximately twice the daily synthesis rate of cholic acid in a healthy person.

Bile acids have been reported to control and suppress appetite in obese humans. Desoxycholic acid or cholic acid was taken in three daily doses totalling 1200 mg per day for two weeks and the body weights of the nine patients were compared with placebo administration trials. Desoxycholic acid decreased the desire for food and caused some weight loss, but cholic acid was without effect. Because bile is essential for normal digestion and absorption, ox bile extract was formerly prescribed for patients with digestive disorders in doses of 300 mg two or three times a day. Ox bile extract is not commonly prescribed in modern medical practice.

All the available safety information on bile salts and ox bile extract has been carefully evaluated by qualified scientists of the Select Committee. It is the opinion of the Select Committee that:

The amounts of the bile acids ingested as constituents of ox bile extract used as a food additive are relatively insignificant,

compared to the amounts normally present in the bile of man. The available information indicates that orally administered cholic acid, desoxycholic acid, glycocholic acid, and taurocholic acid are readily absorbed and excreted without accumulation. The exhibit a relatively low toxicity for several animal species tested.

The Select Committee has no information to indicate that the individual bile acids or their salts are used in foods. However, the intake estimates available for ox bile extract, of which bile acids and their salts are major constituents, indicate that average daily consumption of ox bile extract added to foods is small, amounting to 0.1 mg or less. The intake of individual bile acids or their salts would be, commensurately, very small. Such biological effects as have been reported in animal studies, have been elicited at levels of administration that are several orders of magnitude greater than the levels to which man is now exposed in his daily diet.

It is the conclusion of the Select Committee that there is no evidence in the available information on ox bile extract, or its constituents—cholic acid, desoxycholic acid, glycocholic acid, and taurocholic acid—that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that might reasonably be expected in the future. Based on his own evaluation of all available information on bile salts and ox bile extracts, the Commissioner concurs with this conclusion. The Commissioner therefore concludes that no change in the current GRAS status of ox bile extract is justified.

On April 13, 1973 (38 FR 9310) the Commissioner proposed that cholic acid, desoxycholic acid, glycocholic acid, sodium taurocholate, and taurocholic acid be removed from the GRAS list because the survey of food manufacturers on the use of GRAS ingredients did not indicate that these substances were being used in human foods. Comments on this proposal were received asking that desoxycholic acid and taurocholic acid not be removed from the GRAS list. Subsequent correspondence with these commentators revealed that these two bile acids were no longer being used in human foods. No comments were received concerning the use of cholic acid, glycocholic acid or sodium taurocholate. Additionally, the survey did not indicate that ox bile extract was used in human food as an emulsifier as defined in § 170.3(o)(8) (21 CFR 170.3(o)(8)). It should be emphasized that use information is very important in judging the safety of food ingredients because it facilitates assessment of total dietary intake. Therefore, the Commissioner proposes that cholic acid, desoxycholic acid, glycocholic acid, taurocholic acid and its sodium salt be removed from the GRAS list (§§ 182.4029, 182.4037, 182.4035, and 182.4105, respectively), and ox bile ex-

tract be removed from the GRAS list (§ 182.4560) for use as an emulsifier unless the following information is submitted during the comment period: evidence of use, including (1) food categories as defined in § 170.3(n) in which the ingredient is used; (2) levels of use in particular food categories; and (3) technical effect for which it is used as defined in § 170.3(o). If these substances are removed from the GRAS list, subsequent consideration of their use in food can be obtained through the petition procedures described in § 170.35 or § 171.1.

The survey, however, did indicate that ox bile extract was used as a surfactant as defined in § 170.3(o)(29). Since ox bile extract has a history of safe use in food, and because the information developed for this safety review forms a sound scientific basis for judging its safety, the Commissioner is proposing that this use be affirmed as GRAS.

Copies of the scientific literature review and the Select Committee's report on bile salts and ox bile extract are available for review at the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22151, as follows:

Title	Order No.	Price code	Price
Cholic acid and derivatives (scientific literature review).	PB-223-844/ AS.	A06	\$6.50
Bile salts and ox bile extract (select committee report).	PB-254-524/ AS.	A02	4.00

\*Price is subject to change.

This proposed action does not affect the current use of bile salts and ox bile extract for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, and 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Parts 182 and 184 be amended as follows:

1. In Part 182:

§ 182.4029 [Deleted]

a. By deleting § 182.4029 *Cholic acid*.

§ 182.4037 [Deleted]

b. By deleting § 182.4037 *Desoxycholic acid*.

§ 182.4053 [Deleted]

c. By deleting § 182.4053 *Glycocholic acid*.

PROPOSED RULES

§ 182.4105 [Deleted]

d. By deleting § 182.4105 *Taurocholic acid*.

§ 182.4560 [Deleted]

e. By deleting § 182.4560 *Ox bile extract*.

2. In Part 184, by adding new § 184.1560 to read as follows:

§ 184.1560 *Ox bile extract*.

(a) Ox bile extract (CAS Reg. No. MX 8008-63-7), also known as purified oxgall or sodium cholate, is a yellowish green, soft solid, with a partly sweet, partly bitter, disagreeable taste. It is the purified portion of the bile of an ox obtained by evaporating the alcohol extract of concentrated bile.

(b) Food-grade ox bile extract shall meet the specifications of the U.S. Pharmacopeia (USP), XIV, 1950, p. 410.

(c) The ingredient is used as a surfactant as defined in § 170.3(o)(29) of this chapter.

(d) The ingredient is used in food in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of 0.002 percent for cheese as defined in § 170.3(n)(5) of this chapter.

The Commissioner hereby gives notice that he is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed herein. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of such an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on such sanction at any later time. This notice also constitutes a proposal to establish a regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to this proposal.

Interested persons may, on or before April 3, 1978 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals

\*Copies may be obtained from: U.S. Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Md. 20852.

may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: January 19, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on October 21, 1977 and is on file in the Federal Register Library.

[FR Doc. 78-2406 Filed 1-30-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—  
Federal Housing Commissioner

[24 CFR Part 200]

[Docket No. R-77-499]

HUD STANDARD FOR DETACHED CARPET  
CUSHION

Revision and Integration of Existing HUD  
Cushion Standards

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: This proposed rule, Use of Materials Bulletin No. 72, modified, updates, and integrates all existing HUD carpet cushion standards for cushion to be installed under HUD-accepted carpet products. This will simplify industries action involving these standards. Upon adoption, this will become part of the Minimum Property Standards.

DATE: Comments must be received on or before March 17, 1978.

ADDRESS: Send comments to: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. James Kanegis, Materials Acceptance Branch, Architecture and Engineering Division, Department of Housing and Urban Development,



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PROPOSED RULES

Washington, D.C. 20410, 202-755-5929.

**SUPPLEMENTARY INFORMATION:** On November 25, 1974, the Department of Housing and Urban Development released its Use of Materials Bulletin No. UM 44c, "HUD/FHA Standard for Carpet and Carpet Certification Program." HUD's notice of intent to publish its Use of Materials Bulletin No. UM 44c was published in the FEDERAL REGISTER, October 8, 1974, at 39 FR 36129 and covered both the standard and the certification program. As adopted, the program contains a provision that only carpet products determined to be in compliance with UM 44c and so certified by a program administrator will be acceptable for HUD programs. UM 44c notes that installation (of certified carpet products) shall be by experienced and qualified installers, following acceptable carpet and cushion laying techniques, over HUD-accepted attached or detached carpet cushion.

The present proposed cushion standard deals with the requirements for HUD detached carpet cushion. Carpet which has cushion attached to it is treated as a carpet and falls within UM 44c and the carpet certification program. When carpet is installed over cushion HUD requires assurance that such cushion will have a level of performance and durability such that the carpet/cushion system itself will be a satisfactory one.

Heretofore HUD has been relying on different issuance documents to cover several types of detached cushion. Notice is hereby given that the Secretary of Housing and Urban Development proposes to consolidate and revise all such documents into a single standard. That standard will serve to cancel the detached cushion sections

of Use of Materials Bulletin No. UM 44b, Um 47a covering bonded urethane carpet cushions, Notices on prime urethane carpet cushion dated February 14, 1972 and May 12, 1972, Material Releases 681, 768, 869 and 878 and sections of other releases dealing with flammability.

Limitations: This standard does not preclude acceptance of other cushion products.

Cushion products which fall within this standard are acceptable only if they conform thereto. Nonstandard cushion products will be carefully evaluated by HUD and, if deemed equal to or superior to those covered by the standard, will be classified as acceptable through issuance of a Materials Release to its manufacturer. HUD intends to add amendments to UM 72 as new and acceptable generic cushion products are developed and found suitable.

Interested parties are invited to submit written comments, suggestions, corrections or additions concerning the standard in triplicate, using the above Docket No. and title. If you propose different minimums or suggest other technical changes it will be more constructive if you furnish your rationale and, if possible, interrelate them to other types of cushion products covered by the standard. All information so received will be carefully considered prior to preparation of a final UM 72. Submit your correspondence to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Copies of this correspondence will be available for examination at that address during normal business hours.

While carpet products are not acceptable in HUD programs unless they

have been tested and approved in accordance with the HUD Carpet Certification Program, it is not intended that carpet cushion be subjected to such a type of certification program. Instead, its acceptability is as specified in Section 3—Certification, of this proposed standard. If the self-certification approach therein specified does not sufficiently meet the needs of HUD or the consumer in HUD programs, HUD reserves the right to consider instituting a certification program similar to that now being used for carpet.

HUD reserves the right to spot check cushion certified by the manufacturer, such samples to be obtained randomly from any of the several possible sites.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

**NOTE.**—It is hereby certified that the economic and inflationary impacts of 24 CFR 200.933 have been carefully evaluated in accordance with Executive Order No. 11821.

**AUTHORITY:** Section 7(d) of the Development of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., January 20, 1978.

LAWRENCE B. SIMONS,  
Assistant Secretary for Housing,  
Federal Housing Commission-  
er.

PROPOSED RULES

4067

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
FEDERAL HOUSING ADMINISTRATION

Series and Series No.

USE OF MATERIALS  
BULLETIN NO. 72

Date

TO: AREA OFFICE DIRECTORS  
INSURING OFFICE DIRECTORS

SUBJECT: HUD STANDARD FOR DETACHED CARPET CUSHION

Members of the HUD Staff processing cases and inspecting construction shall use this information in determining acceptability of the subject material for the uses indicated.

This bulletin should be filed with Bulletins on Special Methods of Construction and Materials as required by prescribed procedures. Additional copies may be requisitioned by the field offices.

The technical description, requirements and limitations expressed herein do not constitute an endorsement, approval or acceptance by the Federal Housing Administration of the subject matter, and any statement or representation, however made, indicating approval or endorsement by the Federal Housing Administration is unauthorized and false, and will be considered a violation of the United States Criminal Code 18, U.S.C. 709.

Any reproduction of this bulletin must be in its entirety and any use in sales promotion or advertising is not authorized.

Subject to good workmanship, compliance with local codes, and the methods of application listed herein, the materials described in the bulletin may be considered suitable for HUD Mortgage Insurance or Low Rent Public Housing Programs.

The eligibility of a property under these Programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, compliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.



## INDEX

## Section Number and Title

- 1 General.
  - 2 Use.
  - 3 Certification.
  - 4 Identification.
  - 5 Physical and test requirements: Applicable specifications.
  - 6 Description and physical properties.
  - 7 Applicable specifications and test methods.
  - 8 Flammability.
  - 9 Quality assurance provisions.
- Appendix—conversion, metric and SI units.  
Cross Reference to the three types of cushion.

## COVERAGE

This standard revises and supersedes previously issued Use of Materials Bulletins, Notices and Material Releases dealing with carpet cushion, including the cushion requirements in UM 44b, UM 47a; Notices on prime urethane carpet cushion dated February 14, 1972 and May 12, 1972; MR 681, MR 768, MR 869, and MR 878, and amendments thereto. Carpets with attached cushions are not a part of this standard but are covered in UM 44c or additions and amendments thereto.

## SECTION 1.—GENERAL

This standard covers detached carpet cushion for all HUD programs. Only carpet cushion products determined to be in compliance with this standard and so certified, are acceptable.

Three types of detached carpet cushion products qualified for use under this bulletin are:

- Type I—Felt:  
A. Animal hair.  
B. Rubberized jute and rubberized animal hair.
- Type II—Cellular rubber:  
A. Rippled.  
B. Flat sponge.  
C. Foam rubber.
- Type III—Urethane foam:  
A. Prime urethane.  
B. Densified prime urethane.  
C. Graft polyol-based urethane.  
D. Bonded urethane.

**Classes of Cushion.** Carpet cushion products shall also be categorized by class, based primarily on area of use.

Class 1—For moderate traffic use within one- and two-family, multifamily and care type dwelling units. Moderate traffic areas are areas such as living rooms, dining rooms, bedrooms, recreation rooms, and corridors in single-family units. Class 2 cushion may be used in Class 1 application.

Class 2—For heavy traffic use at all levels but specifically for public areas such as lobbies and corridors of multifamily and care type facilities.

## SECTION 2.—USE

No cushion formulation, wet or dry, may be used which will have an objectionable odor or tackiness, or which will bleed onto the carpet or interreact with it in any deleterious manner during reasonably normal use or during reasonably normal washing and/or cleaning maintenance programs. All cushion materials may be used directly over above-grade concrete floors, wood (including plywood or particleboard), tile, terrazzo, or other acceptable finish flooring when sub-flooring materials meet HUD/FHA Mini-

## PROPOSED RULES

mum Property Standards (MPS). Cushion may be used in on-grade situations, and below grade only when so specified and warranted by the manufacturer. Cushion may be installed below grade only when a vapor barrier meeting MPS PARAGRAPH 507-2 has been installed beneath the slab. Cushion shall be installed with no gap and with tight seams.

## SECTION 3.—CERTIFICATION

As a condition for acceptance of each cushion product, the manufacturer certifies to HUD that the product meets the requirements of this Use of Materials Bulletin No. 72 at the time of installation except for physical damage in transit, storage, or handling under circumstances or by individuals outside of manufacturer's control; also that when the cushion is properly installed under a carpet product meeting HUD requirements for the same type of traffic, it will provide satisfactory service for the life of the original carpet installed over it. The manufacturer further certifies to HUD that, when directed to do so by the responsible HUD local office, a detached cushion which fails to meet the certification requirements will be replaced with one meeting them, either without charge for materials, or on the basis of a pro-rata installation policy previously approved by and on file with HUD.

The certification on attached cushion is the responsibility of the carpet manufacturer. He is bound by UM 44c and addendums or changes thereto, and the HUD Carpet Certification Program.

## SECTION 4.—IDENTIFICATION

Detached roll cushion shall be appropriately and permanently marked or labeled at least every 10 lineal feet so as to be readily identifiable after installation. Marking shall consist of no less than the product and manufacturer's name or identification number if a private label or brand product. The only exception shall be the Type I felt cushions. These shall be readily identifiable by a distinctive and unique waffle pattern, preregistered with HUD. For definite size underlay such identification may be in a corner. In addition, the wrapper or package shall be imprinted, labeled, or tagged to show all items of identification listed below.

Name and address of the manufacturer, or a manufacturer's identification number which shall be on record with HUD in the case of private label or private brand products.

2. Description of the specific product (e.g. bonded urethane carpet cushion).
3. Class of product as defined in this bulletin (i.e., heavy traffic or moderate traffic, or Class I or Class II of UM 72).
4. Compliance with UM 72.
5. Abbreviated coding for the above will be acceptable after being cleared by HUD Headquarters.

## SECTION 5.—Physical and test requirements: Applicable specifications

Description	Designation
Rubber: Sampling and testing	FTMS* 601.
Textile test methods	FTMS 191.
Chemical analysis of rubber products	ASTM D 297.
Latex foam flexible cellular materials	ASTM D 1055.
Flexible cell materials—slab, bonded, and molded urethane foams	ASTM D 3574.
Low temperature compression set of vulcanized elastomers	ASTM D 1229.

## SECTION 5.—Physical and test requirements: Applicable specifications—Continued

Description	Designation
Surface flammability of carpets and rugs	DOC FF 1-70* DOC FF 2-70, and rev.
Surface burning characteristics of building materials	ASTM E 84.
Interim Federal specification—cushion, carpet and rug, cellular rubber	ZZ-C-0081b.
Interim Federal specification—cushion, carpet and rug (hair felt and rubber coated) jute and animal hair or fiber	DDD-C-001023 and amendment 1.
Interim Federal specification—cushion, carpet and rug, prime urethane	L-C-001676 and amendment 1.
Interim Federal specification—cushion, carpet and rug, bonded urethane	L-C-001369.
Interim Federal specification—carpet and rugs, wool, nylon, acrylic, modacrylic, polyester polypropylene	DDD-C-0095A.
Interim Federal specification—carpet, loop, low pile height, high density, woven or tufted, with attached cushioning	DDD-C-001559.

\*FTMS—Federal Test Method Standard.  
\*Administered by the Consumer Product Safety Commission. Copies available at 111 18th St. NW., Washington, D.C. 20207.

## SECTION 6.—DESCRIPTION AND PHYSICAL PROPERTIES

## TYPE IA—FELT—ANIMAL HAIR

## Construction and Composition

Animal hair felt carpet cushion shall conform to Interim Federal Specification DDD-C-001023, December 22, 1966, "Cushion, Carpet and Rug (Hair Felt and Rubber Coated Jute and Animal Hair or Fiber)", Amendment 1, March 10, 1972, and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with DDD-C-001023 and Amendment 1.

Animal hair shall be predominately washed cattle hair but not to the exclusion of other fibers. The fiber content of all felt shall not be less than 90 percent cattle hair, except for the core material. Up to 9 percent adhesive material (based on weight of the hair and fiber content) is permitted for binding the interliner material. Adhesive shall be nonsouring in the presence of moisture. Chloroform- and water-extractable matter shall not exceed 16.0 percent by weight, based on the bone dry weight. Manufacturers or laboratories preferring to use a less toxic solvent than chloroform may do so after first clearing with HUD.

Animal hair shall be cleaned, washed and sterilized by thorough drying, and shall be free from loading materials and foreign matter. The felt for the cushion shall be a matted fabric evenly felted on each side of an interliner by a needleloom (needle-punched) process.

The interliner used for reinforcement shall be burlap fabric weighing not less than 4.2 ounces per square yard, or other open mesh or nonwoven material. The non-burlap products shall provide the necessary strength to eliminate shrink and stretch in

\*When this standard was developed no alternative solvent or procedure had been proposed.

excess of burlap support in both directions of the cushion. The felt shall be compressed into a waffled pattern.

## Physical Requirements

Animal hair felt cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 1. Other characteristics and test requirements applicable to both classes are also detailed in Table 1.

## TYPE IB—FELT—RUBBERIZED JUTE AND RUBBERIZED ANIMAL HAIR

## Construction and Composition

Rubberized jute cushion and rubberized animal hair carpet cushion shall conform to Interim Federal Specification DDD-C-001023, December 22, 1966, "Cushion, Carpet and Rug (Hair Felt and Rubber Coated Jute and Animal Hair or Fiber)", Amendment 1, March 10, 1972, and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with DDD-C-001023 and Amendment 1, except that there shall be no requirement to include 10 percent of animal hair in rubberized jute.

Animal hair for rubberized animal hair cushion shall be predominately washed cattle hair but not to the exclusion of other fibers. The fiber content of all felt shall not be less than 90 percent cattle hair. Animal hair shall be cleaned, washed and sterilized by thorough drying, and free from loading materials and foreign matter.

Rubberized jute and rubberized animal hair cushion shall be of needle-punched construction. A rubber coating shall be applied to both faces of the cushion and shall be of foamed or unfoamed rubber made from natural, reclaimed, or synthetic rubber, or suitable mixtures thereof. Rubber shall not readily peel off when rubbed with fingers at a normal pressure.

## Physical Requirements

Rubberized jute cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 2. Other characteristics and test requirements applicable to both classes are also detailed in Table 2.

## TYPE IIA—CELLULAR RUBBER—RIPPLED

## Construction and Composition

Rippled (waffled) cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber" and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Rippled cellular rubber cushion shall be made from natural or synthetic rubber or a mixture thereof, combined with plasticizers, fillers, blowing agents and curing agents. After blowing, the cushion shall have a cellular sponge structure. The cellular rubber shall be formed in a continuous sheet having permanent rippled design. A suitable facing material shall be applied to one surface of the cushion. If the facing material is not commonly used in the trade, its acceptability shall be determined by consultation with HUD. Facings shall be such that conventional carpet products may readily slide across their surfaces during installation.

## Physical Requirements

Rippled cellular rubber cushion shall meet all minimum requirements for either

## PROPOSED RULES

Class 1 or Class 2 traffic as given in the specifications in Table 3. Other characteristics and test requirements applicable to both classes are detailed in Table 3.

## TYPE IIB—CELLULAR RUBBER—FLAT SPONGE

## Construction and Composition

Flat sponge cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber", and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Flat sponge cellular rubber shall be manufactured of the same composition as rippled cellular rubber, Type IIA, except that the finished sheet shall be essentially flat or smooth in configuration. (A slight pattern may be embossed into one side.) A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

## Physical Requirements

Flat sponge cellular rubber cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 4. Other characteristics and test requirements applicable to both classes are detailed in Table 4.

## TYPE IIC—CELLULAR RUBBER—FOAM

## Construction and Composition

Foam cellular rubber carpet cushion shall conform to Interim Federal Specification ZZ-C-00811b, January 2, 1963, "Cushion, Carpet and Rug, Cellular Rubber", and amendments specified in this bulletin. These latter amendments shall apply in cases of conflict with ZZ-C-00811b.

Foam cellular rubber shall be manufactured from a latex rubber base, either natural, synthetic, or a blend of both. It shall contain suitable additives for developing adequate cellular structure, for promoting vulcanization, and for achieving the required physical properties. Foam cellular rubber cushion shall be manufactured in flat continuous sheets. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical with those given for Type IIA.

## Physical Requirements

Foam cellular rubber cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 5. Other characteristics and test requirements applicable to both classes are detailed in Table 5.

## TYPE IIIA—URETHANE FOAM—PRIME

## Construction and Composition

Prime urethane foam carpet cushion shall conform to Interim Federal Specification L-C-001676, December 10, 1970, "Cushion Carpet and Rug, Prime Urethane", Amendment 1, September 7, 1971, and modifications specified in this bulletin. In the event of conflict between L-C-001676, Amendment 1 thereto, and this bulletin, the specifications in this bulletin shall apply. Prime urethane foam carpet cushion shall be manufactured from a virgin polyether-polyurethane foam. No polyester material shall be included. The structure shall consist of a network of open or interconnecting cells, with porous surfaces substantially free of

voids. The foam may contain fillers to increase density or enable it to meet the fire resistance requirements specified in this bulletin. Fillers used to increase density shall not be used to calculate the urethane polymer density minimums which are specified in Table 6 and which are the minimum requirements for acceptance. Coloring matter may be added provided it will not bleed or cause any other unsatisfactory performance of the end product. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

## Physical Requirements

Prime urethane foam cushion shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 6. Other characteristics and test requirements applicable to both classes are detailed in Table 6.

## TYPE IIIB—URETHANE FOAM—DENSIFIED PRIME URETHANE

## Construction and Composition

Densified prime urethane carpet cushion shall be composed of prime, homogeneous, polyether/polyurethane foam having a modified cellular structure and characterized by elongated cells. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

## Physical Requirements

Densified prime urethane shall meet all minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 7. Other characteristics and test requirements applicable to both classes are detailed in Table 7.

## TYPE IIIC—URETHANE FOAM—GRAFT POLYOL-BASED URETHANE

## Construction and Composition

Graft polyol-based urethane carpet cushion shall be composed of prime, homogeneous, polyether/polyurethane foam characterized by increased stiffness and firmness resulting from the use in its manufacture of polyols based on graft polymers or other modifications of the formulation which produce increased stiffness. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

## Physical Requirements

Graft polyol-based urethane cushion shall meet all the minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 8. Other characteristics and test requirements are detailed in Table 8.

## TYPE IIID—URETHANE FOAM—BONDED

## Construction and Composition

Bonded urethane foam carpet cushion shall conform to Federal Specification L-C-001369, December 10, 1969, "Cushion, Carpet and Rug, Bonded Urethane" and amendments specified in this bulletin. In the event of conflict between L-C-001369 and this bulletin, the specifications in this bulletin shall apply.

Bonded urethane foam carpet cushion shall be composed of 100 percent prime polyurethane foam, at least 50 percent of



which shall be polyether foam. Filter, reticulated, impregnated vinyl, slow recovery, fabric and fabric-backed foams, separately added fillers, adulterants, foreign materials, latex foams, and other non-urethane foams shall not be permitted. Typical adulterants include dirt, tramp metal, wood chips, and paper. In the event of dispute, a representative 50 gram sample shall be scissor cut into one-inch cubes or equivalent. The sample shall be placed on a Standard U.S. Sieve No. 6 and shaken to remove all debris. This debris shall be weighed to 0.1 gram accuracy and its percent of original weight calculated. A maximum of 1 percent debris is permitted.

The foam shall be ground or shredded to a particle size not exceeding 1/8", bonded together with a basically urethane or other suitable type binder, and sufficient solid content added to allow cushion to meet the physical and chemical requirements of this bulletin. When a urethane binder is used a good commercial quality product usually has a minimum binder content of 8 percent by weight of pre-cured mass. Materials which will reduce the viscosity and improve the wetting characteristics of the urethane prepolymer may be added.

Coloring matter may be added, provided it will not bleed or cause any other unsatisfactory performance of the product. All materials shall be suitably blended, processed, cured, and fabricated into sheet form, using acceptable trade manufacturing techniques. A suitable facing material shall be applied to one surface of the cushion. Requirements for such facing are identical to those given in Type IIA.

#### Physical Requirements

Bonded urethane foam cushion shall meet all the minimum requirements for either Class 1 or Class 2 traffic as given in the specifications in Table 9. Other characteristics and test requirements applicable to both classes are detailed in Table 9.

#### SECTION 7.—APPLICABLE SPECIFICATIONS AND TEST METHODS

The following tables present the necessary physical characteristics required for each type of cushion. Permissible tolerances are given in Section 9—Quality Assurance Provisions.

CLD—Compression Load Deflection.  
lbf—Pounds of force.  
DOC—Department of Commerce.  
ASTM—American Society for Testing and Materials.

L-C, ZZ-C, DDD-C—These refer to certain Federal Government Specifications.

TABLE 1.—Felt—Animal hair, type IA

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	40.0-5 pct	50.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	%	%	FTMS 191, method 5030.
Flammability	75 or less Pass	75 or less Pass	ASTM E 84-75 or 76a. DOC FF 1-70. DOC FF 2-70.

\*The provisions of these standards relating to laundering of products containing fire-retardant treatments are inapplicable. Also, if cushion has a facing it shall be tested on both sides. Any need for diverging from the test procedures for flammability must first be authorized by HUD headquarters.

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TABLE 2.—Rubberized Jute and rubberized animal hair, type IB

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	40.0-5 pct	50.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	%	%	FTMS 191, method 5030.
Flammability	The same tests and limits as in table 1.		

TABLE 3.—Rippled cellular rubber, type IIA

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	40.0-5 pct	50.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	0.30	0.40	FTMS 601, method 12031, ASTM D 1055.
CLD, minimum, pounds per square inch, 25 pct deflection.	0.615	0.875	FTMS 601, method 12151.
Compression set, maximum, percent, 50 pct deflection.	15	15	FTMS 601, method 12131.
Tensile strength, minimum, pounds per square inch.	8	8	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

\*Use a minimum 4 by 4 in sample, skin face down and a light thin flat sheet covering entire sample. Use dial type micrometer of type mentioned in ASTM D 1055 to check thickness, allowing for thickness of flat sheet.

\*Test specimen shall be a 2 by 2 in portion of test unit with facing, with plates larger than specimen.  
\*Test specimen shall be a 2 by 2 in portion of test unit, with facing. Sample shall be tested for 22 hr. at 70° ± 1° C. (158° ± 1.8° F), calculate as loss/original thickness, times 100. If calculated as loss/original deflection, the maximum percentage allowable for class 1 and 2 is 30 pct.

TABLE 4.—Cellular rubber—flat sponge, type IIB

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	56.0-5 pct	64.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	0.230 ± .020	0.240 ± .020	FTMS 601, method 12031, ASTM D 1055.
CLD, minimum, pounds per square inch, 25 pct deflection.	0.75	1.5	FTMS 601, method 12151.
Compression set, maximum, percent, 50 pct deflection.	10	10	FTMS 601, method 12131.
Tensile strength, minimum, pound femto.	8.0	8.0	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

\*Test as for type IIA.  
\*Test as for type IIA.  
\*Test as for type IIA. If calculated as loss/original deflection the maximum percentage allowable for class 1 and 2 is 30 pct.

TABLE 5.—Foam cellular rubber, type IIC

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, ounces per square yard.	38.0-5 pct	46.0-5 pct	FTMS 191, method 5040 or 5041.
Thickness, minimum, inches.	%	%	FTMS 601, method 12031, ASTM D 1055.
CLD, minimum, pounds per square inch, 25 pct deflection.	1.0	2.0	FTMS 601, method 12151.
Compression set, maximum, percent, 50 pct deflection.	15.0	15.0	FTMS 601, method 12131.
Tensile strength, minimum, pound femto.	8.0	8.0	FTMS 191, method 5100.
Flammability	The same tests and limits as in table 1.		

\*Test as for type IIA.  
\*Test as for type IIA.  
\*Test as for type IIA. If calculated as loss/original deflection the maximum percentage allowable for class 1 and 2 is 30 pct.

TABLE 6.—Prime urethane, type IIIA

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pounds per cubic foot.	2.2-5 pct	2.7-5 pct	ASTM D 3574
Thickness, minimum, inches.	%	%	ASTM D 3574
CLD, minimum, pounds per square inch:			
25 pct deflection.	0.3	0.5	ASTM D 3574
65 pct deflection.	0.7	1.0	
75 pct deflection.	0.9	1.0	
Compression set, maximum, percent, 50 pct deflection.	15.0	15.0	ASTM D 3574
Tensile strength, minimum, pounds per square inch.	10.0	10.0	ASTM D 3574
Elongation, minimum, percent.	100	100	ASTM D 3574
Fatigue, procedure A, height loss, maximum, percent.	5.0	5.0	ASTM D 3574
Load deflection loss, maximum, percent.	25.0	25.0	ASTM D 3574
Steam autoclave test, compression set, maximum, percent.	20	20	ASTM D 3574
Flammability	The same tests and limits as in table 1.		

\*Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multiplied by apparent weight, shall equal the minimum values listed in the above table.  
\*Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection. Test against flat surface. All tests shall be without facing. If need be, stack specimens to 1 in before testing for 65 pct and 75 pct deflections.

\*Test specimen shall be a 2 by 2 in portion of test unit, with plates larger than specimen.  
\*Test performed on samples without facing.

TABLE 7.—Densified prime urethane, type IIIB

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pounds per cubic foot.	2.2-5 pct	3.0-5 pct	ASTM D 297
Thickness, minimum, inches.	0.313	0.25	ASTM D 3574
CLD, minimum, pounds per square inch:			
25 pct deflection.	0.40	0.44	ASTM D 3574
65 pct deflection.	1.10	1.30	
Compression set, maximum, percent, 50 pct deflection.	10	10	ASTM D 3574
Tensile strength, minimum, pounds per square inch.	17	20	ASTM D 3574
Elongation, minimum, percent.	100	100	ASTM D 3574
Flammability	The same tests and limits as in table 1.		

\*Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multiplied by apparent weight, shall equal the minimum values listed in the above table.

\*Grades having a convoluted undersurface may read lower at 25 pct deflection, but will exceed specifications at 65 pct deflection. Test against flat surface. Tests shall be without facing.

TABLE 8.—Graft polyol-based urethane, type IIIC

Characteristic	Class 1	Class 2	Test requirements
Urethane polymer weight, minimum, pounds per cubic foot.	2.2-5 pct	2.7-5 pct	ASTM D 297
Thickness, minimum, inches.	0.375	0.25	ASTM D 3574
CLD, minimum, pounds per square inch:			
25 pct deflection.	0.40	0.50	ASTM D 3574
65 pct deflection.	1.10	1.40	
Compression set, maximum, percent, 50 pct deflection.	15	15	ASTM D 3574
Tensile strength, minimum, pounds per square inch.	12	17	ASTM D 3574
Elongation, minimum, percent.	100	100	ASTM D 3574
Flammability	The same tests and limits as in table 1.		

\*Apparent weight will be corrected to urethane polymer weight by performing the following test: Ash content, percent, as determined in ASTM D 297, subtracted from 100 pct, and multiplied by apparent weight, shall equal the minimum values listed in the above table.

\*Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection.  
\*Tests performed on samples without facing.

TABLE 9.—Bonded urethane, type IIID

Characteristic	Class 1	Class 2	Test requirements
Weight, minimum, pounds per cubic foot.	5.5-5 pct	6.5-5 pct	L-C-001369.
Thickness, minimum, inches.	%	%	L-C-001369.
CLD, minimum, pounds per square inch:			
25 pct deflection.	0.8	1.0	L-C-001369.
65 pct deflection.	4.0	5.0	
75 pct deflection.	8.0	11.0	

#### PROPOSED RULES

TABLE 9.—Bonded urethane, type IIID—Continued

Characteristic	Class 1	Class 2	Test requirements
Compression set, maximum, percent, 50 pct deflection.	15.0	15.0	L-C-001369.
Tensile strength, minimum, pounds per square inch.	5.0	7.0	L-C-001369.
Elongation, minimum, percent.	45.0	45.0	ASTM D 3574.
Particle size, inches.	1/4	1/4	L-C-001369.
Debris.	1 pct	1 pct	See text.
Flammability	The same tests and limits as in table 1.		

\*For increased thickness the same thickness-to-weight ratios shall be maintained.

\*Grades having a convoluted undersurface may read lower at 25 pct deflection but will exceed specifications at 65 pct deflection. Tests shall be without facing.

\*Tests to be performed on cushion without facing.

\*Particle size determinations are made with random samples of ground particles as given in L-C-001369.

#### SECTION 8.—FLAMMABILITY

All cushion specified in this bulletin shall meet either one of the referenced requirements shown below for approved installation and used in HUD mortgage insured properties and programs, including hospitals, nursing homes, housing for the elderly, and care type facilities.

1. DOC FF 1-70 or DOC FF 2-70 (Methenamine Pill Test) for use in single family and multifamily dwelling units, office buildings and general purpose buildings.

2. ASTM E 84 (Steiner Tunnel Test) cushion must pass this test with a flame spread of 75 or less. Same uses.

#### SECTION 9.—QUALITY ASSURANCE PROVISIONS

HUD accepts the above specified products on the stipulation that the manufacturer is assuring that adequate quality control is continuously exercised and that the cushion shall meet the minimum requirements of this bulletin. An independent laboratory acceptable to HUD shall perform all initial tests specified in the appropriate section. These tests shall be repeated once a year on each acceptable cushion line by that laboratory or another laboratory acceptable to HUD to assure continued quality control.

The manufacturer's name and the name of the laboratory conducting the tests, together with the initial test data, shall be on record at HUD, Office of Assistant Secretary for Housing, Office of Technical Support, Architecture and Engineering Division (A&E Division). Along with the data, the laboratory report shall include a statement that the products tested meet the requirements of this bulletin. Annual reporting is required.

In addition to cushion product meeting the specified requirements and test criteria for each respective type, they must conform to the minimum manufacturing quality control requirements specified below. Nonconformity will be determined by visual inspection of a representative sample of a lot of cushion by the manufacturer or his designated laboratory. HUD/FHA reserves the right to make or arrange for spot checks at any time to determine whether any cushion product is meeting the qualifications set forth herein. A manufacturer may not certi-

fy that his cushion meets the requirements of this bulletin unless he agrees to the principle of spot checking.

For purposes of quality assurance, a lot shall consist of 100 units or 100 lineal yards so that 1 unit shall consist of 1 lineal yard. Five randomly selected non-contiguous units from one lot from each shift shall be subjected to a non-destructive visual examination for defects 4, 5, 6, 7, and 8 as provided below. The entire lot shall be checked for requirements other than specific defects, that is 1, 2, 3, 9, 10, 11, and 12.

All carpet cushion shall meet the provisions below:

1. Length—1 percent allowance when length is specified.
2. Width—1 inch.
3. Weight—If weight exceeds 5 percent this shall not be deemed a defect.
4. No cuts, holes, tears more than 1/4" any measurement.
5. Lumps, high spots, low spots—none.
6. Thin or weak spots—none.
7. Imbedded or protruding foreign matter—none.
8. Seams—intact and smooth.
9. Edges—straight, parallel, square.
10. Surfaces—flat and parallel.
11. Facing—as specified, must cover 98 percent of surface area, be non-tacky, have no loose areas, and be non-peeling.
12. Objectionable odors—none.

NOTE.—Vacuum packed cushion shall be unrolled and left in a relaxed state for 24 hours before length and width determinations are made.

#### APPENDIX.—CONVERSION, METRIC AND SI UNITS

As an aid in correlating U.S. customary units to metric units, conversion factors for units in this bulletin follow. They are in accordance with the International System of Units (abbreviated SI).

- 1 inch=2.54 centimeters.
- 1 ounce=28.35 grams.
- 1 pound (mass)=453.6 grams.
- 1 pound (force)=4.448 newtons.
- 1 square yard=0.8361 square meter.
- 1 cubic foot=0.02832 cubic meter.
- 1 pound force per inch=175.1 newtons per meter.
- 1 pound per square inch (psi)=6895 kilopascals.
- 1 gram per square inch=15.20 pascals.
- 1 ounce per square yard=33.91 grams per square meter.
- 1 pound per cubic foot=16.02 kilograms per cubic meter.
- $T_c = (t - 32)1.8$  where  $t$ =temperature in degrees Celsius.
- where  $t$ =temperature in degrees Fahrenheit.

#### CROSS REFERENCE TO THE 3 TYPES OF CUSHION

Type and subclass	Page location in bulletin	Descriptive Requirements (sec. 6)	Name of cushion
I.....	6		Felt.
IA.....	6		13 Animal hair.
IB.....	7		13 Rubberized jute and rubberized animal hair.
II.....	8		Cellular rubber.
IIA.....	8		14 Rippled.
IIB.....	8		15 Flat sponge.
IIC.....	9		16 Foam rubber.



## CROSS REFERENCE TO THE 3 TYPES OF CUSHION—Continued

Type and subclass	Description (sec. 6)	Requirements (sec. 7)	Name of cushion
III	9	17	Urethane foam.
IIIA	9	17	Prime urethane.
IIIB	10	19	Densified prime urethane.
IIIC	10	20	Graft polyol-based urethane.
IIID	11	21	Bonded urethane.

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## [4510-26]

## DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

[29 CFR Part 1952]

## INDIANA

## Request for Comments

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Additional time to comment on petition for withdrawal of approval.

SUMMARY: On Friday, December 23, 1977, notice was published in the FEDERAL REGISTER (42 FR 64464), in which the agency requested public comment on whether the Assistant Secretary of Labor for Occupational Safety and Health should accept or deny, in whole or in part, a petition by the Indiana AFL-CIO to withdraw approval of the Indiana State Plan for the development and enforcement of State occupational safety and health standards. Several written requests have been received for an additional comment period. In response to these requests, an additional period of 30 days from publication of this notice is deemed reasonable and adequate to permit the submission of additional comments.

DATES: Comments must be submitted on or before March 2, 1978.

ADDRESS: Written comments and requests for an informal hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210.

## FOR FURTHER INFORMATION CONTACT:

John Domenic Smith, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-653-5373.

## PROPOSED RULES

Signed at Washington, D.C., this 20th day of January, 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.  
[FR Doc. 78-2393 Filed 1-30-78; 8:45 am]

## [4510-26]

[29 CFR Part 1952]

## SOUTH CAROLINA

## Request for Comments

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Request for public comment.

SUMMARY: This notice requests public comment on whether the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) should accept or deny, in whole or in part, a petition by the Carolina Brown Lung Association to withdraw approval of the South Carolina State Plan for the development and enforcement of State occupational safety and health standards.

DATE: Comments and requests for hearing should be submitted by March 2, 1978.

ADDRESS: Written comments and requests for an informal hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210.

## FOR FURTHER INFORMATION CONTACT:

Barbara Bryant, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8031.

## SUPPLEMENTARY INFORMATION:

## BACKGROUND

On October 12, 1977, the Assistant Secretary received a petition from the Carolina Brown Lung Association, signed by Woodrow Clark, the Association's president. The petition requests the Assistant Secretary, pursuant to 29 CFR Part 1955, to withdraw approval of the South Carolina State Plan. The petition specifies several reasons for withdrawal of approval, and requests that the Assistant Secretary hold a public hearing on the petition.

The South Carolina State plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651) (hereinafter called the Act), as a developmental

plan on November 30, 1972 (37 FR 25933), and was certified under 29 CFR 1902.34 to have complied with all developmental steps on August 3, 1976 (41 FR 32424). It is described at 29 CFR Part 1952 Subpart C.

## INFORMATION REQUESTED

The petition alleges four general areas where the South Carolina Plan is deficient.

(1) The petition alleges that no cotton dust cases have been tried in the State even though there have been numerous citations, and that this situation is caused in part by the State's reluctance to expend funds for expert witnesses. In addition, considering the large portion of South Carolinians employed in the textile industry, an insufficient number of inspections have been conducted despite the fact that the State has committed itself to treating cotton dust as a high health hazard. The petition also alleges that cotton dust exposure has not been considered a high hazard area and that advance notice may have been improperly given to employers prior to textile mill inspections.

(2) The petition alleges that other enforcement deficiencies exist including: missing violations during inspections, discussing apparent violations with employers but not citing for them, delaying inspections on health referrals for over two months and not giving higher hazard referrals greater priority, failing to properly classify violations as serious, and devoting a disproportionately large amount of resources into inspecting low hazard areas.

(3) The petition alleges that deficiencies exist in the State's Review and Appeal System. These include a tendency for hearing examiners to reduce penalties in most contested cases, the tendency for the State to substantially reduce penalties as a result of informal conferences, the excessive length of time for the completion of the formal review process, and the failure of the State to follow its procedures for petitions for modification of abatement periods.

(4) The petition alleges that insufficient resources are allocated to employee education programs, with eight times more time spent on employer education, and that the employee training taking place is only in low priority industries.

Comment is requested on any or all of the above four areas, both as to the validity of the allegations, and whether, if true, the allegations are cause for withdrawal under section 18 of the Act as set out in 29 CFR 1955.3(a)(3).

## AVAILABILITY OF THE PETITION AND PUBLIC SUBMISSIONS FOR INSPECTION AND COPYING

A copy of the petition and all public comments and requests may be in-

spected and copied during normal business hours at the Office of the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210; at the Office of the Regional Administrator, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street NE., Atlanta, Ga. 30309; and at the Office of the Area Director, Occupational Safety and Health Administration, 2711 Middleburg Drive, Suite 102, Kirtrell Center, Columbia, S.C. 29205.

If it is determined that substantial objections which warrant public discussion have been filed, an informal hearing on the petition may be held. All relevant comments, arguments and requests submitted in accordance with this notice will be considered and a decision to grant or deny the petition will thereafter be issued.

Signed at Washington, D.C., this 20th day of January 1978.

EULA BINGHAM,  
Assistant Secretary of Labor.  
[FR Doc. 78-2396 Filed 1-30-78; 8:45 am]

## [6560-01]

## ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 849-8]

## APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

San Diego County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the San Diego County Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments may be submitted up to March 2, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn.: Air & Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

## PROPOSED RULES

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, Calif. 92123.  
California Air Resources Board, 1709-11th Street, Sacramento, Calif. 95814.  
Public Information Reference Unit, EPA Library—Room 2922, 401 M Street SW., Washington, D.C. 20460.

## FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on October 13, 1977:

## REGULATION I—GENERAL PROVISIONS

Rule 2—Definitions.  
Rule 3—Standard conditions.

## REGULATION II—PERMITS

Rule 19.2—Continuous emission monitoring requirements.

## REGULATION III—FEES

Rule 40—Permit fees.  
Rule 42—Hearing board fees.

## REGULATION IV—PROHIBITIONS

Rule 50—Visible emissions.  
Rule 52—Particulate matter.  
Rule 53—Specific contaminants.  
Rule 54—Dust and fumes.  
Rule 55—Exceptions.  
Rule 61—Storage of volatile organic compounds.

Rule 61.0—Definitions.  
Rule 61.1—Receiving and storing volatile organic compounds at bulk plants and bulk terminals.  
Rule 61.2—Transfer of volatile organic compounds into mobile transport tanks.  
Rule 61.3—Transfer of volatile organic compounds into stationary storage tanks.  
Rule 61.4—Transfer of volatile organic compounds into vehicular fuel tanks.  
Rule 61.5—Visible emission standards for vapor control systems.  
Rule 62—Sulfur content of fuels.  
Rule 63—Volatile organic compound loading facilities.

Rule 64—Reduction of animal matter.  
Rule 65—Volatile organic compound water separators.  
Rule 66—Organic solvents.  
Rule 68—Fuel burning equipment—oxides of nitrogen.  
Rule 71—Abrasive blasting.

## REGULATION V—PROCEDURE BEFORE THE HEARING BOARD

Rule 76—Filing petitions.  
Rule 77—Contents of petitions.  
Rule 85—Notice of hearing.  
Rule 95—Requirement for hearing.  
Rule 96—Compliance schedules.

## REGULATION VI—ORCHARD OR CITRUS GROVE HEATERS

Rule 101—Definitions.  
Rule 102—Open fires, western section.

Rule 103—Open fires, eastern section.  
Rule 104—Further exceptions.  
Rule 109—Temporary suspension of permits.  
Rule 113—Plan for open burning control in San Diego County.

## REGULATION IX—PUBLIC RECORDS

Rule 177—Inspection of public records.

In addition, regulations were submitted concerning new source review and emergency episodes. These regulations will be considered in separate FEDERAL REGISTER actions.

The State also submitted regulations concerning New Source Performance Standards (NSPS) on October 13, 1977, and also on November 4, 1977. Regulations concerning National Emission Standards for Hazardous Air Pollutants (NESHAPS) were submitted on November 4, 1977. These NSPS and NESHAPS regulations implement Sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State Implementation Plan under Section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of sections 111 and 112. Announcement of such delegation will appear in a separate FEDERAL REGISTER notice.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received by March 2, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Secs. 110 and 301(a) of the Clean Air Act, as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: January 6, 1978.

PAUL DEFALCO,  
Regional Administrator.  
[FR Doc. 78-2698 Filed 1-30-78; 8:45 am]

## [6560-01]

[40 CFR Part 730]

## TSCA INTERAGENCY TESTING COMMITTEE

Proposed Rule for Health and Safety Study Reporting; Submittal of Studies of Substances Recommended for Priority Consideration

AGENCY: Environmental Protection Agency.



## PROPOSED RULES

**ACTION:** Proposed rule; notice of opportunity for comment.

**SUMMARY:** Section 4 of the Toxic Substances Control Act (TSCA) authorizes the Environmental Protection Agency (EPA) to issue testing rules for chemical substances. On October 5, 1977, the Interagency Testing Committee (ITC), established under section 4(e) of TSCA, recommended four substances and six categories of substances for priority consideration in the issuance of such rules: alkyl epoxides, alkyl phthalates, chlorinated benzenes, chlorinated paraffins, chloromethane, cresols, hexachloro-1,3-butadiene, nitrobenzene, toluene, and xylenes. (See 42 FR 55026, October 12, 1977.) This rule, proposed pursuant to TSCA section 8(d), would require manufacturers, processors, and distributors in commerce to submit health and safety studies relating to the substances and areas of study recommended by the ITC. The Administrator will use these studies to assess the need for and character of testing rules to be promulgated under section 4(a)—or, where indicated, the need for and character of control regulations under section 6.

In addition, the provisions of this proposed rule will probably be used for subsequent ITC recommendations and for other chemicals of interest to the Agency.

**DATES:** Comments on this proposed rule must be received on or before April 3, 1978.

**ADDRESS:** Comments should be addressed to: Environmental Protection Agency, Office of Toxic Substances (WH-557), Federal Register Section, 401 M Street SW., Washington, D.C. 20460, Attn.: Ms. Joan Urquhart. All comments should be filed in triplicate and bear the notation 084001. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m., Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Georjean Adams, Coordination and Procedures Group, Office of Toxic Substances, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 202-426-4790.

**SUPPLEMENTAL INFORMATION:** The purpose of this proposed rule is to acquire existing health and safety studies on the six areas of study in the list of four substances and six categories of substances recommended for priority consideration for the issuance of testing rules by the TSCA section 4(e) Interagency Testing Committee on October 5, 1977. (See 42 FR 55026, October 12, 1977.)

Subsection 4(a) of the Toxic Substances Control Act (90 Stat. 2003, 15 U.S.C. 2601, et seq.) authorizes the Ad-

ministrator, if he makes certain findings, to promulgate rules requiring testing to be conducted on a chemical substance or mixture. Such testing would develop data with respect to the health and environmental effects for which there are insufficient data and experience and which are relevant to a determination that the substance or mixture presents an unreasonable risk of injury to health or the environment. Subsection 4(e) established an Interagency Testing Committee to recommend chemicals for priority consideration for such testing rules. The Administrator must either initiate subsection 4(a) rulemaking proceedings in accordance with ITC recommendations within 1 year of receipt or publish his reasons for not doing so. The first ITC recommendations were presented to EPA on October 5, 1977. In order to ascertain whether, and if so what, testing rules are necessary EPA will be collecting information via literature searches, from other Federal agencies, and through its own research. Another important source of such information is the health and safety studies conducted by or for industry. EPA intends to obtain these studies under the authority of subsection 8(d).

Section 8(d) authorizes EPA to require any person who manufactures, processes, or distributes in commerce any chemical to submit lists and copies of health and safety studies with respect to that chemical. Such studies may include those conducted or initiated by or for, known to, or reasonably ascertainable by such person. This proposed rule, however, would apply to only (1) studies conducted or initiated by or for manufacturers, processors, and distributors of the chemical substances designated by the ITC; and (2) any other pertinent studies of those chemicals contained or referenced in such persons' files.

Under § 730.5 of the proposed rule, manufacturers, processors, and distributors would be required to submit lists of all relevant studies within 60 days of the effective date of the rule. In addition, the rule would require such persons to submit copies of listed unpublished studies in their possession. If listed studies are not in the possession of those who submit lists, section 8(d) authorizes EPA to require any person possessing such study to submit it to the Agency. If a listed study is not otherwise available, the Agency may exercise this authority. Thus universities, independent laboratories, private and public organizations, and individuals who have possession of listed studies may be required to submit them. In such event, EPA will follow the procedures in § 730.8 for contacting such persons and requiring the submittals.

For the purposes of this rule, EPA is requiring the submission of lists of

health and safety studies only from juridical persons; i.e., "persons" established by law such as companies, associations and other entities that manufacture, process, or distribute chemicals. If a juridical person violates a provision of this rule, its employees may be held liable to the extent they are responsible for causing such violation. Persons who "manufacture or process for commercial purposes" include those who use a chemical for product research and development, for test marketing purposes, or solely for their own use. In addition, TSCA defines an importer as a manufacturer. Therefore, companies that import a chemical substance or mixture in bulk form, including in cans, bottles, drums, barrels, packages, tanks, bags and other containers, are also subject to this rule.

The health and safety studies subject to this reporting requirement are those relating to the six areas recommended by the ITC: carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiological studies. These categories are to be interpreted broadly to include all relevant studies on each chemical substance or any mixture containing that substance. For example, "other chronic effects" refers to all studies of repeated dose application over time, including sub-chronic effects; "environmental effects" includes both chemical fate and persistence, as well as ecological effects on plants and animals; and "epidemiology studies" include those for animals (epizootiology) as well as humans.

EPA encourages all persons to submit any information which could assist in the development of testing rules for these chemicals, including any planned or initiated studies. This will be helpful not only in deciding if testing is necessary, but also in determining the kind of testing to be done.

This proposed rule will probably serve as the model for obtaining health and safety studies on subsequent ITC recommendations and may also be used for other specific chemicals of interest to the Agency. Therefore, EPA encourages all interested parties to comment on the general provisions of the rule described below.

The Administrator proposes to amend 40 CFR Chapter 1, Subchapter R, by adding a new Part 730. This Part would require manufacturers, processors, and distributors of the substances recommended by the ITC to submit (1) lists of pertinent health and safety studies contained or referenced in company files and (2) copies of those studies which are in the possession of the company. However, EPA would not require submission of (1) lists or copies of those studies which are indexed in designated data systems or (2) copies of published studies or

studies which have been submitted to any Federal agency without a claim of confidentiality. Any person possessing a study which has been listed by, but is not in the possession of, a manufacturer, processor, or distributor may be required by EPA to submit a copy. All persons submitting studies may claim confidentiality; however, TSCA section 14(b) only provides confidentiality for that portion of health and safety study data that discloses processes or, in the case of mixtures, percent composition.

**NOTE:**—EPA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis Statement under Executive Order No. 11949 and OMB Circular A-107.

Dated: January 20, 1978.

DOUGLAS M. COSTLE,  
Administrator.

40 CFR 730 is added as follows:

#### PART 730—HEALTH AND SAFETY STUDY REPORTING

- Sec. 730.1 Definitions.
- 730.2 Scope and compliance.
- 730.3 Persons who must report.
- 730.4 Substances and effects to which this part applies.
- 730.5 Listing and submission requirements.
- 730.6 Schedule for submission of studies.
- 730.7 Confidentiality claims.
- 730.8 Persons in possession of listed studies.

**AUTHORITY:** Subsec. 8(d), Toxic Substances Control Act (90 Stat. 2003, 15 U.S.C. 2601 et seq.)

##### § 730.1 Definitions.

The definitions as set forth in the Toxic Substances Control Act Section 3 apply for this part. In addition, the following definitions are provided for the purposes of this part:

(a) "Manufacture or process" means to manufacture or process for commercial purposes, which includes (1) for distribution in commerce, including for test marketing purposes; (2) for use as a catalyst or intermediate; (3) for the exclusive use by the manufacturer or processor; or (4) for product research or development.

(b) "Person" means any natural or juridical person. A "juridical person" includes any firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal Government.

(c) "Study" means any report of a formal investigation which utilizes defined methodologies and yields preliminary or final results, and includes underlying data and information.

(d) "Substance" means a chemical substance or mixture as defined above.

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##### § 730.2 Scope and compliance.

(a) This part implements subsection 8(d) of the Toxic Substances Control Act (TSCA) to obtain health and safety studies associated with the four substances and six categories of substances and areas of study recommended by the Interagency Testing Committee on October 5, 1977, for priority consideration for testing rules under subsection 4(e) of TSCA (42 FR 55026, October 12, 1977).

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse timely to submit information required under this part. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the Government may seek judicial relief to compel submittal of section 8(d) information and to otherwise restrain any violation of this part.

##### § 730.3 Persons who must report.

(a) Persons subject to this part are all juridical persons who have manufactured, processed or distributed in commerce, or have proposed to manufacture, process or distribute in commerce since January 1, 1977, one or more of the substances or categories of substances listed in § 730.4; this includes persons who manufacture, process, or distribute these chemicals on a seasonal or batch basis, as well as those who hold themselves out as being manufacturers, processors, or distributors.

(b) All persons, as defined in § 730.1(b), are subject to the requirements of § 730.8.

##### § 730.4 Substances and effects to which this part applies.

EPA requires submission of health and safety studies relating to those areas listed under each respective substance or category of substances listed below:

(a) Alkyl Epoxides—including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups:

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Teratogenicity.
- (4) Other chronic effects.
- (5) Environmental effects.
- (6) Epidemiological studies.

(b) Alkyl Phthalates—all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid):

- (1) Environmental effects.
- (c) Chlorinated Benzenes—monochlorobenzene (CAS No. 108-90-7), ortho-, meta- and para-dichlorobenzene (CAS No. 95-50-1, 541-73-1, and 106-46-7):

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Teratogenicity.
- (4) Other chronic effects.
- (5) Environmental effects.

(6) Epidemiological studies.

(d) Chlorinated Paraffins—chlorinated paraffin oils and chlorinated paraffin waxes, including those with chlorine content of 35 percent through 64 percent by weight:

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Teratogenicity.
- (4) Other chronic effects.
- (5) Environmental effects.
- (e) Chloromethane—(CAS No. 74-87-3):

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Teratogenicity.
- (4) Other chronic effects.
- (f) Cresols—ortho-, meta- and para-cresol (CAS Nos. 95-48-7, 108-39-4, and 106-44-5):

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Teratogenicity.
- (4) Other chronic effects.
- (5) Environmental effects.
- (g) Hexachloro-1,3-butadiene—(CAS No. 87-68-3):

- (1) Environmental effects.
- (h) Nitrobenzene—(CAS No. 98-95-3):

- (1) Carcinogenicity.
- (2) Mutagenicity.
- (3) Environmental effects.
- (i) Toluene—(CAS No. 108-88-3):
- (1) Carcinogenicity.
- (2) Teratogenicity.
- (3) Other chronic effects.
- (4) Epidemiological studies.

(j) Xylenes—ortho-, meta- and para-xylene (CAS No. 95-47-6, 108-38-3, and 106-42-3):

- (1) Mutagenicity.
- (2) Teratogenicity.

##### § 730.5 Listing and submission requirements.

(a) Except as provided in subparagraph (b), persons subject to this part shall submit to the address in paragraph (d):

- (1) Lists of health and safety studies relating to the substances and areas set forth in § 730.4 conducted or initiated by or for, or contained or referenced in letters or memoranda in the files of such persons, and
- (2) Complete copies of any such health and safety studies for which either preliminary or final results have been reported and that are in the possession of such persons.

(b) Persons subject to this part may, but are not required to, submit:

- (1) Copies of studies which have been either
- (i) Published in the scientific literature, or
- (ii) Submitted to any Federal agency with no claims of confidentiality; or
- (2) Either lists or copies of any studies which, on the effective date of this rule, appear in the following:

- (i) Agricola,
- (ii) Biological Abstracts,



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(iii) Chemical Abstracts,  
(iv) Commonwealth Agricultural  
Bureau Abstracts,  
(v) Defense Documentation Center,  
(vi) Dissertation Abstracts,  
(vii) Environmental Periodicals  
Bibliography,  
(viii) Index Medicus,  
(ix) National Technical Informa-  
tion Service, or  
(x) Pollution Abstracts.  
(c) The lists of health and safety  
studies shall be grouped by chemical  
and alphabetized by author and shall  
include:

(1) The title of each study for which  
a copy is submitted pursuant to  
§ 730.5(a)(2).

(2) The literature citation (including  
the following sequence of information,  
as appropriate: author, title, unabbrevi-  
ated name of the periodical, date of  
publication, volume number, pages oc-  
cupied by the article, series, edition,  
city of publication, and publisher's  
name) for published studies, except as  
exempted in paragraph (b)(2), of this  
section.

(3) The title, date, agency name, and  
any other appropriate identification  
for studies submitted to any Federal  
agency, and

(4) The title, source and identity of  
any person known to have possession  
of unpublished studies that are refer-  
enced but not contained in the files of  
the person submitting the list.

(d) Lists and copies of health and  
safety studies should be submitted to:  
Office of Toxic Substances (TS-788),  
Chemical Information Division, 401 M  
Street SW., Washington, D.C. 20460.

## § 730.6 Schedule for submission of studies.

(a) Submissions under this part shall  
be received by EPA on or before 60  
days after the effective date of this  
rule.

(b) Studies subject to this part  
which yield preliminary or final re-  
sults after the effective date of this  
part shall be submitted to EPA within  
30 days of their availability until  
either (1) rules under section 4(a) of  
TSCA have been promulgated for the  
substance, or (2) the Administrator  
has published in the FEDERAL REGISTER  
his rulemaking for not initiating section  
4(a) rulemaking for that substance.

## § 730.7 Confidentiality claims.

(a) Respondents may assert a busi-  
ness confidentiality claim covering all  
or part of the health and safety stud-  
ies submitted under this part. Any in-  
formation covered by a claim will be  
disclosed by EPA only to the extent,  
and by means of the procedures, set  
forth in part 2 of this Title (41 FR  
36902, September 1, 1976).

(b) If no claim accompanies the  
health and safety studies at the time  
they are submitted to EPA the studies  
will be placed in an open file available

to the public without further notice to  
the respondent.

(c) (1) Section 14(b) of the Toxic  
Substances Control Act states that  
EPA may not withhold from disclo-  
sure, on the grounds that they are  
confidential, health and safety studies,  
except to the extent that disclosure of  
data from such studies would disclose

(i) Processes used in the manufactur-  
ing or processing of a chemical sub-  
stance or mixture, or

(ii) The portion of a mixture com-  
prised by any of the chemical sub-  
stances in the mixture.

(2) EPA will deny any claims of confi-  
dentiality for data from health and  
safety studies that exceed the limits  
stated in (c)(1) (i) and (ii).

(d) To assert a claim of confidential-  
ity for data contained in a health and  
safety study, the respondent must  
submit two copies of the study.

(1) One copy of the study must be  
complete. In that copy the respondent  
must indicate what data, if any, are  
claimed as confidential as specifically  
as possible by marking the informa-  
tion on each page with a label such as  
"confidential," "proprietary," or  
"trade secret."

(2) If some data in the health and  
safety study are claimed as confiden-  
tial, the respondent must submit a  
second copy. The second copy must be  
complete except that all information  
claimed as confidential in the first  
copy must be deleted.

(3) The first copy of the health and  
safety study will be for internal use by  
EPA. The second copy will be placed  
in an open file to be available to the  
public.

(4) Failure to furnish a second copy  
of the health and safety study when  
information is claimed as confidential  
in the first copy will be considered a  
waiver of the claim of confidentiality,  
and EPA will place the first copy in  
the public file without further notice  
to the respondent.

## § 730.8 Persons in possession of listed studies.

(a) Any person who possesses an un-  
published study that is listed by, but  
not in the possession of a person sub-  
mitting a list according to the require-  
ments of § 730.5, above, must, if re-  
quested by the Administrator or his  
designee, submit a copy to EPA.

(b) In requiring any person to  
submit a copy of a study under (a),  
EPA shall notify the person in writing  
of the requirement.

(1) Such written notification shall  
include:

(i) A copy of this part;

(ii) A description of the requested  
study;

(iii) The name, address, and tele-  
phone number of the person to whom  
the study should be submitted; and

(iv) The date by which the study  
should be submitted, which date shall

be no sooner than 30 days after the  
person's receipt of the notification.

(2) The written notification shall be  
mailed by certified mail.

[FR Doc. 78-2699 Filed 1-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS  
COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-25; RM-2920]

FM BROADCAST STATION IN LEWISTON,  
IDAHO

## Proposed Changes in the Table of Assignments

AGENCY: Federal Communications  
Commission.

ACTION: Notice of Proposed Rule-  
making and Order To Show Cause.

SUMMARY: Action taken herein pro-  
poses the assignment of a Class C FM  
channel to Lewiston, Idaho, in re-  
sponse to a request by KRLC, Inc. In  
addition, another Class C channel is  
being proposed to the same commu-  
nity as a substitute for the presently as-  
signed Class A FM channel. An Order  
to Show Cause is directed to the Class  
A licensee to show why its license  
should not be modified to operate on  
this Class C channel. Making both as-  
signments would bring a second FM  
service to a substantial area and avoid  
the intermixture of classes of channels  
in Lewiston.

DATES: Comments must be filed on  
or before March 27, 1978, and reply  
comments on or before April 17, 1978.

ADDRESSES: Federal Communica-  
tions Commission, Washington, D.C.  
20554.

FOR FURTHER INFORMATION  
CONTACT:

Mildred B. Nesterak, Broadcast  
Bureau, 202-632-7792.

## SUPPLEMENTARY INFORMATION:

PROPOSED RULEMAKING AND ORDER TO  
SHOW CAUSE

Adopted: January 23, 1978.

Released: January 30, 1978.

In the matter of Amendment of  
§ 73.202(b), Table of Assignments, FM  
Broadcast Stations. (Lewiston, Idaho),  
BC Docket No. 78-25, RM-2920.

1. *Petitioner, Proposal and Com-  
ments.* (a) Petition for rulemaking,  
filed June 22, 1977, by KRLC, Inc.  
("petitioner"), licensee of full-time AM  
Station KRLC, Lewiston, Idaho, pro-  
posing the assignment of FM Channel  
295 to Lewiston, Idaho.

(b) The channel may be assigned  
without affecting any of the existing

\*Public Notice of the petition was given on  
July 18, 1977 (Report No. 1064).

FM assignments in the Table. No re-  
sponses were made to the proposal.

(c) Petitioner states that it will  
apply for the channel, if assigned.

2. *Community Data.*—(a) *Location.*  
Lewiston is located 432 kilometers (270  
miles) east of Portland, Oreg., and 136  
kilometers (85 miles) south of Spo-  
kane, Wash.

(b) *Population.* Lewiston—26,068;  
Nez Perce County—30,376.\*

(c) *Present Aural Services.* Lewiston  
presently receives local service from  
full-time AM Stations KOZE and  
KRLC, and Station KOZE-FM (Chan-  
nel 244A). It also receives service from  
daytime-only AM Station KCLK and  
Station KCLK-FM at Clarkston,  
Wash., 2 miles from Lewiston. (Chan-  
nel 231 is assigned to Lewiston, but is  
used by Station KCLK-FM at Clark-  
ston.)

(d) *Economic Considerations.* Peti-  
tioner states that, according to the  
City of Lewiston Planning Depart-  
ment, Lewiston's population will in-  
crease to 37,020 by 1980. It points out  
that the area produces wheat, peas,  
and lentils in addition to having the  
largest cattle sales yard in the Pacific  
Northwest. It appears that the lumber  
industry plays a major role in the area  
economy employing persons working  
in lumber, plywood, logs and wood  
chips for export, and paper board for  
packing. Petitioner notes that the area  
has six banks with ten branches, four  
savings and loan associations with five  
branches and several credit unions, in-  
cluding one of the largest in the  
northwest. In support of its proposal,  
petitioner has also furnished informa-  
tion with respect to education,  
churches, medical facilities and trans-  
portation.

3. *Preclusion Studies.* Petitioner's  
engineering study indicates that forty-  
six communities of population greater  
than 1,000 would be precluded on one  
or more channels as a result of the as-  
signment of Channel 295 to Lewiston.  
Twenty-six of the precluded commu-  
nities have no FM assignments. Of  
these twenty-six, four (McCall and St.  
Maries, Ida.; Polson, Mont.; and John  
Day, Ore.) have AM stations. Petition-  
er should indicate in its comments  
whether alternate channels are avail-  
able for assignment to the commu-  
nities in the precluded area listed in  
footnote 3.

\*Population figures are taken from the  
1970 U.S. Census.

Idaho: Pierce (pop. 1,218), Kaniha  
(1,307), McCall (1,758), Osburn (2,248),  
Mullen (1,279), Fruitland (1,576), Kellogg  
(3,811), Dalton Gardens (1,559), St. Maries  
(2,571), Hayden (1,285), Post Falls (2,371);  
Washington: Pomeroy (1,823), Cheney  
(6,358), Medical Lake (3,529), Ritzville  
(1,879), Davenport (1,363), Millwood (1,770);  
Montana: Plains (1,046), Ronan (1,347),  
Polson (2,464), Phillipsburg (1,128); Oregon:

## PROPOSED RULES

4. *Roanoke Rapids-Anamosa Study.*  
Petitioner's Roanoke Rapids-Anamosa  
showing assumes a service contour  
based on terrain considerations. It  
states that second FM service would  
be provided to 12,600 persons in an  
8,400 square kilometer (3,200 square  
miles) area. No first FM service would  
be provided. Petitioner also submits a  
map showing the extent of existing  
AM service which appears to cover  
only a small part of the predicted  
second FM service area. This would in-  
dicate that the area where there  
would be a second service is roughly  
equivalent to where it would represent  
a nighttime aural service. Since popu-  
lations is not evenly distributed  
through the projected service area,  
the petitioner should provide figures  
for the area and population of second  
nighttime aural service.

5. *Comments.* Because of the rela-  
tively small size of this community, it  
would not normally warrant three as-  
signments under our population crite-  
ria. However, exceptions have been  
made when the assignment would  
result in a large first or second FM  
service. Petitioner shows that a second  
FM service would be provided to  
12,600 persons in an 8,400 square kilo-  
meter (3,200 square miles) area. In ad-  
dition, the fact is that this would bring  
only the second FM station to Lewi-  
ston, as one of its channels is used else-  
where. With this in mind we think  
consideration of the proposal is war-  
ranted.

6. Although the classes of channels  
listed at Lewiston are intermixed,  
there is no need for this situation to  
remain. The situation is similar to one  
dealt with in a recent Commission  
Report and Order involving Mitchell,  
S.D.\* In that case there was an exist-  
ing Class A operation and a Class C  
proposal. The Commission decided to  
remove the Class A assignment and to  
assign two Class C channels even  
though the Class A license holder ob-  
jected. The object of the Order was to  
avoid intermixture of the classes of as-  
signments and to provide service to an  
area receiving relatively little service.  
In the present case, no oppositions  
were received from Station KOZE-FM  
(the current licensee of the Class A  
channel in Lewiston). However, in  
order to ascertain whether the exist-  
ing licensee is agreeable to the propos-  
al to follow the Mitchell precedent  
which involves assigning two Class C  
channels, deleting the Class A chan-  
nel, and modification of the license of  
the Class A licensee to specify one of  
the Class C channels, the Order To  
Show Cause herein is adopted to de-  
termine whether Station KOZE-FM

Elgin (1,375), Union (1,531), Vale (1,448),  
Nyssa (2,620), John Day (1,566).

\*62 F.C.C. 2d 70 (1976); see also Gillette,  
Wyo., Docket No. 21119, 42 FR 47557 (1977).

consents to or is opposed to the pro-  
posed change of its channel assign-  
ment. In so doing the Commission is  
aware that no insubstantial expense of  
converting from a Class to a Class C  
operation would be involved. Thus, if  
the licensee opposes such modifica-  
tion, its views will be weigh heavily in  
the Commission's consideration. Its  
general comments on the appropriateness  
of the proposal are also invited. In  
this regard we should point out that  
it would be entitled to reimburse-  
ment for the cost of changing chan-  
nels but not for the improvement in  
its facilities. If it desired, a delay in  
the date of constructing such changed  
facilities could be arranged as it was in  
the Mitchell case.

7. In view of the above, the Commis-  
sion proposes to amend the FM Table  
of Assignments, § 73.202(b) of the  
Commission's Rules, with regard to  
the community below as follows:

City: Lewiston, Idaho.

Channel No.:

Present: 231, 244A.

Proposed: 231, 243, 295.

8. *It is ordered,* That pursuant to  
Section 316(a) of the Communications  
Act of 1934, as amended, the licensee  
of Station KOZE-FM, Lewiston,  
Idaho, shall show cause why its license  
should not be modified to specify opera-  
tion on Channel 243 if the Commis-  
sion determines that the public inter-  
est would best be served by adopting  
the proposed assignment.

9. Pursuant to Section 1.87 of the  
Commission's Rules and Regulations,  
the licensee of Station KOZE-FM,  
Lewiston, Idaho, may, not later than  
March 27, 1978, request that a hearing  
be held on the proposed modification.  
Pursuant to Section 1.87(f), if the  
right to request a hearing is waived,  
KOZE-FM may, not later than March  
27, 1978, file a written statement show-  
ing with particularity why its license  
should not be modified as proposed in  
this Order to Show Cause. In this case,  
the Commission may call on KOZE-  
FM to furnish additional information,  
designate the matter for hearing, or  
issue, without further proceeding, an  
Order modifying the license as pro-  
vided in the Order to Show Cause. If  
the right to request a hearing is  
waived and no written statement is  
filed by the date referred to above,  
KOZE-FM will be deemed to consent  
to the modification as proposed in the  
Order to Show Cause and a final  
Order will be issued by the Commis-  
sion, if the channel changes men-  
tioned above are found to be in the  
public interest.

10. The Commission's authority to  
institute rulemaking proceedings;  
showings required; cut-off procedures;  
and filing requirements are contained  
below and are incorporated herein.

11. Interested parties may file com-  
ments on or before March 27, 1978,



PROPOSED RULES

and reply comments on or before April 17, 1978.

12. *It is further ordered*, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to 4-K Radio Inc., Box 936, Lewiston, Idaho 83501, licensee of Station KOZE-FM, the party to whom the Order to Show Cause is directed.

For the Federal Communications Commission.

WALLACE E. JOHNSON,  
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be ex-

pected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only re-submits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules

and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-2632 Filed 1-30-78; 8:45 am]

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amtd. 2]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1977 Through May 31, 1978), Rice and Peanuts

The CCC Monthly Sales List for the period June 1, 1977, through May 31, 1978, published at 42 FR 40945 is amended as follows:

1. Section 25 entitled Rice, Rough-Unrestricted Use Sales (F.O.B. Warehouse) is revised as follows:

The minimum price is the market price but not less than the formula price. Basis of sale is f.o.b. warehouse as is, or at buyer's option, basis out-turn weights and grades. The formula price is 155 percent of the 1977 loan rate plus the applicable monthly markup shown in this section.

MONTHLY MARKUPS.—Dollars per hundredweight

1977:		
December	.....	.15
1978:		
January	.....	.25
February	.....	.35
March	.....	.45
April	.....	.55
May	.....	.65

2. Section 31 is added which reads as follows: Peanut Farmers Stock—Restricted Use Sales—Crushing or Export—(Segregation 1 lots).

1. The minimum price is the market price but not less than the formula price which is 100 percent of the 1977 crop price support value (prior to deduction for storage, handling and inspection) for the applicable location type and quality, plus a markup. On December 4, 1977, a markup will begin to accumulate at the rate of \$1 per net ton per week (farmers stock basis).

2. Sales are made under announcement PR-1. When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of competitive bids each Monday to the Producer Associations Division.

3. Permissible uses of the peanuts, which are listed in more detail in announcement PR-1, include the export of shelled peanuts, of any type, which grade U.S. Splits or U.S. No. 1 or better or "With Splits" grades as defined in Marketing Agreement for Pea-

nuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with PR-1.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: November 30, 1977, 2:30 p.m. (e.s.t.).

Signed at Washington, D.C., on January 25, 1978.

RAY FITZGERALD,  
Executive Vice President,  
Commodity Credit Corporation.  
[FR Doc. 78-2579 Filed 1-30-78; 8:45 am]

[3410-02]

Federal Grain Inspection Service.

GRAIN STANDARD

Pennsylvania Grain Inspection Area

*Statement of considerations.* Pursuant to sections 7(e)(1) and 7A(c)(1) of the U.S. Grain Standards Act, as amended October 21, 1976, and September 29, 1977 (7 U.S.C. 71 et seq.) (Act), the Federal Grain Inspection Service (FGIS) is required to provide official inspection and weighing services for all grains required or authorized to be inspected and weighed by the Act, at those export port locations where a State is not delegated to perform these official services (7 U.S.C. 79(e)(1) and 7 U.S.C. 79a(c)(1)).

Notice is hereby given that, on January 22, 1978, the FGIS will assume responsibility for providing official inspection and weighing services at those export elevators located in the area previously serviced by the Commercial Exchange of Philadelphia. The export elevators involved are the Girard Point Elevator, operated by the Tidewater Grain Co., and the Port Richmond Elevator Co., Inc., operated by the Bunge Corp.

In addition to these export elevators, FGIS will also be providing official non-export inspection and weighing services as requested from the area previously serviced by the Commercial Exchange of Philadelphia. These inspection and weighing services may be obtained by contacting the FGIS field office at 1002 U.S. Custom House, 2nd and Chestnut Streets, Philadelphia, Pa. 19106.

The official inspection agency designation of the Commercial Exchange of Philadelphia is canceled effective at the time of the FGIS takeover.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79); sec. 9, Pub. L. 94-582, 90 Stat. 2875 (7 U.S.C. 79a); sec. 27, Pub. L. 94-582, 90 Stat. 2889 (7 U.S.C. 74 note).)

Effective date: This notice shall become effective upon publication.

Done in Washington, D.C., on January 25, 1978.

D. R. GALLIART,  
Acting Administrator.  
[FR Doc. 78-2575 Filed 1-30-78; 8:45 am]

[3410-16]

Soil Conservation Service

BURNHAM CREEK WATERSHED, MINN.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Burnham Creek Watershed, Polk County, Minn.

An assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, erosion and sediment control, drainage, recreation, fish and wildlife. The planned works of improvement being investigated for possible inclusion in the plan include conservation land treatment, flood prevention reservoirs, channel work and fish and wildlife improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316



4080

North Robert Street, St. Paul, Minn. 55101; CML 612-725-7675.

Dated: January 23, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-2590 Filed 1-30-78; 8:45 am]

[3410-16]

TYLER WATERSHED, MINN.

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Tyler Watershed, Lincoln, Lyon, and Pipestone Counties, Minn.

An assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, erosion and sediment control, drainage, recreation, fish and wildlife. The planned works of improvement being investigated for possible inclusion in the plan include conservation land treatment, multiple-purpose flood prevention-recreation reservoir, channel work, and wildlife water resource improvement.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minn. 55101; CML 612-725-7675.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, 16 U.S.C. 1001-1008.)

NOTICES

Dated: January 23, 1978.

JOSEPH W. HAAS,  
Assistant Administrator for  
Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-2591 Filed 1-30-78; 8:45 am]

[3410-05]

Office of the Secretary

PRIVACY ACT OF 1974

Deletion of Systems of Records

Notice is hereby given that the Department of Agriculture, in accordance with 5 U.S.C. 552(e) (4) and (11), proposes to delete a system of records which are not considered agency records because they are not under the control of the agency. The deleted system is USDA/ASCS-29, Supervisor's Notes on Employees. The system was initially established as a result of misinterpreting the Privacy Act requirements. The records within the system are uncirculated personal notes which are retained or discarded at the author's discretion. The system contains notes of supervisors observations and discussions with employees as they pertain to performance ratings, attendance, and behavior. These notes may be used by the Supervisor as a memory refresher at the time of performance ratings and nominations for awards. The Agency exercises no control or dominion over these records and therefore they are not considered to be Agency records within the meaning of the Privacy Act. The system notice was previously republished on September 30, 1977, FR 53199. The deletion will be effective January 1, 1978.

Signed at Washington, D.C., on January 25, 1978.

BOB BERGLAND,  
Secretary of Agriculture.  
[FR Doc. 78-2584 Filed 1-30-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Dockets 29411, 29412, and 30819]

AIR NAURU

Postponement of Hearing

Notice is hereby given that at the request of the applicant the hearing in the above-entitled matter now assigned to be held on February 22, 1978 (43 FR 1813, January 12, 1978) is hereby postponed to March 29, 1978 at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., January 25, 1978.

WILLIAM A. KANE, Jr.,  
Administrative Law Judge.

[FR Doc. 78-2694 Filed 1-30-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ARIZONA STATE UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00289. Applicant: Arizona State University, Tempe, Ariz. 85281. Article: Scanning Transmission Electron Microscope, Model HB5 and Accessories. Manufacturer: VG Microscopes, Ltd., United Kingdom. Intended use of article: The article is intended to be used to explore the applications of high resolution scanning transmission electron microscopy for the study of structures and defects of thin crystals and the configurations of small groups of atoms or single atoms on surfaces. It will then be modified and developed for a range of new operational modes which have shown theoretically to offer important new capabilities of a type not accessible to conventional transmission electron microscopy. A program of research on the study of biological specimens will include methods for the resolution of heavy atom labels on macromolecules, the study of chromosome structures and the development of methods for three-dimensional reconstruction of the structures of thicker specimens.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides operation in the scanning transmission electron mode at 100 kilovolts accelerating voltage with a guaranteed lattice resolution of 2.9 Angstroms. The National Bureau of Standards advises in its memorandum dated Decem-

ber 19, 1977, that: (1) The specifications of the article described above are pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,

Statutory Import Programs Staff.

[FR Doc. 78-2622 Filed 1-30-78; 8:45 am]

[3510-25]

CLARK UNIVERSITY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00374. Applicant: Clark University, Department of Chemistry, Jeppson Laboratory, Worcester, Mass. 01610. Article: Nuclear Resonance Pulse Spectrometer, Model SXP 22/100. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used to study the following:

(a) Spin dynamics in one-dimensional Heisenberg systems with <sup>1</sup>H magnetic resonance.

(b) Enzyme structure and mechanism with <sup>13</sup>C and <sup>19</sup>F magnetic resonance.

(c) Biosynthetic pathways with <sup>1</sup>H magnetic resonance.

(d) Structure of natural products and compounds of biomedical significance with <sup>1</sup>H and <sup>13</sup>C magnetic resonance.

(e) Chain dynamics in synthetic polymers with <sup>1</sup>H, <sup>13</sup>C, and <sup>19</sup>F magnetic resonance.

(f) Conformational and dynamic aspects of biological macromolecules with <sup>1</sup>H, <sup>13</sup>C, and <sup>19</sup>F magnetic resonance.

(g) Dynamics and shielding of small solute molecules in aqueous medical

with <sup>1</sup>H, <sup>13</sup>C, and <sup>19</sup>F magnetic resonance.

The article will also be used in the course Chemistry 300, "Research" by students studying for a Ph. D. or M.A. Undergraduates enrolled in Chemistry 214 "Special Topics" will also be using the article. Courses on the theory of magnetic resonance complementing the actual instruction and utilization of the instrument are also taught at the graduate student level in Chemistry 361 "Molecular Structure".

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for measuring  $T_{1\rho}$ , the relaxation time in the rotating frame. The Department of Health, Education, and Welfare advises in its memorandum dated November 25, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended research, and (2) it knows of no domestic instrument that provides this pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.

[FR Doc. 78-2623 Filed 1-30-78; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00394. Applicant: National Radio Astronomy Observatory,

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4081

Associated Univ., Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Repair of Varian Klystron Type VRB2113A30 SN 70443. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article is intended to be used as a phase local oscillator in a millimeter wave radio astronomy receiver used in conjunction with a microwave antenna to measure the intensity, polarization frequency, and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 80-110 gigahertz frequency range with 75 milliwatts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated December 16, 1977, that: (1) The capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,  
Statutory Import Programs Staff.

[FR Doc. 78-2624 Filed 1-30-78; 8:45 am]

[3510-25]

SUNY-STONY BROOK

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-0383. Applicant: School of Dental Medicine—State Uni-



## NOTICES

versity of New York at Stony Brook, Stony Brook, N.Y. 11794. Article: Gingival Crevicular Fluid Meter (Periotron). Manufacturer: Harco Electronics, Ltd., Canada. Intended use of article: The article is intended to be used to measure the degree of inflammation of gingival tissues during experiments conducted to reveal the effect of clinical dental procedures on gingival health. The article will also be used in clinical teaching in which dental students will be instructed how to use this tool to evaluate and monitor the suitability to periodontium of dental procedures that they perform in the clinic.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability for the measurement of the gingival fluid quantity during treatment to avoid irritation. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended uses, and (2) it knows of no domestic or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,

Statutory Import Programs Staff.  
[FR Doc. 78-2625 Filed 1-30-78; 8:45 am]

## [3510-25]

UNITED CEREBRAL PALSY OF NEW YORK  
Decision on Application for Duty-Free Entry of  
Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of

Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 77-00385. Applicant: United Cerebral Palsy of New York City, Inc., 122 East 23rd Street, New York, N.Y. 10010. Article: Parts for Swimming Pool Hydraulic Platform. Manufacturer: Anlagenbau fur Wassertechnik, West Germany. Intended use of article: The article is intended to be used for raising a swimming pool floor to enable multi-physically handicapped students to wheel themselves onto the pool floor and be lowered into the pool for physical therapy. In an investigation of the peculiar medical, physiological, and psychological effects on the health and severely disabling sequelae of cerebral palsy. Pool activity is an integral part of a continuing research and staff development program designed to enhance professional understanding and to identify more effective methods for correction and management of the extensive crippling effects of this devastating disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket No. 77-00047 which was denied without prejudice to resubmission on May 19, 1977, for informational deficiencies. The foreign article provides capability for a hydraulically adjustable floor that rises to the level of the pool wall to provide easy access for the disabled. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977, that: (1) The capability of the article described above is pertinent to the applicant's intended use, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director,

Statutory Import Programs Staff.

[FR Doc. 78-2626 Filed 1-30-78; 8:45 am]

## [3510-25]

UNIVERSITY OF PENNSYLVANIA/CVP  
DIVISIONDecision on Application for Duty-Free Entry of  
Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5 p.m. in Room 6886C of the Department of Commerce Building, at 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No.: 77-00388. Applicant: University of Pennsylvania/CVP Division, Room 874, Maloney Building, 3600 Spruce Street, Philadelphia, Pa. 19104. Article: Desk projector for Morphometry. Manufacturer: University of Berne, Switzerland. Intended use of article: The article is intended to be used to study quantitative changes taking place in the lung under normal circumstances and in laboratory animals during experimental edema formation or during other experimental edema formation or during other experimental diseases. The objective of these studies is to clarify mechanisms of disease relevant to humans.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a capability for calculation of air and tissue volumes and areas from the tabulated data. The Department of Health, Education, and Welfare advises in its memorandum dated December 12, 1977 that (1) the capability described above for the article is pertinent to the applicant's use in research studies on edema formation in the lung by quantitative analysis of electron micrographs, and (2) it knows of no domestic instrument and apparatus of equivalent scientific value to the foreign article for the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,  
Director, Statutory Import  
Programs Staff.

[FR Doc. 78-2627 Filed 1-30-78; 8:45 am]

## [3510-03]

Maritime Administration  
[Docket No. S-5901]STATES STEAMSHIP CO.  
Application

Notice is hereby given that States Steamship Co. (States) has applied for written permission from the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, for the carriage of passengers between Washington-Oregon-California and Hawaii. Such written permission will be required in the event a new long-term operating-differential subsidy contract is concluded between States and the Maritime Subsidy Board, which long-term contract has been the subject of proceedings before the Board in Docket S-447. As applied to the long-term subsidy contract, this Notice supersedes the Notice of Application previously given in the FEDERAL REGISTER of September 9, 1977 (42 FR 45357), Docket S-577.

States has also applied for written permission for the same domestic passenger service as described above under the short-term interim contract, MA/MSB-419, under which States is currently operating. Inasmuch as the Operator has written permission granted by the Assistant Secretary of Commerce for Maritime Affairs to carry passengers between California and Hawaii, the application, insofar as applicable to contract MA/MSB-419, is for the carriage of passengers between Washington-Oregon and Hawaii.

As information, all of the vessels of States, both RO/RO and C4 types, have capacity for carrying 12 passengers each.

Interested parties may inspect the foregoing application in the Office of the Secretary, Maritime Administration, Room No. 3099B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on February 14, 1978, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and

## NOTICES

concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Date: January 26, 1978.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 78-2695 Filed 1-30-78; 8:45 am]

## [3510-03]

[Docket No. S-5911]

## WATERMAN STEAMSHIP CORP.

## Application

Notice is hereby given that Waterman Steamship Corp. has filed an application dated December 22, 1977, to amend its Operating-Differential Subsidy Agreement, Contract No. MA/MSB-378, so as to modify the service description with respect to Trade Routes Nos. 12 and 22 (U.S. Atlantic and Gulf/Far East) by deleting the present restriction that Mindanao, Philippine Islands, shall not be served by barge-carrying vessels until after December 31, 1981.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm, or corporation having an interest in such application who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board should submit them in writing, in triplicate, to the Secretary, Maritime Subsidy Board, Washington, D.C. 20230, by the close of business on February 14, 1978.

The Maritime Subsidy Board will consider these views and comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Maritime Subsidy Board.

Date: January 26, 1978.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 78-2696 Filed 1-30-78; 8:45 am]

## [3510-22]

National Oceanic and Atmospheric  
AdministrationGULF OF MEXICO FISHERY MANAGEMENT  
COUNCIL'S ADVISORY PANEL

## Public Meeting

The Subpanel on Sharks of the Advisory Panel of the Gulf of Mexico Fishery Management Council, established under section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet February 28, 1978, at Lincoln Center, 5401 West Kennedy Boulevard, Suite 881, Tampa, Fla. The meeting starts at 1 p.m. on February 28, and will adjourn at about noon on March 1, 1978.

## PROPOSED AGENDA

(1) Management plans; (2) orientation; and (3) other fishery management business, if any.

Meeting is open to the public. For more information on seating, changes to the agenda, and/or written comments, contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Tampa, Fla., telephone 813-228-2815.

Dated: January 25, 1978.

WINFRED H. MEIBOHM,  
Associate Director,  
National Marine Fisheries Service.  
[FR Doc. 78-2587 Filed 1-30-78; 8:45 am]

## [3510-17]

## Office of the Secretary

## PRIVACY ACT OF 1974

## Adoption of Additional System of Records

The purpose of this notice is to adopt in final form a system of records for the Interagency Task Force on Women Business Owners.

On October 28, 1977, the Department of Commerce gave notice (42 FR 56771-72) that it proposed to adopt a system of records entitled: Talent and Experience File of Women's Business Experts—Commerce/WBO-1.

The purpose of this new system is to develop an information and talent resource comprised of individuals having knowledge of women's business operations, problems, and discriminations.



A Presidential memorandum of August 4, 1977, established the Task Force to identify the discriminatory practices and conditions that confront women entrepreneurs or that discourage women who desire to become entrepreneurs. This memorandum made the Secretary of Commerce responsible for appointing a staff to carry out the Task Force functions, and stated that the Commerce Department designee to the interagency group would chair the Task Force. The Task Force's final report to the President is due 120 working days after the first public meeting (November 17, 1977), that is, May 9, 1978.

As authorized by 5 U.S.C. 301, 15 U.S.C. 1512, and 44 U.S.C. 3101, the Task Force and its staff will maintain records containing personal background and experience data on individuals communicating with or possessing knowledge or skills of relevance to the Task Force. They will use the resource to: (a) Identify and assess existing data; (b) identify discriminatory practices and conditions; (c) assess current Federal programs and practices that maintain or mitigate discrimination; and (d) propose changes in Federal law, regulation, and practice, and assess their impact on the Federal budget.

A new system report, dated October 12, 1977, was submitted to the Office of Management and Budget and the Congress as required by the Privacy Act. The Department requested the Office of Management and Budget to waive the 60-day advance notice requirement for this system. The waiver was granted by OMB in a letter dated November 17, 1977. Interested persons were invited to submit written data, views, or arguments on or before November 28, 1977. No comments were received in response to the notice.

Therefore, the Department adopts the additional system effective November 28, 1977. Because the complete text of the new system was published in the FEDERAL REGISTER on October 28, 1977, pages 56771-72, and the system is adopted without change, there is no need to republish at this time.

AUTHORITY: 5 U.S.C. 552a, sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: January 9, 1978.

GUY W. CHAMBERLIN, Jr.,  
Acting Assistant Secretary  
for Administration.

[FR Doc. 78-2583 Filed 1-30-78; 8:45 am]

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[3128-01]

DEPARTMENT OF ENERGY  
Economic Regulatory Administration  
ENERGY SUPPLY AND ENVIRONMENTAL  
COORDINATION ACT

Notice of Intention To Issue Prohibition Orders  
to Certain Powerplants

The Department of Energy (DOE)

Docket No.	Owner	Generating station	No.	Location
OCU-161	United Power Association.	Elk River	1	Elk River, Minn.
OCU-162	do	do	2	Do.
OCU-163	do	do	3	Do.

DOE hereby also gives notice of the opportunity for oral and written presentation of data, views, and arguments by interested persons regarding this proposed Prohibition Order.

The proposed order would prohibit the above-named powerplants from burning natural gas or petroleum products as their primary energy source until December 31, 1984.

Prior to issuance of a Prohibition Order to a powerplant, section 2(a) of ESECA and 10 CFR 303.36(b) and 305.3(b) require that DOE find that the powerplant on June 22, 1974, had, or thereafter acquired or was designed with the capability and necessary plant equipment to burn coal. A Prohibition Order may not be issued unless DOE can find that the prohibition of the utilization of natural gas or petroleum products as a primary energy source is practicable and consistent with the purposes of ESECA, that coal and coal transportation facilities will be available during the period the Prohibition Order will be in effect, and that the prohibition will not impair the reliability of service in the area served by the powerplant. DOE's proposed findings, as well as its proposed conclusions and rationale with respect to these findings, are set out in the Appendix to this notice. These findings, conclusions and rationale may be amended as a result of comments received by DOE pursuant to this notice and other information available to DOE. The findings, conclusions and rationale will be included, with any amendments, for each Prohibition Order that is issued.

Upon completion of the proceedings described in this notice, DOE may determine to issue a Prohibition Order to the above-named powerplants. This Prohibition Order will not become effective, however, until (1) either (a) the Administrator of the Environmental Protection Agency (EPA) notifies the DOE, as required by Section 2(b) of ESECA, that the powerplant is able to burn coal and to comply with all applicable air pollution control requirements without a delayed compliance

hereby gives notice of its intention to issue a Prohibition Order, pursuant to the authorities granted it by section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended and Chapter II, Title 10, Code of Federal Regulations (10 CFR Parts 303 and 305) to the following powerplants:

order under section 113(d)(5) of the Clean Air Act, as amended, or (b) if such notification is not given by EPA, the date that the Administrator of EPA certifies, as required by section 2(b) of ESECA, is the earliest date that the powerplant will be able to comply with all applicable air pollution control requirements of the Clean Air Act, and (2) DOE has considered the environmental impact of the order, pursuant to 10 CFR 208.3(a)(4) and 305.9, and has served the affected powerplant with a Notice of Effectiveness, as provided in 10 CFR 303.10(b), 303.37(b) and 305.7. The date the Prohibition Order will be effective will be stated in the Notice of Effectiveness.

10 CFR 305.9 requires that, prior to issuance of a Notice of Effectiveness to a powerplant, DOE shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness. That analysis shall result in either (1) issuance of a declaration that the Prohibition Order will not, if made effective by issuance of a Notice of Effectiveness, be likely to have a significant impact on the quality of the human environment, or (2) the preparation by DOE of an environmental impact statement covering significant site-specific impacts that are likely to result from the Prohibition Order and that have not been adequately addressed in the Final Revised Environmental Impact Statement (FES 77-3, dated May, 1977) or in other official documents made publicly available.

If DOE prepares an environmental impact statement covering significant site-specific impacts resulting from a Prohibition Order, the statement shall be prepared and published for comment in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) prior to issuance of a Notice of Effectiveness. Interested persons may request a public hearing pursuant to 10 CFR 303.173 to comment on the contents of a draft environmental impact statement.

With respect to comments regarding any impact on air quality that might result from a proposed Prohibition Order, however, is should be recognized that ESECA has assigned to EPA the primary responsibility for analyzing the effect of any such order on the Nation's air quality and for determining the applicable air pollution control requirements that apply to the powerplant that has been issued an order. It is expected that, in almost every case, a powerplant to which a Prohibition Order is issued will be eligible to apply to EPA for a delayed compliance order. In connection with that application, EPA must also provide an opportunity for written comment and oral presentation of data, views, and arguments by interested persons.

Enclosed with the Notice of Effectiveness may be a compliance reporting schedule to insure that the powerplant will be able to comply with the prohibition of the burning of natural gas or petroleum products as a primary energy source on the effective date specified in the Notice of Effectiveness.

Public comment on the proposal to issue a Prohibition Order to the powerplants listed above is invited in the form of written and oral presentation of data, views and arguments. Comments should make reference to the relevant docket number(s).

Comments should address (1) the adequacy and validity of each of the proposed findings and the conclusions and rationale in support of the these findings, (2) the environmental impact of the issuance of a Prohibition Order, including any site-specific environmental impacts, and (3) any other aspects or impacts of the proposed Prohibition Order believed to be relevant.

Pursuant to 10 CFR 303.173 (a) and (d), DOE hereby announces that a public hearing to receive oral presentation of data, views, and arguments of interested persons in the proposed Prohibition Order will be held beginning at 9 a.m. on February 15, 1978, in the Hearing Room (568), General Services Administration, Public Building Service, Fort Snelling, Minn. 55111. Any person who has an interest in the subject of the hearing or who is a representative of a group or class of persons which has an interest in the subject of the hearing may make a written request, or a verbal request if confirmed in writing, for an opportunity to make an oral presentation. That request should be directed to Steve Dudas, Department of Energy, Region V, 175 West Jackson Boulevard, Room 333, Chicago, Ill. 60604, 312-886-5168. The request should be received before 4:30 p.m., February 8, 1978. The request should describe the person's interest in the issue(s) involved; if ap-

propriate, it should state why the person is an appropriate representative of the group or class of persons which has such an interest; it should give a concise summary of the proposed oral presentation and a phone number where the person may be contacted through February 14, 1978. Speakers will be contacted by a DOE representative before 4:30 p.m., Thursday, February 9, 1978 and should submit ten (10) copies of their oral presentation if possible, unless such presentation is less than five (5) pages, in which case only one copy is required, to Charles Swank, Department of Energy, 175 West Jackson Boulevard, Room 333, Chicago, Ill. 60604, before 4:30 p.m., Tuesday, February 14, 1978.

Detailed technical data, views, and arguments should be contained in a written submission in support of the oral presentation. The oral presentation itself should be a summary of those written comments.

While DOE will endeavor to provide adequate opportunity to all who desire to speak, DOE reserves the right to limit the number of persons to be heard at the hearing, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of time allocated to each presentation may be limited on the basis of the number of persons requesting to be heard. The DOE will prepare an agenda that shall provide, to the extent possible, for the presentation of all relevant data, views and arguments.

A DOE official will be designated to preside at the hearing which will not be a judicial or evidentiary hearing. During oral presentations only those conducting the hearing may ask questions. There will be no cross-examination. At the conclusion of all initial oral presentations, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a final rebuttal statement.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and it, together with any written comments submitted in the course of the hearing, will be retained by the DOE and made available for inspection and copying at the Freedom of Information reading room located in Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and the DOE Regional Office, Reading Room, Room 333, 175 West Jackson Boulevard, Chicago, Ill. 60604, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

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Interested persons are invited to submit written comments consisting of data, views, and arguments with respect to these proposed Prohibition Orders to Office of Regulations Management, Department of Energy, Box QT, Room 2214, 2000 M Street NW., Washington, D.C. 20461.

Comments and other documents submitted to the Department of Energy should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Elk River Powerplant." Fifteen copies should be submitted.

All written comments received by 4:30 p.m. Friday March 17, 1978, all oral presentations, and all other relevant information submitted to or available to DOE will be considered by DOE prior to issuance of a Prohibition Order.

Any information or data considered to be confidential by the person furnishing it must be so identified and submitted in writing, one copy only. The DOE reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

Copies of the regulations implementing Section 2 (a) and (b) of ESECA (10 CFR Parts 303 and 305) are available from the following DOE Regional Offices:

Region, Address and Phone:

I—Director for Fuels Regulation, 150 Causeway Street, Room 700, Boston, Mass. 02113, 617-223-3701.

II—Director for Fuels Regulation, 26 Federal Plaza, Room 3206, New York, N.Y. 10007, 212-264-1021.

III—Director for Fuels Regulation, 1421 Cherry Street, Room 1001, Philadelphia, Pa. 19102, 215-597-3390.

IV—Director for Fuels Regulation, 1655 Peachtree Street NE, 8th Floor, Atlanta, Ga. 30309, 404-526-2837.

V—Director for Fuels Regulation, Federal Office Building, 175 West Jackson Boulevard, Room A-333, Chicago, Ill. 60604, 312-353-0540.

VI—Director for Fuels Regulation, Post Office Box 35228, 2826 West Mockingbird Lane, Dallas, Tex. 75235, 214-749-7345.

VII—Director for Fuels Regulation, 1160 Grand Avenue, Kansas City, Mo. 64106, 816-374-2061.

VIII—Director for Fuels Regulation, Post Office Box 26247, Belmar Branch, 1075 South Yukon Street, Lakewood, Colo. 80226, 303-234-2420.

IX—Director for Fuels Regulation, 111 Pine Street, San Francisco, Calif. 94111, 415-445-7216.

X—Director for Fuels Regulation, 1992 Federal Building, 915 Second Avenue, Seattle, Wash. 98174, 206-442-7280.

Any questions regarding this notice should be directed to the DOE National Office as follows: Department of Energy, Code DCU (Prohibition Order: Elk River Powerplant), Washington, D.C. 20461, 202-254-3910.



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(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), as amended by Pub. L. 95-70; Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.), as amended by Pub. L. 95-70; E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).)

Issued in Washington, D.C., January 25, 1978.

BARTON R. HOUSE,  
Assistant Administrator, Fuels  
Regulation, Economic Regula-  
tory Administration.

Docket No.	Owner	Generating station	Unit No.	Location
OCU-161.....	United Power Association.....	Elk River.....	1	Elk River, Minn.
OCU-162.....	do.....	do.....	2	Do.
OCU-163.....	do.....	do.....	3	Do.

These findings, which are now proposed by DOE, are based on the information that has been provided to and developed by DOE prior to the issuance of this Notice of Intention (NOI) to Issue a Prohibition Order.

United Power Association shall be referred to as the "utility" and as "United Power".

I. CAPABILITY AND NECESSARY PLANT EQUIPMENT TO BURN COAL

DOE proposes to find that on June 22, 1974, Powerplants Number 1, 2, and 3 at Elk River Generating Station (Elk River 1, 2, and 3) had, or thereafter, acquired or were designed with the capability and necessary plant equipment to burn coal. This proposed finding is based on the facts and interpretations stated below:

A. An evaluation of a PEDCo Environmental, Inc., report entitled Coal Conversion Potential of the Elk River Plant Study, September, 1977 and information filed by United Power with FEA dated September 8, 1977, indicates that each powerplant had in place on June 22, 1974, a boiler that was capable of burning coal. The boilers had been designed and constructed or modified to burn coal as their primary energy source, notwithstanding the fact that on June 22, 1974, the powerplant may not have been burning coal as its primary energy source.

B. Based on information United Power filed with FEA dated September 8, 1977, and other information available to DOE, Elk River 1, 2 and 3 would have to upgrade the existing coal pile to control runoff of water in order for these powerplants to burn coal as their primary energy source.

C. Based on information United Power filed with FEA dated June 17, 1977, stating that Elk River 1, 2 and 3 have the capability to burn coal as their primary energy source without acquiring or refurbishing existing powerplant equipment, and other in-

PROPOSED FINDINGS AND RATIONALE FOR  
NOTICE OF INTENTION TO ISSUE A PROHIBITION ORDER

ESECA and the Department of Energy (DOE) regulations require DOE to make certain findings before issuing a Prohibition Order to a powerplant. DOE's proposed findings are set out below with respect to the powerplants named below. Supporting rationale and conclusions are also set forth.

formation available to DOE, DOE proposes to find that on June 22, 1974, Elk River 1, 2 and 3 had all other significant plant equipment and facilities associated with the burning of coal.

D. Within the meaning of ESECA and the regulations promulgated pursuant thereto, the facilities listed in paragraph B, above, do not constitute a lack of capability and necessary plant equipment to burn coal as of June 22, 1974.

II. THE BURNING OF COAL IN LIEU OF NATURAL GAS OR PETROLEUM PRODUCTS IS PRACTICABLE AND CONSISTENT WITH THE PURPOSES OF ESECA

DOE proposes to find that the burning of coal at Elk River 1, 2 and 3 in lieu of petroleum products or natural gas is practicable and consistent with the purposes of ESECA. This finding is based upon the presumption that Elk River 1, 2 and 3 will be operated at a 25 percent capacity factor (this represents a weighted average of each powerplant's projected capacity factor), have a remaining useful life of 15 years (as of the date of this NOI), are expected to have at least 14 years remaining useful life after conversion of the powerplants and on the facts and interpretations stated below:

A. The burning of coal is practicable.

1. Costs associated with burning coal. a. Capital investment costs. The total initial capital investment costs, exclusive of financing costs, that would result from the acquisition and refurbishment of equipment and facilities associated with the burning of coal at Elk River 1, 2 and 3 are estimated to be approximately \$3,020,000, which assumes that an electrostatic precipitator and associated facilities will be required at a cost of \$3,010,000 to comply with the air pollution control requirements of the Clean Air Act. This estimate is based on information supplied by the utility.

b. Annual operating and maintenance costs. The increase in operating and maintenance costs, exclusive of fuel costs, that would result from the burning of coal is estimated to be approximately \$1,576,000 per year including \$263,000 for operation and maintenance of air pollution control equipment. This estimate is based on information supplied by the utility.

c. Fuel Costs. (i) Based on information supplied by the utility, the price of petroleum products available to Elk River 1, 2 and 3 is approximately \$2.80 per million Btu's for oil. This represents \$16.46 per barrel of oil, assuming 5.88 million Btu's per barrel.

(ii) Based on information supplied by the utility, the price of coal available to Elk River 1, 2 and 3 is approximately \$1.23 per million Btu's. This represents \$20.91 per ton of coal, assuming 17.0 million Btu's per ton.

(iii) DOE estimates that the burning of coal by these powerplants will result in the reduction of approximately \$1.57 per million Btu's or \$2,359,000 per year in fuel costs. This estimate is based on fuel consumption presuming Elk River 1, 2 and 3 are operated at a weighted average 25 percent capacity factor and with an average heat rate of 14,000 Btu's per kilowatt hour.

d. Total annual costs associated with conversion. As a result of the conversion of Elk River 1, 2 and 3, there will be an estimated total annual increase in costs incurred, exclusive of fuel costs, of approximately \$2,120,000.

2. Reasonableness of costs of conversion. The foregoing analysis of the costs of conversion provides the basis for deciding whether the conversion of Elk River 1, 2 and 3 is reasonable. Financial impacts of the conversion will be felt by the utility and by the consumer.

As a result of conversion, the utility will incur additional annual capital investment costs, including financing costs, of approximately \$543,600 (this represents an amortized cost over the 14 years remaining useful life of these powerplants after conversion, and is based on a fixed charge rate of 18.0 percent of the total initial capital investment of \$3,020,000 and additional annual operating and maintenance costs, exclusive of fuel costs, of approximately \$1,576,000 (these figures are derived from the figures in paragraphs A.1.a. and b.), but will experience an annual fuel cost savings of approximately \$2,359,000. (see paragraph A.1.c.) Considering the fuel cost savings, the total annual cost of operating Elk River 1, 2, and 3 should be reduced by \$239,000.

Since all increased costs of conversion will be offset by the decrease in

fuel costs, it is estimated that there will be an overall net decrease in the cost of producing electricity at Elk River 1, 2 and 3.

The use of coal at Elk River 1, 2 and 3 will result in an estimated annual equivalent savings of 255,500 barrels of oil that otherwise would be used in providing steam for electric power generation.

DOE proposes to find that since the increased annual capital investment costs and operating and maintenance costs at the powerplants are offset by the current fuel cost differential between oil and coal burning at these powerplants, and because of potential future increases in the fuel cost differential in favor of coal, the additional costs associated with burning coal are reasonable.

3. Financial capabilities of United Power Association. a. Recovery of capital investment. DOE proposes to find that compliance with a Prohibition Order to Elk River 1, 2 and 3 would be economically feasible. DOE's analysis took into consideration \$3,020,000 additional capital investment costs required for United Power to comply with this NOI and all other additional capital investment costs to United Power's estimate of its 1977 construction budget of \$142 million, the total capitalization of United Power of \$172 million and the 14 years remaining useful life after conversion of Elk River 1, 2 and 3.

DOE does not consider the effect of this added capital investment cost to represent an unreasonable burden given the financial capability of United Power to assume such costs.

b. Total annual costs associated with conversion. The total estimated annual increase in costs (amortized increased capital investment costs and other costs, exclusive of fuel costs) associated with the burning of coal as opposed to oil attributable to compliance with this NOI would be \$2,120,000. This also represents the total estimated annual incremental increase in revenue requirements of United Power. (DOE also took into consideration revenue requirements of United Power resulting from compliance with all other Notices of Intention, to date, if any, to issue Prohibition or Construction Orders, and from all outstanding Prohibition or Construction Orders, if any, issued to date under authority of section 2 (a) and (c) of ESECA to United Power powerplants.) This estimate of \$2,120,000 in revenue requirements is based on an investment oriented analysis described in an Ultrasystems Inc. report entitled Computer Methodology for Coal Conversion Cost Reasonableness Determination, August 1976 (hereafter "Ultrasystems Computer Model"). The estimate includes an incremental rate of return on retained earnings which are invested.

For comparison with the Ultrasystems Computer Model results, DOE performed a financial analysis based on a Price Waterhouse & Co. report (computer methodology) entitled Identification of Possible Financial Effects of Converting Certain Electric Generating Facilities to the Use of Coal, October 1976.

This analysis estimated the total annual incremental increase in revenue requirements to be \$1,999,000, which assumed a predicted effect on United Power's financial statement and represents revenues required to offset any potential loss in United Power's net earnings as reported for fiscal year ending 1976.

The total estimated annual increase in costs of \$2,120,000 associated with conversion will be offset by the potential aggregate value of fuel costs savings of approximately \$2,359,000 attributable to compliance with this NOI and all other NOI's currently under consideration. Therefore, the net annual revenue requirements of United Power should decrease by approximately \$239,000.

4. Consumer Impact. The potential initial impact of a Prohibition Order to Elk River 1, 2 and 3, is a net decrease in revenues required from United Power consumers of approximately \$0.00002 per kilowatt-hour of electricity sold by United Power. This estimate is based on DOE's analysis of the Ultrasystems Computer model results.

The actual amount of the decrease will depend on the actual amount of the investment necessary to comply with a Prohibition Order, the methods which United Power selects to finance the increased costs associated with burning coal as a primary energy source at Elk River 1, 2, and 3, the extent to which the cost decrease is spread among United Power customers, the regulations or policies of the regulatory agencies with jurisdiction over United Power regarding inclusion of such cost decrease in consumer rates, the actual amount of the fuel cost differential, and other factors.

B. Consistency with the purposes of ESECA. Because the issuance of a Prohibition Order to Elk River 1, 2 and 3 will discourage the use of natural gas or petroleum products and encourage the increased use of coal, DOE proposes to conclude that this action would be consistent with the purpose of ESECA to provide a means to assist in meeting the essential needs of the United States for fuels. On the basis of the environmental analysis which DOE is required to conduct prior to issuance of a Notice of Effectiveness of Prohibition Order, as well as the necessity for these powerplants to comply with the Clean Air Act and other applicable environmental protection requirements, DOE proposes to

conclude that a Prohibition Order to Elk River 1, 2 and 3 would be consistent with the purpose of ESECA to provide for a means to assist in meeting the essential needs of the United States for fuels in a manner which is consistent, to the fullest extent practicable, with existing national commitments to protect and improve the environment.

III. COAL AND COAL TRANSPORTATION FACILITIES WILL BE AVAILABLE TO THESE POWERPLANTS DURING THE PERIOD UNTIL DECEMBER 31, 1984

A. Coal availability. 1. National coal reserves. United States coal reserves are more than sufficient to supply national needs for the foreseeable future. U.S. Department of the Interior, Bureau of Mines data show a demonstrated coal reserve base of over 400 billion tons, over half of which is currently technically and economically recoverable. Demonstrated Coal Reserve Base of the United States, by Sulfur Category, on January 1, 1974, Bureau of Mines (May 1975) (hereafter "BOM Survey"). Within these recoverable reserves approximately 100 billion tons contain 1 percent or less sulfur by weight. To determine when certain quantities of these reserves are expected to be available, DOE has examined several studies, referenced herein, which together provide the best current evidence as to coal availability for the period ending December 31, 1984.

2. National coal production and demand. The comparison, stated below, of estimated national coal production, national coal demand, and the total tonnages of uncommitted planned national coal production (derived from responses to a survey of coal companies) shows that there should be sufficient production of coal to meet the total national demand through 1980. Beyond 1980, plans for new production are not yet fully developed because few coal producers have firm expansion plans that extend that far into the future; however, the projected total national coal planned production for 1985 already meets over 99 percent of the total U.S. demand expected in 1985. With time, more potential mine developments will become firm plans, thus increasing the planned production.

a. National coal production. It is conservatively estimated that it will be practicable to produce coal nationally in at least the following quantities:

Year	Production potential (million tons)
1978.....	791.6
1979.....	851.4
1980.....	911.7
1981.....	960.0
1982.....	994.3
1983.....	1,017.4
1984.....	1,028.7
1985.....	1,029.6



The figures shown above are derived from FEA's Coal Mine Expansion Study (May 1976). This study demonstrates that most coal producers did not have firm or accurate plans for new capacity additions beyond 1980. The 1985 projection, therefore, tends to underestimate actual production potential.

An FEA study, Coal Availability and Demand: Round I and II Coal Conversion Candidates, as revised, March 11, 1977 (hereafter "Availability Study"), indicates current plans for nationwide production of uncommitted coal as follows:

Year	Production (million tons)
1978.....	124.3
1979.....	242.1
1980.....	293.3
1981.....	350.0
1982.....	389.9
1983.....	396.2
1984.....	475.5
1985.....	544.9

b. *National demand exclusive of ESECA Prohibition Order demand.* The estimated national demand, excluding any increased demand resulting from DOE action under the authority of section 2(a) of ESECA, is as follows (FEA 1976 National Energy Outlook):

Year	Demand (million tons)
1978.....	730
1979.....	784
1980.....	799
1981.....	842
1982.....	887
1983.....	935
1984.....	985
1985.....	1,040

c. *National ESECA Prohibition Order demand.* The estimated potential demand for coal resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders issued to date under authority of section 2(a) of ESECA is as follows (Coal Availability Report, as revised, November 9, 1977):

Year	Demand (million tons)
1978.....	10.1
1979.....	14.6
1980.....	20.9
1981.....	23.1
1982.....	29.5
1983.....	29.7
1984.....	29.7
1985.....	29.7

3. *Characteristic Coal, Production and Demand.* a. *Characteristic coal requirements for these powerplants.* Based on information provided by United Power, DOE proposes to conclude that drybottom boilers, of the type used at Elk River 1, 2, and 3, will be able to burn coal with the following characteristics and comply with all applicable air pollution control requirements:

Btu's/lb.....	8,300.
Moisture.....	25.50 pct.

Ash.....	9 to 20 pct.
Volatile.....	27.75 pct minimum.
Sulfur.....	1.0 pct maximum

b. *Characteristic coal demand from these powerplants.* The potential annual demand for coal, of the type described above which would result from this NOI is estimated to be as follows:

Year	Potential annual demand (thousand tons)
1979 to 1984.....	88,372

c. *Characteristic coal available to these powerplants.* Based on information provided by United Power and also Great Lakes Coal and Dock Co., DOE proposes to find that United Power has received a written commitment from Great Lakes Coal and Dock Co. for a supply of characteristic coal through 1982 with an option to renew the commitment through 1984.

4. *State and local laws.* DOE has found no state or local laws or policies limiting the extraction or utilization of coal that would adversely affect these production figures, and none have been brought to DOE's attention.

5. *Conclusion.* On the basis of the contractual commitment between United Power and Great Lakes Coal and Dock Co., DOE proposes to find that coal of the characteristics required will be available to Elk River 1, 2 and 3. Furthermore, on the basis of the BOM Survey, the Coal Mine Expansion Study, the Availability Study and the FEA 1976 National Energy Outlook, DOE expects that national coal production potential will substantially exceed the total national demand for coal in amounts sufficient in any year to meet the estimated potential additional demand resulting from this NOI, from all other Notices of Intention to issue Prohibition Orders, to date, and from all outstanding Prohibition Orders issued to date under authority of section 2(a) of ESECA. DOE therefore observes that although United Power has a commitment from Great Lakes Coal and Dock Co. to supply coal through 1982, with a right to renew through 1984, United Power could also purchase coal for Elk River 1, 2 and 3 in other markets.

B. *Coal transportation.* 1. *Location of powerplants and coal supply.* Based on information provided by United Power, coal for Elk River 1, 2 and 3 has been contracted to be supplied from Colstrip, Mont. While this supply area has been chosen by United Power to provide complying coal to these powerplants, DOE observes that complying coal can be transferred by rail from other identified sources within the United States.

2. *Route of coal shipment.* Based on information provided to DOE by United Power, the primary route for

coal delivery for Elk River 1, 2 and 3 would originate on the Burlington & Northern (B. & N.) Railroad at Colstrip, Mont. and carry the coal directly to Elk River 1, 2 and 3.

3. *Originating trunk carrier.* B. & N., the expected carrier of coal for Elk River 1, 2 and 3 has indicated that it is willing to acquire any needed capacity involved in shipment to Elk River 1, 2 and 3 and that it would modify its expansion plans with demand conditions. The railroad also indicated that its carrying capacity could be expanded as quickly as powerplants prepare to burn coal.

Based on an FEA study, Utility Analysis of Coal Transportation Availability, November 1976, DOE has concluded that for all potential Prohibition Order candidates studied, there would be no major constraints in transporting coal. The study examined existing rail transportation car capacity, water transportation capacity, including unloading docks, where applicable, and took into account projections made by all carriers to meet the anticipated demand for all types of transportation facilities assuming all powerplants studied were to receive orders under Sections 2(a) of ESECA.

DOE has not found nor has it been informed of any apparent constraints to carrying coal for any alternate or intermediate carriers should they be used.

4. *Powerplant facilities.* Elk River 1, 2 and 3 presently have coal unloading facilities which United Power has advised DOE are adequate to handle the projected coal demand. There are no obstacles to the delivery of coal to Elk River 1, 2 and 3.

5. *Conclusion.* Coal transportation facilities will be available for the period a Prohibition Order is expected to be in effect since no significant constraints to coal delivery over the primary route to Elk River 1, 2 and 3 presently exist, and alternate routes are available.

#### IV. THE PROHIBITION OF THE BURNING OF NATURAL GAS OR PETROLEUM PRODUCTS AS THEIR PRIMARY ENERGY SOURCE WILL NOT IMPAIR THE RELIABILITY OF SERVICE IN THE AREA SERVED BY THE AFFECTED POWERPLANTS

Based on an analysis of the information submitted to DOE by the Federal Energy Regulatory Commission and United Power, DOE proposes to find that the issuance of a Prohibition Order to Elk River 1, 2 and 3 will not impair the reliability of service in the area served by these powerplants since there will be no outage as a result of a Prohibition Order to Elk River 1, 2 and 3. United Power has advised DOE that the 25 percent capacity factor will allow for one boiler to always remain operational.

Furthermore, both the Federal Energy Regulatory Commission and

United Power have advised DOE that a derating of 8 MW while burning coal will not impair the reliability of service. Therefore, there will be no impairment of reliability of service within the meaning of ESECA in the area served by United Power as a result of a Prohibition Order.

[FR Doc. 78-2580 Filed 1-30-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission  
[Docket No. C178-135]

AMINOIL DEVELOPMENT, INC.

Notice of Application

JANUARY 24, 1978.

Take notice that on November 3, 1977, Aminoil Development, Inc. (Aminoil), Golden Center 1, 2800 North Loop West, P.O. Box 94193, Houston, Tex. 77018, filed in Docket No. C178-135 an application pursuant to section 7(c) of the Natural Gas Act, as amended, and § 2.75 of the Commission's General Policy and Interpretations, Optional Procedure for Certifying New Producer Sales of Natural Gas, for a certificate of public convenience and necessity authorizing the sale of natural gas from its interest in Block 317 Field, High Island Area, offshore Texas, to Natural Gas Pipeline Co. of America, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

The contract is for a base period of 20 years and provides for an initial base rate of \$4.53 per Mcf at 14.65 psia, subject to Btu adjustment and new or increased taxes. Applicant's projections show total deliveries at 69 Bcf.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 16, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a

hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2541 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CS78-187, et al.]

ARKANSAS CHILDREN'S HOSPITAL, ET AL.  
Notice of Applications for "Small Producer" Certificates

JANUARY 24, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications, which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 17, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a

This notice does not provide for consolidation for hearing of the several matters covered herein.

hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificate is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

Docket No.	Date filed	Applicant
CS78-187.....	Jan. 3, 1978	Arkansas Children's Hospital, 720 West Third St., Little Rock, Ark. 72201.
CS78-189.....	Dec. 12, 1977.	Terex Exploration Co., Inc., 805 The 600 Building, Corpus Christi, Tex. 78473.
CS78-190.....	do.....	Double Eagle Drilling Co., 4835 L.B.J. Freeway No. 975, Dallas, Tex. 75234.
CS78-191.....	Dec. 30, 1977.	Energy Unlimited, Inc., 427 Second St., Marietta, Ohio.
CS78-192.....	Jan. 3, 1978	Jack Guenther & John C. Korbell, 500 National Bank of Commerce Bldg., San Antonio, Tex. 78205.
CS78-193.....	do.....	Marks Oil Inc., 475 Capitol Life Center, Denver, Colo. 80203.
CS78-194.....	do.....	Dow Oil Corp., 475 Capitol Life Center, Denver, Colo. 80203.
CS78-195.....	do.....	C. K. Davis, 8700 Stemmons Fwy., suite 115, Dallas, Tex. 75247.
CS78-196.....	Jan. 5, 1978	San Antonio Oil & Gas Corp., 8634 Crownhill, San Antonio, Tex. 78209.
CS78-197.....	Jan. 6, 1978	C. Dale Stromquist, 1329 Westhaven Drive, Liberal, Kan. 67901.
CS78-198.....	Jan. 9, 1978	Alfred E. Knobler, 475 Fifth Ave., New York, N.Y. 10017.
CS78-199.....	do.....	Bonray Drilling Fund—1978, Ltd., P.O. Box 20746, Oklahoma City, Okla. 73120.
CS78-200.....	do.....	Elden W. Gaus, 3420 Brentwood, Beaumont, Tex.
CS78-201.....	do.....	Charles Richard Selke, 3120 Amherst, Houston, Tex. 77005.
CS78-202.....	do.....	Rio Bravo Oil Co., Inc., 1717 St. James Place, suite 300, Houston, Tex. 77056.
CS78-203.....	do.....	Diana Felder Fillmore, testamentary trust, First National Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Tex. 75283.
CS78-204.....	do.....	William Felder III, testamentary trust.
CS78-205.....	do.....	Diana Gibbs Felder, testamentary trust.



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NOTICES

Docket No.	Date filed	Applicant
CS78-206.....	do.....	Liza Felder Delaney, testamentary trust.
CS78-207.....	do.....	Ann Felder Sandifer, testamentary trust.
CS78-208.....	do.....	Diana Gibbs Felder, living trust.
CS78-209.....	do.....	Alcoi Exploration, Inc., 2525 Cerritos Ave., Signal Hill, Calif. 90806.
CS78-210.....	do.....	A. Louis Canut, 3947 Marshall Way, Long Beach, Calif. 90807.
CS78-211.....	do.....	Havre Drilling Co., P.O. Box "D", Havre, Mont. 59501.
CS78-212.....	do.....	H-M Oil Co., 3908 North Navarro, Victoria, Tex.
CS78-213.....	do.....	Virgil Davis Hunt, 700 North Bonner St., Ruston, La. 71270.
CS78-214.....	do.....	Edward B. Little, 1007 Fountainview, Houston, Tex. 77057.
CS78-215.....	do.....	Walker & Withrow, Inc., 101 Park Ave. Bldg., suite 1080, Oklahoma City, Okla. 73102.
CS78-216.....	Jan. 10, 1978.	John William Lander, III, P.O. Box 587, South Houston, Tex. 77587.
CS78-217.....	do.....	Joseph Robert Franz, 4602 Devon St., Houston, Tex. 77027.
CS78-218.....	do.....	R. N. Thompson, P.O. Box 216, Shreveport, La. 71182.
CS71-1148...	do.....	First City National Bank of Houston and Alfred C. Glassell, Jr., Trustees for the Carrie Oall Stringfellow Trust, First City National Bank Bldg., Houston, Tex. 77002.

\*Being noticed to reflect the names of both trusts: The Carrie Oall Stringfellow Trust and the Regan McIntyre Stringfellow Trust.

[FR Doc. 78-2538 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CS77-752, et al.]

BRANCH T. ARCHER, ET AL.

JANUARY 5, 1978.

Notice of Applications for "Small Producer" Certificates; Erratum

Tabulation, Page 3, Docket No. CS77-853, Louis Arrington.

Under Column headed "Date Filed" change "9/28/77" to read "9/26/77," opposite Docket No. CS77-853.

Issued: October 14, 1977.

KENNETH F. PLUMB  
Secretary.

[FR Doc. 78-2556 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CI77-244]

CLARK OIL PRODUCING CO. ET AL.

Filing of Proposed Stipulation of Facts and Settlement Proposal

JANUARY 24, 1978.

Take notice that on December 14, 1977, Clark Oil Producing Co., American Independent Oil Co., H. W. Bass and Sons, Inc., and Home Petroleum Corp. (Applicants) filed in Docket No. CI77-244 a proposed stipulation of facts and settlement proposal. Applicants state that the proposed stipulation of facts is dependent on the proposed settlement, and that in the event the proposed settlement is not approved in full by the Commission, the proposed stipulation shall be privileged and shall become null and void.

On January 28, 1977, Applicants filed an application for a certificate of public convenience and necessity pursuant to section 2.75 of the Commission's General Policy and Interpretations, for natural gas from the north one-third of Block 595, West Cameron Area, offshore Louisiana, to Columbia Gas Transmission Corp. (Columbia) at a rate of \$3.7501 per Mcf. On May 16, 1977, Applicants amended their application to reflect an increase in the rate requested from \$3.7501 per Mcf to \$4.019 per Mcf. On February 28, 1977, Associated Gas Distributors (AGD) filed a petition for leave to intervene, but stated no position with respect to the merits of the application; on March 10, 1977, the Public Service Commission of the State of New York (New York) filed a notice of intervention in the above-cited docket, and requested a hearing on the application. On April 6, 1977, Columbia Gas Transmission Corp. filed a petition for leave to intervene out of time. On September 23, 1977, pursuant to a notice issued September 8, 1977, an informal settlement conference was held at the Commission's offices, and representatives of Applicants, the Commission Staff, Columbia, and AGD were in attendance. The Commission has not set this application for hearing, nor has it issued any orders in this docket.

Applicant proposes a stipulation of facts stating that the actual unit cost of gas is \$2.4975 per Mcf. This calculation of unit cost is based upon an exclusion of two-thirds of the lease acquisition and lease rental costs, inasmuch as applicants seek certification of sales from only one-third of the offshore block in question. In addition, applicant states that an adjustment has been made to exclude from the cost calculations an amount of interest which they might have received from the reinvestment of the cash flow generated by the project.

Applicants have also filed a document styled "Offer of Settlement of

Clark Oil Producing Co., et al.," pursuant to section 1.18(e) at the Commission's Rules of Practice and Procedure. Applicants state that they have contracted to sell certain gas produced from their leasehold interests in the month one-third of Block 595, West Cameron Area, Offshore Louisiana. They further state that they acquired the block at the June, 1973 federal lease sale for a bonus payment of \$3,521,715.00, and that the application covers reserves totalling 10,435 Bcf. As is noted above, Applicants have excluded from their calculation of unit cost two-thirds of the lease acquisition and lease rental costs. According to the Applicants, their out-of-pocket project costs, providing no return on investment and no federal income tax allowance, are \$4.019 per Mcf. However, applicants propose to sell the gas in question to Columbia at a rate of \$2.4975 per Mcf, and have amended their application accordingly. The offer of settlement is contingent upon Commission approval, and Applicants, state that in the event it is not accepted and approved in its entirety, it shall be privileged and of no effect.

Any person desiring to be heard or to comment upon the settlement proposal should file initial comments on or before March 1, 1978. Reply comments, if any, should be filed on or before March 15, 1978. Such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments will be considered by the Commission in order to determine the appropriate action to be taken. Copies of the settlement proposal are on file with the Commission and are available for public inspection.

Any person who is not a party to this proceeding, or who has not yet filed a protest or petition for leave to intervene, may file such pleadings on or before March 1, 1978. Any person desiring to comment upon the settlement proposal, or any person desiring to be heard with reference to the application filed herein, shall file a protest or petition for leave to intervene on or before March 1, 1978. Such filings shall be made with the Federal Energy Regulatory Commission at the above-noted address. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2542 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-147]

COLORADO INTERSTATE GAS CO.

Application

JANUARY 25, 1978.

Take notice that on January 9, 1978, Colorado Interstate Gas Co. (applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP78-147 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a short-term sale of natural gas to Natural Gas Pipeline Co. of America (NGPL), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to sell up to 100,000 Mcf of natural gas per day on a best efforts basis to NGPL, which sale would be separate from and in addition to applicant's traditional long-term sales to NGPL. Applicant states that the sale of the proposed volumes of gas would commence upon receipt of the requested authorization here and would terminate by contractual agreement on December 31, 1978. It is estimated that this sale would total approximately 18,000,000 Mcf over the approximate 1-year term.

Applicant states that because of facility limitations on its pipeline system, the proposed short-term sale would not be made directly to NGPL at existing interconnections but by delivery to Northwest Pipeline Corp. (NPC) at an existing delivery point located at the western terminus of Applicant's Wyoming pipeline system near Green River, Wyo. It is stated that NGPL has made separate arrangements with NPC and El Paso Natural Gas Co. (El Paso) for transportation and redelivery of this gas to its pipeline system.

Applicant states that the price of all gas sold under the short-term sale to NGPL would be at the effective unit rate incorporated from time to time in applicant's FERC rate schedule EX-1, currently 115.06 cents per Mcf.

Applicant asserts that the proposed short-term sale would assist it in balancing its current requirements and supply and would encourage producers to develop the additional supplies critically needed in the future by providing a ready outlet for the gas presently available.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regula-

NOTICES

tions under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2546 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 78-158]

COLUMBIA GAS TRANSMISSION CORP.

Application

JANUARY 25, 1978.

Take notice that on January 16, 1978, Columbia Gas Transmission Corp. (applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP78-158 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for 2 years of up to 16,100 Mcf of natural gas per day for Allied Chemical Corp. (Allied), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 16,100 Mcf of natural gas per day for Allied pursuant to a transportation agreement dated December 14, 1977, between the two parties, which gas applicant would receive from Texas Eastern Transmission Corp. (Texas Eastern) at an existing point of interconnection in Westmoreland County, Pa., and would deliver, for the account of Allied, to CNG

Transmission Co. (CNG), a wholesale customer of applicant, at an existing point of delivery in Greene County, Va. It is stated that CNG would in turn deliver the gas to Allied at its Hopewell, Va., chemical complex through existing distribution facilities.

It is indicated that Allied's Hopewell, Va., chemical complex produces ammonia, CO<sub>2</sub>, and hydrogen, and that the gas to be transported hereunder would be used to replace curtailed film requirements of natural gas used primarily as feedstock in the production of ammonia in the small remaining amount being used as process gas needed to provide precise temperature control. It is further indicated that there is no technically feasible alternative natural gas for this feedstock or process use.

Applicant states that the gas to be transported hereunder would be delivered to Texas Eastern in the form of ethane which is owned by Allied and presently stored in its Choctaw Dome storage facility in Iberville Parish, La. It is indicated that the natural gas to be transported for Allied is available to the interstate market inasmuch as the initial gas delivered would be in the form of vaporized ethane and owned by Allied. It is stated that the subject gas is subject to diversion to applicant on a temporary basis in emergency periods when, in applicant's sole judgment, such gas is required for the protection of priority 1 requirements on its system. Gas so diverted would be paid back as soon as practicable after the emergency period, it is said.

Applicant states that its charge for this service would be its average system-wide unit storage and transmission cost, exclusive of company-use and unaccounted-for gas, which is 20.56 cents per Mcf, and that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Allied, which percentage is currently 4 percent.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.



Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2545 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-282]

COLUMBIA GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be contin-

ued before the FERC. The FERC takes action in this proceeding in accordance with the above-mentioned authorities.

Take notice that on January 5, 1978, Columbia Gas Transmission Corp. (petitioner), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-282 a petition to amend the order of July 1, 1977, issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the installation and operation of an additional 4,000 horsepower reciprocating compressor unit instead of the 4,250 horsepower turbine-powered centrifugal unit which was previously authorized herein, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of July 1, 1977, petitioner was authorized, inter alia, to install and operate an additional 4,250 horsepower compressor unit at Coco compressor station located in Kanawha County, W. Va., which horsepower addition is part of a project designed to enable petitioner to increase the annual storage turnover volumes in its Coco storage complex. It is stated that petitioner proposed the installation of the 4,250 horsepower turbine-powered centrifugal compressor unit as an addition to the existing Coco compressor station which consists of six reciprocating compressor units totaling 5,500 horsepower, five 880 horsepower and one 1,100 horsepower units. The original filing in the instant docket was based on the need to commence the drilling of additional Coco storage wells during 1977, whereas, construction of the Coco horsepower addition was not to commence until the summer of 1978, it is said.

The application states that initial compressor station design investigations determined that the installation of a 4,250 horsepower turbine-powered centrifugal compressor unit would satisfy the additional Coco compression requirements at the lowest capital cost, and that in order to minimize Coco's fuel requirements it would have been necessary to base load the existing reciprocating units and utilize the centrifugal unit only during limited periods when maximum station horsepower is required. The application further states that when detailed design investigations were conducted during 1977, it was determined that installation of the 4,250 horsepower centrifugal unit would require an approximate 54-percent increase in the utilization of the older units which would accelerate wear and fatigue. It was determined that the increase in operating expenses with the 4,250 horsepower unit, would have been \$209,600 rather than the estimated \$134,900 increase

reflected in the original application, it is stated. Petitioner asserts that further studies were conducted to develop an alternative which would extend the service life of the existing Coco units by reducing their load factor.

Petitioner has now determined that this objective can best be accomplished by the proposed installation of a 4,000 horsepower reciprocating compressor unit. Petitioner indicates that the heavy duty design and high fuel efficiency of the proposed reciprocating unit makes it more suitable for a base load type of operation, and that its broad performance range makes its operation interchangeable with the existing reciprocating units. Petitioner states that base loading the proposed 4,000 horsepower reciprocating unit would reduce the required utilization of the existing units by approximately 40 percent, and that the annual station fuel consumption would be reduced by approximately 63,000 Mcf compared to station fuel consumption with the currently authorized 4,250 horsepower addition.

Consequently, petitioner proposes to install a 4,000 horsepower reciprocating compressor unit addition at an estimated cost of \$3,165,000, which cost would be financed through funds generated internally. The cost of the unit proposed herein in an increase of approximately \$1,911,300 over the unit proposed in the original application filed herein, it is said.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2547 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 75-158]

CONSOLIDATED GAS SUPPLY CORP.

Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of

Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on January 4, 1977, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, W. Va. 26301, filed in Docket No. CP75-158 a petition to amend the order of May 29, 1975 (53 FPC —), as amended, issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7 of the natural gas act so as to permit certain modifications to the replacement program for its West Virginia wet gas transmission system previously authorized in this docket, all as more fully set forth in the petition on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of May 29, 1975, in the instant docket, the FPC authorized Petitioner's four-year program to replace its West Virginia wet gas transmission system at an estimated capital cost of \$18,301,700. It is further indicated that pursuant to the FPC amending order of August 18, 1978, Petitioner was authorized to defer for one year construction of the 24.4 miles of Line No. TL-418 authorized by the May 29, 1975, order. Petitioner alleged that its 1976 construction budget would not provide sufficient capital funds to construct this line as well as the dry gas pipeline proposed in Docket No. CP76-

396. It is stated that studies were under way to determine whether segments of dry gas Line Nos. H-192, TL-264 and TL-265 could be made available for incorporation into its wet gas system in substitution for the construction of new pipelines as previously authorized herein.

It is indicated that on February 24, 1977, Petitioner filed a petition to amend further the FPC order of May 29, 1975, herein to (1) reclassify, from dry gas to wet gas transmission service, at a cost of \$363,000, approximately 24 miles of existing 20-inch Line No. TL-265, in lieu of constructing 24 miles of new 24-inch Line No. TL-418 at an estimated cost of \$5,400,000 as previously authorized; (2) construct and operate an 880-horsepower compressor station near Yellow Creek in Calhoun County, W. Va., in lieu of the 1320-horsepower Burnt House Station previously authorized; and (3) defer all other projects scheduled from 1977-79 by one year, pending further studies of its West Virginia wet and dry gas transmission systems. The company further stated that all other 1976 projects which had been deferred until 1977 by the FPC order of August 18, 1976, were scheduled to be completed in 1977. It is indicated that pursuant to the FPC order of May 25, 1977, in the instant docket, these modifications were approved. It is further indicated that pursuant to order of October 21, 1977, the FERC granted Petitioner authorization to substitute an 1100-horsepower engine for the 880-horsepower engine authorized for Yellow Creek compressor station by the FPC's order of May 25.

The petition states that the projects proposed to be completed now as authorized are as follows:

1978  
All projects modified.

1979

(1) Construct and operate 4.7 miles of 12-inch Line No. TL-427 from Kennedy Station to Law Station.

(2) Construct and operate 5.8 miles of 8-inch Line No. TL-425 from Davis Station to Law Station.

(3) Abandon 35.9 miles of 16- and 20-inch Line No. H-138 from Jones Station to Stutler Junction.

(4) Abandon 1.1 miles of Line No. H-139 from Heckert Junction to former Payne Station.

The modifications which applicant proposes to make for all three years of the project by this petition are as follows:

1978

(1) Relocate 2,000 horsepower from Craig Station to Yellow Creek Station and delete construction of 6.9 miles of 10-inch Line No. TL-423 from Craig Station to Burnt House Junction

(2) Construct and operate 5.5 miles of 12-inch Line No. TL-422 from Yellow Creek

Station to Buckmeyer Junction in lieu of construction of 11.4 miles of 12-inch Line No. TL-422 from Burnt House Junction to Cabot Station.

(3) Reclassify, from transmission to production, 7.5 miles of 10-inch Line No. H-68 from Craig Station to Burnt House and 6.5 miles of 12-inch Line No. H-193 from Burnt House Junction to Yellow Creek Station.

(4) Reclassify, from dry gas to wet gas transmission service, 14.8 miles of 12-inch Line No. H-192 and 14.7 miles of 12-inch Line No. TL-264 from Minnora Junction to Jones Station replacing 14.3 miles of 20-inch TL-273.

(5) Construct and operate 0.2 mile of 12-inch Line No. TL-277 connecting Line No. H-192 to Line No. H-138 at Jones Station.

(6) Construct and operate 0.85 mile of 8-inch and 0.4 mile of 12-inch Line No. TL-369 (extension) to connect lines described in (4) above to Orms Station discharge.

(7) Miscellaneous tie-in facilities to connect existing 12-inch Line No. TL-382 at Minnora Junction to facilities described in (4) above.

(8) Abandon 14.3 miles of 20-inch Line No. TL-273 from Minnora Junction to Jones Station.

1979

(1) Construct and operate 4.7 miles of 10-inch Line No. TL-427 from Dent Junction to Kennedy Station in lieu of 7.1 miles of 10-inch Line No. TL-427 from Camden Station to Kennedy Station previously authorized.

(2) Reclassify, from transmission to production, 4.8 miles of 10-inch Line No. TL-221 from Dent Junction to Kennedy Station.

(3) Reclassify, from transmission to production, 2.8 miles of 12- and 16-inch Line No. H-32 from Law Junction to Wymer Junction and connect remaining portion of Line No. H-32 to pipeline described in Section III, paragraph (2).

(4) Reclassify, from transmission to production, 4.7 miles of 10-inch Line No. TL-207 from Douglas Junction to Linder Meters, improving Camden Station section.

(5) Retire 3.4 miles of 8-inch Line No. TL-228 from transmission service, retaining 0.2 mile in distribution service, 0.5 mile in production and abandoning 2.7 miles.

(6) Construct and operate 13.1 miles of 10-inch Line No. TL-428 from Sardis Station to Dearth Junction in lieu of 4.6 miles of 6-inch and 8.1 miles of 8-inch line previously authorized.

(7) Reclassify, from transmission to production, 3.5 miles of 10-inch Line No. TL-354 from Sardis Station to Morrison Junction.

(8) Reclassify, from transmission to production, 0.2 mile of 8-inch Line No. TL-291 connecting Line Nos. TL-354 and H-141.

(9) Reclassify, from transmission to production, 4.5 miles of 16-inch Line No. H-141 from Morrison Junction to Springer Junction.

(10) Reclassify 2.1 miles of 16-inch Line No. H-150 to production from Springer Junction to production Line H-88 and abandon 3.7 miles of line from H-88 to Stutler Junction.

(11) Construct and operate 3.1 miles of 16-inch Line No. TL-432 from Fleming Junction connecting Line Nos. H-192 and TL-264 to Line No. TL-418.

(12) Reclassify, from dry to wet gas transmission service, 19.4 miles of 12-inch Line No. H-192 and 19.2 miles of 14- and 16-inch Line No. TL-264 from Jones Station to Fleming Junction.



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(13) Reclassify, from transmission to production, 13.8 miles of Line No. H-45 from Fink Junction to Collins Junction.  
(14) Reclassify, from transmission to production, 0.8 mile of 8-inch Line No. H-149 from Maxwell Station to Line No. H-45.  
(15) Relocate one 440-horsepower compressor engine from Maxwell Station to Collins Station, instead of to Smithburg as previously authorized.  
(16) Pipe sections in 2.3 miles of 10-inch Line No. TL-238 from Camden Station to Douglas Junction and 1.1 miles of 10-inch Line No. TL-207 from Douglas Junction to Dent Junction will continue to be replaced, size for size, under Section 2.55 of the Commission's Statements of General Policy and Interpretations, resulting in complete replacement of these lines by the completion of the subject program.  
(17) Reclassify, from transmission to production, 4.0 miles of 12- and 16-inch Line No. TL-215 from Kennedy Station to Law Station.

1980

(1) Construct and operate 6.2 miles of 8-inch Line No. TL-424 from Smithburg Station to Middle Run Junction (a 0.5-mile increase over 1978 Projects (1) and (2) described at page 4 of the original application herein).  
(2) Reclassify, from transmission to production, 4.1 miles of 8-inch Line No. H-15 from Smithburg Station to Collins Junction.  
(3) Abandon 1.6 miles of 20-inch Line No. H-45 from Collins Junction to Maxwell Junction.  
(4) Abandon 0.5 mile of 12-inch Line No. TL-362 from Maxwell Junction to Middle Run Junction.

The petition states that Petitioner proposes certain additional minor changes to its wet gas transmission system replacement which, primarily, involve the reclassification from dry gas to wet gas transmission service of several sections of pipeline proposed to be replaced by new pipeline over the years 1978-80 in an application filed in Docket No. CP78-143 filed concurrently herewith. Petitioner asserts that this modified wet gas replacement program would result in less cost to the company and its customers and less environmental impact, while satisfying existing standards of safety and continuity of service.  
It is stated that the following data summarize the advantages of the wet gas replacement program as modified:

ORIGINAL PLAN (AS AMENDED THROUGH 1977)

REMAINING WORK TO BE COMPLETED 1978-1980

1. Construct and operate 74.3 miles of new pipeline.
2. Reclassify from dry gas transmission to wet gas transmission zero miles of pipeline.
3. Relocate 440 horsepower.
4. Abandon 123.6 miles of pipeline.
5. Reclassify to production or distribution zero miles of pipeline. Estimated cost of above work 1978-1979, \$12,667,493.

REVISED PLAN 1978-1980

WORK TO BE COMPLETED

1. Construct and operate 45.3 miles of new pipeline.

2. Reclassify from dry gas transmission to wet gas transmission 68.1 miles of pipeline.
  3. Relocate 2440 horsepower.
  4. Abandon 59.8 miles of pipeline.
  5. Reclassify to production or distribution 63.3 miles of pipeline.
- Estimated cost of above work 1978-1980, \$7,326,600.  
Estimated Net Reduction in Capital Costs, \$5,340,893.

It is not anticipated that any customer's service would be terminated as a result of the abandonments proposed herein, it is said.

The petition states that the annual expenses should be reduced due to the elimination of gas losses as described in the original application herein. The petition further states that the estimated costs of the proposed facilities for all three years would be \$17,421,337, which cost would be furnished from funds on hand and funds to be obtained from Petitioner's parent, Consolidated Natural Gas Company.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2548 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP71-290]

CONSOLIDATED SYSTEM LNG CORP.

Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a) (1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on January 17, 1978, Consolidated System LNG Corporation (Consolidated LNG) tendered for filing a petition to amend its Certificate of Public Convenience and Necessity in the above-captioned proceeding. Consolidated LNG states that the proposed amendment to the certificate of public convenience and necessity was prepared and filed in accordance with a Settlement Proposal filed as an appendix to the petition to amend, and which is allegedly intended to resolve a dispute between Consolidated LNG and the Public Service Commission of the State of New York regarding Consolidated LNG's initial tariff submitted on August 5, 1977, in the above-captioned proceeding.

Consolidated LNG states that on August 5, 1977, in accordance with ordering paragraph F(2) b of the Commission's Opinion No. 622,<sup>1</sup> a tariff, with accompanying rate schedules was filed with the Commission. Petitioner further declares that the Commission's Opinion No. 622, issued on June 28, 1972, granted to Consolidated LNG a certificate for the construction and operation of facilities and for the interstate transportation and sale of imported LNG for resale. The certificate is said to have been issued including the condition that Consolidated LNG, consistent with its unaccepted offer of settlement; provide in its rate schedule for an initial rate of return on equity not to exceed 12 percent to be applied to the net investment rate base less the outstanding long-term debt obliga-

<sup>1</sup> Columbia LNG Co., et al., Docket Nos. CP71-68 et al., Opinion No. 622, 47 FPC 1624 (1972), as amended after rehearing by Opinion No. 622-A, 48 FPC 723 (1972).

tions of consolidated LNG; provided however, that in no event shall the rate of return on equity be applied to more than 54 percent of Consolidated LNG's net investment without prior approval first having been sought and obtained from the Commission.

Consolidated LNG alleges that its offer of settlement included a reservation of the right to file for more than 12 percent return on equity if financial conditions changed from those existing in July, 1971. The Consolidated LNG's August 5 transmittal letter with the proposed initial tariff detailed increases in the cost of capital which in Consolidated LNG's opinion require a return on equity of 15 percent.

On August 19, 1977, it is stated that the New York Commission filed a motion to reject the tariff filing tendered by Consolidated LNG and seeking an order directing Consolidated LNG to file tariff sheets incorporation a 12 percent return on equity in conformity with ordering paragraph F(2)b of Opinion No. 622. On September 5, 1977, Consolidated LNG filed a response to the New York Commission's motion requesting that, if Consolidated LNG's filing was procedurally defective, the Commission treat the filing as a motion to amend ordering paragraph F(2)b of Opinion No. 622. In that same filing, Consolidated LNG urged the Commission to schedule a prehearing conference to explore the possibility of settlement of the dispute between the New York Commission and Consolidated LNG. On September 15, 1977, the New York Commission replied to Consolidated LNG's response and indicated its willingness to participate in efforts to expedite the proceedings, although maintaining its position that Consolidated LNG could not implement its compliance tariff filing.

Consolidated LNG states that on December 9, 1977, it filed a motion to convene a settlement conference to resolve the dispute between itself and the New York Commission. Subsequently settlement conferences were scheduled pursuant to letter notice issued by Commission Staff. Pursuant to the notice, settlement conferences were held on January 5 and 9, 1978. Consolidated LNG states that as a result of the settlement conferences, Consolidated LNG filed the Settlement Agreement and Motion to Amend the Certificate of Convenience and Necessity that are the subject of this notice.

Consolidated LNG states that its Petition to Amend the Certificate seeks to eliminate the condition in its certificate, set out in ordering paragraph F(2)b, specifying a 12 percent return on equity. Consolidated LNG further states that the condition is no longer necessary in view of its agreement to

file substitute tariff sheets providing that the rate of return applicable to Consolidated LNG will be the rate or return the same as the effective rate of return reflected in rates being collected by Consolidated Gas Supply Corporation pursuant to order to the Federal Energy Regulatory Commission, or its predecessor the Federal Power Commission applied to Consolidated LNG's net investment rate base related to the certificated facilities and services. Consolidated LNG states that the return so calculated shall be subject to appropriate reduction and refunds commensurate with those ordered by the Commission with respect to rate of return collected by Consolidated Gas Supply Corporation, subject to refund.

Consolidated LNG states that the precise date of the commencement of sales and services pursuant to the provisions of the revised tariff is not known, but LNG deliveries to Consolidated LNG are expected to begin in the first quarter of 1978. Accordingly, the rates reflected in the revised tariff sheet filed pursuant to the terms of the Settlement Proposal are filed to become effective upon the initiation of deliveries to Consolidated Gas Supply Corporation.

Copies of Consolidated LNG's filings are on file with the Commission and are available for public inspection. Accordingly, any person desiring to file comments on the Settlement Proposal, or to respond to the Petition to Amend the Certificate of Public Convenience and Necessity or to petition for leave to intervene in the proceeding should, on or before February 17, 1978, file comments on a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the commenters parties to the proceeding. Any person seeking to become a party to the proceeding, and who has not already done so, must file a petition to intervene.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2549 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-39]

IOWA POWER AND LIGHT CO.

Petition To Amend

JANUARY 24, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the

Federal Power Commission (FPC) ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on December 27, 1977, Iowa Power and Light Co. (Petitioner), 666 Grand Avenue, Des Moines, Iowa 50309, filed in Docket No. CP77-39 a petition to amend the FPC's declaration of exemption issued September 19, 1977, in said docket pursuant to Section 1(c) of the Natural Gas Act, all as more fully set forth in the petition on file with the FERC and open to public inspection.<sup>1</sup>

The petition indicates that on August 1, 1977, Petitioner, Northern Natural Gas Co. (Northern) and North Central Public Service Co. (North Central) entered into a gas transportation agreement which is included in Northern's pending application in Docket No. CD77-600. Petitioner states that this application requests, in part, that Northern be granted authorization pursuant to Section 7(c) of the Natural Gas Act to implement the gas transportation agreement by delivering natural gas in specified volumes to Petitioner at Northern's Des Moines, Iowa, TBS No. 1 for the account of North Central for storage by Petitioner in its LNG facility during the summer season (March 27-November 26), and that redeliveries of this gas be

<sup>1</sup>The petition to amend was initially tendered for filing on December 27, 1977; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 19, 1978; thus, filing was not completed until the latter date.



accomplished by displacement through reduction of deliveries to Petitioner at TBS No. 1 and that natural gas so displaced would be provided to North Central at specified times and delivery point in Iowa during the winter season (November 27-March 26 next following). On November 25, 1977, the FERC issued a temporary certificate to Northern in Docket No. CP77-600. Petitioner states that the temporary certificate was conditioned upon Petitioner's seeking amendment of the declaration of exemption issued in the instant docket and that the instant petition to amend is in response to that condition. It is further stated that the instant petition to amend is intended to implement a liquefied natural gas storage agreement, dated August 2, 1977, between Petitioner and North Central.

Petitioner indicates that under the previously unamended terms of the gas storage agreement, it is obligated to receive natural gas for liquefaction and storage for the account of North Central during the summer season and to vaporize and redeliver equivalent volumes to North Central in the winter season up to a maximum obligation of 16,000 Mcf. It is indicated that since authorization to transport the subject gas during the summer season was granted November 25, 1977, Petitioner has not received any such volumes for the account of North Central. Petitioner states that at the present time, it has determined that it has supplies of liquefied natural gas in its LNG facility available for delivery and transportation to North Central which would partially alleviate North Central's winter season supply needs, and that Petitioner is prepared to obligate 16,000 Mcf of gas presently in its LNG storage facility for delivery to North Central during the 1977-78 winter heating season.

It is indicated that Petitioner and North Central have agreed to amend the liquefied natural gas storage agreement, dated August 2, 1977, so as to allow the storage, vaporization, and delivery by displacement through Northern's system to North Central of this quantity of gas during the 1977-78 winter season. Petitioner proposes immediately to credit to the account of North Central 16,000 Mcf of gas from its LNG facility to be available to North Central for delivery during the 1977-78 heating season, and North Central would return said gas to Petitioner during the 1978 summer season.

Accordingly, Petitioner requests amendment of the declaration of exemption issued in the subject docket so as to exempt from the provisions of the Natural Gas Act the transportation, predelivery, storage, and replacement transfer of natural gas in the operations of Petitioner's gas distribution, storage, and LNG facilities con-

nected to the facilities of Northern in Polk County, Iowa. It is stated that the Iowa State Commerce Commission exercises jurisdiction over the rates, service, and facilities of Petitioner.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2544 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP60-44]

MICHIGAN WISCONSIN PIPE LINE CO. AND  
TEXAS GAS TRANSMISSION CORP.

Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act Provide that proceedings pending before the FPC on the Date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and

the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on January 5, 1978, Michigan Wisconsin Pipe Line Co. (Mich-Wisc), One Woodward Avenue, Detroit, Mich. 48226, and Texas Gas Transmission Corp. (Texas Gas), 3800 Frederica Street, Owensboro, Ky. 42301 (Petitioners) filed in Docket No. CP60-44 a joint petition to amend the order of August 11, 1960, issued by the Federal Power Commission (FPC) in the instant docket (24 FPC 212) pursuant to Section 7(c) of the Natural Gas Act so as to provide for additional exchange points, all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of August 11, 1960 in the instant docket and to an exchange agreement, dated February 15, 1960, Mich-Wisc, successor-in-interest to American Louisiana Pipe Line Co., and Texas Gas established four exchange points for deliveries of natural gas between them.

It is indicated that by an amended gas exchange agreement, dated December 9, 1977, between Petitioners, Petitioners have amended the February 15, 1960 exchange agreement to provide for the following points of delivery:

(1) Where Mich-Wisc's pipeline interconnects with the 26-inch line of Texas Gas near Slaughters, in Webster County, Ky.

(2) At the various interconnections of the facilities of Mich-Wisc and Texas Gas located near Eunice, in Acadia Parish, La.

(3) Where Mich-Wisc's pipeline interconnects with the 10-inch line of Texas Gas in Cameron Parish, La.

(4) Where Mich-Wisc's pipeline intersects the 16-inch line of Texas Gas near Bedford, in Lawrence County, Ind.

(5) Where Mich-Wisc's Pipeline interconnects with the 4-inch line of Texas Gas near Lewisburg, in St. Landry Parish, La.

(6) At the tailgate of the Atlantic Richfield Gasoline Plant in St. Mary's Parish, La., where Mich-Wisc and Texas Gas both have facilities.

(7) Where Mich-Wisc's pipeline interconnects with the 12-inch line of Texas Gas in St. Mary's Parish, La.

(8) At the interconnection of Mich-Wisc's 30-inch pipeline and Texas Gas' Eunice-Grand Cheniere line near Grand Cheniere, Cameron Parish, La.

(9) At or near the existing interconnection of Mich-Wisc's offshore pipeline system and Texas Gas' offshore pipeline system in Eugene Island Block 250, Offshore Louisiana.

(10) At Block 208, Eugene Island, Offshore Louisiana, where Mich-Wisc's offshore pipeline system is connected to offshore reserves being purchased by Texas Gas.

(11) At Block 259, Eugene Islands Area, Offshore Louisiana, where Mich-Wisc's offshore system interconnects with Texas Gas' offshore pipeline system.

(12) At Block 10, South Marsh Island, Offshore Louisiana, where Mich-Wisc's offshore pipeline system interconnects with Texas Gas' offshore pipeline system.

(13) At Block 204, Ship Shoal Area, Offshore Louisiana, where Mich-Wisc's offshore pipeline system is connected to offshore reserves being purchased by Texas Gas.

It is stated that the proposed amended gas exchange agreement would permit Petitioners to make deliveries of natural gas to each other when such deliveries can assist the other in fulfilling its system obligations, and that the additional exchange points would provide added flexibility of operation and continuity of service for Petitioners.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2550 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP 78-98]

TEXAS GAS TRANSMISSION CORP.

Amendment to Application

JANUARY 25, 1978.

Take notice that on December 29, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed in Docket No. CP78-98 an amendment to its application filed in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to provide for certain revisions, all as more fully set forth in the amendment on file with the Commission and open to public inspection.

It is indicated that on November 22, 1977, Applicant filed an application in the instant docket requesting authorization to transport, on an interruptible basis, volumes of natural gas for the account of the Aluminum Co. of America (Alcoa), and to deliver such volumes to four interstate pipelines for ultimate delivery to five Alcoa facilities.

Applicant states that subsequent to its filing of the November 22, 1977, application, it has determined that the subject application should be amended as follows:

(1) Reduce the volumes of gas that Applicant proposes to deliver to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee Gas), by means of a dispatching arrangement at the tailgate of the Champlin Gasoline Plant in Panola County, Tex., where Applicant and Tennessee Gas both have facilities, for ultimate delivery to Alcoa's Alcoa, Tennessee, plants from 3,816 Mcf per day to 3,136 Mcf per day.

(2) Reduce the volumes of gas that Applicant proposes to deliver to Columbia Gas Transmission Corp. (Columbia) at an existing point of interconnection located near Lebanon, Ohio, for ultimate delivery to Alcoa's fabricating facility at Lebanon, Pa., and Res's magnet wire manufacturing facility at Buena Vista, Va., from 719 Mcf per day to 657 Mcf per day.

(3) Reduce the volumes of gas that Applicant proposes to retain of the volumes delivered to Tennessee Gas for the account of Alcoa as makeup for compressor fuel and line loss from 1.58 percent to 0. Applicant would not retain any of the volumes delivered to Tennessee Gas for the account of Alcoa as makeup for compressor fuel and line loss.

(4) Reduce the volumes of natural gas that Applicant would transport for the account of Alcoa from 5,187 Mcf per day to 5,075 on both a peak day and an average day for each month of the transport period, and reduce the volumes of gas that Applicant would transport for Alcoa on an annual basis from up to 1,893,255 to up to 1,852,375 Mcf.

(5) Replace pages 2 and 3 of Alcoa's affidavit relating to its Tennessee, fa-

From:

TABLE A  
[FIGURES GIVEN IN 1,000 FT<sup>3</sup>]

	Priority 2 requirements	East Tennessee	PAR	Propane
November 1977	303,000	213,810	90,000	90,000
December 1977	313,100	220,100	93,000	93,000
January 1978	368,900	220,100	93,000	55,600
February 1978	333,000	198,600	84,000	50,400
March 1978	368,900	220,100	93,000	55,800
April 1978	357,000	303,000	56,250	56,250
May 1978	367,900	313,100	58,130	58,130
June 1978	357,000	303,000	56,250	56,250

• 813,000 gal.  
• 544,000 gal.

To:

TABLE A  
[FIGURES GIVEN IN 1,000 FT<sup>3</sup>]

	Priority 2 requirements	East Tennessee	PAR	Propane
November 1977	303,000	229,557	73,443	73,443
December 1977	313,100	211,366	101,348	101,348
January 1978	368,900	215,366	93,000	60,534
February 1978	333,000	208,816	84,000	40,184
March 1978	368,900	210,760	93,000	65,140
April 1978	357,000	303,000	54,000	54,000
May 1978	367,900	313,100	54,800	54,800
June 1978	357,000	303,000	54,000	54,000

• 569,820 gal.  
• 438,037 gal.  
• 710,026 gal.

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## NOTICES

(d) The volumes of natural gas to be purchased on a peak day and average day for each month under the proposed transport during the transport period is revised as follows:

FROM:

Period	Peak day (1,000 ft <sup>3</sup> )	Average day (1,000 ft <sup>3</sup> )
November 1977 to March 1978.....	3,164	2,373
April 1978 to June 1978.....	3,105	2,373

TO:

Period	Peak day (1,000 ft <sup>3</sup> )	Average day (1,000 ft <sup>3</sup> )
November 1977 to March 1978.....	3,186	2,390
April 1978 to June 1978.....	3,186	2,390

(e) Increase the average and maximum annual volumes to be purchased under the PAR contract from 866,145 Mcf and 1,154,860 Mcf, respectively, to 872,350 Mcf and 1,162,890 Mcf, respectively.

It is stated that Alcoa's Tennessee Operations, therefore, requests Commission approval for delivery by Applicant, Tennessee Gas and East Tennessee Natural Gas Co. (East Tennessee) of volumes of gas up to 3,186 Mcf per day and 1,162,890 Mcf per year to Tennessee Operations. For each month of the proposed transport period, the proposed end use of such natural gas is Priority 2 process use, it is said.

It is indicated in Alcoa's revised affidavit that Tennessee Gas would, under its transportation agreement with Tennessee Operations, require 3.63 percent of the PAR gas for company and unaccounted-for use, instead of the 3 percent stated in the original affidavit. It is further indicated that Tennessee Gas would also charge 12.59 cents for transporting the PAR gas, instead of the 24.4 cents stated in the original affidavit.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 13, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

All persons who have heretofore filed need not file again.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2540 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. CP78-150]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

## Application

JANUARY 25, 1978.

Take notice that on January 10, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-150 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 10,000 dekatherms (dt) equivalent of natural gas per day for Texas Eastern Transmission Corp. (Texas Eastern), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Texas Eastern would deliver or cause to be delivered into Applicant's existing facilities in Jefferson Davis County, Miss. up to 10,000 dt of natural gas per day at the following locations:

(a) Section 27, Township 7 North, Range 17 West, Jefferson Davis County, Miss.;

(b) Section 28, Township 7 North, Range 17 West, Jefferson Davis County, Miss.; and

(c) Section 32, Township 7 North, Range 17 West, Jefferson Davis County, Miss.

Applicant states that it would redeliver equivalent quantities received by it from Texas Eastern to Texas Eastern at the St. Francisville interconnection, East Feliciana Parish, La., or any other mutually agreeable existing authorized point or exchange between Applicant and Texas Eastern in Texas or Louisiana.

The application states that Texas Eastern would pay Applicant for the proposed transportation service initially a charge of 3.5 cents per dt delivered. The application further states that Texas Eastern would also reimburse Applicant for the actual cost of installing the necessary appurtenances to accommodate the receipt of gas from Section 32, which cost is estimated to be \$1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2554 Filed 1-30-78; 8:45 am]

## NOTICES

## [6740-02]

[Docket Nos. CP77-495, et al.]

## TRANSCONTINENTAL GAS PIPELINE CORP.

Order Consolidating Proceedings, Dismissing Petitions for Declaratory Orders, and Staying Further Proceedings; correction

DECEMBER 14, 1977.

In FR Doc. 77-36310 appearing at page 63947 in the issue for Wednesday, December 21, 1977, in ordering paragraph (c), page 63950, change "synthetic gas" to "natural gas".

Dated: January 11, 1978.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2558 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. ER78-154]

## WISCONSIN POWER AND LIGHT CO.

Filing of Letter Agreement; Correction

On page 1650 in the issue January 11, 1978, make the following correction:

The following correction to the second paragraph of the above-cited notice is made:

WPL indicates that said Letter Agreement provides for WPL, MGE, WPS, collectively, to supply WE with 155,000 kW of limited term power for the twelve month period beginning June 1, 1978\* and ending May 31, 1979; up to 180,000 kW of available short-term power for the twelve month period beginning June 1, 1978 and ending May 31, 1979; 85,000 kW of limited term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980; and up to 100,000 kW of available short term power for the twelve month period beginning June 1, 1979 and ending May 31, 1980.

Dated: January 18, 1978.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2559 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket Nos. CS73-392, et al.]

## ZOLLER &amp; DANNEBERT, INC. ET AL.

Applications for "Small Producer" Certificates; Correction

JUNE 15, 1977.

On page 32586 in the issue of June 27, 1977, make the following correction:

Tabulation, Page 2, Docket No. CS77-576, Under Column headed "Applicant" change "Kentucky Rover Coal Corporation" to read "Kentucky River Coal Corporation," opposite Docket No. CS77-576.

Dated: January 5, 1978.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2557 Filed 1-30-78; 8:45 am]

## [6740-02]

## EXXON CORP. ET AL.

[Docket Nos. CI77-224, et al.]

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates; Erratum

JANUARY 5, 1978.

TABULATION, Page 3, Docket No. CI77-695, *South Louisiana Production*. Under Column headed "Docket No. and Date Filed" change "C" to read "A" under Docket No. CI77-695.

Issued: November 9, 1977.

KENNETH F. PLUMB,  
Secretary.

[FR Doc. 78-2555 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. CP78-145]

## FLORIDA GAS TRANSMISSION CO.

## Application

JANUARY 24, 1978.

Take notice that on January 5, 1978, Florida Gas Transmission Co. (Applicant), P.O. Box 44, Winter Park, Fla. 32790, filed in Docket No. CP78-145 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 2 billion Btu's equivalent of natural gas per day for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Transco has requested Applicant's assistance in transporting certain quantities of natural gas from St. Martin Parish, La., to St. Helena Parish, La. It is indicated that pursuant to a transportation agreement between Applicant and Transco dated October 11, 1977, Transco would deliver or cause to be delivered, to Applicant up to 2 billion Btu's per day at the flange or weld connecting Applicant's existing facilities with those of Texaco, Inc. (Texaco), on the discharge side of Texaco's Alligator Bayou Processing plant in St. Martin Parish, La., and Applicant would redeliver equivalent million Btu's less 1 percent of the billion Btu's delivery quantity which Applicant would use to offset compressor fuel, unaccounted for losses, etc., to Transco at the existing authorized interconnection of Applicant's and Transco's facilities in St. Helena Parish, La., or at any other existing authorized interconnection which may be mutually agreeable to Applicant and Transco. It is further indicated that Applicant's obligation to receive, transport and redeliver are subject to its operating requirements and the availability of excess capacity in its existing compression and pipeline facility.

It is stated that Transco would pay Applicant 10.1 cents per million Btu's for each million Btu's redelivered at the point of redelivery. The transportation rate is composed of a facility charge (8.6 cents per million Btu's redelivered at the point of redelivery) and a service charge (1.5 cents per million Btu's redelivered at the point of redelivery), it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2543 Filed 1-30-78; 8:45 am]

\*The agreement also provides for a minimum charge of \$500,000 per calendar month if the sum of the facility and service charges multiplied by the redelivery volume is less than that amount, it is stated.



[6740-92]

[Docket No. CP78-153]

## MISSISSIPPI RIVER TRANSMISSION CORP.

## Application

JANUARY 25, 1978.

Take notice that on January 12, 1978, Mississippi River Transmission Corp. (Applicant), P.O. Box 14521, St. Louis, Mo. 63178, filed in Docket No. CP78-153 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 25,000 Mcf of natural gas per day for United Gas Pipe Line Co. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to transport on a best efforts basis up to 25,000 Mcf of natural gas per day for United pursuant to a gas transportation agreement dated December 22, 1977, between Applicant and United. It is stated that such gas would be made available to Applicant by United at the outlet side of the Woodlawn Field processing plant of Dorchester Gas Processing Co. (Dorchester) located in Harrison County, Tex.; and Applicant would redeliver equivalent volumes to United States's Perryville Compressor site located in the Monroe Field, Ouachita Parish, La. Any imbalances between United's deliveries to Applicant and Applicant's redeliveries to United which may occur because of dispatching or other variations would be corrected, insofar as practicable, during the month following the month in which such imbalances occurred, it is said.

Applicant indicates that it would charge United a rate of 15.79 cents per Mcf of natural gas received by Applicant from United and redelivered by Applicant to United, which rate is Applicant's current average unit transmission cost of service.

The application states that the natural gas which would be received by Applicant and redelivered by Applicant to United in accordance with the proposed gas transportation agreement is gas which United would purchase for a one year period from East Texas Industrial Gas Co. (East Texas). It is stated that East Texas proposes to make this sale to United on a limited term basis pursuant to section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) and that East Texas has filed an application with the Commission for limited term authorization in Docket No. CI78-193 to make this sale.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 10, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2551 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-144]

## NORTHWEST PIPELINE CORP.

## Application

JANUARY 25, 1978.

Take notice that on January 5, 1978, Northwest Pipeline Corp. (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP78-144 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 105 million Btu's equivalent of natural gas per day, on an as available basis, for Natural Gas Pipeline Company of America (Natural), for a term commencing on the date of issuance of the requested authorization and continuing through December 31, 1978, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Natural and Colorado Interstate Gas Co. (CIG)

have entered into an agreement dated December 6, 1977, which provides that CIG would sell to Natural up to 100,000 Mcf of natural gas per day during calendar year 1978 and that the sale would be at the existing point of interconnection between the facilities of Applicant and CIG in the vicinity of Green River, Wyo. It is further indicated that Applicant was heretofore authorized to transport volumes of natural gas for the account of Natural pursuant to the Federal Power Commission (FPC) order of September 13, 1977, in Docket No. CP77-457 and to an agreement dated June 15, 1977, between Applicant and Natural, which agreement expired October 31, 1977.

The application states that in order to make such gas as Natural may purchase from CIG available to its transmission system, Applicant and Natural have entered into a gas transportation agreement dated December 19, 1977, whereby Applicant would transport up to 105 billion Btu's per day on an as available basis for Natural. It is indicated that Natural would cause CIG to deliver or otherwise make available to Applicant and Applicant would accept for Natural's account, on an as available basis, up to 105 billion Btu's per day at an existing point of interconnection between the facilities of CIG and Applicant in the vicinity of Green River, Wyo. Applicant indicates that it would redeliver equivalent million Btu's to El Paso Natural Gas Co. (El Paso) for the account of Natural at an existing point of interconnection between the facilities of Applicant and El Paso in the vicinity of Ignacio, Colo.

The application states that deliveries by CIG to Applicant for the account of Natural would be made by Applicant reducing the volume of natural gas it would otherwise deliver to CIG pursuant to Applicant's presently effective FERC Gas Rate Schedule PL-1, and that Applicant would concurrently redeliver equivalent volumes, adjusted for heating value, to El Paso, for Natural's account, at the aforementioned point of interconnection between Applicant and El Paso.

It is stated that Applicant would charge Natural 8.0 cents per million Btu's for the proposed transportation service, which rate represents approximately one-half of Applicant's system average transmission cost, exclusive of fuel, of 16.03 cents per Mcf.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18

CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in the subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2552 Filed 1-30-78; 8:45 am]

[6740-02]

[Docket Nos. CP68-166, et al.]

## TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

## Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), (Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function

under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on January 5, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP68-166, et al., a petition to amend the order of December 2, 1975 (54 FPC —) issued by the Federal Power Commission (FPC) in the instant dockets pursuant to section 7(c) of the Natural Gas Act so as to authorize the rendition of natural gas service to Boston Gas Co. (Boston) under a new gas sales contract providing for a revised daily volume limit for the Beverly-Salem delivery point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC order of December 2, 1975, Petitioner was granted authorization in the instant docket inter alia, to serve Boston under Petitioner's rate schedule CD-6 in lieu of Petitioner's rate schedule G-6 and/or GS-6 and to render such service with revised daily volume limits by delivery points. Accordingly, Petitioner is now serving Boston under Petitioner's rate schedule CD-6 and the terms and conditions of a gas sales contract dated July 24, 1975, between the two parties, which provides for the sale and delivery by Petitioner of a contracted demand of 93,912 Mcf of natural gas per day, it is asserted.

Petitioner indicates that pursuant to the FPC order of December 2, 1975, in the instant dockets and the gas sales contract dated July 24, 1975, Petitioner provides the following daily volume limits by delivery points:

Delivery points:	Daily volume limits (mcf)
Leominster.....	5,100
Clinton.....	2,700
Southbridge.....	7,000
Spencer.....	4,800
Gloucester.....	4,895
Beverly-Salem:	
Beverly-Salem.....	12,035
West Peabody.....	1,899
Lynn:	
Lynn.....	20,000
Lynnfield.....	2,500
Mystic Valley:	
Arlington.....	35,000
Burlington.....	7,293
Lexington.....	3,500
Reading.....	3,825
Revere.....	5,911

It is stated that the total daily volume limits exceeds Boston's con-

tracted demand of 93,912 Mcf per day in order to provide Boston with operational flexibility among delivery points; however, Boston is not entitled to take on any day a total of more than 93,912 Mcf at the various delivery points.

It is indicated that Boston has requested that Petitioner change the daily volume limit for the Beverly-Salem delivery point from 12,035 Mcf per day to 15,000 Mcf per day. By having the flexibility of 15,000 Mcf per day at the Salem/Beverly Station, Boston would save approximately 217,987 Mcf of LNG vaporization at the Salem Plant, it is said. The petition states that the Salem LNG plant is capable of storage and vaporization only and the LNG must be trucked in, and that with the higher volume limit for the Beverly-Salem delivery point and the concomitant flexibility afforded Boston, Boston estimates that it would annually save the cost of 256 truckloads of LNG.

Consequently, Petitioner and Boston have entered into a precedent agreement dated December 4, 1977, which provides, among other things, for the execution, upon receipt of the requested FERC authorization herein, of a new gas sales contract providing for the Beverly-Salem delivery point.

Petitioner states that such revised service and the new gas sales contract would not permit Boston to receive any more natural gas from Petitioner than Boston is now authorized to receive under its present gas sales contract and the proposed change would not increase or decrease the annual volumetric limitation imposed on Petitioner's system in Opinion Nos. 712 and 712-A for sales to Boston.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2553 Filed 1-30-78; 8:45 am]



## [6740-02]

(Docket Nos. RP71-18, et al., and RP73-88)

## COLUMBIA GAS TRANSMISSION CORP.

## Proposed Plan of Refund

JANUARY 25, 1978.

Take notice that on December 29, 1977, Columbia Gas Transmission Corp. (Columbia) tendered for filing a proposed plan of refund to flow-through interest received from Forest Oil Corp. (Forest) associated with an advance payment of \$10 million.

Columbia states that it has received interest payments to date from Forest totaling \$3,495,938.54 and proposes to make disposition of said interest amount as follows:

(a) Refund to customers an interest amount of \$1,425,942.00 applicable to the period during which the subject advance payment was reflected in Columbia's wholesale rates, i.e., April 14, 1971, to October 31, 1974. In order to avoid the difficulty, time and cost involved in gathering and collating necessary records to make refunds, the fact that there are pending payments still to be refunded over the next three years, and in light of the minor amounts involved, Columbia requests permission to place this interest to be refunded to its customers in Account No. 191. Columbia believes that this plan will benefit both Columbia and its customers.

(b) Credit the remaining amount received to date of \$2,069,996.54 to Account No. 419. The use of this account was prescribed by Commission's Order issued August 15, 1974, in Docket No. RP75-4.

Copies of this filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 17, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2610 Filed 1-30-78; 8:45 am)

## [6740-02]

(Project No. 2740)

## DUKE POWER CO.

Re-Notice of Application for Amendment of License<sup>1</sup>

JANUARY 25, 1978.

Public notice is hereby given that an application was filed with the Federal Energy Regulatory Commission on December 9, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, by Duke Power Co. (Applicant) (correspondence to: L. C. Dall, Chief Engineer, Civil-Environmental Division, Duke Power Co., Box 2178, Charlotte, N.C. 28242) for Commission approval, of an amendment to Article 32 of the license for Project No. 2740, the Bad Creek Project, the upper reservoir of which is to be located on Bad and West Bad Creeks in Oconee County, S.C. The project's lower reservoir would utilize existing Lake Jocassee.

Article 32 of the license issued August 1, 1977, requires among other things the filing of a detailed plan to mitigate any adverse impacts of project operations on Lake Jocassee and stream fisheries. The plan was to include, but not be limited to, those measures agreed upon between Applicant and the South Carolina Wildlife and Marine Resources Department (SCWMRD) as set forth in a letter to the Federal Power Commission dated January 10, 1977. One of the provisions of this letter provided for the transfer of property from Applicant to SCWMRD called the Eastatoe Creek Tract. Now Applicant and SCWMRD wish to substitute a tract of land for the Eastatoe Tract. The new tract is a parcel of land along the Whitewater River in Oconee County, but bordering Transylvania County, N.C., containing about 375 acres, presently in the possession of the Crescent Land and Timber Corp., a wholly owned subsidiary of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 1.10). All such petitions or protests should be filed on or before March 25, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a

<sup>1</sup> Notice of this application for amendment of license was issued on January 17, 1978; however, through administrative error, timely newspaper publication was not made.

party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2611 Filed 1-30-78; 8:45 am)

## [6740-02]

(Docket No. CP78-142)

## MICHIGAN WISCONSIN PIPE LINE CO.

## Application

JANUARY 25, 1978.

Take notice that on January 4, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-142 an application pursuant to Section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)), for a certificate of public convenience and necessity authorizing the construction and for permission for and approval of the abandonment, during the 12-month period commencing February 12, 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open for public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, relocation, and operation and abandonment of facilities which will not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed \$3,000,000 with the cost of any single project cost not to exceed \$500,000. Applicant states that it would finance the proposed facilities with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing

therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2612 Filed 1-30-78; 8:45 am)

## [6740-02]

(Docket No. CP 78-148)

## MISSISSIPPI RIVER TRANSMISSION, CORP.

## Application

JANUARY 25, 1978.

Take notice that January 10, 1978, Mississippi River Transmission Corp. (Applicant), P.O. Box 14521, St. Louis, Mo. 63178, filed in Docket No. CP78-148 an application pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the Regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon during the twelve-month period commencing February 1, 1978, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sale measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sale customer would not exceed 100,000 Mcf of natural gas during the last year of service.

The application states that Applicant would not abandon any service unless it would have received a written request or written permission from the

customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

(FR Doc. 78-2613 Filed 1-30-78; 8:45 am)

## [6740-02]

(Docket No. CP74-133)

## MOUNTAIN FUEL SUPPLY CO.

## Petition To Amend

JANUARY 25, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory

responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on November 21, 1977, Mountain Fuel Supply Co. (Petitioner), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP74-133 a petition to amend the order of May 3, 1976 (55 FPC ) issued by the Federal Power Commission (FPC) in the instant docket pursuant to section 7(c) of the Natural Gas Act so as to authorize an additional point of delivery by Petitioner to Colorado Interstate Gas Co. (CIG), all as more fully set forth in the petition to amend on file with the FERC and open to public inspection.

It is indicated that pursuant to the FPC order of May 3, 1976, issued in the instant docket Petitioner was granted authorization to transport and exchange natural gas with CIG, and that pursuant to authorization granted in Docket Nos. CP74-144 and CP74-133, natural gas is delivered to CIG by Petitioner at a delivery point in Sweetwater County, Wyo. It is indicated that CIG has the option to purchase 25 percent of all gas volumes so delivered. Redelivery by CIG to Petitioner is at an existing point of interconnection between Petitioner's and CIG's systems in Sweetwater County, Wyo., it is indicated. It is stated that Petitioner has certain quantities of gas

<sup>1</sup> The petition was initially tendered for filing on November 21, 1977; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until January 12, 1978; thus, filing was not completed until the latter date.



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in a location remote from its system, and that by virtue of the exchange, Petitioner is able to make this gas available to its customers and CIG receives 25 percent of the gas to assist in meeting its customer requirements.

By this petition Petitioner requests that the FPC order of May 3, 1976, in the instant docket be amended to include an additional point of delivery by Petitioner to CIG in Sweetwater County, Wyo. Petitioner proposes to connect a new gas supply it has purchased from the Luff/Amoco Well No. 4-25 located in Sweetwater County, Wyo. It is indicated that estimated recoverable reserves are 4,000,000 Mcf and initial average daily production is estimated to be 809 Mcf per day.

Consequently, Petitioner and CIG have agreed to amend the gas purchase and exchange agreement dated September 10, 1973, to include the new delivery point on CIG's system to receive this new gas, it is said. Petitioner states that it would be necessary for it to install only minor facilities to deliver and measure gas at the new Petitioner-CIG delivery point, and that CIG would provide a suitable valve to receive deliveries at that point. The cost of facilities proposed to be installed is estimated to be less than \$7,000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before February 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2614 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. CP78-151]

## NORTHERN NATURAL GAS CO.

## Application

JANUARY 25, 1978.

Take notice that on January 11, 1978, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, Neb. 68102, filed in Docket No. CP78-151 an application pursuant to section 7(c) of

the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation by displacement volumes of propane-air up to 9,000 Mcf per day for Northern States Power Co. of Wisconsin (NSP-W), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport by displacement volumes of propane-air up to 9,000 Mcf per day for NSP-W pursuant to an agreement dated December 27, 1977, among applicant, NSP-W and Northern States Power Co. (NSP). Applicant states that it would at the direction of NSP-W transport by displacement during the period November 27 through April 15 (winter season) volumes of propane-air up to 9,000 Mcf per day to NSP-W's delivery point in LaCrosse, Wis. It is indicated that the total daily volumes designated for transportation by NSP-W would be made available to applicant by NSP's injection of propane-air into its St. Paul distribution system and the concurrent reduction of authorized deliveries of natural gas by applicant to NSP at St. Paul, Minn., under applicant's CD-1 rate schedule. All winter season volumes of gas transported hereunder for NSP-W would be resold only to firm and small volume customers, it is stated.

The application states that NSP-W would pay applicant an annual demand charge of \$3.53 per Mcf for the maximum daily volume applicant is obligated to transport, and that NSP-W would also pay applicant a transportation charge of 3.43 cents per Mcf transported by applicant.

It is indicated that the volumes of propane-air which would be made available to NSP-W are required to enable NSP-W to meet the requirements of its existing high priority customers under design winter season conditions.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and sub-

ject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2615 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. CP78-152]

## NORTHWEST PIPELINE CORP.

## Application

JANUARY 25, 1978.

Take notice that on January 11, 1978, Northwest Pipeline Corp. (applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-152 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for, sale to and the exchange of natural gas with Mountain Fuel Supply Co. (Mountain Fuel), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to exchange up to 10,000 Mcf of natural gas per day with Mountain Fuel and to transport for and sell to Mountain Fuel up to 25 percent of the volumes of natural gas to be delivered to Mountain Fuel by applicant. It is indicated that applicant has contracted for the purchase of gas from Rainbow Resources, Inc. et al. (Rainbow), pursuant to a gas purchase agreement dated October 28, 1977, which agreement dedicates acreage to applicant, in Carbon County, Wyo., and Moffat County, Colo. (Stateline area), which is remote from applicant's existing transmission system. It is further indicated that applicant would pay Rainbow a base price of \$1.46 for each Mcf delivered to applicant hereunder, which base price would be effective for a period ending September 30, 1977. It is stated that at the end of the aforementioned period and at the end of each 3-month period thereafter, the

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base price would increase 1 cent per Mcf above the applicable price for the preceding period.

The application states that in order to make the volumes of natural gas to be purchased in the Stateline area available to its transmission system at the least possible investment, applicant entered into a gas purchase, transportation and exchange agreement dated November 14, 1977, with Mountain Fuel. The application further states that Mountain Fuel needs additional gas supplies to serve the requirements of its customers and therefore is willing to transport and exchange natural gas with applicant in return for the right to purchase up to 25 percent of the volumes of gas received for exchange, pursuant to the agreement dated November 14, 1977. The subject agreement provides that the price to be paid by Mountain Fuel for any gas sold by applicant to Mountain Fuel thereunder would be equal to the price paid by applicant, including adjustments, taxes, or other charges permitted under the applicable laws, and that Mountain Fuel would also reimburse applicant for applicant's cost-of-service, including a reasonable rate of return, for all costs incurred from the source of supply to the points of delivery to Mountain Fuel for any gas sold by applicant to Mountain Fuel.

It is indicated that applicant would deliver to Mountain Fuel all volumes of natural gas purchased by applicant in the Stateline area of Carbon County, Wyo., and Moffat County, Colo., and that the volumes to be delivered to Mountain Fuel for exchange would be at mutually agreeable points on Mountain Fuel's pipeline facilities located in or near Carbon County, Wyo., and Moffat County, Colo. The volumes of gas to be delivered to Mountain Fuel under the authorization sought herein would be gathered by applicant in the Stateline area and transported to the facilities of Mountain Fuel, it is indicated.

It is further indicated that pursuant to a letter agreement dated October 28, 1977, Rainbow would construct the necessary pipelines to connect two wells (Federal No. 1-19 and State No. 1-9) to the existing pipeline of Mountain Fuel. Applicant states that it would pay Rainbow for the cost of connecting the two wells but such cost would not exceed \$112,000, and that upon payment by applicant to Rainbow title to all facilities constructed by Rainbow would transfer to applicant. Applicant proposes to connect all five wells pursuant to the budget-type authorization issued it on September 30, 1977, in Docket No. CP77-507.

The application states that Mountain Fuel would receive for exchange such volumes as are delivered by applicant from the Stateline area and

would redeliver equivalent volumes, subject to Mountain Fuel's option to purchase up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of applicant and Mountain Fuel in Sweetwater County, Wyo., where applicant is currently authorized to sell and deliver volumes of natural gas to Mountain Fuel. The volumes of gas so delivered and received for exchange would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly. Applicant estimates that initially the total volumes of gas to be delivered to Mountain Fuel would be approximately 1,900 Mcf per day of which Mountain Fuel would have the option to purchase 25 percent or approximately 475 Mcf per day, it is said.

It is indicated that applicant would reimburse Mountain Fuel for Mountain Fuel's transportation costs, including a reasonable rate of return, for all costs incurred from the delivery points to the existing point of interconnection with applicant, and that the initial transportation charge would be determined prior to the actual deliveries and would be determined in accordance with procedures normally used in the industry.

Applicant, in addition to the cost of the gas it proposes to sell to Mountain Fuel, proposes to charge Mountain Fuel an initial rate of 23.44 cents per Mcf for the gathering and transportation to Mountain Fuel of such volumes of natural gas as Mountain Fuel may purchase from applicant pursuant to its option.

Applicant proposes to construct the gathering and transmission facilities required to gather and transport the exchange and sales volumes proposed herein pursuant to §157.7(b) of the Commission's regulations and the order issued September 30, 1977, in Docket No. CP77-507. Applicant estimates that it would require approximately 4.6 miles of 4½-inch pipeline which applicant is paying Rainbow to construct.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to inter-

vene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2616 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket Nos. CI77-681 and CI77-682]

## SOUTHERN UNION SUPPLY CO.

## Informal Conference

JANUARY 25, 1978.

Take notice that on February 1, 1978, commencing at 10 a.m., in Room 8402, at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, there will be an informal conference in the above-referenced proceedings. Any interested persons may attend, but said attendance will not be deemed in itself to designate said persons as intervenors.

Discussion will be had on the facilities, transportation, and rate proposed by the applicant.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2617 Filed 1-30-78; 8:45 am]

## [6740-02]

[Docket No. CP78-149]

## UNITED GAS PIPE LINE CO.

## Pipeline Application

JANUARY 25, 1978.

Take notice that on January 10, 1978, United Gas Pipe Line Co. (United), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-149, an application for a certificate of public convenience and necessity, pursuant to section 7(c) of the Natural Gas Act, as amended, authorizing the



transportation of natural gas for Chevron Chemical Co. (Chevron Chemical). United States that Chevron Chemical has arranged to purchase a supply of gas from a corporate affiliate Chevron U.S.A., Inc. (Chevron U.S.A.), which has reserved for its own use or for use by a corporate affiliate 25 percent of the gas produced from South Marsh Island area blocks 249, and 250, East Cameron area blocks 160 and 245, and West Cameron blocks 532, 533, and 534. Chevron Chemical has entered into transportation agreements with the pipeline purchasers of nonreserved gas, Texas Eastern Transmission Corp., Tennessee Gas Pipeline Co., Natural Gas Pipeline Co. of America, and Trunkline Gas Co. whereby such pipeline companies will transport and deliver such reserved volumes to United at various points of interconnection with the system of United. Texas Eastern will utilize an existing point near Gillis, Beauregard Parish, La.; Tennessee will utilize an existing point near Bayou Sale, St. Mary Parish, La.; Natural will utilize an existing point near Erath, Vermillion Parish, La.

United has agreed to receive up to 30,000 Mcf per day from such pipeline companies at the above-mentioned points for the account of Chevron Chemical; United thereafter will transport and redeliver such gas, less 1.5 percent for fuel and company used gas to Chevron Chemical for consumption in its existing ammonia plant located near Luling, St. Charles Parish, La. United further states that it has been advised by Chevron Chemical that such gas will be used as a process fuel in the manufacture of ammonia for fertilizer, a high priority end-use.

Any person desiring to be heard or to make any protest with reference to said application, on or before February 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this

application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2618 Filed 1-30-78; 8:45 am]

#### [6740-02]

[Docket No. CP78-156]

#### UNITED GAS PIPE LINE CO.

Application

JANUARY 25, 1978.

Take notice that on January 13, 1978, United Gas Pipe Line Co. (applicant), P.O. Box 1478, Houston, Tex. 77001, filed in Docket No. CP78-156 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to the Town of Garrison, Nacogdoches County, Tex. (Garrison), Town of Joaquin, Shelby County, Tex. (Joaquin), and Town of Tenaha, Shelby County, Tex. (Tenaha), each a municipal corporation of the State of Texas, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that in Docket Nos. G-232 and CP64-185 the Federal Power Commission authorized applicant to provide gas service to East Texas Municipal Gas Corp. (East Texas), owner of the local distribution system (system) which had collectively served Garrison, Joaquin, and Tenaha. The application states that East Texas has subsequently sold the respective portions of said system to Garrison, Joaquin, and Tenaha, on an individual basis, and that each town has requested that applicant continue natural gas service to it through deliveries to its independent, respective portion of said system.

Consequently, applicant requests authorization herein to continue the sale of gas, in the same quantity and with no proposed change in facilities and deliveries, to Garrison, Joaquin, and Tenaha pursuant to new service agreements dated September 28, 1977, which agreements reflect change in ownership of the system and provide for the continuation of gas service on the same terms and conditions as to the system to the new owners.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 16, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,  
Acting Secretary.

[FR Doc. 78-2619 Filed 1-30-78; 8:45 am]

#### [6740-02]

[Docket No. IT-5501]

#### UTAH POWER AND LIGHT CO.

Re—Notice of Petition for Declaratory Order.

JANUARY 25, 1978.

Public notice is hereby given that a petition was filed on March 9, 1977, and supplemented on August 15, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r, for a declaratory order respecting the status of three hydroelectric projects owned and operated by Utah Power and Light Co. (Petitioner) (Correspondence to: Sidney G. Baucom, Esq., Sam F. Chamberlain,

Notice of this petition was issued on December 30, 1977; however, through administrative error, timely newspaper publication was not made.

#### [6740-02]

Federal Energy Regulatory Commission

[Docket Nos. G-4953, et al.]

SUN OIL CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates

JANUARY 17, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 8, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not

This notice does not provide for consolidation for hearing of the several matters covered herein.

LOIS D. CASHELL,  
Acting Secretary.

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft <sup>3</sup> base	Pressure base
C-4953 D 7-11-77	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipe Line Co., Red Fish Bay and Mustang Island Fields, Nueces County, Tex.	State Tract No. 445, well No. 1, plugged and abandoned; and lease released.	
CI76-691 C 12-27-77	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Carlsbad South et al. fields, Eddy and Lea Counties, N. Mex.	(*)	14.65
CI77-370 C 12-7-77	Union Oil Co. of California, Union Oil Center—Room 901, P.O. Box 7600, Los Angeles, Calif. 90051.	El Paso Natural Gas Co., Cities Service Cawley "A" No. 1 well, Morrow Formation, sec. 28, T21S, R27E, Eddy County, N. Mex.	(*)	14.65
CI77-370 C 1-3-78	Union Oil Co. of Calif.	El Paso Natural Gas Co., Government "AD" No. 2 well, sec. 27, T21S, R27E and Elizondo Federal "A" No. 5 well, sec. 34, T21S, R27E, Wolfcamp Formation, Eddy County, N. Mex.	(*)	14.65
CI78-281, G-4071 B 12-12-77	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water St., Wichita, Kan. 67201.	Texas Eastern Transmission Corp., South Cottonwood Creek Field, DeWitt County, Tex.	Nonproduction, no sales since May 1974 and gas contract expired.	
CI78-262 B 12-23-77	CICO Oil & Gas Co., 1822 Bank of the Southwest Building, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., Mohat Field, Colorado County, Tex.	Depleted, plugged and abandoned and lease expired.	
CI78-263, CI65-31 B 12-27-77	Rex Monahan, Box 1321, Sterling, Colo. 80751.	Kansas-Nebraska Natural Gas Co., Inc., Pinto, Washington County, Colo.	Depleted	
CI78-264, CI63-637 B 12-27-77	Rex Monahan	Kansas-Nebraska Natural Gas Co., Inc., Surveyor's Creek, Washington County, Colo.	do .....	
CI78-265, CI69-769 B 12-27-77	do.....	Kansas-Nebraska Natural Gas Co., Inc., Surveyor's Creek, Logan County, Colo.	do .....	

[FR Doc. 78-2620 Filed 1-30-78; 8:45 am]

Esq., P.O. Box 899, Salt Lake City, Utah 84110). Petitioner requests that the Commission determine the jurisdictional status of its Snake Creek, Granite, and Fountain Green Projects. The three projects are connected to Petitioner's distribution system for transmission of power to its customers.

The Snake Project is located on Snake Creek near the Town of Midway in Wasatch County, Utah. The project, which was initially constructed in 1910, consists of two small dams, canals and penstocks, and powerhouse containing two generators with a total installed capacity of 1,180 kW.

The Granite Project is located on Big Cottonwood Creek near the Town of Murray in Salt Lake County, Utah. The project was initially constructed in 1896, and consists of a dam, water conduits, and a powerhouse with two generators with a total installed capacity of approximately 2,000 kW.

The Fountain Green Project utilizes water from the Big Springs near the Town of Fountain Green in Sanpete County, Utah. The project was initially constructed in 1923, and consists of a dam, a small reservoir to contain the overflow of the springs, penstocks, and a powerhouse with a total installed capacity of 320 kW.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

Any person desiring to be heard or to make any protest with reference to said application should, on or before March 25, 1978, file with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,  
Secretary.



<sup>1</sup>Effluent standard promulgated (40 CFR Part 129).

Public Water Supply Section, Wisconsin Department of Natural Resources, 4610 University, Madison, Wis. 53707.



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Water Supply Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604.

All interested parties are invited to submit written comments on this determination. Written comments must be submitted on or before February 16, 1978.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will be held in Room 1305, Wisconsin Department of Natural Resources, Pyrare Square Building, 4610 University, Madison, Wis. 53707. The hearing will begin at 9:30 a.m. on February 17, 1978. Oral statements will be heard and considered; but for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the Hearing Officer and other interested persons.

The Hearing Officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard, or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Any interested person may comment upon the State submission by writing to the U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Ill. 60604. The State's submission, related documents, and all comments received are on file and may be inspected and copied at the U.S. Environmental Protection Agency, Region V, Chicago.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. Environmental Protection Agency, Region V, or the Public Water Supply Section, Wisconsin Department of Natural Resources or by calling Joseph F. Harrison at 312-353-2151 or Robert Baumeister, 608-266-2299.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the determination is affirmed, it shall become effective as of the date of this order.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: January 20, 1978.

VALDAS V. ADAMKUS,  
Deputy Regional Administrator,  
U.S. Environmental Protection  
Agency, Region V.

[FR Doc. 78-2644 Filed 1-30-78; 8:45 am]

## NOTICES

[6560-01]

[FRL 849-4]

### REGULATION OF FUELS AND FUEL ADDITIVES

Lead Phase-down Standard for January 1, 1978

Notice is hereby given by the Environmental Protection Agency (EPA) to any refinery with a crude oil or bona fide feed stock capacity of greater than 30,000 barrels per day but not greater than 50,000 barrels per day, which is owned or controlled by a refiner with a total combined crude oil or bona fide feed stock capacity of 137,500 barrels per day or less, that enforcement of the lead standard set out in 40 CFR § 80.20(a)(1) (as amended by § 223 of the 1977 Clean Air Act Amendments, Pub. L. 95-95) will be suspended as to such refinery until 90 days following the promulgation of Small Refinery Amendments to the Lead Phase-down Regulations. Enforcement against any such refinery for failure to comply with 40 CFR § 80.20(a)(4)(v) is also suspended until 90 days following the promulgation of the Small Refinery Amendments.

Notice of a similar suspension of enforcement with respect to any refinery with a crude oil or bona fide feed stock capacity of 30,000 barrels per day or less was published on April 1, 1977, at 42 FR 17515. The present suspension is intended to provide relief for small refineries not covered by the earlier notice but expected to be included in the Small Refineries Amendments to be proposed soon pursuant to § 223 of the 1977 Amendments of the Clean Air Act.

Dated: January 25, 1978.

MARVIN B. DURNING,  
Assistant Administrator  
for Enforcement.

[FR Doc. 78-2843 Filed 1-30-78; 8:45 am]

[6712-01]

### FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21499]

#### AMERICAN TELEPHONE AND TELEGRAPH CO. AND ASSOCIATED BELL SYSTEM COMPANIES, OFFER OF FACILITIES FOR USE BY OTHER COMMON CARRIERS

Order Regarding Extension of Comment Period

Adopted: January 24, 1978.

Released: January.

1. Comments in this proceeding were to have been filed on or before January 25, 1978. Western Union International, Inc., (WUI) has requested a two (2) day extension to January 27, 1978.

\*See 42 FR 62429, December 12, 1977.

WUI has stated that they have informed other parties to the case, and that the other parties do not object to the two (2) day extension. We find good cause has been shown for the relief requested by WUI.

2. Accordingly, it is ordered, Pursuant to delegated authority to the Chief, Common Carrier Bureau, contained in § 0.303(c) of the Commission rules and regulations, 47 CFR 0.303(c), that the due dates for comments and reply comments in this proceeding are hereby extended to January 27, 1978, respectively.

For the Federal Communications Commission.

PHILIP V. PERMUT,  
Deputy Chief,  
Common Carrier Bureau.  
[FR Doc. 78-2629 Filed 1-30-78; 8:45 am]

[6712-01]

#### Radio Technical Commission for Marine Services

[SC-65]

#### NO. 65 SHIP RADAR

Meeting

To: Members of Special Committee No. 65 "Ship Radar"  
Subject: Notice of 63rd Meeting.  
Time/Date: Wednesday, February 15, 1978—9:30 a.m.; Thursday, February 16, 1978—9:30 a.m.  
Location: Conference Room 8210, 2025 M Street NW., Washington, D.C.

#### AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur: 1 December 1977—Paper 240-77/SC, 65-258; 15 December 1977—Paper 244-77/SC, 65-258; 24 January 1978—Paper 10-78/SC, 65-263.
3. Approval of the following papers:
  - a. Warranty as a Means of Assessing the Reliability of Shipboard Electronic Equipment.
  - b. Evaluation of Anti-Collision Systems.
4. Other business.
5. Establishment of final meeting date.

All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,  
Secretary.

[FR Doc. 78-2608 Filed 1-30-78; 8:45 am]

## NOTICES

4111

[6730-01]

### FEDERAL MARITIME COMMISSION

[Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-139.]

#### CHANDRIS INC.

##### Order of Revocation

Whereas, Armadores Romanza S.A. Trading as Chandris Cruises, 666 Fifth Ave., New York, N.Y. 10019, Liberty Travel and Gogo Tours have ceased to operate the passenger vessel *Romanza* to and from United States ports; and

Whereas, Certificates (Performance) No. P-139 covering the *Romanza* have been returned for revocation.

It is ordered, that Certificate (Performance) No. P-139 issued to Armadores Romanza S.A. Trading as Chandris Cruises, Liberty Travel and Gogo Tours be and are hereby revoked effective January 23, 1978.

It is further ordered, that a copy of this Order be published in the FEDERAL REGISTER and served on certificants.

By the Commission January 23, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2638 Filed 1-30-78; 8:45 am]

[6730-01]

### AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, La.; San Francisco, Calif.; and San Juan, P.R. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by February 21, 1978. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment

of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

AGREEMENT NO.: 5680-27.

FILING PARTY: H. R. Rollins, Secretary, Pacific/Straits Conference, 635 Sacramento Street, San Francisco, Calif. 94111.

SUMMARY: Agreement No. 5680-27 has been entered into by the member lines of the Pacific/Straits Conference for the purpose of amending the Appendix to Agreement No. 5680 by the addition of a new Article 13 which provides for the collection of demurrage at destination ports.

AGREEMENT NO.: 10140-8.

FILING PARTY: Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

SUMMARY: Agreement No. 10140-8 modifies the U.S. Gulf/United Kingdom Rate Agreement to extend the term of the agreement for an indefinite period or until a date fixed by the Commission.

AGREEMENT NO.: T-3562.

FILING PARTY: George H. Chamlee, Attorney, Georgia Ports Authority, P.O. Box 9523, Savannah, Ga. 31402.

SUMMARY: Agreement No. T-3562, between Georgia Ports Authority (Authority) and Continental Grain Co. (Continental), provides for the three-year renewable lease to Continental of land, buildings, and improvements and the machinery and equipment situated at the Authority's bulk facility located at Garden City Terminal, Chatham County, Ga. Continental shall use the leased premises for warehousing, receiving, storing, handling, sacking, and shipping of grain and other bulk agricultural commodities. As compensation, Continental will pay Authority a minimum annual rental of \$165,000 plus any further operating costs required, such as use of Authority's equipment and labor as specified in the agreement. Continental will be permitted to establish its own tariff for the handling of third-party commodities, provided charges are comparable with those at other South Atlantic, Mid-Atlantic, and East Gulf ports.

AGREEMENT NO.: T-3563.

FILING PARTY: Joseph D. Patello, Port Attorney, Port of San Diego and Lindbergh Field Air Terminal, P.O. Box 488, San Diego, Calif. 92112.

SUMMARY: Agreement No. T-3563, between San Diego Unified Port District (Port) and California Stevedore and Ballast Co. (CSB), provides for a terminal operator agreement between

the parties. The purpose of this agreement is to set forth the scope and obligation of CSB as a terminal operator upon facilities owned by the Port. CSB will publish its own tariff pursuant to the performance of terminal services under this agreement. In no instance shall such rates, charges, classifications, rules, regulations and practices be subject to approval by Port. CSB will be required only to pay Port for wharf storage and wharf demurrage charges in accordance with Port's tariff as may be applicable to cargoes handled by CSB upon Port facilities.

By Order of the Federal Maritime Commission.

Dated: January 25, 1978.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2639 Filed 1-30-78; 8:45 am]

[6730-01]

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

#### Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 on Title 46 CFR and Section 311 (p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01007	B. Holter-Sorensen & Co. Holthan.
01087	Dampskibsselskabet Torm A/S: Torm Alice.
01088	Schulte & Bruns: Elisabeth Schulte, Ise Schulte.
01158	Rederiet Bjorn Ragne: Bjorn Ragne.
01218	Interessentskapet Ocean Master: Ocean Master.
01236	I/S Nagoya: Blach.
01330	Shell Tankers (United Kingdom) Limited: Aluco.
01442	Charles Connell & Co. Ltd.: Vancouver Island.
01459	Palm Line Ltd.: Elmina Palm.
01484	Hero Shipping Co. Ltd.: Atlantic Hero.
01546	Belgian Fruit Line, S.A.: Frubel Africa.
01574	Fearnley & Eger: Fernside, Fernpark.
01758	Chotin Transportation Inc.: Chotin 991, Chotin 1202, Chotin 1643.
01613	Partenreederei M/S Iberia: Iberia.
01938	Maersk McKinney Moller: Estelle Maersk.
02151	Anchor Line Ltd.: Cameronia.
02171	Margaret Shipping Co. Ltd.: Pantaris Ceiza.
02198	Peninsular & Oriental Steam Navigation Co.: Strathlond, Strathnevia.
02206	Compania Comercial & Financiera Sud: Montreux.
02255	Ellerman Lines Ltd.: City of Montreal.
02330	Taiwan Marine Corp.: Repent Lilac.
02579	Gadot Yam Ltd.: Chemical Marketer.
02831	Ednasa Shipping Co. Ltd.: Larissa.
02935	Cable & Wireless Ltd.: Sentinel.
03068	Pacific Shipping Co. Ltd.: New Mui Kim.
03086	Pacific Union Marine Corp.: Oceanic Amity.
03216	Sakereederi AB: Singsa.
03305	Grand Basse Tankers Inc.: Burl S. Watson.



## NOTICES

Certificate No.	Owner/Operator and Vessels
03476	Nissin Kisen K.K.: <i>Daiel Maru</i> .
03505	Showa Yusen Kabushiki Kaisha: <i>Chitose Maru</i> .
03518	Tokyo Senpaku K.K.: <i>Nagoya Maru</i> .
03564	A/S Mosvold Rederi: <i>Mosbory</i> .
03632	A/S Turid: <i>Enid</i> .
03694	Port Allen Marine Service, Inc.: <i>PA 876</i> .
03878	Ingram Barate Co.: <i>T/B Mississippi, T/B Memphis, T/B Christy 311</i> .
03908	Fairline Shipping Corp.: <i>Monrovia: Fairsky</i> .
03999	Hamilton Transport Co., Inc.: <i>Star Lily</i> .
04036	Transporti Marittimi Mercantili Societa Di Navigazione S.P.A.: <i>Corallina</i> .
04223	Asphalt Barge Corp.: <i>L.T.C. No. 101</i> .
04262	Eddie Steamship Co., Ltd.: <i>Kally</i> .
04293	General Marine Transport Corp.: <i>Susan</i> .
04394	Philippine President Lines, Inc.: <i>Ocean Royal</i> .
04404	Lars Ref Johansen: <i>Jobebe, Jo Boy</i> .
04413	Leif Hoegh & Co. A/S: <i>Hoegh Troller, Hoegh Traveller</i> .
04568	United Venture Navigation Co., Ltd.: <i>Grand Pride</i> .
04593	Bow Shipping Corp.: <i>Golar Nikka</i> .
04718	Jason Shipping Inc.: <i>Naos</i> .
04878	Leland Bowman: <i>Ever-Ready 100</i> .
04943	Academy Tankers, Inc.: <i>Thomas Q</i> .
05098	Esso Tankers Inc.: <i>Esso Rotterdam</i> .
05407	Evergreen Marine Corp. S.A.: <i>Ever Glory</i> .
05537	Empresa Navegacion Mambisa: <i>Star</i> .
05581	Latvian Shipping Co.: <i>Jurmala</i> .
05878	Societe De Ballion Inc.: <i>Maridan C</i> .
06424	The Pelee Shipping Co. Ltd.: <i>Pelee Islander</i> .
06452	Compania Maritima De Transportes Inter-Nacionales S.A.: <i>Lago Negro</i> .
06510	Compagnie Nationale Algerienne De Navigation: <i>El Djazair, Tafna 11, Tipaza, Sunrise, Tafna 1, Zeralda, Tassit, Bou Ismail 3, Hoogar</i> .
06821	Anglo-Eastern Bulkships Ltd.: <i>Chemical Venture, Chemical Explorer</i> .
07131	R. W. Denny Corp. & Buckley & Co. Inc.: <i>Joint venture: Denny Buckley 200 Scoot</i> .
07292	Hinode Kisen Co., Ltd.: <i>Tomisaka Maru</i> .
07319	Shipping Co. Ossendrecht NV: <i>Ossendrecht</i> .
07368	Compagnie Maritime des Chargeurs Reunis: <i>Dupleix, Ango, Tanagra, Tahana</i> .
07396	Tasman Navigation Corp. Ltd.: <i>Prospect</i> .
07560	Argon Maritime Ltd.: <i>Thomas G. Chimplex</i> .
07595	Naves Sudamericana Naviera S.A. Panama: <i>Artemis Colocotronis</i> .
07623	Hawaland Tug & Barge Co. Ltd.: <i>HBT-II</i> .
07748	N.Y. Statendam: <i>Statendam</i> .
07858	Compania Susie S.A.: <i>Katina</i> .
08022	Nisse Shipping Co., Ltd.: <i>Car Liner No. 1, Car Liner No. 2, Gyosei Maru</i> .
08131	Empresa Navegacion Caribe: <i>26 de Julio</i> .
08175	Gunther Schulz Schulaue Schiffahrts-kontor, Hamburg: <i>Uthoern</i> .
08889	Companhia Portuguesa de Transportes Maritimos-C.T.M.: <i>Joao da Nova, Ponta S. Lourenco, Ilha de Porto Santa</i> .
09004	Berman Enterprises, Inc.: <i>Pai Kip, Alan Martin, Amy B. Jodie K. Anne Loutse, Laurie B. Sam Berman, Sarah Frank, Peter Frank</i> .
09089	Fucila Shipping Co. Ltd.: <i>Forzizia</i> .
09383	Blue Water Marine Industries, Inc.: <i>Big Black River</i> .
09442	Logan & Craig Charter Service, Inc.: <i>Maryle Logan</i> .
09835	N.V. Prinsendam: <i>Prinsendam</i> .
09971	Dong II Shipping Co., Ltd.: <i>Hanufuji Maru</i> .
10049	Sunrise Navigation Co., S.A.: <i>Sun Vega</i> .
10499	Pacific Leader Navigation S.A.: <i>Sunrise</i> .
10538	Partenreederei MS Martha Fisher: <i>Sun-baden</i> .
10717	General Western, a joint venture: <i>Pa-poose</i> .
10956	Ekavia Compania Naviera S.A.: <i>Ekavi</i> .
10970	Symphonic Navigation Co. S.A.: <i>Attikos</i> .
10999	Partenreederei Ernst Jacob: <i>Tom Jacob</i> .

Certificate No.	Owner/Operator and Vessels
11042	Nogamar S.A.: <i>Honesty</i> .
11326	Toyo Islands Shipping Co., Ltd.: <i>Topaz Islands</i> .
11327	Paula Islands Shipping Co., Ltd.: <i>Palm Islands</i> .
11328	O'Reilly Islands Shipping Co., Ltd.: <i>Onyx Islands</i> .
11329	Officios Islands Shipping Co., Ltd.: <i>Opel Islands</i> .
11330	Indalecio Islands Shipping Co., Ltd.: <i>Ivory Islands</i> .
11332	Agular Islands Shipping Co., Ltd.: <i>Agate Islands</i> .
11333	Amargura Islands Shipping Co., Ltd.: <i>Amber Islands</i> .
11363	Spanliverpool Shipping Co.: <i>King Egbert</i> .
11387	Melea I Marine Co. S.A.: <i>Merita</i> .
11609	Monarch Cruise Lines, Inc.: <i>Monarch Star, Monarch Sun</i> .
11714	Global Transport Organisation: <i>Federal 400-3</i> .
12014	K/S A/S Scorpio & Co.: <i>Morpedal</i> .
12166	S.P.A. Pesca Oceanica Sarda: <i>Sagitta</i> .
12830	Moonrise Shipping Co. S.A.: <i>Homerie</i> .
12850	Denali Fisheries Inc.: <i>Denali</i> .
12957	Asia Shipping Co., Ltd.: <i>Crown</i> .
13391	Jardine Offshore Contractors Inc.: <i>CB-4</i> .

By the Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2640 Filed 1-30-78; 8:45 am]

## [6730-01]

CERTIFICATES OF FINANCIAL RESPONSIBILITY  
(OIL POLLUTION)

## Certificates Revoked.

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to Part 542 of Title 46 CFR and section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01110	Trade Ambassador Line, Inc.: <i>Pericles G.C.</i>
01323	Manchester Liners Ltd.: <i>Manchester Venture</i> .
01339	Compagnie Africaine d'Armenet: <i>Flora</i> .
01471	Helmsman Shipping Co., Ltd.: <i>Atlantic Helmsman</i> .
01483	Strymon Shipping Co., Ltd.: <i>Strymon</i> .
01575	Rederiaktieselskapet Mascot: <i>Bianca</i> .
01819	King Line Ltd.: <i>King Alfred</i> .
01913	Compagnie Fabre Societe Generale de Transports Maritimes: <i>Espadon</i> .
01920	Messrs. Svend Foyn Bruun: <i>Petunia</i> .
01935	Partnership between Steamship Co. Svendborg Ltd. and Steamship Co. of 1912 Ltd.: <i>Luna Maersk</i> .
01956	Navegadora Valiente S.A. of Panama: <i>Resolute Colocotronis</i> .
01958	Mares Maritima S.A. of Panama: <i>Patriotic Colocotronis</i> .
01967	Estrella Reimante Nav. S.A. of Panama: <i>Gallant Colocotronis</i> .
01968	Mundial Mar. S.A. of Panama: <i>General Colocotronis</i> .
01976	Conquista Armadora S.A. of Panama: <i>Yanqos Colocotronis</i> .
02152	A. F. Klavens & Co. A/S: <i>Silvestad</i> .
02194	Companie Generale Maritime: <i>Mohelt</i> .
02214	Golden Lance Steamship, Inc.: <i>Golden Lance</i> .
02231	Chandria Shipping Co. Ltd.: <i>Eupenia Chandria</i> .
02263	Nouvelle Compagnie de Paquebots: <i>Re-naisance</i> .

Certificate No.	Owner/Operator and Vessels
02270	Enso-Gutzeit Osakeyhtio: <i>Finnreel</i> .
02277	Empres Lines Shipping Co. Sp. S.A.: <i>Atiakmon</i> .
02362	Rethymon Shipping Co. Ltd.: <i>Rethymon</i> .
02452	Dover Navigation Co., Ltd.: <i>Ocean Queen</i> .
02475	Houston Barge Line, Inc.: <i>EIDC 52</i> .
02515	SFS Tankers Corp.: <i>Theonymphos</i> .
02716	Aktieselskab det Dansk-Franske Dampskibsselskab: <i>Normandiet</i> .
02734	Italia Societa per Azioni di Navigazione: <i>Raffaello</i> .
02877	Nippon Yusen K.K.: <i>Saga Maru</i> .
02975	Venture Shipping (Managers) Ltd.: <i>Grace Venture</i> .
03228	Palmyra Compania Naviera S.A. of Panama: <i>North Earl</i> .
03256	Upper Mias. Towing Corp.: <i>UM 910, UM 909, UM 908, UM 907, UM 906, UM 905, UM 904, UM 903, UM 194, UM 193, UM 96, UM 91, AC 1</i> .
03311	Arcelia Navigation Ltd.: <i>Christine G. Chimplex</i> .
03536	Herlison Shipping Co. A/S: <i>Tank Rex</i> .
03725	Circle Line Sightseeing Yachts Inc.: <i>Circle Line IV</i> .
04080	Port Arthur Towing Co.: <i>MM-101, MM-102</i> .
04128	Skips A/S Westray: <i>Brunboard</i> .
04308	Toxon Navigation Co. S.A.: <i>Toxon</i> .
04386	Maritime Co. of the Philippines: <i>Leyte Gulf</i> .
04437	Le Beauf Bros. Towing Co., Inc.: <i>Joyce O.</i>
04561	Magnolia Line, Inc.: <i>Crystal Azalea</i> .
04625	American Commercial Lines, Inc.: <i>Chem 38, Chem 47</i> .
05098	Esso Tankers Inc.: <i>Esso Bayway</i> .
05231	Khamain Shipping Inc.: <i>Khamain</i> .
05337	Empresa Navegacion Mambisa: <i>Lazaro Peana</i> .
06118	Marcamnos Atlanticos Navegacion S.A.: <i>Naxos Island</i> .
06166	Hobart/Troller Towing Inc.: <i>Dorothy Hobart</i> .
06346	Celomar Compania Naviera S.A. Panama: <i>Athena</i> .
06390	Enterprise Compania Naviera S.A.: <i>Leste</i> .
06510	Compagnie Nationale Algerienne de Navigation: <i>Taric</i> .
06497	Naves Valientes S.A. of Panama: <i>Chalenger Colocotronis</i> .
06549	Compagnie Marocaine de Navigation: <i>Zalagh</i> .
06576	Van Nievelt, Goudriaan & Co. BV: <i>Asuncion, Villarrica, Alcol, Alkes</i> .
06811	Erago Steamship Inc.: <i>My Era</i> .
06821	Anglo-Eastern Bulkships Ltd.: <i>Nordic Conqueror</i> .
06879	Armonikos Shipping Co. Ltd. of Cyprus: <i>Armonikos</i> .
06932	Liberian Narcissus Transports Inc.: <i>Asia Hunter</i> .
07105	Astrosureno Armadores, S.A.: <i>Pacifico</i> .
07245	Argonaut Shipping Inc.: <i>Argo Leader</i> .
07413	Achilles Navigation Corp.: <i>Ioannis Chandria</i> .
07458	Associated Transportation Ltd.: <i>Untona</i> .
07550	Erato Shipping Inc.: <i>Golden Laurel, Regent Mariqold, Regent Comos, Regent Fleur, Regent Cedar, Regent Violet, Regent Bogan, Regent Halo</i> .
07743	Yangming Marine Transport Corp.: <i>Ho Ming</i> .
07822	Stellar Marine Ltd.: <i>Setinis</i> .
07835	Stimon Shipping Co. Ltd.: <i>Stimon</i> .
07839	Floisvos Shipping Co. Ltd.: <i>Rio Santa Elena</i> .
07910	Sealeader Maritime Co. Ltd.: <i>Ellinora</i> .
07970	N.V. Mailschip Antillen: <i>Rotterdam</i> .
08147	Navegacion Granada S.A.: <i>Mount Juliet</i> .
08231	Ecological Shipping Corp.: <i>Noire Dame Victory</i> .
08233	Imbro Shipping Co. Ltd.: <i>Imbro</i> .
08234	Burmah Oil Tankers Ltd.: <i>Burmah Coral</i> .
08247	Pyramid Sugar Transport, Inc.: <i>Sugar Islander</i> .
08253	Sporades Maritime, Ltd.: <i>Corona Beach</i> .
08264	Brasnamar Cia. Brasileira De Navegacao Maritima: <i>Santista</i> .
08355	Aquarian Navigation Ltd.: <i>Athenoula</i> .

Certificate No.	Owner/Operator and Vessels
08357	Nea Armonia Shipping Co. S.A. of Panama: <i>Armonia</i> .
08407	Elas Shipping and Investment Co. S.A.: <i>Spartan Angel, Spartan Bay</i> .
08428	Leo Maritime Co. Ltd.: <i>Andriana I</i> .
08527	Parnis Maritime Co., Ltd.: <i>San Salvador</i> .
08527	Terminales Marcalbo, C.A.: <i>Teague Bay</i> .
08701	Rector Navigation Corp.: <i>Lily</i> .
08905	St. Michael Maritime Co. Ltd.: <i>St. Providence</i> .
08973	Compania Maritima Elxan, Ltd.: <i>Spartan Leader</i> .
08992	Thira Maritime Co. Ltd.: <i>St. Michael</i> .
09205	Trusa Shipping Co., S.A.: <i>Santa Trinidad</i> .
09222	National Oil Corp. Tripoli-Libya: <i>Marsa el Hariga, Serris</i> .
09290	Compania Spyros S.A.: <i>Spyros</i> .
09589	Ebony Co. Ltd. of Liberia: <i>Arma</i> .
09710	Continental Mariner Investment Co. Ltd.: <i>Hing Chong</i> .
09925	Forest Maritime, Inc.: <i>Aretussa</i> .
10218	Cattleya Fleet Holdings Corp.: <i>Natbay</i> .
10525	Pansegura Armadora S.A.: <i>Vassiliki Colocotronis</i> .
10876	Pollmaris Maritime Corp.: <i>Euromariner</i> .
10902	Ormi Shipping Co. Ltd.: <i>Uniluck</i> .
10931	Hansung Shipping Co., Ltd.: <i>Blue Virgo, Blue Orion</i> .
11435	Erato Shipping and Trading Corp. S.A.: <i>Deka Ert, Deka Epta, Deka Okto, Deka Ennea</i> .
11546	Christingulf Compania Naviera S.A.: <i>Kalligrammos</i> .
11576	Great Eastern Maritime, S.A.: <i>El Sipra</i> .
11611	Amphitrite Shipping and Trading Corp. S.A.: <i>Iksi-Ena, Petrola's Seamaster 20, Petrola's Oceanmaster 24</i> .
11724	Pentland Management Services Ltd.: <i>Pentland Brae</i> .
11757	Daphnis Shipping and Trading Corp. S.A.: <i>Petrola 70</i> .
11758	Spiros L. Latsis: <i>Epta, Enn Ea</i> .
11821	Minerve Shipping and Trading Corp. S.A.: <i>Petrola 131</i> .
11942	Cyclop Shipping Co., S.A.: <i>Scapmariner</i> .
12035	Vaicos Shipping and Investment Co. S.A.: <i>Kriti</i> .
12190	New Jersey Shipping Enterprises Corp.: <i>Moopate Queen</i> .
12356	Orinoco Shipping Co. Inc., Panama: <i>Dona Pacifica</i> .
12586	Amer-Yhtyma Oy: <i>Concordia Amer</i> .
12590	Algoi Shipping Co. Ltd.: <i>Algoi</i> .
12727	Sea Trading Ltd.: <i>Sankaty</i> .

By the Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc. 78-2641 Filed 1-30-78; 8:45 am]

## [6750-01]

## FEDERAL TRADE COMMISSION

## UNORDERED MERCHANDISE

## Statement of Policy

On September 11, 1970, the Federal Trade Commission issued a notice of cancellation of public hearing and opportunity to submit data, views, or arguments regarding a proposed Trade Regulation Rule relating to the shipment of unordered merchandise [35 FR 14328 (1970)]. With this the Commission gave notice that in connection with the shipment of unordered merchandise it considers section 3009 of the Postal Reorganization Act, 39 U.S.C. 3009, as the proper interpretation of section 5 of the Federal Trade Commission Act. This Statement of Policy is intended to clarify the 1970 notice and to avoid misunderstanding

## NOTICES

in the legal and business communities concerning the Commission's enforcement policy.

While the Commission holds to the view that section 3009 states the proper standard under section 5 of the Federal Trade Commission Act as to the mailing of unordered merchandise, it has never intended to restrict the standard to unordered merchandise sent by U.S. mail. The Commission might, for example, prosecute as an unlawful trade practice, under section 5 of the Federal Trade Commission Act, a nonmail shipment of merchandise which does not meet the standards of 39 U.S.C. 3009, which are as follows:

Section 3009: Mailing of unordered merchandise. (a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise mailed by a charitable organization soliciting contributions, the mailing of unordered merchandise or of communications prohibited by subsection (c) of this section constitutes an unfair trade practice in violation of section 45(a)(1) of title 15.

(b) Any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender. All such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard, or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

(c) No matter of any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, shall mail to any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, "unordered merchandise" means merchandise mailed without the prior expressed request or consent of the recipient.

By direction of the Commission dated January 11, 1978.

CAROL M. THOMAS,  
Secretary.

[FR Doc. 78-2597 Filed 1-30-78; 8:45 am]

## [1610-01]

## GENERAL ACCOUNTING OFFICE

## REGULATORY REPORTS REVIEW

## Extension of Time to File Comments

On January 13, 1978, GAO published a notice (43 FR 1994) requesting comments by January 31, 1978, from all interested persons, organizations, public interest groups, and affected businesses on a Federal Trade Commission request for clearance of a new, voluntary, single-time questionnaire which will be sent to approximately 100 life insurance companies. Pursuant to 44 U.S.C. 3512 GAO is limited in the

amount of time it has to review the request. However, GAO hereby extends the comment period to February 17, 1978.

NORMAN F. HEYL,  
Regulatory Reports  
Review Officer.

[FR Doc. 78-2585 Filed 1-30-78; 8:45 am]

## [4110-84]

DEPARTMENT OF HEALTH,  
EDUCATION, AND WELFAREHealth Services Administration  
ADVISORY COMMITTEE  
Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of February 1978:

Name: PHS Hospitals Ad Hoc Advisory Committee.  
Date and Time: February 17-18, 1978, 9 a.m.  
Place: Room 617 G1, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

Open for entire meeting.  
Purpose: The Committee will conduct an in-depth examination of each PHS hospital in relation to its principal beneficiaries and the community in which it is located; its health needs and delivery system; and the cost of operation and achievements. It will assist in developing options and recommendations concerning the present and future role of the hospitals in the continuation and improvement of health care delivery.

Agenda: Discuss the past and present constraints of the hospitals; discuss and modify site visit protocol; and the review of the site visit schedule.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Jordon Popkin, Office of the Administrator, Health Services Administration, Parklawn Building, Room 14-15, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-2245.

Agenda items are subject to change as priorities dictate.

Dated: January 26, 1978.

WILLIAM H. ASPDEN, Jr.,  
Associate Administrator  
for Management.

[FR Doc. 78-2704 Filed 1-30-78; 8:45 am]

## [4110-02]

## Office of Education

## ENVIRONMENTAL EDUCATION PROGRAM

## Extension of Closing Date for Applications

Notice is given that the January 20, 1978, deadline for filing applications under the Environmental Education



Program as authorized by the Environmental Education Act, as amended March 24, 1975 (20 U.S.C. 1531-1536), published in the *FEDERAL REGISTER* on October 12, 1977, is extended to February 3, 1978.

(a) *Application forms and information.* Application forms and program information packages are available.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.522, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 30, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Environmental Education Program from institutions of higher education, State and local educational agencies, regional research organizations, and other public and private nonprofit agencies, organizations, and institutions for environmental education project grants. In formulating proposals, potential applicants should be aware that approximately 100 projects will be funded in Fiscal Year 1978, including new awards and competing continuation projects. Grants averaging \$50,000 for General Project activities and not ex-

ceeding \$10,000 for Minigrant activities will be awarded for a 12-month period. Minigrants are available for community workshops, conferences, symposia, or seminars on a local environmental problem.

(e) *State and areawide clearinghouse review (OMB Circular A-95).* Applications under the Environmental Education Program are subject to the clearinghouse procedures required by OMB Circular A-95, the regulations for facilitating coordinated planning under the Intergovernmental Cooperative Act. State/areawide clearinghouse procedures are applicable. Applicants should check with the appropriate Federal Regional Office to obtain the name(s) and address(es) of the clearinghouse(s) if unknown. Indian tribe applicants need not notify "clearinghouses" unless a tribal, formalized procedure has been established through the Office of Management and Budget. All applicants, other than Indian tribes, must provide evidence of compliance with clearinghouse review requirements in the application to the Commissioner. Evidence of compliance may consist of:

(1) A State application identifier number obtained from the clearinghouse and comments from clearinghouses, if available.

(2) Certification by the applicant that either or both State and areawide clearinghouses have been provided with the opportunity to review the application, and no comments have been received.

Clearinghouse comments received by the applicant after the submission of the application to the U.S. Office of Education must be forwarded to the Office of Environmental Education, U.S. Office of Education (see address in paragraph (g) below). Clearinghouse comments received by the Office of Environmental Education no later than (?) will be considered in reviewing applications.

(f) *State education agency comment.* The regulations for the Environmental Education Program, in accordance with the statute, require that a local educational agency provide a copy of its application to the State educational agency of the State within which the applicant is located, concurrently with its submission of the application to the Office of Education. For verification of the submission to the State educational agency, the local educational agency applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the State educational agency. State educational agencies wishing to submit advice and comments on any local educational agency application originating within their State may do so by forwarding their advice and comments to the Office of Environmental Educa-

tion, U.S. Office of Education (see address in paragraph (g) below). Advice and comments received from SEA's no later than March 8, 1978, will be considered in reviewing applications.

(g) *For further information and forms contact:* Walter J. Bogan, Jr., Office of Environmental Education, Bureau of Elementary and Secondary Education, Room 2025, 400 Maryland Avenue SW., Washington, D.C. 20202, 202-245-9231.

(h) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Environmental Education Regulations published in the *FEDERAL REGISTER* on May 21, 1974, as amended March 24, 1975 (45 CFR Part 183).

(20 U.S.C. 1531-1536.)

(Catalog of Federal Domestic Assistance Number 13.522, Environmental Education Program.)

Dated: January 26, 1978.

ERNEST L. BOYER,  
U.S. Commissioner of Education.  
(FR Doc. 78-2726 Filed 1-30-78; 8:45 am)

[4110-08]

Public Health Service  
NATIONAL INSTITUTES OF HEALTH  
Statement of Organization, Functions and  
Delegations of Authority

Part H, Chapter HN (National Institutes of Health) formerly Part 8, Chapter 8 (41 FR 52724, December 1, 1976) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (40 FR 22859, May 27, 1975, as amended most recently at 42 FR 38019, July 26, 1977), is amended to reflect: (1) The revision of the functional statement for the Clinical Applications and Prevention Program (HNN24) within the Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute; and (2) the establishment of the Epidemiology and Biometry Program (HNN25) within the Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute. This action is intended to provide for stronger coordination and management of the epidemiologic and biometric research programs.

Section HN-B Organization and Functions, is amended as follows: (1) Under the heading National Heart, Lung, and Blood Institute (HNN), delete the statement for the Clinical Applications and Prevention Program (HNN24) and insert the following statement:

*Clinical Applications and Prevention Program (HNN24).* (1) Plans and

directs programs of basic and applied research and grant and contract support for research in clinical trials, preventive cardiology and behavioral medicine to insure maximum utilization of available resources in attainment of Institute objectives; (2) assesses need for research in these program areas; (3) recommends priorities and funding levels for program to be recommended to the advisory council for support by grants; (4) determines priorities and allocates funds for research to be supported by contract; (5) collaborates with intramural program in the Institute and NIH-wide and maintains an awareness of national research efforts in program areas; (6) prepares reports and analyses to assist Institute staff and advisory groups carrying out their responsibilities; (7) consults with voluntary health organizations and with professional associations in identifying research needs and developing programs to meet them.

(2) Insert the following statement after the revised statement for the Clinical Applications and Prevention Program (HNN24):

*Epidemiology and Biometry Program (HNN25):* Plans, directs, and conducts a program of basic epidemiologic research and grant and contract support for epidemiologic research; (2) directs and conducts a program of basic research in the areas of theoretical statistics and biometric methods and provides consultative services for the Institute in these areas; (3) assesses the need for epidemiologic research and identifies research opportunities in the program areas; (4) determines priorities and funding levels for programs recommended to advisory council for grant support; (5) recommends priorities and allocates funds for research in the program area to be supported by contract; (6) collaborates with the categorical division programs in heart, blood vessel, lung, and blood diseases; (7) prepares reports and analyses to assist Institute staff and advisory groups in their planning, evaluating, and assessment responsibilities; and (8) consults with health and other professional associations in identifying research needs and developing programs to meet them.

Dated: January 16, 1978.

CHARLES MILLER,  
Assistant Secretary for  
Management and Budget.  
(FR Doc. 78-2514 Filed 1-30-78; 8:45 am)

[4110-85]

QUALIFIED HEALTH MAINTENANCE  
ORGANIZATION

Notice is hereby given, pursuant to 42 CFR § 110.605, that in the month of

November 1977 the following entity has been determined to be a qualified health maintenance organization under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

QUALIFIED HEALTH MAINTENANCE  
ORGANIZATION

Name, address, service area, and date  
of qualification

(Operational Qualified Health Maintenance  
Organization: 42 CFR § 110.603(a))

1. Manhattan Health Plan, Inc. (Staff Model, see section 1310(b)(1) of the Public Health Service Act), 425 East 61st Street, New York, N.Y. 10021. Service area: Manhattan and Roosevelt Island in County of New York in the State of New York inclusive of zip codes 10001 through 10048. Date of operational qualification: November 1, 1977. (Achieved preoperational qualification on October 31, 1977.)

Files containing detailed information regarding qualified health maintenance organizations will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, at the Division of Health Maintenance Organization Qualification and Compliance, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 16A-08, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Questions about the review process or requests for information about qualified health maintenance organizations should be sent to the same office.

Dated: January 23, 1978.

JOYCE C. LASHOF,  
Deputy Assistant Secretary for  
Health, Programs.  
(FR Doc. 78-2515 Filed 1-30-78; 8:45 am)

[4110-88]

Alcohol, Drug Abuse, and Mental Health  
Administration

MENTAL HEALTH SERVICES RESEARCH REVIEW  
COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory body scheduled to assemble during the month of February 1978:

MENTAL HEALTH SERVICES RESEARCH REVIEW  
COMMITTEE

Date and time: February 27, 28, and March 1, 9 a.m.  
Place: La Posada de Santa Fe, 330 East  
Palace Avenue, Santa Fe, N. Mex.

Open: February 27, 9 to 10:30 a.m.  
Closed: Otherwise.

Contact: James T. Cumiskey, Room 11C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3764.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to mental health services research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9 a.m. to 10:30 a.m., February 27, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Dr. Jacquelyn Hall, Acting Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4573.

Dated: January 25, 1978.

CAROLYN T. EVANS,  
Committee Management Officer,  
Alcohol, Drug Abuse, and  
Mental Health Administration.  
(FR Doc. 78-2564 Filed 1-30-78; 8:45 am)

[4110-03]

(Docket No. 77D-0430)

PNEUMOCOCCAL VACCINE, POLYVALENT  
Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the availability of guidelines for laboratory test procedures and lot release requirements for Pneumococcal Vaccine, Polyvalent.

DATE: Written comments by March 2, 1978.

ADDRESS: Requests for a copy of the guidelines and submission of written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION  
CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Edu-



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cation, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-1920.

**SUPPLEMENTARY INFORMATION:** On November 21, 1977, the Commissioner of Food and Drugs issued by Merck, Sharp, and Dohme U.S. License No. 2, a license to manufacture Pneumococcal Vaccine, Polyvalent. Notice is hereby given that guidelines for laboratory test procedures and lot release requirements for this product are on display at the office of the Hearing Clerk, Food and Drug Administration, address given above. Interested persons may obtain copies of the guidelines by contacting the office of the Hearing Clerk, and identifying the document with the Hearing Clerk Docket Number found in brackets in the heading of this document.

Dated: January 24, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2408 Filed 1-30-78; 8:45 am)

[4110-03]

(Docket No. 78N-0022)

**LEAD AND CADMIUM IN DECORATED GLASSWARE**

**Meeting**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Consumer Product Safety Commission (CPSC), the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) announce a public meeting of the interagency Task Force on Decorated Glassware to discuss the recommendations of the Task Force's staff toxicologists and those of an industry trade association, and other matters related to the risks to health that may be associated with the release of lead and cadmium from decorated glass tumblers.

**DATE:** The meeting will be held on March 7, 1978.

**ADDRESS:** The meeting will be held in Room 1409, Federal Office Building No. 8, 200 C Street SW., Washington, D.C. 20204, beginning at 9:30 a.m.

**FOR FURTHER INFORMATION CONTACT:**

Edward A. Steele, Bureau of Foods (HFF-320), 200 C Street SW., Washington, D.C. 20204, 202-245-1426.

**SUPPLEMENTARY INFORMATION:** In July 1977, a task force composed of representatives from CPSC, EPA, and FDA was formed to investigate the release of lead and cadmium from external decorations on glass tumblers. The investigation is being pursued because

of the general concern regarding lead and cadmium intake, especially as it might affect children who are exposed to this source.

The Task Force, which consists of Joseph P. Hile, Associate Commissioner for Compliance, FDA, David Schmeltzer, Associate Executive Director, CPSC, and Steven D. Jellinek, Assistant Administrator for Toxic Substances, EPA, was supported by a staff composed of experts on lead-related problems, including lead toxicity. The staff formed two subcommittees: the first was responsible for testing samples of decorated glass tumblers to determine the amount of lead or cadmium that would be released from the decorations under various test conditions; the second was responsible for assessing the significance of those results from the standpoint of potential risks to human health.

The purpose of the March 7, 1978 public meeting is to discuss the staff's recommendations and those of the industry trade association so that the Task Force may benefit from the comments and data of interested persons before adopting an approach to this problem. In addition to receiving comments on the staff recommendations and those of the industry association, the Task Force solicits the views of, and data from any other interested persons.

The following background documents are on file with the office of the Hearing clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may also be obtained from the contact person identified above:

1. Sampling and test methods for decorations on the outside of glass tumblers;
2. Summary of analytical results;
3. Toxicity considerations—recommendations of agency toxicologists;
4. Analysis of the problem and recommendations from the A-20 Subcommittee on Ceramic Enamelled Decorated Glass Tumblers, Society of Glass Decorators.

The agency staff toxicologists have recommended, among other things, that decorations containing lead or cadmium not be permitted on the upper 20 millimeters of glass tumblers (the so-called "lip and rim" area), that a maximum level of extraction of 1,000 micrograms of lead and 100 micrograms of cadmium under prescribed conditions be established for the remainder of the exterior of the glass tumbler, that certain glasses already manufactured that release high levels of lead or cadmium be removed from commercial distribution, and that the decorated glassware industry undertake a quality assurance testing program for decorated glass tumblers produced in the future. The Task Force staff has recommended that the feasibility of relying on the industry to take these steps voluntarily, be explored.

Alternatively the A-20 Subcommittee of the glass Decorators Society has recommended a lip and rim extraction standard that would allow decorations in the lip and rim area of glassware. This standard calls for action levels of 7.0 parts per million lead and 0.5 part per million cadmium, which may be extracted using a prescribed method.

The meeting will be open to the public. It will be held on March 7, 1978, in Room 1409, Federal Office Building No. 8, 200 C Street SW., Washington, D.C. 20204. The meeting will begin at 9:30 a.m. The meeting will be chaired jointly by the Task Force Members.

At the commencement of the session, the Task Force and members of the subcommittees will summarize the information already available. The remainder of the morning session will be reserved for presentation of data, information, and views by interested persons. If necessary, an afternoon session will be held for further discussion of the issues. Persons who desire to make a presentation should notify Mr. Edward A. Steele, FDA, 202-245-1246, by the close of business March 3, 1978, and indicate the amount of time they wish to be allocated for their presentation. Persons who are unable to appear in person on March 7, 1978, may submit data, information, and views in writing to Mr. Edward A. Steele (address given above), by the close of business on March 7, 1978.

Dated: January 25, 1978.

JOSEPH P. HILE,  
Associate Commissioner  
for Compliance.

(FR Doc. 78-2563 Filed 1-30-78; 8:45 am)

[4110-03]

(Docket No. 77P-0287)

P.L. Biochemicals, Inc.

**Panel Recommendation on Petition for Reclassification**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice

**SUMMARY:** The agency is issuing for public comment the recommendation of the Clinical Toxicology Device Classification Panel that the GENTAMICIN E.R.A.™ Reagents for the Enzymatic Radiochemical Assay for Gentamicin be reclassified from class III (Premarket Approval) to class II (Performance Standards). This recommendation was made after review of a reclassification petition filed by P.L. Biochemicals, Inc., Milwaukee, Wis., under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). After reviewing the panel recommendation and the public comments received, the agency will ap-

prove or deny the reclassification by order in the form of a letter to the petitioner. If the device is reclassified, the reclassification will be announced in the FEDERAL REGISTER.

**DATE:** Comments by March 2, 1978.

**ADDRESS:** Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

**FOR FURTHER INFORMATION CONTACT:**

S. K. Vadlamudi, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7234.

**SUPPLEMENTARY INFORMATION:** On September 7, 1976, P.L. Biochemicals, Inc., Milwaukee, Wis., submitted to FDA a premarket notification under section 510(k) of the act (21 U.S.C. 360(k)) stating that it intended to market a device the manufacturer calls the GENTAMICIN E.R.A.™ Reagent for the Enzymatic Radiochemical Assay for Gentamicin. After reviewing the information in the premarket notification, the Commissioner determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device placed in commercial distribution since that date and subsequently reclassified. Upon this determination, the device is automatically classified into class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device which is in class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)) can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval under section 515 of the act, unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j).

On June 23, 1977, P.L. Biochemicals, Inc., submitted a reclassification petition for the device under section 513(f)(2) of the act. On October 6, 1977, the Clinical Toxicology Device Classification Panel (panel) reviewed the petition and recommended that the device be reclassified into class II.

To determine the proper classification of the device, the panel considered the criteria in section 513(a)(1) of the act.

For the purposes of classification, the panel assigned to the device the name, "gentamicin test, enzymatic radiochemical assay" and described the device as a kit for enzyme immunoassay of serum or plasma. The device is used to detect the level of gentamicin

in human serum or plasma. Gentamicin is an antibiotic used to treat infections. An excess of gentamicin can result in damage to the kidney. If use of this device indicates an excess of gentamicin, the physician will adjust the dosage prescribed for a patient. The panel recommended that all devices meeting this description be classified in class II.

**SUMMARY OF THE REASONS FOR THE RECOMMENDATION**

The panel made the following determinations in support of its recommendation:

1. The device is not an implant, nor is it life-sustaining or life-supporting.
2. The device is not potentially hazardous to life or good health when properly used.
3. The device is an in vitro diagnostic product. The device is used to quantitate the levels of gentamicin in human serum or plasma. A step-by-step protocol for use by the analyst has been included with the device. Performance data on accuracy, precision, and quantitation of interfering substances have been included. The device has performance characteristics that should be maintained at a satisfactory level.

**SUMMARY OF THE DATA ON WHICH THE RECOMMENDATION IS BASED**

To determine the safety and effectiveness of the device, it was used in a clinical study on a series of 57 samples of human sera. These same sera samples were run with a currently accepted methodology for gentamicin radioimmunoassay. The data showed that there is a good agreement between the two methods. The correlation coefficient was 0.9557. The data were obtained from a field clinical study and also from an in-house study. The panel believes that these studies adequately support the precision claim of the product. Adequate interference studies were conducted with this product, and the data were documented.

**RISKS TO HEALTH**

The panel noted that inaccurate analytical results from the use of the device could lead to inadequate treatment or produce toxic effects in patients if too much medication were administered.

Therefore, the panel recommended that the device be classified into class II and that a standard directed to the specificity and sensitivity of the device be developed. The panel recommended that development of this standard be a high priority.

The petition and a transcript of the panel meeting are on file in the Office of the Hearing Clerk, address noted above.

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Dated: January 24, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2562 Filed 1-30-78; 8:45 am)

[4110-03]

(Docket No. 77N-0239)

**PROPOSED MODEL RETAIL FOOD STORE SANITATION ORDINANCE**

**Availability; Extension of Comment Period**

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice; extension of comment period.

**SUMMARY:** The comment period for the proposed Model Retail Food Store Sanitation Ordinance is extended, based on requests for extension, to provide additional time for submitting comments.

**DATE:** Comments by February 24, 1978.

**ADDRESS:** Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

**FOR FURTHER INFORMATION CONTACT:**

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-1511.

**SUPPLEMENTARY INFORMATION:** The Commissioner of Food and Drugs issued a notice in the FEDERAL REGISTER of October 25, 1977 (42 FR 56367), announcing the availability for comment of a proposed Model Retail Food Store Ordinance. Interested persons were invited to submit comments on the proposed ordinance by January 14, 1978.

The Commissioner has received written requests for extension of the comment period (on file with the Hearing Clerk, Food and Drug Administration) from the Food Marketing Institute, the Associated Retail Bakers of America, the National Association of Retail Grocers of the United States, and the National Association of Convenience Stores. The requests assert that additional time is necessary for them to evaluate and present comments from their members.

Good reason therefor appearing, the Commissioner extends the comment period in this matter to February 24, 1978.

Interested persons may, on or before February 24, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written



comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 25, 1978.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

(FR Doc. 78-2561 Filed 1-26-78; 10:48 am)

#### [4110-35]

Health Care Financing Administration

#### PHYSICIANS IN MINNESOTA

Designation of Professional Standards Review Organization for PSRO Area I

On November 18, 1977, I published a notice announcing the Secretary's intent to enter into an agreement with the Foundation for Health Care Evaluation, designating it as the Professional Standards Review Organization for PSRO Area I of Minnesota. That notice was also published in three consecutive issues of the Austin Daily Herald, the Mankato Free Press, Fergus Falls Daily Journal, the Minneapolis Tribune, the Minneapolis Star, the Forum, Post-Bulletin, the West Central Daily Tribune, St. Cloud Daily Times, St. Paul Pioneer Press, and the Duluth News-Tribune on November 18, 19, and 21, 1977.

In addition, copies of the notice were mailed to organizations of practicing doctors of medicine or osteopathy, including the appropriate State and County medical and specialty societies, and hospitals and other health care facilities in the Area. Those organizations and facilities were asked to inform actively practicing member doctors as to the contents of the notice.

The notice provided that any licensed doctor of medicine or osteopathy engaged in active practice in PSRO Area I who objected to the proposed agreement on the grounds that the Foundation for Health Care Evaluation is not representative of doctors in that Area, mail a written objection to the Secretary on or before December 19, 1977.

The Secretary has determined that not more than 10 percent of the doctors engaged in the active practice of medicine or osteopathy in PSRO Area I of Minnesota have expressed timely objection. Therefore, the Secretary has entered into an agreement with the Foundation for Health Care Evaluation, designating it as the Professional Standards Review Organization

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for PSRO Area I of the State of Minnesota.

Dated: January 20, 1978.

ROBERT A. DERZON,  
Administrator, Health Care  
Financing Administration.

(FR Doc. 78-2433 Filed 1-30-78; 8:45 am)

#### [4210-01]

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary  
(Docket No. D-78-497)

#### ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

##### Delegation of Authority

The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is hereby delegated authority to issue grants pursuant to Interagency Agreement between the Department of Housing and Urban Development and the Department of Labor dated November 3, 1977.

Effective date: This designation shall be effective January 31, 1978.

Dated: January 25, 1978.

PATRICIA ROBERTS HARRIS,  
Secretary, Housing and  
Urban Development.

THIS INTERAGENCY AGREEMENT ENTERED INTO BETWEEN THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND THE U.S. DEPARTMENT OF LABOR (DOL) TO ARRANGE FOR THE CONDUCT OF A DEMONSTRATION PROJECT TO ESTABLISH AND ASSESS COMMUNITY IMPROVEMENT PROJECTS TO BE OPERATED BY COMMUNITY DEVELOPMENT CORPORATIONS AND OTHER NEIGHBORHOOD DEVELOPMENT ORGANIZATIONS UNDER CONTRACT FROM HUD

AGREEMENT NO. DOL 99-8-892-07-03—  
HUD IAA NO. H-9-78

The Department of Labor is authorized under section 348 (a) and (b) of the Youth Employment and Demonstration Projects Act of 1977 (YEDPA) to carry out a variety of demonstration projects to explore the feasibility and assess the effectiveness of innovative approaches to assist economically disadvantaged and other youth to complete high school, to enter the world of work, and to achieve job stability and advancement.

The purpose of the demonstration project covered by this agreement is to explore the feasibility and value, and test the effectiveness and impact of utilizing HUD selected community development corporations and other

neighborhood development organizations (NDO's) to operate youth employment projects designed to lead to physical improvement of local communities and to improve the employability of youth who work in these projects.

About eight NDO's will be selected by HUD to operate local projects intended to have substantial impact on both youth unemployment and particular community improvement needs. These sponsoring organizations will have proven capacity in a variety of community development program operations and will be nonprofit organizations representative of population segments of their communities.

The local program activities established by this demonstration project will meet the same basic regulations and procedures established by DOL for CETA prime sponsor operated Youth Community Conservation and Improvement Projects under YEDPA.

The major objectives of this demonstration project are (a) to explore whether HUD-selected NDO's can effectively link DOL demonstration funds with other funding sources to develop comprehensive community improvement projects, (b) to assess the value of the community improvement work product resulting from youth employment by NDO community improvement projects, (c) to measure the effects of NDO community improvement projects on youth participants' employability, and (d) to compare the NDO community improvement projects with those established in the same communities through regular formula-funds to CETA prime sponsors, with respect to (1) linkages with other funding sources, (2) nature of the community improvement work activities and products generated, (3) value of community improvements resulting from youth work, (4) retention in project work activities, and (5) employment and other post-project outcomes for youth.

The purposes of this interagency agreement by DOL and HUD are (1) to describe the functions to be performed by HUD and DOL in the administration, technical guidance and evaluation of the demonstration project, to be operated by NDO's under contract from HUD, and (2) to provide for the transfer of DOL funds to HUD for performance of the project.

#### CLAUSE I—ADMINISTRATION AND TECHNICAL GUIDANCE

(a) *Scope of Work.* It is agreed that HUD shall make arrangements with NDO's to conduct the project as described in the HUD proposal entitled "Proposal to the Department of Labor for a Demonstration Program under the Youth Employment and Demonstration Projects Act of 1977" dated September 27, 1977, which is incorpo-

rated herein by attachment. The project shall be carried out in accordance with HUD proposal, except as modified by this agreement. The proposal may be revised from time to time, on the basis of periodic consultation by HUD with DOL, to reflect any agreed upon refinements in emphasis warranted by project findings and new development. Any such changes must be approved by DOL in writing.

The major task of HUD in conduct of the demonstration project will include the following:

(1) Selection, upon consultation with DOL, of about eight NDO's and related sites for operating community improvement projects.

(2) Provide guidelines and technical assistance to selected NDO's for the design and implementation of community improvement projects.

(3) Arrange for provision of employment for about 1,200 unemployed youth through NDO-operated community improvement projects.

(4) Design and arrange an evaluation of the overall demonstration project to assess its feasibility and value, and to test its effectiveness and impact.

(b) *Administration.* It is agreed HUD shall be responsible for administering the demonstration. The functions to be performed include planning the design for the demonstration, selecting local operating organizations and sites, reviewing and negotiating work programs, budgets, and grant agreements between HUD and the local operating organizations, monitoring the performance of the projects and providing them with technical assistance, and designing and administering the evaluation of the demonstration.

(c) *Technical Guidance.* DOL will review HUD's fulfillment of the terms of the interagency agreement as necessary. DOL is also to be kept fully informed by HUD on the project design and progress of the implementation and operation of the demonstration project. The NDO and site selection, and the evaluation design shall be subject to approval by DOL in writing.

(d) *Period of Performance.* This agreement shall cover a period of 20 months beginning October 17, 1977. Local NDO projects contracted through HUD will be financed for a 12 or 13 month period within the time period of the agreement. DOL has the right to terminate this agreement at any time; such termination shall be given in writing.

(e) *Deliverable Items.* The following items shall be delivered to the DOL project officer in original plus five copies as outlined below:

1. Progress report on initial implementation by January 1978.  
2. Progress report on startup operations, and experiences of local projects by April 1978.

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3. Progress report including 6 months operations of local projects and first evaluation findings by July 1978.

4. Progress report on local project operations, type of participants served, types of work performed, and interim evaluation findings by October 1978.

5. Draft final report on the demonstration project and evaluation by January 1979.

6. Final report on the feasibility and effectiveness of the demonstration project by termination date of agreement (50 copies of final report).

#### CLAUSE II—TRANSFER OF FUNDS TO HUD

Funds in the amount of \$8,000,000 are hereby obligated by DOL under the Youth Employment and Demonstration Projects Act of 1977 for purposes specified in this agreement. It is anticipated that HUD will contribute in-kind support services in the amount of \$200,000 for the administration and evaluation of the project.

Upon signing this interagency agreement, DOL will prepare and submit to Treasury for execution a completed SF-1151, Non-Expenditure Authorization.

#### CLAUSE III—MONITORING

The DOL shall appoint a project officer to monitor performance under this agreement. He/she will represent the contracting officer, but is not authorized to change any of the terms and conditions of the agreement. Such changes, if any, shall be accomplished only by the contracting officer through a properly executed modification to the interagency agreement.

Work hereunder shall be subject to review by the DOL project officer at all reasonable times. Acceptance of all work hereunder shall be made by the project officer, upon determination of satisfactory performance and receipt of acceptable reports/materials as required to be furnished hereunder. Reports required hereunder are subject to final approval of the project officer.

For the Department of Housing and Urban Development.

Dated: October 18, 1977.

J. E. HOTTINGER,  
Director, Procurement  
and Grants Division.

Dated: November 3, 1977.

For the Department of Labor.

WILLIAM J. KACVINSKY,  
Contracting Officer.

SEPTEMBER 27, 1977.

PROPOSAL TO THE DEPARTMENT OF LABOR FOR A DEMONSTRATION PROGRAM UNDER THE YOUTH EMPLOYMENT AND DEMONSTRATION PROJECTS ACT OF 1977

The Department of Housing and Urban Development proposes to ad-

minister a demonstration program under the Youth Community Conservation and Improvement Program (CETA Title III, Part C, Subpart 2) of the Youth Employment and Demonstration Projects Act of 1977. The program will be operated through the office of the HUD Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection (specifically by the Office of Neighborhood Development) with close cooperation from other parts of the Department, particularly the Assistant Secretary for Policy Development and Research, who will be responsible for overseeing evaluation of the program.

#### OBJECTS OF THE DEMONSTRATION

The purpose of the demonstration is to explore the feasibility and value, and test the effectiveness, of utilizing community development corporations and other neighborhood organizations to operate youth employment projects involving the improvement of local communities. HUD will select a limited number of local organizations and will fund them directly with grants averaging \$1 million to operate projects intended to have substantial impact on both youth unemployment and particular community improvement needs. The sponsoring organizations will have proven capacity in a variety of program operations and will be neighborhood-based, non-profit organizations representative of their communities.

The projects funded by HUD under this demonstration program will operate under the same rules and regulations as the prime sponsors' formula-funded YCCIP projects. The local work programs and budgets will be developed by the local organizations selected by HUD and will be reviewed and approved by HUD according to criteria set out later in this proposal. Since each community will have different needs and programmatic approaches, the actual program content will vary from city to city. The constant factors will be program delivery directly through neighborhood organizations, and emphasis on visible community improvements related to the organizations' overall strategies for neighborhood conservation and development.

All of these projects will "provide constructive work conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months."

As outlined in the Department of Labor's Knowledge Development Plan for YEDPA (September 5, 1977), this



demonstration seeks to test the hypotheses that:

(a) CDC's can more effectively link youth Community Improvement efforts to other funding sources and, if so, whether there is a multiplier effect reflected in project outcomes;

(b) CDC's can facilitate particular productivity by youth which is not generated by formula-funded projects; and

(c) The nature and value of project accomplishments have distinctive qualities which distinguish the CDC efforts from those of formula-funded projects.

#### HUD'S OFFICE OF NEIGHBORHOOD DEVELOPMENT

The operating agency in HUD for this demonstration will be the new Office of Neighborhood Development under the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. Its mandate is to provide capacity-building assistance to neighborhood organizations to enable them to assume a full partnership in the effort to solve America's urban problems. As part of this, the OND will act as broker in securing for its client organizations access to resources, technical assistance, and program funds from HUD and other Federal agencies. This demonstration is part of that effort.

#### CDC'S AND COMMUNITY IMPROVEMENT

The organizations that are potential operators of this demonstration locally are already involved in the kinds of community improvement projects outlined in subpart 2 of YEDPA and their ongoing activities will form the basis of their youth employment strategy, and not the reverse, as more usually the case. Collectively, these organizations have operated programs combining funding from several Federal programs: HUD (community development block grants, housing assistance programs, research and demonstration), EDA (public works, technical assistance grants), CSA (weatherization), OMBE and SBA (venture loans).

We offer the following as examples of the kinds of projects to be developed locally:

Rehabilitation or improvement of public facilities: CDC's are currently involved in rehabilitating both public housing and HUD-assisted housing, and in some cases are managing these. Other possibilities are converting vacant lots into playgrounds, recreation areas, and community gardens.

Neighborhood improvements: The opportunities range from small-scale commercial revitalization, through appropriate technology projects, to local "public works" such as sidewalk and streetlight repairs and maintenance.

Weatherization and basic repairs to low-income housing: Concerns with

conservation of existing housings and energy conservation efforts have stimulated such projects which are often conducted jointly.

#### SELECTION OF OPERATING ORGANIZATIONS

The key element in a successful demonstration program will be the selection of the local organizations which will run the projects. HUD will utilize a variety of sources to help determine the most effective operators—including HUD central and field staff, appropriate staff of the Department of Labor, the Office of Economic Development in the Community Services Administration, the Ford Foundation, and a number of national organizations which deal with neighborhood and community development organizations. The process of contacting these sources is well underway and will be augmented by field visits to the project sites, as well as regional and Washington meetings of potential operators.

Emphasis in selecting the operating organizations will be on program administration capacity. HUD will be seeking organizations which have stability and proven administrative experience. Because of the large grants involved (averaging \$1 million), only those CDC's operating programs totaling more than \$1 million annually are likely to be considered. Successful operators will be groups which have strong bases in their communities and which have demonstrated the ability to have a positive impact on their neighborhoods. They must have experienced staff and program management capacity in planning, budget, fiscal control, and program operations. They must be capable of mounting a new program quickly and effectively.

These organizations will have experience in working with unemployed and disadvantaged youth, although previous direct operation of youth employment projects will not be an absolute prerequisite for participation. HUD will look for indications that the organizations are knowledgeable about the nature of youth unemployment in their areas, the kinds of resources currently available to reduce such unemployment, the additional program needs which could be met under the YCCIP, and the ability to combine youth employment with other programs, such as weatherization or rehabilitation.

The final group of eight organizations will represent a balance of large, medium, and small cities; geographic distribution; ethnic representation; and community development corporations and other neighborhood organizations. ("Community development corporations" include established groups supported by the Ford Foundation and the Community Services Administration's Title VII economic

development program in particular. "Neighborhood organizations" are a more broadly defined collection of groups with community improvement objectives and various private and public means of support).

At the conclusion of the information-gathering process, HUD will designate those organizations to be operators under the demonstration program, based on the criteria listed below. Only if a designated organization failed to submit an adequate program plan or demonstrated in some other way its inability to perform, would HUD not proceed to contract with the organization for project operations. HUD would designate a sufficient number of organizations to have a "reserve" in the event of any such failures to proceed. HUD will designate program operators by the end of October.

The factors to be utilized by HUD in making selections follow:

1. Strength and representativeness of the organizations, as indicated by: (a) Number of individual members; number of organization members; (b) age and brief history; (c) issues in which the organization has demonstrated leadership; (d) geographic area covered by the organization; (e) participation of ethnic groups compared with their presence in the area; (f) representativeness and leadership capacity of board officers and members; (g) indications that other groups, public agencies, and elected officials recognize the organization; (h) type, purposes, and legal status.

2. Staff capacity: (a) Size and organization of the staff by functions and positions; (b) background and experience of executive director and other staff responsible for major programs and functions; (c) tenure of staff holding key positions; (d) any major internal problems and indications of how they have been or will be resolved.

3. Program experience: (a) Description of major programs operated by the organization, including funding source and amount, period of operation, primary objectives, status of operations, prospects for continuation; (b) results of any internal or outside evaluations; (c) more detailed descriptions of any youth employment, training, or related programs.

#### PROJECT WORK PROGRAMS AND BUDGETS

Once the local project operators have been selected by HUD, they will be responsible for submitting additional information, detailed work programs and budgets. The requirements of the regulations (97.611) are to be followed here.

"All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency.

(b) *Description of Project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need; (2) the types of jobs youth are to perform; (3) the full time supervisor to youth ratio, or its equivalent, and the reason for selecting the ratio; (4) the qualifications of the supervisors in terms of necessary skills, and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and (5) the beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment; (2) List of target groups to be served and recruiting plans; (3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for each. If job restructuring is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations and the relevant expertise of personnel who performed the restructuring; and (2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization); experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and (f) Budget. Totals for the following line items: (1) Direct program costs as defined in 98.12(f)(6)(iii); (2) Costs of wages and fringe benefits of work site supervisors; (3) Costs of job-related training; (4) Costs of materials, supplies and equipment used by participants on the job; and (5) Costs of supportive services for participants."

In addition, the operating organizations will submit: (1) a description of the community; (2) a statement of youth employment problems there; (3) special supportive services to be provided; (4) outcomes for the community (e.g., houses weatherized, facilities maintained, etc.); (5) use of other community resources; (6) other funding and resources to be used; (7) staffing pattern; (8) staff recruitment and training plan; (9) indication of project director and key staff where possible; (9) budget, including all funding

sources; (10) schedule for start-up, phase-in, and full operation of project; (11) plans to collect data on participants and operations needed for evaluation; (12) projected performance standards—including number of participants, costs/participant, measures of community improvements; (13) commitments of local support from city officials, businesses, labor organizations, and others where needed; (14) compliance with civil rights and other federal contract requirements.

Based on the acceptable project activities outlined in the regulations (97.624):

"Each project shall insure that each participant does constructive work in terms of individual and community benefits during participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repair to low income housing as defined in Section 97.602; energy conservation including solar energy projects; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

Training provided must be directly related to a participant's job. Where school youth are served, they must be in a structured combination work and education program. Educational agencies are to be encouraged to award academic credit for the competencies participants gain from their employment."

HUD will approve the local work programs and budgets according to criteria, based on the minimum standards outlined in the regulations, and including the following items:

1. *Quality of the overall project design.* (a) Includes all information required in this agreement and in the regulations (97.601-631); (b) clarity of problem statement and the project design related both to neighborhood needs and the objectives of the demonstration program; (c) coordination with other funding sources and resources; (d) Relationship to local prime sponsor; (e) Relationship to other programs run by the organization; (f) Relationship to other programs in the neighborhood.

2. *Prospects for success.* (a) Program will be adopted and supported in the community; (b) Organization has the capacity to implement the program quickly and operate it effectively; (c) Program relates well to other programs run by the organization and other programs in the neighborhood.

(d) Likelihood that the organization can continue and expand the program.

3. *Specific program objectives that are measurable.* (a) Enroll  $x$  youths in the program within  $y$  months. (b) Ac-

complish targeted community improvements. (c) Place program participants into ongoing jobs, training, or school.

In addition, the criteria outlined in the regulations (97.613 a-c) will be applied. This process of local project design, review, and approval should be completed by December 1.

#### RESEARCH AND EVALUATION

To test the hypothesis upon which this demonstration is based, HUD will do a process evaluation of the local operator's practices, problems, and achievements and then compare this data with that from a sample of formula-funded YCCIP projects. The objectives of this evaluation will be to determine: (a) The impact on the communities of the projects conducted; (b) the effect of these projects on the participants; (c) the overall effectiveness of the two types of sponsors.

A number of factors and performance variables will be utilized to make these determinations:

#### A. COMMUNITY IMPACT

1. The amount of resources brought into the neighborhoods. The actual amounts will be compared with other youth employment amounts coming into the same neighborhoods to assess whether the HUD demonstration provides for a concentration of resources which will have a demonstrable community impact.

2. Work activities. The kinds of work performed under the HUD demonstration will be compared with work sites developed under other youth employment projects to assess whether the CDC's and neighborhood organizations make improvements which are of more use; are longer-lasting; and whether they can facilitate productivity greater than that of formula-funded projects.

3. Value of community improvements. The actual value of community improvements will be measured; based, for example, on the amount of weatherization done, numbers of sidewalks repaired, number of new park facilities, amount of repair to HUD housing stock, and so forth. Where possible, the dollar values of improvements made by the CDC's and neighborhood organizations will be compared with the value of improvements made under other youth employment projects.

4. Accomplishment of community plans. The extent to which work done by CDC's and neighborhood organizations meets the objectives of existing community plans—such as housing assistance plans, community development block grant applications, existing city plans, and plans of community and civic organizations—will be examined.



## B. EFFECT OF PARTICIPANTS

1. Kinds of jobs. The actual jobs established for youths in the CDC's and neighborhood organizations will be compared with the jobs in other youth employment programs to assess whether jobs under the HUD demonstration are better from the standpoint of usefulness, satisfaction, and interest of the work; training and/or education value; and career potential.

2. Project drop-out rates. The drop-out rate from CDC and neighborhood organization projects will be compared with other youth employment projects.

3. Placement rate. The rate of positive terminations from CDC and neighborhood projects will be compared with other youth projects. Positive terminations include return to school, training, regular employment, and military. These measures will be refined where possible to include factors such as wage rates for job placements, quality of training, etc. Follow-up to determine intermediate status of placement outcomes will be performed to the extent evaluation funding will permit.

4. Characteristics of participants. Characteristics of CDC and neighborhood organization project participants will be compared with those of other youth employment projects to assess whether there are significant differences in the kinds of youths served; based on factors such as race, family income, education, previous employment, drug and alcohol abuse, criminal offenses (if available), and receipt of public assistance. It is assumed that all YEDPA projects will collect common information from participants at intake.

## C. OVERALL EFFECTIVENESS

1. Organization of the demonstration. The effectiveness of the CDC's and neighborhood organizations in developing projects under direct funding from HUD will be assessed by determining the time required for project planning and project start-up and the kinds of problems which occur in mounting the projects.

2. Coordination of resources. The ability of the CDC's and neighborhood organizations to generate funds from other federal grants, state and local funds, and private and community sources and their ability to coordinate these resources in an effective manner will be assessed.

3. Size of projects. The net numbers of new youth jobs created by the HUD demonstration, accounting separately for jobs created with YEDPA and other coordinated funding, will be measured. These numbers will be compared with all other youth jobs created in the same communities and with the youth unemployment rate.

4. Technical assistance. The usefulness of HUD technical assistance to

CDC's and neighborhood organizations will be assessed by making judgments about the relative program capacities of the organizations at the beginning and the end of the demonstration. Judgments will be made about the capacity of the organizations to improve their neighborhoods as a result of program participation. It is anticipated that several of the organizations to be designated for funding will require no technical assistance, based on their present track records; several will require some help; and several will be relatively higher risk organizations with less program experience than the others. Even in this latter category, however, the organizations will have demonstrated stability, representativeness, and staff experience.

5. Management efficiency. The CDC's and neighborhood organizations will be measured on their management efficiency in operating projects, based on such factors as cost-participants, ratio of administrative overhead costs to wage and program costs, rates of expenditures compared with budgeted amounts and adherence to hiring goals and other project timetables.

Information on the problems and progress of the demonstration will come from several sources:

(a) Monitoring reports on project operations prepared by HUD/NVACP regional and national office staff.

(b) The same reporting systems required of conventional project operators through the CETA process will be required of demonstration local operators. (These will provide periodic updates on participants' characteristics, enrollment levels, termination data, expenditures, etc.)

(c) A process evaluation done by an outside contractor which will identify and report on practices, problems, issues and progress of operations at the local level.

For each of these we will have comparative data from a sample of conventionally funded YCCIP projects (which will serve as a control group) as well as from the other YCCIP demonstration projects.

Hud plans to contract for conduct of the evaluation and for assistance in refining the evaluation design and methodology. The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection will have day-to-day authority for overseeing the program evaluation, and the Assistant Secretary for Policy Development and Research will review the evaluation design and methodology and will oversee the administration of the evaluation program and participate in all major reviews of progress. An evaluation coordinator will be retained on the HUD demonstration program staff with responsibility to monitor the evaluation contractor and to

maintain liaison with the office of the Assistant Secretary for P.D. & R. and the Department of Labor.

## ADMINISTRATION, MONITORING, AND TECHNICAL ASSISTANCE

A new temporary Division of Manpower Programs in the Office of Neighborhood Development will have overall responsibility for administering the demonstration. The functions to be performed include preliminary planning to establish the framework for the demonstration, selection of local operating organizations, review and negotiation of work programs, budgets and grant agreements between HUD and the local operating organizations, monitoring the performance of the projects and providing them with technical assistance, and administering the evaluation of the demonstration. The planning, selection and evaluation functions have been discussed previously. The conduct of project monitoring and provision of technical assistance required further elaboration.

Program plans and youth employment activities will be generated at the local level by the community development corporations and neighborhood organizations. During the developmental period (the month of November), HUD staff will assist the local organizations in preparing their program plans and in negotiating grant contracts which include specific performance standards. Assistance will be provided to ensure that data necessary for project evaluation and research will be collected and that the projects will be on a firm fiscal and management basis. In addition, HUD will help the operating organizations to secure grants from other federal agencies and other support necessary to the operation of their projects. Finally, staff will monitor the performance of each operating organization to ensure that program research and fiscal requirements are being met. Workshops will be conducted for neighborhood groups and community development corporations during the planning period and at appropriate points in project operations.

Full-time HUD support staff to perform these functions will include a Project Director with overall responsibility for management of the demonstration and primary accountability to the Department of Labor; a program staff with the technical assistance and monitoring responsibilities for the operating organizations; a fiscal and management staff necessary for administration and support of the demonstration; and a research and evaluation staff responsible for administering the evaluation contract, conducting the narrative evaluation, and providing liaison with HUD/P.D. & R. staff, the operating organizations and

Department of Labor evaluators. Funds have also been budgeted for consultants to assist in program development, evaluation and other aspects of program operations.

## TIMETABLE

September 21-September 30: Negotiation of a proposal with the Department of Labor to secure an interdepartmental agreement for transfer of administration and operating funds to HUD.

October 1-October 15: Preliminary meetings with groups which are potential operating organizations for local projects.

October 31: Designation of operating organizations by HUD. Key HUD project staff selected.

November 1-November 30: Development, review, approval of local project designs, budgets. HUD project staff completed. Evaluation design completed and contracted.

December 1-December 31: Local pro-

ject site development, staffing, recruiting.

January 1: Local projects begin hiring youth.

## BUDGET FOR THE DEMONSTRATION

The budget for the demonstration program is divided into two parts: an estimated budget for the local organizations to operate projects, and the overhead budget for HUD, including estimated costs for administration, program support and evaluation. The budget is based on an \$8 million allocation from the Department of Labor. At least 95 percent is budgeted for projects; 5 percent or less for overhead.

*Local Operating Organizations.* The following sample budget for a project of \$1 million indicates a breakdown of the costs of operation. Actual project budgets will range from approximately \$500,000 to \$1,500,000, depending on the size of the city, youth employment levels, and project capacity.

Function	Items	Percent	Amount
1. Participants	Wages, benefits, expenses.	65	\$650,000
2. Worksite supervisors	do	15	150,000
3. Job-related training	Materials, equipment, services.	3	30,000
4. Worksite support	do	5	50,000
5. Supportive services for participants	Personal services, etc.	2	20,000
6. Administration	Direct program costs	10	100,000
Total			1,000,000

This includes only the DOL portion of funds that projects would spend and assumes the minimum amount allowed for participants' benefits and the maximum for administration. Assumed are \$2.65/hr wages and 17 percent for fringe benefits and expenses. This would fund a minimum of 100 participant/years in 9 crews of eleven. Local projects will be encouraged to better these minimums by decreasing non-participant expenditures and utilizing other resources, such as CSA weatherization funds for supplies and the use of "public service employees" under other CETA titles as supervisors.

## HUD ADMINISTRATIVE BUDGET

(In thousands of dollars)

Position and level	Total
I. Direct costs	
A. Full time staff:	
Administration	
1. Director—GS-14	35
2. Administrative and fiscal officer—GS-13	29
3. Secretary—GS-7	14
Evaluation:	
4. Evaluation coordinator—GS-13	29
5. Research analyst—GS-12	25
6. Clerk-typist—GS-5	10

Position and level	Total
Program:	
7. Field coordinator—GS-13	29
8. Program specialist—GS-12	25
9. Clerk-typist—GS-5	10
Subtotal (includes salaries and fringe benefits)	206
B. Contract services, including consultants (evaluation, program support, etc.)	
C. Travel (for PT staff and consultants)	75
D. Space (including utilities, etc.)	15
E. Other costs (telephones, copying, equipment, furnishing, etc.)	15
Subtotal	326

## II Indirect costs

A. Part-time staff (including 10 pct of 12 OND field staff)	44
B. Contract services (including consultants)	10
C. Travel (for PT staff and consultants)	5
D. Space (for PT staff)	5
E. Other costs (general overhead items)	5
Subtotal	74
Total costs	400

It is anticipated that half of this total (or \$200,000) would be provided by HUD and that the remainder would come from off the top of the DOL in-

teragency transfer of funds (amounting to 2½% or half what DOL is allowing prime sponsors to administer conventional, formula-funded YCCIP projects).

The amounts budgeted allow for \$7.8 million of the combined budget of \$8.2 million to be spent in the field by the local projects.

This understates the actual extent of the commitment of HUD resources to this demonstration. We have not included dollar figures for the commitment of HUD housing inventory or FHA Insuring Fund contractual services for rehabilitation and routine maintenance which are currently the subject of negotiations between the HUD Assistant Secretaries for Housing, and for Neighborhoods. Nor does this include any resources from other federal agencies for which HUD is currently negotiating on behalf of potential local sponsors.

[FR Doc. 78-2577 Filed 1-30-78; 8:45 am]

[4310-84]

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## OUTER CONTINENTAL SHELF OFFSHORE EASTERN GULF OF MEXICO

## Availability of Draft Environmental Statement and Holding of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 65

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement relating to a proposed Outer Continental Shelf (OCS) oil and gas lease sale of 116 tracts consisting of 270,024 hectares (667,229 acres) of submerged lands on the OCS in the Eastern Gulf of Mexico.

Single copies of the draft environmental statement can be obtained from the Office of the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, La. 70130, and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental statement will also be available for review in the following public libraries: Harrison County Library, P.O. Box 4018, 21st Avenue and Beach, Gulfport, Miss.; Mobile Public Library, 701 Government Street, Mobile, Ala.; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Ala.; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Fla.; West Florida Regional Library, 200 West Gregory, Pensacola, Fla.; NW. Regional Library System, 25 West Government, Panama City, Fla.;



## NOTICES

Leon County Public Library, 127 North Monroe, Tallahassee, Fla.; Lee County Free Library, 3355 Fowler Street, Fort Myers, Fla.; Charlotte-Glades Regional Library System, 801 NW. Aaron Street, Port Charlotte, Fla.; and Tampa-Hillsborough County Public Library System, 800 North Ashley, Tampa, Fla.

In accordance with 43 CFR 3301.4, a public hearing will be held beginning at 9 a.m. on March 7 and 8, 1978, in Tampa, Fla., at the Sheraton Tampa Motor Hotel, 515 East Cass Street, Tampa, Fla., for the purpose of receiving comments and suggestions relating to the proposed lease sale. Should expressed public interest warrant it, the hearings may extend into a third day (March 9).

The hearing will provide the Secretary with additional information from both public and private groups to help evaluate fully the potential effects of the proposed offering of 116 tracts on the total environment, aquatic resources, esthetics, recreation, and other resources in the entire area during the exploration, development, and production phases of the OCS leasing program. The hearing will also provide the Secretary with the opportunity to receive additional comments and views of interested State and local agencies.

Interested individuals, representatives, or organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:15 p.m., March 2, 1978. Written comments from those unable to attend the hearing also should be addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management at the above address. The Department will accept written testimony and comments on the draft environmental statement until March 17, 1978. This should allow ample time for those unable to testify at the hearing to make their views known and for the submission of supplemental materials by those presenting oral testimony. Time limitations make it necessary to limit the length of oral presentations to 10 minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to the Manager, New Orleans Outer Continental Shelf Office, at the time of presentation of the oral statement. Written statements presented in person at the hearing will be considered for inclusion in the hearing record. To the extent that time is available after presentation of oral statements by those who have given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and analyzed, a

final environmental statement will be prepared.

GEORGE L. TURCOTT,  
Acting Director,  
Bureau of Land Management.  
(FR Doc. 78-2560 Filed 1-30-78; 8:45 am)

## [4310-10]

Office of the Secretary  
ANIMAL DAMAGE CONTROL POLICY STUDY  
ADVISORY COMMITTEE

## Charter

1. The official designation of the committee is the Animal Damage Control Policy Study Advisory Committee.

2. The purpose of the committee is to provide a diverse reservoir of expertise for the policy analysis which is focused on the problems of mammal predation on western livestock. Specifically, the committee will help validate the use and interpretation of data and help assure that options are properly enunciated, that the analysis is technically sound, and that the study is balanced and fair and conducted in an open manner. The committee will serve to temper the differing concerns and views of the livestock industry and the conservation and environmental communities.

3. In view of the goals and purposes of the committee, it is expected to last for 180 days.

4. The committee is established under the chairmanship of the Deputy Assistant Secretary for Fish and Wildlife and Parks.

5. Support services for the committee are provided by the U.S. Fish and Wildlife Service, Department of the Interior.

6. The duties of the committee are solely advisory and are as stated in paragraph 2. Decisionmaking remains the prerogative of the Director, U.S. Fish and Wildlife Service, the Assistant Secretary for Fish and Wildlife and Parks, and the Secretary.

7. The estimated operating cost of this committee is \$15,000, which includes the cost of ¼ man-year of staff support.

8. The committee will meet at least twice but not more than four times during the study.

9. The committee will terminate on July 31, 1978, unless renewed by the Secretary prior to this date.

10. The chairperson of the committee is the Deputy Assistant Secretary for Fish and Wildlife and Parks. The committee will consist of a balanced cross-section of representatives from the western livestock industry, environmental-conservation community, state government, academia, and the Federal Government. Members will serve for the entire tenure of the committee. Members will be appointed by the Secretary.

11. The committee is not composed of any formal subcommittees or subgroups.

12. The committee is established by the Secretary to carry out the provisions listed in paragraph 2. The authority is in accordance with the provisions of the Animal Damage Control Act of March 2, 1931 (7 U.S.C. 426-426b; 47 Stat. 1468). Control functions transferred from the Department of Agriculture to the Department of the Interior in 1939 by Reorganization Plan No. II.

Date signed: January 13, 1978.

Date charter filed: January 24, 1978.

CECIL D. ANDRUS,  
Secretary of the Interior.  
(FR Doc. 78-2566 Filed 1-30-78; 8:45 am)

## [4310-10]

ANIMAL DAMAGE CONTROL POLICY STUDY  
ADVISORY COMMITTEE

## Establishment

This notice is published in accordance with the provisions of 5 U.S.C. 552(a)(1), and section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1). Following consultation with the General Services Administration notice is hereby given that the Secretary of the Interior is establishing the Animal Damage Control Policy Study Advisory Committee concomitant with a comprehensive policy analysis of the problems of mammal predation on Western livestock. The committee will help validate the use and interpretation of data, help assure that options are properly enunciated, that the analysis is technically sound, fair and balanced, and that the study is conducted in an open manner. Such advice is consistent with enhancing the missions of the Department of the Interior. The certification of establishment is published below.

## CERTIFICATION

I hereby certify that the Animal Damage Control Policy Study Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Dated: January 13, 1978.

CECIL D. ANDRUS,  
Secretary of the Interior.  
(FR Doc. 78-2565 Filed 1-30-78; 8:45 am)

## [4310-70]

## National Park Service

## NATIONAL REGISTER OF HISTORIC PLACES

## Notification of Pending Nominations

Nominations for the following properties being considered for listing in

the National Register were received by the National Park Service before January 23, 1978. Pursuant to §60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by February 10, 1978.

WILLIAM J. MURTAGH,  
Keeper of the National Register.

## ALABAMA

## Lee County

Auburn, Old Main and Church Streets Historic District, Gay and College Sts., Drake, Bragg, and Mitcham Aves.

## DISTRICT OF COLUMBIA

## Washington

Civil War Fort Sites (boundary increase to include Fort Foote in Prince Georges County, MD, and Fort Marcy in Fairfax County, VA).

## KENTUCKY

## Fayette County

Lexington, South Hill Historic District, roughly bounded by Broadway, High, Limestone, and Pine Sts.

## Franklin County

Frankfort vicinity, Gilmer-Holt House, 5 mi. (8 km.) N of Frankfort on Holt Lane.

## Gallatin County

Warsaw, Montz, Dr. Lucy Dupuy, House, 200 W. High St.

## Harlan County

Bledsoe vicinity, Pine Mountain Settlement School, E of Bledsoe on KY 510.

## Jefferson County

Louisville, Limerick Historic District, between Breckinridge and Oak, 5th and 7th Sts.

Louisville, Portland Historic District, roughly bounded by 33rd, N. Western, 34th, Pflanz, 35th, Bank, 37th, and Missouri Alley.

## McCracken County

Paducah, Paducah Market House District, 2nd St. between Broadway and Kentucky Ave.

## Mercer County

Harrodsburg vicinity, Greek Revival Houses of Mercer County (Walnut Hall Lynnwood, Glenworth), N and E of Harrodsburg off U.S. 127.

## Scott County

Georgetown, Georgetown East Main Street Residential District, irregular pattern along Main St. between Warrendale Ave. and Mulberry St.

## NOTICES

## Whitley County

Corbin, Louisville and Nashville Railroad Depot, Lynn Ave.

## MAINE

## Bristol County

Swansea vicinity, Luther Store, W of Swansea at 160 Old Warren Rd.

## Middlesex County

Cambridge, Carpenter Center for the Visual Arts, 19 Prescott St.

## Plymouth County

Brockton, Dean, Dr. Edgar Everett, House, 81 Green St.

## MARYLAND

## Prince Georges County

Civil War Fort Sites. Reference M See Washington, DC.

## NEW HAMPSHIRE

## Sullivan County

Claremont, Historic Resources of Downtown Claremont and Lower Village: Partial Inventory, irregular pattern along Main and Broad Sts.

## NEW JERSEY

## Burlington County

Pemberton, North Pemberton Railroad Station, Hanover St.  
Willingboro vicinity, Coopertown Meetinghouse, NW of Willingboro on Cooper St.

## Cumberland County

Bridgeton, Giles, Gen. James, House, 143 W. Broad St. HABS.

## Essex County

Newark, Wickliffe Presbyterian Church, 111 13th Ave.  
Nutley, Kingsland Manor, 3 Kingsland St.

## Monmouth County

Holmdel vicinity, Holmes-Hendrickson House, N of Holmdel on Longstreet Rd.  
Long Branch, Elberon Railroad Station, Lincoln Ave.

## Morris County

Dover vicinity, Tuttle, David, Cooperage, S of Dover at 83 Gristmill Rd.  
Whippany, Our Lady of Mercy Chapel, 100 Whippany Rd.

## Salem County

Salem vicinity, Finn's Point Rear Range Light, NW of Salem at jct. of Fort Mott and Lighthouse Rds.  
Salem vicinity, Holme, Benjamin, House, W of Salem on Fort Elfsborg-Hancock Bridge Rd. HABS.

## NEW YORK

## Bronx County

Bronx, Valentine-Varian House, 3266 Bainbridge Ave.

## Rensselaer County

Hoosick vicinity, Tibbitts House, S of Hoosick at jct. of NY 7 and NY 22.

## Washington County

Buskirk vicinity, Covered Bridges of Washington County, N of Buskirk off NY 22 near VT boundary.

## RHODE ISLAND

## Providence County

Cranston, Knightsville Meetinghouse, 67 Phenix Ave.  
Providence, Lynch, Matthew, House, 120 Robinson St.

## Washington County

Carolina vicinity, Hozzie, John, House, 0.75 mi. (1.2 km) N of Carolina off RI 112.  
Carolina vicinity, Jeffrey, Joseph, House, S of Carolina on Town House Rd.

## SOUTH CAROLINA

## Charleston County

Charleston, Charleston Historic District (boundary increase).

## TEXAS

## Tarrant County

Fort Worth, Anderson, Neil P., Building, 411 W. 7th St.

## VIRGINIA

## Fairfax County

Civil War Fort Sites. Reference M See Washington, DC.

## WASHINGTON

## King County

Seattle, Seattle Electric Company Georgetown Steam Plant, off WA 99 at King County Airport.

(FR Doc. 78-2405 Filed 1-30-78; 8:45 am)

## [7020-02]

INTERNATIONAL TRADE  
COMMISSION  
[AA1921-179]

## CARBON STEEL PLATE FROM JAPAN

## Investigation and Hearing

Having received advice from the Department of the Treasury on January 18, 1978, that carbon steel plate from Japan is being, or is likely to be, sold at less than fair value, the United States International Trade Commission on January 23, 1978, instituted investigation No. AA1921-179 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in Seattle, Wash., on Tuesday, March 7, 1978, at a time and place to be announced later. All persons shall have the right to appear by counsel or in person, to present evidence and to be



## NOTICES

heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, March 2, 1978.

By order of the Commission.

Issued: January 25, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2536 Filed 1-30-78; 8:45 am]

## [7020-02]

[332-87]

**CONDITIONS OF COMPETITION IN WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS**

Change of Date and Time and Place of San Francisco Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, March 14, 1978, will now be held beginning at 9:30 a.m., P.s.t., Tuesday, April 11, 1978, in room 2021, the Federal Building and Courthouse, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Requests for appearances at the hearing should be received, in writing, by the Secretary of the Commission in his office in the United States International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, April 6, 1978.

Notice of the time and place of the Portland, Oreg., hearing was published in the FEDERAL REGISTER of January 16, 1978 (43 F.R. 2244), and notice of the investigation and public hearings was published in the FEDERAL REGISTER of June 15, 1977 (42 F.R. 30555).

By order of the Commission.

Issued: January 25, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2535 Filed 1-30-78; 8:45 am]

## [7020-02]

[22-41]

**CANE AND BEET SUGARS, SIRUPS, AND MOLASSES**

Enlargement of Scope of Investigation and Postponement of Hearing

*Enlargement of scope of investigation.* At the request of the President (reproduced herein), the U.S. International Trade Commission, on January 26, 1978, enlarged the scope of its investigation under subsection (a) of section 22, of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to determine whether—

in addition to sugars, sirups, and molasses provided for in Items 155.20 and 155.30 of the Tariff Schedules of the United States (TSUS),

sugars, sirups, and molasses, provided for in Items 155.35 and 155.75 of the TSUS, and articles provided for in Items 156.25, 156.45, 157.10, and 182.98 of the TSUS if containing sugars, sirups, and molasses of the types described in Items 155.20, 155.30, 155.35, and 155.75 of the TSUS,

are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane or sugar beets.

The text of the President's letter of January 20, 1978, to the Commission follows:

Pursuant to Section 22 of the Agricultural Adjustment Act, as amended, I have been advised by the Secretary of Agriculture that there is reason to believe that the sugars, sirups, and molasses provided for in Items 155.35 and 155.75 of the Tariff Schedules of the United States (TSUS) and articles provided for in Items 156.25, 156.45, and 157.10 and 182.98 of the TSUS if containing sugars, sirups, and molasses of the types described in Items 155.20, 155.30, 155.35, and 155.75 of the TSUS are being or are practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets or to reduce substantially the amount of any product being processed in the United States from domestic sugar.

I agree with him.

The United States International Trade Commission is directed to expand the investigation requested in my letter of November 11, 1977, under Section 22 of the Agricultural Adjustment Act, as amended, to determine whether the above described articles are being, or are practically certain to be, imported under such conditions and quantities as to render or tend to render ineffective or materially interfere with the price support operations being conducted by the Department of Agriculture for sugar cane and sugar beets, or to reduce substantially the amount of any product being processed in the United States from such domestic sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date.

Because of the urgency of this matter, it would be very much appreciated if you could report to me by March 15, 1978.

*Postponement of hearing.* The public hearing in connection with this investigation originally scheduled for February 2, 1978, in Washington, D.C., has been postponed to allow time for preparation of testimony with regard to these additional articles. The public hearing will begin instead at 9:30 a.m., e.s.t., Monday, February 27, 1978, in

the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436.

Requests to appear at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington, D.C., not later than noon, Wednesday, February 22, 1978.

Notice of the investigation and hearings with respect to sugars, sirups, and molasses provided for in Items 155.20 and 155.30 of the TSUS was published in the FEDERAL REGISTER of November 30, 1977 (42 FR 60961), and notice of the times and places of the hearings was published in the FEDERAL REGISTER of December 28, 1977 (42 FR 64744).

By order of the Commission.

Issued: January 26, 1978.

KENNETH R. MASON,  
Secretary.

[FR Doc. 78-2693 Filed 1-30-78; 8:45 am]

## [7020-02]

[Investigation No. 337-TA-39]

**CERTAIN LUGGAGE PRODUCTS**

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: January 25, 1978.

MYRON R. RENICK,  
Chief Administrative Law Judge.

[FR Doc. 78-2692 Filed 1-30-78; 8:45 am]

## [7020-02]

[Investigation No. 337-TA-37]

**CERTAIN SKATEBOARDS AND PLATFORMS THEREFOR**

Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued January 25, 1978.

MYRON R. RENICK,  
Chief Administrative Law Judge.

[FR Doc. 78-2691 Filed 1-30-78; 8:45 am]

## NOTICES

## [4410-01]

**DEPARTMENT OF JUSTICE**

Attorney General

**UNITED STATES v. BEAUNIT II**

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. Beaunit II* has been lodged with the United States District Court for the Eastern District of Tennessee. The decree requires the defendant to comply with the terms of its permit by January 1, 1979.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Beaunit II, et al.*, D.J. Ref. 90-5-1-1-630.

The consent decree may be examined at the office of the United States Attorney, Eastern District of Tennessee, 201 U.S. Post Office and Courthouse, 509 Main Street, Knoxville, Tenn. 37902, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 78-2593 Filed 1-30-78; 8:45 am]

## [4410-01]

**UNITED STATES v. HEYWOOD WAKEFIELD CO.**

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit and To Impose Penalties for Violations of That Permit

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. Heywood Wakefield Co.* has been lodged with the United States District Court for the Eastern District of Tennessee. The decree requires the defendant to comply with the terms of its permit by April 17, 1978 and provides that the

defendant will pay a penalty of \$25,000 for its permit violations.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Heywood Wakefield, D.J. Ref. 90-5-1-1-626*.

The consent decree may be examined at the office of the United States Attorney, Eastern District of Tennessee, 201 U.S. Post Office and Courthouse, 509 Main Street, Knoxville, Tenn. 37902, at the Region IV office of the Environmental Protection Agency, 345 Courtland Street, Atlanta, Ga. 30308, and the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 78-2594 Filed 1-30-78; 8:45 am]

## [4410-01]

**UNITED STATES v. HOMESTAKE MINING CO.**

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on January 17, 1978 a proposed consent decree in *United States v. Homestake Mining Company* was lodged with the United States District Court for the District of South Dakota. The proposed decree requires the Homestake Mining Company to treat the effluent from its gold mining and milling operations. Specifically, the Company must construct and operate a tailings pond (best practicable treatment) and such additional treatment facilities as needed to remove cyanide, heavy metals and suspended solids in order to meet State Water Quality Standards. The Decree establishes penalties for failure to comply with the above requirements by certain dates.

The proposed consent decree may be examined at the office of the United States Attorney, 231 Federal Building and U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, S. Dak. 57102; at the Region VIII Office of the Environmental Protection Agency, Enforcement Division, 1860 Lincoln Street,

Denver, Colo. 80295; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive for a period of thirty (30) days from the date of this notice written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Homestake Mining Company, D.J. Ref. 90-5-1-1-874*.

JAMES W. MOORMAN,  
Assistant Attorney General,  
Land and Natural Resources  
Division.

[FR Doc. 78-2595 Filed 1-30-78; 8:45 am]

## [4410-01]

**Law Enforcement Assistance Administration  
NATIONAL INSTITUTE OF LAW ENFORCEMENT  
AND CRIMINAL JUSTICE**

Announcement for the Unsolicited Research Program

1. *Purpose:* This Announcement describes the objectives of the FY 1978 Unsolicited Research Program (URP) sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ). It also provides guidance on the application requirements and selection process for the program.

2. *Scope:* The provisions of this Announcement apply to all unsolicited concept papers received by NILECJ postmarked between January 1, 1978 and midnight March 31, 1978.

3. *Background:* The basic mission of NILECJ is threefold:

- To design and sponsor research on crime prevention and control and criminal justice operations to expand knowledge and improve capabilities;
- To assess the results of Institute-sponsored research and to evaluate criminal justice projects at the national, state and local level; and,
- To identify, validate and disseminate research findings of criminal justice projects and practices.

Most research funded by NILECJ is the result of solicited grant applications or responses to Requests for Proposals. The topics are selected after a comprehensive and lengthy planning process involving NILECJ staff, other LEAA program specialists and criminal justice researchers and practitioners outside of LEAA. However, NILECJ is also interested in funding



other research and development projects which it has not initiated, but which will complement and provide additional dimensions to its planned program and involve the research community more directly.

4. *Program goals:* The specific goal of this program is to fund a limited number of unsolicited proposals that address significant research issues pertaining to the adult criminal justice system. NILECJ is particularly interested in funding proposals of the following types:

(a) Small individual research projects for which there are few alternative funding mechanisms;

(b) Research projects with innovative approaches to criminal justice problems;

(c) Basic or theoretical research on interdisciplinary subject areas that may be relevant to criminal justice;

(d) Exploratory studies in criminal justice areas in which there has been little previous work;

(e) Research not currently identified as priority areas in NILECJ's Program Plan; and,

(f) Research within priority areas of NILECJ's Program Plan but which take alternative, innovative approaches to the priority areas.

5. *Eligibility:* (a) Eligible applicants include: universities, criminal justice agencies, and other not-for-profit and non-profit research organizations.

(b) Projects must address law enforcement or criminal justice research issues which have national implications.

6. *Funding cycles:* During FY 1978, there will be two (2) complete Funding Cycles. All concept papers postmarked between March 30, 1977 and December 31, 1977 have been considered for funding during Cycle No. 1. All papers postmarked after midnight December 31, 1977 will be considered for funding during Cycle No. 2.

7. *Level of funding:* Approximately \$750,000 has been allocated for the URP for FY 1978. Therefore, approximately \$375,000 will be available for this funding cycle.

The normal range of funding for each grant will be from \$10,000 to \$150,000 for research of up to two years duration.

8. *Application requirements and procedures:* (a) Applicants should submit concept papers of approximately 10 double-spaced type written pages in length which include points 1-4 below:

(1) A clear, concise statement of the problem area and hypotheses or questions of interest for exploration.

(2) A brief statement of the design and methodology for conducting the study (i.e., What data will be collected? What measures will be used? What data sources will be employed? At what points in time will the data be collected? By whom?).

(3) A brief assessment of the time frame required to complete the study.

(4) A description of what the final and interim products will consist of and the audience(s) they will address, (i.e., researchers? practitioners? decision-makers?).

(b) In addition, applicants must submit the following information:

(1) A general estimate of the costs for conducting the study. Cost considerations should include the percentage of time the Principal Investigator(s) will devote to the project.

(2) A description of the required qualifications for project personnel. Resumes for the Principal Investigator(s) must be included.

(3) A description of the organization and management plan to complete the project.

(c) Eight (8) copies of the concept paper must be submitted and should be postmarked no later than midnight March 31, 1978.

9. *Selection process:* (a) Applicants will receive a letter acknowledging receipt of the concept paper.

(b) *Preliminary Internal Review:* The Unsolicited Research Program Committee will conduct a preliminary review in April 1978 to screen out those concept papers which are not appropriate for Institute funding. Below is a list of criteria that will be used in making this determination:

(1) The major goal of the program is to fund research pertaining to the adult criminal justice system. Thus the following types of projects will not be considered:

(i) The development of bibliographies; (ii) refinement of complete research for publication purposes; (iii) workshops, conferences; (iv) training programs or the development of training manuals; (v) research or programs geared exclusively to juvenile justice; and (vi) support of action programs rather than research or evaluation.

(2) The proposed project must be primarily a research effort.

(3) The proposed project must not clearly duplicate current NILECJ research.

(4) Emphasis will be placed on research of the type described in section No. 4.

(c) *Review Panels:* (1) In April 1978, panels shall be convened for 1-2 days in Washington, D.C., to review the papers which have passed the initial screening.

(2) *Criteria for Review of Concept Papers:* Concept papers will be reviewed according to the following criteria:

(i) *Significance of the Research Problem:* The questions to be addressed or hypotheses to be explored and their relationship to significant issues currently confronting the criminal justice community.

(ii) *Conceptualization of the Problem:* Demonstration of the applicant's

firm grasp of the issues underlying the problem area including ongoing and past relevant research.

(iii) *Soundness of Research Design and Methodology:* Provision of a clear, complete and precise description of the design and methodology for the proposed study.

(iv) *Potential Impact or Utility for Further Research or Program Development:* The usefulness of the expected final products to administrators, practitioners and researchers in the criminal justice field.

(v) *Qualifications of the Applicant:* The competence of the research team, its experience in conducting research in the criminal justice area, the appropriateness of the proposed combination of skills and the quality and specificity of the organization and management plan to accomplish the proposed project.

(vi) *Costs:* The reasonableness of cost estimates and personnel allocations.

Based upon the reviews of panel members, recommendations will be made through the Director of the Office of Research Programs to the Director of the National Institute as to which paper(s), if any, should be expanded into a full proposal(s). However, the decision to request a formal proposal should not be interpreted as a commitment by the Institute to sponsor the project. Final decisions on grant awards are made by the Administrator of LEAA. Applicants will be notified by June 15, 1978 as to whether or not a full proposal will be requested.

Following submission to the appropriate Division or Office within NILECJ formal proposals will undergo a review process similar to that for concept papers. All grant awards will be made by September 30, 1978.

Applicants must submit eight (8) copies of concept papers to:

Unsolicited Research Program, Office of Research Programs, National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, D.C. 20531

Address all inquiries to:

Phyllis Jo Baunach, Ph. D. Chairperson, Unsolicited Research Program, Room 860, 633 Indiana Avenue NW., Washington, D.C. 20531, 202-376-3911.

BLAIR EWING,  
Acting Director, National Institute of Law Enforcement and Criminal Justice.

(FR Doc. 78-2592 Filed 1-30-78; 8:45 am)

[4510-30]

## DEPARTMENT OF LABOR

## Employment and Training Administration

## ECONOMIC STIMULUS PACKAGE ALLOCATIONS UNDER TITLE VI OF THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT ("CETA")

## Reallocation for 1977 and 1978

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice lists reallocation of funds under title VI of the Comprehensive Employment and Training Act. The purpose of this notice is to advise all interested parties of this reallocation of funds.

FOR FURTHER INFORMATION CONTACT:

Roberts T. Jones, Director, Office of Community Employment Development Programs, Room 5402, 601 D. Street NW., Washington, D.C. 20213, telephone 202-376-6386.

SUPPLEMENTARY INFORMATION: The Secretary of Labor is authorized to reallocate funds in accordance with the provisions of section 606 of Pub. L. 93-567 and pursuant to the regulations at 29 CFR 99.73.

Section 606 of the CETA provides that:

The Secretary is authorized to make such reallocation as he deems appropriate of any amount of any allocation under this title to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be allocated only if the Secretary has provided thirty days' advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during which period of time, the Secretary shall notify the Governor and the affected prime sponsors of any decisions to reallocate funds, and shall publish any such decisions in the *FEDERAL REGISTER*. Any such funds shall be reallocated to any areas within the same State.

Prime sponsors under title VI had been previously notified that failure to achieve at least 70 percent of the minimum planned net increase by September 30, 1977, would result in a determination by the Secretary that they were not able to use the funds within a reasonable period of time. They were notified that this determination would result in the reallocation of title VI funds. DuPage County, Ill., was performing below this level on September 30, 1977, and was notified by letter in mid October that if performance did not improve funds would be reallocated. It has been determined by the Secretary that DuPage County was not

able to use all of its funds within a reasonable period of time. Therefore, the Secretary is reallocating funds in accordance with the authority of section 606.

The following list contains this reallocation:

REGION V—ILLINOIS	
From: DuPage County	Amount \$1,000,000
To:	
Madison County	166,824
Rock Island	51,230
LaSalle	36,754
Shawnee Consortium	49,216
BOS Illinois	695,976

Signed in Washington, D.C. this 24th of January 1978.

ERNEST G. GREEN,  
Assistant Secretary for  
Employment and Training.  
(FR Doc. 78-2648 Filed 1-30-78; 8:45 am)

[4510-30]

## FARMWORKER ECONOMIC STIMULUS PROGRAMS

## Allocation of Funds

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the plans of the Employment and Training Administration for allocating funds for the farmworker economic stimulus program and the availability of "Solicitation for Grant Applications."

FOR FURTHER INFORMATION CONTACT:

Mf. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Pursuant to the Economic Stimulus Appropriation Act of 1977, the Office of Farmworker Programs of the Department of Labor announces two initiatives under the farmworker economic stimulus program (ESP) to support efforts to improve the unemployment and underemployment problems facing seasonal farmworkers. The two categories of activity to be funded at this time are: (1) Residential skill training, and (2) employment and training coordinated with rural economic development activities. All potential applicants are advised that this is the second solicitation for these initiatives under the farmworker ESP.

The ESP initiatives may be operated by private nonprofit organizations, prime sponsors under Title I of CETA, and other public agencies; technical and vocational institutes, and other training centers, including Job Corps, may operate residential skill training.

However, current recipients of farmworker ESP funds resultant from the first solicitation of July 20, 1977, for these two initiatives will not be considered for funding pursuant to this announcement.

The above eligible applicants are herein invited to submit innovative proposals in response to a competitive solicitation for grant award (SGA) announcement made by the Office of Farmworker Programs (OFF). The SGA will contain detailed information about each of the new initiatives and all information and materials necessary for submission of proposals.

SGAs will be available on or about February 6, 1978, for the two program categories. The SGA guidelines for both initiatives will be sent to eligible applicants on request. Telephone requests will not be honored. Requestors should furnish two self-addressed gummed labels with the written request for SGA.

Proposals in response to the SGA must be received by the Department at the above address by March 6, 1978. Review panels will be convened in March with grant contract signing beginning early April 1978. In order for proposals to be accepted by the Department, they must be either received at the above address by 4:45 p.m. e.s.t. or registered with the postal service on March 6, 1978. The Department will be absolutely precluded from accepting proposals not meeting this announced deadline. Offerors are encouraged to register the proposals with the Postal Service to avoid any problems which may occur with hand delivery.

Proposals will be evaluated on the basis of objective criteria by a panel composed of Federal representatives.

Signed in Washington, D.C., this 23d day of January 1978.

LAMOND GODWIN,  
Administrator,  
Office of National Programs.  
(FR Doc. 78-2738 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2555]

BARO CORP.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2555: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 3, 1977, in response to a worker petition received on October 28, 1977, which was filed on behalf of workers and former workers producing



shoe uppers at the Baro Corp., Haverhill, Mass.

The notice of investigation was published in the *FEDERAL REGISTER* on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Baro Corp., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Baro Corp. was established in Haverhill, Mass., in September of 1973. The firm produces shoe uppers on a contract basis for shoe manufacturers.

The Department's investigation revealed that the ratio of imports to domestic production for footwear uppers was less than one percent from 1972 through the first three-quarters of 1977. Imports of shoes which incorporate uppers of the same origin are not like or directly competitive with shoe uppers produced by the Baro Corp., Haverhill, Mass.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with shoe uppers produced at the Baro Corp., Haverhill, Mass., did not contribute importantly to the decline in sales or production or to the total or partial separation of workers at that firm as required in Section 222 of the Trade Act of 1974.

#### NOTICES

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2650 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2081]

#### BAMBERGER REINTHAL CO.

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2081: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 19, 1977, in response to a worker petition received on May 19, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing knit men's and women's sweaters and headwear at the Cleveland, Ohio, plant of the Bamberger Reinthal Co.

The notice of investigation was published in the *FEDERAL REGISTER* on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Bamberger Reinthal Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment group of eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at the Cleveland, Ohio, plant of Bamberger Reinthal Co. increased 19.5 percent in 1976 compared to 1975. Employment decreased 15.3 percent in the fourth quarter of 1976 compared to the same quarter of 1975. The plant ceased operations in March 1977 and all workers were laid off. Workers were not separately identifiable by products lines.

#### SALES OF PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of men's and women's knit acrylic sweaters, in terms of quantity increased 44.6 percent in 1976 compared to 1975 and decreased 11.1 percent in the fourth quarter of 1976 compared to the same period in 1975. The plant was permanently closed in March 1977.

Sales of men's and women's knit headwear decreased 4.5 percent in 1976 compared to 1975. Sales decreased 7.7 percent and 17.6 percent, respectively, in the third and fourth quarter of 1976 compared to the same quarters of 1975. All production ceased in March 1977 when the plant was permanently closed.

#### INCREASED IMPORTS

Imports of men's and boys' sweaters, knit cardigans, and pullovers increased from 19.5 million units in 1972 to 26.2 million units in 1973 and decreased to 23.3 and 20.4 million units in 1974 and 1975, respectively, before increasing to 26.5 million units in 1976. Imports increased to 2.8 million units in the first quarter of 1977 compared to 2.7 million in the same quarter of 1976. The ratios of imports to domestic production increased from 35.8 percent in 1972 to 41.4 percent in 1973, decreased 36.5 percent in 1974 and increased slightly to 36.6 percent in 1975 before increasing to 67.8 percent in 1976.

Imports of women's, misses' and children's sweaters decreased 8,087,000 dozen in 1972 to 7,990,000 dozen in 1973, increased to 8,359,000 dozen in 1974 and increased to 8,965,000 dozen in 1975. Imports increased again by 7.2 percent in 1976. The ratios of imports to domestic production decreased from 103.4 percent in 1972 to 94.2 percent in 1973. This ratio increased each year from 104.9 percent in 1974 to 122.3 percent in 1976.

Imports of men's, boys', women's, misses', and juniors' knit headwear decreased from 436,000 dozen in 1972 to 300,000 dozen in 1973 before increasing to 325,000 dozen in 1974. Imports remained unchanged in 1975 compared to 1974 and then increased to 586,000 dozen in 1976. The ratios of imports to domestic production decreased each year from 38.6 percent in 1972 to 18.4 percent in 1974 and then increased each year to 29.4 percent in 1976.

#### CONTRIBUTED IMPORTANTLY

One of the customers surveyed indicated he had reduced purchases of sweaters for Bamberger Reinthal while increasing purchases from foreign sources. Customers indicated that there was an import influence affecting marketing of sweaters in this country because lower labor cost countries could readily penetrate domestic markets with lower cost garments.

The import penetration between 1972 and 1976 for men's and boys' sweaters was in a range from 35.8 percent to 67.8 percent. The ratios for women's, misses', and children's sweaters was in the range from 94.2 percent to 122.3 percent. The import penetration ratio for men's, boys', women's, misses', and juniors' knit headwear was in a range from 16.4 percent to 38.6 percent.

#### CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with men's and women's knit sweaters produced at the Cleveland, Ohio, plant of the Bamberger Reinthal Co. contributed importantly to the decline in sales and production and to the total or partial separations of the workers at the plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Cleveland, Ohio, plant of Bamberger Reinthal Co. who became totally or partially separated from employment on or after August 21, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2651 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2524]

#### BEISINGER INDUSTRIES CORP.

##### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2524: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 31, 1977, in response to a worker petition received on October 27, 1977, which was filed on behalf of workers and former workers producing rubber heels and soles and a hard rubber molding process at Beisinger Industries Corp., Taunton, Mass.

#### NOTICES

The notice of investigation was published in the *FEDERAL REGISTER* on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Beisinger Industries Corp., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to any of the other criteria have been met, criterion (4) has not been met.

Beisinger Industries Corp., Taunton, Mass. was incorporated in Delaware, August 22, 1960. Workers produce rubber soling products and plastic and rubber molded shoe components.

Evidence developed in the department's investigation reveals that there are no separately identifiable imports of rubber soling products and plastic and rubber molded shoe components. The products are not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate shoe components of the same origin are not like or directly competitive with shoe products produced by workers at Beisinger Industries Corp. within the meaning of section 222(3) of the Trade Act of 1974.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with those produced by workers at Beisinger Industries Corp., Taunton, Mass., did not

contribute importantly to the total or partial separation of the workers at that plant as required for certification in section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 23rd day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2652 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2601]

#### BINY CLOTHING, INC.

##### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2601: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on October 27, 1977, which was filed by three workers on behalf of workers and former workers engaged in the retailing of men's clothing at BINY Clothing, Inc., Hicksville, N.Y.

The notice of investigation was published in the *FEDERAL REGISTER* on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of BINY Clothing, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.



## NOTICES

BINY Clothing, Inc. Hicksville, N.Y. operates a chain of clothing stores and is engaged in the retailing of men's clothing. BINY Clothing, Inc. is not involved in the production of any product(s) and all of its employees are engaged in the retailing of men's clothing.

BINY Clothing, Inc. does not produce an article within the meaning of section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program; see Notice of Determination in Pan American World Airways, Inc. (TA-W-153, 40 FR 54639). BINY Clothing, Inc. performs a service, the retailing of men's clothing.

## CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by BINY Clothing, Inc., Hicksville, N.Y., are not "articles" within the meaning of section 222(3) of the Trade Act of 1974. Therefore, the petition for trade adjustment assistance is denied.

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management  
Administration, and Planning.  
(FR Doc. 78-2653 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2139]

## CARTER RUBBER CO., DARLING STREET PLANT

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2139: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 13, 1977, in response to a worker petition received on June 9, 1977, which was filed by three workers on behalf of workers and former workers producing men's house slippers, men's casual shoes, and children's sneakers at the Darling Street plant of Carter Rubber Co. in Wilkes-Barre, Pa.

The notice of investigation was published in the FEDERAL REGISTER on June 24, 1977 (42 FR 32328). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Carter Rubber Co., its customers, the U.S. Department of Commerce, the Boot and Shoe Worker's Union, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that sales or production, or both, of the firm or subdivision have decreased absolutely.

The Department's investigation revealed that workers at the Darling Street plant of Carter Rubber are used interchangeably in the production of men's casual shoes, men's slippers and children's sneakers, and therefore cannot be identified by product line. The firm produces only on order; therefore, sales and production are equivalent. Total production at the Darling Street plant increased 20.9 percent in quantity from 1975 to 1976 and increased 6.2 percent in the first seven months of 1977 compared to the same period in 1976.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that neither sales nor production at the Darling Street plant of Carter Rubber Co., in Wilkes-Barre, Pa., have decreased absolutely as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2654 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-1893]

## CATALINA DRESS INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1893: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed on behalf of workers and former workers of the Ashley, Pa. plant of Catalina Dress, Inc., by the International Ladies Garment Workers' Union.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained

principally from officials of Catalina Dress, Inc., the manufacturer for which Catalina works, that manufacturer's customers, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Catalina Dress, Inc., is a contractor that makes women's and misses' dresses for one manufacturer. This manufacturer does not import dresses or use foreign contractors. This manufacturer's sales increased in 1976 compared to 1975. A survey of this manufacturer's customers revealed that the customers who reduced purchases from this manufacturer and purchased imports in the first three quarters of 1977 purchased less than 2 percent of their dresses from imported sources.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' dresses produced at the Ashley, Pa., plant of Catalina Dress, Inc. did not contribute importantly to the decline in sales or production and to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 23rd day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

(FR Doc. 78-2655 Filed 1-30-78; 8:45 am)

## NOTICES

[4510-28]

[TA-W-1894]

## CHARISE FASHIONS

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1894: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 24, 1977, in response to a worker petition received on March 24, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing dresses at Charise Fashions, Wilkes-Barre, Pa. During the investigation it was determined that pantsuits and jumpsuits were also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Charise Fashions, its manufacturers, The National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

Evidence developed during the Department's investigation revealed that Charise Fashions performs contract work on women's and misses' dresses, pantsuits, jumpsuits and gowns for several apparel manufacturers. Apparel manufacturers representing a substantial proportion of Charise Fashions' contract work in 1976 were surveyed by the Department. The survey revealed that sales of these manufacturers had increased in 1976 compared to 1975. Contract work with other domestic firms by these manufacturers increased in 1976 compared to 1975.

The one manufacturer who purchased imports indicated that imports were less than 1 percent of total purchases. None of the manufacturers who were surveyed utilized foreign contractors.

The impact of imports in the domestic market for women's and misses'

dresses has been small and did not change appreciably from 1975 to 1976 or in the first half of 1977 compared to the first half of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2 percent in absolute terms. Imports fell by 12.4 percent in the first half of 1977 compared to the first half of 1976.

The ratio of imports to domestic production declined from 12.2 percent in 1974 to 11.6 percent in 1976. Imports decreased 5.6 percent in the first half of 1977 compared to the first half of 1976.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with women's and misses' dresses, gowns, pantsuits and jumpsuits produced at Charise Fashions, Wilkes-Barre, Pa., have not contributed importantly to the decline in sales or production of the firm and to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2656 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2581]

## C. V. RUBIN LEATHER, INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2581: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on November 3, 1977 in response to a worker petition received on October 28, 1977 which was filed on behalf of workers and former workers producing insoles for shoes at C. V. Rubin Leather, Inc., Brockton, Mass.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59583). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of C. V. Rubin Leather, Inc., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear In-

dustries Association, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

C. V. Rubin Leather, Inc. was incorporated in Massachusetts in 1963. The firm operates a single plant located in Brockton, Mass. Workers at C. V. Rubin Leather, Inc. cut insoles for shoes.

Evidence developed in the Department's investigation reveals that there are no separately identifiable imports of insoles. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate insoles of the same origin are not like or directly competitive with shoe insoles produced by workers at C. V. Rubin Leather, Inc., Brockton, Mass. within the meaning of Section 222 (3) of the Trade Act of 1974.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by workers at C. V. Rubin Leather, Inc., Brockton, Mass. have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required in Section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2657 Filed 1-30-78; 8:45 am)



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## NOTICES

[4510-28]

[TA-W-2513]

## DAISY FOOTWEAR, INC.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2513: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 27, 1977 in response to a worker petition received on October 25, 1977, which was filed on behalf of workers and former workers producing canvas footwear at Daisy Footwear, Inc., Patterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977, (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Daisy Footwear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

## SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Daisy declined 18 percent in 1976 from 1975 and 14 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Except for maintenance and security, employment ceased at Daisy when the plant closed in October 1977.

## SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, by Daisy declined 19 percent in 1975 from 1974, 4 percent in 1976 from 1975 and 22 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, by Daisy declined 23 percent in 1975 from 1974, 8 percent in 1976 from 1975 and 18 percent in the first 9 months of 1977 compared to the like period of 1976.

Sales and production ceased when Daisy closed in October 1977.

## INCREASED IMPORTS

Imports of rubber/canvas footwear increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and decreased from 1974 to 1975. Imports increased 35 percent from 1975 to 1976 and decreased 15 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 17.6 percent and 15.0 percent, respectively, in 1975 to 26.6 percent and 21.0 percent, respectively in 1976 and 29.2 percent and 22.6 percent, respectively, in the first 9 months of 1977.

## CONTRIBUTED IMPORTANTLY

Customers of Daisy Footwear, Inc., who were surveyed indicated that they had decreased purchases of canvas footwear from Daisy and increased purchases of imports.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with canvas footwear produced by Daisy Footwear, Inc., Patterson, N.J., contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Daisy Footwear, Inc., Patterson, N.J. who became totally or partially separated from employment on or after April 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of  
Management,  
Administration, and Planning.

(FR Doc. 78-2658 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-1902]

## DOROTHY FASHIONS, INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department

of Labor herein presents the results of TA-W-1902: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing dresses at Dorothy Fashions, Inc., Swoyerville, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dorothy Fashion, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

Evidence developed during the Department's investigation revealed that Dorothy Fashions performed 100 percent and 50 percent of its contract work in 1976 and 1977, respectively, for one manufacturer. This manufacturer is a large, diversified clothing firm that produces several seasonal lines with over a hundred styles. This manufacturer contracts out nearly all of its dressmaking operations to independent domestic firms such as Dorothy Fashions. Because of the wide range of styles and frequent seasonal lines, the volume of work given to any one contractor fluctuates in accordance with the specific mix of fashions required by the manufacturer at that time.

The impact of imports in the domestic market for women's and misses' dresses has been small and did not change appreciably from 1975 to 1976 or in the first half of 1977 compared to the first half of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2 percent in absolute terms. Imports fell by 12.4 percent in the first half of 1977 compared to the first half of 1976.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude

that imports of articles like or directly competitive with dresses produced by Dorothy Fashions, Swoyerville, Pa. have not contributed importantly to the decline in sales or production and to the total or partial separations of workers of that firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2659 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2515]

## DOVE PROCESSING COMPANY, INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2515: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 27, 1977, in response to a worker petition received on October 25, 1977, which was filed by three workers on behalf of workers and former workers engaged in the printing of fabrics at the Dove Processing Co., Inc., Hawthorne, N.J.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59132). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Dove Processing Co., Inc., its customers, the National Cotton Council, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or

threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation has revealed that without regard to any of the other criteria, criterion four was not met.

The Dove Processing Co. is a commission fabric printer. Manufacturers send unfinished material to Dove Processing. Dove Processing prints the fabric and returns the finished fabric to the customers. Printing is the specialized dyeing of restricted areas on fabrics.

Customers representing approximately fifty percent of sales in 1976 were surveyed by the Department concerning their purchases of finished fabric. None of these customers purchased imported finished fabric or contracted for finishing processes offshore.

Inasmuch as all types of finished fabric, flocked, dyed, and printed, are generally interchangeable and substitutable in their end uses, all types of finished fabric may be considered like or directly competitive with the fabric printed at the Dove Processing Co.

Aggregate imports of finished fabric (including dyed, printed, and flocked), in absolute terms, declined from 1972 to 1973, declined from 1973 to 1974, and increased from 1974 to 1975. Imports increased 20.2 percent from 1975 to 1976.

Imports of finished fabric declined in each quarter of 1976 when compared to the previous quarter. Imports declined 37.9 percent in the first six months of 1977 compared to the like period of 1976.

Since 1973 the ratio of imports to domestic production has not exceeded 2.0 percent.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric printed at the Dove Processing Co., Inc., Hawthorne, N.J., did not contribute importantly to the decline in sales or production and to the total or partial separations of workers at that firm as required in section 222 of the Trade Act of 1974. Therefore, the petition is denied.

Signed at Washington, D.C. this 18th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2660 Filed 1-30-78; 8:45 am)

## NOTICES

[TA-W-2238]

## EASTSIDE SPORTSWEAR, INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2238: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 2, 1977, in response to a worker petition received on August 1, 1977, which was filed on behalf of workers and former workers producing ladies' coats at Eastside Sportswear, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on August 19, 1977 (42 FR 41934). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from information and publications provided by Eastside Sportswear, Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion (4) has not been met.

Eastside Sportswear, Inc., Paterson, N.J., was a contractor engaged in the stitching of ladies' coats for clothing manufacturers. Eastside ceased production in March 1977.

A survey of Eastside's customers who accounted for approximately 90 percent of the contract work by Eastside revealed that dollar sales increased from 1975 to 1976 and in the first three quarters of 1977 when compared to the like period of 1976. Customers



tomers surveyed do not import finished ladies' coats and do not contract with foreign firms.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with ladies' coats produced at Eastside Sportswear, Inc., Paterson, N.J., did not contribute importantly to the decline in sales and to the total or partial separations of workers at that firm, as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2661 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2352]

E. G. JOHNSON CO.

#### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2352: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1977 in response to a worker petition received on September 2, 1977, which was filed on behalf of workers and former workers producing CB Radios at the Waseka, Minn. Plant of E. F. Johnson Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. F. Johnson Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or sub-

division are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that for CB Radios, all of the above criteria have been met. With respect to Land Mobile Radios, also produced at Waseka, criterion (2) has not been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Waseka plant increased 4 percent in 1975 from 1974 and 26 percent in 1976 from 1975. Average employment declined 11 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 30 percent in the first 9 months of 1977 compared to the first 9 months of 1976. Workers at the plant are not separately identifiable by product.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, of CB Radios by E. F. Johnson Co. increased 109 percent in 1975 from 1974 and 6 percent in 1976 from 1975. Sales declined in the fourth quarter of 1976 compared to the fourth quarter of 1975. Sales declined 67 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of CB Radios at the Waseka plant declined 39 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 63 percent in the first 9 months of 1977 compared to the same period of 1976.

Sales, in value, of Land Mobile Radios by E. F. Johnson Co. increased 10 percent in 1975 from 1974, 48 percent in 1976 from 1975 and 29 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of Land Mobile Radios at the Waseka plant decreased 15 percent in 1975 from 1974, increased 54 percent in 1976 from 1975 and increased 24 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

#### INCREASED IMPORTS

Imports of Mobile CB Transceivers increased in value, in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 348 percent from 1975 to 1976 and decreased 28 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption in-

creased from 94.6 percent and 48.6 percent, respectively, in 1975 to 394.8 percent and 79.8 percent, respectively in 1976, and to 500.8 percent and 83.4 percent, respectively, in the first 9 months of 1977.

Imports of CB Base Station Units increased in value, in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 98 percent from 1975 to 1976 and decreased 13 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 252.5 percent and 71.6 percent, respectively, in 1975 to 465.1 percent and 82.3 percent, respectively in 1976, and 474.7 percent and 82.6 percent, respectively, in the first 9 months of 1977.

#### CONTRIBUTED IMPORTANTLY

Customers of E. F. Johnson who were surveyed have decreased purchases of CB Radios from Johnson and increased purchases from foreign sources.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with CB Radios produced at the Waseka, Minn. plant of E. F. Johnson Co. contributed importantly to the decline in sales and production to the total or partial separations of workers at that plant.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of CB Radios at the Waseka, Minn. plant of E. F. Johnson Co. who became totally or partially separated from employment on or after September 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that sales and production of Land Mobile Radios did not decrease as required, for certification under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2662 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2353]

E. F. JOHNSON CO.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of

TA-W-2353: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 15, 1977, in response to a worker petition received on September 2, 1977 which was filed on behalf of workers and former workers producing CB radios at the Clear Lake, Iowa plant of E. F. Johnson Co. (The petition incorrectly identified the company as Johnson American, Inc.) The petition was expanded by the Labor Department to include workers at the Garner, Iowa, and Mason City, Iowa plants of E. F. Johnson Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977, (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of E. F. Johnson Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Clear Lake and Mason City plants (employment records together) increased 260 percent in 1975 from 1974 and 92 percent in 1976 from 1975. Employment declined 16 percent in the fourth quarter of 1976 compared to the third quarter of 1976 and 37 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Mason City plant was closed in March 1977. E. F. Johnson Co. has announced plans to close the Clear Lake Plant in the first quarter of 1978.

Average employment of production workers at the Garner plant decreased 32 percent in the fourth quarter of 1976 compared to the third quarter of 1976 and 51 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Garner plant closed in September 1977.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales, in value, of CB radios by E. F. Johnson Co. increased 109 percent in 1975 from 1974 and 6 percent in 1976 from 1975. Sales declined in the fourth quarter of 1976 compared to the fourth quarter of 1975. Sales declined 67 percent in the first 9 months of 1977 compared to the first 9 months of 1976.

Production, in quantity, of CB radios at the Clear Lake and Mason City, Iowa plants declined 52 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 61 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The Mason City plant was closed in March 1977 and the Clear Lake Plant is to be closed in the first quarter of 1978.

Production, in quantity, of crystals at the Garner, Iowa plant (which were used in the production of CB radios at other Johnson plants) declined 18 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975 and 80 percent in the first 9 months of 1977 compared to the same period of 1976. The plant closed in September 1977.

#### INCREASED IMPORTS

Imports of mobile CB transceivers increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 348 percent from 1975 to 1976 and decreased 28 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 94.6 percent and 48.6 percent, respectively, in 1975 to 394.8 percent and 79.8 percent, respectively, in 1976, and to 500.8 percent and 83.4 percent, respectively, in the first 9 months of 1977.

Imports of CB base stations units increased in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and increased from 1974 to 1975. Imports increased 98 percent from 1975 to 1976 and decreased 13 percent in the first 9 months of 1977 compared to the first 9 months of 1976. The ratios of imports to domestic production and consumption increased from 252.5 percent and 71.6 percent, respectively, in 1975 to 465.1 percent and 82.3 percent, respectively, in 1976, and 474.7 percent and 82.6 percent, respectively, in the first 9 months of 1977.

#### CONTRIBUTED IMPORTANTLY

Customers of E. F. Johnson Co. who were surveyed have decreased purchases of CB radios from Johnson and increased purchases from foreign sources.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with CB radios produced at the Clear Lake, Iowa; Mason City, Iowa; and Garner, Iowa plants of E. F. Johnson Co., contributed importantly to the total or partial separation of workers at those plants. In accordance with the provisions of the Act, I make the following certification:

All workers at the Clear Lake, Iowa; Mason City, Iowa; and Garner, Iowa plants of E. F. Johnson Co. who became totally or partially separated from employment on or after September 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2663 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2794, 2795]

ERIE MINING CO.

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2794 and 2795: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 15, 1977 which was filed by the United Steel Workers of America on behalf of workers and former workers producing iron ore and iron ore pellets at the Hoyt Lakes, Minn. property of Erie Mining Co. and shipping iron ore pellets through the Taconite Harbor, Minn. shipping facilities of Erie Mining Co.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Erie Mining Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.



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In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

#### INCREASED IMPORTS

United States imports of iron ore, pellets and sinter decreased from 46,743 thousand long tons in 1975 to 44,390 thousand long tons in 1976. During the first three quarters of 1977 imports decreased from the same period in 1976, from 32,950 thousand long tons to 26,470 thousand long tons.

The imports to domestic shipments ratio for iron ore, pellets and sinter decreased from 59.3 percent in 1975 to 55.5 percent in 1976. During the first three quarters of 1977, the ratio increased to 55.3 percent compared to 54.7 percent for the same period in 1976.

#### CONTRIBUTED IMPORTANTLY

Forty-five percent of the iron ore pellets produced by the Erie Mining Co. are shipped to a major customer of the firm. Imports of iron ore pellets by this customer increased in 1976 compared to 1975, and increased during the second and third quarters of 1977 compared to the preceding quarters.

Aggregate imports of iron ore pellets in 1976 and the first nine months of 1977 caused excessive accumulation of inventory throughout the steel industry. The increased inventory levels resulted from decreased demand for end use steel products in combination with the receipt of iron ore pellets from foreign source due to long term contract commitments.

Erie Mining Co.'s declines in production and sales of iron ore pellets in 1976 and in 1977 were a micro reflection of the problems industrywide. Decreased demand for end-use steel products, excessive inventory and increased imports of iron ore pellets by a major customer reduced the need for iron ore pellets produced by Erie Mining Co. These factors were also reflected in a survey of other users of iron ore pellets who placed high emphasis on excessive inventory levels caused by the influx of imported iron ore pellets.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with iron ore pellets produced at Erie Mining Co., Hoyt Lakes, Minn. and shipped through its Taconite Harbor shipping facilities contributed importantly to the decline in sales or production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

#### NOTICES

All workers at Erie Mining Co., Hoyt Lakes, Minn. and its Taconite Harbor, Minn. shipping facilities who became totally or partially separated from employment on or after December 10, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2664 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2419]

#### ESPERANZA PROPERTY OF DUVAL CORP.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2419: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 5, 1977, in response to a worker petition received on September 30, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Esperanza, Tucson, Ariz., Property of Duval Corp.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56374). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, the American Metals Market, Metal Bulletin, Metal Week, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales

or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Esperanza Property increased in 1976 compared to 1975 and declined in the first nine months of 1977 compared to the same period in 1976. This decline is attributable to the decline in employment which took place in the third quarter of 1977 compared to the same quarter in 1976. Separations occurred from August 8, 1977, through September 18, 1977.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Property production of both copper concentrate and molybdenum ("moly") concentrate declined in the third quarter of 1977 compared to the same quarter in 1976. While separate production figures were provided for copper concentrate and molybdenum concentrate, the Esperanza Property never separated the two components, but shipped a copper-moly concentrate to other Duval facilities. Production of copper concentrate is integrated into Duval Corp.'s sales of refined copper. Production of molybdenum concentrate is integrated into the production and sales of molybdenum trioxide, sulfide, and ferromolybdenum by Duval.

#### INCREASED IMPORTS

U.S. Imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates, and matte in-

creased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

#### CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval Corp. and other domestic producers of refined copper lost substantial sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5-8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to lay off workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

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Comments made by customers purchasing refined copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper-molybdenum concentrate produced at the Esperanza Property of Duval Corp. contributed importantly to the decline in production and to the total or partial separation of the workers at that property.

In accordance with the provisions of the Act, I make the following certification:

All workers at the Esperanza, Tucson, Ariz., Property of Duval Corp. who became totally or partially separated from employment on or after June 30, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2665 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2799]

#### HIBBING TACONITE CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2799: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 21, 1977, in response to a worker petition received on December 15, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing iron ore and iron ore pellets at the Hibbing, Minn., property of Hibbing Taconite Co.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hibbing Taconite Co. and the United Steel Workers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

sistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Hibbing Taconite Co., located in Hibbing, Minn., operates an open pit taconite mine, as well as crushing, concentrating, and pelletizing facilities. The final product is iron ore pellets.

The Department's investigation revealed that the workers at Hibbing Taconite were on strike from August 1, 1977, through November 21, 1977, but were all recalled immediately upon settlement of the strike. There have been no involuntary separations, total or partial, from November 20, 1978, one year prior to the signature date of the petition, to the present.

#### CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that a significant number or proportion of workers at the Hibbing, Minn., property of Hibbing Taconite Co. have not become totally or partially separated as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2666 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-1998]

#### HIGHLANDER SPORTWEAR, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1998: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 21, 1977, in response to a worker petition received on that date which was filed by the amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and women's leather, suede, and shearing coats at Highlander Sportswear, Inc., Newark, N.J.

The notice of investigation was published in the FEDERAL REGISTER on May 6, 1977 (42 FR 23216). No public



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hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Highlander Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

U.S. imports of leather coats and jackets increased each year during the 1972-76 period. Imports increased 53 percent from 154.3 million dollars in 1975 to 236.6 million dollars in 1976. The value of imports amounted to 67.1 percent of the value of total domestic production in 1975 and 81.6 percent in 1976.

Leather wearing apparel is imported duty free into the United States under GSP regulations.

CONTRIBUTED IMPORTANTLY

The United States is the world's largest market for leather garments. Of this market, the greatest percentage of the increased domestic demand is accounted for by young customers seeking fashionable lower- and medium-priced leather goods of medium to high quality which have largely been supplied by foreign manufacturers. Highlander Sportswear produces medium and high quality coats.

Customers surveyed who decreased purchases from Highlander in 1976 and 1977 increased purchases from foreign sources during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with leather, suede, and shearing coats produced at Highlander Sportswear, Inc., Newark, N.J., contributed importantly to the decline in sale and to the total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Highlander Sportswear, Inc., Newark, N.J., who became totally or partially separated from employment on or after December 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

NOTICES

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 78-2667 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2103]

INTERNATIONAL SILVER CO., FACTORY E

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2103: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 26, 1977, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing stainless and silver holloware at Factory E of the International Silver Co., Meriden, Conn. During the course of the investigation it was determined that Factory E produces silver-plated, sterling-silver and pewter holloware.

The Notice of Investigation was published in the FEDERAL REGISTER on June 19, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Silver Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

INCREASED IMPORTS

Imports of silver-plated, sterling-silver and pewter holloware increased in 1976 compared to 1975 and in the first 6 months of 1977 compared to the same period of 1976. The ratio of imports to domestic production increased in 1976 compared to 1975 and ranged from 8.0 percent to 13.5 percent in 1976.

CONTRIBUTED IMPORTANTLY

Company imports of silver/plated holloware, in value, increased in 1976 compared to 1975 and in the first 5 months of 1977 compared to the same period of 1976.

Customers of silver-plated, sterling-silver, and pewter holloware who were

surveyed indicated that they had decreased purchases of holloware from International Silver and increased purchases of imported holloware.

The combined effect of increased prices for tin and silver on the international market, increased company imports and customers of International Silver increasing purchases of imported holloware resulted in layoffs at Factory E of the Meriden plant beginning in January 1977.

International Silver instituted cost saving measures as indicated by the labor turnover data which shows that separations were significantly greater than accessions in the first 5 months of 1977 compared to the same period of 1976. The average number of hours worked by the remaining workers decreased in the first 5 months of 1977 compared to the same period of 1976. The evidence further indicates there is a threat of continuing layoffs in the future.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with silver-plated, sterling-silver, and pewter holloware produced at the International Silver Company contributed importantly to the decline in sales or production and to the total or partial separations of the workers at Factory E of the Meriden Plant. In accordance with the provisions of the Act, I make the following certification:

All workers at factory E of the International Silver Co., Meriden, Conn., who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
(FR Doc. 78-2668 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2323]

LEADER DYEING AND FINISHING CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2323: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 12, 1977, in response to a worker petition received on September 2, 1977, which was filed on behalf of

NOTICES

workers and former workers plain dyeing fabric at the Leader Dyeing and Finishing Co., Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Leader Dyeing and Finishing Co., Inc., fabric converters who are customers of Leader Dyeing and Finishing Co., Inc., customers of the fabric converters, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Leader Dyeing and Finishing Co., Inc., located in Paterson, N.J., dyes greige cloth for converters on a contract basis.

Evidence developed during the course of the investigation revealed that the importation of articles like or directly competitive with the finished fabric produced at Leader Dyeing and Finishing Co., Inc., did not contribute importantly to the decrease in production and production-related employment at that firm.

The department's investigation of several commission weavers, printers and dyers examined the allegations that increased imports of apparel adversely affected production and employment in these industries. Converters, who sell finished fabric to apparel manufacturers, agree that imports of apparel have been a factor in reduced business with the commission weavers, printers and dyers.

In discussing the term "like or directly competitive" as used in the

Trade Act of 1974, the House Ways and Means Committee, noted that under the Trade Expansion Act of 1962, the courts concluded that imported finished articles are not like or directly competitive with domestic component parts thereof, *United Shoe Workers of America v. Bedell, et al.*, 506 F.2d 174, (1974). (S. Rept. 93-1298, 93rd Cong., 2d Sess., 1974, p. 122.) In that case, the court held that imported finished women's shoes were not like or directly competitive with shoe counters.

Similarly, imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric must be considered in determining import injury to workers producing printed or finished fabric.

Inasmuch as all types of unfinished fabric are generally interchangeable and substitutable in their end uses, all types of unfinished fabric must be considered like or directly competitive with the fabric dyed at Leader Dyeing and Finishing Co.

Aggregate imports of finished fabric decreased 37.9 percent in the first half of 1977 compared to the first half of 1976. Imports of finished fabric declined in each quarter of 1976 when compared to the respective previous quarters. The ratios of imports to domestic production and consumption have not risen above 2.0 percent, respectively from 1973 to 1977.

Leader dyes greige cloth for converters. Converters, representing approximately 44.0 percent of Leader's annual 1976 sales, were surveyed by the Department. Respondants to the survey either did not purchase imported finished fabrics or if they purchased imports, did not increase their purchases of imported fabrics with the exception of one converter who did increase his purchases of imported finished fabrics. That converter's import purchases represented less than one percent of Leader's total sales in 1976.

Additionally, manufacturers who were customers of the converters were surveyed. The manufacturers did not purchase imported finished fabric with the exception of one manufacturer for whom imported finished fabric accounted for less than one percent of his total purchases.

Converters and manufacturers cited the increased importation of finished apparel as a major factor behind the decline in their business with Leader Dyeing and Finishing Co. As stated above, imports of finished apparel are not like or directly competitive with finished fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with the finished fabric

produced at Leader Dyeing and finishing Co., Inc., Paterson, N.J., did not contribute importantly to the decline in sales or production of the firm or the total or partial separation of workers at the firm as required for certification by section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
(FR Doc. 78-2669 Filed 1-30-78; 8:45 am)

[4510-28]

[TA-W-2216]

MARA MANUFACTURING CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2216: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 19, 1977, in response to a worker petition received on July 18, 1977, which was filed by three workers on behalf of workers and former workers producing blouses and pantsuits at Mara Manufacturing Co., Nanticoke, Pa.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mara Manufacturing Co., Inc., its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification to eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales



or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the Department's investigation revealed that criterion (4) has not been met.

#### CONTRIBUTED IMPORTANTLY

Manufacturers with whom Mara Manufacturing Co., contracted the majority of its orders indicated their sales had either remained the same or increased in 1975 and 1976. These manufacturers increased their contract work with other domestic contractors and did not import.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with blouses and pantsuits produced at the Mara Manufacturing Company have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2670 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2480]

#### MINERAL PARK PROPERTY OF DUVAL CORP.

##### Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2480: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977, in response to a worker petition received on October 13, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Mineral Park, Kingman, Arizona Property of Duval Corp.

The notice of investigation was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Depart-

ment of Commerce, the U.S. International Trade Commission, the Department of the Interior, the America Metals Market, Metal Bulletin, Metal Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing copper concentrate, and that the third criterion has not been met with respect to workers producing molybdenum concentrate.

#### SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers declined in 1976 compared to 1975; increased in the first nine months of 1977 compared to the same period in 1976. Employment declined in the third quarter of 1977 compared to the same period in 1976.

#### SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Property production of copper concentrate and of molybdenum concentrate declined in the third quarter of 1977 compared to the same quarter in 1976. Production of copper concentrate is integrated into Duval Corporation's sales of refined copper. Production of molybdenum concentrate is integrated into the production and sale of molybdenum trioxide, sulfide and ferromolybdenum.

#### INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in

the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates and matte increased each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976. Imports of molybdenum declined from 1.623 million pounds in the first nine months of 1976 to 1.426 million pounds in the same period of 1977.

The ratio of imports to domestic production increased from 0.34 percent in 1972 to 0.40 percent in 1973, declined to 0.14 percent in 1974, increased to 2.42 percent in 1975 and declined to 1.86 percent in 1976.

Industry sources indicated that imports of molybdenum in stages other than concentrate, are negligible.

#### CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval Corporation and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At

the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to lay off workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

With respect to molybdenum ("moly") production, Duval and other producers have experienced increasing domestic prices for moly in the January to September 1977 period. In order to take advantage of the high prices for moly, Duval is planning to bypass ore with low moly content in order to mine ores with higher levels of moly per ton extracted. The current sellers market for molybdenum has allowed Duval to maintain a higher level of production and employment at its three facilities than would have been possible were moly an insignificant percentage of Duval's sales.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper concentrate produced at the Mineral Park Property of Duval Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that property. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the mining of copper and the produc-

tion of copper concentrate at the Mineral Park, Kingman, Arizona Property of Duval Corp., who became totally or partially separated from employment on or after June 30, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with molybdenum concentrate, produced at the Mineral Park, Kingman, Arizona Property of Duval Corp., did not increase as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research

[FR Doc. 78-2671 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2105]

#### MISS MAYFAIR ORIGINALS

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2105: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 26, 1977 in response to a worker petition received on May 25, 1977 which was filed on behalf of workers and former workers producing ladies' coats and jackets at the New York, N.Y. plant of the Miss Mayfair Originals, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30938). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miss Mayfair Originals, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

#### INCREASED IMPORTS

United States imports of women's, misses' and children's coats and jackets increased in 1975 to 1,517 thousand dozen, increased in 1976 to 2,252 thousand dozen, and increased to 590 thou-

sand dozen during the first three months of 1977 compared to 506 thousand dozen for the same period in 1976.

The imports to domestic production ratio for women's, misses' and children's coats and jackets increased in 1975 to 35.4 percent, and increased in 1976 to 52.2 percent.

#### CONTRIBUTED IMPORTANTLY

The Department conducted a survey of some of the customers of Miss Mayfair, Inc. One of the customers that responded to the survey indicated that they increased purchases of imported ladies' coats and jackets and decreased purchases from Miss Mayfair in 1976. Some of the respondents were buying groups that represented many of Miss Mayfair's customers. The buying groups indicated that contracts with Miss Mayfair declined as a result of increased purchases of lower-priced imports.

Miss Mayfair began to import ladies' leather coats and jackets for the first time in 1976 and increased substantially their reliance on imports in 1977 as a source of the coats and jackets they marketed.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the ladies' coats and jackets produced at the New York, N.Y. plant of Miss Mayfair Originals, Inc. contributed importantly to the decline in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the New York, N.Y. plant of Miss Mayfair Originals, Inc. who became totally or partially separated from employment on or after May 23, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January, 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2672 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2285]

#### MODEL SPORTSWEAR, INC.

##### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2285: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.



## NOTICES

The investigation was initiated on August 25, 1977 in response to a worker petition received on August 19, 1977, which was filed by three workers on behalf of workers formerly producing men's and boys' outerwear jackets at Model Sportswear, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No public hearing was requested and none was held. The information upon which the determination was made was obtained principally from officials of Model Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

## INCREASED IMPORTS

U.S. imports of men's and boys' non tailored outer jackets decreased from 17,904 thousand units in 1974 to 15,551 units in 1975 and then increased to 15,736 units in 1976.

The ratio of imports to domestic production for men's and boys' nontailored outer jackets increased from 28.1 percent in 1974 to 34.6 percent in 1975 and then declined to 25.3 percent in 1976.

## CONTRIBUTED IMPORTANTLY

The evidence developed in the Department's investigation revealed that customers of Model Sportswear reduced purchases of men's and boys' outerwear jackets from the subject firm and increased purchases of imported jackets from 1975 to 1976.

The downward pressure of import competition on domestic prices of men's and boys' jackets reduced Model Sportswear's ability to profitably produce and sell their garments. Consequently, the firm ceased production in November 1976 and went out of business in February 1977.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's and boys' outerwear jackets produced at Model Sportswear, Inc., Paterson, N.J. contributed importantly to the decrease in sales and production and to the total or partial separations of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Model Sportswear, Paterson, N.J. who became totally or partially separated from employment on or after October 30, 1976 and before March 1, 1977 are certified eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after March 1, 1977 are denied eligibility.

Signed at Washington, D.C. this 23rd day of January 1978.

JAMES F. TAYLOR,  
Director, Office of  
Management,  
Administration, and Planning.  
[FR Doc. 78-2673 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2219]

## NATIONAL ELECTRIC MANUFACTURING CO., INC., ET AL

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2219: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 20, 1977 in response to a worker petition received on July 14, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pole line hardware for electrical utilities at National Electrical Manufacturing, Inc., Pelham, Ala.

During the course of the investigation it was found that the company's correct name is National Electrical Manufacturing Co., Inc. and that the company is located in Pelham, Ala. The investigation was expanded to include Bethea Highline Hardware Corp. and Bethea Casting Corp., both of which are located in Pelham, Ala. and are involved in the integrated production process of pole line hardware for electrical utilities.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of National Electrical Manufacturing Co., Inc., Bethea Highline Hardware Corp. and Bethea Casting Corp., their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility

requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) that a significant number of proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actually or relative to domestic production; and
- (4) that such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met for pole line hardware produced at the National Electrical Manufacturing Co. Inc. and the Bethea Highline Hardware Corp. and criterion (2) has not been met for iron castings produced at the Bethea Casting Corp.

The Department's investigation revealed that National Electrical Manufacturing Co. Inc., produced standard voltage pole line hardware and that Bethea Highline Hardware Corp. (formerly Bethea High Voltage Products Division) produced high voltage pole line hardware. A survey of customers of National Electrical Manufacturing Co. Inc. and Bethea Highline Hardware Corp. revealed that none of the customers surveyed purchased imported pole line hardware.

The Department's investigation also revealed that Bethea Casting Corp. produces iron castings. Sales of iron casting by Bethea Casting Corp. increased 7 percent from 1975 to 1976 and then increased 72 percent in the first six months of 1977 when compared to the same period in 1976. Production of iron castings by Bethea Casting Corp. increased 9 percent from 1975 to 1976 and then increased 85 percent in the first six months of 1977 when compared to the same period in 1976.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with pole line hardware produced by National Electric Manufacturing Co. Inc. and Bethea Highline Hardware Corp. (formerly Bethea High Voltage Products Division) both of Pelham, Ala. did not contribute importantly to the decline in sales or production or to the total or partial separation of workers of those firms.

It is further concluded that sales and production of iron castings at

Bethea Casting Corp., Pelham, Ala. have not declined as required under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2674 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2097]

## NEWPORT FINISHING CO.

## Negative Determination Regarding Application for Reconsideration

On January 8, 1978, the petitioner for workers and former workers of Newport Finishing Co., of Fall River, Mass., requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for worker adjustment assistance. This determination was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65320).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

1. If it appears, on the basis of facts not previously considered, that the determination complained of was erroneous;
2. If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or
3. If, in the opinion of the certifying officer, a misinterpretation of facts or of the law justifies reconsideration of the decision. The only issue of substance raised by the petitioner in this case is whether or not imports of apparel or garments are "like or directly competitive with" the finished fabric produced by the workers at Newport Finishing Co.

It is the Department of Labor's position that imports of apparel or garments are not "like or directly competitive with" the articles produced by the workers' firm, within the meaning of section 222(3) of the Trade Act of 1974. The Department's determination in this case is consistent with the legislative history of the Trade Act of 1974, decisions of various U.S. courts, and administrative precedents of both the Department of Labor and the United States International Trade Commission.

## CONCLUSION

After review of the application and the investigative file I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is therefore denied.

## NOTICES

Signed at Washington, D.C., this 20th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2675 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2274]

## OHIO FERRO-ALLOYS CORP.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2274: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977, in response to a worker petition received on August 18, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ferrosilicon metal and silicon metal at the Brilliant, Ohio plant of Ohio Ferro-Alloys Corp., Canton, Ohio. During the course of the investigation it was revealed that only ferrosilicon metal has been produced at the Brilliant plant since June 1976.

The Notice of Investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

## INCREASED IMPORTS

Imports of ferrosilicon increased from 70,577 short tons in 1975 to 98,775 short tons in 1976. Imports increased from 41,661 short tons in the first 6 months of 1976 to 50,631 short tons in the same period of 1977.

The ratio of imports to domestic production increased from 11.9 percent in 1975 to 15.3 percent in 1976 and increased from 12.9 percent in the first 6 months of 1976 to 15.5 percent in the same period of 1977.

## CONTRIBUTED IMPORTANTLY

Customers of ferrosilicon metal produced at the Brilliant plant who were

surveyed indicated that they had decreased purchases of ferrosilicon metal from the Ohio Ferro-Alloys Corp. and increased purchases of imported ferrosilicon metal.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ferrosilicon produced at the Brilliant, Ohio plant of the Ohio Ferro-Alloys Corp. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Brilliant, Ohio plant of the Ohio Ferro-Alloys Corp. who became totally or partially separated from employment on or after August 12, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2676 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2273]

## OHIO FERRO-ALLOYS CORP.

## Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In Accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2273: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 17, 1977, in response to a worker petition received on August 16, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing silicon metal at the Powhatan Point, Ohio, plant of Ohio Ferro-Alloys Corp., Canton, Ohio.

The Notice of Investigation was published in the FEDERAL REGISTER on August 26, 1977 (42 FR 43155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ohio Ferro-Alloys Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility



requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

#### INCREASED IMPORTS

Imports of silicon metal increased from 6,802 short tons in 1975 to 9,526 short tons in 1976. Imports increased from 6,092 short tons in the first 6 months of 1976 to 12,290 short tons in the same period of 1977.

The ratio of imports to domestic production increased from 6.6 percent in 1975 to 6.7 percent in 1976 and increased from 8.5 percent in the first 6 months of 1976 to 17.8 percent in the same period of 1977.

#### CONTRIBUTED IMPORTANTLY

Customers of silicon metal produced at the Powhatan Point plant who were surveyed indicated that they had decreased purchases of silicon metal from the Ohio Ferro-Alloys Corp. and increased purchases of imported silicon metal.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with silicon metal produced at the Powhatan Point plant the Ohio Ferro-Alloys Corp. contributed importantly to the decline in sales or production and to the total or partial separations of the workers at that plant. In accordance with provisions of the Act, I make the following certification:

All workers at the Powhatan Point plant of the Ohio Ferro-Alloys Corp. who became totally or partially separated from employment on or after November 6, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 18th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2677 Filed 1-30-78; 8:45 am]

#### [4510-28]

[TA-W-2133]

#### OWENS-ILLINOIS, INC.

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2133: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 10, 1977 in response to a worker petition received on June 8, 1977, which was filed on behalf of workers

and former workers producing glass envelopes for picture tubes at the Columbus, Ohio, plant of Owens-Illinois, Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30936). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Owens-Illinois, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department's investigation revealed that the petitioning group of workers were engaged in employment related to the production of glass envelopes for picture tubes at the Columbus, Ohio, plant of Owens-Illinois, Inc. The Columbus plant produces these products for several television manufacturers. A complete television was not produced at Owens-Illinois, Inc.

Imports of glass envelopes for picture tubes are negligible and did not contribute importantly to any dislocations at the firm. The ratio of imports to domestic production was less than 1 percent from 1972 through the first 9 months of 1977. The results of a survey of customers of Owens-Illinois support the industry data. In 1976, all of Owens-Illinois customers increased purchases from the subject firm compared to the previous year. In the first 6 months of 1977 only one customer decreased purchases of glass envelopes for black and white televisions from the subject firm and increased import purchases, when compared to the first 6 months of 1976. However, the in-

crease in import purchases by this customer accounted for only 2.4 percent of the total decline in sales by Owens-Illinois in the first half of 1977 compared to the first half of 1976. The customer survey further revealed that glass envelopes purchased from foreign sources were priced significantly higher than those purchased from Owens-Illinois. Additionally, Owens-Illinois is the sole source supplier for larger sizes of glass envelopes for black and white televisions. Customers also indicated that manufacturers of TV components such as Owens-Illinois are affected by imports of finished televisions. Imports of televisions which incorporated glass envelopes for picture tubes are not "like or directly competitive" with glass envelopes for picture tubes within the meaning of section 222(3) of the Trade of 1974.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of glass envelopes for picture tubes like or directly competitive with glass envelopes for picture tubes produced at the Columbus, Ohio plant of Owens-Illinois, Inc., did not contribute importantly to the decrease in sales and production or to the total or partial separation of workers at that plant as required in section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 23rd day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc 78-2678 Filed 1-30-78; 8:45 am]

#### [4510-28]

[TA-W-2203]

#### QUASAR ELECTRONICS CO., ENGINEERING DEPARTMENT

#### Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2203: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on July 13, 1977, in response to a worker petition received on July 12, 1977, which was filed on behalf of workers and former workers producing designs, specifications, and blueprints for color televisions in the Engineering Department of Quasar Electronics Co., Franklin Park, Ill.

The notice of investigation was published in the FEDERAL REGISTER on August 2, 1977 (41 FR 39157). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Quasar Electronics Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met for the Franklin Park Engineering Department.

Quasar Electronics Co., was organized as a Delaware corporation on January 14, 1974. In November 1975, Quasar merged with its parent, Matsushita Electric Corp. of America. Coincidental with the merger the Quasar Corp. changed its name to Matsushita Electric Corp. of America, with the television producing assets continuing to operate as a separate division known as Quasar Electronics Co.

The Franklin Park plant began producing televisions approximately 20 years ago. The Franklin Park plant assembles components (electrical chassis, tuners, cathode ray tubes, cabinets) into finished color televisions. Sources for these components vary. No components, per se, are or were previously, manufactured at Franklin Park.

Franklin Park is Quasar's only domestic production facility for color televisions. Administrative offices (including the engineering department) are located at Franklin Park.

Prior to Quasar's merger with Matsushita in 1975, all designs, specifications, and blueprints for Quasar televisions were produced in the Franklin Park engineering department. Following the merger, the design function was gradually phased out at Franklin Park and transferred to the parent company in Japan. Presently, all televisions produced by Quasar are designed and developed in Japan, rather than Franklin Park. Company imports

of color television receivers increased from 1975 to 1976 and increased in the first 6 months of 1977 compared to the first 6 months of 1976.

Employment in the Franklin Park engineering department declined 29 percent from 1975 to 1976 and declined 15 percent in the first 6 months of 1977 compared to the like period of 1976. The greatest employment reduction occurred in July 1977, when employment in the Engineering Department declined 40 percent compared to June 1977.

The production of designs and specifications for color television was an integrated stage of production of completed televisions at Franklin Park. Therefore, imports of completed televisions may be considered like or directly competitive with articles produced in the engineering department at Franklin Park.

Imports, in quantity, of color televisions increased absolutely from 1972 to 1973, then declined from 1973 to 1974 and declined from 1974 to 1975. Imports increased 135 percent from 1975 to 1976 and increased 25 percent in the first 6 months of 1977 compared to the like period of 1976. The ratios of imports to domestic production and consumption increased from 21.3 percent and 18 percent, respectively, in 1975 to 46.3 percent and 32.2 percent, respectively, in 1976 and increased from 39 percent and 28.5 percent, respectively, in the first 6 months of 1976 to 39.7 percent and 28.7 percent, respectively, in the first 6 months of 1977.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with color television sets for which designs are produced in the engineering department of Quasar Electronics Co., Franklin Park, Ill., contributed importantly to the decline in production and to the total or partial separations of workers in that department. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of designs, specifications, and blueprints for color televisions in the engineering department of Quasar Electronics Co., Franklin Park, Ill., who became totally or partially separated from employment on or after July 6, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 78-2679 Filed 1-30-78; 8:45 am]

#### [4510-28]

[TA-W-2299]

#### ROBERT HALL CLOTHES

#### Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2299: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 22, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers engaged in warehousing of men's tailored clothing at the Jersey City, N.J., warehouse of Robert Hall Clothes. During the investigation it was revealed that the warehouse handled men's, women's, and children's apparel.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants and Manufacturers, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the warehouse in Jersey City, N.J., handled men's, women's, and children's apparel that was predominantly purchased from domestic sources other than Robert Hall Clothes and from imported sources. Employees of this warehouse were engaged in the warehousing and distribution of men's, women's, and children's apparel. Since the warehouse handled apparel which was purchased predominantly from sources other than Robert Hall Clothes, it has been determined that it is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The warehouse did not produce any articles and that Department of Labor has previously determined that the performance of services is not included in the term "articles" as used in section 222(3) of the Act. See notice of negative determination in Pan American World Airways, Inc. (TA-W-153; 40 FR 54639).



## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the Jersey City, N.J., warehouse is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by the Jersey City warehouse are not articles within the meaning of section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2680 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W- 2295, 2296, and 2298]

## ROBERT HALL CLOTHES

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Robert Hall Clothes, 34th Street, New York, N.Y.; 35th Street, Long Island City, N.Y.; and Robert Hall Clothes, Middle Village, N.Y.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W- 2295, 2296, and 2298: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigations were initiated on August 29, 1977, in response to worker petition received on August 22, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of former workers engaged in warehousing of men's tailored clothing at Robert Hall Clothes, New York City, Long Island City, and Middle Village, N.Y. During the investigation it was revealed that the warehouses handled men's, women's, and children's apparel.

The notice of investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from United Merchants & Manufacturers, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the New York City, Long Island City, and Middle Village, N.Y., warehouses handled men's, women's, and chil-

dren's apparel items which were purchased predominantly from domestic sources other than Robert Hall Clothes and from imported sources. Employees of these warehouses were engaged in the warehousing and distribution of men's, women's, and children's apparel. Since the warehouses handled apparel which was purchased predominantly from sources other than Robert Hall Clothes it has been determined that they are not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The warehouses did not produce any articles and the Department of Labor has previously determined that the performance of services is not included within the term "articles," as used in section 222(3) of the Act. See notice of negative determination in Pan American World Airways, Inc. (TA-W-153; 40 FR 54639).

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that New York City, Middle Village, and Long Island City, N.Y., warehouses are not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by these warehouses are not articles within the meaning of section 222(3) of the Trade Act.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2681 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2294]

## ROBERT HALL CLOTHES

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2294: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 29, 1977, in response to a worker petition received on August 18, 1977, which was filed on behalf of workers and former workers engaged in the retail selling of men's tailored clothing at Wilkes-Barre, Pa., store of Robert Hall Clothes. During the investigation it was revealed that the store sold men's, women's, and children's apparel.

The Notice of Investigation was published in the FEDERAL REGISTER on September 20, 1977 (42 FR 47270). No

public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of United Merchants and Manufacturing, Inc., Robert Hall Clothes, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation revealed that the retail store in Wilkes-Barre, Pa., sold men's, women's, and children's apparel. In 1975 and 1976 over 90 percent of the volume of apparel sold in an average retail store, which includes the Wilkes-Barre, Pa., store, was purchased from domestic sources other than Robert Hall Clothes and from imported sources. Employees of the retail store were engaged in the retail selling of men's, women's, and children's apparel that they purchased predominantly from domestic sources other than Robert Hall, and from abroad. Since the retail store handled apparel which was purchased predominantly from sources other than Robert Hall Clothes, it has been determined that it is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974.

The retail store did not produce any articles and the Department of Labor has previously determined that the performance of services is not included within the term "articles," as used in section 222(3) of the Act. See Notice of Negative Determination in Pan American World Airways, Inc. (TA-W-153; FR 40 54639).

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the Wilkes-Barre, Pennsylvania retail store is not an "appropriate subdivision" of Robert Hall Clothes within the meaning of section 222 of the Trade Act of 1974. Moreover, the services provided by the Wilkes-Barre, Pa., retail store are not articles within the meaning of section 222(3) of the Trade Act.

Signed at Washington, D.C. this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 78-2682 Filed 1-30-78; 8:45 am]

## NOTICES

## [4510-28]

[TA-W-2732]

## SHENANGO, INC.

## Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2732: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 6, 1977, in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing ingot molds at the Buffalo, New York Division of Shenango, Inc., Pittsburgh, Pa.

The notice of investigation was published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65307). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Shenango, Inc. industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

The Buffalo, New York Division of Shenango Inc., produces ingot molds exclusively.

There is no separately identifiable import data on ingot molds in the Tariff Schedules of the United States Annotated.

The evidence developed in the Department's investigation indicates that there is no import influence in this market sector.

## CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with ingot molds produced at the Buffalo, New York Division of Shenango, Inc., did not contribute importantly to the total or partial separations of the workers at that plant as required by section 222 of the Trade Act of 1974.

## NOTICES

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.  
[FR Doc. 78-2683 Filed 1-30-78; 8:45 am]

## [4510-28]

[TA-W-2481]

## SIERRITA PROPERTY OF DUVAL CORPORATION

## Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2481: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977, in response to a worker petition received on October 13, 1977, which was filed by the United Steel Workers of America on behalf of workers and former workers producing refined copper at the Sierrita, Tucson, Ariz., property of Duval Corp. The notice of investigation was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Duval Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Department of the Interior, The American Metals Market, Metal Bulletin, Metal Week, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met with respect to workers producing

copper concentrate, and that the third criterion has not been met with respect to workers producing molybdenum concentrate, molybdenum trioxide, sulfide and ferromolybdenum.

## SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Sierrita property increased in 1976 compared to 1975 and then declined in the first nine months of 1977 compared to the same period in 1976. This decline is attributable to the decline in employment in the third quarter of 1977 compared to the same quarter in 1976. Separations occurred from August 8, 1977 through September 18, 1977.

## SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of copper concentrate at the Sierrita property increased in 1976 compared to 1975 and then declined in the first nine months of 1977 compared to the same period in 1976. Production declined in the second and third quarters of 1977 compared to the same quarters in 1976.

Production of molybdenum increased in 1976 compared to 1975 and declined in the first nine months of 1977 compared to the same period in 1976.

Production of copper concentrate at Sierrita is integrated into Duval's final sales of refined copper. Production of molybdenum is integrated into the production and sale of molybdenum trioxide, molybdenum sulfide, and ferromolybdenum by Duval.

## INCREASED IMPORTS

U.S. imports of refined copper increased from 192 thousand short tons in 1972 to 203 thousand short tons and 314 thousand short tons, respectively, in 1973 and 1974. U.S. imports declined to 147 thousand short tons in 1975 before increasing to 384 thousand short tons in 1976. U.S. imports declined from 313 thousand short tons in the first three quarters of 1976 to 275 thousand short tons in the first three quarters of 1977. U.S. imports increased from 101 thousand short tons in the third quarter of 1976 to 111 thousand short tons in the third quarter of 1977.

The ratio of imported refined copper to domestic production increased from 8.6 percent in 1972 to 9.0 percent and 15.2 percent, respectively, in 1973 and 1974. The ratio of imports to domestic production declined to 8.6 percent in 1975 before increasing to 21.0 percent in 1976. The ratio of imports to domestic production declined from 23.9 percent in the first six months of 1976 to 14.8 percent in the first six months of 1977.

U.S. imports of copper ore, concentrate, precipitates and matte increased



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each year from 44 thousand tons in 1973 to 89 thousand tons in 1976. The ratio of imports to domestic production increased from 2.6 percent in 1973 to 5.5 percent in 1976.

Imports of molybdenum concentrate increased from 385,000 pounds in 1972 to 458,000 pounds in 1973, declined to 155,000 pounds in 1974, increased to 2,567 million pounds in 1975 and then declined to 2,093 million pounds in 1976. Imports of molybdenum declined from 1.623 million pounds in the first nine months of 1976 to 1.426 million pounds in the same period of 1977.

The ratio of imports to domestic production increased from 0.34 percent in 1972 to 0.40 percent in 1973, declined to 0.14 percent in 1974, increased to 2.42 percent in 1975 and declined to 1.86 percent in 1976.

Industry sources indicated that imports of molybdenum in stages other than concentrate, are negligible.

CONTRIBUTED IMPORTANTLY

The evidence developed during the Department's investigation revealed that while imports of refined copper had increased by 161 percent in 1976 compared to 1975, domestic demand increased at only a fraction of that rate. Inventory levels of domestic and imported copper on consignment at domestic refineries in December 1976 were 31.4 percent above December 1975 levels and were 143.2 percent above December 1974 levels. Duval and other domestic producers of refined copper lost sales in 1977 because of the excessive inventories of domestic and imported refined copper.

Imports of copper are affected by the differential between the domestic price of copper established by COMEX (Commodity Metal Exchange) and the price established by the LME (London Metals Exchange). When the LME price drops more than the estimated transportation costs of 5 to 8 cents per pound below the COMEX price, the demand for imported copper increases. During May and June 1977 the LME price was almost 11 cents per pound below the COMEX price and in July and August 1977 the LME price was almost 12 cents per pound below the COMEX price. At the same time, the abundant supply of copper stocks in the foreseeable future provides no reason for domestic consumers of copper to maintain ties with domestic producers for purposes of a guarantee against copper shortages. Consequently, in the third quarter of 1977, when many domestic copper producers curtailed production because of the depressed market price for copper, imports of refined copper increased 9.9 percent compared to the third quarter of 1976.

Price pressure from imported copper has reduced the ability to profitably mine domestic ore and convert it to

copper concentrate and refined copper. Industry sources state that the weighted average production costs of the lowest cost domestic copper mines are 63 cents per pound. The weighted average costs for the highest cost domestic copper mines are \$1.05 per pound. Thus, with a current domestic market price of 60 cents per pound, domestic producers lose, on the average, 3 to 45 cents on each pound of copper they choose to sell.

Duval's decision to layoff workers and reduce its mining operations was based mainly on an attempt to minimize losses which the company could not avoid were it to run at normal production levels at the current market prices for copper.

Comments made by customers purchasing copper from Duval substantiate the fact that increased imports have contributed to record inventory levels which have driven the price of domestic copper below the level at which many domestic firms can profitably produce copper.

With respect to production of molybdenum ("moly") Duval and other producers have experienced increasing domestic prices for moly in the January to September 1977 period. In order to take advantage of the high prices for moly, Duval is planning to bypass ore with low moly content in order to mine ores with higher levels of moly per ton extracted. The current sellers market for molybdenum has allowed Duval to maintain a higher level of production and employment at its three facilities than would have been possible were moly an insignificant percentage of Duval's sales.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with copper concentrate produced at the Sierra property of Duval Corp., contributed importantly to the decline in production and to the total or partial separation of the workers at that property. In accordance with the provisions of the Act, I make the following certification:

All employees engaged in employment related to the mining of copper and the production of copper concentrate at the Sierra, Tucson, Ariz., property of Duval Corp. who became totally or partially separated from employment on or after May 31, 1977 are eligible to apply for adjustment assistance under title II, Chapter 2 of the Trade Act of 1974.

It is further concluded that imports of articles like or directly competitive with molybdenum concentrate, molybdenum trioxide, sulfide and ferromolybdenum produced at the Sierra Tucson, Ariz., Property of Duval Corp., did not increase as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2684 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2606]

UNION CITY SHOE SUPPLIES, INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2606: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 14, 1977 in response to a worker petition received on November 4, 1977 which was filed on behalf of workers and former workers producing insoles at Union City Shoe Supplies, Inc., Union, Mo.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63484). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Union City Shoe Supplies, Inc., publications of the U.S. Department of Commerce and the U.S. International Trade Commission, the American Footwear Industries Association, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Union City Shoe Supplies, Inc. was acquired June 15, 1975 as a subsidiary

NOTICES

by Philip Clayman & Sons, Inc. Workers at Union City Shoe produce a finished shoe insole. Production is sold to individual shoe manufacturers.

Evidence developed in the Department's investigation reveals that there are no separately identifiable imports of insoles. The product is not listed as a separate item of any U.S. Tariff Schedule grouping. In addition, industry spokesmen indicated that imports of footwear components have been negligible in the 1970's.

Imports of shoes which incorporate insoles of the same origin are not like or directly competitive with insoles produced by workers at Union City Shoe Supplies, Inc. within the meaning of section 222(3) of the Trade Act of 1974.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with those produced by workers at Union City Shoe Supplies, Inc., Union, Mo., have not contributed importantly to the decline in sales or production of the firm or to the total or partial separation of workers at that firm as required in section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C., this 25th day of January 1978.

HARRY GRUBERT,  
Director, Office of  
Foreign Economic Research.

[FR Doc. 78-2685 Filed 1-30-78; 8:45 am]

[4510-28]

[TA-W-2287]

WESTERN ELECTRIC CO.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2287: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 25, 1977 in response to a worker petition received on August 18, 1977 which was filed on behalf of workers and former workers producing repeaters and equalizers for submarine cables at the Clark, N.J. plant of Western Electric Co.

The Notice of Investigation was published in the FEDERAL REGISTER on September 8, 1977 (42 FR 44615). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Western Electric Co., its customers, the U.S.

Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the above criteria have been met, criterion (4) has not been met.

Western Electric Co. is one of four major components that comprise the Bell System. The Clark, N.J. plant of Western Electric is specifically designed to produce repeaters and equalizers for submarine cable systems. Submarine cables are underwater cables that carry telephone transmissions.

Industry analysts indicate that imports of submarine cable repeaters and equalizers are negligible.

None of the components of the repeaters or equalizers produced at the Clark facility are purchased from foreign sources.

Industry analysts indicate there is no import influence on repeaters and equalizers like those produced at the Clark Plant because every submarine cable system that originates or terminates in the United States is manufactured by Western Electric Co. A submarine cable from one point to another is engineered as a complete system. Each repeater or equalizer is designed to fit its sequential order when the system is designed. This sequential ordering means that one repeater will not substitute for any other repeater. The same holds true for equalizers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with repeaters and equalizers for submarine cables produced at the Western Electric Co., Clark, N.J. did not contribute importantly to declines in sales and to sepa-

rations of workers at that plant, as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.  
[FR Doc. 78-2686 Filed 1-30-78; 8:45 am]

[4510-28]

Office of the Secretary  
[TA-W-2427]

AMETEK INC., SCHUTTE & KOERTING DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2427: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on October 6, 1977, in response to a worker petition received on September 30, 1977, which was filed by Local 281 of the International Union of Electrical Workers on behalf of the workers and former workers producing heat exchangers at the West Hartford, Conn., plant of Whitlock Manufacturing Co., Schutte and Koerting Division of AMETEK, Inc.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of AMETEK, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met. Without regard to whether any other criteria have been met the following criterion has not been met:

That increased imports have "contributed importantly" to the separations, or threat thereof, and to the decrease in sales or production of the firm or subdivision.

The Department conducted a survey of customers representing the majority of sales of the West Hartford, Conn., plant of the Whitlock Manufacturing Co. All of the customers contacted responded that they do not purchase any imported heat exchangers.

Imports of heat exchangers have consistently accounted for less than 0.75 percent of domestic consumption



and production over the past five years.

Heat exchangers for nuclear power stations must meet strict American Society of Mechanical Engineers (ASME) standards. Before ASME approves a part, it generally sends inspectors to the manufacturer's plant. Therefore, meeting these standards might prove to be difficult for foreign manufacturers. A telephone survey of several domestic companies manufacturing heat exchangers for use in nuclear powerplants revealed that none of those contacted was aware of foreign competition of heat exchangers for nuclear powerplants.

#### CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with heat exchangers produced at the West Hartford, Conn., plant of Whitlock Manufacturing Co. did not contribute importantly to the total or partial separation of the workers at that plant as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 25th day of January 1978.

JAMES F. TAYLOR,  
Director, Office of Management,  
Administration, and Planning.

[FR Doc. 78-2649 Filed 1-30-78; 8:45 am]

#### [3110-01]

##### OFFICE OF MANAGEMENT AND BUDGET

###### CLEARANCE OF REPORTS

###### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 23, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington,

D.C. 20503, 202-395-4529, or from the reviewer listed.

#### NEW FORMS

##### EXECUTIVE OFFICE—OTHER

New Jobs Tax Credit, S-404, single time, random sample of firms eligible for credit, C. Louis Kincannon, Strasser, A., 395-3211.

##### ENVIRONMENTAL PROTECTION AGENCY

Stack Gas Reheat Assessment Survey, single time, fossil fuel electrical generating utilities, Ellett, C. A., 395-6132.

##### U.S. INTERNATIONAL TRADE COMMISSION

Questionnaire for Importers of Cotton Gloves, single time, importers of cotton gloves, C. Louis Kincannon, 395-3211.

##### DEPARTMENT OF COMMERCE

Bureau of Census, Listing Page, single time, households in six barrios in Puerto Rico, Marsha Traynham, 395-3773.

##### DEPARTMENT OF DEFENSE

Departmental and Other, Contract Pricing Proposal, on occasion, business firms contracting with DOD, Marsha Traynham, 395-3773.

##### REVISIONS

##### VETERANS ADMINISTRATION

Income—Net Worth and Employment Statement, VAF21-527, on occasion, veteran, Lowry, R. L., 395-3772.

##### U.S. INTERNATIONAL TRADE COMMISSION

Household Earthen Table and Kitchen Articles (Importers), on occasion, importers, C. Louis Kincannon, 395-3211.  
Household Earthen Table and Kitchen Articles, annually, domestic manufacturers, C. Louis Kincannon, 395-3211.

##### U.S. CIVIL SERVICE COMMISSION

Supplemental Qualifications Statement for Librarians, CSC1143, on occasion, applicants for Federal employment, Marsha Traynham, 395-3773.

##### DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, 1978 Crop Acreage Set-Aside Participation Survey, single time, sample of farms, Ellett, C. A., Office of Federal Statistical Policy and Standard, 395-6132.

Food and Nutrition Service, State Administration Expense Funds, on occasion, school food authorities and State agencies, Human Resources Division, Budget Review Division, 395-3532.

##### DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration, monthly report of motor vehicle traffic fatalities, HS251, monthly, State traffic records agencies, Strasser, A., 395-6132.

##### EXTENSIONS

##### DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, List Sampling Frame Survey, annually, farmers, Ellett, C. A., Office of Federal Statistical Policy and Standards, 395-6132.

Agricultural Stabilization and Conservation Service, Prevented Planting Claim-Farms,

ASCS-574-1 on occasion, farmers, Ellett, C. A., 395-6132.

##### DEPARTMENT OF DEFENSE

Department of the Navy, Instructor Evaluation Summary, semi-annually, Government agencies, Marsha Traynham, 395-3773.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc. 78-2734 Filed 1-30-78; 8:45 am]

#### [3110-01]

##### CLEARANCE OF REPORTS

###### List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on January 24, 1978 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

##### REVISIONS

##### VETERANS ADMINISTRATION

Application for Veterans Group Life Insurance (follow up) (veterans separated on or after Aug. 1, 1974), 29-8714-3, on occasion, veterans, Lowry, R. L., 395-3772.

##### EXTENSIONS

##### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service, Annual Statistical Report on Cost Standards and Maximums and Other Limitations on Money Payments, SRS NCSS 1, annually, State welfare agencies, Human Resources Division, 395-3532.

Social Security Administration, Establishment Reporting Plan, List of Establishments, SSA5019, on occasion, multilocation firm, Lowry, R. L., 395-3772.

Social and Rehabilitation Service, Annual Statistical Report on Hearings, SRS NCSS 105, annually, report prepared by State welfare agencies, Lowry, R. L., 395-3772.

Health Care Financing Administration (Medicaid), Statistical Report on Medical Care: Recipients, Payments, Services, SRS

NCS 2082, annually, State Medicaid agencies, Lowry, R. L., 395-3772.

VELMA N. BALDWIN,  
Assistant to the Director  
for Administration.

[FR Doc. 78-2735 Filed 1-30-78; 8:45 am]

#### [7715-01]

##### POSTAL RATE COMMISSION

###### VISIT TO POSTAL FACILITIES

JANUARY 26, 1978.

Notice is hereby given that Chairman Clyde S. DuPont of the Postal Rate Commission visited a United Parcel Service facility on the date indicated for the purpose of acquiring general background knowledge of operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission was discussed.

A report of the visit will be on file in the Commission's docket room.

Place of visit Date of visit  
Honolulu, Hawaii Jan. 21, 1978.

DAVID F. HARRIS,  
Secretary.

[FR Doc. 78-2634 Filed 1-30-78; 8:45 am]

#### [7715-01]

##### VISIT TO POSTAL FACILITIES

JANUARY 26, 1978.

Notice is hereby given that Commissioner Simeon M. Bright of the Postal Rate Commission visited a Postal Service facility on the date indicated for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested proceedings before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission was discussed.

A report of the visit will be on file in the Commission's docket room.

Place of visit Date of visit  
Washington, D.C. Jan. 24, 1978.

DAVID F. HARRIS,  
Secretary.

[FR Doc. 78-2633 Filed 1-30-78; 8:45 am]

#### [4710-01]

##### DEPARTMENT OF STATE

###### Public Notice

##### SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

###### Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10:30 a.m. on Wednesday, February 22, 1978, in room 5519 of the Department of State. Members of the general public may attend and participate in the discussion subject to instructions of the Chairman.

The principal purpose of the meeting will be to consider positions which may be taken by the United States delegation to the United Nations Diplomatic Conference on the Carriage of Goods by Sea to be held in Hamburg, Germany, March 6-31, 1978.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to February 22, 1978, members of the general public who plan to attend the meeting inform their name, affiliation and address to Ms. Dorothy Fagan, Office of the Legal Adviser, Department of State; the telephone number is area code 202-632-8134. All non-government attendees at the meeting should use the C Street entrance.

Dated: January 23, 1978.

RICHARD D. KEARNEY  
Chairman.

[FR Doc. 78-2596 Filed 1-30-78; 8:45 am]

#### [7040-01]

##### SUSQUEHANNA RIVER BASIN COMMISSION

##### COMPREHENSIVE PLAN FOR MANAGEMENT AND DEVELOPMENT OF THE WATER RESOURCES OF THE SUSQUEHANNA RIVER BASIN

###### Announcement of Public Hearing on Proposed Amendments

The Susquehanna River Basin Commission will hold a public hearing to receive comments from citizens, government agencies, and others about proposed amendments to its Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin. The hearing has been scheduled for March 9, 1978, at the Penn Harris Motor Inn, Camp Hill, Pa., beginning at 1 p.m.

The Susquehanna River Basin Compact (Pub. L. 91-575, 84 Stat. 15909 et

seq.) requires the Commission to maintain a comprehensive plan for the immediate and long-range use, management, and development of the water and related resources of the basin. Initially adopted in December 1973, the plan provides a basinwide strategy to guide the management, use, and conservation of the basin's resources. The plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve.

The proposed amendments to the comprehensive plan expressly recognize the public's many rights in the waters of the basin without undue disruption or degradation by other uses. Accordingly, the amendments would add new goals calling for restoration of the river's migratory fishery and releases from dams consistent with fishery needs and recreational uses. Also part of the proposed amendments is an early action program to manage the lower Susquehanna River to achieve a balance among economic development, environmental quality, and protection of public rights.

The March 9 hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views, and comments on the proposed amendments. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will evaluate all relevant material and decide whether to adopt as proposed, modify, or not adopt, the amendments.

For a copy of the proposed amendments or additional information, contact the Office of the Executive Director, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pa. 17102, 717-238-0422.

Dated: January 23, 1978.

ROBERT J. BIELO,  
Executive Director.

[FR Doc. 78-2567 Filed 1-30-78; 8:45 am]

#### [7035-01]

##### INTERSTATE COMMERCE COMMISSION

[Notice No. 579]

###### Assignment of Hearings

JANUARY 26, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned



hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 73165 (Sub 405), Eagle Motor Lines, Inc.; MC 106398 (Sub 775), National Trailer Convoy, Inc.; MC 118959 (Sub 149), Jerry Lipps, Inc.; MC 60014 (Sub 46), Aero Trucking, Inc. and MC 11207 (Sub 393), Deaton, Inc. now assigned February 9, 1978 at Jacksonville, Fla., in Room 100, Voyager Building, 2255 Phyllis Street, is transferred to United States Court of Appeals, 311 West Monroe Street in Jacksonville, Fla.

MC 13250 (Sub 138), J. H. Rose Truck Line, Inc., now assigned February 8, 1978 at Jacksonville, Fla., in Room 100, Voyager Building, 2255 Phyllis Street, is transferred to the United States Court of Appeals, 311 West Monroe Street in Jacksonville, Fla.

FD-28648, Churchill Truck Lines, Inc., is now assigned for hearing February 6, 1978 (2 weeks), at Dallas, Tex., and will be held at the Holiday Inn-Downtown, 1015 Elm Street.

MC 138861 (Sub 6), C-Line, Inc. now assigned February 1, 1978 at Washington, D.C. is cancelled, application dismissed.

MC 106074 (Sub 48), B & P Motor Lines, Inc. now being assigned March 22, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

No. 36432 (Sub 1), Fresh Fruits and Vegetables, Transcontinental Eastbound now assigned March 1, 1978 at San Francisco, Calif., is postponed to May 2, 1978 (3 weeks), at San Francisco, Calif., in a hearing room to be later designated.

MC 140511 (Sub 5), Autolog Corp. now assigned March 15, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 143127 (Sub 1), K.J. Transportation, Inc. now assigned March 13, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 119789 (Sub 367), Caravan Refrigerated Cargo, Inc., now assigned March 20, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 133565 (Sub 11), True Transport, Inc., now assigned March 6, 1978, at New York, N.Y., and will be held in Room E-2222, Federal Building, 26 Federal Plaza.

MC 125433 (Sub 120), F-B Truck Line Co., is now assigned for hearing March 22, 1978 (2 days), at Los Angeles, Calif., at a hearing room to be later designated.

MC 108119 (Sub 68), E. L. Murphy Trucking Co., is now assigned for hearing March 22, 1978 (2 days), at Los Angeles, Calif., at a hearing room to be later designated.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2635 Filed 1-30-78; 8:45 am]

## [7035-01]

[Docket No. AB-7 (Sub-No. 31)]

CHICAGO, MILWAUKEE, ST. PAUL AND  
PACIFIC RAILROAD CO.

Abandonment Between Bagley Junction and  
Enumclaw, King County, Wash.; Findings

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Order dated January 12, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co., Abandonment, Goshen*, 354 I.C.C. 76 (1977), the present and future public convenience and necessity permit the abandonment by the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. of (1) its line from milepost 0.0 at Bagley Junction to milepost 1.67 near Bayne, Wash. and from milepost 15.51 near Enumclaw, Wash. to milepost 16.0 at Enumclaw, and (2) operations over the track jointly owned with Burlington Northern, Inc. from milepost 7.67 near Bayne, to Burlington Northern milepost 15.51 near Enumclaw, Wash. a total distance of approximately 16.0 miles, including 1.18 miles of auxiliary trackage, in King County, Wash. A certificate of public convenience and necessity permitting abandonment was issued to the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the *FEDERAL REGISTER* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than February 15, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective March 17, 1978.

H. G. HOMME, Jr.,  
Acting Secretary.

[FR Doc. 78-2636 Filed 1-30-78; 8:45 am]

## [7035-01]

[Ex Parte No. 297 (Sub-No. 4)]

REOPENING OF SECTION 5a APPLICATION  
PROCEEDINGS TO TAKE ADDITIONAL EVIDENCE

Collective Retemaking Agreements; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction to notice publication.

SUMMARY: Changes are being made to correct inadvertent errors in the Commission's notice in this proceeding served January 6, 1978, and published in the *FEDERAL REGISTER* on January 11, 1978, at pages 1666 to 1668. These corrections are being made to clarify language in the notice in this proceeding and to authorize the filing of replies.

FOR FURTHER INFORMATION CONTACT:

Deputy Director, Janice Rosenak or Asst. Deputy Director, Harvey Gobetz, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7693.

SUPPLEMENTARY INFORMATION: The Commission is making the following two corrections in its notice in this proceeding, served and published on the dates indicated above:

(1) In the fifth paragraph under the section entitled "Standard of Review" the last sentence should read "... from the standpoint of the National Transportation Policy outweigh the harm the agreement does to the public interest from the standpoint of national antitrust policy." The words "do not" as they appear between the words "Policy" and "outweigh" should be deleted.

(2) In the first paragraph under the section entitled "Other Matters," the first sentence should be changed to read, "Unless the Commission states otherwise with respect to any particular proceeding, answers to initial statements filed in any of these proceedings will be due thirty days after the filing of the initial statement, and replies to such answers, if there be any, will be due twenty days after the filing of the answer."

H. G. HOMME, Jr.,  
Acting Secretary.

JANUARY 23, 1978.  
[FR Doc. 78-2637 Filed 1-30-78; 8:45 am]

## [6820-27]

OFFICE OF THE FEDERAL REGISTER  
FREEDOM OF INFORMATION INDEX REQUIREMENTS  
Guide to Agency Material; January-December 1977

AGENCY: Office of the Federal Register, NARS, GSA.

ACTION: Notice of availability of indexes.

SUMMARY: This notice contains information submitted by agencies to the Office of the Federal Register for the calendar year 1977 on indexes that the agencies are required to publish or make available under the Freedom of Information Act. This notice is compiled and published to notify the public of the availability of these indexes for sale or public inspection or both.

FOR FURTHER INFORMATION CONTACT:

Doris O'Keefe, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, DC 20408 (202-523-3187).

SUPPLEMENTARY INFORMATION: 5 U.S.C. 552 (commonly called the Freedom of Information Act) requires agencies to maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required to be made available or published (5 U.S.C. 552(a)(2)). Certain amendments (Pub. L. 93-502, November 21, 1974, 88 Stat. 1561) require the publication (with some exceptions) and distribution of these indexes at least quarterly. This guide has been compiled by the Office of the Federal Register from information submitted by agencies for the calendar year 1977 in order to notify the public of the availability of these indexes for sale or public inspection or both.

FRED J. EMERY,  
Director, Office of the Federal Register.

JANUARY 20, 1978.

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Department of Agriculture, Agricultural Stabilization and Conservation Service.	ASCS handbooks: Written in the Kansas City Commodity Office. Current listing of all administrative procedures that affect a member of the public.	Director, Kansas City Commodity Office, USDA, ASCS, P. O. Box 8377, Shawnee Mission, Kans. 66208.	Director, Management Services Division, USDA, ASCS, P. O. Box 2415, Washington D.C. 20013.
Do.....	ASCS handbooks: Written in the Management Field Office. Current listing of all administrative procedures that affect a member of the public.	Director, Management Field Office, USDA, ASCS, P. O. Box 205, Kansas City, Mo. 64141.	Do.
Do.....	ASCS handbooks: Written in Washington Offices. Current listing of all administrative procedures that affect a member of the public.	Director, Management Services Division, USDA, ASCS, P. O. Box 2415, Washington, D.C. 20013. No charge.	Do.
Do.....	Marketing quota, Review committee determinations; 1970 to date; listing by crop-year of all decisions made on marketing quota appeals.	Director, Management Services Division, USDA, ASCS, P. O. Box 2415, Washington, D.C. 20013. No charge.	Director, Management Services Division, USDA, ASCS, P. O. Box 2415, Washington, D.C. 20013.
Do.....	Board of contract appeals decisions; 1970 to date; listing of all decisions on appeals affecting ASCS and or CCC.	Do.....	Do.
Do.....	CCC Board dockets; 1969 to date; listing of all Commodity Credit Corporation dockets approved by the Secretary of Agriculture.	Do.....	Do.
Do.....	ASCS program appeals; 1970 to date; chronological listing of all appeals handled by ASCS program appeals staff.	Do.....	Do.
Department of Agriculture, Rural Electrification Administration.	Index of current REA publications: Electric Program, as of Apr. 15, 1977, with supplement thereto updating the index to Dec. 31, 1977. An alphabetic and numerical index of REA electric program bulletins, staff instructions, contract forms, and specifications.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250. No charge.	Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Room 4043 South, Washington, D.C. 20250.
Do.....	Index of current REA publications: Telephone as of Mar. 25, 1977, with supplement thereto updating the index to Dec. 31, 1977. An alphabetic and numerical index of REA telephone program bulletins, staff instructions, contract forms, specifications, sections of the Telephone Engineering and Construction and Telephone Operations manuals, and the rules and regulations of the Rural Telephone Bank.	Do.....	Do.
Department of Defense, Department of the Air Force.	Numerical index of departmental forms (AFR 0-9). Dec. 2, 1977. Lists forms numerically within each category, including accountable forms, forms requiring storage safeguards, and obsolete forms.	DADF at nearest Air Force installation. Shelf stock, \$2.88 per copy; reproduced copies, \$6.10 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	DADF at nearest Air Force installation.
Do.....	Guide to indexes, catalogs, and lists of departmental publications (AFR 0-1). Sept. 1, 1974. Describes the indexes, catalogs, and lists of departmental publications; explains their use, tells how often they are revised, shows their distribution and gives the office of primary responsibility.	DADF at nearest Air Force installation. Shelf stock, \$2.05 per copy; reproduced copies \$2 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.....	Numerical index of standard publications and recurring periodicals (AFR 0-2). Dec. 2, 1977. Lists regulations, manuals, and pamphlets together under each subject series; lists visual aids and recurring periodicals separately.	DADF at nearest Air Force installation. Shelf stock, \$2.80 per copy; reproduced copies \$5.70; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.....	Miscellaneous Air Force and other Government Publications (AFR 0-16). Sept. 10, 1976. Lists a wide range of subjects of interest to the Air Force.	DADF at nearest Air Force installation. Shelf stock, \$2.10 per copy; shelf stock will be used while supply lasts. Checks payable to: AFO (name of base furnishing copies).	Do.
Do.....	Publications Numbering Systems (AFR 5-4). February 15, 1974. Contains subject series and description guide and alphabetical list of subjects.	DADF at nearest Air Force installation. Shelf stock \$2.15 per copy; reproduced copies \$2.45 per copy; shelf stock will be used while it lasts. Checks payable to: AFO (name of base furnishing copies).	Do.

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NOTICES

Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do.....	Disposition of Air Force documentation (AFM 12-50). Oct. 1, 1969. Pt. 2 consists of decision logic tables which provide for disposition of documentation created or accumulated by all Air Force activities. Attachment 3 is an index to the tables, arranged alphabetically by title of the record.	DADF at nearest Air Force installation. Shelf stock will not be used. Pt. 2 is voluminous, therefore, only tables pertaining to requested records will be reproduced. \$2. for 1st 6 pages, plus \$0.05 for each additional page. Checks payable to: AFO (name of base furnishing copies).	Do.
Department of Defense, Department of the Army, TAGCEN, Army Publications Directorate.	DA pamphlet 310-1: Index of administrative publications (regulations, circulars, pamphlets, posters, general orders, joint chiefs of staff publications.) March 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: \$1.28. Make checks payable to: Treasurer of United States.	Director, Army Publications Directorate Forrester Bldg., Washington, D.C. 20314.
Do.....	DA pamphlet 310-2: Index of blank forms, December 1976.	In addition to the indicated prices of the indexes, there is a \$2 charge for each order, regardless of the size of the order. For example, if DA Pamphlet 310-1 is ordered, add \$2 to the price of \$1.28. If all the pamphlets are ordered, add \$2 to total price of \$13.55.	Do.
Do.....	DA pamphlet 310-3: Index of doctrinal, training, and organizational publications (field manuals, reserve officer's training corps manuals, training circulars, Army training programs, Army subject schedules, Army training tests, firing tables and trajectory charts, tables of distribution and allowances). Basic dated June 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: \$1.52. Make checks payable to: Treasurer of United States.	Do.
Do.....	DA pamphlet 310-4: Index of technical manuals, technical bulletins, supply manuals (types 7, 8, and 9), supply bulletins, and lubrication orders. October 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: \$1.17. Make checks payable to: Treasurer of United States.	Do.
Do.....	DA pamphlet 310-6: Index of supply catalogs and supply manuals. Basic dated July 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: \$1.70. Make checks payable to: Treasurer of United States.	Do.
Do.....	DA pamphlet 310-7: Index of Equipment Modification Work Orders, August 1977.	Commander, U.S. Army AG Publications Center, 2800 Eastern Blvd., Baltimore, Md. 21220. Price: \$1.36. Make checks payable to: Treasurer of United States.	Do.
Department of Defense, Department of the Navy.	Directives Issuance System Consolidated Subject Index of Unclassified Instructions (NAVJUBNOTE 5215). Published quarterly. Lists instructions issued by Washington headquarters organizations to addressees outside their headquarters.	Commanding Officer, Naval Publications and Forms Center, Philadelphia, Pa. 19120. Price: \$5 per issue. Make check payable to the Treasurer of the United States.	Navy Department Library, 2d floor of building 220 at the Washington Navy Yard, U.S. Naval Station, 9th and M Sts. NW., Washington, D.C. Also available at nearest Navy or Marine Corps activity.
Do.....	Marine Corps Directives System Quarterly Checklist of Directives (MARCORPS Bulletin 5215).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: minimum of \$2 plus \$0.01 per page over 6 when stock is available and \$0.05 per page when not available and must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Headquarters Marine Corps, room 1135 of the Navy Arlington Annex (Federal Office Bldg., No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. Also at nearest Marine Corps activity.
Do.....	Indexes to Navy and Marine Corps directives issued by naval activities and of less than departmentwide or general applicability.	Local Navy and Marine activity. Price: minimum of \$2, plus \$0.01 per page over 6 when stock is available and \$0.05 when not available and pages must be reproduced.	Local Navy and Marine Corps issuing activity.
Do.....	Marine Corps Stock List (SL-1-3): Quarterly index of publications authorized and stocked by the U.S. Marine Corps (PASM).	Commandant of the Marine Corps (code HQSP), Navy Department, Washington, D.C. 20380. Price: \$2, plus \$0.01 per page over 6 when stock is available and \$0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Headquarters, U.S. Marine Corps, Room 1135 of the Navy Arlington Annex (Federal Office Bldg., No. 21), Southgate Rd. and Columbia Pike, Arlington, Va. 20380. Also at Marine Corps field activities and Navy Department Library (see above).
Do.....	Standard Subject Identification Codes (SEC NAVINST 5210.11A). Lists standard subject (numerical) codes used for categorizing and identifying naval documents, including directives, blank forms, reports (control symbols), and other records and filing systems.	Commanding Officer, Naval Publications and Forms Center, 3801 Tabor Ave., Philadelphia, Pa. 19120. Price: minimum of \$2, plus \$0.01 per page over 6 when stock is available and \$0.05 when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and all naval shore activities.
Do.....	NAVJAC Documentation Index (NAVJAC P-349): A Keyword Out of Context (KWOC) index of unclassified instructions, publications, forms, and reports sponsored by the Naval Facilities Engineering Command (NAVFAC).	Commanding Officer, Naval Publications and Forms Center, 3801 Tabor Ave., Philadelphia, Pa. 19120. Price: \$5. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and at Naval Facilities Engineering Command headquarters and field activities.
Do.....	Indexes to certain other technical publications and manuals of sponsoring system command or other headquarters organizations.	Director, Navy Publications and Printing Service Management Office, Washington Navy Yard, U.S. Naval Station, Washington, D.C. 20370. Price: \$2 minimum plus \$0.01 per page over 6 if printed stock is available and \$0.05 per page when not available and pages must be reproduced. Make check payable to the Treasurer of the United States.	Navy Publications and Printing Service Management Office, building 157, Washington Navy Yard, 9th and M Sts. SE., Washington, D.C.
Do.....	Index to Navy Procurement Directives.....	Chief of Naval Material (MAT-05), Navy Department, Washington, D.C. 20350. Price: \$2 minimum, plus \$0.01 per page over 6 when stock is available and \$0.05 per page when not available and copies must be reproduced. Make check payable to the Treasurer of the United States.	Navy Department Library (see above) and Navy procurement activities.
Defense Civil Preparedness Agency.	Publications catalog, MP-20: A listing of publications and other printed matters on the U.S. Civil Defense program available to the public. Contains a brief resume of each one and provides information on where to obtain.	U.S. Army Publications Center, Civil Preparedness Branch, 2800 Eastern Blvd. (Middle River), Baltimore, Md. 21220. No charge.	DCPA Headquarters, Room 1D511, Pentagon Bldg., Washington, D.C. 20301 or DCPA regional offices as shown at app. C, pt. 1813, ch. XVIII, title 32, CFR.
Do.....	DCPA manual 5450.2: Index of DCPA instructions and manuals, a listing, both numerical and subjective, of the Agency instructions announcing policy, outlining programs, and prescribing internal operating procedures.	Do.....	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Defense Communications Agency.	1. DCA circulars and notices: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA circulars and notices. Those circulars, notices, and changes published during the period Jan. 1-June 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those publications which have been canceled or replaced since Jan. 1, 1977 by a publication of a different number. Publications superseded by a revised issue bearing the same number are not included. Enclosure 2 is an alphabetical listing of current DCA circulars. Enclosure 3 is an alphabetical listing of current DCA Notices. 2. DCA Instructions: Enclosure 1 consists of 2 sections. Section A contains the index of current DCA instructions. Those instructions and changes published during the period Apr. 1-Sept. 30, 1977, are highlighted by a number sign (#) in the left margin. Section B contains a listing of those instructions which have been canceled or replaced by an instruction of a different number since Apr. 1, 1977. Enclosure 2 is an alphabetical listing of current DCA instructions.	Defense Communications Agency, Washington, D.C. 20305. No charge.	Defense Communications Agency, 8th St. and South Courthouse Rd., Arlington, Va. 22204.
Defense Logistics Agency, Defense General Supply Center.	Index of publications: Current listing of policy statements, regulations, handbook, manuals, directives, letters, supplements, procedures, and clause manual.	Commander, Defense General Supply Center, attention of DGSC-B, Richmond, Va. Reproduced copies \$2. Treasurer of the United States.	Public Affairs Officer, Defense General Supply Center, Richmond, Va. 23297.
Defense Nuclear Agency.....	Index to administrative publications, May 10, 1976, with changes. Description: Administrative instructions covering manpower, personnel, international programs, planning and readiness, R. & D., logistics, maintenance, transportation, general administration, organization and function, security, administrative services, public information, legal and legislative policies, comptroller-ship, budgeting, appropriations accounting and control, auditing, and reports control.	Defense Nuclear Agency, Attention: PAO, Washington, D.C. 20305. \$1 by xeroxing, \$0.35 by printing run. Payable to: Treasurer of the United States.	
Do.....	Government reports index: Biweekly, annual cumulation. Description: Indexes DNA and other Government-sponsored research and development reports prepared by Federal agencies or their contractors.	National Technical Information Service, Springfield, Va. 22161. \$125 annual subscription rate. Payable to National Technical Information Service.	Director, Defense Nuclear Agency, Technical Library, Washington, D.C. 20305.
Defense Nuclear Agency, Armed Forces Radiobiology Research Institute.	Index of Armed Forces Radiobiology Research Institute (AFRRI) instructions, Nov. 10, 1975, with changes. Description: Listing of all AFRRI instructions in force.	Director, Armed Forces Radiobiology Research Institute, Attention: Administrative Officer, Defense Nuclear Agency, National Naval Medical Center, Bethesda, Md. 20814. 9 pages at \$0.05 per page (\$0.45). Checks payable to Treasurer of the United States.	
Defense Nuclear Agency, field command.	FCDNA instruction 5025.8J, Apr. 30, 1976 with changes. Description: Current index to field command instructions.	Field Command, Defense Nuclear Agency, Attention: Security Specialist, Supers Directorate, Kirtland AFB, N. Mex. 87115. No charge.	
Defense Nuclear Agency, field command (FCDNA).	FCDNA instruction 5030.1D, Oct. 31, 1975. Description: Current index to FCDNA agreements, memoranda of understanding, and interservice agreements.	Do.....	
Defense Nuclear Agency, field command, Johnston Atoll (FCJ).	FCJ instruction 5025.8D, Jan. 22, 1975 with changes. Description: Current index to FCJ instructions.	Do.....	
Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA).	Administrative Guidelines Manual, Jan. 1, 1973. Provides guidance to personnel responsible for regulatory decisions. Contains regulatory tolerances and guidance, and authorization for direct action by the field in areas of seizure, citation, and prosecution.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Supervisor, Public Records and Documents Center (HFC-18), Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do.....	Bureau of Foods Staff Manual Guide. Primarily concerned with the preparation of and review of documents within the Bureau of Foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$10. Checks payable to Food and Drug Administration.	Do.
Do.....	Bureau of Drugs staff manual guide. Primarily concerned with the preparation of and review of documents within the Bureau of Drugs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$21.50. Checks payable to Food and Drug Administration.	Do.
Do.....	Compliance Policy Guides. Provides a system for the issuing, filing, and retrieval of all official statements of FDA compliance policy.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.....	Compliance Program Guidance Manual. Provides general guidance to the field as to how certain industries will be inspected, sampled, etc., during a fiscal year. Programs within this manual assign the number of inspections or samples to be done within a specific industry. Over 3,000 pages.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. 10 cents per page. (Suggest before ordering, to request transmittal checklist to ascertain programs needed.) Checks payable to Food and Drug Administration.	Do.
Do.....	Drug autoanalysis manual. Provides content uniformity test specifications in USP XVII and NFX II. Provides assurance of homogeneity within a single lot for a sale and effective drug supply. Specifications are for all tablet monographs where the active ingredient is present in low quantities (usually 50 mg or less).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.....	ERDO data code manual. Lists computer code information for programs management system project (PMS) which is used for reporting project information into the program oriented data system (FODS).	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$15. Checks payable to Food and Drug Administration.	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Do.....	Field management directives. Used by the field staff to transmit FDA field policy in the areas of operations management, planning and budget guidance, program management, and State program management which gives policy information.	do.....	Do.
Do.....	Food additives analytical manual. Presents a compilation of analytical methodology for additives authorized for use. Compilation consists of methods for additives which can be used only as permitted in foods for human consumption and in feeds and drinking water of animals or treatment of food-producing animals.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.....	Hazard Analysis and Critical Control Point—A System for Inspection of Food Processors. Explains the hazard analysis and critical control point procedure. Used for overseeing industry's processing practices in order to provide the consumer with the best assurance possible of quality control in processing foods.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$13.95. Checks payable to Food and Drug Administration.	Do.
Do.....	Inspector Operations Manual. Provides FDA personnel with standard operating inspection and investigational procedures. Contains instructions needed by operating inspectors and investigators. Contains authorities, objectives, responsibilities, policies, and guides.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$25. Checks payable to Food and Drug Administration.	Do.
Do.....	Inspector Training Manual. Basic training manual for food and drug inspectors and inspection technicians to provide the field with uniform approach to the administration of basic training.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$15. Checks payable to Food and Drug Administration.	Do.
Do.....	Inspector's Manual for State Food and Drug Officials. Divided into 2 parts: (1) Operations manual with information applicable to sample collection, inspections, and investigations in all fields of food and drug work; (2) commodities manual divided into specific types of food commodities. Manual for official use of State and local food and drug enforcement officers only.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$65. Checks payable to Food and Drug Administration.	Do.
Do.....	Inspector's Technical Guide. To provide a medium for making all FDA inspectors aware of selected technical information not previously available on a broad scale.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$5.20. Payable to Food and Drug Administration.	Supervisor, Public Records and Documents Center (HFC-18) Room 4-62, FDA, 5600 Fishers Lane, Rockville, Md. 20852.
Do.....	Laboratory Operations Manual. Provides day-to-day guide for laboratory directors and supervisors. Reflects the science advisor program and district laboratory relationships with BDA field offices and disposition of consumer complaint samples.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$17.50. Checks payable to Food and Drug Administration.	Do.
Do.....	Pesticide Analytical Manual. Brings together the procedures and methods used in the FDA laboratories for surveillance of the extent and significance of contamination of man and his environment by pesticides and their metabolites.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. No charge.	Do.
Do.....	Quantity of contents compendium. Used to measure acceptable levels of shrinkage in food containers. Manual divided into 2 parts: (1) Contains procedures for measuring fill-of-container, statistical evaluation acceptable common or usual declaration of quantity of contents; (2) contains information on sampling where special techniques are required.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$25. Checks payable to Food and Drug Administration.	Do.
Do.....	Regulatory Procedures Manual. Provides guidance on regulatory policy and supporting processing procedures.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$25. Checks payable to Food and Drug Administration.	Do.
Do.....	Staff Manual Guides—Organization and Delegations. Contains directives issued by the Food and Drug Administration to establish policy, organization, procedures or responsibilities in the administrative area. Used to issue continuing instructions or information and remains in effect until rescinded or superseded.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. Vol. I, \$50; Vol. II, \$60; Vol. III, \$30. Checks payable to Food and Drug Administration.	Do.
Do.....	Supervisory Inspectors Guide. Designed to furnish supervisory inspectors with guidelines to assist them in performing their duties.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$28.50. Checks payable to Food and Drug Administration.	Do.
Do.....	Index to Administrative Staff Manuals. Current listing of all staff manuals with indexes and/or table of contents and costs.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$20. Checks payable to Food and Drug Administration.	Do.
Do.....	Statements of policy and interpretations adopted by FDA and not published in the FEDERAL REGISTER.	Supervisor, Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, Md. 20852. \$5.90. Payable to Food and Drug Administration.	Do.
Department of Health, Education, and Welfare, National Institutes of Health (NIH).	NIH Freedom of Information Act Index: from July 4, 1967-July 31, 1976, includes items in the following categories: (1) administrative manuals and memorandum, (2) animal resources and programs, (3) audio-visuals policy and criteria, (4) clinical center operations, (5) contracts policy and guides, (6) employee and committee member handbooks and manuals, (7) grants policy and guides, (8) library resources and guidelines, (9) minority programs, (10) patient policy, (11) research centers guides, (12) safety guides and permits, and (13) site visit formats.	In addition to copies of the NIH FOIA Index maintained by HEW, NIH will make photocopies available if requests are forwarded to: Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. Fees, as prescribed in 45 CFR 5.91, are 10 cents per page with the charge being made if the total amount exceeds \$5. Checks payable to: DILEW—National Institutes of Health.	Associate Director for Communications, NIH, Building 1, Room 309, 9000 Rockville Pike, Bethesda, Md. 20014. (301)496-4461.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Alcohol, Drug Abuse, and Mental Health Administration.	The ADAMHA Freedom of Information Act Index is comprised of various ADAMHA component program guidelines, announcements, handbook listings, policy supplements, instructions, and manual materials. The index is divided to reflect the various ADAMHA components, namely the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, the National Institute of Mental Health, including Saint Elizabeths Hospital and the Office of the Administrator.	Copies of the ADAMHA Freedom of Information Act index are maintained by the HEW, FOI Officer, Room 5360, HEW North Bldg., 330 Independence Ave., SW., Washington, D.C. 20201. ADAMHA will also make copies available if requests are forwarded to: Director, OCPA, ADAMHA, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852. Fees are 10¢ per page with the charge being made if the total amount exceeds \$5 and are payable to Treasurer of the United States.	Director, Office of Communications and Public Affairs, Parklawn Bldg., Room 16-95, 5600 Fishers Lane, Rockville, Md. 20852.
Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control (HEW/PHS/CDC).	A written description of the general preventive medicine residency program, dated Apr. 29, 1976. Residency assignments, qualifications, appointments, and supervision, as outlined in this document.	Center for Disease Control, Attention: Assistant Director for Operations, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Assistant Director for Operations, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Memorandum dated Apr. 27, 1976. Subject: Hot line, 633-5313. This is the written procedure for handling reports of damage to packages of infectious materials.	Center for Disease Control, Attention: Director, Office of Biosafety, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Biosafety, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Staff publications booklet: An annual bibliographical listing of contributions made by the CDC staff to medical and scientific literature during the previous year.	Center for Disease Control, Attention: Director, Office of Information, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Office of Information, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Minutes of meetings and annual reports of following public advisory committees: Coal Mine Health Research Advisory Committee, Safety and Occupational Health Study Section, Immunization Practices Advisory Committee, Medical Laboratory Services Advisory Committee.	Center for Disease Control, Attention: Director, Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Morbidity and mortality weekly reports. In addition to providing informational morbidity and mortality data on diseases, these reports prescribe policies and interpret policies relative to prevention of diseases as well as health requirements that are covered by regulations.	Center for Disease Control, Attention: Director, Bureau of Epidemiology, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Epidemiology, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Final Report of the Drinking Water Disinfection ad hoc Advisory Committee, dated Mar. 1, 1977. Recommendations to the Secretary, Health, Education, and Welfare, the Assistant Secretary for Health, and the Director, Center for Disease Control, on the merits of chlorine and ultraviolet light as a means of disinfecting water in program areas over which the CDC has jurisdiction or technical responsibility.	do.....	Do.
Do.....	Annual report to Congress regarding smoking and health.	Center for Disease Control, Attention: Director, Bureau of Health Education, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Health Education, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	"Current Items". This publication from the Bureau of Laboratories is directed generally to heads of State or local laboratories. The publication includes technical procedures and informational data.	Center for Disease Control, Attention: Director, Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	National Institute for Occupational Safety and Health (NIOSH) policy memorandum, dated Sept. 11, 1974 on trade secret information.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857. No charge for 1 copy.	Director, National Institute for Occupational Safety and Health, Parklawn Bldg., Room 8-20, 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	"NIOSH Policy Letter", dated Nov. 5, 1973 regarding reimbursement to an employer for financial loss (production time; pay) incurred as a result of a NIOSH research project.	do.....	Do.
Do.....	The President's report on occupational safety and health, annual report for 1974. This report covers programs of the Department of Labor; Department of Health, Education, and Welfare; and the Occupational Safety and Health Review Commission for calendar year 1974. It contains results of the 1st full year of occupational injury and illness survey.	do.....	Do.
Do.....	The Federal coal mine health program in 1974. This is a report of health activities under the Federal Coal Mine Health and Safety Act of 1969 NIOSH Publication No. 77-143.	do.....	Do.
Do.....	The Division of Training, National Institute for Occupational Safety and Health, Center for Disease Control, announcement of courses that are available to the public.	do.....	Do.
Do.....	The National Institute for Occupational Safety and Health current intelligence bulletin. This current bulletin alerts members of the occupational health community, government, labor, and industry to new information on potential occupational health hazards.	do.....	Do.
Do.....	NIOSH Publications Catalog, 1970-1977. Lists availability of publications from the National Institute for Occupational Safety and Health. NIOSH Publication No. 77-207.	do.....	Do.
Do.....	Proposed interim program guidelines for venereal disease control, dated March 1976.	Center for Disease Control, Attention: Director, Bureau of State Services, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of State Services, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Veneral disease review criteria, dated Dec. 10, 1971.	do.....	Do.
Do.....	Recommended treatment schedules for syphilis, dated 1976.	do.....	Do.
Do.....	Gonorrhea, CDC recommended treatment schedules, dated 1974.	do.....	Do.



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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do.....	Commentary on national strategies to control gonorrhea, dated July 1976.	do.....	Do.
Do.....	Updated guidelines concerning patients with penicillinase-producing <i>Neisseria gonorrhoeae</i> (PPNG), dated August 1977.	do.....	Do.
Do.....	Summary Report on Influenza Virus Vaccine Use, dated Feb. 7, 1977.	do.....	Do.
Do.....	Summary Report of Conference on Influenza Vaccine Activity for 1977-78, dated Mar. 21, 1977.	do.....	Do.
Do.....	Guidelines for assessing immunity levels, dated November 1973.	do.....	Do.
Do.....	Immunization Against Disease, 1972 handbook.	do.....	Do.
Do.....	Guidelines for application Immunization Project Grants, dated December 1977.	do.....	Do.
Do.....	Public Health Service recommendations for Counting Reported Tuberculosis Cases, dated January 1977.	do.....	Do.
Do.....	Preventive therapy of tuberculosis infection, dated February 1975.	do.....	Do.
Do.....	Memorandum dated Nov. 7, 1975, regarding duration of preventive therapy with isoniazid.	do.....	Do.
Do.....	Guidelines for prevention of TB transmission in hospitals, dated September 1974.	do.....	Do.
Do.....	Equipment and procedures for erythrocyte protoporphyrin (EP) analysis as a screening method for pediatric lead poisoning, dated Feb. 3, 1975.	do.....	Do.
Do.....	Urban rat survey—guidelines for classroom use and field training of inspectors who serve in community rodent control programs, dated March 1974.	do.....	Do.
Do.....	Urban rat control project grants program guidelines for applicants, dated 1975.	do.....	Do.
Do.....	Procedures for collecting rats for anticoagulant resistance evaluation, Urban Rat Control, dated Mar. 29, 1977.	do.....	Do.
Do.....	Guidelines for grant applications. Childhood lead poisoning control, dated Mar. 14, 1974.	do.....	Do.
Do.....	Increased lead absorption and lead poisoning in young children. A statement by the Center for Disease Control, dated March 1975.	do.....	Do.
Do.....	The "Training Bulletin," which is published every 18 mo. This document lists each of the headquarters, field, or home-study courses that are available through the auspices of CDC during that time period. Specific information is presented that identifies prerequisites for attendance and describes the nature of each course.	Center for Disease Control Attention: Director, Bureau of Training, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Training, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Final denials, revocations, suspensions and limitations of licenses, and letters of exemption to laboratories subject to the Clinical Laboratories Improvement Act of 1967.	Center for Disease Control, Attention: Bureau of Laboratories, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Bureau of Laboratories, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Administrative issuance. Facilities Engineering and Construction Manual, ch. CDC: 3-335, dated May 1, 1972. This issuance provides rules and regulations covering CDC buildings and grounds. It applies to CDC employees and also to visitors, solicitors, etc.	Center for Disease Control, Attention: Management Analysis Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, Management Analysis Office, 1600 Clifton Rd. NE., Atlanta, Ga. 30333.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-57, dated Nov. 18, 1970. This issuance provides policy and procedures to CDC employees for claims including those against CDC or against CDC employees as a result of their official duties.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-1, dated Sept. 30, 1970. This issuance provides policy and procedures for conferences including those cosponsored by CDC and an organization other than a Federal agency.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—ADP Systems No. CDC-1, dated Apr. 22, 1971. This issuance specifies the type of information for CDC organizations to furnish CDC computer systems office for determination as to whether a contract should be entered into with an outside source to perform the ADP services or whether the work can be performed within the Center.	do.....	Do.
Do.....	Administrative issuance. CDC General Memorandum No. 74-9, dated June 20, 1974. This issuance specifies rates for the Center to pay for blood.	do.....	Do.
Do.....	Administrative issuance. Procurement Manual Subpart CDC: 3-75.3, dated May 12, 1972. This issuance specifies CDC delegations of authority for publication of advertisements, notices, or proposals.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Printing Management No. CDC-6, dated Nov. 3, 1969. This issuance provides CDC policies and procedures for procurement of CDC authored articles which are to be published in private journals and briefly mentions publishers' services, e.g., setting of type, sending proofs, etc.	do.....	Do.
Do.....	Administrative issuance. National Institute for Occupational Safety and Health Administrative Issuance No. 406, dated Sept. 3, 1974. This issuance describes contents and documentation needed for research and technical services contract requests for NIOSH.	do.....	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do.....	Administrative issuance. Procurement Manual Subpart CDC: 3-3.6, dated Sept. 21, 1970. This issuance prescribes CDC policies and procedures for small purchases particularly through use of imprest funds, and briefly mentions vendors' role.	do.....	Do.
Do.....	Administrative issuance. CDC General Memorandum No. 77-13, dated Sept. 30, 1977. This issuance provides instructions to CDC employees for obtaining typewriter repair service and lists individual companies under contract to make repairs.	do.....	Do.
Do.....	Administrative issuance. CDC General Memorandum No. 74-1, dated Jan. 16, 1974. This issuance specifies CDC policies and procedures on unauthorized commitments and for obtaining approval for such commitments.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-52, dated Mar. 12, 1973. This issuance provides policies and procedures for handling public inquiries to CDC during nonwork hours.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-18, dated Mar. 6, 1969. This issuance provides CDC policies and procedures for obtaining clearance of CDC authored manuscripts, publications, etc., and includes policy on responding to requests from the press, etc.	do.....	Do.
Do.....	Administrative issuance. CDC General Memorandum No. 72-3, dated Feb. 9, 1972. This issuance provides policies and general guidelines to CDC employees on giving assurances of confidentiality in obtaining information from the public.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Personal Property Management No. CDC-2, dated Apr. 17, 1969. This issuance provides CDC policies and procedures for producing, maintaining, shipping, and storing exhibits and includes procedures for production of exhibits by commercial contractors.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Safety Management No. CDC-19, dated Mar. 18, 1974. This issuance provides policy to CDC employees for distribution of culture of microbial agents and of vectors to non-CDC persons.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Safety Management No. CDC-2, dated Dec. 15, 1975. This issuance provides policy on the need for and use of hazard warning signs that applies to CDC employees and also to visitors.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Safety Management No. CDC-3, dated June 18, 1973. This issuance provides policies and procedures for handling compressed gases in cylinders. It applies to CDC employees and also certain policies and procedures apply to vendors.	do.....	Do.
Do.....	Administrative issuance. Personnel Guides for Supervisors, chapter IV, CDC Guide 7-2, dated Mar. 12, 1963, but still current. This issuance provides CDC policies and procedures for handling complaints on employee indebtedness.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-5, dated Apr. 8, 1971 and National Institute for Occupational Safety and Health Administrative Issuance No. 2, dated Mar. 4, 1974. These issuances provide policies and procedures for making CDC and NIOSH facilities available to guest researchers.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-40, dated Apr. 20, 1973. This issuance provides CDC policies and procedures for providing to students work experiences which relate to the CDC mission and to the educational objectives of the students.	do.....	Do.
Do.....	Administrative issuance. National Institute for Occupational Safety and Health unnumbered memorandum, dated Mar. 4, 1974. This issuance provides NIOSH policy on loan of property to non-Federal persons or institutions.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-11, dated June 8, 1973 and National Institute for Occupational Safety and Health policy memorandum, dated June 25, 1973. These issuances provide policies and procedures for the protection of the individuals who are participating or involved in research investigations of the Center and of NIOSH, respectively.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—Travel CDC-10, dated Dec. 26, 1972. This issuance provides CDC policy and procedures for employees renting automobiles for official travel and mentions services provided by the car rental contractors and the conditions of the contracts.	do.....	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from: price; make checks payable to—	For inspection, copying, or additional information contact.
Do.....	Administrative issuances. Manual Guide—Travel No. CDC-2 dated Jan. 14, 1974 and Correspondence Manual Chapter 10-40, dated Oct. 1, 1974. These issuances provide instructions to CDC employees for making reservations on common carriers and for picking up the tickets. They list the airlines and their telephone numbers.	do.....	Do.
Do.....	Administrative issuance. Manual Guide—General Administration No. CDC-63, Privacy Act, dated Nov. 23, 1976. This issuance provides to CDC employees guidance on carrying out requirements of the act.	do.....	Do.
Do.....	Administrative issuance. CDC general memorandum No. 75-10, Freedom of Information Act, dated July 25, 1975. This issuance provides general information to CDC employees on major provisions of the act, procedures for responding to requests for information under the act, and brief data to the CDC employees on the Privacy Act.	do.....	Do.
Do.....	Administrative issuance. CDC general memorandum No. 75-2, civil defense, dated April 2, 1975. This issuance provides information on the civil defense capacity and equipment of the CDC facilities in the Atlanta area that are officially designated to be used as public shelter areas under the national fallout shelter program.	do.....	Do.
Do.....	Administrative issuance. CDC unnumbered memorandums, parking at Clifton Rd. facilities, dated July 14, 1975 and Jan. 20, 1976. These issuances provide policy for CDC employees and visitors parking at the Clifton Rd. facilities, Center for Disease Control.	do.....	Do.
Do.....	Administrative issuance. CDC unnumbered memorandum, directory of licensed day-care facilities in the Metropolitan Atlanta area, dated Mar. 15, 1976. This issuance provides a listing of these facilities.	do.....	Do.
Do.....	Administrative issuance. CDC unnumbered memorandum, injury compensation, dated Sept. 15, 1975. This issuance provides procedures for CDC employees to follow to document on-the-job traumatic injuries, including submission of reports from attending physicians.	do.....	Do.
Do.....	Administrative issuance. Manual guide—general administration No. CDC-5, soliciting, vending, and displaying or distributing commercial advertising within CDC, dated Apr. 23, 1975. This issuance provides policy for soliciting, vending, and commercially advertising on property occupied by CDC.	do.....	Do.
Do.....	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-2, commercial employment offices, dated Jan. 7, 1976. This issuance provides policy on using commercial employment offices for recruiting personnel.	do.....	Do.
Do.....	Administrative issuance. Personnel guide for supervisors, ch. III, CDC guide 1-9, dated Feb. 26, 1976. This issuance provides policies, responsibilities, and procedures for the selective placement program for handicapped employees and disabled veterans.	do.....	Do.
Do.....	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 8, dated Apr. 15, 1976. This issuance provides policies and procedures for keeping interested governmental, labor, and management groups informed on the initiation and progress of NIOSH field studies.	do.....	Do.
Do.....	Administrative issuance. National Institute for Occupational Safety and Health Administration, issuance No. 8, dated Oct. 30, 1975. This issuance provides procedures for maintenance of minutes of NIOSH meetings with representatives of nongovernmental groups.	do.....	Do.
Do.....	Recommendations of the Public Health Service Advisory Committee on Immunization Practices, such as: BCO vaccines, cholera vaccine, diphtheria and tetanus toxoids and pertussis vaccine, immune serum globulin for protection against viral hepatitis, perspectives on the control of viral hepatitis, type B, influenza vaccine, measles vaccine, meningococcal polysaccharide vaccines, mumps vaccine, plague vaccine, poliomyelitis vaccines, rabies, rubella vaccine, smallpox vaccine, typhoid vaccine, typhus vaccine, yellow fever vaccine.	Center for Disease Control, Attention: Director, General Services Office, Atlanta, Ga. 30333. No charge for 1 copy.	Center for Disease Control, General Services Office, 1600 Clifton Rd., N.E., Atlanta, Ga. 30333
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HRA).	Health Resources Administration index of policy documents as required by Public Law 90-23 (Freedom of Information), July 1, 1973, to Oct. 1, 1976. The HRA FOIA index is a listing of the following HRA documents: HRA policy, information, and instruction memoranda; supplements and circulars to the Federal personnel and HEW staff manuals; Federal regulations; delegations of authority; organization and functions statements; programmatic circulars, memoranda, instructions, notices, guides, guidelines, and operating manuals used by HRA components.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds \$5. Check payable to DHEW.	Associate Administrator, Office of Communications, Health Resources Administration, Room 10A-31, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857, (301) 443-1620

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Agency and subagency name	Index title: period covered, brief description of contents	Order from: price; make checks payable to—	For inspection, copying, or additional information contact
Department of Health, Education, and Welfare, Public Health Service, Health Resources Administration (HEW/PHS/HSA).	HSA Freedom of Information Act (FOIA) Index: March 1975 to June 30, 1977. The HSA FOIA index is a compilation of supplements to the departmental manual system, program level operations manuals, circulars, memoranda, notices and guides used by the components of HSA. All information included in this index is current as of June 30, 1977. The respective bureau level indexes are listed as follows:  OA—OFFICE OF THE ADMINISTRATOR  OCPA—Public Affairs Management System Manual; OFEL—HSA forward plan, fiscal year 1979-83; OM/OCG—HSA procurement operating instructions; OM/OMP—HSA transmittal notices for supplements to DHEW manuals; HSA Circulars; OM/OFS—policy decisions and opinion.  BMS—BUREAU OF MEDICAL SERVICES  Division of Hospitals and Clinics Operations Manual; BMS supplements to DHEW manuals; Manual of Operations for PHS Health Unit, DFEH, BMS; BMS circulars; Contract Physician's Guide; Division of Hospitals and Clinics circular memoranda. "Emergency Medical Service Systems Program Guidelines"; "HMO Policy Management Bulletin".  IHS—INDIAN HEALTH SERVICES  IHS circulars; IHS supplements to DHEW manuals; IHS Operations Manual; General Counsel opinions.  BCHS—BUREAU OF COMMUNITY HEALTH SERVICES  BCHS administrative guide system; BCHS Operations Manual.	Office of Communications and Public Affairs DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md. 20857. Checks payable to DHEW/Public Health Service, Mail to HSA Collection Officer, DHEW/PHS/HSA, Room 16-36, 5600 Fishers Lane, Rockville, Md. 20857. Fees charged for research and reproduction of information is based upon the current departmental fee schedule for information under the FOI regulations (45 CFR part 5 subpart E).	Office of Communications and Public Affairs DHEW/PHS/HSA, Room 14A-55, 5600 Fishers Lane, Rockville, Md.
HEW/PHS/Office of Administrative Management.	Index to the PHS Manual for financial evaluation of Public Health Service awards, continuous from July 1, 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page, with the charge being made if the total amount exceeds \$5. Checks payable to DHEW, Public Health Service.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	A guide to institutional cost sharing agreements for research grants and contracts, supported by the Department of Health, Education, and Welfare, continuous from July 1974.	Copies may be obtained from Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. No charge.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	PHS procurement regulations: policies and procedures which implement and supplement the DHEW procurement regulations and the Federal procurement regulations, continuous from May 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61 are 10¢ per page with the charge being made if the total amount exceeds \$5. Checks payable to DHEW, Public Health Service.	Copies available: ASC Forms and Publications Services Center, OAM/PHS, 12100 Parklawn Dr., Rockville, Md. 20857. Additional information: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	PHS grants policy statement; comprehensive policy document for use by PHS grantees, continuous from July 1974.	GPO, 90 cents. Superintendent of Documents (Stock No. 1720-00055).	Superintendent of Documents, GPO, Washington, D.C. 20407.
Do.....	Index to PHS supplements to HEW Grants Administration Staff Manual; supplementation and implementations to HEW manual; continuous from January 1974.	Photocopies available if requests are forwarded to: Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857. Fees as prescribed in 45 CFR 5.61, as 10¢ per page with the charge being made if the total amount exceeds \$5. Checks payable to DHEW, PHS.	Division of Grants and Contracts, ORM/OAM/PHS, 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	Tables of contents to PHS supplementation of HEW staff manuals containing authorities, policies, and procedures in the following areas: Emergency forms management, general administration, organization, ADP systems management, records management, safety management, security, facilities engineering and construction, and procurement.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees as described in 45 CFR 5.61, are 10 cents per page with the charge being made if the total amount exceeds \$5. Checks payable to DHEW, Public Health Service, Office of the Assistant Secretary for Health.	Director, Division of Directives and Authorities Management, OOMS/OAM/PHS, Room 17-81 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	Table of contents to PHS Commissioned Corps Personnel Manual containing authorities, policies, and procedures in that subject area.	do.....	Chief, Employment Operations Branch, CPOD/OPM/OAM/PHS, Room 14A-18, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	Table of contents to PHS supplementation of the Federal Personnel Manual containing authorities, policies, and procedures in that subject area.	do.....	Director, Office of Personnel Management, OAM/PHS, Room 15A-55, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.
Do.....	Table of contents to Parklawn guidelines: a series of internal operating guides providing operating instructions and procedures of a continuing nature for occupants of the Parklawn Bldg., Rockville, Md., with regard to operations of the Administrative Services Center, Office of Administrative Management. Guidelines include such subjects as: conference rooms; apportionment and assignment of parking spaces; official hours; and conservation of paper in copying, duplicating, and printing, Parklawn Bldg.	Executive Officer, Administrative Services Center, OAM/PHS, room 5-77, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857. Fees, as prescribed in 45 CFR 5.61, are 10¢ per page with the charge being made if the total amount exceeds \$5. Checks payable to Department of Health, Education, and Welfare, Public Health Service, Office of the Assistant Secretary for Health.	Executive Officer, Administrative Services Center, OAM/PHS, Room 5-77 Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. 20857.



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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Department of the Interior, Bonneville Power Administration.	BPA Manual Index dated Nov. 5, 1975, 33 pages. Policy, procedural, and directives material indexed by subject and BPA Manual chapter number.	The public may review the Index, obtain a copy of the Index without charge, or secure further information concerning the contents of the records listed by contacting Bonneville Power Administration's Public Information Office, 1002 NE Holladay St., Portland, Ore. 97232, or the Washington, D.C. office, 5000 Interior Bldg., Washington, D.C. 20240.	Bonneville Power Administration Offices listed in previous column or BPA Area and District Offices at the following: 919 NE 19th Ave., Portland, Ore. 97208; 415 First Ave. N., Seattle, Wash. 98109; U.S. Courthouse, Spokane, Wash. 99201; West 101 Poplar St., Walla Walla, Wash. 99362; U.S. Federal Bldg., 211 E. 7th St., Eugene, Ore. 97401; Highway 2E, Box 758, Kalispell, Mont. 59901; U.S. Federal Bldg., 301 Yakima St., Wenatchee, Wash. 98801; and 531 Lomax St., Idaho Falls, Idaho 83401.
Department of the Interior, Bureau of Mines.	Basic Bureau of Mines Manual General Table of Contents and Checklist—July 6, 1976. Numeric and subject listing of internal policies and procedures by series, part, chapter, paragraph, and subordinate paragraph.	In accordance with fee schedule in 43 CFR 2, App. A, Bureau of Mines.	Chief, Organization and Management Staff, Columbia Plaza Office Bldg., 2401 E St. NW, Washington, D.C. 20241.
Department of the Interior, Bureau of Reclamation.	Reclamation Instructions Index—Apr. 1, 1974. Subject listing of current instructions pertaining to Bureau of Reclamation organization and delegations of authority, policy and procedures, and detailed instructions on limited technical subjects. Guidelines—Task Force Report on Water Marketing Index.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. No charge.	Division of Management Support, E. & R. Center, Bureau of Reclamation, P.O. Box 25007, Denver, Colo. 80225. Phone: 303-234-2061.
Department of Labor, Bureau of International Labor Affairs.	Trade Adjustment Assistance: Cumulative Summary Apr. 3, 1975-May 31, 1977.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240. No charge.	Bureau of Reclamation, Division of Personnel, Branch of Management Systems, Interior Department, Washington, D.C. 20240.
Department of Labor, Labor-Management Services Administration.	Reporting and disclosure.	Bureau of International Labor Affairs. \$10 per page.	ILAB, New Department of Labor Building 200 Constitution Ave. NW., Washington D.C. 20210.
Department of Labor, Wage and Hour Division.	Field Operation Handbook, volume III through June 1, 1977.	LMSA, Information Officer, Room N5637, New Department of Labor Bldg.	LMSA, Information Officer, Room N5637, New Department of Labor Bldg.
Department of Transportation, Federal Highway Administration.	Opinions and final orders of the Federal Highway Administration in regard to the regulation of toll bridges—1968-77. 1 page listing of opinions and final orders regarding regulation of toll bridges; issued by the Federal Highway Administrator, which identifies the case and the date issued.	Wage and Hour. \$10 per page.	Office of the Administrator, Wage and Hour Division, Room S3502, New Department of Labor Bldg.
Do.....	Cease and desist and driver disqualification final orders by the Federal Highway Administrator: 1969-77; 8-page listing of cease and desist and driver disqualification final orders of the Federal Highway Administrator; items listed are identified by case docket number, name of carrier, and date notice of investigation was mailed.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. No charge.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590.
Do.....	Cross reference index of current Federal Highway Administration directives as of December 30, 1977. The index is alphabetical by subject. Within each subject applicable Federal Highway Administration orders, notices, and manuals are identified (in some cases manuals may be also identified by the applicable volume or other subordinate breakdown). The index is computerized and updated quarterly.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590. Price per copy: \$10.86. Checks payable to: The Treasury of the United States.	FOIA Program Officer, Federal Highway Administration, 400 7th St. SW., Washington, D.C. 20590; Federal Highway Administration Regional Offices. (For location see 49 CFR pt. 7); Federal Highway Administration Division Offices. (For location see 49 CFR pt. 7.)
Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms.	The Director, Bureau of Alcohol, Tobacco, and Firearms (ATF) has determined that publication in the Federal Register of the ATF Index of Materials required by the Freedom of Information Act is unnecessary and impracticable for the reason that the index is changing continually and that items listed are of interest to relatively few potential users. Copies of the index may, however, be obtained upon request to the Office of the Assistant to the Director (Disclosure), Bureau of Alcohol, Tobacco, and Firearms, Washington, D.C. 20226 at a cost of \$2. The index is entitled, "Index of Materials Required by the Freedom of Information Act, ATF P 1200.3." The index covers the period of July 1967-June 1977 and consists of Final Opinions and Orders Made in the Adjudication of Cases, Statements of Policy and Bureau Directives, and the latest listing of ATF publications.	Office of the Assistant to the Director (Disclosure), Room 222, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226. Price \$2. Make check payable to the Bureau of Alcohol, Tobacco, and Firearms.	Freedom of Information Act Reading Room, Room 1315, Bureau of Alcohol, Tobacco, and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226.
Do.....	CSA (Customs Simplification Act) Index (revised) Index to letters and letters relating to Customs Simplification Act, from 1956 forward.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: \$3. Checks payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229.
Do.....	Synopsis of Decisions on the Duty Assessment Process, 1972; administrative and court decisions and rulings concerning duty assessment process.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: \$3. Checks payable to: U.S. Customs Service.	Do.
Do.....	Customs Forms Catalog; Customs and other agency forms currently available from the Customs Service, July 1975.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Shelf stock, \$2.50; reproduced copies \$6.50. Shelf stock will be used while supply lasts. Checks payable to U.S. Customs Service. Also, available at District Offices of the Customs Service.	Do.
Do.....	KWIC (Key Word in Context) Index, June 1975; current Customs Service circular letters.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: \$1. Checks payable to: U.S. Customs Service.	Do.

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Do.....	Legal Keyword Precedent Directory. The directory is a listing by selected keywords of all classification rulings issued since early 1975 that affect a substantial volume of imports or transactions or are otherwise of general interest or importance and of all published classification rulings issued since Aug. 31, 1963, including classification decisions of the Customs Courts, Treasury Decisions, and classification rulings circulated within the Customs Service by the Customs Information Exchange and the Office of Regulations and Rulings. The directory also contains limited information on decisions and rulings pertaining to entry, value, drawback, marking, country of origin, and vessel repairs. The Legal Keyword Precedent Directory is maintained on microfiche and is continually updated.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229. Price: Duplicate microfiche are available at a cost of \$9.15 each and are available only in sets; a set presently contains 32 microfiche. Payable to: U.S. Customs Service.	Freedom of Information and Privacy Branch, Office of Regulations and Rulings, U.S. Customs Service, Washington, D.C. 20229 and at regional offices of the Customs Service.
Department of the Treasury, Office of the Secretary.	Index of Selected Records: July 1967 to December 1977. Listing of current administrative documents, reports, and releases from the Office of the Secretary, Bureau of Engraving and Printing, Bureau of the Mint, U.S. Secret Service, Bureau of the Public Debt, Bureau of Government Financial Operations, Federal Law Enforcement Training Center, U.S. Customs Service.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220, \$1.50, Treasury of the United States.	Treasury Department Library, Room 5010, Treasury Bldg., 15th and Pennsylvania Ave., Washington, D.C. 20220.
(U.S.) Arms Control and Disarmament Agency.	Index notices, instructions, regulations, and other ACDA records.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451. No charge.	Freedom of Information Officer, U.S. Arms Control and Disarmament Agency, Department of State Bldg., Washington, D.C. 20451.
Civil Service Commission (CSC).	Index to Civil Service Commission Information. Period covered: February 1975 to November 1977. A listing of policy and non-policy publications and information systems arranged alphabetically by title and subject.	Distribution Unit, Room B-431, U.S. Civil Service Commission, 1900 E St. NW., Washington, D.C. 20415. Free.	Commission Library or any Commission office, including regional and area offices.
Committee for Purchase from the Blind and Other Severely Handicapped.	Index of additions and deletions to the procurement list, August 1971-December 1977.	Order from: Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 N. 14th St., Suite 610, Arlington, Va. 22201. Price: 10¢ per page, per copy. Make checks payable to: Treasurer of the United States.	Committee for Purchase from the Blind and Other Severely Handicapped. Attention: Freedom of Information Officer.
Consumer Product Safety Commission.	Index: Final Opinions and Orders; Statements of Policy and Interpretations; Administrative and Staff Manual and Instructions.	Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; No charge.	Office of the Secretary, Consumer Product Safety Commission, 1750 K St. NW., Washington, D.C. 20007.
Council on Environmental Quality	Memoranda to the heads of all Federal agencies:		
Do.....	(i) CEQ memo to heads of agency on revised guidelines, Apr. 23, 1971.	Available from CEQ.....	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.
Do.....	(ii) CEQ memo to agency NEPA liaison on agency NEPA procedures May 14, 1971.	Do.....	Do.
Do.....	(iii) CEQ memo to agency NEPA liaison on inclusion of cost-benefit analyses, May 24, 1971.	Do.....	Do.
Do.....	(iv) CEQ memo to agency NEPA liaison on Caltex Cliffs decision, July 30, 1971.	Do.....	Do.
Do.....	(v) CEQ memo to agency NEPA liaison on extension of deadline on NEPA procedures, Aug. 5, 1971.	Do.....	Do.
Do.....	(vi) CEQ memo to heads of agencies on agency NEPA procedures, Sept. 23, 1971.	Do.....	Do.
Do.....	(vii) CEQ memo to heads of agencies on agency NEPA procedures, Nov. 2, 1971.	Do.....	Do.
Do.....	(viii) CEQ memo to agency NEPA liaison on outline of issues in agency NEPA procedures Dec. 3, 1971.	Do.....	Do.
Do.....	(ix) CEQ memo to agency NEPA liaison on extracts from leading NEPA court decisions, Dec. 3, 1971.	Do.....	Do.
Do.....	(x) CEQ memo to agency NEPA liaison on cumulative list of environmental impact statements, Dec. 23, 1971.	Do.....	Do.
Do.....	(xi) Revised CEQ guidelines on environmental impact statements prepared under section 102(2)(C) of the National Environmental Policy Act, Apr. 23, 1971.	Do.....	Do.
Do.....	(xii) Recommendations for improving agency NEPA procedures, May 16, 1972.	Do.....	Do.
Do.....	(xiii) Revision of agency procedures for preparation of environmental impact statements, Aug. 2, 1972.	Do.....	Do.
Do.....	(xiv) NTIS and the public availability of environmental impact statements under NEPA, Mar. 1, 1974, 102 Monitor vol. 4, No. 2, March 1974, p. 23.	Do.....	Do.
Do.....	(xv) Council advisory memorandum #1 on delegation by Federal agencies of responsibility for preparation of EIS's, 102 Monitor.	Do.....	Do.
Do.....	(xvi) CEQ publications list, Apr. 30, 1976.	Do.....	Council on Environmental Quality, Attention: Freedom of Information Officer, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-1415.
Do.....	(xvii) CEQ memo to heads of agencies on SCRAP decision Nov. 26, 1975.	Do.....	Council on Environmental Quality, General Counsel's Office, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.
Do.....	(xviii) CEQ memo to heads of agencies on environmental impact statements Feb. 10, 1976.	Do.....	Do.
Do.....	(xix) CEQ position paper "Pollution Control and Employment" February 1976.	Do.....	Council on Environmental Quality, Attention: Dr. E. H. Clark, 722 Jackson Pl. NW., Washington, D.C. 20006. (202) 382-6162.
Do.....	(xx) CEQ memo to heads of agencies on prime agricultural lands Aug. 30, 1976.	Do.....	Council on Environmental Quality, Attention: General Counsel, 722 Jackson Pl. NW., Washington, D.C. 20006; (202) 382-7965.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Do.....	(xxi) CEQ memo to heads of agencies on NEPA Supreme Court decisions Sept. 16, 1976.	do.....	Do.
Do.....	(xxii) CEQ memo to heads of agencies on NEPA requirement to projects abroad.	do.....	Do.
Do.....	(A) Memorandum of Implementation of the agreement between the United States and the U.S.S.R. on cooperation in the field of environmental protection, May 1972. 102 Monitor vol. 2, No. 9, October 1972.	Available by Ordering Cited Copy of the 102 Monitor from GPO.	Council on Environmental Quality, General Counsel's Office, 722 Jackson Place NW., Washington, D.C. 20006 (202) 382-7965.
Do.....	(B) 20 questions and answers explaining NEPA Sec. 102, environmental impact statement process, 102 Monitor, vol. 1, No. 10, November 1971, p. 1.	do.....	Do.
Do.....	(C) Coal surface mining and reclamation study, 102 Monitor, vol. 3, No. 2, March 1973 p. 62.	do.....	Do.
Do.....	(D) Economic impact of environmental programs, 102 Monitor vol. 4, No. 10, November 1974, p. 3.	do.....	Do.
Do.....	(E) Environmental programs and employment, 102 Monitor vol. 5, No. 4, May 1975.	do.....	Do.
Do.....	(F) Council advisory memorandum (memo on) 102 Monitor, vol. 5, No. 3, April 1975.	do.....	Do.
Do.....	(G) Council advisory memorandum #2 on application of NEPA to enforcement of the antitrust laws by the FTC, 102 Monitor, vol. 5, No. 2, March 1975, p. 13.	do.....	Do.
Do.....	(H) CEQ memo to heads of agencies on the Safe Drinking Water Act of 1974, Nov. 19, 1976.	Available from CEQ.	Do.
Energy Research and Development Administration.	ERDA headquarters reports: Cumulative index issued monthly starting Jan. 19, 1975. Includes report number, corporate author, and subject indexes. Includes reports prepared by individual headquarters authors, task forces and study groups, and environmental statements covering ERDA programs and facilities.	ERDA Library and Public Document Room, Washington, D.C. 20545. Copies made available at \$0.08 per page. Payable to: Energy Research and Development Administration.	ERDA Library and Public Document Room, Room 1223, 20 Massachusetts Ave. NW., Washington, D.C. 20545. 202-376-6015.
Do.....	ERDA manual table of contents: Covers directives, procurement instructions and regulations, and property management regulations, instructions, and bulletins. A cumulative table of contents is issued semi-annually listing ERDA issuances and those AEC issuances still in effect.	do.....	Do.
Do.....	Indexes to active and completed ERDA prime contracts arranged by (1) name of contractor, (2) work location, and (3) type of contract within field office.	do.....	Do.
ERDA, Office of the General Counsel.	ERDA waiver determinations. Lists of waiver requests on which a final determination was made during 1975 and 1976. Includes determination numbers of advance waivers and identified inventions, and names of firms or inventors.	do.....	Do.
ERDA, Board of Contract Appeals (BCA).	Decisions and orders for the periods Jan. 19, 1975 to June 30, 1977, including indexes.	do.....	Do.
Do.....	Atomic Energy Commission Reports: Oct. 1956-Jan. 1975, Vols. 1-8. Contains the BCA decisions and orders and indexes.	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.	Do.
Equal Employment Opportunity Commission.	Index to Commission Decisions Unpublished.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506. Price: 25¢. Payable to: U.S. Treasurer.	Librarian, Equal Employment Opportunity Commission, 2401 E St., NW., Washington, D.C. 20506.
Do.....	Index to Commission Decisions, Published.	do.....	Do.
Do.....	Index to Equal Employment Opportunity Commission Orders.	See above. Price: 15¢; Payable to: U.S. Treasurer.	Do.
Do.....	Index to Compliance Manual (Table of Contents).	See above. Price: \$3. Payable to: U.S. Treasurer.	Do.
Do.....	Index to General Counsel Manual (Table of Contents).	See above. Price: 45¢; Payable to: U.S. Treasurer.	Do.
Farm Credit Administration.	Index of FCA Information Materials: Jan. 1-Dec. 31, 1977; (1) Publications (those available in supply); (2) news releases issued since Jan. 1, 1972; (3) biographies of FCA officials; (4) speeches by FCA officials; (5) FCA regulations and clarification letters; (6) research reports; (7) FCA administrative and Personnel Handbook; (8) Directory of the FCA and Farm Credit Districts; (9) Monthly statistics on farm credit bank lending (list of tables); (10) FCA orders; and (11) FCA organization charts.	Information Division, Farm Credit Administration, 400 L'Enfant Plaza SW., Washington, D.C. 20578. Payable to: Farm Credit Administration. Single copies free of charge for items 1, 3, 4, 6, 8, and 11. Copies of all others available at 10¢ per page.	Mr. Roland W. Olson, Director of Information, Farm Credit Administration, Washington, D.C. 20578.
Federal Power Commission.	Supplement to Index of FPC Actions (Apr. 1, 1977-June 30, 1977).	Federal Power Commission, Office of Public Information, 825 North Capitol St. NE, Washington, D.C. 20426.	Federal Power Commission, Office of Public Information, 825 North Capitol St. NE, Washington, D.C. 20426.
Federal Reserve System, Board of Governors.	Card index to Board actions of the type that are made available to the public under the Freedom of Information Act from July 4, 1967 to date.	do.....	do.....
Do.....	Microfilm copies of above index covering period July 4, 1967 to Dec. 31, 1976. Subsequent years to be microfilmed.	Order from Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Checks payable to Board of Governors of the Federal Reserve System. \$13.25 a roll.	Freedom of Information Office, Room B-1228, Main Board Bldg., 20th and C Sts. NW., (202) 452-5684.
Do.....	Hard copy bound index for: 1967.....do..... 1968-74.....do.....	do.....	Do.
Do.....	Copies for additional years in preparation.	do.....	Do.
Do.....	Individual copy of the card index.	Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Charge not to exceed the direct cost of duplication.	Do.
Do.....	Weekly index published and distributed to the public providing identifying information as to any matter issued, adopted or promulgated by the Board from the first week in January 1975 to date (H.2 release).	Publications Services, Division of Administrative Services, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. (Mailing list maintained; no charge for current copies.)	Do.

See footnotes at end of table.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to—	For inspection, copying, or additional information contact
Federal Trade Commission.	Bound volumes of all FTC decisions, volumes 1-89, initial decisions of administrative law judges; Commission decisions in adjudicative proceedings; significant orders and opinions; consent orders; advisory opinions; and compliance advice; from March 1915 to June 1977. (Index of contents in each volume.)	Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Checks: Superintendent of Documents, \$9.17 each (some volumes out of print).	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580, 202-523-3518. Copying charge \$10 per page (assessed only when 100 or more pages are duplicated).
Do.....	Bound volume of Advisory Opinions, June 1962 to December 1968, index included, containing requests for advice concerning proposed actions and Commission responses. (Advisory Opinions also included in volumes of decisions listed above.)	Same as above. \$2.25 each.	Do.
Do.....	Enforcement statements pertaining to a specific industry or Commission policy, continuous from July 1967.	Public Reference Branch, Federal Trade Commission, Room 130, 6th and Pa. Ave., NW., Washington, D.C. 20580, 202-523-3518. Checks: Treasury of the U.S. Copying charge \$10 per page (assessed only when 100 or more pages are duplicated).	Do.
Do.....	Trade Regulation Rules, interpretive rules and general statements of policy with respect to unfair or deceptive acts or practices in or affecting commerce, index for specific rule-making proceedings, continuous from July 1967.	do.....	Do.
Do.....	Application for reimbursement for participation in trade regulation rulemaking proceedings, continuous from 1976.	do.....	Do.
Do.....	Current operating and administrative manuals; statements of general procedures and policies, rules of practice for adjudicative proceedings, nonadjudicative procedures, and miscellaneous rules; governing statutes.	do.....	Do.
Do.....	Freedom of Information Act access requests and responses, continuous from March 1973.	do.....	Do.
Do.....	Letters closing investigations after facts disclosed indicate corrective action not required in the public interest, continuous from March 1974.	do.....	Do.
Do.....	Applications from former members and employees to appear or participate in a proceeding or investigation, and Commission's responses, continuous from January 1969.	do.....	Do.
Do.....	Staff opinion letters issued by staff in response to requests for advice, continuous from May 1962.	do.....	Do.
Do.....	Index of proceedings in adjudicative matters pending before the Commission, current cases.	do.....	Do.
Do.....	Petitions submitted requesting action by the Commission, continuous from 1971.	do.....	Do.
Do.....	Index to publications available, including pamphlets, buyers' guides, industry guides, reports (e.g., quarterly financial, economic and staff in specific matters, annual; et cetera).	do.....	Do.
Do.....	News releases and other public announcements, continuous from 1969.	do.....	Do.
Do.....	Motions to limit or quash investigational subpoenas, continuous from June 1962.	do.....	Do.
Do.....	Motions to limit or quash orders requiring access or requiring a special report or answers to specific questions, continuous from November 1975.	do.....	Do.
Do.....	Announcement of meetings and summaries of matters discussed under the Sunshine Act, continuous from March 1977.	do.....	Do.
Do.....	Proposed consent orders, analyses, and relevant documents submitted by respondent or proposed respondent, during 60-day comment period.	do.....	Do.
Do.....	Outside contacts, correspondence, meetings information associated with Commission proceedings, continuous from April 1974.	do.....	Do.
Do.....	Current record of final votes of each member of the Commission in every agency proceeding, continuous from 1973.	do.....	Do.
Do.....	Assurances of voluntary compliance submitted by proposed respondents under investigation, 1965 to 1974.	do.....	Do.
General Services Administration (GSA).	GSA Freedom of Information Act index: July 4, 1967 through Dec. 30, 1977. Category A information which is final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases. Category B information which is those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER. Category C information which is administrative staff manuals and instructions to staff that affect a member of the public.	GSA, Director of Information (AV), Washington, D.C. 20405. Price: \$4.75. Make checks payable to: General Services Administration.	GSA Central Office Library and the business service centers located in each regional office listed below. Central Office Library, 18 and F Sts. NW., Room 1033, Washington, D.C. 20405. Business service centers: Region 1: John W. McCormack Post Office and Courthouse, Boston, Mass. 02109. Region 2: 26 Federal Plaza, New York, N.Y. 10007. Region 3: 7 and D Sts. SW., Washington, D.C. 20407. Region 4: 1776 Peachtree St. NW., Atlanta, Ga. 30309. Region 5: 230 South Dearborn St., Chicago, Ill. 60604. Region 6: 1500 East Bannister Rd., Kansas City, Mo. 64131. Region 7: 819 Taylor St., Fort Worth, Tex. 76102. Region 8: Building 42, Denver Federal Center, Denver, Colo. 80225. Region 9: 525 Market St., San Francisco, Calif. 94105. Region 10: GSA Center, Auburn, Wash. 98502.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
International Boundary and Water Commission, United States and Mexico, U.S. Section.	Brochure: Amistad Dam and Reservoir.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840. No charge.	Project Engineer, U.S. Section, IBWC, Route 2, Box 37, Highway 90 West, Del Rio, Tex. 78840.
Do.	Brochure: Falcon Dam and powerplant.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545. No charge.	Reservoirs Manager, U.S. Section, IBWC, P.O. Box 1, Falcon Village, Tex. 78545.
Do.	Water Bulletins: Containing data for 1 yr. covering flow of Rio Grande and related data from Elephant Butte, N. Mex., to Gulf of Mexico, re storage in major reservoirs, sources of river flow, diversions, suspended silt, chemical analyses, sanitary aspects of water quality, meteorologic data, and irrigated areas—for years 1981 through 1975.	Principal Engineer, Water Operations, U.S. Section, IBWC, room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902. Price: \$3.25 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations, U.S. Section, IBWC, Room 203, IBWC Bldg., 4110 Rio Bravo, El Paso, Tex. 79902.
Do.	Water Bulletins: Containing data for 1 yr. covering flow of Colorado River and other western boundary streams, and related data (including Tijuana, Santa Cruz, and San Pedro Rivers, and Whitewater Draw) for years 1960 through 1974.	Principal Engineer, Water Operations, U.S. Section, IBWC (same address as shown above). Price: \$2 per bulletin (data for 1 yr). Payable to: Treasurer of the United States.	Principal Engineer, Water Operations U.S. Section, IBWC (same address as shown above).
Marine Mammal Commission.	Marine Mammal Commission Recommendations; calendar years 1974-76; list of recommendations made to Federal departments and agencies pursuant to 16 U.S.C. sec. 1402(a), arranged in chronological order, and listing the agency addressed and the subject matter of the recommendation.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006; no charge.	Executive Director, Marine Mammal Commission, 1625 I St. NW., Washington, D.C. 20006.
National Science Foundation (NSF).	Index of NSF circulars, manuals, and bulletins in effect as of December 31, 1977. A numerical and classification index of agency-wide issuances, encompassing: (a) NSF circulars—convey agency policies, regulations, and procedures of a continuing nature; (b) NSF manuals—provide detailed instructions for implementing operating procedures, requirements, and criteria; and (c) NSF bulletins—used to communicate urgent information concerning changes in policy or procedure prior to its incorporation into a circular or manual, and to communicate other information that is pertinent for a specific period.	NSF Public Information Office, Room 531, 1800 G St. NW., Washington, D.C. 20550. \$0.10 per page, per copy. Payable to: National Science Foundation.	NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550.
Do.	Reviewer/panelist, alphabetical listing as of Aug. 2, 1977. Listing contains name, State, and institution of individuals who have reviewed proposals for the National Science Foundation for the period indicated above.	Do.	Do.
Do.	Index of Office of the Director staff memoranda (O/D) in effect, as of December 31, 1977. A numerical index, by calendar year, of issuances used by the Director and Deputy Director of the National Science Foundation to implement policy and to communicate with the staff on subjects of their choice.	Do.	Do.
Do.	Numerical index of NSF important notices in effect as of Mar. 31, 1977. An index of notices serving as the primary means of general communication by the Director, NSF, with organizations receiving or eligible for NSF support. The notices convey important announcements of NSF policies and procedures or concerning other subjects determined to be of interest to the academic community and to other selected audiences.	Do.	Do.
Do.	Reference file of current internal directorate issuances. A listing, by NSF directorate, of pertinent internal issuances of major NSF organizational components conveying policies, criteria, instructions or procedures amplified at a level below the Office of the Director and to communicate information of specific scope.	Do.	Do.
Do.	Index of NSF regulations promulgated in the Code of Federal Regulations under title 41, public contracts, property management; and title 45, public welfare. A listing, by subject title, of current Foundation regulations with a brief description of the content of each.	Do.	Do.
Do.	Publications of the National Science Foundation. An index by topical classification, as of November 1976, of current NSF publications issued and available to the public. Listings include annual reports, specific program announcements and brochures, science resources studies pamphlets, special studies publications and NSF periodicals. In addition to titles, provides NSF publication numbers and copy prices. (NSF publication 76-42.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis.	For inspection or copying: NSF Library, Room 219, 1800 G St. NW., Washington, D.C. 20550. For additional information: NSF Communications Resource Branch (OOPP) Room 531, 1800 G St. NW., Washington, D.C. 20550.
Do.	NSF guide to programs. A composite listing of summary information about NSF support programs, as of September 1976. Provides general guidance and information describing the principal characteristics and basic purposes of each activity; eligibility requirements; closing dates (where applicable); and the address where more detailed information or applications may be obtained. (NSF publication 76-33.)	NSF Central Processing Section, 1800 G St. NW., Washington, D.C. 20550. One copy gratis, or Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Stock No. 038-000-00294-5. Unit price: \$1.35.	Do.

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Agency and subagency name	Index title: period covered, brief description of contents	Order from; price; make checks payable to	For inspection, copying, or additional information contact
National Transportation Safety Board (NTSB).	Initial decisions of administrative law judges, Apr. 4, 1967 through Dec. 31, 1977. Chronological listing (by date of service) of decisions after hearings on appeal involving airman or air safety certificates. Safety enforcement decisions, May 18, 1967 through Dec. 31, 1977. Alphabetical and numerical listings of EA and EM final opinions/orders of the Board on appeal from initial decisions of NTSB administrative law judges or Commandant, U.S. Coast Guard. NTSB directives checklist as of Jan. 3, 1977. Numerical listing (by NTSB order No.) of staff operations directives.	Copies of indexes and checklist may be obtained by writing to Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. (Fees for duplication and instructions for payment will be included in letter of acknowledgment to requester.)	Chief, Public Inquiries Section, Room 806-B, National Transportation Safety Board, 806
Do.	Index to BOB/OMB bulletins, July 4, 1967 to Dec. 31, 1977. Keyword index of OMB bulletins.	Do.	Do.
Office of Management and Budget (OMB).	Index to Office of Management and Budget circulars, 1948 to Dec. 31, 1977. Arranges current OMB circulars by keywords in the titles of the directives and by a limited number of broader captions.	Office of Management and Budget. No fee.	Velma N. Baldwin, Assistant to the Director for Administration.
Do.	Index to Office of Management and Budget manual. All those sections currently in effect through Dec. 31, 1977. Arranged by keywords in the titles.	Do.	Do.
Do.	Rescinded Office of Management and Budget circulars, through Dec. 31, 1977. Arranged by number, date, subject, rescission date, and circular replacement (if any).	Do.	Do.
Do.	Listing of Federal management circulars transferred from General Services Administration. Arranged by number, subject, and date.	Do.	Do.
Pension Benefit Guaranty Corporation, Office of the General Counsel.	Index to Pension Benefit Guaranty Corp. Opinion Manual; Sept. 2, 1974 to Dec. 31, 1977; interpretive letters addressing the provisions of title IV of the Employee Retirement Income Security Act—plan termination insurance program.	The Office of Communications, Pension Benefit Guaranty Corp., Room 7100, 2020 K St. N.W., Washington, D.C. 20006; Charge \$0.10 per page; Payable to The Pension Benefit Guaranty Corp.	The Office of Communications, Attention: Mr. William Fitzgerald, (202) 254-4817, 2020 K St. NW., Washington, D.C. 20006.
Postal Rate Commission.	Postal Rate Commission Index, from 1971 to Dec. 30, 1977; Opinions and Recommended Decisions, Advisory Opinions and Orders having a precedential value.	Information Officer of the Commission, Postal Rate Commission, Washington, D.C. 20268. No charge.	Commission's Reading Room, Suite 500, 2000 L St. NW., Washington, D.C. 20268.
Postal Service.	USPS Public Index, July 4, 1967—Dec. 31, 1977. List of USPS Directives and Publications; Index of Final Legal Opinions, Orders; Current Information Services Price List.	USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Section I—Introduction. Section II—List of USPS Directives and Publications. Section III—Index of Final Legal Opinions and Orders. Complete Index. \$9 per page. \$10 per page.	General Manager, Library Division, USPS Headquarters Library, 475 L'Enfant Plaza West SW., Washington, D.C. 20260.
Renegotiation Board.	Index of documents, vols. 1, 2, and 3, 1967 to present: Agreements, modification agreements, clearances after assignment, clearances after reassignment, clearances without assignment, clearance agreements, letters not to proceed, final orders, regional board opinions, orders, modification orders, special accounting agreements, interpretations, general orders, administrative orders that affect the public, memoranda of decision, statements of facts and reasons, summaries of facts and reasons, decisions on applications for stock item exemption, decisions on new durable productive equipment exemption, and decisions on applications for commercial exemption.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446. \$0.15 per page.	Public Information Office, The Renegotiation Board, 2000 M St. NW., Washington, D.C. 20446, Room 4310, Telephone: 202-254-7019.
Selective Service System.	1. Index to Selective Service Regulations and Directives, 1948 to 1972. 2. Index to Selective Service Regulations and Registrants Processing Manual, 1972 to present. 3. General Index to Reconciliation Service Manual. 4. Registrant Information Bank Guide Index 1972 to present.	National Headquarters Selective Service System 600 E Street NW. Washington, D.C. 20435. Prices: (1) \$2; (2) \$2; (3) \$10; (4) \$10. Make checks payable to: Selective Service System.	Records Manager, National Headquarters Selective Service System, 600 E Street NW. Washington, D.C. 20435, telephone 202-724-0419.
Tennessee Valley Authority.	Index to general administrative releases; covers period through March 1977; index to TVA organization bulletins, TVA codes, and TVA instructions.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902. Price: \$2.00. Checks payable to: Tennessee Valley Authority.	John Van Mol, Director of Information, Tennessee Valley Authority, Knoxville, Tenn. 37902.
Veterans Administration.	VA Index 1-03-1, Index to Veterans Administration Publications, Nov. 1, 1975, annual. Highly technical reference tool by basic classifications subject to current VA directives and annual listing (noncumulative) of rescinded VA directives. Primarily designed for internal use.	Not on sale.	Copies may be inspected or copied, and further information obtained at any Veterans Administration field office or Central Office. Not all listed material, however, is maintained at every field station. Visitors to Central Office (810 Vermont Ave. NW., Washington, D.C.) will be received by the Central Office Veterans Assistance Unit in Room 132. Visitors to any VA field station will be assisted and informed where the index may be inspected.
Do.	Index and digest of decisions of the Veterans Administration Contract Appeals Board.	Do.	Inquiries should be directed to the Chairman, Contract Appeals Board (002C), Veterans Administration, 810 Vermont Ave. NW., Washington, D.C. 20420, telephone 202-275-1750.

1 \$5. a copy.  
\* \$10. a copy for each year.

[FR Doc.78-2774 Filed 1-30-78; 8:45 am]



[6820-24]

**GENERAL SERVICES  
ADMINISTRATION  
GSA BULLETIN FPR 31  
FEDERAL PROCUREMENT**

List of Basic Agreements Available for Use by  
Executive Agencies

To: Heads of Federal agencies.

Subject: List of basic agreements available  
for use by executive agencies.

1. *Purpose.* This bulletin lists the current basic agreements of executive agencies which are available for use in the procurement of research and development from educational institutions and nonprofit organizations in fiscal year 1978.

2. *Expiration date.* The information contained in this bulletin is of a continuing nature and will remain in effect until canceled.

3. *Background.* Subpart 1-3.4 of the Federal Procurement Regulations (FPR) describes the use of basic agreements. However, prior to FPR Amendment 149, it did not specifically refer to research and development or to interagency use of such agreements. Recommendation B-11 of the Commission on Government Procurement provided as follows: "Encourage the use of master agreements of the grant and contract types, which when executed should be used on a work order basis by all agencies and for all types of performers." The Commission based this recommendation on the observation that time and effort could be saved by both the Government and the performers of research and development through the use of prenegotiated terms and conditions allowing for new or additional work to be contracted for on a work order basis. After extensive study of this recommendation by the General Services Administration and the Department of Defense, it was determined that the purposes of the recommendation would be served to the maximum extent practicable by encouraging the use of basic agreements with educational institutions and nonprofit organizations. Recommendation B-11 was implemented in FPR Amendment 149 (40 FR 27655, July 1, 1975) which provides in § 1-3.410-2(e) for the publication of FPR bulletins listing the basic agreements of executive agencies on a fiscal year basis as reported by those agencies. The first list was published in GSA Bulletin FPR 26, February 25, 1977. The list of basic agreements set forth in this bulletin replaces the earlier list.

4. *Guidance.* A current list of institutions and organizations which have entered into basic agreements with executive agencies is set forth in attachment A. Each institution is listed alphabetically together with a code number which identifies the agency concerned. Attachment B lists agency

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contact points. The contact points may be used to obtain copies of and information concerning the current applicability of the various basic agreements.

5. *Cancellation.* This bulletin cancels

GSA Bulletin FPR 26, dated February 25, 1977.

JAY H. BOLTON,  
Acting Commissioner,  
Federal Supply Service.

DECEMBER 27, 1977.

**BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL  
YEAR 1978**

Contractor	Basic agreement No. and date	Code
Akron, University of, Akron, Ohio	N00014-76-A-0142, Oct. 1, 1975	1
Alabama, University of (Huntsville)	N00014-76-A-0167, Dec. 15, 1975	1
Alabama, University of, University, Ala.	N00014-76-A-0130, Dec. 15, 1975	1
Alaska, University of, Fairbanks, Alaska	N00014-76-A-0002, Apr. 1, 1976	1
American Institute of Biological Sciences	N00014-76-A-0003, July 1, 1976	1
American University, Washington, D.C.	N00014-76-A-0073, Oct. 1, 1975	1
Arizona Board of Regents, Arizona State University	N00014-76-A-0093, Dec. 1, 1975	1
Do.	N00014-76-A-0030, Oct. 1, 1975	1
Arkansas, University of, Board of Trustees	N00014-76-A-0151, Jan. 1, 1976	1
Auburn University, Auburn, Ala.	N00014-76-A-0141, Dec. 15, 1975	1
Beth Israel Medical Center, New York, N.Y.	N00014-76-A-0085, Nov. 25, 1975	1
Bishop College, Dallas, Tex.	N00014-76-A-0106, July 1, 1976	1
Boston College, Trustees of, Chestnut Hill, Mass.	N00014-76-A-0117, Dec. 1, 1975	1
Boston University, Boston, Mass.	N00014-76-A-0137, Feb. 15, 1976	1
Brandeis University, Waltham, Mass.	N00014-76-A-0182, May 1, 1976	1
Brown University, Providence, R.I.	N00014-76-A-0042, Oct. 15, 1975	1
Brigham Young University, Provo, Utah	N00014-76-A-0174, Jan. 1, 1976	1
California Institute of Technology, Pasadena, Calif.	N00014-76-A-0005, Oct. 1, 1975	1
California State University, Long Beach Foundation	N00014-76-A-0084, Jan. 1, 1976	1
Long Beach, Calif.		
California State University Foundation, Northridge, Calif.	N00014-76-A-0095, Dec. 19, 1975	1
Northridge, Calif.		
California, The Regents of the University of, Berkeley, Calif.	N00014-76-A-0004, Oct. 1, 1975	1
Carnegie-Mellon University, Pittsburgh, Pa.	N00014-76-A-0053, Oct. 15, 1975	1
Case Western Reserve University, Cleveland, Ohio	N00014-76-A-0034, Oct. 1, 1975	1
Catholic University of America, Washington, D.C.	N00014-76-A-0074, Oct. 1, 1975	1
Charles Stark Draper Laboratory, Cambridge, Mass.	N00014-76-A-0007, Aug. 1, 1976	1
Chicago, University of, Chicago, Ill.	N00014-76-A-0035, Oct. 1, 1975	1
Children's Hospital Medical Center, Boston, Mass.	N00014-76-A-0132, Oct. 1, 1975	1
Cincinnati, University of, Cincinnati, Ohio	N00014-76-A-0147, Oct. 1, 1975	1
Clarkson College of Technology, Potsdam, N.Y.	N00014-76-A-0043, Oct. 15, 1975	1
Clemson University, Clemson, S.C.	N00014-76-A-0118, Dec. 8, 1975	1
Colorado School of Mines, Golden, Colo.	N00014-76-A-0180, Apr. 19, 1976	1
Colorado State University, Fort Collins, Colo.	N00014-76-A-0036, Oct. 1, 1975	1
Colorado, The Regents of the University of	N00014-76-A-0118, Oct. 1, 1975	1
Columbia University in the city of New York, The	N00014-76-A-0006, Oct. 15, 1975	1
Trustees of, New York, N.Y.		
Connecticut, University of, Storrs, Conn.	N00014-76-A-0066, Jan. 1, 1976	1
Connecticut Health Center, University of	N00014-76-A-0150, Jan. 1, 1976	1
Cornell University, Ithaca, N.Y.	N00014-76-A-0044, Oct. 15, 1975	1
Dartmouth College, Hanover, N.H.	N00014-76-A-0121, Dec. 1, 1975	1
Dayton, University of, Dayton, Ohio	N00014-76-A-0157, Apr. 1, 1976	1
Delaware, University of, Newark, Del.	N00014-76-A-0103, Oct. 29, 1975	1
Denver, University of (Colorado Seminary)	N00014-76-A-0125, Oct. 1, 1975	1
Drexel University, Philadelphia, Pa.	N00014-76-A-0045, Oct. 15, 1975	1
Duke University, Durham, N.C.	N00014-76-A-0071, Oct. 11, 1975	1
Emmanuel College, The Trustees of, Boston, Mass.	N00014-76-A-0153, Dec. 12, 1975	1
Emory University, Atlanta, Ga.	N00014-76-A-0081, Nov. 8, 1975	1
Environmental Research Institute of Michigan, Ann Arbor, Mich.	N00014-76-A-0172, July 1, 1976	1
Florida A & M University, Tallahassee, Fla.	N00014-76-A-0170, Dec. 19, 1975	1
Florida Institute of Technology, Melbourne, Fla.	N00014-76-A-0171, Jan. 1, 1976	1
Florida State University, Tallahassee, Fla.	N00014-76-A-0052, Oct. 15, 1975	1
Florida, University of, Gainesville, Fla.	N00014-76-A-0080, Oct. 8, 1975	1
Franklin Institute Research Laboratories, Philadelphia, Pa.	N00014-76-A-0007, Feb. 1, 1977	1
George Washington University, Washington, D.C.	N00014-76-A-0075, Oct. 1, 1975	1
Georgetown University, Washington, D.C.	N00014-76-A-0076, Oct. 1, 1975	1
Georgia Institute of Technology, Atlanta, Ga.	N00014-76-A-0092, Nov. 6, 1975	1
Georgia State University, Atlanta, Ga.	N00014-76-A-0079, Dec. 1, 1975	1
Georgia Tech Research Institute, Atlanta, Ga.	N00014-76-A-0108, Nov. 6, 1975	1
Georgia, University of, Athens, Ga.	N00014-76-A-0152, Dec. 1, 1975	1
Hahnemann Medical College, Philadelphia, Pa.	N00014-76-A-0046, Oct. 15, 1975	1
Harvard College, President and Fellows of, Cambridge, Mass.	N00014-76-A-0038, Oct. 15, 1975	1
Hawaii, University of, Honolulu, Hawaii	N00014-76-A-0008, Oct. 1, 1975	1
Houston, University of, Houston, Tex.	N00014-76-A-0068, Oct. 1, 1975	1
Howard University, Washington, D.C.	N00014-76-A-0077, Oct. 1, 1975	1
Idaho, University of, Moscow, Idaho	N00014-76-A-0164, Dec. 1, 1975	1
Illinois, Board of Trustees of the University of	N00014-76-A-0009, Oct. 1, 1975	1
Illinois Medical Center, University of, Chicago, Ill.	N00014-76-A-0086, Oct. 1, 1975	1
Indiana University Foundation, Bloomington, Ind.	N00014-76-A-0089, Oct. 1, 1975	1
Iowa, University of, Iowa City, Iowa	N00014-76-A-0037, Oct. 1, 1975	1
Iowa State University of Science and Technology	N00014-76-A-0173, Dec. 29, 1975	1
Ames, Iowa		
John Carroll University, Cleveland, Ohio	N00014-76-A-0094, Oct. 1, 1975	1
Johns Hopkins University, Baltimore, Md.	N00014-76-A-0061, Oct. 15, 1975	1
Kansas State University, Manhattan, Kans.	N00014-76-A-0120, Oct. 1, 1975	1
Kansas, University of, Lawrence, Kans.	N00014-76-A-0065, Oct. 1, 1975	1

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**NOTICES**

**BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL  
YEAR 1978—Continued**

Contractor	Basic agreement No. and date	Code
Kentucky Research Foundation, University of, Lexington, Ky.	N00014-76-A-0146, Oct. 1, 1975	1
Lehigh University, Bethlehem, Pa.	N00014-76-A-0047, Oct. 15, 1975	1
Leland Stanford Junior University, The Board of Trustees of, Stanford, Calif.	N00014-76-A-0029, Nov. 18, 1975	1
Louisiana State, Board of Supervisors of (University and Agricultural and Mechanical College), Baton Rouge, La.	N00014-76-A-0072, Oct. 1, 1975	1
Louisville Foundation, University of, Louisville, Ky.	N00014-76-A-0148, Oct. 1, 1975	1
Loyola University, Chicago, Ill.	N00014-76-A-0175, Jan. 1, 1976	1
Maryland, University of, College Park, Md.	N00014-76-A-0096, Oct. 15, 1975	1
Massachusetts General Hospital, Boston, Mass.	N00014-76-A-0133, Dec. 1, 1975	1
Massachusetts Institute of Technology, Cambridge, Mass.	N00014-76-A-0049, Oct. 15, 1975	1
Massachusetts, University of, Amherst, Mass.	N00014-76-A-0048, Oct. 15, 1975	1
Miami, University of, Coral Gables, Fla.	N00014-76-A-0010, Oct. 15, 1975	1
Michigan State University, East Lansing, Mich.	N00014-76-A-0007, Oct. 1, 1975	1
Michigan Technological University, Houghton, Mich.	N00014-76-A-0140, Oct. 1, 1975	1
Michigan, The Regents of the University of	N00014-76-A-0011, Oct. 1, 1975	1
Minnesota, The Regents of the University of	N00014-76-A-0012, Oct. 1, 1975	1
Missouri University Hall, The Curators of, Columbia, Mo.	N00014-76-A-0070, Oct. 1, 1975	1
Montana State University, Bozeman, Mont.	N00014-76-A-0159, Dec. 1, 1975	1
Montana, University of, Missoula, Mont.	N00014-76-A-0182, Dec. 1, 1975	1
National Academy of Sciences, Washington, D.C.	6300057, July 1963	2
Do.	DOT/OS-60118, Oct. 1, 1976	3
Nevada System, University of, Reno, Nev.	N00014-76-A-0013, Feb. 1, 1976	1
New Hampshire, University of, Durham, N.H.	N00014-76-A-0119, Oct. 1, 1975	1
New Mexico Institute of Mining and Technology, Socorro, N. Mex.	N00014-76-A-0050, Oct. 15, 1975	1
New Mexico State University, Physical Science Laboratory, Las Cruces, N. Mex.	N00014-76-A-0032, Oct. 1, 1975	1
New Mexico University, Regents of, University Hill, Albuquerque, N. Mex.	N00014-76-A-0136, Dec. 1, 1975	1
New York University, New York, N.Y.	N00014-76-A-0014, Oct. 15, 1975	1
New York University Medical Center, New York, N.Y.	N00014-76-A-0102, Nov. 15, 1975	1
New York City University, Research Foundation on behalf of City College.	N00014-76-A-0056, Oct. 15, 1975	1
New York State University, Research Foundation of, Albany, N.Y.	N00014-76-A-0057, Oct. 15, 1975	1
North Carolina at Chapel Hill, University of, Chapel Hill, N.C.	N00014-76-A-0101, Oct. 11, 1975	1
North Carolina at Charlotte, University of, Charlotte, N.C.	N00014-76-A-0144, Jan. 1, 1976	1
North Carolina at Wilmington, University of, Wilmington, N.C.	N00014-76-A-0131, Dec. 1, 1975	1
North Carolina State University at Raleigh, Raleigh, N.C.	N00014-76-A-0097, Oct. 11, 1975	1
North Dakota, University of, Grand Forks, N.Dak.	N00014-76-A-0114, Oct. 1, 1975	1
Northeastern University, Boston, Mass.	N00014-76-A-0051, Oct. 15, 1975	1
Northwestern University, Evanston, Ill.	N00014-76-A-0038, Oct. 1, 1975	1
Notre Dame Du Lac, University of, Notre Dame, Ind.	N00014-76-A-0143, Oct. 1, 1975	1
Nova University, Fort Lauderdale, Fla.	N00014-76-A-0067, Dec. 15, 1975	1
Oakland University, Rochester, Mich.	N00014-76-A-0139, Oct. 1, 1975	1
Ohio State University, Research Foundation, Columbus, Ohio.	N00014-76-A-0038, Oct. 1, 1975	1
Oklahoma State University of Agriculture and Applied Science, Stillwater, Okla.	N00014-76-A-0166, Oct. 1, 1975	1
Oklahoma, University of, Norman, Okla.	N00014-76-A-0136, Oct. 1, 1975	1
Old Dominion University, Research Foundation, Norfolk, Va.	N00014-76-A-0127, Dec. 15, 1975	1
Oregon Graduate Center for Study and Research, Beaverton, Oreg.	N00014-76-A-0165, Dec. 1, 1975	1
Oregon State University, the State of Oregon, acting by and through the State Department of Higher Education on behalf of, Corvallis, Oreg.	N00014-76-A-0015, Sept. 30, 1975	1
University of Oregon, the State of Oregon, acting by and through the State Board of Higher Education on behalf of, Eugene, Oreg.	N00014-76-A-0163, Dec. 1, 1975	1
Pennsylvania State University, University Park, Pa.	N00014-76-A-0052, Oct. 15, 1975	1
Pennsylvania, The Trustees of the University of, Philadelphia, Pa.	N00014-76-A-0016, Oct. 15, 1975	1
Pittsburgh, University of, Pittsburgh, Pa.	N00014-76-A-0053, Oct. 15, 1975	1
Polytechnic Institute of New York, Brooklyn, N.Y.	N00014-76-A-0054, Oct. 15, 1975	1
Princeton University, The Trustees of, Princeton, N.J.	N00014-76-A-0018, Oct. 15, 1975	1
Purdue Research Foundation, West Lafayette, Ind.	N00014-76-A-0019, Oct. 1, 1975	1
Regis College, Weston, Mass.	N00014-76-A-0181, July 1, 1976	1
Rensselaer Polytechnic Institute, Troy, N.Y.	N00014-76-A-0055, Oct. 15, 1975	1
Rhode Island, University of, Kingston, R.I.	N00014-76-A-0058, Oct. 15, 1975	1
William Marsh Rice University, Houston, Tex.	N00014-76-A-0062, Oct. 1, 1975	1
Rochester, University of, Rochester, N.Y.	N00014-76-A-0145, Oct. 15, 1975	1
Rutgers, The State University, New Brunswick, N.J.	N00014-76-A-0064, Oct. 15, 1975	1
Saint Louis University, St. Louis, Mo.	N00014-76-A-0158, Oct. 1, 1975	1
San Diego State University Foundation, San Diego, Calif.	N00014-76-A-0021, Feb. 1, 1976	1
San Jose State University Foundation, San Jose, Calif.	N00014-76-A-0040, Jan. 15, 1976	1
Seattle University, Seattle, Wash.	N00014-76-A-0076, Dec. 16, 1975	1
Smithsonian Institution, Washington D.C.	N00014-76-A-0123, Feb. 1, 1976	1
Smithsonian Science Information Exchange, Inc., Washington, D.C.	FC-8003950000, Oct. 1, 1977	4

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## BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978—Continued

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South Dakotas School of Mines and Technology, N00014-76-A-0088, Oct. 1, 1975.....		1
Rapid City, S. Dak.		
South Florida, University of, Tampa, Fla.....	N00014-76-A-0069, Jan. 1, 1976.....	1
Southern California, University of, Los Angeles, Calif.....	N00014-76-A-0022, Oct. 1, 1975.....	1
Southern Methodist, University Research Administra- N00014-76-A-0115, Oct. 1, 1975.....		1
tion, Dallas, Tex.		
Stanford Research Institute, Menlo Park, Calif.....	N00014-76-A-0188, Dec. 13, 1976.....	1
Stevens Institute of Technology, The Trustees of, Ho- N00014-76-A-0059, Oct. 15, 1975.....		1
boken, N.J.		
Syracuse University, Syracuse, N.Y.....	N00014-76-A-0154, Jan. 1, 1976.....	1
Tennessee, University of, Knoxville, Tenn.....	N00014-76-A-0098, Oct. 15, 1975.....	1
Texas A & M Research Foundation, College Station, N00014-76-A-0024, Oct. 1, 1975.....		1
Tex.		
Texas Christian University, Forth Worth, Tex.....	N00014-76-A-0160, Oct. 1, 1975.....	1
Texas System, University of, Austin, Tex.....	N00014-76-A-0023, Oct. 1, 1975.....	1
Texas Tech University, Lubbock, Tex.....	N00014-76-A-0135, Oct. 1, 1975.....	1
Tufts University, Medford, Mass.....	N00014-76-A-0155, Dec. 1, 1975.....	1
Tulane University, New Orleans, La.....	N00014-76-A-0107, Oct. 1, 1975.....	1
Tuskegee Institute, Tuskegee, Ala.....	N00014-76-A-0149, Dec. 15, 1975.....	1
Union College, Schenectady, N.Y.....	N00014-76-A-0126, Jan. 1, 1976.....	1
Utah State University, Logan, Utah.....	N00014-76-A-0180, Jan. 1, 1976.....	1
Utah, University of, Salt Lake City, Utah.....	N00014-76-A-0033, Oct. 1, 1975.....	1
Vermont, University of, Burlington, Vt.....	N00014-76-A-0134, Jan. 1, 1976.....	1
Virginia Commonwealth University, Richmond, Va.....	N00014-76-A-0104, Nov. 7, 1975.....	1
Virginia Polytechnic Institute and State University, N00014-76-A-0099, Oct. 15, 1975.....		1
Blacksburg, Va.		
Virginia State College, Petersburg, Va.....	N00014-76-A-0129, Jan. 30, 1976.....	1
Virginia, The Rector and Visitors of the University of N00014-76-A-0025, Oct. 15, 1975.....		1
Charlottesville, Va.		
Wake Forest University (Bowman Gray School of N00014-76-A-0083, Oct. 1, 1975.....		1
Medicine), Winston-Salem, N.C.		
Washington State University, Pullman, Wash.....	N00014-76-A-0091, Oct. 1, 1975.....	1
Washington, The Board of Regents of the University N00014-76-A-0026, Sept. 30, 1975.....		1
of, Seattle, Wash.		
Washington University, St. Louis, Mo.....	N00014-76-A-0124, Oct. 1, 1975.....	1
Wayne State University, Detroit, Mich.....	N00014-76-A-0105, Oct. 1, 1975.....	1
Wentworth Institute, Boston, Mass.....	N00014-76-A-0156, Jan. 1, 1976.....	1
West Virginia Board of Regents on behalf of West Vir- N00014-76-A-0100, Oct. 8, 1975.....		1
ginia University, Morgantown, W. Va.		
William and Mary, College of, Williamsburg, Va.....	N00014-76-A-0110, Nov. 7, 1975.....	1
Wisconsin System, Board of Regents of the University. N00014-76-A-0041, Oct. 1, 1975.....		1
Woods Hole Oceanographic Institution, Woods Hole, N00014-76-A-0183, Jan. 20, 1977.....		1
Mass.		
Worcester Polytechnic Institute, Worcester, Mass.....	N00014-76-A-0128, Jan. 1, 1976.....	1
Wyoming, University of, Laramie, Wyo.....	N00014-76-A-0122, Oct. 1, 1975.....	1
Yale University, New Haven, Conn.....	N00014-76-A-0027, Oct. 15, 1975.....	1
Yeshiva University, New York, N.Y.....	N00014-76-A-0060, Oct. 15, 1975.....	1

Nonprofit organization.

NOTE.—Where a specific basic agreement number and/or date is cited, the buying office should verify its current applicability. For a copy of or information concerning a particular basic agreement, identify the contractor and its code number and locate the contact point on attachment B.

## CONTACT POINTS FOR INFORMATION ON THE BASIC AGREEMENTS WITH EDUCATIONAL INSTITUTIONS AND NONPROFIT ORGANIZATIONS, FISCAL YEAR 1978

Contact points	Code
Mr. Ken Popham, Office of Naval Research (Code 611), 800 North Quincey St., Arlington, Va. 22217, 202-692-4805.....	1
Mr. Leonard A. Redecke, Contracts Administrator, Contracts Branch, Grants and Contracts Office, National Science Foundation, Washington, D.C. 20550, 202-632-5872.....	2
Mr. Barnett M. Ancelet, Director of Installations and Logistics, Department of Transportation, Washington, D.C. 20590, 202-426-4237.....	3
Mr. Harry P. Barton, Director, Office of Supply Services, Smithsonian Institution, Washington, D.C. 20024, 202-381-5924.....	4

[FR Doc. 78-2398 Filed 1-30-78; 8:45 am]

## [6820-34]

## GENERAL SERVICES ADMINISTRATION

## ADVISORY COMMITTEE ON REAL ESTATE LEASING PROCEDURES

## Establishment of Advisory Committee

This notice is published in accordance with the provisions of section

9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) and advises of the establishment of an Advisory Committee for review of GSA real estate leasing procedures. The Administrator of General Services has determined that this advisory committee is in the public interest.

## Designation. Advisory Panel on Real Estate Leasing Procedures.

Purpose. To review existing procedures and make recommendations as appropriate to the Administrator of General Services with respect to the methods by which GSA acquires leasehold interests in real estate. The objective is to utilize the experience and expertise of various segments of industry in conducting the review.

General information. Pursuant to OMB Circular A-63, the Committee Management Secretariat has authorized a period of less than 15 days between publication of this notice and the filing of the committee charter.

Dated: January 30, 1978.

JAY SALOMON,  
Administrator of General  
Services.

[FR Doc. 78-2883 Filed 1-30-78; 12:23 am]

## [6820-22]

## ADVISORY PANEL ON REAL ESTATE LEASING PROCEDURES

## Meeting

Notice is hereby given of the convening of an Advisory Panel on Real Estate Leasing Procedures, February 1 and 2 from 9 a.m. to 4:30 p.m., Room 5141A, General Services Administration, 18th and F Streets NW., Washington, D.C. The panel will review existing procedures and make any necessary recommendations with respect to the methods by which GSA acquires leasehold interests in real property. The meeting will be open to the public.

Pursuant to OMB Circular A-63, a period of less than 15 days between publication of this notice and the date the meeting is scheduled to be held is necessary because the committee was not formally structured as an advisory committee when it was initially formed.

Dated: January 30, 1978.

TOM L. PEYTON, Jr.,  
Acting Commissioner,  
Public Buildings Service.

[FR Doc. 78-2884 Filed 1-30-78; 12:23 pm]

## sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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	Item
Civil Aeronautics Board.....	1, 2
Consumer Product Safety Commission.....	3, 4
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Federal Communications Commission.....	10
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Federal Energy Regulatory Commission.....	16
Federal Home Loan Bank Board.....	17, 18
United States Postal Service (Board of Governors).....	19
	20, 21

## [6320-01]

## CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., February 1, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

## SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 28475, Ozark's petition for reconsideration of Order 77-4-16 (Memo No. 5708-B, BOR).
3. Dockets 30915 and 30955, Frontier Airlines and Hughes Airwest applications for Nonstop Authority Between Boise and Denver (Memo No. 7608, BOR, BLJ).
4. Docket 29554, Airwest's Application for Authority between Las Vegas-Albuquerque-El Paso-Midland/Odessa-San Antonio-Corpus Christi and Houston and between Phoenix/Tucson-San Antonio-Houston and New Orleans and motion for immediate hearing (Memo No. 7314, BOR, BLJ).
5. Docket 30910, Eastern's Motion for Hearing on Nonstop Dallas-Tucson Authority (Memo No. 7509, BOR).
6. Docket 28273, Frontier's Motion for Hearing on Tucson-San Diego (Memo No. 7657, 7657-A, BOR, OCCR).
7. Docket 28115, Midwest Atlanta Competitive Service Case (proposed instructions to staff) (OGC, OEA).
8. The Council on Environmental Quality's proposed regulations to implement the National Environmental Policy Act (most specifically, the environmental impact statement process) (Memo No. 7729, BOR, OGC, BLJ, BIA, BFR).
9. Dockets 31411 and 23888, Application of Allegheny Airlines, Ransome Airlines and the Sullivan County Parties for approval of replacement agreement and postponement of inauguration of service at Sullivan County; Petition of Altair for Order Modifying Agreement between Allegheny and Ransome (BOR).
10. Docket 27123, Order on reconsideration in Western Route Realignment (BOR).
11. Docket 24297, Petition for Reconsideration of Order 77-7-50 filed by John E. and Florence D. Amberg (Memo No. 3483-B, BOR).
12. Docket 15700, Petition for modification of order approving acquisition of control of Frontier Airlines, Inc., by the General Tire Company and RKO General Tire (Memo No. 7716, BOR, OGC).
13. Docket 31660, Application for approval for exemption of Air Express International's acquisition of Trans Air Freight System (Memo No. 7730, BOR).
14. Motions to withhold from public disclosure the price information contained in certain service contracts of Pan American World Airways, Inc.; Agreements CAB 26333, 26457, 26471, 26332, 26334, 26566, 26795, 26818, 26819, 26979, 26975, 27003, 27005 (Memo No. 7720, BOR, OGC).
15. Docket 31512, Application of Trans International Airlines, Inc. for disclaimer of jurisdiction or approval under section 408 of the Act, of aircraft leases (Memo No. 7719, BOR, OGC).
16. Dockets 30090, 30124, 30191 and 30213, Petitions of Pan American, TWA, and Seaboard for Reconsideration of Order 77-6-138 granting TIA, AIA, and World blanket exemptions to perform outsized cargo charter flights between U.S. and the Middle East and Africa; Docket 31112, Application of ONA for an exemption to perform outsized cargo charter flights between the U.S. and the Middle East and Africa (Memo No. 6999-B, BOR, BFR, OGC).
17. Docket 31582, Application of Texas International Airlines, Inc., for temporary suspension of service at Waco, Texas (Memo No. 7727, BOR, BFR).
18. Dockets 30945 and 30972, Finalization of Order to Show Cause why Frontier and TXI should not be granted unrestricted one-stop authority between Little Rock and Denver (Memo No. 7457-A, 7457-B, BOR).
19. Docket 31206, Application of Wilson & Company AB (Sweden)

d.b.a. Wilson Air Freight, Inc. (U.S.A.) for a foreign indirect air carrier permit (Memo No. 7577-A, BOR, BIA).

20. Dockets 25022, 19570 and 19745, Martin's Luchtvervoer Maatschappij N.V., Final Board action on Show Cause Order 77-11-14 (Memo No. 334-F, BOR, BIA).

21. Docket 29336, Air BVI Limited and Air BVI (1976) Limited; Transfer of a Foreign Air Carrier Permit (Memo No. 2960-B, BIA, OGC).

22. Docket 30706, Northward Airlines Limited; Final Board Action on Show Cause Order 77-12-41 (Memo No. 7619-A, BIA, OGC).

23. Docket 31465, Cornwall Aviation Limited; Final Board Action on Show Cause Order 77-12-85 (Memo No. 7636-A, BIA, OGC).

24. Docket 31292, Reisebüro Schwaben International GmbH (Germany) d.b.a. Schwaben Charters, Inc. (Memo No. 7731, BIA, OGC).

25. Response to Petition of Thomas A. Dickerson received August 22, 1977, requesting investigation of the grant of certain waivers by BOR (Memo No. 7715, BOE, OGC, BOR).

26. Docket 29123, Braniff petition for reconsideration of Order 77-12-24, December 13, 1977 (Memo No. 7724, BFR, BIA).

27. Docket 31842, Braniff complaint against a proposal by Mexicana to permit individual returns on its GIT fares (Memo No. 7725, BFR, BIA).

28. Docket 29160, Subsidy Rate Amendment Three to Order 76-12-159, Class Rate VIII (Memo No. 9972-K, BFR, Comptroller).

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary,  
202-873-5068.

[8-214-78 Filed 1-27-78; 9:10 am]

## [6320-01]

CIVIL AERONAUTICS BOARD.  
[M-95, amdt. 2; 1-24-78]

NOTICE OF DELETION OF ITEM FROM THE  
JANUARY 24, 1978, AGENDA

TIME AND DATE: 10 A.M., January 24, 1978.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2. Dockets 31411 and 23888, Application of Allegheny Airlines,



## SUNSHINE ACT MEETINGS

Ransome Airlines and the Sullivan County Parties for approval of replacement agreement and postponement of inauguration of service at Sullivan County; Petition of Altair for Order Modifying Agreement between Allegheny and Ransome (BOR).

STATUS: Open.

## PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

**SUPPLEMENTARY INFORMATION:** The staff had indicated that it would have prepared for the Board's consideration on January 24, 1978, material regarding Item 2. The necessary material was not ready for the January 24 meeting. Consequently, it was necessary to delete Item 2 from the January 24 meeting and to reschedule this item in the future. Accordingly, the following Members have voted that agency business requires the deletion of this item from the January 24, 1978, agenda and that no earlier announcement of this deletion was possible:

Chairman, Alfred E. Kahn.  
Member, G. Joseph Minetti.  
Member, Elizabeth E. Bailey.

[S-213-78 Filed 1-27-78; 9:10 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

TIME AND DATE: 2 p.m., October 18, 1977.

STATUS: Open.

## MATTERS TO BE CONSIDERED:

## Fyrol FR-2

The Commission considered possible action with regard to the flame-retardant chemical Fyrol FR-2, and children's sleepwear treated with this chemical. The Commission held a fact-finding public meeting on Fyrol October 13, 1977.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

[S-215-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 9:30 a.m., October 19, 1977.

STATUS: Open.

## MATTERS TO BE CONSIDERED:

## 1. Television Receiver Safety Standard

The staff briefed the Commission on a review of subpoenaed data, reports from consultants, and responses from the public on the recommended safety standard for television receivers which Underwriters Laboratories (UL) submitted in July 1978. By October 31, 1977, the Commission had to decide to propose a standard, withdraw the proceeding, or extend the time for its consideration of the recommended standard.

## 2. Proposed Amendments to Children's Sleepwear Flammability Standards

At its September 15, 1977 meeting, the Commission instructed the staff to prepare a document which would propose amendments to the standards for the flammability of children's sleepwear sizes 0-6X (FF 3-71) and 7-14 (FF 5-74). The staff briefed the Commission on the proposed amendments which would delete requirements for residual flame time in FF 3-71; delete coverage of sizes below size 1 in FF 3-71; and modify the methods for testing trim in both standards. The amendments would reduce the need for using flame-retardant chemicals in sleepwear garments and trim.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon Butts, Assistant Secretary, Suite 300, 1111 18th Street Washington, D.C. 20207, telephone 202-634-7700.

[S-216-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

TIME AND DATE: 10:30 a.m., November 9, 1977.

STATUS: Closed.

## MATTERS TO BE CONSIDERED:

## 1. Tris Litigation

At this meeting, the Commission and staff discussed various options for Commission action with regard to litigation involving the flame-retardant Tris.

## 2. Pierce &amp; Stevens Chemical Corp. v. CPSC

The Commission and staff discussed options for action with regard to this litigation.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street, NW., Washington, D.C. 20207, 202-634-7700.

[S-217-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 9:30 a.m., November 10, 1977.

STATUS: Partly Open; Partly Closed.

## MATTERS TO BE CONSIDERED:

## A. Open to the Public:

1. *Home Insulation.* The Commission and staff discussed options for Commission action on a petition on home insulation filed by the Denver District Attorney's Office.

2. *Infant Rattles.* The Commission considered regulatory options which the staff has identified to deal with the choking and asphyxiation hazards associated with certain infant rattles. The Commission previously considered these products at the June 23, 1977 Commission Meeting.

3. *Recommendation to Accept Corrective Action Plan and Close Possible Substantial Product Hazard Case: General Electric Co. air conditioners, ID 77-56.* The staff recommended that the Commission accept the corrective action plan which General Electric implemented to deal with possible shock hazards in certain air conditioners, and close the case.

## B. Closed to the Public:

4. *Request for Civil Penalties Under the Consumer Product Safety Act for Violations of the Special Order for Submission of Chemical Formulations.* The Commission considered staff recommendations to assess civil penalties against several firms which did not comply with the Commission's August, 1975 Special Order ("the Auerbach Order") for submission of certain chemical formulas.

## C. Open to the Public:

5. *Briefing on Operating Plan Schedule.* The staff briefed the Commission on the Operating Plan for fiscal year 1978. At the briefing, the Commission made no formal decisions.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-218-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 3 p.m., November 15, 1977.

STATUS: Closed.

## MATTERS TO BE CONSIDERED:

*Tris Litigation.* The Commission and staff discussed various options for Commission action with regard to litigation involving the flame-retardant chemical Tris.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-219-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3d Floor hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 2 p.m., November 17, 1977.

STATUS: Open.

## MATTERS TO BE CONSIDERED:

1. *Holiday Safety Campaign Briefing.* Staff from the Office of Communications briefed the Commission on CPSC's 1977 Holiday Safety Information and Education campaign.

2. *Asbestos Briefing.* The staff briefed the Commission on various issues which arose from the Commission's previous decision to ban certain products containing respirable free-form asbestos. The Commission made no formal decisions at this meeting.

## CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207, 202-634-7700.

[S-220-78 Filed 1-27-78; 10:02 am]

## [6355-01]

## CONSUMER PRODUCT SAFETY COMMISSION.

LOCATION: 3rd Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

TIME AND DATE: 2 p.m. November 30, 1977.

STATUS: Open.

## MATTERS TO BE CONSIDERED:

## SUNSHINE ACT MEETINGS

Issued: January 24, 1978.

[S-224-78 Filed 1-27-78; 3:48 pm]

## [6712-01]

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Special Open Meeting, Wednesday, February 1, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

## MATTERS TO BE CONSIDERED:

## Agenda, Item No., and Subject

General-1—Proposed policy research funding for the remainder of fiscal year 1978.  
Common Carrier-1—Primary Instrument Proposal.

Common Carrier-2—Application of A.T. & T. et al. for submarine cables between the continental United States, Puerto Rico/Virgin Islands, Venezuela, and Brazil (File Nos. I-P-C-5, I-P-C-5-A, and S-C-L-47).

## CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 25, 1978.

[S-225-78 Filed 1-27-78; 3:48 pm]

## [6712-01]

## FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 10 a.m. Special Open Meeting, Thursday, February 2, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

## MATTER TO BE CONSIDERED:

## Agenda, Item No., and Subject

General-1—UHF Task Force Report: Demonstration of Spectrum-Saving Technology.

## CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 26, 1978.

[S-226-78 Filed 1-27-78; 3:48 pm]

## [6712-01]

## FEDERAL COMMUNICATIONS COMMISSION.



4176

## SUNSHINE ACT MEETINGS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43, Page 3339, January 25, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 25, 1978.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Time has been changed to 10 a.m. The prompt and orderly conduct of Commission business requires this change and no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 25, 1978.

[S-227-78 Filed 1-27-78; 3:48 pm]

[6712-01]

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FEDERAL COMMUNICATIONS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 43, Page 3339, January 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, January 25, 1978.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following items have been deleted:

*Agenda, Item No., and Subject*

Safety and Special and Radio Services—4—Simplification of the licensing and call sign assignment systems in the Amateur Radio Service (Docket No. 21135).

Cable Television—4—Petitions for stay of Commission decision in Vanhu, Inc. (Seattle, Wash.) filed by United Community Antenna Systems, Community Telecable of Seattle and Tele-Vue Systems, and KIRO's objections.

Renewal—2—Mutually exclusive applications for renewal of license filed by the noncommercial sharetime licensees on channel 2, Miami, Fla. (File Nos. BRET-184, BRET-17).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 23, 1978 and January 24, 1978.

[FR Doc. S-228-78 Filed 1-27-78; 3:48 am]

[6712-01]

15

FEDERAL COMMUNICATIONS COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS:

Volume 43, Page 2273, January 16, 1978, Volume 43, Page 3008, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETINGS: 2 p.m., Special Open Meeting, Wednesday, January 18, 1978, followed by Closed Meeting.

STATUS: Special open and closed meetings.

CHANGES IN THE MEETING:

The special open meeting has now been rescheduled to be held at 10 a.m., Thursday, January 19, 1978. The closed meeting was held on Wednesday, January 18, 1978, starting at 4 p.m.

The prompt and orderly conduct of Commission business requires these changes and no earlier announcement of the changes was possible.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone number 202-632-7260.

Issued: January 19, 1978.

[FR Doc. S-229-78 Filed 1-27-78 3:48 am]

[6740-02]

16

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Published January 20, 1978, 43 FR 3009.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: January 25, 1978, 10 a.m., continued on January 26, 1978, 2 p.m.

CHANGE IN MEETING: The following item has been added:

*Docket No. and Company*

RP78-32, Texas Eastern Transmission Corporation.

LOIS D. CASHELL,  
Acting Secretary.

[S-222-78 Filed 1-27-78; 11:07 am]

[6720-01]

17

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 43, No. 14, Pg. 3010, Friday, January 20, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., January 25, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-277-6679.

CHANGES IN THE MEETING: The following item has been changed from the open to the closed portion of the meeting:

Consideration of Association Request for Compromise or Mitigation of Liquidity Penalties—Port Angeles Savings and Loan Association, Port Angeles, Wash.

No. 128, January 20, 1978.

[S-223-78 Filed 1-27-78; 3:48 pm]

[6720-01]

18

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., February 2, 1978.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-377-6679.

MATTERS TO BE CONSIDERED:

Agency Office Application—First Federal Savings and Loan Association of Miami, Miami, Fla.

Consideration of Request for Waiver of Condition—TYME RSU Project—First Federal Savings and Loan Association of Wisconsin, Milwaukee, Wis.

Satellite Office Application—Home Federal Savings and Loan Association of Hamilton, Hamilton, Ohio.

Notice of Termination of Insurance of Accounts and Withdrawal from Bank Membership—Scioto Savings Association, Columbus, Ohio.

Limited Facility Application—St. Paul Federal Savings and Loan Association, Chicago, Ill.

Consideration of Association Request for Extension of Time to Make Capital Infusion—Homestead Financial Corp., San Francisco, Calif.

Consideration of Amendments Regarding Flood Insurance—section 703(c) of the Housing and Community Development Act of 1977.

No. 130, January 26, 1978.

[S-212-78 Filed 1-27-78; 9:10 am]

[7710-12]

19

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

The Board of Governors of the United States Postal Service, pursuant

to its Bylaws (39 CFR 7.5 (as amended, 42 FR 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9 a.m. on Tuesday, February 7, 1978, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated in the Agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

On January 5, 1978, the Board of Governors of the United States Postal Service unanimously voted to close to public observation a portion of the February 7, 1978, meeting. Each of the members of the Board voted in favor of partially closing the meeting, which is expected to be attended by the following persons: Governors Wright, Holding, Ching, Coddling, Hardesty, and Robertson; Postmaster General Bailar; Deputy Postmaster General Bolger; Secretary to the Board Cox; and Senior Assistant Postmaster General (Employee and Labor Relations) Conway.

The portion of the meeting to be closed will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1975 National Agreement between the Postal Service and four labor organizations representing certain postal employees, which is scheduled to expire on July of 1978.

## Agenda

1. Minutes of the Previous Meeting.

2. Remarks of the Postmaster General.

(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the occurrence of a recent congressional hearing, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)

3. Quarterly Report on Financial Performance.

(Mr. Biglin, Senior Assistant Postmaster General, Finance Group, will present the quarterly report on financial performance.)

4. Capital Investment Projects.

a. South Suburban Management Sectional Center Facility at Chicago, Ill.

## SUNSHINE ACT MEETINGS

4177-4211

(The Board will consider a proposed project for the purchase and renovation of an existing building for use as a Management Sectional Center Facility.)

b. Procurement of Facer Cancellers/Edger Feeders. (The Board will consider a proposed procurement of 100 Mark 36 Facer Cancellers and associated Edger Feeder equipment.)

c. Procurement of ¼-ton vehicles. (The Board will consider the procurement of 7,670 ¼-ton vehicles for fiscal year 1978 with an option for 7,500 additional vehicles to be funded in fiscal year 1979.)

5. Selection of an Independent Certified Public Accounting Firm to Certify the Accuracy of Postal Service Financial Statements.

(This is one of the matters that is reserved for decision by the Board under section 3.4 of the Board's Bylaws.)

6. Recommended Decisions of the Postal Rate Commission on twelve proposals to change the Domestic Mail Classification Schedule. (Commission Docket Nos. MC76-1, MC76-2, MC76-3, and MC76-4, recommending that no changes be made in the Domestic Mail Classification Schedule in regard to some twelve separate proposals to the Commission's mail classification proceedings. The Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. The Commission's Recommended Decisions are on the agenda for the board meeting.

(The Governors will consider the Commission's Recommended Decisions of December 22, 1977, recommending that no changes be made in the Domestic Mail Classification Schedule in regard to some eleven separate proposals of various parties to the Commission's mail classification proceedings, and recommending that \$300,223 of the Schedule be amended to eliminate the dual minimum per-piece rate structure for third-class bulk regular mail.)

7. Review of Service Improvement Programs.

(Mr. Ulsaker, Senior Assistant Postmaster General, Administration Group, will present a review of programs to expand and improve services which the USPS provides to the public.)

8. Discussion of Strategies and Positions in Collective Bargaining Negotiations.

(Mr. Conway, Senior Assistant Postmaster General, Employee and Labor Relations Group, will discuss with the Board possible strategies and positions in anticipated collective bargaining negotiations for a new Labor Agreement. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

LOUIS A. COX,  
Secretary.

[S-230-78 Filed 1-27-78; 3:48 pm]

[7710-12]

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

## Notice of Committee Meeting

The Committee on Postal Rates of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act

(5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 7:45 a.m. on Tuesday, February 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the Recommended Decisions of the Postal Rate Commission, issued on December 22, 1977, Docket Nos. MC76-1, MC76-2, MC76-3, and MC76-4, recommending that no changes be made in the Domestic Mail Classification Schedule in regard to some twelve separate proposals of various parties to the Commission's mail classification proceedings. The Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. The Commission's Recommended Decisions are on the agenda for the board meeting.

LOUIS A. COX,  
Secretary.

[S-231-78 Filed 1-27-78; 3:48 am]

UNITED STATES POSTAL SERVICE (BOARD OF GOVERNORS).

## Notice of Committee Meeting

The Committee on Audit of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5 (as amended, 42 FR 12862, 12863)) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, February 7, 1978, in the Benjamin Franklin Room, 11th floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at 202-245-4632.

The Committee will discuss the selection of an independent certified accounting firm to certify the accuracy of Postal Service financial statements. This Committee meeting is to be held in anticipation of a meeting of the Board of Governors which is scheduled to commence at 9 a.m. on the same day. A report of the Committee is on the agenda for the Board meeting.

LOUIS A. COX,  
Secretary.

[S-232-78 Filed 1-27-78; 3:48 am]



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# Federal Register

TUESDAY, JANUARY 31, 1978  
PART II



DEPARTMENT OF  
HEALTH,  
EDUCATION,  
AND WELFARE

Food and Drug  
Administration

■

ORAL CONTRACEPTIVES  
Requirement for Labeling Directed  
to the Patient



## [4110-03]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION; DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER D—DRUGS FOR HUMAN USE

(Docket No. 76N-0487)

## PART 310—NEW DRUGS

## New Drugs Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** This rule revises the requirements for patient labeling for oral contraceptive drug products. This action is taken to provide consumers with expanded labeling information reflecting recent reports about the risk of blood clots, other problems of the circulatory system, cancer and effects on the unborn child associated with the use of oral contraceptives. This new labeling will be provided by the dispenser to each patient to whom the drug is dispensed.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Phillip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *FEDERAL REGISTER* of December 7, 1976 (41 FR 53630), the Food and Drug Administration (FDA) proposed to revise requirements for patient labeling for oral contraceptive drug products. Interested persons were given until February 7, 1977 to submit written comments. More than 190 individuals, physicians, manufacturers, and trade and professional organizations commented on the proposal. The following discussion summarizes and responds to the substantial issues raised by the comments.

1. *Statutory authority.* Several comments contended that FDA lacks the authority to require patient labeling for prescription drugs. The comments argue that sections 502, 505, and 701(a) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352, 355, 371(a)), cited as authority for the patient labeling requirement, do not provide any such authority. The comments urge, moreover, that section 503(b)(2) of the act expressly prohibits FDA from requiring patient labeling for prescription drugs. The comments argue that the legislative history of section 503 shows that Congress left to

the judgment of the prescribing physician the decision regarding the content and extent of cautionary and directive information to be made available to the patient.

The Commissioner disagrees with these contentions. The Food and Drug Administration's legal authority for requiring patient labeling was explained in detail in the preamble to the proposed new format for prescription drug labeling published in the *FEDERAL REGISTER* of April 7, 1975 (40 FR 15392), and it was also discussed in the preamble to the final rule for patient labeling for estrogen drug products published in the *FEDERAL REGISTER* of July 22, 1977 (42 FR 37636). The Commissioner will not repeat that full discussion here, but he believes that several points should be emphasized. Section 505 of the act provides that a new drug application (NDA) may be approved only if a new drug is shown to be safe and effective in use under the conditions set forth in its labeling, and section 201(p) of the act (21 U.S.C. 321(p)) similarly provides an exemption from the requirement for an NDA only if the drug is generally recognized as safe and effective under the conditions set forth in the labeling. Moreover, both sections 502(a) and 505(d) of the act prohibit prescription drug labeling that is false or misleading in any particular, and section 201(n) of the act explicitly provides that the failure of the labeling to reveal material facts will render that labeling misleading. Accordingly, the act requires the Commissioner to make a determination that the information contained in the labeling for a prescription drug is sufficient to ensure the safe and effective use of the drug by consumers. The Commissioner has concluded that, in order that consumers may safely use oral contraceptive drug products, specific information must be provided to them directly about these drugs.

The primary purpose of that part of section 503(b)(2) of the act, which exempts prescription drugs from the requirement that their labeling contain adequate directions for use and warnings, is to avoid self-diagnosis and self-administration of drugs that require professional supervision for safe use. The requirement that certain prescription drugs be dispensed only when accompanied by printed patient information does not contradict this purpose. Rather, the purpose of such information for oral contraceptives is simply to inform the patient of the advantages and risks associated with the use of these drugs, and thus to provide information that will better ensure their safe and effective use after they have been prescribed by the physician. Nothing in the legislative history of section 503(b) or any other section of the act suggests that Congress intend-

ed to preclude a requirement of labeling directed to the patient which will promote safe and effective use of drugs. The Commissioner notes that his authority to issue patient labeling requirements has been preliminarily upheld by the one court that has reviewed the matter. *Pharmaceutical Manufacturers Association v. FDA*, Civ. No. 77-291 (D. Del., October 5, 1977) (order denying preliminary injunction).

2. *Manufacturer and dispenser liability.* Several comments contended that patient labeling could have a substantial adverse effect on the legal liability of manufacturers and dispensers. One comment suggested that the partial exemption from strict tort liability afforded drug manufacturers where the drug product is properly prepared and accompanied by adequate directions and warnings would be substantially eroded and possibly eliminated by a patient labeling provision. This outcome would result, it was argued, because it is extremely difficult to write understandable warnings and directions directed to the layman which would be deemed legally adequate. The fact that patient labeling may have been required and drafted by FDA would not protect the manufacturer from an adverse jury determination on the issue of adequacy.

Another comment contended that a patient labeling requirement will expose pharmacists to legal liability predicated on the failure to dispense labeling or on the dispensing of wrong or outdated labeling and urged that FDA consider this possible consequence before taking final action.

The Commissioner does not agree that the imposition of a requirement for patient labeling will necessarily affect adversely the standard of civil tort liability which is imposed on drug manufacturers or dispensers. Whether or not a corporation or individual is to be held liable in a given situation will depend upon the facts surrounding the manufacture, sale, and use of the drug product, and on the nature of the injury. It will also depend on the applicable State law, which, the Commissioner notes, can be adjusted by State Courts and Legislatures in light of factors presented by the use of patient labeling. Moreover, the Commissioner believes that providing patients with written information on the hazards associated with the use of oral contraceptives will as likely result in reduced potential liability, due to improved patient compliance with physician directions and self-monitoring of adverse effects, and a corresponding decrease in drug-induced injury. It may, as well, reduce the incidence of malpractice actions as a result of greater patient awareness that certain risks inevitably accompany drug therapy, and that not all adverse reactions result from defi-

ciencies in the drug or on the part of the physician. In any event, whether particular labeling may alter manufacturers' liability in a given instance cannot be considered as a dispositive factor by the Commissioner in reaching a decision on the proposal. The Commissioner concludes that to assure the safe and effective use of oral contraceptive products it is necessary that the patient be provided directly with certain specific information on oral contraceptive drug products.

With regard to dispenser liability predicated on the distribution of the wrong labeling, the Commissioner is confident that pharmacists can devise distribution systems that will ensure that the proper labeling is distributed with each oral contraceptive drug product. Pharmacists already process and furnish considerable oral and written information along with the drug products that they dispense. Indeed, supplying information regarding drugs along with drug products is a recognized part of the practice of pharmacy. The Commissioner does not believe that the revised patient labeling requirement will impose responsibilities on pharmacists significantly different from those they are already performing with high levels of professional competence.

3. *Who are dispensers?* One comment questioned whether the dispenser distribution requirement, 21 CFR 310.501(a)(1), can be enforced against the drug product dispensers who are not pharmacists. The comment noted that the dispenser of oral contraceptives may be a physician, a nurse, a lay person or semi-professional in a family planning clinic or student health department, as well as a pharmacist, and stated that it is not clear whether any of these persons, other than the pharmacist, can violate the misbranding section of the act.

Neither the reach of this final rule nor the underlying act is confined to pharmacists. The pertinent sections of the act—301, 303, 502 (21 U.S.C. 331, 333, 352)—apply to "any person," which, in the view of the Commissioner, clearly includes persons in the occupational groups mentioned in the comment. When a pharmacist, physician, nurse, or other person dispenses the drug product to the patient, he or she is the dispenser within the meaning of the act and regulation and bears the responsibility for providing the patient with patient labeling. Failure to distribute the labeling or distribution of the wrong labeling would result in the misbranding of the drug product and would subject the dispenser (and the product) to the sanctions for misbranding.

4. *Availability of patient information on oral contraceptives.* Several comments recommended that patient labeling be distributed by the physi-

cian at the time he or she prescribes the drug rather than by the dispenser. The comments suggest that dispenser distribution of patient labeling after purchase of the drug may result in little if any improvement in patient compliance with physicians' instructions or patient understanding of the benefits and risks of drug use. If the physician distributes the labeling, any questions or problems raised by the labeling, it is argued, could be answered during the initial consultation, obviating the need to arrange a costly followup. One comment urged in particular that requiring pharmacist distribution of detailed patient labeling would decrease the involvement of doctors in critical discussions concerning benefit and risk and thereby shift the responsibilities of physicians to pharmacists.

The Commissioner acknowledges that, in most cases, the drug product will not be distributed by the physician but rather by the retail pharmacist. In these cases, the Commissioner believes it is appropriate and consistent with the purposes of patient labeling for the dispenser, rather than the prescriber, to distribute patient labeling. Indeed, he views the misgivings concerning pharmacist distribution expressed by these comments as reflecting a misunderstanding of the intended purpose of patient labeling.

Patient labeling serves primarily as an informational adjunct to the physician-patient encounter and is intended to reinforce and augment oral information given by the physician to the patient at the time the drug is prescribed. The physician, who by training and experience is best equipped to tailor discussion of drug therapy to the needs of individual patients, has the primary responsibility for advising patients about such information as directions for use, cautions against misuse, and warnings about possible adverse reactions. Patient labeling will not shift that responsibility to the dispensing pharmacist. Even when physicians rely mainly on written drug information to inform their patients and when patient labeling will, therefore, serve as a primary informational source to patients, that labeling still acknowledges the primary responsibility of the physician and suggests that the patient make decisions regarding use of the drug in consultation with her physician.

The Commissioner does not expect that the dispenser distribution requirement will result in a significantly increased need for followup visits to enable the physician to respond to questions and problems raised by the revised patient labeling. A 1975 survey of women who received the original patient labeling for oral contraceptives indicated that more than 85 percent of the drug's users did not increase the frequency of physician contacts as a

result of receiving the labeling. Moreover, if the physician knows that the patient is going to receive patient labeling containing certain information, the physician, when initially prescribing the drug, will be able to discuss that information with the patient and anticipate potential questions.

Finally, as the Commissioner noted in the final regulation for patient labeling for estrogen drug products, the pertinent sections of the act do not appear to authorize regulation of the prescribing function of physicians to the extent contemplated by the comments. The Commissioner recognizes, nevertheless, that certain users may wish to have access to patient labeling at the time the prescribing decision is made and, therefore, he strongly encourages the voluntary distribution of patient labeling in the prescriber's office. Of course, when the physician dispenses the oral contraceptive drug product, he becomes the dispenser and bears responsibility for distributing the patient labeling with the drug product. In these cases, the patient will have the opportunity to question and consult with the physician about the labeling at the time the initial prescribing decision is made. The Commissioner hopes that manufacturers in their promotional campaigns will supply nondispensing physicians with the patient labeling pieces and other supplies necessary to carry out the voluntary distribution program.

5. *Physician's discretion in distribution of labeling.* One comment suggested that distribution of labeling to the patient should not be mandatory because in some situations it may not be in the best interests of the patient to receive detailed information. In these situations, it is argued, the physician should be allowed to exercise his best judgment and request that the labeling not be given to the patient.

The Commissioner acknowledges that there may be drugs for which the distribution of patient labeling might properly be discretionary with the physician. If patient labeling requirements for such drugs are implemented, the Commissioner would consider providing physicians with an option to direct the dispenser to withhold the labeling. Because oral contraceptives are ordinarily taken electively by healthy women who have available to them alternative methods of treatment, and because of the relatively high incidence of serious illnesses associated with their use, the Commissioner believes that users of these drugs should, without exception, be furnished with written information telling them of the drug's benefits and risks. The Commissioner concludes, therefore, that a provision allowing discretionary withholding of the labeling is not appropriate, and no such option has been provided.



6. *Labeling for indication other than contraception.* One comment suggested that pharmacists and physicians be exempted from providing patient labeling when oral contraceptives are prescribed for approved indications other than contraception. Alternatively, it was recommended that labeling be amended to include a discussion of noncontraceptive uses. The comment argued that failure to provide for noncontraceptive uses, either by exemption or otherwise, would result in confusion or unwarranted concern on the part of the patient receiving the drug for noncontraceptive purposes.

The Commissioner acknowledges that certain oral contraceptive products are prescribed for approved indications other than contraception (for example, hypermenorrhea and endometriosis). However, compared to use for contraception, the use of the drug for other indications is extremely small, representing less than 2 percent of total drug product consumption. The Commissioner believes that patients receiving oral contraceptives for noncontraceptive indications should receive the patient labeling pieces since much of the information, including all the information regarding the dangers of drug use, is equally pertinent when the drug product is used for other indications. Information contained in the patient labeling that plainly does not pertain to noncontraceptive uses, for example, information regarding effectiveness of other means of contraception, obviously will not apply, and can be disregarded by the patient. Even where there is a potential for confusion or concern on the part of the noncontraceptive user, it can be successfully addressed by the physician in discussions with the patient at the time the prescribing decision is made. The Commissioner agrees, nevertheless, that in the interests of fully informing noncontraceptive users of oral contraceptives, manufacturers and other drug labelers should have an opportunity to add to the labeling a discussion of the other approved uses of the drug. Accordingly, the final regulation will provide that, for those oral contraceptive drug products with approved new drug applications for indications in addition to contraception, the labeling may identify these other approved indications if it states as well that the information in the patient labeling relative to contraindications, the dangers of oral contraceptives, and the safe use of the drug also applies when the drug is used for these other indications.

7. *Distribution of labeling in health-care institutions.* One comment noted that in health-care institutions providing unit dose drug distribution to inpatients, it is impractical to provide patient labeling whenever a drug is dispensed because the drug is dispensed

one dose at a time. The comment stated, moreover, that in institutional settings, pharmacists, physicians, and nurses closely monitor a therapeutic course and that a patient can rely on personal contact with these professionals to assure safe and effective drug use, making distribution of explanatory labeling less necessary. The comment recommended that the proposed distribution requirements be revised by permitting health-care institutions to provide patient labeling to patients before administration of the first dose, or, if a long-term-care facility, before first administration and every 30 days thereafter.

As provided in the final rule requiring patient labeling for estrogen drug products (see 42 FR 37636), the Commissioner agrees that hospitals and other health-care institutions should have some flexibility in meeting requirements regarding distribution of patient labeling. The commissioner concludes that it would be impractical and unnecessary to require patient labeling to be made available to the hospitalized or institutionalized patient every time a drug is administered. The final regulation, therefore, has been revised by adding a new sentence to § 310.501(a)(1) which states that in acute-care hospitals or long-term-care facilities, the requirements of § 310.501(a) are met if patient labeling (both the summary and detailed patient labeling) is provided to the patient before first administration of the drug, and every 30 days thereafter. This revision in the proposed regulation answers the objection raised by the comment, but avoids the somewhat complicated procedure that would result from having different requirements for acute-care and long-term-care facilities.

8. *Type size requirements.* Two comments objected to the proposed requirement that 9-point type size be used in the detailed patient labeling. The comments suggested that this requirement would have a significant environmental and inflationary impact by requiring replacement of currently used printing presses and significantly increasing the demand for paper and energy. The comments recommended that the minimum type size requirement be changed to 6-, 7-, or 8-point type, and suggested that this change would result in substantial economic and environmental savings with no loss of legibility.

The Commissioner believes that an objective standard specifying minimum requirements for the printing of detailed patient labeling is necessary to ensure its adequate legibility. However, the Commissioner is persuaded that specifying a particular point type size is not, by itself, sufficient. He notes the wide variation in legibility of printed material that is possible with

changes in type style, lightness of the type, and spacing of the type on the line and between the lines. Accordingly, the final regulation has been revised to specify that the minimum type size shall be at least 1/16 inch in height. The height pertains to lowercase letters and it is the lowercase "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters. The Commissioner believes that this requirement will ensure adequate legibility without causing significant disruptions to presently utilized printing and packaging processes.

9. *Labeling needs of special user populations.* One comment recommended that patient labeling be made available in Spanish and Portuguese and other languages where a need is demonstrated. Another comment pointed to the needs of blind users of oral contraceptives, suggesting that patient labeling should be made available in braille or on tape.

The Commissioner does not believe that he can presently justify the required preparation and distribution of labeling meeting the needs of special user populations. The practical difficulties in preparing complete and faithful translations of labeling into all the languages spoken in the United States are likely to be significant. Moreover, such a requirement would impose significant administrative and logistical burdens on manufacturers and dispensers in preparing, storing, and distributing proper labeling with each drug product covered by a patient labeling regulation. However, the Commissioner points out, under 21 CFR 201.15(c) for labeling distributed solely in the Commonwealth of Puerto Rico or in a territory where the predominant language is one other than English, the predominant language may be substituted for English. Although in the rest of the United States all required labeling must appear in English, the regulations do not preclude the distribution of labeling in a language other than English or in a special format or in braille along with the conventional English language labeling. The Commissioner encourages the preparation of labeling meeting the needs of special user populations as long as such labeling fully and faithfully complies with the requirements of the regulation.

10. *Brief summary requirement.* Several comments objected to the requirement that the user receive, in addition to detailed patient labeling, a brief summary containing certain essential points of information also contained in the longer detailed patient labeling. The comments suggested that the use of two inserts, one a summary of the other, is redundant and imposes an

unnecessary and avoidable burden on manufacturers and dispensers. Another comment suggested, moreover, that the availability to the user of two pieces of patient labeling, in addition to physician labeling, could readily confuse the patient and not contribute to her understanding and compliance with physician instructions.

While it is true that the information contained in the brief summary is also described in the detailed patient labeling, the Commissioner does not agree that required distribution of the brief summary in addition to detailed patient labeling is unnecessary. The brief summary is intended to perform a function complementary to the function served by detailed patient labeling. As noted in the preamble to the proposed rule, the value of the brief summary is twofold: (1) the summary is short enough to be included within the package dispensed to the patient and would be more likely to be available to the patient throughout the life of the package; and (2) the summary can be quickly and easily read by the patient, will call her attention to the longer labeling piece, and will urge her to read the complete labeling. The Commissioner concludes that these advantages outweigh any possible additional burden to manufacturers and dispensers and that the brief summary requirement should be retained.

The Commissioner does not anticipate that the availability of three pieces of labeling will result in patient confusion. The information contained in the brief summary is consistent with the information contained in the detailed patient labeling and physician labeling. The brief summary, by identifying and highlighting some of the most important information also contained in the more detailed labeling piece, should, therefore, promote rather than decrease patient understanding of the relevant material.

11. *Expedited effective date.* Two comments objected to the requirement in § 310.501(a)(7) (§ 310.501(a)(5) as proposed) that revised detailed patient labeling be furnished by the manufacturer or labeler to the wholesaler and retailer in sufficient numbers to permit any retail purchaser to obtain the labeling with the product on or after the effective date. The comments recommended that this "catch-up" provision be deleted and that the effective date be based on the date on which the oral contraceptive drug products are packaged. One comment complained that as manufacturers do not know the exact inventory of oral contraceptives stocked by each drugstore and wholesaler, they will be obliged to significantly oversupply to ensure adequate coverage. The comment noted further that the expedited effective date will have a major adverse impact on dispenser costs of col-

lation, storage, and distribution of oral contraceptive drug products and labeling.

The Commissioner believes that it is in the best interests of the public health that the revised patient labeling be provided to patients as soon as possible. To base the effective date on the time when the drug product is packaged would make the provision of the labeling to consumers contingent upon individual manufacturers' inventories, and could result in significant delays in providing patients with the labeling. The intent of the effective date provision is to prevent any further distribution of a drug product not containing the revised detailed patient labeling information without, at the same time, requiring a potentially costly and time consuming recall and repackaging of oral contraceptive products already in the channels of distribution.

The Commissioner acknowledges that an expedited effective date may require some increased effort by manufacturers and dispensers for a short time. However, in exempting the brief summary from the catchup requirements, the necessity of recalling products already in distribution channels and repackaging these products with the new brief summary is obviated and the burden on manufacturers and dispensers reduced to what the agency is confident is a manageable level. In this respect, the Commissioner notes that the effective date provision is identical, as a practical matter, to that contained in the final regulation for patient labeling for estrogen drug products, which was put into effect October 18, 1977 without the consequences cited in the comments.

Although physicians who dispense these drugs are considered to be dispensers under the regulation, the Commissioner has concluded that it would be impracticable to require the forwarding, before the effective date, of separate patient labeling to physicians for those products already in their possession. Accordingly, the requirement that oral contraceptive drug products be dispensed with patient labeling will not be effective for supplies in the possession of physicians on the effective date, but will apply only to supplies received thereafter.

12. *Pharmacist counseling.* A professional organization recommended that the proposed rule be revised to require the inclusion of a statement in the brief summary encouraging the patient to ask her pharmacist any questions about oral contraceptives and their uses. The comment suggested that pharmacist counseling provides a valuable health service by increasing understanding about and compliance with a therapeutic regimen. The comment noted the importance of identi-

fying the pharmacist as an accessible source of information regarding oral contraceptive drug use.

The Commissioner realizes the valuable contribution that can be made by pharmacists as well as other health professionals in responding to consumers' questions about the contents of patient labeling. However, the Commissioner believes that the availability and usefulness of pharmacist counseling can be more appropriately and efficiently communicated by professional organizations and consumer groups as part of their general program to educate consumers about drug use and safety. Patient labeling is intended primarily as a vehicle to bring important specific information about specific drugs to the attention of the patient, rather than as a vehicle to educate the consumer on general matters pertaining to drug usage. Nevertheless, while this regulation is primarily concerned with identifying certain specific points of information that the patient labeling must include, it does not prohibit the manufacturer from adding any other information that he deems useful which does not misbrand the drug. The Commissioner would not object to the inclusion of a statement encouraging consumers to direct questions concerning oral contraceptive patient labeling to their pharmacists as well as other health professionals.

13. *Distribution of detailed patient labeling.* One manufacturer objected to § 310.501(a)(6)(ii) (§ 310.501(a)(4)(ii) as proposed), which would require that detailed patient labeling be included in or accompany each package intended to be dispensed to the patient. The comment argued that this requirement would substantially increase the cost of oral contraceptives to the consumer as well as to the manufacturer by requiring that the patient be furnished detailed patient labeling not only when the original prescription is filled but with every refill, requiring 12 detailed labeling pieces a year.

To provide for the continuing availability of detailed patient labeling for the entire period that a patient uses oral contraceptives, the Commissioner concludes that the patient should receive the labeling whenever the drug is dispensed to her. The provision of detailed patient labeling with every new prescription or renewal will assure, moreover, that in the event the labeling is revised the patient will receive the most current version of patient labeling with each new purchase.

In any event, as oral contraceptives are frequently prescribed and refilled for periods longer than 1 month, the Commissioner does not anticipate that the user will ordinarily receive 12 pieces of detailed patient labeling a year as argued by the comment. Under this regulation only one detailed label-



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ing piece must be included in or accompany each package dispensed to the patient. Thus, if a patient receives a prescription for a 6-month supply of oral contraceptives, the dispenser must include only one detailed patient labeling piece in or accompanying the entire package dispensed to the patient. This requirement applies, notwithstanding the fact that the entire package may be made up of a number of individual prepackaged units.

**Content of patient labeling.** Section 310.501(a) sets forth the information to be included in the brief summary and detailed patient labeling. A number of comments were received on these requirements. The Commissioner's responses to the significant comments on this part of the regulation follow.

14. One comment suggested that in § 310.501(a)(1) the second sentence be revised to indicate that the required information must be put into lay language in the actual patient labeling. The comment stated that a literal reading of the proposed requirement would result in the reproduction of all medical terms as specified in the rule.

The Commissioner agrees that the intent of the regulation is to provide labeling in language that is understandable to the lay public. He thus agrees with the comment and § 310.501(a)(1) is revised accordingly.

15. One comment suggested that a requirement be included in both the brief summary and detailed labeling pieces of information concerning the contraindication of oral contraceptive use for women with sickle cell trait or disease.

No references were submitted in support of this comment, and the Commissioner is not aware of any data that warrant contraindicating use of oral contraceptives in patients with sickle cell trait or disease. The comment is therefore rejected.

16. One comment suggested that § 310.501(a)(2)(viii) (§ 310.501(a)(2)(vii) as proposed) requiring a statement in the brief summary that oral contraceptives are of no value in the prevention or treatment of venereal disease be revised to indicate that oral contraceptive use increases susceptibility to certain kinds of venereal disease.

No data have been submitted to support this statement. It is not known at present whether oral contraceptive use increases susceptibility to venereal disease. This comment is therefore also rejected.

17. One comment recommended that the regulation be revised to require a statement in the detailed patient labeling listing malignant hepatic adenoma among the serious side effects associated with oral contraceptive use.

For all listed serious side effects, an association between oral contraceptive use and an increased risk of the par-

ticular side effect has been well established. However, in the case of malignant hepatic adenoma, only a few cases have been reported and no definite association with oral contraceptive use has been demonstrated. Therefore, this comment is rejected. However, if evidence of such an association becomes available, the Commissioner will act promptly to require the inclusion of the information in the labeling or take other action necessary in the public interest.

18. One comment noted that the risk of myocardial infarction is absent from both the brief summary and detailed patient labeling requirements. The comment urged a revision to require a statement regarding risk of myocardial infarction, since the absolute risk of death due to myocardial infarction, though not the relative risk, is greater than the combined risk of death from all other known side effects.

Because an association between oral contraceptive use and myocardial infarction is now established, the Commissioner agrees that this risk category should be added. Section 310.501(a)(2)(iv) and (3)(viii) (§ 310.501(a)(3)(vii) as proposed) is revised accordingly.

19. One comment objected to the wording in § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed): "The ability of estrogen to cause malignant tumors in animals, endometrial cancer in women, and the evidence that sequential oral contraceptives may increase the risk of endometrial cancer in women must be mentioned." The comment contends that, as the medical findings on this subject are equivocal, the statement is incorrect in suggesting an absolute relationship between estrogen use and endometrial cancer.

The Commissioner believes that there is a well-established association between chronic estrogen use in postmenopausal women and an increased risk of endometrial cancer. However, the Commissioner agrees with the comment that the statement that estrogen use causes endometrial cancer may be subject to misinterpretation. He also believes the section should contain a clearer description of the appropriate inference to be made in the context of this regulation from animal data. To clarify, therefore, the sentence that begins "The ability of estrogen to cause . . ." is changed to read as follows: "The following shall be mentioned: (a) Estrogens have been shown to cause cancer in animals, which showing justifies the inference that estrogens may cause cancer in humans; (b) there is strong evidence that estrogen use increases the risk of endometrial cancer in postmenopausal women; (c) there is some evidence that sequential oral contraceptives (which

are no longer marketed) may increase the risk of endometrial cancer in women; (d) studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (1 study) in women with benign breast disease, and there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequential."

20. One comment suggested that a statement be required indicating that oral contraceptive use alters the acid environment of the vagina, allowing overgrowth of yeast, hemophilus, and trichomonas.

No references were submitted in support of the comment. The Commissioner is not aware of any evidence that oral contraceptive use is associated with an overgrowth of hemophilus or trichomonas. Physician labeling does indicate that vaginal candidiasis has been reported in patients receiving oral contraceptives and is believed to be drug related. However, as the incidence of candidiasis is neither common nor serious, the Commissioner concludes that it is not necessary to specifically require inclusion of the disease in the listing of side effects in the patient labeling.

21. A comment urged that § 310.501(a)(3)(ix) (§ 310.501(a)(3)(viii) as proposed) be revised to require mention of infertility. The comment noted that for women who have not borne previous children a significant difference in fertility remains 2 years after they have stopped using the oral contraceptive.

The Commissioner agrees that delayed return of fertility should be listed in § 310.501(a)(3)(ix) as one of the "other serious effects." The regulation is revised accordingly.

22. One comment suggested that suicide be included in the required listing of serious side effects. The comment stated that the Royal College of General Practitioners' study of oral contraceptive users reported twice the number of suicides in oral contraceptive users as in nonusers.

Although it is true that the British study reported an increased incidence in suicide among users of oral contraceptives, the same study reported no evidence that severe depression (which would be the type most likely associated with suicide) is more common in oral contraceptive users than in nonusers. Furthermore, the reported increased incidence of suicide could very well be due to a number of factors other than use of the drug itself, and, absent other information, the Commissioner believes the finding is of little statistical significance. The comment is therefore rejected.

23. One comment addressed the second sentence in § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed) which

requires the listing of thrombophlebitis, pulmonary embolism, retinal artery thrombosis, and stroke as serious side effects and which state parenthetically that the relation of these illnesses to estrogen dose is to be mentioned. The comment argued that the relation of estrogen dose to each of these illnesses is not known and that, to clarify, the words "where known" should be added to the parenthetical remark.

The two studies upon which these requirements are based (they are cited in the physician labeling text) suggest that thromboembolism as a disease entity is estrogen dose-related. In fact, the Vessey study (Inman, W. H. W., M. P. Vessey, B. Westerholm, and A. Engelund, "Thromboembolic Disease and the Steroidal Content of Oral Contraceptives: A report to the Committee on the Safety of Drug," British Medical Journal 2:203-209, 1970) shows a strong correlation between estrogen content and thrombophlebitis, pulmonary embolism, and stroke (cerebral thrombosis). Although retinal artery thrombosis (a relatively rare type of thromboembolism) is not specifically mentioned in the study, it would be unreasonable to assume that it, unlike other types of thromboembolism, is not estrogen dose-related. To add the term "where known" to the parenthetical remark would not be in keeping with the general findings of the relevant scientific literature. This comment is therefore rejected.

24. Several comments suggested that the proposal be revised to require a statement in the patient labeling regarding an association between oral contraceptive use and certain vitamin deficiencies. In particular, it was suggested that mention be made of an association between oral contraceptive use and vitamin B-6 deficiency as well as serum folate level depression.

The Commissioner rejects these comments. The association between oral contraceptive use and vitamin B-6 deficiency is disputed and not well defined. Moreover, the clinical significance of such a deficiency, if it does exist, has not been well established.

While it has been shown that serum folate levels may be depressed with oral contraceptive use, it is not certain that this represents a true vitamin deficiency because no clinical significance has been attributed to the decreased level.

25. One comment addressed the fourth sentence of § 310.501(a)(3)(viii), which requires a statement that studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (one study) in women with benign breast disease, and that there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than se-

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quential. The comment suggested that the wording of this proposed requirement would become outdated if future references were published which also suggest an increased risk of breast cancer in oral contraceptive users. The comment recommended the adoption of the following: "There should also be a statement concerning those studies of an association between oral contraceptives and breast cancer that are largely negative in contrast to such studies that suggest an increased risk in certain groups of women; the statement shall also relate such evidence that would indicate increased risk of uterine cancer in users of oral contraceptives other than sequential."

The Commissioner rejects this comment. To include the wording suggested by the comment " . . . in contrast to such studies that suggest an increased risk in certain groups of women . . ." would not be correct as it would imply that there currently exists more than one study to the contrary. Also the recommended phrase " . . . the statement shall also relate such evidence that would indicate increased risk of uterine cancer in users of oral contraceptives other than sequential" would incorrectly suggest that there currently exists such evidence. No such evidence currently exists. The Commissioner concludes that the current requirement accurately reflects the present state of the scientific literature.

26. One comment recommended that the discussion of the risks of serious side effects associated with oral contraceptive use should specifically mention cigarette smoking as an independent factor which significantly increases the risk of myocardial infarction in drug users. The comment presented a statistical analysis of a British retrospective study of oral contraceptive users to demonstrate that the risk of myocardial infarction in women who smoke and use oral contraceptives is considerably greater than the sum of the risks for those women who smoke and do not use oral contraceptives and the risks for those women who only use oral contraceptives and do not smoke. The comment urged that the discussion of serious side effects would be of most value to all drug users—both smokers and non-smokers—if this "synergistic" interaction between smoking and oral contraceptive use were expressly described.

The Commissioner has carefully reviewed the comment to determine the need for revisions in this final rule as well as in the guideline patient labeling text. Additionally he has reviewed three recently published studies, all of which suggest that smoking along with oral contraceptive use markedly increases the risks of serious cardiovascular side effects. (Ory, H. W., "As-

sociation Between Oral Contraceptives and Myocardial Infarction." Journal of the American Medical Association, 237:2619-2622, 1977; Jain, A. R., "Mortality Risk Associated with the Use of Oral Contraceptives," Studies in Family Planning, 8:50-54, 1977; Beral, V., "Mortality Among Oral Contraceptive Users," Lancet, 2:727-731, 1977.) A revised draft of the patient labeling based on the new information and analyses was presented to the FDA's Obstetrics and Gynecology Advisory Committee November 17, 1977. The Committee recommended that the patient labeling be revised to reflect the variable risks for smokers and non-smokers of suffering serious cardiovascular side effects. The Committee also recommended the inclusion in the labeling of a prominent boxed warning advising women who use oral contraceptives not to smoke. A copy of the transcript of the advisory committee's discussion of oral contraceptive labeling has been placed on file in the office of the Hearing Clerk, FDA.

The Commissioner agrees with the Committee that the role that smoking plays in increasing the risks of serious cardiovascular side effects should be brought to the attention of all women who are presently using or contemplating the use of oral contraceptives. Accordingly, he has included in this final rule a requirement for a boxed warning in both the brief summary and the detailed patient labeling stating that smoking increases the risks of serious adverse effects on the heart and blood vessels, and advising women who use oral contraceptives not to smoke. He is making two additional revisions: (1) § 310.501(a)(3)(viii) (§ 310.501(a)(3)(vii) as proposed) is revised to provide for a discussion of the relationship between the occurrence of serious side effects and age, smoking, and other conditions; and (2) § 310.501(a)(3)(xii) (§ 310.501(a)(3)(xi) as proposed) is revised to require that the comparison of risk of death from various contraceptive methods describe the risk faced by both smokers and nonsmokers who use oral contraceptives. These revisions should provide women with a clearer understanding of the effects of smoking on the risks of oral contraceptive use, an understanding which in the Commissioner's view is essential for a proper assessment of the drug's safety.

27. **Ongoing distribution of patient labeling.** The Commissioner is also revising § 310.501(a)(6)(iii) (§ 310.501(a)(4)(iii) as proposed) to provide that in the case of oral contraceptives in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces (both the brief summary and detailed patient labeling) "shall be included in or shall accompany each bulk package" to assure that both pieces can be



furnished with each package dispensed to every patient. The revision is intended to make clear that patient labeling must physically accompany the drug product but need not be actually placed inside the immediate bulk package container.

The Commissioner anticipates that manufacturers and labelers will employ a reliable statistical method to determine the sufficiency of the number of patient labeling pieces to be included in or with each bulk package. He recognizes, however, that in some cases additional patient labeling pieces may, for a variety of reasons, be required. The Commissioner is therefore adding a sentence to § 310.501(a)(6)(iii) to provide that the manufacturer or labeler may also employ a supplementary distribution system to supply additional patient labeling to the dispenser. That system may not, however, act as a substitute for the requirement that patient labeling be supplied in or with each bulk package.

28. *Patient labeling and self-medication.* In response to a comment on the estrogen patient labeling proposal, the Commissioner revised the estrogen patient labeling final rule to require a statement advising the patient that the drug had been prescribed for the individual alone and cautioning the individual against giving the drug to anyone else. The Commissioner has concluded that a similar cautionary statement should be included in oral contraceptive patient labeling and has revised the regulation accordingly.

29. A comment suggested that the procedural regulation governing the adoption into use of labeling without advance approval by FDA should be specifically identified.

The Commissioner agrees. To clarify the regulatory procedure by which holders of new drug applications for oral contraceptive drug products shall implement the patient labeling requirement, § 310.501(a) (9) (§ 310.501(a) (7) as proposed) is revised to state that supplements must be submitted under § 314.8(d) of the regulations.

30. *Status of patient labeling text.* Several comments objected to the publication of the patient labeling text in a notice separate from the rule requiring the labeling. The comments argue that this procedure removes changes in patient labeling language from the full and open comment required for rulemaking under the Administrative Procedure Act. Choice of language and editorial style, it is argued, may be substantive issues and as such properly subject to publication and comment procedures. One comment contended that the fact that a large number of comments have, in the past, been submitted to FDA in response to a notice of proposed rulemaking relating to patient labeling indicates the widespread

interest of the public in these matters, and it is that type of input which is contemplated by the Administrative Procedure Act.

The Commissioner realizes the value of public participation in drafting the best possible patient labeling text; in fact, he has invited comments from interested persons on the labeling text and has carefully considered the numerous comments that have been received. However, the Commissioner believes that the information that the regulation requires be provided to users of oral contraceptives, in particular, information on thromboembolic and thrombotic disorders, cancer, and adverse effects on the exposed fetus, is of such significance to the public health that he cannot justify the long delays in communicating this information to oral contraceptive users that would result from notice and comment consideration of the labeling text comments.

The Commissioner concludes, therefore, that the present procedures should be retained and that the patient labeling text should not be incorporated into the final rule.

The objections to the procedure employed in separately publishing the notice misconstrue the legal purpose and effect of the patient labeling text. The Commissioner advises that the text of the patient labeling is not a substantive formal rule. The labeling is, rather, a guideline which, while stating the agency's views of how the requirements for labeling for these products can be met, does not preclude changes based on the best judgment of individual companies, as long as the labeling that is distributed still conforms to the regulations and applicable sections of the act. The procedures employed are intended to effect more timely publication of approved labeling reflecting the most current medical and scientific learning and are in conformance with FDA's procedural regulations (21 CFR 10.1 et seq.). If the agency were to take action against a product, it would not rely solely on the guideline text but would undertake to prove a violation based on the underlying rule and statute. The published labeling could, however, serve as evidence of such a violation.

Section 310.501(a)(8) requires that FDA make available and publish in the FEDERAL REGISTER patient labeling for oral contraceptives which is responsive to all items specified in § 310.501(a) (2) and (3). The suggested text of patient labeling that met the requirements of the proposed rule was published in the FEDERAL REGISTER of December 7, 1978 (41 FR 53630) and revised in the FEDERAL REGISTER of May 27, 1977 (42 FR 27303). Because of comments received on the proposed rule, as well as comments and new information received on the previously

published versions of the patient labeling text, the Commissioner has further revised the patient labeling text.

Published elsewhere in this issue of the FEDERAL REGISTER is the precise language of the revised patient labeling text that will be considered to meet the requirements of the final rule. As previously stated, the Commissioner advises that this text is intended as a guideline (21 CFR 10.90), which, if followed, will enable any person to comply with the requirements of § 310.501(a).

Those manufacturers and suppliers who have deferred preparing patient labeling until the publication of the final rule have until April 3, 1978 to implement the final regulation. For those manufacturers and suppliers who elected to use the December 7, 1978 guideline text (as revised on May 27, 1977), this earlier text will continue to meet the requirements of § 310.501(a) until May 31, 1978. After May 31, 1978, this earlier version of the labeling text can no longer be relied upon as meeting the requirements of § 310.501(a).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by revising § 310.501(a) to read as follows:

**§ 310.501 Preparations for contraception: labeling directed to the patient.**

(a) *Oral contraceptives.* (1) The Commissioner of Food and Drugs concludes that the safe and effective use of oral contraceptive drug products requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Information in lay language concerning effectiveness, contraindication, warnings, precautions, and adverse reactions shall be furnished to each patient receiving oral contraceptives. This information shall be given to the patient by the dispenser in the form of a brief summary of certain essential information included in each package dispensed to each patient, and in a longer, detailed labeling piece in or accompanying each package dispensed to each patient. Patient labeling for drug products dispensed in acute-care hospitals or long-term-care facilities will be considered to have been provided in accordance with this section if provided to the patient before administration of the first oral contraceptive and every 30 days thereafter, as long as the therapy continues.

(2) The brief summary shall specifically include the following:

(i) A statement that oral contraceptives are effective, but that any failure to take them in accordance with the recommended dosage increases the change of pregnancy.

(ii) A statement of the specific items of history to be told the physician that would lead the physician not to prescribe oral contraceptives (i.e., the contraindications to use).

(iii) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(iv) A listing of the serious side effects or oral contraceptives, such as thrombophlebitis, pulmonary embolism, myocardial infarction, retinal artery thrombosis, stroke, benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease.

(v) A statement in the form of a boxed warning that cigarette smoking increases the risks of serious side effects on the heart and blood vessels from oral contraceptive use, and advising women who use oral contraceptives not to smoke.

(vi) A statement of the most common side effects, such as nausea and vomiting, weight change, change in menses, and breast tenderness.

(vii) A statement that the estrogen in oral contraceptives has been found to cause breast cancer and other cancers in certain animals and that these findings suggest that oral contraceptives may also cause cancer in humans but that studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans.

(viii) A statement that oral contraceptives are of no value in the prevention or treatment of venereal disease.

(ix) A statement calling attention to the detailed patient labeling and a recommendation that it be carefully read.

(3) The detailed patient labeling shall be a separate printed leaflet independent of any additional materials. It shall specifically include the following:

(i) Name of the drug.

(ii) Name and place of business of the manufacturer, packer, relabeler or distributor.

(iii) A statement that oral contraceptives are effective but can cause certain serious side effects.

(iv) A statement that oral contraceptives should be taken only under the continued supervision of a physician.

(v) A statement of the effectiveness of oral contraceptives, including the differences in effectiveness among different types and the relationship between effectiveness and estrogen dosage.

(vi) A summary of the effectiveness of other methods of contraception.

(vii) A boxed warning stating that cigarette smoking increases the risk of serious side effects on the heart and blood vessels from oral contraceptive use and advising women who use oral contraceptives not to smoke.

(viii) A warning regarding the serious side effects of oral contraceptives,

including the relative risk (where known) faced by users compared to nonusers and the relationship of the side effects to age, smoking, and other conditions. The side effects mentioned shall include thrombophlebitis, pulmonary embolism, retinal artery thrombosis, stroke (the relation of these to estrogen dose shall be mentioned), myocardial infarction, benign hepatic adenomas, induction of fetal abnormalities, and gallbladder disease. The following shall be mentioned: (a) Estrogens have been shown to cause cancer in animals, which showing justifies the inference that estrogens may cause cancer in humans; (b) there is strong evidence that estrogen use increases the risk of endometrial cancer in postmenopausal women; (c) there is some evidence that sequential oral contraceptive (which are no longer marketed may increase the risk of endometrial cancer in women; (d) studies of an association between oral contraceptives and breast cancer are largely negative except for a suggestion of increased risk (one study) in women with benign breast disease, and there is no evidence of an increased risk of uterine cancer in users of oral contraceptives other than sequential.

(ix) A statement of common side effects, including nausea and vomiting, weight change, darkening of the skin, changes in menses, and a statement of other serious side effects, including worsened migraine, and worsened heart or kidney disease due to fluid retention, growth of uterine fibroid tumors, depression, jaundice, delayed return to fertility, blood pressure elevation, decreased glucose tolerance and elevated blood lipids.

(x) A statement of reported side effects not definitely related to oral contraceptive use.

(xi) A statement cautioning the patient to consult her physician before resuming the use of the drug after childbirth, especially if she intends to breastfeed the baby, pointing out that the hormones in the drug are known to appear in the milk and may decrease the flow.

(xii) A comparison of the risk of death from various contraceptive methods (oral contraceptives in smokers, oral contraceptives in nonsmokers, IUD, condom or diaphragm, condom or diaphragm with abortion in the event of pregnancy, no contraception but abortion in the event of pregnancy, and no contraception or abortion).

(xiii) A statement of the specific items of history to be told the physician which would lead the physician not to prescribe oral contraceptives (i.e., the contraindications to use).

(xiv) A statement of specific items of history that might cause the physician to suggest another method (e.g., risk factors for myocardial infarction, family history of breast cancer or past

history of fibrocystic disease or abnormal mammogram, gallbladder disease) or would require the physician's special attention (e.g., migraine, asthma, epilepsy, heart or kidney disease, fibroids, history of depression).

(xv) A statement that jaundice, depression, breast lumps, and the particular warning signals of thromboembolic disease, thrombotic disease, and ruptured hepatic adenoma, should be reported to the physician.

(xvi) A statement of how to take oral contraceptives properly and what to do in the event of one or two missed periods.

(xvii) A statement cautioning the patient that this drug has been prescribed for the particular individual only and that the drug must not be given to others.

(xviii) The date, identified as such, of the most recent revision of the labeling prominently placed immediately after the last section of such labeling.

(4) For those oral contraceptive drug products with approved new drug applications for indications in addition to contraception, both the brief summary and detailed patient labeling may identify these other indications. If the other indications are identified, the labeling must specifically include a statement that the information in the patient labeling relative to contraindications, the dangers of oral contraceptives, and the safe use of the drug are also applicable when these drugs are used for these other indications.

(5) The detailed patient labeling shall be printed in accordance with the following specifications:

(i) The minimum letter size (lower-case letter "o" or its equivalent) shall be not less than 1/16 inch in height.

(ii) The body copy shall contain 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters.

(6) Patient labeling for each oral contraceptive drug product shall be provided to the retailer by the manufacturer, packer, relabeler, or distributor as follows:

(i) The brief summary patient labeling shall be included in each package intended to be dispensed to the patient.

(ii) The detailed patient labeling shall be included in or shall accompany each package intended to be dispensed to the patient.

(iii) In the case of oral contraceptive drug products in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces shall be included in or shall accompany each bulk package to assure that both pieces can be furnished with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispenser to include both patient labeling pieces



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(the brief summary to be in the package and the detailed labeling piece either in or accompanying the package) with each package dispensed to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient labeling pieces to the dispenser.

(7) An oral contraceptive drug product that is not labeled as required by paragraph (a) of this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce is misbranded under section 502 of the act. However, an oral contraceptive drug product packaged before the effective date of this paragraph is not misbranded if adequate numbers of copies of the detailed patient labeling required by this paragraph are furnished to wholesalers or retailers to permit any retail

purchaser after the effective date to obtain such labeling with the product. The requirement that any oral contraceptive drug product be dispensed with detailed patient labeling, as applied to physicians, shall not be effective for supplies in their possession on the effective date, but shall apply only to supplies received thereafter.

(8) The Food and Drug Administration has available patient labeling for oral contraceptive drug products that includes information responsive to all the items specified in paragraph (a), (2) and (3) of this section. The labeling has been published in the FEDERAL REGISTER and updated versions will continue to be published as guides when changes occur. Any person may rely on the newest version of this labeling as complying with paragraph (a) (2) and (3) of this section after the effective date of this paragraph.

(9) Holders of new drug applications for oral contraceptive drug products that are subject to paragraph (a) of this section must submit supplements under § 314.8(d) of this chapter to provide for the labeling required by paragraph (a) (2) and (3) of this section on or before April 3, 1978. The labeling may be put into use without advance approval by the Food and Drug Administration.

**EFFECTIVE DATE:** This regulation shall be effective April 3, 1978.

(Secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)).)

Dated: January 19, 1978.

DONALD KENNEDY,  
Commissioner of  
Food and Drugs.

[FR Doc. 78-2300 Filed 1-24-78; 10:43 am]

[4110-03]

## **DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Food and Drug Administration

[Docket No. 75N-0304]

### **ORAL CONTRACEPTIVE DRUG PRODUCTS**

Physician and Patient Labeling

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** Based on public comments received and on new information, the Food and Drug Administration (FDA) is revising the text of physician and patient labeling for oral contraceptive drug products.

**EFFECTIVE DATE:** April 3, 1978.

### **FOR FURTHER INFORMATION CONTACT:**

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

**SUPPLEMENTARY INFORMATION:** The guideline texts of physician and patient labeling for oral contraceptive drug products were previously published in a notice in the FEDERAL REGISTER of December 7, 1976 (41 FR 53633) and amended in the FEDERAL REGISTER of May 27, 1977 (42 FR 27303).

The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning warnings and contraindications is an important element in the discharge of that responsibility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or warn of previously unanticipated hazards.

A considerable amount of new information about the risks of oral contraceptive use has recently been reported in the scientific literature. This information, in particular information contained in several studies which suggests that oral contraceptive users who smoke increase significantly their risk of suffering serious cardiovascular side effects, has generated a need for a revision of labeling to inform physicians and patients of these findings.

In revising oral contraceptive labeling, the Commissioner has carefully considered the numerous comments submitted on the December 7, 1976 la-

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beling notice. Additionally, he has considered and incorporated into this revision several recommendations made by FDA's Obstetrics and Gynecology Advisory Committee, which reviewed a preliminary draft revision of both physician and patient labeling at its regularly scheduled meeting on November 17 and 18, 1977. Other changes in the patient labeling are based on a need to conform the guideline labeling with the final rule (published elsewhere in this issue of the FEDERAL REGISTER) revising the requirements for patient labeling of oral contraceptive drug products.

## **PHYSICIAN LABELING**

The following major changes have been made in the December 7, 1976 version of physician labeling:

1. A boxed warning has been added stating that cigarette smoking increases the oral contraceptive user's risk of serious cardiovascular side effects. The warning also states that women who use oral contraceptives should be advised not to smoke. This warning was recommended by the Advisory Committee and is based mainly on a comment submitted by The Population Council and on two recently reported studies (Jain, A. K., "Mortality Risk Associated with the Use of Oral Contraceptives," Studies in Family Planning, 8:50-54, 1977; and Beral, V., "Mortality Among Oral Contraceptive Users," Lancet, 2:727-731, 1977). These studies are referenced in the text of the physician labeling (copies of all references cited in the physician labeling have been placed on file in the office of the Hearing Clerk, FDA).

2. Tabular information in the December 7, 1976 physician labeling regarding the risks of cardiovascular side effects has been revised to reflect the variable risks faced by oral contraceptive users based on smoking habits and age.

3. Figure 1, giving the estimated annual number of deaths associated with control of fertility, by regimen of control and age, has been revised and now distinguishes between the risk of death faced by oral contraceptive users who smoke and the risk faced by users who do not smoke.

4. In the section describing the risks of hepatic tumor, an additional reference has been cited (Ref. 46) based on a study which shows an association between oral contraceptive use and benign hepatic tumor. This study also shows that oral contraceptives with high hormonal potency are associated with a higher risk than low potency formulations, and that the risk is directly related to duration of use. This information has been added to the physician labeling.

5. In the section describing the risks of oral contraceptive use in or immediately preceding pregnancy (Warning

5), the risk of developing vaginal cancer in female offspring exposed prenatally to stilbestrol has been revised from 4 in 1,000 exposures to 1 in 1,000 exposures or less. The Advisory Committee considered the new risk estimate to reflect more accurately the referenced studies.

6. Also in Warning 5, a statement has been added regarding the possible effect of prenatal exposures to stilbestrol on male offspring. Three studies (Refs. 48, 49, and 50) are cited in support of such an association.

## **PATIENT LABELING**

Patient labeling for oral contraceptives has also been revised and conforms to the physician labeling set forth in this notice. The following are the most significant revisions in the patient labeling text:

1. In both the brief summary and the detailed labeling, a box warning has been added. It states that cigarette smoking increases the risks of serious cardiovascular side effects in oral contraceptive users. It also advises women who use oral contraceptives not to smoke.

2. In the discussion in the brief summary of serious side effects, a statement has been added which refers the patient to the detailed patient labeling for information about symptoms associated with these serious side effects.

3. In the section "Who should not use oral contraceptives," a statement has been added encouraging women who have scanty or irregular periods to use another method of contraception. The statement is based on the discussion of "Bleeding Irregularities" contained in the physician labeling.

4. The discussion of "The Dangers of Oral Contraceptives" has been substantially revised to reflect the role that cigarette smoking plays in determining the risks of serious cardiovascular side effects, especially in terms of myocardial infarction.

5. In the discussion of the "Dangers to a developing child . . ." several of the statements have been revised to conform with the information in the physician labeling; in particular, the patient labeling revises the previous estimate of risk of developing vaginal cancer in female offspring exposed to stilbestrol prenatally, and also adds a statement regarding the possible effect of prenatal exposure to stilbestrol on male offspring.

6. In the discussion of "Other side effects of oral contraceptives," a statement has been added that irregular bleeding is frequently seen when using the mini-pill or combination oral contraceptives containing less than 50 micrograms of estrogen.

7. In the section "Comparison of the risks of oral contraceptives and other contraceptive methods," the bar graph has been revised to reflect an estimate



of the annual number of deaths among oral contraceptive users in terms of whether or not the user smokes.

The Food and Drug Administration will regard as misbranded and subject to regulatory action any oral contraceptive drug product that is shipped in interstate commerce by manufacturers, repackers, relabelers, or own-label distributors, on or after April 3, 1978, without labeling which is substantially the same in content as the physician labeling set forth in this notice. Under the provisions of § 314.8(d) (21 CFR 314.8(d)), such labeling may be put in use before approval of a supplement to a new drug application.

Holders of approved new drug applications for oral contraceptive drug products shall submit supplements on or before April 3, 1978, to provide for the revised physician labeling.

The Commissioner advises that the patient labeling text set forth in this notice complies with the patient labeling final rule (§ 310.501(a)) and can be relied upon by any person to meet the rule's requirements. For those manufacturers and suppliers who elected to use the December 7, 1976 guideline patient labeling (as revised on May 27, 1977), use of the December 7, 1976 text will continue to meet the requirements of the final rule (§ 310.501(a)) until May 31, 1978. For all manufacturers and suppliers who have deferred distributing revised patient labeling based on the December 7, 1976 guideline, use of the earlier text cannot be relied upon as meeting the requirements of the rule.

The physician labeling for oral contraceptive drug products is set forth as follows:

# ORAL CONTRACEPTIVE LABELING DESCRIPTION

(TO BE SUPPLIED BY MANUFACTURER)

(Description should include the following information.)

1. The proprietary name and the established name if any, of the drug product;
2. The same qualitative and/or quantitative ingredient information as required for labels;
3. The pharmacological or therapeutic class of the drug product;
4. The chemical name and structural formula.

## CLINICAL PHARMACOLOGY

### FOR COMBINATION ORAL CONTRACEPTIVES ONLY

Combination oral contraceptives act primarily through the mechanism of gonadotropin suppression due to the estrogenic and progestational activity of the ingredients. Although the primary mechanism of action is inhibition of ovulation, alterations in the

genital tract including changes in the cervical mucus (which increase the difficulty of sperm penetration) and the endometrium (which reduce the likelihood of implantation) may also contribute to contraceptive effectiveness.

### FOR PROGESTOGEN ORAL CONTRACEPTIVES ONLY

The primary mechanism through which (insert name of drug) prevents conception is not known, but progestogen only contraceptives are known to alter the cervical mucus, exert a progestational effect on the endometrium, interfering with implantation, and, in some patients, suppress ovulation. (Manufacturer to include information on absorption, distribution, elimination, and pharmacokinetics if pertinent; also on drug interactions pertinent to human use.)

## INDICATIONS AND USAGE

(Insert name of drug) is indicated for the prevention of pregnancy in women who elect to use oral contraceptives as a method of contraception.

(Manufacturers who have other approved indications for oral contraceptives (Enovid 5 mg, Ortho-Novum 2 mg, Ortho-Novum 10 mg) should mention those indications here.)

Oral contraceptives are highly effective. The pregnancy rate in women using conventional combination oral contraceptives (containing 35 mcg or more of ethinyl estradiol or 50 mcg or more of mestranol) is generally reported as less than one pregnancy per 100 woman-years of use. Slightly higher rates (somewhat more than 1 pregnancy per 100 woman-years of use) are reported for some combination products containing 35 mcg or less of ethinyl estradiol, and rates on the order of 3 pregnancies per 100 women-years are reported for the progestogen only oral contraceptives.

These rates are derived from separate studies conducted by different investigators in several population groups and cannot be compared precisely. Furthermore, pregnancy rates tend to be lower as clinical studies are continued, possibly due to selective retention in the longer studies of those patients who accept the treatment regimen and do not discontinue as a result of adverse reactions, pregnancy, or other reasons.

In clinical trials with (insert name of drug) (insert number of) patients complete — cycles and a total of — pregnancies were reported. This represents a pregnancy rate of — per 100 woman-years. (Manufacturer to add other information related to the pregnancy rate with his particular product, if needed to provide adequate prescribing information to the physician.)

Table 1 gives ranges of pregnancy rates reported in the literature (Ref.

1) for other means of contraception. The efficacy of these means of contraception (except the IUD) depends upon the degree of adherence to the method.

TABLE 1

### PREGNANCIES PER 100 WOMEN-YEARS

- IUD, less than 1-6;
- Diaphragm with spermicidal products (creams or jellies), 2-20;
- Condom, 3-36;
- Aerosol foams, 2-29;
- Jellies and creams, 4-36;
- Periodic abstinence (rhythm) all types, less than 1-47;
- 1. Calendar method, 14-47;
- 2. Temperature method, 1-20;
- 3. Temperature method—intercourse only in post-ovulatory phase, less than 1-7;
- 4. Mucus method, 1-25;
- No contraception, 60-80.

### DOSE-RELATED RISK OF THROMBOEMBOLISM FROM ORAL CONTRACEPTIVES

Two studies have shown a positive association between the dose of estrogens in oral contraceptives and the risk of thromboembolism (refs. 2 and 3). For this reason, it is prudent and in keeping with good principles of therapeutics to minimize exposure to estrogen. The oral contraceptive product prescribed for any given patient should be that product which contains the least amount of estrogen that is compatible with an acceptable pregnancy rate and patient acceptance. It is recommended that new acceptors of oral contraceptives be started on preparations containing 0.5 mg or less of estrogen.

## CONTRAINDICATIONS

Oral contraceptives should not be used in women with any of the following conditions:

1. Thrombophlebitis or thromboembolic disorders.
2. A past history of deep vein thrombophlebitis or thromboembolic disorders.
3. Cerebral vascular or coronary artery disease.
4. Known or suspected carcinoma of the breast.
5. Known or suspected estrogen dependent neoplasia.
6. Undiagnosed abnormal genital bleeding.
7. Known or suspected pregnancy (see warning No. 5).

## WARNINGS

Cigarette smoking increases the risk of serious cardiovascular side effects from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should be strongly advised not to smoke.

The use of oral contraceptives is associated with increased risk of several serious conditions including thromboembolism, stroke, myocardial infarction, hepatic adenoma, gall bladder disease, hypertension. Practitioners prescribing oral contraceptives should be familiar with the following information relating to these risks.

1. *Thromboembolic Disorders and Other Vascular Problems.* An increased risk of thromboembolic and thrombotic disease associated with the use of oral contraceptives is well established. Three principal studies in Great Britain (Refs. 4 through 6) and three in the United States (Refs. 7 through 10) have demonstrated an increased risk of fatal and nonfatal venous thromboembolism and stroke, both hemorrhagic and thrombotic. These studies estimate that users, or oral contraceptives are 4 to 11 times more likely than nonusers to develop these diseases without evident cause (Table 2).

### CEREBROVASCULAR DISORDERS

In a collaborative American study (Refs. 9 and 10) of cerebrovascular disorders in women with and without predisposing causes, it was estimated that the risk of hemorrhagic stroke was 2.0 times greater in users than nonusers and the risk of thrombotic stroke was 4 to 9.5 times greater in users than in nonusers (Table 2).

TABLE 2

### SUMMARY OF RELATIVE RISK OF THROMBOEMBOLIC DISORDERS AND OTHER VASCULAR PROBLEMS IN ORAL CONTRACEPTIVE USERS COMPARED TO NONUSERS

	Relative risk, times greater
Idiopathic thromboembolic disease.....	4-11
Post surgery thromboembolic complications.....	4-6
Thrombotic stroke.....	4-9.5
Hemorrhagic stroke.....	2
Myocardial infarction.....	2-12

### MYOCARDIAL INFARCTION

An increased risk of myocardial infarction associated with the use of oral contraceptives has been reported (Refs. 11, 12, and 13), confirming a previously suspected association. These studies, conducted in the United Kingdom, found, as expected, that the greater the number of underlying risk factors for coronary artery disease (cigarette smoking, hypertension, hypercholesterolemia, obesity, diabetes, history of preclampsic toxemia) the higher the risk of developing myocardial infarction, regardless of whether the patient was an oral contraceptive user or not. Oral contraceptives,

however, were found to be a clear additional risk factor.

In terms of relative risk, it has been estimated (Ref. 52) that oral contraceptive users who do not smoke (smoking is considered a major predisposing condition to myocardial infarction) are about twice as likely to have a fatal myocardial infarction as nonusers who do not smoke. Oral contraceptive users who are also smokers have about a 5-fold increased risk of fatal infarction compared to users who do not smoke, but about a 10- to 12-fold increased risk compared to nonusers who do not smoke. Furthermore, the amount of smoking is also an important factor. In determining the importance of these relative risks, however, the baseline rates for various age groups, as shown in Table 3, must be given serious consideration. The importance of other predisposing conditions mentioned above in determining relative and absolute risks has not as yet been quantified; it is quite likely that the same synergistic action exists, but perhaps to a lesser extent.

TABLE 3

Estimated annual mortality rate per 100,000 women from myocardial infarction by use of oral contraceptives, smoking habits, and age (in years)

Smoking habits	Myocardial infarction			
	Women aged 30-39		Women aged 40-44	
	Users	Nonusers	Users	Nonusers
All smokers.....	10.2	2.8	62.0	15.9
Heavy.....	13.0	5.1	78.7	31.3
Light.....	4.7	.9	28.6	5.7
Nonusers.....	1.8	1.2	10.7	7.4
Smokers and nonusers.....	5.4	1.9	32.8	11.7

\*Heavy smoker: 15 or more cigarettes per day. From Jain, A. K., Studies in Family Planning, 8:50, 1977.

### RISK OF DOSE

In an analysis of data derived from several national adverse reaction reporting systems (Ref. 2), British investigators concluded that the risk of thromboembolism including coronary thrombosis is directly related to the dose of estrogen used in oral contraceptives preparations containing 100 mcg or more of estrogen were associated with a higher risk of thromboembolism than those containing 50-80 mcg of estrogen. Their analysis did suggest, however, that the quantity of estrogen may not be the sole factor involved. This finding has been confirmed in the United States (Ref. 3). Careful epidemiological studies to determine the

degree of thromboembolic risk associated with progestogen-only oral contraceptives have not been performed. Cases of thromboembolic disease have been reported in women using these products, and they should not be presumed to be free of excess risk.

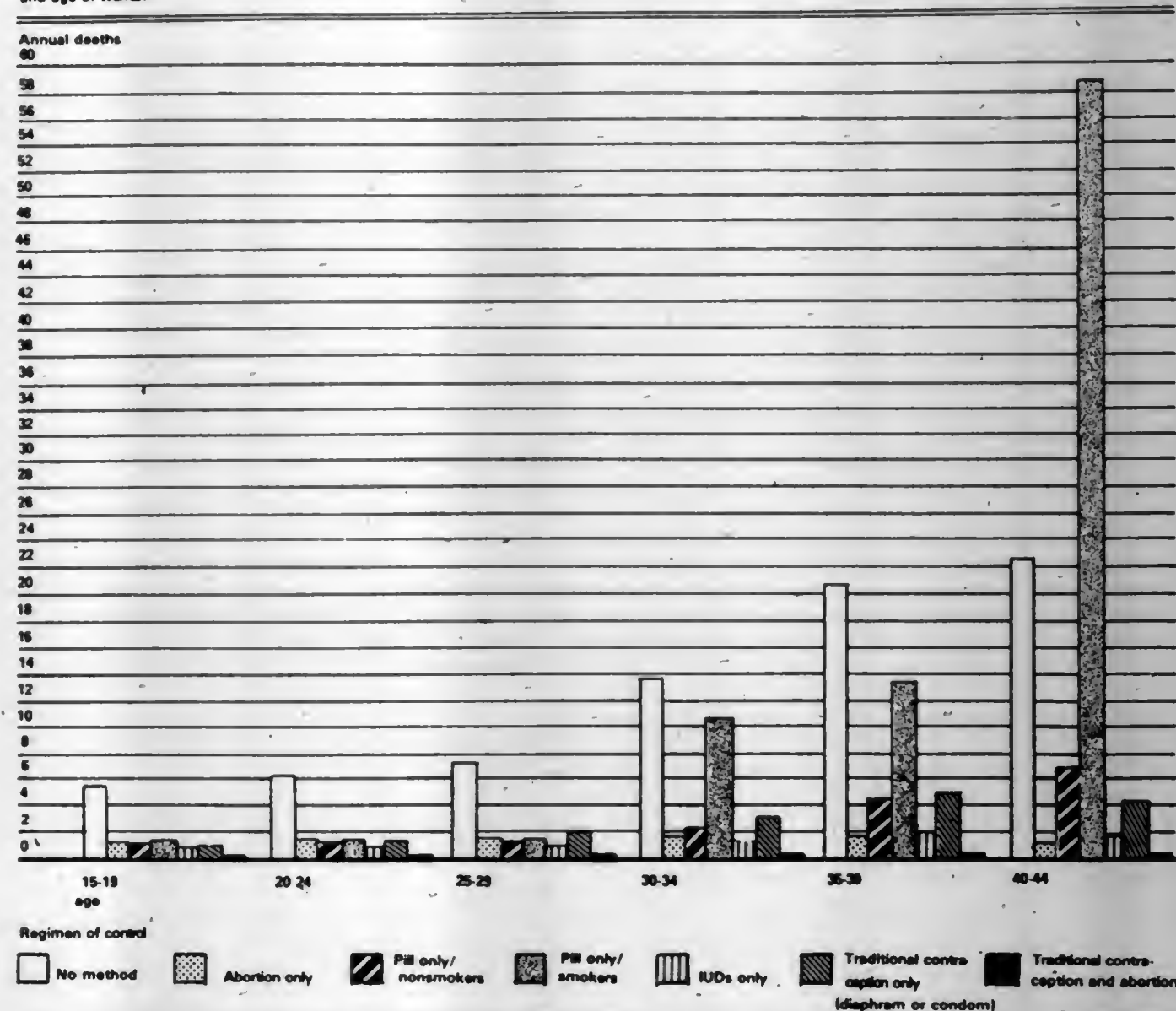
### ESTIMATE OF EXCESS MORTALITY FROM CIRCULATORY DISEASES

A large prospective study (Ref. 53) carried out in the U.K. estimated the mortality rate per 100,000 women per year from diseases of the circulatory system for users and nonusers of oral contraceptives according to age, smoking habits, and duration of use. The overall excess death rate annually from circulatory diseases for oral contraceptive users was estimated to be 20 per 100,000 (ages 15-34—5/100,000; ages 35-44—33/100,000; ages 45-49—140/100,000), the risk being concentrated in older women, in those with a long duration of use, and in cigarette smokers. It was not possible, however, to examine the interrelationships of age, smoking, and duration of use, nor to compare the effects of continuous versus intermittent use. Although the study showed a 10-fold increase in death due to circulatory diseases in users for 5 or more years, all of these deaths occurred in women 35 or older. Until larger numbers of women under 35 with continuous use for 5 or more years are available, it is not possible to assess the magnitude of the relative risk for this younger age group.

The available data from a variety of sources have been analyzed (Ref. 14) to estimate the risk of death associated with various methods of contraception. The estimates of risk of death for each method include the combined risk of the contraceptive method (e.g., thromboembolic and thrombotic disease in the case of oral contraceptives) plus the risk attributable to pregnancy or abortion in the event of method failure. This latter risk varies with the effectiveness of the contraceptive method. The findings of this analysis are shown in Figure 1 below (Ref. 14). The study concluded that the mortality associated with all methods of birth control is low and below that associated with childbirth, with the exception of oral contraceptives in women over 40 who smoke. (The rates given for pill only/smokers for each age group are for smokers as a class. For "heavy" smokers (more than 15 cigarettes a day), the rates given would be about double; for "light" smokers (less than 15 cigarettes a day), about 50 percent.) The lowest mortality is associated with the condom or diaphragm backed up by early abortion.



Figure 1. Estimated annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of women



The risk of thromboembolic and thrombotic disease associated with oral contraceptives increases with age after approximately age 30 and, for myocardial infarction, is further increased by hypertension, hypercholesterolemia, obesity, diabetes, or history of preeclamptic toxemia and especially by cigarette smoking.

Based on the data currently available, the following chart gives a gross estimate of the risk of death from circulatory disorders associated with the use of oral contraceptives:

**SMOKING HABITS AND OTHER PREDISPOSING CONDITIONS—RISK ASSOCIATED WITH USE OF ORAL CONTRACEPTIVES**

Age	Below 30	30-39	40+
Heavy smokers.....	C	B	A
Light smokers.....	D	C	B
Non smokers (no predisposing conditions).	D	C, D	C
Non smokers (other predisposing conditions).	C	C, B	B, A

A—Use associated with very high risk.  
B—Use associated with high risk.  
C—Use associated with moderate risk.  
D—Use associated with low risk.

The physician and the patient should be alert to the earliest manifestations of thromboembolic and thrombotic disorders (e.g., thrombophlebitis, pulmonary embolism, cerebrovascular insufficiency, coronary occlusion, retinal thrombosis, and mesenteric thrombosis). Should any of these occur or be suspected, the drug should be discontinued immediately.

A four- to six-fold increased risk of post surgery thromboembolic complications has been reported in oral contraceptive users (refs. 15 and 16). If feasible, oral contraceptives should be discontinued at least 4 weeks before surgery of a type associated with an increased risk of thromboembolism or prolonged immobilization.

**2. Ocular Lesions.** There have been reports of neuro-ocular lesions such as optic neuritis or retinal thrombosis associated with the use of oral contraceptives. Discontinue oral contracep-

tive medication if there is unexplained, sudden or gradual, partial or complete loss of vision; onset of proptosis or diplopia; papilledema; or retinal vascular lesions and institute appropriate diagnostic and therapeutic measures.

**3. Carcinoma.** Long-term continuous administration of either natural or synthetic estrogen in certain animal species increases the frequency of carcinoma of the breast, cervix, vagina, and liver. Certain synthetic progestogens, none currently contained in oral contraceptives, have been noted to increase the incidence of mammary nodules, benign and malignant, in dogs.

In humans, three case control studies have reported an increased risk of endometrial carcinoma associated with the prolonged use of exogenous estrogen in post menopausal women (Refs. 17, 18, and 19). One publication (Ref.

20) reported on the first 21 cases submitted by physicians to a registry of cases of adenocarcinoma of the endometrium in women under 40 on oral contraceptives. Of the cases found in women without predisposing risk factors for adenocarcinoma of the endometrium (e.g., irregular bleeding at the time oral contraceptives were first given, polycystic ovaries), nearly all occurred in women who had used a sequential oral contraceptive. These products are no longer marketed. No evidence has been reported suggesting an increased risk of endometrial cancer in users of conventional combination or progestogen-only oral contraceptives.

Several studies (Refs. 8 and 21 through 24) have found no increase in breast cancer in women taking oral contraceptives or estrogens. One study (Ref. 25), however, while also noting no overall increased risk of breast cancer in women treated with oral contraceptives, found an excess risk in the subgroups of oral contraceptive users with documented benign breast disease. A reduced occurrence of benign breast tumors in users of oral contraceptives has been well-documented (Refs. 8, 21, 25, 26, and 27).

In summary, there is at present no confirmed evidence from human studies of an increased risk of cancer associated with oral contraceptives. Close clinical surveillance of all women taking oral contraceptives is, nevertheless, essential. In all cases of undiagnosed persistent or recurrent abnormal vaginal bleeding, appropriate diagnostic measures should be taken to rule out malignancy. Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease or abnormal mammograms should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception.

**4. Hepatic Tumors.** Benign hepatic adenomas have been found to be associated with the use of oral contraceptives (Refs. 28, 29, 30, and 46). One study (Ref. 46) showed that oral contraceptive formulations with high hormonal potency were associated with a higher risk than lower potency formulations. Although benign, hepatic adenomas may rupture and may cause death through intra-abdominal hemorrhage. This has been reported in short-term as well as long-term users of oral contraceptives. Two studies relate risk with duration of use of the contraceptive, the risk being much greater after 4 or more years of oral contraceptive use (Refs. 30 and 46). While hepatic adenoma is a rare lesion, it should be considered in women presenting abdominal pain and tenderness, abdominal mass or shock.

A few cases of hepatocellular carcinoma have been reported in women

taking oral contraceptives. The relationship of these drugs to this type of malignancy is not known at this time.

**5. Use in or Immediately Preceding Pregnancy, Birth Defects in Offspring, and Malignancy in Female Offspring.**

The use of female sex hormones—both estrogenic and progestational agents—during early pregnancy may seriously damage the offspring. It has been shown that females exposed in utero to diethylstilbestrol, a nonsteroidal estrogen, have an increased risk of developing in later life a form of vaginal or cervical cancer that is ordinarily extremely rare (Refs. 31 and 32). This risk has been estimated to be of the order of 1 in 1,000 exposures or less (Refs. 33 and 47). Although there is no evidence at the present time that oral contraceptives further enhance the risk of developing this type of malignancy, such patients should be monitored with particular care if they elect to use oral contraceptives instead of other methods of contraception. Furthermore, a high percentage of such exposed women (from 30 to 90%) have been found to have epithelial changes of the vagina and cervix (Refs. 34 through 38). Although these changes are histologically benign, it is not known whether this condition is a precursor of vaginal malignancy. Male children so exposed may develop abnormalities of the urogenital tract (Refs. 48, 49, and 50). Although similar data are not available with the use of other estrogens, it cannot be presumed that they would not induce similar changes.

An increased risk of congenital anomalies, including heart defects and limb defects, has been reported with the use of sex hormones, including oral contraceptives, in pregnancy (Refs. 39 through 42, 51). One case control study (Ref. 42) has estimated a 4.7-fold increase in risk of limb-reduction defects in infants exposed in utero to sex hormones (oral contraceptives, hormonal withdrawal tests for pregnancy or attempted treatment for threatened abortion). Some of these exposures were very short and involved only a few days of treatment. The data suggest that the risk of limb-reduction defects in exposed fetuses is somewhat less than one in 1,000 live births.

In the past, female sex hormones have been used during pregnancy in an attempt to treat threatened or habitual abortion. There is considerable evidence that estrogens are ineffective for these indications, and there is no evidence from well controlled studies that progestogens are effective for these uses.

There is some evidence that triploidy and possibly other types of polyploidy are increased among abortuses from women who become pregnant soon after ceasing oral contrac-

ceptives (Ref. 43). Embryos with these anomalies are virtually always aborted spontaneously. Whether there is an overall increase in spontaneous abortion of pregnancies conceived soon after stopping oral contraceptives is unknown.

It is recommended that for any patient who has missed two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen. If the patient has not adhered to the prescribed schedule, the possibility of pregnancy should be considered at the time of the first missed period (or after 45 days from the last menstrual period if the progestogen only oral contraceptives are used), and further use of oral contraceptives should be withheld until pregnancy has been ruled out. If pregnancy is confirmed, the patient should be apprised of the potential risks to the fetus and the advisability of continuation of the pregnancy should be discussed in the light of these risks.

(Manufacturer to supply appropriate information for use in endometriosis.)

It is also recommended that women who discontinue oral contraceptives with the intent of becoming pregnant use an alternate form of contraception for a period of time before attempting to conceive. Many clinicians recommend 3 months although no precise information is available on which to base this recommendation.

The administration of progestogen-only or progestogen-estrogen combinations to induce withdrawal bleeding should not be used as a test of pregnancy.

**6. Gall Bladder Disease.**

Studies (Refs. 8, 23, and 26) report an increased risk of surgically confirmed gall bladder disease in users of oral contraceptives and estrogens. In one study, an increased risk appeared after 2 years of use and doubled after 4 or 5 years of use. In one of the other studies, an increased risk was apparent between 6 and 12 months of use.

**7. Carbohydrate and Lipid Metabolic Effects.**

A decrease in glucose tolerance has been observed in a significant percentage of patients on oral contraceptives. For this reason, prediabetic and diabetic patients should be carefully observed while receiving oral contraceptives.

An increase in triglycerides and total phospholipids has been observed in patients receiving oral contraceptives (Ref. 44). The clinical significance of this finding remains to be defined.

**8. Elevated Blood Pressure.**

An increase in blood pressure has been reported in patients receiving oral contraceptives (Ref. 26). In some women, hypertension may occur within a few months of beginning oral contraceptive use. In the first year of use, the prevalence of women with hy-



perfusion is low in users and may be no higher than that of a comparable group of nonusers. The prevalence in users increases, however, with longer exposure, and in the fifth year of use is two and a half to three times the reported prevalence in the first year. Age is also strongly correlated with the development of hypertension in oral contraceptive users. Women who previously have had hypertension during pregnancy may be more likely to develop elevation of blood pressure when given oral contraceptives. Hypertension that develops as a result of taking oral contraceptives usually returns to normal after discontinuing the drug.

#### 9. Headache.

The onset or exacerbation of migraine or development of headache of a new pattern which is recurrent, persistent, or severe, requires discontinuation of oral contraceptives and evaluation of the cause.

#### 10. Bleeding Irregularities.

Breakthrough bleeding, spotting, and amenorrhea are frequent reasons for patients discontinuing oral contraceptives. In breakthrough bleeding, as in all cases of irregular bleeding from the vagina, nonfunctional causes should be borne in mind. In undiagnosed persistent or recurrent abnormal bleeding from the vagina, adequate diagnostic measures are indicated to rule out pregnancy or malignancy. If pathology has been excluded, time or a change to another formulation may solve the problem. Changing to an oral contraceptive with a higher estrogen content, while potentially useful in minimizing menstrual irregularity, should be done only if necessary since this may increase the risk of thromboembolic disease.

Following paragraph to be inserted for progestogen-only oral contraceptives:

An alteration in menstrual patterns is likely to occur in women using progestogen-only oral contraceptives. The amount and duration of flow, cycle length, breakthrough bleeding, spotting and amenorrhea will probably be quite variable. Bleeding irregularities occur more frequently with the use of progestogen-only oral contraceptives than with the combinations and the dropout rate due to such conditions is higher.

Women with a past history of oligomenorrhea or secondary amenorrhea or young women without regular cycles may have a tendency to remain anovulatory or to become amenorrheic after discontinuation of oral contraceptives. Women with these preexisting problems should be advised of this possibility and encouraged to use other contraceptive methods. Post-use anovulation, possibly prolonged, may also occur in women without previous irregularities.

#### 11. Ectopic Pregnancy.

Ectopic as well as intrauterine pregnancy may occur in contraceptive failures. However, in progestogen-only oral contraceptive failures, the ratio of ectopic to intrauterine pregnancies is higher than in women who are not receiving oral contraceptives, since the drugs are more effective in preventing intrauterine than ectopic pregnancies.

#### 12. Breast Feeding.

Oral contraceptives given in the postpartum period may interfere with lactation. There may be a decrease in the quantity and quality of the breast milk. Furthermore, a small fraction of the hormonal agents in oral contraceptives has been identified in the milk of mothers receiving these drugs (Ref. 45). The effects, if any, on the breast fed child have not been determined. If feasible, the use of oral contraceptives should be deferred until the infant has been weaned.

#### PRECAUTIONS

##### GENERAL

1. A complete medical and family history should be taken prior to the initiation of oral contraceptives. The pretreatment and periodic physical examinations should include special reference to blood pressure, breasts, abdomen and pelvic organs, including Papanicolaou smear and relevant laboratory tests. As a general rule, oral contraceptives should not be prescribed for longer than 1 year without another physical examination being performed.

2. Under the influence of estrogen-progestogen preparations, preexisting uterine leiomyomata may increase in size.

3. Patients with a history of psychic depression should be carefully observed and the drug discontinued if depression recurs to a serious degree. Patients becoming significantly depressed while taking oral contraceptives should stop the medication and use an alternate method of contraception in an attempt to determine whether the symptom is drug related.

4. Oral contraceptives may cause some degree of fluid retention. They should be prescribed with caution, and only with careful monitoring, in patients with conditions which might be aggravated by fluid retention, such as convulsive disorders, migraine syndrome, asthma, or cardiac or renal insufficiency.

5. Patients with a past history of jaundice during pregnancy have an increased risk of recurrence of jaundice while receiving oral contraceptive therapy. If jaundice develops in any patient receiving such drugs, the medication should be discontinued.

6. Steroid hormones may be poorly metabolized in patients with impaired liver function and should be administered with caution in such patients.

7. Oral contraceptive users may have disturbances in normal tryptophan metabolism which may result in a relative pyridoxine deficiency. The clinical significance of this is yet to be determined.

8. Serum folate levels may be depressed by oral contraceptive therapy. Since the pregnant woman is predisposed to the development of folate deficiency increase with increasing gestation, it is possible that if a woman becomes pregnant shortly after stopping oral contraceptives, she may have a greater chance of developing folate deficiency and complications attributed to this deficiency.

9. The pathologist should be advised of oral contraceptive therapy when relevant specimens are submitted.

10. Certain endocrine and liver function tests and blood components may be affected by estrogen-containing oral contraceptives:

- Increased sulfobromophthaleim retention.
- Increased prothrombin and factors VII, VIII, IX, and I; decreased antithrombin 3; increased norepinephrine-induced platelet aggregability.
- Increased thyroid binding globulin (TBG) leading to increased circulating total thyroid hormone, as measured by protein-bound iodine (PBI), T<sub>4</sub> by column, or T<sub>4</sub> by radioimmunoassay. Free T<sub>3</sub> resin uptake is decreased, reflecting the elevated TBG, free T<sub>4</sub> concentration is unaltered.
- Decreased pregnandiol excretion.
- Reduced response to metyrapone test.

#### INFORMATION FOR THE PATIENT

See Patient Labeling Printed below.

#### DRUG INTERACTIONS

Reduced efficacy and increased incidence of breakthrough bleeding have been associated with concomitant use of rifampin. A similar association has been suggested with barbiturates, phenylbutazone, phenytoin sodium, and ampicillin.

#### CARCINOGENESIS

See Warnings section for information on the carcinogenic potential of oral contraceptives.

#### PREGNANCY

Pregnancy category X. See Contraindications and Warnings.

#### NURSING MOTHERS

See Warnings.

#### ADVERSE REACTIONS

An increased risk of the following serious adverse reactions has been associated with the use of oral contraceptives (see Warnings):  
Thrombophlebitis.  
Pulmonary embolism.

Coronary thrombosis.  
Cerebral thrombosis.  
Cerebral hemorrhage.  
Hypertension.  
Gall bladder disease.  
Benign hepatomas.  
Congenital anomalies.

There is evidence of an association between the following conditions and the use of oral contraceptives, although additional confirmatory studies are needed:

Mesenteric thrombosis.  
Neuro-ocular lesions, e.g., retinal thrombosis and optic neuritis.

The following adverse reactions have been reported in patients receiving oral contraceptives and are believed to be drug related:

Nausea, usually the most common adverse reaction.

Vomiting, occurs in approximately 10% or less of patients during the first cycle. Other reactions, as a general rule, are seen much less frequently or only occasionally.

Gastrointestinal symptoms (such as abdominal cramps and bloating).

Breakthrough bleeding.

Spotting.

Change in menstrual flow.

Dysmenorrhea.

Amenorrhea during and after treatment.

Temporary infertility after discontinuance of treatment.

Edema.

Chloasma or melasma which may persist.

Breast changes: tenderness, enlargement, and secretion.

Change in weight (increase or decrease).

Change in cervical erosion and cervical secretion.

Possible diminution in lactation when given immediately postpartum.

Cholestatic jaundice.

Migraine.

Increase in size of uterine leiomyomata.

Rash (allergic).

Mental depression.

Reduced tolerance to carbohydrates.

Vaginal candidiasis.

Change in corneal curvature (steepening).

Intolerance to contact lenses.

The following adverse reactions have been reported in users of oral contraceptives, and the association has been neither confirmed nor refuted:

Premenstrual-like syndrome.

Cataracts.

Changes in libido.

Chorea.

Changes in appetite.

Cystitis-like syndrome.

Headache.

Nervousness.

Dizziness.

Hirsutism.

Loss of scalp hair.

Erythema multiforme.

Erythema nodosum.  
Hemorrhagic eruption.  
Vaginitis.  
Porphyria.

#### ACUTE OVERDOSE

Serious ill effects have not been reported following acute ingestion of large doses of oral contraceptives by young children. Overdosage may cause nausea, and withdrawal bleeding may occur in females.

#### DOSAGE AND ADMINISTRATION

To achieve maximum contraceptive effectiveness, (insert name of drug) must be taken exactly as directed and at intervals not exceeding 24 hours.

(Manufacturer to supply appropriate information regarding endometriosis and hypermenorrhea where applicable.)

(Manufacturer to supply information on routine administration and specific instructions on handling problems such as breakthrough bleeding, amenorrhea, etc.)

Use of oral contraceptives in the event of a missed menstrual period:

1. If the patient has not adhered to the prescribed dosage regimen, the possibility of pregnancy should be considered after the first missed period (or after 45 days from the last menstrual period if the progestogen only oral contraceptives are used) and oral contraceptives should be withheld until pregnancy has been ruled out.

2. If the patient has adhered to the prescribed regimen and misses two consecutive periods, pregnancy should be ruled out before continuing the contraceptive regimen.

#### HOW SUPPLIED

(Manufacturers to supply information on available dosage forms, potency, color, and packaging.)

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The patient labeling for oral contraceptives drug products is set forth below:

**BRIEF SUMMARY PATIENT PACKAGE INSERT**

Cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should not smoke.

Oral contraceptives taken as directed are about 99% effective in preventing pregnancy. (The mini-pill, however, is somewhat less effective.) Forgetting to take your pills increases the chance of pregnancy.

Women who have or have had clotting disorders, cancer of the breast or sex organs, unexplained vaginal bleeding, a stroke, heart attack, angina pectoris, or who suspect they may be pregnant should not use oral contraceptives.

Most side effects of the pill are not serious. The most common side effects are nausea, vomiting, bleeding between menstrual periods, weight gain, and breast tenderness. However, proper use of oral contraceptives requires that they be taken under your

doctor's continuous supervision, because they can be associated with serious side effects which may be fatal. Fortunately, these occur very infrequently. The serious side effects are:

1. Blood clots in the legs, lungs, brain, heart or other organs and hemorrhage into the brain due to bursting of a blood vessel.
2. Liver tumors, which may rupture and cause severe bleeding.
3. Birth defects if the pill is taken while you are pregnant.
4. High blood pressure.
5. Gallbladder disease.

The symptoms associated with these serious side effects are discussed in the detailed leaflet given you with your supply of pills. Notify your doctor if you notice any unusual physical disturbance while taking the pill.

The estrogen in oral contraceptives has been found to cause breast cancer and other cancers in certain animals. These findings suggest that oral contraceptives may also cause cancer in humans. However, studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans.

The detailed leaflet describes more completely the benefits and risks of oral contraceptives. It also provides information on other forms of contraception. Read it carefully. If you have any questions, consult your doctor.

**Caution.** Oral contraceptives are of no value in the prevention or treatment of venereal disease.

**DETAILED PATIENT LABELING**

**WHAT YOU SHOULD KNOW ABOUT ORAL CONTRACEPTIVES**

Oral contraceptives ("the pill") are the most effective way (except for sterilization) to prevent pregnancy. They are also convenient and, for most women, free of serious or unpleasant side effects. Oral contraceptives must always be taken under the continuous supervision of a physician.

(If and oral contraceptive is approved for indications other than contraception (Enovid 5 mg, Ortho-Novum 2 mg, Ortho-Novum 10 mg), the manufacturer may mention those indications in the last paragraph in this section and state that the information in this leaflet under the headings "Who Should Not Use Oral Contraceptives," "The Dangers of Oral Contraceptives," and "How to Use Oral Contraceptives Safely" is also applicable when these drugs are used for other indications.)

It is important that any woman who considers using an oral contraceptive understand the risks involved. Although the oral contraceptives have important advantages over other methods of contraception, they have certain risks that no other method

has. Only you can decide whether the advantages are worth these risks. This leaflet will tell you about the most important risks. It will explain how you can help your doctor prescribe the pill as safely as possible by telling him about yourself and being alert for the earliest signs of trouble. And it will tell you how to use the pill properly, so that it will be as effective as possible. There is more detailed information available in the leaflet prepared for doctors. Your pharmacist can show you a copy; you may need your doctor's help in understanding parts of it.

**WHO SHOULD NOT USE ORAL CONTRACEPTIVES**

A. If you have any of the following conditions you should not use the pill:

1. Clots in the legs or lungs.
2. Angina pectoris.
3. Known or suspected cancer of the breast or sex organs.
4. Unusual vaginal bleeding that has not yet been diagnosed.
5. Known or suspected pregnancy.

B. If you have had any of the following conditions you should not use the pill:

1. Heart attack or stroke.
2. Clots in the legs or lungs.

C. Cigarette smoking increases the risk of serious adverse effects on the heart and blood vessels from oral contraceptive use. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and is quite marked in women over 35 years of age. Women who use oral contraceptives should not smoke.

D. If you have scanty or irregular periods or are a young woman without a regular cycle, you should use another method of contraception because, if you use the pill, you may have difficulty becoming pregnant or may fail to have menstrual periods after discontinuing the pill.

**DECIDING TO USE ORAL CONTRACEPTIVES**

If you do not have any of the conditions listed above and are thinking about using oral contraceptives, to help you decide, you need information about the advantages and risks of oral contraceptives and of other contraceptive methods as well. This leaflet describes the advantages and risks of oral contraceptives. Except for sterilization, the IUD and abortion, which have their own exclusive risks, the only risks of other methods of contraception are those due to pregnancy should the method fail. Your doctor can answer questions you may have with respect to other methods of contraception. He can also answer any questions you may have after reading this leaflet on oral contraceptives.

1. What Oral Contraceptives Are and How They Work. Oral Contraceptives are of two types. The most common, often simply called "the pill"

is a combination of an estrogen and a progestogen, the two kinds of female hormones. The amount of estrogen and progestogen can vary, but the amount of estrogen is most important because both the effectiveness and some of the dangers of oral contraceptives are related to the amount of estrogen. This kind of oral contraceptive works principally by preventing release of an egg from the ovary. When the amount of estrogen is 50 micrograms or more, and the pill is taken as directed, oral contraceptives are more than 99% effective (i.e., there would be less than one pregnancy if 100 women used the pill for 1 year). Pills that contain 20 to 35 micrograms of estrogen vary slightly in effectiveness, ranging from 98% to more than 99% effective. (Manufacturer may insert pregnancy rate for the manufacturer's product found in clinical trials, if product is a combination.)

The second type of oral contraceptive, often called the "mini-pill", contains only a progestogen. It works in part by preventing release of an egg from the ovary but also by keeping sperm from reaching the egg and by making the uterus (womb) less receptive to any fertilized egg that reaches it. The mini-pill is less effective than the combination oral contraceptive, about 97% effective. (Manufacturer may insert pregnancy rate for the manufacturer's product found in clinical trials if product is a progestogen-only oral contraceptive.) In addition, the progestogen-only pill has a tendency to cause irregular bleeding which may be quite inconvenient, or cessation of bleeding entirely. The progestogen-only pill is used despite its lower effectiveness in the hope that it will prove not to have some of the serious side effects of the estrogen-containing pill (see below) but it is not yet certain that the mini-pill does in fact have fewer serious side effects. The discussion below, while based mainly on information about the combination pills, should be considered to apply as well to the mini-pill.

2. Other Nonsurgical Ways to Prevent Pregnancy. As this leaflet will explain, oral contraceptives have several serious risks. Other methods of contraception have lesser risks or none at all. They are also less effective than oral contraceptives, but, used properly, may be effective enough for many women. The following table gives reported pregnancy rates (the number of women out of 100 who would become pregnant in 1 year) for these methods:

PREGNANCIES PER 100 WOMEN PER YEAR	
Intrauterine device (IUD), less than 1-6;	
Diaphragm with spermicidal products (creams or jellies), 2-20;	
Condom (rubber), 3-36;	
Aerosol foams, 2-29;	
Jellies and creams, 4-36;	

Periodic abstinence (rhythm) all types, less than 1-47;

1. Calendar method, 14-47;
  2. Temperature method, 1-20;
  3. Temperature method-intercourse only in post-ovulatory phase, less than 1-7;
  4. Mucus method, 1-25;
- No contraception, 60-80.

The figures (except for the IUD) vary widely because people differ in how well they use each method. Very faithful users of the various methods obtain very good results, except for users of the calendar method of periodic abstinence (rhythm). Except for the IUD, effective use of these methods requires somewhat more effort than simply taking a single pill every morning, but it is an effort that many couples undertake successfully. Your doctor can tell you a great deal more about these methods of contraception.

3. The Dangers of Oral Contraceptives.

a. *Circulatory disorders (abnormal blood clotting and stroke due to hemorrhage).* Blood clots (in various blood vessels of the body) are the most common of the serious side effects of oral contraceptives. A clot can result in a stroke (if the clot is in the brain), a heart attack (if the clot is in a blood vessel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal. Clots also occur rarely in the blood vessels of the eye, resulting in blindness or impairment of vision in that eye. There is evidence that the risk of clotting increases with higher estrogen doses. It is therefore important to keep the dose of estrogen as low as possible, so long as the oral contraceptive used has an acceptable pregnancy rate and doesn't cause unacceptable changes in the menstrual pattern. Furthermore, cigarette smoking by oral contraceptive users increases the risk of serious adverse effects on the heart and blood vessels. This risk increases with age and with heavy smoking (15 or more cigarettes per day) and begins to become quite marked in women over 35 years of age. For this reason, women who use oral contraceptives should not smoke.

The risk of abnormal clotting increases with age in both users and nonusers of oral contraceptives, but the increased risk from the contraceptive appears to be present at all ages. For oral contraceptive users in general, it has been estimated that in women between the ages of 15 and 34 the risk of death due to a circulatory disorder is about 1 in 12,000 per year, whereas for nonusers the rate is about 1 in 50,000 per year. In the age group 35 to 44, the risk is estimated to be about 1 in 2,500 per year for oral contraceptive users and about 1 in 10,000 per year for nonusers.

Even without the pill the risk of having a heart attack increases with



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age and is also increased by such heart attack risk factors as high blood pressure, high cholesterol, obesity, diabetes, and cigarette smoking. Without any risk factors present, the use of oral contraceptives alone may double the risk of heart attack. However, the combination of cigarette smoking, especially heavy smoking, and oral contraceptive use greatly increases the risk of heart attack. Oral contraceptive users who smoke are about 5 times more likely to have a heart attack than users who do not smoke and about 10 times more likely to have a heart attack than nonusers who do not smoke. It has been estimated that users between the ages of 30 and 39 who smoke have about a 1 in 10,000 chance each year of having a fatal heart attack compared to about a 1 in 50,000 chance in users who do not smoke, and about a 1 in 100,000 chance in nonusers who do not smoke. In the age group 40 to 44, the risk is about 1 in 1,700 per year for users who smoke compared to about 1 in 10,000 for users who do not smoke and to about 1 in 14,000 per year for nonusers who do not smoke. Heavy smoking (about 15 cigarettes or more a day) further increases the risk. If you do not smoke and have none of the other heart attack risk factors described above, you will have a smaller risk than listed. If you have several heart attack risk factors, the risk may be considerably greater than listed.

In addition to blood-clotting disorders, it has been estimated that women taking oral contraceptives are twice as likely as nonusers to have a stroke due to rupture of a blood vessel in the brain.

**b. Formation of tumors.** Studies have found that when certain animals are given the female sex hormone estrogen, which is an ingredient of oral contraceptives, continuously for long periods, cancers may develop in the breast, cervix, vagina, and liver.

These findings suggest that oral contraceptives may cause cancer in humans. However, studies to date in women taking currently marketed oral contraceptives have not confirmed that oral contraceptives cause cancer in humans. Several studies have found no increase in breast cancer in users, although one study suggested oral contraceptives might cause an increase in breast cancer in women who already have benign breast disease (e.g., cysts).

Women with a strong family history of breast cancer or who have breast nodules, fibrocystic disease, or abnormal mammograms or who were exposed to DES (diethylstilbestrol), an estrogen, during their mother's pregnancy must be followed very closely by their doctors if they choose to use oral contraceptives instead of another method of contraception. Many studies have shown that women taking

oral contraceptives have less risk of getting benign breast disease than those who have not used oral contraceptives. Recently, strong evidence has emerged that estrogens (one component of oral contraceptives), when given for periods of more than one year to women after the menopause, increase the risk of cancer of the uterus (womb). There is also some evidence that a kind of oral contraceptive which is no longer marketed, the sequential oral contraceptive, may increase the risk of cancer of the uterus. There remains no evidence, however, that the oral contraceptives now available increase the risk of this cancer.

Oral contraceptives do cause, although rarely, a benign (non-malignant) tumor of the liver. These tumors do not spread, but they may rupture and cause internal bleeding, which may be fatal. A few cases of cancer of the liver have been reported in women using oral contraceptives, but it is not yet known whether the drug caused them.

**c. Dangers to a developing child if oral contraceptives are used in or immediately preceding pregnancy.** Oral contraceptives should not be taken by pregnant women because they may damage the developing child. An increased risk of birth defects, including heart defects and limb defects, has been associated with the use of sex hormones, including oral contraceptives, in pregnancy. In addition, the developing female child whose mother has received DES (diethylstilbestrol), an estrogen, during pregnancy has a risk of getting cancer of the vagina or cervix in her teens or young adulthood. This risk is estimated to be about 1 in 1,000 exposures or less. Abnormalities of the urinary and sex organs have been reported in male offspring so exposed. It is possible that other estrogens, such as the estrogens in oral contraceptives, could have the same effect in the child if the mother takes them during pregnancy.

If you stop taking oral contraceptives to become pregnant, your doctor may recommend that you use another method of contraception for a short while. The reason for this is that there is evidence from studies in women who have had "miscarriages" soon after stopping the pill, that the lost fetuses are more likely to be abnormal. Whether there is an overall increase in "miscarriage" in women who become pregnant soon after stopping the pill as compared with women who do not use the pill is not known, but it is possible that there may be. If, however, you do become pregnant soon after stopping oral contraceptives, and do not have a miscarriage, there is no evidence that the baby has an increased risk of being abnormal.

**d. Gallbladder disease.** Women who use oral contraceptives have a greater

risk than nonusers of having gallbladder disease requiring surgery. The increased risk may first appear within 1 year of use and may double after 4 or 5 years of use.

**e. Other side effects of oral contraceptives.** Some women using oral contraceptives experience unpleasant side effects that are not dangerous and are not likely to damage their health. Some of these may be temporary. Your breasts may feel tender, nausea and vomiting may occur, you may gain or lose weight, and your ankles may swell. A spotty darkening of the skin, particularly of the face, is possible and may persist. You may notice unexpected vaginal bleeding or changes in your menstrual period. Irregular bleeding is frequently seen when using the mini-pill or combination oral contraceptives containing less than 50 micrograms of estrogen.

More serious side effects include worsening of migraine, asthma, epilepsy, and kidney or heart disease because of a tendency for water to be retained in the body when oral contraceptives are used. Other side effects are growth of preexisting fibroid tumors of the uterus; mental depression; and liver problems with jaundice (yellowing of the skin). Your doctor may find that levels of sugar and fatty substances in your blood are elevated; the long-term effects of these changes are not known. Some women develop high blood pressure while taking oral contraceptives, which ordinarily returns to the original levels when the oral contraceptive is stopped.

Other reactions, although not proved to be caused by oral contraceptives, are occasionally reported. These include more frequent urination and some discomfort when urinating, nervousness, dizziness, some loss of scalp hair, an increase in body hair, an increase or decrease in sex drive, appetite changes, cataracts, and a need for a change in contact lens prescription or inability to use contact lenses.

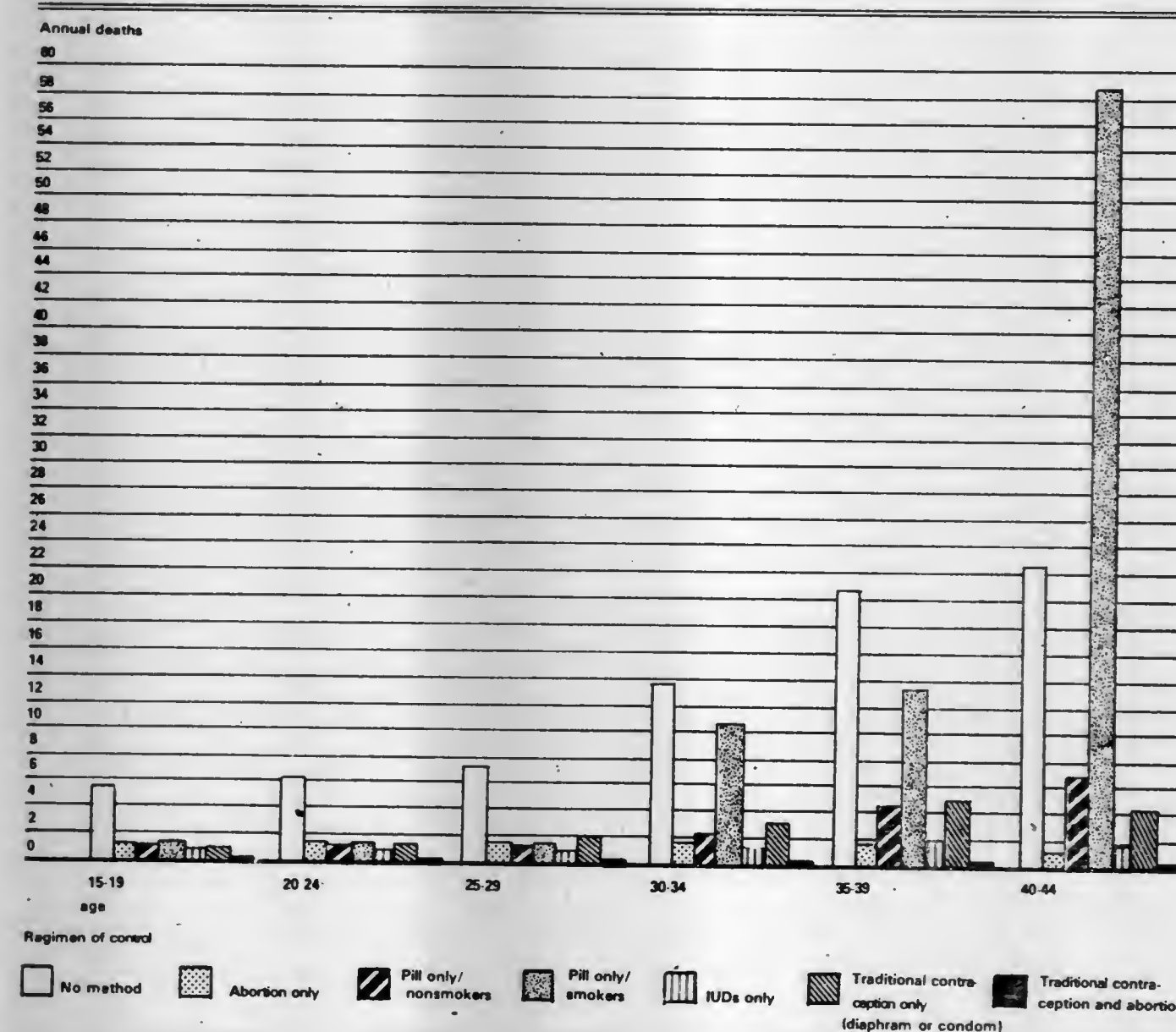
After you stop using oral contraceptives there may be a delay before you are able to become pregnant or before you resume having menstrual periods. This is especially true of women who had irregular menstrual cycles prior to the use of oral contraceptives. As discussed previously, your doctor may recommend that you wait a short while after stopping the pill before you try to become pregnant. During this time, use another form of contraception. You should consult your physician before resuming use of oral contraceptives after childbirth, especially if you plan to nurse your baby. Drugs in oral contraceptives are known to appear in the milk, and the long-range effect on infants is not known at this time. Furthermore, oral contraceptives may cause a decrease in your milk supply as well as in the quality of the milk.

4. Comparison of the Risks of Oral Contraceptives and Other Contraceptive Methods. The many studies on the risks and effectiveness of oral contraceptives and other methods of contraception have been analyzed to estimate the risk of death associated with various methods of contraception. This risk has two parts: (a) the risk of the method itself (e.g., the risk that oral contraceptives will cause death due to abnormal clotting), and (b) the risk of death due to pregnancy or abortion in the event the method fails. The results of this analysis are shown

in the bar graph below. The height of the bars is the number of deaths per 100,000 women each year. There are six sets of bars, each set referring to specific age group of women. Within each set of bars there is a single bar for each of the different contraceptive methods. For oral contraceptives, there are two bars—one for smokers and the other for nonsmokers. The analysis is based on present knowledge and new information could, of course, alter it. The analysis shows that the risk of death from all methods of birth control is low and below that associat-

ed with child birth, except for oral contraceptives in women over 40 who smoke. It shows that the lowest risk of death is associated with the condom or diaphragm (traditional contraception) backed up by early abortion in case of failure of the condom or diaphragm to prevent pregnancy. Also, at any age the risk of death (due to unexpected pregnancy) from the use of traditional contraception, even without a backup of abortion, is generally the same as or less than that from use of oral contraceptives.

Figure 1. Estimated annual number of deaths associated with control of fertility and no control per 100,000 nonsterile women, by regimen of control and age of women





# HOW TO USE ORAL CONTRACEPTIVES AS SAFELY AND EFFECTIVELY AS POSSIBLE, ONCE YOU HAVE DECIDED TO USE THEM

## 1. What to Tell your Doctor.

You can make use of the pill as safely as possible, by telling your doctor if you have any of the following:

a. Conditions that mean you should not use oral contraceptives:

Clots in the legs or lungs.

Clots in the legs or lungs in the past.

A stroke, heart attack, or angina pectoris.

Known or suspected cancer of the breast or sex organs.

Unusual vaginal bleeding that has not yet been diagnosed.

Known or suspected pregnancy.

b. Conditions that you doctor will want to watch closely or which might cause him to suggest another method of contraception:

A family history of breast cancer.

Breast nodules, fibrocystic disease of the breast, or an abnormal mammogram.

Diabetes.

High blood pressure.

High cholesterol.

Cigarette smoking.

Migraine headaches.

Heart or kidney disease.

Epilepsy.

Mental depression.

Fibroid tumors of the uterus.

Gallbladder disease.

c. Once you are using oral contraceptives, you should be alert for signs of a serious adverse effect and call your doctor if they occur:

Sharp pain in the chest, coughing blood, or sudden shortness of breath (indicating possible clots in the lungs).

Pain in the calf (possible clot in the leg).

Crushing chest pain or heaviness (indicating possible heart attack).

Sudden severe headache or vomiting, dizziness or fainting, disturbance of vision or speech or weakness or numbness in an arm or leg (indicating a possible stroke).

Sudden partial or complete loss of vision (indicating a possible clot in the eye).

Breast lumps (you should ask your doctor to show you how to examine your own breasts).

Severe pain in the abdomen (indicating a possible ruptured tumor of the liver).

Severe depression.

Yellowing of the skin (jaundice).

2. How to Take the Pill So That It Is Most Effective.

(Manufacturer to supply information on dosage and administration and what to do if patient has forgotten to take one or two pills. Where applicable, manufacturers should supply appropriate information regarding use for other approved indications.)

At times there may be no menstrual period after a cycle of pills. Therefore, if you miss one menstrual period but have taken the pills *exactly as you were supposed to* continue as usual into the next cycle. If you have not taken the correctly and miss a menstrual period, or if you are taking mini-pills and it is 45 days or more from the start of your last menstrual period you may be pregnant and should stop taking oral contraceptives until your doctor determines whether or not you are pregnant. Until you can get to your doctor, use another form of contraception. If two consecutive menstrual periods are missed, you should stop taking pills until it is determined whether you are pregnant. If you do become pregnant while using oral contraceptives, you should discuss the risks to the developing child with your doctor.

## 3. Periodic Examination.

Your doctor will take a complete medical and family history before prescribing oral contraceptives. At that time and about once a year thereafter, he will generally examine your blood pressure, breasts, abdomen, and pelvic organs (including a Papanicolaou smear, i.e., test for cancer).

## SUMMARY

Oral contraceptives are the most effective method, except sterilization, for preventing pregnancy. Other methods, when used conscientiously, are also very effective and have fewer risks. The serious risks of oral contraceptives are uncommon and the "pill" is a very convenient method of preventing pregnancy.

If you have certain conditions or have had these conditions in the past, you should not use oral contraceptives because the risk is too great. These conditions are listed in the leaflet. If you do not have these conditions, and decide to use the "pill," please read the leaflet carefully so that you can use the "pill" most safely and effectively.

Based on his or her assessment of your medical needs, your doctor has prescribed this drug for you. Do not give the drug to anyone else.

(Secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 3550 and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1)).

Dated: January 18, 1978.

DONALD KENNEDY,  
Commissioner of Food and  
Drugs.

[FR Doc. 78-2301 Filed 1-24-78; 10:43 am]

TUESDAY, JANUARY 31, 1978  
PART III



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## SECTION 8. HOUSING ASSISTANCE PAYMENTS PROGRAM— SUBSTANTIAL REHABILITATION

Special Procedures for  
Neighborhood Strategy  
Areas



## RULES AND REGULATIONS

## [4210-01]

## Title 24—Housing and Urban Development

## CHAPTER VIII—LOW INCOME HOUSING, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(Docket No. R 77-387)

## PART 881—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—SUBSTANTIAL REHABILITATION

## Special Procedures for Neighborhood Strategy Areas

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

**SUMMARY:** This rule sets forth policies and procedures under which Section 8 Substantial Rehabilitation under this subpart may be used in identified Neighborhood Strategy Areas (NSAs) where it is expected that concentrated community development and other housing activities will revitalize the area within a specified period of time.

**DATES:** Effective date: January 31, 1978. Comment date: Additional comments on this Final Rule should be filed with the Rules Docket Clerk by June 1, 1978.

**ADDRESS:** Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-7603.

## FOR FURTHER INFORMATION CONTACT:

Richard L. Schmitz, Acting Director, Section 8 and Leased Housing Division, Office of Assisted Housing Development, Office of Assisted Housing, U.S. Department of Housing and Urban Development, Room 6254, 202-755-5380.

**SUPPLEMENTARY INFORMATION:** Units of general local government eligible to utilize these special procedures are those local governments which are applying for or are receiving assistance under 24 CFR, 570.102 or 570.103. Approval of a request from a unit of local government to use the special procedures (1) assures the general availability of HUD mortgage insurance in the NSA, and (2) sets aside a specific amount of Section 8 Substantial Rehabilitation contract authority for use in the NSA, and (3) authorizes the local government to solicit Section 8 Substantial Rehabilitation Proposals for up to the amount of contract authority set aside. The local government will then review and submit to HUD, which has final approval authority, Section 8 Substantial Rehabilitation Proposals that it believes are approvable together with

certain certifications concerning those proposals.

The contract and budget authority available for use under these special procedures in this fiscal year will come from authority retained by the Secretary pursuant to § 891.403(b). Proposals or applications for other assisted housing programs will be handled under regular procedures except that appropriate waivers may be granted to support the NSA program pending the modification of the regulations and issuances applicable to the other programs.

The diversity of housing types and ownership patterns in a proposed NSA may mean that one type of assistance such as assistance provided under this Subpart will not suffice to encourage the volume of housing rehabilitation required to solve the problems of housing deterioration in a neighborhood. Accordingly, local governments should explore the use of all possible rehabilitation financing mechanisms when developing NSA requests. Similarly, when developing plans for public improvements and services (including relocation) in a proposed NSA, local governments should consider a variety of resources such as the Community Development Block Grants (block grant), including Urban Development Action Grants (UDAG), and local funds. In this regard, section 881.301(c), which defines an eligible NSA area, is designed in part to ensure that assistance under this Subpart is targeted to areas in which all eligible block grant physical development activities and public services may be carried out.

On January 31, 1977, the Department published in the *FEDERAL REGISTER* (42 FR 5918) a proposed rule to revise 24 CFR, Part 881 of the Section 8 Housing Assistance Payments Program—Substantial Rehabilitation Regulations by adding a new Subpart C to create special procedures for Neighborhood Renewal Strategy Areas. Interested persons had until March 2, 1977, to submit written comments.

By the end of the comment period, 18 written comments had been received. All of these comments, as well as several received after the comment period, were carefully considered. Changes have been made to the Regulations as published for comment. A discussion of the major changes and of the more recurrent and significant comments follows:

## NEIGHBORHOOD STRATEGY AREAS

The name of the areas eligible for consideration under these procedures has been changed from Neighborhood Renewal Strategy Areas to Neighborhood Strategy Areas (NSAs).

## MORE THAN ONE NSA MAY BE PERMITTED

Several comments expressed concern that the limitation on the use of these

special procedures to only one NSA in a locality was unduly restrictive. This may be true, in certain cases. Accordingly, section 881.303(a) has been revised to provide that a local government may request, and HUD may approve, more than one NSA within the jurisdiction of the local government.

## LENGTH OF TIME ALLOWED FOR SUBMISSION OF PROPOSALS

Two comments expressed concern that the requirement that "all Proposals submitted under these special procedures be submitted to HUD within six months after approval of the (NSA) request" allowed insufficient time for Proposals to be developed. It was suggested that the contract and budget authority to be used under these procedures be available for the life of the local government's program, with Proposals submitted according to a local schedule.

In response to these comments, section 881.304(f) is revised to allow submission of proposals based upon a schedule mutually agreed upon by HUD and the local government. If it appears that the local government will not be able to meet the schedule, it may be renegotiated. However, the provisions of section 881.308 allow the Field Office to use the contract and budget authority set aside under this Subpart for other proposals under this Subpart or for other purposes if the original schedule is not met.

## APPLICABILITY OF UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Two comments noted that, in the case of a privately owned section 8 substantial rehabilitation project, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) was inapplicable. It was suggested that the Uniform Act should apply to all proposals approved under these special procedures. The Uniform Act does not apply to rehabilitation of privately owned projects or to rehabilitation by PHAs where no acquisition takes place. However, this final rule provides that the local government shall be responsible for relocation payments and services, at a level equivalent to the requirements of the Uniform Act, to all tenants displaced by rehabilitation undertaken under this subpart. These payments and services may be paid for with block grant funds. Also added is a provision which gives the option in certain cases to assist affected persons who would be eligible under the section 8 existing housing program through the issuance by the Public Housing Agency (PHA) of a Certificate of Family Participation in lieu of rental assistance payments.

## ENVIRONMENTAL CLEARANCE REQUIREMENTS—RELATIONSHIP WITH BLOCK GRANT PROGRAM

Comments were received which addressed the environmental assessment requirement for each section 8 proposal submitted for an approved NSA. It was suggested that the process be simplified by changing this Subpart to permit the environmental clearance done under the block grant regulations to suffice for each subsequent section 8 proposal. Because the requirements of the National Environmental Policy Act of 1969 do not permit the suggested change to be made with respect to environmental review, this requirement has not been revised.

In the interest of coordinated planning by a locality, language was included in § 881.303(b) to encourage applicants to submit requests for NSA approvals simultaneously with their block grant applications.

## CONFORMITY WITH SITE AND NEIGHBORHOOD STANDARDS

A number of comments expressed a concern that the neighborhoods which would be most appropriate as NSAs do not at present comply with the site and neighborhood standards for the section 8 substantial rehabilitation program as prescribed in § 881.112. While the Department is considering a revision of these regulations which may have the effect of permitting more neighborhoods to qualify as NSAs, the standards of § 881.112 shall continue to be applicable to all section 8 substantial rehabilitation proposals.

Where the local government proposes to use other assisted housing programs, such as section 8 new construction or public housing, the site and neighborhood standards which apply to those programs also remain applicable.

## ALLOCATION OF NEW CONSTRUCTION UNITS

It was suggested that HUD consider allocating new construction units where needed in NSAs. In cases where section 8 new construction is needed as part of the overall strategy for the area, the local government may request preapproval of a site or sites within the NSA pursuant to the section 8 new construction regulations (see § 880.203(e)). However no more than 20 percent of the authority to be made available by the Secretary for set asides under these special procedures may be used for section 8 new construction. In addition, other housing programs such as public housing or the section 235 program may be utilized in the NSA.

## APPLICABILITY TO AREAS WITHOUT THE NEED FOR CONCENTRATED DEVELOPMENT

Comments were received which suggested that these special procedures

## RULES AND REGULATIONS

are limited to areas that receive concentrated physical redevelopment activities while some areas suitable for section 8 substantial rehabilitation may not need such activities. This limitation is intentional. These procedures are specifically designed for areas where concentrated revitalization is planned. Other substantial rehabilitation needs should be identified in local housing assistance plans and addressed through the regular procedures in Subpart B, or through other assisted or unassisted housing programs.

## AREAS RECEIVING BLOCK GRANT FUNDS FROM ANOTHER UNIT OF GOVERNMENT

NSAs may be located in communities which receive block grant funds from another unit of general local government such as an urban county. However, both the request for approval of the NSA and any proposals must be submitted by the block grant program recipient which is an eligible applicant as defined in § 881.301.

## OTHER SIGNIFICANT REVISIONS AND CLARIFICATIONS

In response to a comment that additional public services need not always be part of NSAs, § 881.303(a) has been changed to make it clear that physical redevelopment, public improvements, and public services are examples of acceptable types of concentrated neighborhood development activities.

Several comments addressed the issue of how special procedures would work in NSAs where one to four unit properties predominated. Properties of this type may be difficult to process under normal section 8 substantial rehabilitation procedures. It is recognized that it may be difficult for owners of such properties to comply with the processing and documentation requirements of the section 8 program. However, it is anticipated that the assistance provided by the local government, coupled with the less competitive nature of these special procedures, will help to resolve this problem.

Comments expressed concern for the rights of tenants occupying units in structures to be rehabilitated under this Subpart. One comment proposed that previous tenants be given the choice of remaining in their units, or, if eligible, receive first priority for section 8 housing assistance. We have determined that the new requirements in § 881.309 providing relocation payments and services give adequate protection to tenants occupying units to be rehabilitated under these special procedures.

Several comments were received concerning the need for HUD to provide technical training and assistance if inexperienced local governments are expected to be able to submit requests

for approval of an NSA and to assist owners in the preparation of specific proposals. Field Office staff will be available to provide assistance to local governments who undertake NSAs, and, when possible, HUD will offer training to local governments which are selected for participation.

Comments were received which asked for a definition of the term "Owner" and also asked if the term covered nonprofit sponsors and developers. The term "Owner" as defined in § 881.102 covers any entity which has the legal right to lease or sublease units. This includes nonprofit sponsors.

One comment suggested that guidance was needed concerning when the services of an architect would be advisable or required. Because of the nature of rehabilitation, the determination of the need for an architect must be made on an individual basis. Moreover, in certain cases either HUD mortgage insurance or local ordinances may specify when an architect's services are required.

Because of the importance of this regulation in making assistance available to areas which will qualify as neighborhood strategy areas, it has been determined that it is in the public interest to make these regulations effective on publication. However, because of the many changes that were made as a result of considering comments previously received, HUD invites further comments on this final rule. Comments received, along with experience in implementing the program, will be considered to determine any needed amendments to these regulations.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

Accordingly, 24 CFR, Chapter VIII, Part 881 is revised as follows:

## § 881.102 [Amended].

(1) In Subpart A, § 881.102.

(a) A definition for neighborhood strategy area (NSA) is inserted between the definitions for "Lower Income Family" and "New Communities" as follows: Neighborhood Strategy Area (NSA). An area approved by HUD where assistance under Subpart C of this Part will be provided. See § 881.301(c).



(2) A table of contents for Subpart C is added as follows:

**Subpart C—Special Procedures for Neighborhood Strategy Areas**

- Sec.  
 881.301. Applicability and scope.  
 881.302. Contract and Budget Authority available for use under this subpart.  
 881.303. Request by local government for approval of NSAs.  
 881.304. HUD review of requests for NSA(s) approval.  
 881.305. Submission of proposals for projects within NSAs.  
 881.306. HUD evaluation and approval of proposals not indicating HUD mortgage insurance.  
 881.307. Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.  
 881.308. Use of contract authority not reserved.  
 881.309. Relocation for section 8 substantial rehabilitation under subpart C.

(3) Subpart C is added as follows:

**Subpart C—Special Procedures for Neighborhood Strategy Areas**

§ 881.301. Applicability and scope.

(a) *General.* This Subpart sets forth: (1) The policies and procedures for requests made by units of general local government for approval by HUD of neighborhood strategy areas (NSAs) (see paragraphs (b) and (c) of this section), and (2) the special procedures to be used by local governments and HUD for securing and processing section 8 substantial rehabilitation proposals under this Subpart.

(b) *Eligible applicants.* Units of general local government eligible to participate are those which are applying for or are receiving assistance under the community development block grant (block grant) program pursuant to 24 CFR 570.102 and 570.103.

(c) *Eligible areas.* To be approvable, a proposed NSA must be a residential area where concentrated housing and block grant assisted physical development and public service activities are being, or are to be, carried out in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy for neighborhood improvement, conservation or preservation. The area shall be of manageable size and condition, so that block grant and other resources to be committed to the area can reasonably be expected to meet the identified physical development and housing needs within a 5-year period. The local plan (see § 881.303) shall provide for a coordinated program of development activities, such as necessary public improvements facilities and services, private investments, citizen self-help activities and coordination of the efforts of public and private agencies and neighborhood organizations.

(d) *Applicability of subparts A and B.* Provisions of Subpart A are applica-

ble except as modified herein. Section 881.104, which contains preferences for certain types of projects, shall not apply. Sections 881.302 through 881.306 shall apply in lieu of §§ 881.202 through 881.210 of Subpart B for proposals not indicating HUD mortgage insurance, under these special procedures. For proposals which indicate HUD mortgage insurance, §§ 881.302-881.305 and § 881.307 shall apply in lieu of §§ 881.202 through 881.208.

(e) *Use of other housing assistance programs.* Other housing assistance programs such as the public housing program, the section 8 existing housing program, and the section 235 program, for which contract authority is not included in this set aside may be necessary in order to accomplish the revitalization strategy. In such cases the Field Office shall consider the approval of projects pursuant to other programs if contract authority is available. Appropriate waivers of the regulations governing such other assisted housing programs will be considered to facilitate their use in, or in support of, the NSA.

§ 881.302. Contract and budget authority available for use under this subpart.

(a) *Authority available from initial allocation.* [Reserved]

(b) *Authority made available by Secretary.* HUD will publish a notice in the FEDERAL REGISTER indicating:

(1) The amount of contract authority to be made available under this Subpart and the approximate number of units this authority is expected to assist;

(2) The criteria, including but not limited to the criteria in § 881.304(e), which will be used in selecting NSAs to receive the authority being made available; and,

(3) The date by which requests for approval of NSAs pursuant to § 881.303 must be submitted to the appropriate Field Office in order to be considered for assistance.

(c) *Contract and budget authority not reserved.* Contract and budget authority set aside by HUD for local governments under these special procedures not obligated during a fiscal year will be set aside in the subsequent fiscal year if:

(1) Contract and budget authority are available for this purpose; and

(2) HUD determines that the local government is making satisfactory progress in meeting the schedule described in § 881.304(f)(4).

§ 881.303. Request by local government for approval of NSAs.

(a) *Request for Approval of One or More NSAs.* A local government may submit to HUD a request for approval of an area as an NSA which is expected to receive concentrated community development activities (e.g., physical

redevelopment, public improvements and services) assisted by the local government's block grant program pursuant to 24 CFR Part 570. The local government may request and HUD may approve more than one NSA within the jurisdiction of the local government.

(b) *Coordination with the Community Development Planning Process.* Eligible applicants are encouraged to submit requests for approval of an NSA simultaneously with their applications for the block grant program. However, requests may be submitted at any other time if a block grant application or amendment which supports the activities in Section 881.303(d) has been approved or is under review by HUD. In either case, the request, while it will reflect part of the local government's community development planning, shall not be considered part of the block grant application.

(c) *A-95 Procedures.* Any request under paragraph (a) of this Section shall be submitted by the local government to the appropriate A-95 Clearinghouse for review and comment prior to or simultaneously with the submission of the request to HUD, unless the request was submitted with the block grant application and has therefore complied with the requirements under 24 CFR Part 570.

(d) *Contents.* A local government request for approval shall include:

(1) A map or maps of the applicant's jurisdiction which clearly identify:

(i) Location of the proposed NSA;

(ii) Existing land uses and major traffic routes in the proposed NSA, and an area at least one block deep outside the perimeter of the NSA;

(iii) Location of shopping, public transportation stops, personal services, social services, and community services either inside or outside the NSA which would serve the NSA.

(2) A description of the proposed NSA's demographic and physical characteristics; an assessment of the extent to which the area currently meets site and neighborhood standards contained in § 881.112 and the environmental standards contained in § 881.114; and an evaluation of the feasibility of rehabilitation given the condition of the buildings in the proposed NSA and the general willingness and financial capability of the property owners to participate in revitalization efforts.

(3) A specific plan which identifies how deficiencies in the neighborhood are to be remedied. This shall include (i) a description of all activities to be undertaken including any activities necessary to correct deficiencies under § 881.112, such as public improvements and services and new public and private construction; (ii) the cost and source of funding of public activities

in the NSA (i.e., the concentrated block grant activities to be carried out and other related support from Federal, State, local and private programs that are not detailed in the block grant application); and (iii) a schedule for completing the activities. If the local government fails to provide the activities identified in this paragraph (d)(3) in conformance with the approved schedule, HUD may withdraw the unreserved portion of the set-aside and proceed in accordance with § 881.309.

(4) A proposed housing revitalization program which includes the following:

(i) The total number of units in the NSA broken down by the number which require no rehabilitation, the number to be demolished, the number to be rehabilitated by tenure type (owner occupied or rental), and the number of new units to be constructed.

(ii) the number of units by size (number of bedrooms), and structure type (e.g., detached, walkup, elevator) for which contract authority under these special procedures is requested, and the estimated amount and expected source of permanent financing for both assisted and nonassisted units to be rehabilitated. Examples of sources of financing or rental subsidy which the local government should consider for all units in the NSA include Community Development Block Grant funds, the 312 loan program, State and local financing programs, private financing, and all of HUD's assisted and mortgage insurance programs.

When the local government proposes to use financing provided by a State Housing Finance and Development Agency (HFDA) or by a Public Housing Agency (PHA), either Section 8 or public housing assistance, the request shall include a letter from the appropriate HFDA or PHA stating that the agency agrees to cooperate with the local government in providing financing for projects in the NSA and will submit applications and proposals to HUD in accordance with the local government's housing revitalization program.

(5) A statement describing the means by which residents and property owners of the proposed NSA are and will continue to be involved in the development and execution of the neighborhood strategy. (This statement shall not substitute for the Citizen Participation Certification required by the block grant program.)

(6) A statement that the NSA request was submitted to the A-95 Clearinghouse prior to or simultaneously with the submission of the request to HUD and that the Clearinghouse has been requested to send any comments it has to HUD.

(7) A statement outlining the relocation payments and services which will

be provided in accordance with the requirements of Section 881.309. This statement shall include an estimate of the cost of relocation and shall include the source of funds to be used for this purpose. When the local government proposes to use the Section 8 existing housing program as part of its relocation program, the request shall be accompanied by a letter from the appropriate PHA indicating its willingness to provide such assistance. The statement shall indicate that all services will be provided which are necessary to provide minorities, female heads of household, and other low-income families with the opportunity to take advantage of housing choices outside the areas of minority concentration and low-income areas containing an undue concentration of persons receiving housing assistance.

(8) A description of the administrative structure which the local government proposes to use to implement these special procedures.

(9) A proposed schedule for submission of Proposals.

(10) A statement that indicates that the proposed NSA is eligible pursuant to § 881.301(c).

(11) A statement that the request is consistent with the Local Housing Assistance Plan that has been approved by HUD or submitted to HUD for approval by the local government.

§ 881.304. HUD review of requests for NSA(s) approval.

(a) *Field Office Review.* The Field Office shall review each request to determine whether it meets the following requirements:

(1) The request is consistent with the Local Housing Assistance Plan that has been approved or submitted for approval by the local government.

(2) A sufficient number of units suitable for rehabilitation under this Subpart are located in the area either on sites which conform with the site and neighborhood standards in § 881.112, or on sites which will conform when the activities described in § 881.303(d)(3) are completed. However, when the request for approval of an NSA indicates the intention to use programs other than Section 8 Substantial Rehabilitation, such as Section 8 New Construction or Public Housing, the site and neighborhood standards of those programs shall be applicable.

(3) The area contains no major obstacles to meeting the environmental standards of § 881.114 or any other applicable environmental standards which cannot be remedied by the activities proposed for the area. This review shall not substitute for the environmental review required by § 881.306(b) for each Proposal subsequently submitted.

(4) The relocation payments and services proposed by the local government are acceptable.

(5) The present condition of the neighborhood is such that a suitable living environment is expected to result after implementation of the proposed activities outlined in § 881.303(d)(3) and the provision of housing assistance described in § 881.303(d)(4).

(6) The administrative structure proposed by the local government appears to be appropriate.

(7) The activities proposed to correct deficiencies described in § 881.303(d)(3), the proposed housing revitalization program described in § 881.303(d)(4), and the schedule set forth in § 881.303(d)(9) appear feasible and can reasonably be expected to be completed in the specified time. If the proposed activities require an amendment to the current approved block grant application or to the block grant application under HUD review, the NSA request shall not be approved until the amendment or the application is approved.

(8) The local government's citizen participation program has involved the residents and property owners of the NSA in the development of the strategy and is designed to facilitate their continuing participation in the implementation, monitoring, evaluation and adjustment of the strategy.

(9) The proposed NSA(s) is an eligible area pursuant to Section 881.301(c).

(b) *A-95 Comment.* HUD shall review and consider any comments received from the A-95 Clearinghouse.

(c) *Additional Information and Modifications.* If, during review of the request, HUD finds that additional information is necessary, or that modifications are necessary, it may request such additional information or modifications and/or meet with representatives of the local government to resolve outstanding questions concerning the request.

(d) *Field Office Determination.* The Field Office shall submit those requests it determines acceptable to the Assistant Secretary for Housing for approval. If the Field Office determines that a local government's request is not acceptable, it shall notify the local government of the reasons.

(e) *Review by HUD.* When limited availability of contract and budget authority requires the Assistant Secretary for Housing to select among local governments responding to the Notice, priority shall be given based on the following:

(1) The degree of local public commitment to the program as evidenced by Community Development Block Grant and other Federal, state, or local programs and funds that have been designated for supporting activities;

(2) The extent of existing or proposed private commitment such as pri-



vate financing in the area, local agreements for special wage rates for rehabilitation or other support activities;

(3) The overall quality and feasibility of the program described in the request for approval of an NSA;

(4) The extent to which rehabilitation is expected to be completed without causing permanent displacement;

(5) The demonstrated capacity of the local government to manage housing and community development programs;

(6) The demonstrated capacity of the local government to promote fair housing and equal opportunity for members of minority groups and female heads of household;

(7) The potential of achieving, in the speediest manner possible, the reservations of housing units under this Subpart.

(f) *Notification of Local Governments.* The Assistant Secretary shall notify each Field Office as to which NSAs in its jurisdiction have been approved or disapproved. The Field Office shall notify the local government of this determination. If the request is not approved, the notification shall indicate the reasons. If the request is approved, the notification shall include:

(1) An identification of the approved NSAs and a statement that Section 8 Substantial Rehabilitation Proposals may be processed pursuant to these special procedures.

(2) The amount of contract and budget authority which has been set aside for use in the NSA and the approximate number of units by household type this authority is expected to support, and a statement of the conditions set forth in § 881.302(c).

(3) A statement that, for purposes of making underwriting determinations under the National Housing Act, the improvements pledged in the request shall be considered as though they were now complete and that HUD mortgage insurance will be generally available in the NSA; provided however that each site or property will be reviewed individually for underwriting purposes to determine its eligibility for insurance.

(4) A schedule, mutually agreed upon by the Field Office and local government, for submission of Proposals.

(g) *Notification of Other Agencies.* If the set aside includes contract authority for projects to be financed by an HFDA or owned by a PHA, the notification shall indicate the amount of such contract authority. Additionally, the Field Office shall notify the appropriate HFDA or PHA of the set-aside and indicate that the authority is only available for use in the NSA in accordance with the local government's housing revitalization plan. The HFDA or PHA shall then follow the regular procedures in obtaining

applications and proposals; however, the concurrence of the local government must be obtained on every application or proposal submitted to HUD pursuant to the set-aside.

#### § 881.305 Submission of proposals for projects within NSAs.

(a) *Request for Proposals.* After the notification by HUD of the availability of contract and budget authority pursuant to § 881.304(f) has been received by the local government, the local government shall invite (through negotiation, advertisement, or other means), the preparation and submission of Proposals for projects within the designated NSA. The local government shall publish a notice in a newspaper of general local circulation which sets forth the number of units by household type available and the boundaries of the NSA. This notice shall also describe how the local government (and if applicable, the HFDA and/or PHA) will solicit and process Proposals.

(b) *Basic Information.* The local government shall provide basic information to interested Owners and developers concerning the special procedures of this Subpart including: (1) A copy of these regulations; (2) where Minimum Design Standards for Rehabilitation for Residential Properties or HUD Minimum Property Standards and other applicable regulations, standards, and forms, may be obtained; (3) requirements and information necessary to enable the interested parties to submit a Proposal; and (4) the assistance the local government will provide to Owners. The local government shall also provide information to interested parties about how to obtain financing, other rental assistance, or mortgage insurance which the local government has determined will be necessary to achieve the revitalization of the NSA.

(c) *Assistance in Development and Review of Proposals by Local Government.* The local government shall, to the extent necessary to assure adequate Owner interest and viable Proposals, assist Owners in the preparation of Proposals. The local government shall review comprehensively all Proposals to make the certifications required by § 881.305(g). The local government shall transmit to HUD for review section 8 Substantial Rehabilitation Proposals it believes are approvable.

(d) *Local Assurances.* The local government shall assure that the Proposals processed under these special procedures will not collectively require contract and budget authority in excess of the amount set aside in the notification pursuant to § 881.304(f).

(e) *Timely Submissions.* The local government shall assure that Proposals are prepared and submitted in accordance with the agreed upon sched-

ule provided for in § 881.304(f)(4). If approvable Proposals sufficient to use the contract and budget authority set aside for use in NSA(s) have not been submitted by the established deadline, including any extensions approved by the field office, HUD shall follow the procedures of § 881.308 concerning the use of residual contract authority.

(f) *Submission and Review.* Submission and review requirements for section 8 Substantial Rehabilitation Proposals requesting simultaneous processing for HUD mortgage insurance are found in § 881.307. Proposals not requesting simultaneous HUD mortgage insurance processing shall include the following:

(1) The address(es) of the property(ies) proposed to be rehabilitated.

(2) The identity of the Owner(s), rehabilitator(s) (if known), and architect(s) (if applicable and identity is known); the officials, principal members, shareholders, investors, and other parties having substantial interest, and the prior participation of each in HUD programs on the prescribed forms; and a disclosure by each party of any possible conflict of interest which would be in violation of the ACC, Agreement, or Contract.

(3) A description of the property(ies) as is, including number and type of structures, number of stories, structural system, number of units by size (number of bedrooms), living area and composition of each size of unit, special amenities or features, if any; and sketches for the interior, showing dimensions. If appropriate, typicals may be provided.

(4) A description of the proposed rehabilitation covering each basic element (e.g., roof, exterior walls, porches and steps; interior walls, ceilings and floors; kitchen and bathroom facilities and equipment; plumbing, heating and electrical equipment; landscaping; etc.) indicating the nature of the work to be done on each element. If alteration, renovation, or remodeling is indicated a description of such work and sketches showing the layout after completion of rehabilitation shall be submitted. If appropriate, typicals may be provided.

(5) The number of units by unit size (number of bedrooms) and type of occupancy (elderly or handicapped or family) proposed for the property after the completion of rehabilitation.

(6) A description of the existing utility combination, whether a change to a different combination is proposed, and if so, a description of the new utility combination.

(7) A statement as to whether the services of a registered architect will be utilized for preparation of final working drawings and specifications.

(8) The proposed Contract Rent for each unit, by size and structure type.

(9) The equipment, utilities and services to be included in the proposed Contract Rent and those utilities and services not so included. For each utility and service not included in the proposed Contract Rent, an estimate of the average monthly cost to occupants for the first year of occupancy by size and structure type.

(10) The proposed term of each Contract (including renewals), and justification for such term in accordance with § 881.109.

(11) Whether the proposed rehabilitation will displace site occupants. If so, the Proposal shall state the number of families, individuals, and business concerns to be displaced (identified by race or minority group status and whether they are owners or renters); See § 881.309 for relocation requirements.

(12) Submission of evidence of management capability and a proposed management plan and a certification by the Owner and the managing agent, if any, in a format acceptable to HUD; if the proposed project is for fewer than 15 units, evidence of capability of providing necessary management and maintenance services. If the Owner proposes to contract with another entity for management and/or maintenance services for the project, a copy of the proposed contract(s) shall be included.

(13) A signed certification that the Owner intends to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246 and Section 3 of the Housing and Urban Development Act of 1968, and that the Owner will take affirmative action to provide the opportunity to apply for units in the proposed projects to persons expected to reside in the community as a result of current or planned employment as indicated in the Local Housing Assistance Plan.

(2) A certification that the Owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use codes, ordinances, or regulations and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the Proposal and information on the Proposal's effect on such properties to comply with the National Historic Preservation Act (16 USC SS470 as amended by Pub. L. 94-422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(h) *Other housing programs.* Proposals for housing assistance programs

other than Section 8 Substantial Rehabilitation under this subpart which are identified by the local government as part of its strategy shall be submitted and processed in accordance with applicable program regulations and issuances.

(17) The proposed method (e.g., conventional mortgage, Farmers Home, HUD mortgage insurance, or bonds) and anticipated terms of financing (e.g., interest rates, discounts, amortization plan and term) and evidence of review and interest by a lender, bond underwriter or counsel, or similar evidence that financing would likely be available should the Proposal be selected. Such evidence of financing is not required if the Owner proposes to utilize HUD mortgage insurance (see § 881.307) or the FmHA Section 515 Rural Rental Housing Program. In such cases, either the prescribed HUD form or evidence that a preapplication has been submitted to the FmHA shall be submitted with the Proposal. A statement shall be included in all Proposals as to whether the Owner intends to pledge or offer the Agreement and/or Contract as security for any loan or obligation (See § 881.115(b)).

(g) *Required Information.* Each Proposal not requesting simultaneous processing for HUD mortgage insurance shall be accompanied by the following information from the local government:

(1) A certification by the chief executive officer of the local government that (i) the property proposed for Substantial Rehabilitation is within the designated NSA; and (ii) the Proposal is consistent with the requirements and restrictions of the approved Local Housing Assistance Plan and the approved NSA.

(2) A certification that the Owner has title to the property, an option on the property or other legal commitment for the property.

(3) If demolition is proposed for any structures, a certification that the proposed reuse is consistent with local zoning or other land use codes, ordinances, or regulations and will promote the restoration and revitalization of the neighborhood.

(4) A certification that the proposed rehabilitation is permissible under applicable zoning, building, housing and other local codes, ordinances, or regulations.

(5) Identification of properties included in, or eligible for inclusion in, the National Register of Historic Places within the area affected by the Proposal and information on the Proposal's effect on such properties to comply with the National Historic Preservation Act (16 USC SS470 as amended by Pub. L. 94-422), the Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800), the Archeological and Historical Preservation Act of 1974 (Pub. L. 93-291), and Executive Order 11593, "Protection and Enhancement of the Cultural Environment."

(h) *Other housing programs.* Proposals for housing assistance programs

other than Section 8 Substantial Rehabilitation under this subpart which are identified by the local government as part of its strategy shall be submitted and processed in accordance with applicable program regulations and issuances.

#### § 881.306 HUD evaluation and approval of proposals not indicating HUD mortgage insurance.

(a) *Evaluation of proposals.* Each Proposal shall be evaluated by HUD to determine whether:

(1) The Proposal and the certifications submitted by the local government contain all the elements required by § 881.305 (f) and (g).

(2) The proposed Contract Rents plus any Allowances for Utilities and Other Services do not exceed the Fair Market Rent limitations pursuant to § 881.108(a).

(3) The proposed Contract Rents are reasonable pursuant to § 881.108(b).

(4) The proposed term of the Contract (including renewals) is acceptable in accordance with § 881.109.

(5) The form of lease meets the requirements of § 881.219.

(6) The previous experience of the Owner and other key participants in development and management is acceptable.

(7) The management capability of the Owner and/or his managing agent, the proposed management plan, and the proposed management agreement/contract(s) are acceptable.

(8) The Affirmative Fair Housing Marketing Plan is acceptable.

(9) The provisions for relocation are acceptable (see § 881.309).

(10) The Proposal as a whole, including the rehabilitation plan and design, will result in decent, safe, and sanitary housing.

(11) The nature and extent of the rehabilitation are such that the services of a registered architect must be used.

(12) The proposed method and terms of financing are acceptable (see also §§ 881.115 and 881.125).

(13) The proposed utility combination is acceptable.

(14) There are no apparent conflicts of interest which would be in violation of the Agreement, Contract, or ACC.

(b) *Environmental review.* HUD will conduct an environmental review of the Proposal in accordance with HUD procedures.

(c) *A-95 comments.* HUD shall review and consider any comments about the Proposal received from the A-95 Clearinghouse.

(d) *Clarification or modification.* HUD may request clarification of individual items, additional information, or modification of the Proposal including substitution of alternate properties.

(e) *HUD review of local government certifications.* Generally, in reviewing



any local government certification required by this Part, HUD shall accept the certification as correct. However, if HUD has substantial reason to question the correctness of any certification, HUD shall promptly bring the matter to the attention of the local government and ask the local government review its findings. After such review HUD will act in accordance with the judgment or evaluation of the local government unless HUD determines that the certification is not supported by available evidence.

(f) *HUD determination.* HUD shall notify the local government and the Owner that the Proposal is:

(1) *Approved.* This notification shall include the statements required by § 881.208(h)(1) (i), (ii), (iii), (iv), (v), and (vi), 881.208(h) (2) and (3) shall apply. Following approval the Proposal shall be deemed to be a Final Proposal within the meaning of § 881.211, et seq. All further actions with regard to Proposals approved pursuant to this section shall be in accordance with Subpart B of these regulations starting with § 881.211.

(2) *Not approved.* The notification shall indicate the reasons for disapproval, and, where appropriate, that the local government may submit substitute Proposals to use remaining contract and budget authority.

(g) *Clearinghouse notification.* In all cases, the appropriate A-95 Clearinghouse shall be notified by HUD of its final action.

§ 881.307 Section 8 substantial rehabilitation proposals indicating HUD mortgage insurance processing.

(a) *Concurrent processing.* Where an Owner indicates that he intends to utilize HUD mortgage insurance, the following shall apply:

(1) *Preapplication meetings.* Proposals requesting simultaneous processing for HUD mortgage insurance will not be accepted from the local government unless a preapplication meeting has been held in the Field Office. The local government will be advised of any major obstacles to approval of HUD mortgage insurance which are discovered by the Field Office as a result of the meeting.

(2) *Initial submission requirements.*

(i) The Owner's application for a Feasibility Letter on the prescribed form with appropriate exhibits.

(ii) Documentation required from the Owner by § 881.305(f) (2), (6), (9), (10), (11), (13), (15) and (16).

(iii) Certifications from the local government required by § 881.305(g) (1), (3), (4), and (5).

(3) *Evaluation of submission.* Each submission shall be evaluated by HUD to determine:

(i) The acceptability and feasibility of the application for HUD mortgage insurance. For purposes of making un-

derwriting determinations for all HUD mortgage insurance programs, the improvements pledged in the request shall be considered as though they were now complete.

(ii) The acceptability of the Proposal for Section 8 assistance in accordance with § 881.306(a) (1), (2), (4), (5), (6), (9), (10), (11), and (14).

(iii) The reasonableness of the proposed Contract Rents pursuant to § 881.108(b).

(4) *HUD determination.* HUD shall notify the local government and the Owner that the submission is:

(i) *Approved.* A notification of Proposal approval for Section 8 assistance in accordance with § 881.208(h) shall be transmitted simultaneously with the feasibility letter.

(ii) *Approvable with modifications.* HUD may issue a Letter which conditions approval of the Proposal, for mortgage insurance and/or Section 8 assistance, on correction of specified deficiencies including the substitution of alternative property(ies).

(iii) *Not approved.* If the Proposal is not approved, a Letter shall be sent indicating the reasons for such disapproval.

(b) *Delayed mortgage insurance processing.* If an Owner does not indicate in the Proposal an intent to utilize HUD mortgage insurance and applies for HUD mortgage insurance after approval by HUD of the Proposal for Section 8 assistance, he risks (1) having the Proposal rejected for HUD mortgage insurance, and (2) having lower rents approved under the mortgage insurance program than the rents set forth in the Proposal approved under this Subpart.

(c) *Subsequent processing.* Following approval of a Proposal involving HUD mortgage insurance, subsequent processing shall be in accordance with Subpart B of these regulations starting with Section 881.209.

§ 881.308 Use of Contract Authority Not Reserved.

If Proposals containing a sufficient number of units to utilize the contract and budget authority set aside for use in an NSA under this Subpart are not submitted in accordance with the schedule provided in § 881.304(f)(4) or any approved extensions thereto, or if an approved Proposal fails to result in an Agreement, the Field Office shall either:

(a) Authorize the local government to submit other Proposals for projects within the approved NSA(s) to utilize the remaining contract and budget authority; or

(b) Issue a NOFA for the allocation area in which the NSA is located to utilize the remaining contract and budget authority; or

(c) If a NOFA has already been published for that allocation area, process

Proposals submitted in response thereto, but not selected, including those to which the deadline described in Section 881.203(c) (4) and (5) or does not apply; or

(d) Reallocate the unused contract and budget authority to another allocation area or to another local government for use in an NSA.

§ 881.309 Relocation for Section 8 substantial rehabilitation under subpart C.

(a) *Applicability of uniform act.* Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) applies to certain displacements occurring as a result of a PHA's acquisition or order to vacate real property, issued in connection with acquisition, for a project. HUD regulations governing displacements under the Uniform Act are set forth at 24 CFR Part 42. Any family, individual, business, farm or nonprofit organization occupying a property to be rehabilitated pursuant to this Subpart and who meets the definition of a "displaced person," as defined in 24 CFR 42.20(d), shall be provided relocation payments and assistance in accordance with 24 CFR part 42, as modified by paragraphs (c) through (g) for residential tenants of this section including the obligation placed on the local government.

(b) *Tenants displaced by private owner or by PHA rehabilitation without acquisition.* Although the Uniform Act does not apply to the displacement of tenants as a result of acquisition by a private developer or as a result of rehabilitation by a PHA without acquisition for a Section 8 project, HUD has determined that any family, individual, business, farm, or nonprofit organization that is a tenant (not an owner-occupant) occupying a property to be rehabilitated pursuant to this Subpart on the date the Proposal is submitted to HUD (see §§ 881.305 and 881.307) and who is thereafter required to move, shall be eligible for relocation payments and assistance to be determined on the same basis as provided by 24 CFR Part 42, as modified by paragraphs (c) through (h) of this section, as if the tenant were a "displaced person" within the meaning of the Uniform Act. For purposes of the regulations at 24 CFR Part 42, the local government's transmittal of the Proposal to HUD shall be deemed to be the "initiation of negotiations."

(c) *Preliminary notice to each residential tenant.* No later than 30 days after the transmittal of any Proposal to HUD, the local government shall issue to each residential tenant occupying the property a written notice which:

(1) Informs the tenant that a Proposal for assistance under this Subpart has been transmitted to HUD and the date thereof;

(2) Insofar as possible, informs the tenant whether permanent relocation will be required if the Proposal is approved;

(3) States that if the tenant moves after the date the Proposal was submitted to HUD for any reason, except after being issued a notice of displacement as described in paragraph (e) of this section, the tenant will not be entitled to relocation payments or other assistance provided under or determined in accordance with 24 CFR Part 42, as modified by this section;

(4) Indicates that as soon as practical, but not later than 60 days after the HUD notification of the approval of the Proposal, the tenant will receive an appropriate notice as specified under paragraph (d) or (e) of this section. The provisions of the notices that are referred to shall be generally described;

(5) Generally describes the relocation payments and other assistance for which the tenant would be eligible, if required to relocate; and

(6) Informs the tenant of the applicable policies contained in paragraph (f)(1) and (f)(2) of this section.

(d) *Notice of Right to Continue in Occupancy.* No later than 60 days after the HUD notification of the approval of the Proposal the local government shall furnish each residential tenant who will not be displaced, a written notice of the tenant's right to continue in occupancy. The notice shall contain the following conditions:

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either the current dwelling or a comparable dwelling located within the same building or nearby building located on the same site, for a continuous period of at least four years. The four-year period shall begin on the date of HUD notification of the approval of the Proposal, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later;

(2) If the tenant is an "eligible" family as defined in Section 881.102 and 24 CFR Part 812, the amount of rent payable by the tenant shall be determined in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided pursuant to Section 881. If the tenant does not qualify as an eligible family as defined in Section 881.102 and 24 CFR Part 812, the amount payable by the tenant for rent and utilities and other services shall not exceed 25 percent of monthly income, which income shall be calculated in accordance with 24 CFR Part 889 and any necessary subsidy shall be provided by the local government.

(3) The tenant shall not be required to move from the dwelling units other than for cause unless the move is nec-

essary to permit rehabilitation or demolition. If a move is required:

(i) Not more than one temporary relocation by the tenant shall be required;

(ii) The temporary relocation, if any, shall not exceed twelve months in duration;

(iii) A decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation; and

(iv) The local government shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the tenant in connection with the move, any temporary relocation, or both.

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason other than for cause, or if any of the commitments to the tenant under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement as described in paragraph (e) of this section and to be entitled to relocation payments and other relocation assistance available to displaced persons provided under in 4 CFR Part 42, as modified by this section.

(e) *Notice of Displacement.* Not later than 60 days after the HUD notification of the approval of the Proposal, the local government shall issue a written notice of displacement to each residential tenant to be displaced. The notice shall state that if the tenant moves or moves personal property from the property on or after the date of HUD notification of approval of the Proposal, the tenant will be entitled to certain relocation payments and other assistance which shall be described, including the maximum allowable dollar amount or range of each payment for which the tenant will apparently be eligible, the conditions of eligibility, and the procedures for obtaining the payment(s).

(f) *Automatic Notice of Displacement.* (1) If a tenant is not issued a preliminary notice as described in paragraph (c) of this section within 30 days after the transmittal of the Proposal to HUD, the tenant shall be deemed to have been issued a notice of displacement effective 31 days after the transmittal of the Proposal to HUD, if such Proposal is later approved by HUD. However, if the local government later issues a preliminary notice to a tenant who has not yet moved and agrees to reimburse the tenant for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period in which the notice of displacement was in effect, such automatic notice of displacement is cancelled.

(2) If a tenant is not issued a written notice of displacement or a notice of

right to continue in occupancy within 60 days after the date of the HUD notification of the approval of the Proposal, the tenant shall be deemed to have been issued a notice of displacement effective on the date of the HUD notification of the approval of the Proposal.

(g) *Tenants Continuing in Occupancy.* The local government shall take such steps as may be necessary to insure that no tenants who continue in occupancy under the provisions of this section are subjected to an unreasonable change in the character of their immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly tenant shall not be subjected without alternatives to a sharp increase in the number of children occupying nearby units.

(h) *Section 8 Assistance to Tenants Displaced by Private Owner.* If a residential tenant who has been displaced by an Owner pursuant to paragraph (b) of this section has voluntarily selected a replacement rental dwelling unit, the local government shall provide a rental assistance payment as described in 24 CFR Part 42, unless a PHA provides a Certificate of Family Participation under the Section 8 Housing Assistance Payments Program Existing Housing 24 CFR Part 882. The latter can only occur when the displaced family or individual is eligible to participate in that program, the replacement rental dwelling unit meets the requirements of that program, and the landlord of the replacement rental dwelling unit is willing to participate in that program.

(i) *Nonresidential tenants.* The modifications in paragraphs (c) through (h) of this section do not apply to the displacement of any business, farm, or nonprofit organization who has been displaced as a result of an action described in paragraph (a) of this section. Such businesses, farms, or nonprofit organizations shall be provided relocation payments and other assistance in accordance with the regulations of 24 CFR Part 42 and the policies and procedures contained in HUD Handbook 1371.1 REV, Relocation Policies and Procedures.

(j) *Manner of Notices.* Any notice required under this section shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

(k) *Responsibility for relocation payments and assistance.* The local government is responsible for providing the relocation payments and assistance described in this section from funds other than those provided under these special procedures.



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**RULES AND REGULATIONS**

Issued at Washington, D.C., January  
25, 1978.

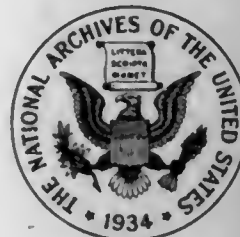
LAWRENCE B. SIMONS,  
*Assistant Secretary for Housing—Federal Housing Commission.*

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